Court File No. CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

(Applicants)

MOTION RECORD OF THE APPLICANTS
(Re: Sale Approval)
(Returnable March 26, 2021)

March 26, 2021

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Tab 1

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APPLICANTS

NOTICE OF MOTION
(Returnable March 26, 2021)

The Applicants will make a motion to the Honourable Justice Hainey of the Ontario Superior Court of Justice (Commercial List) on **March 26, 2021** at **12:00 p.m. EST**.

PROPOSED METHOD OF HEARING: Due to the ongoing COVID-19 pandemic, the motion is to be heard via video conference, the details of which can be found in **Schedule "A**" to this Notice of Motion. If you intend to join the hearing on this Motion, please advise Mr. Lee Nicholson of Stikeman Elliott LLP by email at leenicholson@stikeman.com.

THE MOTION IS FOR:

1. An order (the "**Homestyle Sale Approval Order**"):

   (a) approving the transaction (the ("**Homestyle Transaction**") contemplated in the *Asset Purchase Agreement* (the ("**Homestyle APA**") entered into between Sun Rich Canada and Tiffany Gate, as sellers, and Homestyle Selections LP, as buyer ("**Homestyle**"), a party dealing at arm's length with FFG, including Sun Rich Canada and Tiffany Gate, and vesting in Homestyle all of the assets that are listed in the Homestyle APA (the "**Homestyle Purchased Assets**"), on a free and clear basis, pursuant to section 36 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**");

   (b) approving the assignment of the "*11.3 Contracts*" and the "*11.3 Leases*" listed in a Schedule to the draft Homestyle Sale Approval Order to Homestyle in accordance with section 11.3 of the CCAA, subject to Homestyle's right to designate, up until the Closing Date contemplated in the Homestyle APA, any such "*11.3 Contracts*" and "*11.3 Leases*" as an "*Excluded Contract*" or an "*Excluded Lease*" (as such terms are defined in the Homestyle APA. Each "*11.3 Contracts*" and "*11.3 Leases*" that is not designated by Homestyle as an "Excluded Contract" or "Excluded Lease" in accordance with the Homestyle APA prior to the Closing Date shall be a "**Homestyle Assigned Agreement**" and collectively, the "**Homestyle Assigned Agreements**". All counterparties to the "*11.3 Contracts*" and the "*11.3 Leases*" shall have the right to apply to the Canadian Court up until the Closing Date contemplated in the Homestyle APA to object to such assignment, but only on the basis that Homestyle will not be able to perform the obligations under such "*11.3 Contract*" or "*11.3 Lease*", but not on the basis of the other criteria set out in section 11.3 of the CCAA, including the quantum of the cure costs to be paid, as such issues, if any, will need to be adjudicated upon a the hearing for the approval of the Homestyle Transaction;

2. An order (the "**Save-On Sale Approval Order**"):

(a) approving the transaction (the ("**Save-On Transaction**") contemplated in the *Asset Purchase Agreement* (the ("**Save-On APA**") entered into between Sun Rich Canada, as seller, and Save-On-Foods Limited Partnership, as buyer ("**Save-On**"), a party dealing at arm's length with FFG, including Sun Rich Canada, and vesting in Save-On all of the assets that are listed in the Save-On APA (the "**Save-On Purchased Assets**"), on a free and clear basis, pursuant to section 36 of the CCAA;

(b) approving the assignment of the "*11.3 Contracts*" and the "*Third Party Lease*" listed as a schedule to the draft Save-On Sale Approval Order to Save-On in accordance with section 11.3 of the CCAA, subject to Save-On's right to designate, up until the Closing Date contemplated in the Save-On APA, any such "*11.3 Contracts*" as an "*Excluded Contract*" (as such terms are defined in the Save-On APA). Each "*11.3 Contracts*" that is not designated by Homestyle as an "Excluded Contract" in accordance with the Save-On APA prior to the Closing Date, together with the Third Party Lease, shall be a "**Save-On Assigned Agreement**" and collectively, the "**Save-On Assigned**

Agreements". All counterparties to the "*11.3 Contracts*" and the "*Third Party Lease*" shall have the right to apply to the Canadian Court up until the Closing Date contemplated in the Save-On APA to object to such assignment, but only on the basis that Save-On will not be able to perform the obligations under such "*11.3 Contract*" or "*Third Party lease*", but not on the basis of the other criteria set out in section 11.3 of the CCAA, including the quantum of the cure costs to be paid, as such issues, if any, will need to be adjudicated upon a the hearing for the approval of the Save-On Transaction;

3. An order extending the Stay Period (as defined below) to April 18, 2021.

4. Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THIS APPLICATION ARE:

5. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Affidavit of Stephen Marotta sworn on March 24, 2021 (the "**Second Marotta Affidavit**").

Background

6. The Applicants, TGF Acquisition Parent Ltd., Sun Rich Fresh Foods Inc. and Tiffany Gate Foods Inc. (collectively, the "**CCAA Entities**"), are part of a group of companies known as the Fresh Food Group ("**FFG**"), which include several entities that are based in the U.S., including Country Fresh Holding Company Inc., Country Fresh Midco Corp., Country Fresh Acquisition Corp., Country Fresh Holdings, LLC, Country Fresh LLC, Country Fresh Dallas, LLC, Country Fresh Carolina, LLC, Country Fresh Midwest, LLC, Country Fresh Orlando, LLC, Country Fresh Transportation LLC, CF Products, LLC, Country Fresh Manufacturing, LLC, Champlain Valley Specialty of New York, Inc., Country Fresh Pennsylvania, LLC, Sun Rich Fresh Foods (NV) Inc., Sun Rich Foods (USA) Inc. and Sun Rich Fresh Foods (PA) Inc. (collectively, the "**Chapter 11 Entities**").

7. Over the past thirty (30) years, FFG has grown into a group of companies which have become leading providers of branded and private-label offerings of fresh-cut fruits and vegetables, ready-to-go meals and meal kits, behind-the-glass salads, snacks, and ingredients/bulk food components to supermarkets, club stores, convenience stores,

industrial, and food-service customers in the United States and Canada. Recently, FFG expanded its product offerings into sous vide and kettle cooking of chicken, fish, and beef entrees as well as pasta.

8. In 2019, FFG faced significant liquidity and other economic pressures, which forced it to consider and implement certain strategic measures in order to deleverage its consolidated balance sheet.

9. On April 29, 2019, FFG entered into an exchange transaction (the "**Exchange Transaction**") with its then existing lenders, pursuant to which FFG was able to restructure its indebtedness under the then existing first lien loan and second lien loan.

10. Despite the Exchange Transaction, FFG has continued to face significant financial challenges in the context of its business operations, most recently due to economic pressures caused by the COVID-19 global pandemic.

The Pre-Filing Solicitation Process

11. In 2020, FFG decided to explore M&A opportunities with potential strategic acquirers in the food and beverage industry, which had approached FFG to discuss the terms of a potential transaction.

12. On October 30, 2020, FFG engaged Stout as its investment banker to conduct a formal sale and investment solicitation process (the "**First Formal Solicitation Process**").

13. On December 14, 2020, FFG entered into a non-binding letter of intent (the "**Initial LOI**") with an initial potential buyer (the "**Initial Potential Buyer**", which contemplated the sale and purchase of all or substantially all of the assets of the US Entities, as well as some of the assets of the CCAA Entities. This Initial LOI further contemplated that the Initial Potential Buyer would act as a stalking horse bidder, to allow Stout and FFG to establish a "floor" price and provide certainty to the Debtors' employees, customers and vendors. The Initial LOI contemplated the closing of a sale transaction by March 2021, should no superior offer be submitted to FFG.

14. However, on January 7, 2021, FFG and Stout were advised that the Initial Potential Buyer was no longer prepared to enter into an asset purchase agreement and would therefore withdraw its offer set out in the Initial LOI, thereby forcing FFG and Stout to go back to the drawing board to discuss and implement contingency plans to try to keep the enterprise afloat while identifying a replacement bidder and/or new sources of financing.

15. Following the withdrawal of the Initial LOI by the Initial Potential Buyer, Stout launched a more comprehensive sale and investment solicitation process (the "**Second Formal Solicitation Process**", together with the First Formal Solicitation Process, the "**Formal Solicitation Process**"), as part of which solicitation materials were sent to an additional one hundred seventy (170) potential acquirers or investors, which included sponsors in the food/beverage industry, strategic parties in the consumer/retail sector, and packaged food processors and food distributors.

16. On February 15, 2021, after several weeks of negotiations, Stellex and FFG executed an asset purchase agreement (i.e. the Stellex APA), which contemplated, *inter alia*: (i) the sale and purchase of substantially all of FFG's assets, including those of the CCAA Entities, and (ii) Stellex acting as a stalking horse bidder in the context of the Formal Solicitation Process.

17. As at that date:

    (a) More than 210 potentially interested parties had been solicited and had received solicitation packages, including:

        (i) 90 strategic parties;

        (ii) 20 "*hybrid*" parties (meaning private equity firms with strategic portfolio companies in the food and beverage sector); and

        (iii) More than 100 financial parties.

    (b) 83 non-disclosure agreements had been executed by potentially interested parties to whom access to the virtual data room set up by Stout was given;

The Restructuring Proceedings

18. On February 15, 2021, the Chapter 11 Entities filed voluntary petitions commencing parallel insolvency proceedings before the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**US Court**") under chapter 11 of title 11 of the United States Bankruptcy Code (the "**Chapter 11 Proceedings**" and together with the CCAA Proceedings, the "**Restructuring Proceedings**"), with the intention to have the Stellex APA and related Bidding Procedures approved by the US Court, and to pursue and continue the Formal Solicitation Process previously initiated by Stout in November, 2020, as it relates to the Chapter 11 Entities.

19. On February 17, 2021, the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") rendered a "*first day*" Initial Order (the "**First Day Order**") in favor of the CCAA Entities, among other things:

(a) declaring that the CCAA Entities were affiliated debtor companies to which the CCAA applied;

(b) staying all proceedings and remedies taken or that might be taken against or in respect of the CCAA Entities, any of their respective property or director and officers, except as otherwise set forth in the First Day Order or as otherwise permitted by law (the "**Stay**"), for an initial period of ten (10) days in accordance with the CCAA (the "**Stay Period**");

(c) appointing Ernst & Young Inc. ("**E&Y**" or the "**Monitor**") as the monitor of the CCAA Entities in these proceedings (the "**CCAA Proceedings**");

(d) approving the execution by the CCAA Entities of a Super Priority Senior Secured Debtor-in-Possession Financing Agreement (the "**DIP Credit Agreement**"), together with certain ancillary agreements thereto (together with the DIP Credit Agreement, the "DIP Documents") entered into on February 16, 2021, between, amongst others, the lenders thereunder (the "**DIP Lenders**"), Country Fresh Holdings, LLC, as borrower (in such capacity, the "**DIP Borrower**"), and several of its direct and indirect subsidiaries, including the CCAA Entities, as guarantors, pursuant to which amounts of up to

US$13,416,000 (the "**DIP Facility**"), would be made available to the DIP Borrower;

(e) granting: (a) a priority charge against the assets of the CCAA Entities in favor of the DIP Borrower and its U.S. subsidiaries that are party to the DIP Credit Agreement, securing the full amount of any funding or advances made by any of them to any of the CCAA Entities (the "**Intercompany DIP Advances**") plus interest during the course of these CCAA Proceedings (the "**Intercompany DIP Charge**"); and (b) a priority charge against the assets of the CCAA Entities for the benefit of the DIP Agent (as defined below) and the DIP Lenders (the "**DIP Lenders' Charge**"), securing the full amount of the CCAA Entities' obligations under the Canadian Guaranty and Security Agreement (the "**Canadian Guarantee Agreement**") entered into in conjunction with the DIP Credit Agreement, which provides that, inter alia, the CCAA Entities would guarantee, in favor of the DIP Lender, the payment of an amount equivalent to the Intercompany DIP Advances, plus interest and the reasonable fees and disbursements of Canadian counsel to the DIP Lenders at their standard rates and charges both before and after the making of the First Day Order;

(f) granting an "**Administration Charge**" in an amount of US$400,000 and a Directors' Charge in an amount of US$2,500,000 to cover the potential exposure of the beneficiaries of such charges for the initial Stay Period;

(g) approving a "**Canadian Intercompany Charge**" for the purpose of securing the repayment of the various amounts which may be advanced, from time to time, plus interest thereon, between the CCAA Entities during the initial Stay Period; and

(h) authorizing the CCAA Entities to make payments to certain suppliers deemed crucial by the CCAA Entities, including with respect to goods delivered or services provided prior to the commencement of these CCAA Proceedings, up to an amount of $750,000, subject to the prior approval of the Proposed Monitor.

20. On February 26, 2021, the Canadian Court rendered an amended and restated initial order (the “**ARIO**”) in favor of the CCAA Entities, among other things:

(a) extending the Stay Period until March 28, 2021;

(b) confirming the appointment of E&Y as the Monitor of the CCAA Entities in these CCAA Proceedings;

(c) approving the engagement of Ankura (Stephen Marotta), as Chief Restructuring Organization, and of Stout Capital, LLC (“**Stout**”), as investment banker and financial advisor to FFG, including the CCAA Entities, and granting to Stout a “Transaction Fee Charge” in the amount of US$2,500,000 in order to secure the payment of the “Transaction Fee” payable under the Stout Engagement Letter (as defined below);

(d) confirming the approval of the DIP Credit Agreement, the Canadian Guarantee Agreement and the granting of the Intercompany DIP Charge and the DIP Lenders’ Charge;

(e) confirming and increasing, as applicable, the amount of the Administration Charge (US$750,000) and the Directors Charge (US$2,500,000) previously approved as part of the First Day Order;

(f) confirming the Canadian Intercompany Charge previously approved as part of the First Day Order;

(g) confirming the Applicants’ authority to make payments to certain suppliers deemed crucial by the Applicants, including with respect to goods delivered or services provided prior to the commencement of these CCAA Proceedings, subject to the prior approval of the Proposed Monitor; and

(h) approving the Guidelines and Cooperation between Courts in Cross-Border Insolvency Matters issued by the Judicial Insolvency Network for the purposes of these CCAA Proceedings.

21. On the same day, the U.S. Court rendered an order in the context of the Chapter 11 Proceedings (the “**U.S. Bidding Procedures Order**”), among other things:

(a) approving the execution by the Chapter 11 Entities of a stalking horse asset purchase agreement (the “**Stellex APA**”) entered into between the Chapter 11 Entities and the CCAA Entities, as sellers, and Stellex US Newco and Stellex Canadian Newco (both newly incorporated entities whose shares are owned by Stellex Capital Management (“**Stellex**”)), as purchasers, subject to certain amendments which could be agreed upon in respect of the Stellex APA; and

(b) approving the bidding procedures (the “**Bidding Procedures**”) to be followed in connection with the pursuit and continuation of the Formal Solicitation Process (as defined below) previously initiated by Stout in November 2020.

22. On March 1, 2021, following the issuance of the U.S. Bid Procedures Order by the U.S. Court, the Canadian Court also rendered an order in the context of the CCAA Proceedings (the “**Canadian Bidding Procedures Order**”, together with the U.S. Bid Procedures Order, the “**Bidding Procedures Orders**”), among other things:

(a) approving the execution by the CCAA Entities of the Stellex APA, subject to certain amendments which could be agreed upon in respect of the Stellex APA;

(b) approving the Bidding Procedures to be followed in connection with the pursuit and continuation of the Formal Solicitation Process previously initiated by Stout in November 2020; and

(c) approving the form of notices to be sent to the counterparties to those contracts previously entered into by the CCAA Entities which may be assumed by the Stellex of the “*Successful Bidder*” to be determined in accordance with the Bidding Procedures.

The Post-Filing Solicitation Process

23. As further described in the Second Marotta Affidavit, since the issuance of the Bidding Procedures Orders, the CCAA Entities and the Chapter 11 Entities have jointly conducted and pursued, with the assistance of Stout, the Formal Solicitation Process with the objective of soliciting and receiving offers for the business and assets of each of the CCAA Entities and the Chapter 11 Entities, either as a whole or on a stand-alone basis.

24. More specifically, in accordance with the Bidding Procedures by both the U.S. Court and the Canadian Court, FFG, with the assistance of Stout, pursued the Formal Solicitation Process in accordance with the following milestones:

Milestone	**Key Dates**
Issuance of Additional Solicitation Packages	As soon as reasonably possible following court approval
Due Diligence Period	Until March 19, 2021
Bid Deadline	March 19, 2021
Auction	March 22, 2021
US Sale Hearing	No later than March 26, 2021
Canadian Sale Hearing	No later than March 26, 2021
Closing	March 31, 2021

25. On March 12, 2021, after consultation with Stout and the Consultation Parties described in the Bidding Procedures, which include the Monitor and the DIP Lenders, and in order to provide more time to consider bids that would be submitted by the March 19, 2021 Bid Deadline, FFG filed a Notice of Reset Auction Date in the context of the Chapter 11 Proceedings advising all potential purchasers that the Auction originally set for March 22, 2021, at 10:00 a.m. (CT) had been reset to March 23, 2021, at 10:00 a.m. (CT).

26. On March 24, 2021, after having received and considered a total amount of six (6) "*Qualified Bids*" submitted as part of the Formal Solicitation Process (including the offer submitted as part of the Stellex APA) and after having conducted an auction with a view to obtain the best offers possible for the assets of the CCAA Entities and the Chapter 11 Entities, Homestyle and Save-On were designated as the "*Successful Bidders*" for the assets of the Canadian Entities, and Stellex was designated as the "*Successful Bidder*" for the assets of the U.S. Entities (the "**Stellex Transaction**"). The Stellex Transaction was approved by the U.S. Court on March 25, 2021.

27. On March 25, 2021, the Homestyle APA and the Save-On APA were entered into.

The Homestyle APA

28. The terms and conditions of the Homestyle APA are further described in the Second Marotta Affidavit.

29. After consulting the Consultation Parties, all agree that the transaction contemplated in the Homestyle APA constitutes the best offer in respect of the Homestyle Purchased Assets in the circumstances.

The Save-On APA

30. The terms and conditions of the Save-On APA are further described in the Second Marotta Affidavit.

31. After consulting the Consultation Parties, all agree that the transaction contemplated in the Save-On APA constitutes the best offer in respect of the Save-On Purchased Assets in the circumstances.

32. The execution of the Homestyle APA and the Save-On APA constitutes the culmination of a solicitation process which began several months ago, and was pursued after the commencement of the Restructuring Proceedings in accordance with the Bidding Procedures previously approved by both the U.S. Court and the Canadian Court.

33. The Homestyle Transaction and the Save-On Transactions represent the best outcome in the circumstances for the CCAA Entities since:

(a) based on the Purchase Price payable under both the Homestyle APA and the Save-On APA, the Homestyle Transaction and the Save-On Transaction each provide for a reasonable value (well in excess of the initial values provided for prior to the Auction) for the Homestyle Purchased Assets and the Save-On Purchased Assets, which will ultimately benefit of the CCAA Entities' creditors;

(b) both the Homestyle Transaction and the Save-On Transaction will allow the pursuit of the CCAA Entities' operations through Homestyle and Save-On, which, in turn, will allow for some of the CCAA Entities' employees to preserve their employment and will allow for some of the CCAA Entities goods and service providers to maintain their business with a new client.

34. At all times relevant, the Consultation Parties (as defined in the Bidding Procedures) which include the Monitor and the DIP Lenders, have been kept informed on a regular basis with respect to the conduct of the Formal Solicitation Process by Stout.

35. All such Consultation Parties are supportive of the approval by this Court of the APA and of the Transaction set out thereunder, and the CCAA Entities understand that the Monitor shall be filing a report confirming such support in advance of the hearing on the Sale Approval Motion.

The Assignment of Contracts

36. As part of both the Homestyle APA and the Save-On APA, Homestyle and Save-On have both provided a list of contracts and leases (together with the cure costs payable in respect therewith) which they intend on assuming, as part of the Homestyle Transaction and the Save-On Transaction (each of these contracts and leases are referred to in the Homestyle APA and the Save-On APA as the “11.3 Contracts”, the “11.3 Leases” or the “Third Party Lease”).

37. Pursuant to the draft Homestyle Sale Approval Order and the draft Save-On Sale Approval Order, the Applicants request the Canadian Court's approval of the assignment of the aforementioned contracts and leases subject to the following:

(a) each of Homestyle and Save-On will have the right, up until the Closing Date contemplated in each of the Homestyle APA and the Save-On APA, to designate any "*11.3 Contracts*" as an "*Excluded Contract*", and, in the case of Homestyle, to designate any "*11.3 Lease*" or an "*Excluded Lease*"; and

(b) unless any such "*11.3 Contracts*" is designated by Homestyle or Save-On as an "Excluded Contract", and any such "*11.3 Leases*" is designated by Homestyle as an "*Excluded Contract*", as applicable, then such "*11.3 Contracts*", "*11.3 Leases*" or "*Third Party Lease*", as applicable, shall be assigned to Homestyle or Save-On, as applicable, in accordance with section 11.3 of the CCAA, without further order of the Canadian Court;

38. However, each counterparty to the "*11.3 Contracts*", "*11.3 Leases*" or "*Third Party Lease"*, as applicable, listed in either the Homestyle APA or the Save-On APA shall be entitled, up until the Closing Date contemplated in the Homestyle APA or the Save-On APA, to object to such assignment, but only on the basis that on the basis that either Homestyle or Save-On, as applicable, will not be able to perform the obligations under such "*11.3 Contract*", "*11.3 Lease*" or "*Third Party Lease*", but not on the basis of the other criteria set out in Section 11.3 of the CCAA (including the quantum of the cure costs to be paid upon the assignment of the "*11.3 Contracts*", the "*11.3 Leases*" or "*Third Party Lease*"), as such issues, if any, will need to be dealt with at the hearing on the Applicants' Motion for the approval of the Homestyle Transaction and the Save-On APA. If any such objection is filed, the Applicants shall attempt to settle or resolve such objection, failing which, the Applicants shall schedule a hearing before the Canadian Court to resolve such objection.

The Extension of the Stay Period

39. As things currently stand, the Stay Period is currently expected to expire on March 28, 2021.

40. Accordingly, the CCAA Entities request that the Stay Period be extended until April 18, 2021, so as to allow them to proceed with the closing of the Transaction, while at the same time preserving the status quo and preventing creditors and others from taking any steps to try and better their positions in comparison to other creditors.

41. The CCAA Entities' stakeholders, including creditors, will all benefit from the Extension of the Stay Period.

42. As set out in the cash flow projections (the "**Cash Flow Statement**") that was prepared by the CCAA Entities in consultation with Ankura, and reviewed by the Monitor for the period from March 28, 2021 to April 18, 2021, the CCAA Entities expect that they will have sufficient cash to fund their projected operating costs during such period.

Other Grounds

43. The provisions of the CCAA, including s. 11.3 and s. 36 thereof, and the inherent and equitable jurisdiction of this Honourable Court;

44. The provisions of the *Rules of Civil Procedure*, RRO 1990, Reg. 194, including rules 2.03, 3.02 and 37 thereof; and

45. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

a. the Affidavits of Stephen Marotta, sworn on February 16, 2021 and on March 24, 2021, respectively, and the exhibits attached thereto;

b. the Second Report of E&Y, as Monitor, to be filed; and

c. such further and other evidence as counsel may advise and this Honourable Court may permit.

March 25, 2021

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Lawyers for the Applicants

SCHEDULE A

ZOOM MEETING DETAILS

Join Zoom Meeting
https://zoom.us/j/99527477213

Meeting ID: 995 2747 7213
One tap mobile
+14086380968,,99527477213# US (San Jose)
+16468769923,,99527477213# US (New York)

Dial by your location
+1 408 638 0968 US (San Jose)
+1 646 876 9923 US (New York)
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
+1 346 248 7799 US (Houston)
Meeting ID: 995 2747 7213
Find your local number: https://zoom.us/u/ac5rtJAmJH

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

NOTICE OF MOTION

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Tab 2

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ONTARIO
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(Applicants)

AFFIDAVIT OF STEPHEN MAROTTA
(Sworn March 25, 2021)

I, **STEPHEN MAROTTA**, of the City of New York, in the State of New York, United States of America, MAKE OATH AND SAY:

1. I am a Senior Managing Director of Ankura Consulting Group, LLC ("**Ankura**"), which has been appointed to act as Chief Restructuring Organization of Country Fresh Holding Company Inc. ("**CF Holding**"), a company which indirectly holds all of the shares of the Applicants. In this capacity, I am responsible for overseeing the operations of FFG (as defined below), which includes the Applicants, their liquidity management and, ultimately, for assisting them with their restructuring process. As such, I have knowledge of the matters to which I hereinafter depose herein, except where otherwise stated. The facts stated in the present affidavit are based on my personal knowledge of FFG, my review of its books and records, as well as on information received from other individuals, such as directors, officers and/or employees of FFG, which information I believe to be true.

2. This affidavit is sworn in support of a motion (the "**Sale Approval Motion**") by each of TGF Acquisition Parent Ltd. ("**TGF**"), Sun Rich Fresh Foods Inc. ("**Sun Rich Canada**") and Tiffany Gate Foods Inc. ("**Tiffany Gate**" and collectively with TGF and Sun Rich Canada, the "**Applicants**" or the "**CCAA Entities**"), for the issuance of the following orders:

(a) an order (the "**Homestyle Sale Approval Order**"):

(i) approving the transaction (the ("**Homestyle Transaction**") contemplated in the *Asset Purchase Agreement* (the ("**Homestyle APA**") entered into between Sun Rich Canada and Tiffany Gate, as sellers, and Homestyle

Selections LP, as buyer ("**Homestyle**"), a party dealing at arm's length with FFG, including Sun Rich Canada and Tiffany Gate, and vesting in Homestyle all of the assets that are listed in the Homestyle APA (the "**Homestyle Purchased Assets**"), on a free and clear basis, pursuant to section 36 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**");

(ii) approving the assignment of the "*11.3 Contracts*" and the "*11.3 Leases*" listed as a schedule to the draft Homestyle Sale Approval Order to Homestyle in accordance with section 11.3 of the CCAA, subject to Homestyle's right to designate, up until the Closing Date contemplated in the Homestyle APA, any such "*11.3 Contracts*" and "*11.3 Leases*" as an "*Excluded Contract*" or an "*Excluded Lease*" (as such terms are defined in the Homestyle APA. Each "*11.3 Contracts*" and "*11.3 Leases*" that is not designated by Homestyle as an "Excluded Contract" or "Excluded Lease" in accordance with the Homestyle APA prior to the Closing Date shall be a "**Homestyle Assigned Agreement**" and collectively, the "**Homestyle Assigned Agreements**". All counterparties to the "*11.3 Contracts*" and the "*11.3 Leases*" shall have the right to apply to the Canadian Court up until the Closing Date contemplated in the Homestyle APA to object to such assignment, but only on the basis that Homestyle will not be able to perform the obligations under such "*11.3 Contract*" or "*11.3 Lease*", but not on the basis of the other criteria set out in section 11.3 of the CCAA, including the quantum of the cure costs to be paid, as such issues, if any, will need to be adjudicated upon a the hearing for the approval of the Homestyle Transaction;

(b) an order (the "**Save-On Sale Approval Order**"):

(i) approving the transaction (the ("**Save-On Transaction**") contemplated in the *Asset Purchase Agreement* (the ("**Save-On APA**") entered into between Sun Rich Canada, as seller, and Save-On-Foods Limited Partnership, as buyer ("**Save-On**"), a party dealing at arm's length with FFG, including Sun Rich Canada, and vesting in Save-On all of the assets that are listed in the Save-On APA (the "**Save-On Purchased Assets**"), on a free and clear basis, pursuant to section 36 of the CCAA;

(ii) approving the assignment of the "*11.3 Contracts*" and the "*Third Party Lease*" listed as a schedule to the draft Save-On Sale Approval Order to Save-On in accordance with section 11.3 of the CCAA, subject to Save-On's right to designate, up until the Closing Date contemplated in the Save-On APA, any such "*11.3 Contracts*" as an "*Excluded Contract*" (as such terms are defined in the Save-On APA). Each "*11.3 Contracts*" that is not designated by Homestyle as an "Excluded Contract" in accordance with the Save-On APA prior to the Closing Date, together with the Third Party Lease, shall be a "**Save-On Assigned Agreement**" and collectively, the "**Save-On Assigned Agreements**". All counterparties to the "*11.3 Contracts*" and the "*Third Party Lease*" shall have the right to apply to the Canadian Court up until the Closing Date contemplated in the Save-On APA to object to such assignment, but only on the basis that Save-On will not be able to perform the obligations under such "*11.3 Contract*" or "*Third Party lease*", but not on the basis of the other criteria set out in section 11.3 of the CCAA, including the quantum of the cure costs to be paid, as such issues, if any, will need to be adjudicated upon a the hearing for the approval of the Save-On Transaction;

(c) an order extending the Stay Period (as defined below) to April 18, 2021.

3. All capitalized terms not otherwise defined herein have the meaning ascribed to them in my affidavit sworn on February 16, 2021 filed in the context of these proceedings (the "**February 16, 2021 Marotta Affidavit**"), a copy of which (without its exhibits) is attached hereto as **Exhibit "A"**.

4. All references to currency in this affidavit are references to Canadian dollars, unless otherwise indicated.

I. PROCEDURAL BACKGROUND

5. On February 15, 2021, certain US affiliates of the CCAA Entities, including CF Holding, Country Fresh Midco Corp., Country Fresh Acquisition Corp., Country Fresh Holdings, LLC, Country Fresh LLC, Country Fresh Dallas, LLC, Country Fresh Carolina, LLC, Country Fresh Midwest, LLC, Country Fresh Orlando, LLC, Country Fresh Transportation LLC, CF Products, LLC, Country Fresh Manufacturing, LLC, Champlain Valley Specialty of New York, Inc., Country Fresh Pennsylvania, LLC, Sun Rich Fresh Foods (NV) Inc., Sun Rich Foods (USA) Inc. and Sun Rich Fresh Foods (PA) Inc. (collectively, the "**Chapter 11 Entities**", together with the CCAA Entities, "**FFG**") filed voluntary petitions before the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**U.S. Court**") under chapter 11 of title 11 of the United States Code (the "**Chapter 11 Proceedings**" and together with the CCAA Proceedings, the "**Restructuring Proceedings**").

6. On February 17, 2021, the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") rendered a "*first day*" Initial Order (the "**First Day Order**") in favor of the CCAA Entities, among other things:

(a) declaring that the CCAA Entities were affiliated debtor companies to which the CCAA applied;

(b) staying all proceedings and remedies taken or that might be taken against or in respect of the CCAA Entities, any of their respective property or director and officers, except as otherwise set forth in the First Day Order or as otherwise permitted by law (the "**Stay**"), for an initial period of ten (10) days in accordance with the CCAA (the "**Stay Period**");

(c) appointing Ernst & Young Inc. ("**E&Y**" or the "**Monitor**") as the monitor of the CCAA Entities in these proceedings (the "**CCAA Proceedings**");

(d) approving the execution by the CCAA Entities of a *Super Priority Senior Secured Debtor-in-Possession Financing Agreement* (the "**DIP Credit Agreement**"), together with certain ancillary agreements thereto (together with the DIP Credit Agreement, the "**DIP Documents**") entered into on February 16, 2021, between, amongst others, the lenders thereunder (the "**DIP Lenders**"), Country Fresh Holdings, LLC, as borrower (in such capacity, the "**DIP Borrower**"), and several of its direct and indirect subsidiaries, including the CCAA Entities, as guarantors, pursuant to which amounts of up to US$13,416,000 (the "**DIP Facility**"), would be made available to the DIP Borrower;

(e) granting: (a) a priority charge against the assets of the CCAA Entities in favor of the DIP Borrower and its U.S. subsidiaries that are party to the DIP Credit Agreement, securing the full amount of any funding or advances made by any of them to any of the CCAA Entities (the "**Intercompany DIP Advances**") plus interest during the course of these CCAA Proceedings (the "**Intercompany DIP Charge**"); and (b) a priority charge against the assets of the CCAA Entities for the benefit of the DIP Agent (as defined below) and the DIP Lenders (the "**DIP Lenders' Charge**"), securing the full amount of the CCAA Entities' obligations under the *Canadian Guaranty and Security Agreement* (the "**Canadian Guarantee Agreement**") entered into in conjunction with the DIP Credit Agreement, which provides that, *inter alia*, the CCAA Entities would guarantee, in favor of the DIP Lender, the payment of an amount equivalent to the Intercompany DIP Advances, plus interest and the reasonable fees and disbursements of Canadian counsel to the DIP Lenders at their standard rates and charges both before and after the making of the First Day Order;

(f) granting an "**Administration Charge**" in an amount of US$400,000 and a Directors' Charge in an amount of US$2,500,000 to cover the potential exposure of the beneficiaries of such charges for the initial Stay Period;

(g) approving a "**Canadian Intercompany Charge**" for the purpose of securing the repayment of the various amounts which may be advanced, from time to time, plus interest thereon, between the CCAA Entities during the initial Stay Period; and

(h) authorizing the CCAA Entities to make payments to certain suppliers deemed crucial by the CCAA Entities, including with respect to goods delivered or services provided prior to the commencement of these CCAA Proceedings, up to an amount of $750,000, subject to the prior approval of the Proposed Monitor.

7. On February 26, 2021, the Canadian Court rendered an amended and restated initial order (the "**ARIO**") in favor of the CCAA Entities, among other things:

(a) extending the Stay Period until March 28, 2021;

(b) confirming the appointment of E&Y as the Monitor of the CCAA Entities in these CCAA Proceedings;

(c) approving the engagement of Ankura (Stephen Marotta), as Chief Restructuring Organization, and of Stout Capital, LLC ("**Stout**"), as investment banker and financial advisor to FFG, including the CCAA Entities, and granting to Stout a "Transaction Fee Charge" in the amount of US$2,500,000 in order to secure the payment of the "Transaction Fee" payable under the Stout Engagement Letter (as defined below);

(d) confirming the approval of the DIP Credit Agreement, the Canadian Guarantee Agreement and the granting of the Intercompany DIP Charge and the DIP Lenders' Charge;

(e) confirming and increasing, as applicable, the amount of the Administration Charge (US$750,000) and the Directors Charge (US$2,500,000) previously approved as part of the First Day Order;

(f) confirming the Canadian Intercompany Charge previously approved as part of the First Day Order;

(g) confirming the Applicants' authority to make payments to certain suppliers deemed crucial by the Applicants, including with respect to goods delivered or services provided prior to the commencement of these CCAA Proceedings, subject to the prior approval of the Proposed Monitor; and

(h) approving the *Guidelines and Cooperation between Courts in Cross-Border Insolvency Matters* issued by the Judicial Insolvency Network for the purposes of these CCAA Proceedings;

8. On the same day, the U.S. Court rendered an order in the context of the Chapter 11 Proceedings (the "**U.S. Bidding Procedures Order**"), among other things:

(a) approving the execution by the Chapter 11 Entities of a stalking horse asset purchase agreement (the "**Stellex APA**") entered into between the Chapter 11

Entities and the CCAA Entities, as sellers, and Stellex US Newco and Stellex Canadian Newco (both newly incorporated entities whose shares are owned by Stellex Capital Management (“**Stellex**”)), as purchasers, subject to certain amendments which could be agreed upon in respect of the Stellex APA; and

(b) approving the bidding procedures (the “**Bidding Procedures**”) to be followed in connection with the pursuit and continuation of the Formal Solicitation Process (as defined below) previously initiated by Stout in November 2020.

9. On March 1, 2021, following the issuance of the U.S. Bid Procedures Order by the U.S. Court, the Canadian Court also rendered an order in the context of the CCAA Proceedings (the “**Canadian Bidding Procedures Order**”, together with the U.S. Bid Procedures Order, the “**Bidding Procedures Orders**”), among other things:

(a) approving the execution by the CCAA Entities of the Stellex APA, subject to certain amendments which could be agreed upon in respect of the Stellex APA;

(b) approving the Bidding Procedures to be followed in connection with the pursuit and continuation of the Formal Solicitation Process previously initiated by Stout in November 2020; and

(c) approving the form of notices to be sent to the counterparties to those contracts previously entered into by the CCAA Entities which may be assumed by the Stellex of the “*Successful Bidder*” to be determined in accordance with the Bidding Procedures.

10. As will be further discussed below, since the issuance of the Bidding Procedures Orders, the CCAA Entities and the Chapter 11 Entities have jointly conducted, with the assistance of Stout, the Formal Solicitation Process with the objective of soliciting and receiving offers for the business and assets of each of the CCAA Entities and the Chapter 11 Entities, either as a whole or on a stand-alone basis.

11. On March 24, 2021, after having received and considered a total amount of six (6) “*Qualified Bids*” submitted as part of the Formal Solicitation Process (including the offer submitted as part of the Stellex APA) and after having conducted an auction with a view to obtain the best offers possible for the assets of the CCAA Entities and the Chapter 11 Entities, together or on a standalone basis, Homestyle and Save-On were designated as the “*Successful*

Bidders" for the assets of the Canadian Entities, and Stellex, Inc. was designated as the "*Successful Bidder*" for the assets of the U.S. Entities (the "**Stellex Trasnaction**").

12. On the same date, and in accordance with the Bidding Procedures Order, FFG issued a Post-Auction Notice and served the Post-Auction Notice on the service list confirming the identity of the "*Successful Bidders*" and of the "*Back-up Bidders*". On March 25, 2021, the Homestyle APA and the Save-On APA were finalized and executed.

13. The Applicants' Motion only deals with the approval of the Homestyle Transaction and the Save-On Transaction. The U.S. Court has approved the Stellex Transaction on March 25, 2021.

II. THE FRESH FOOD GROUP

14. Below is a summary description of FFG and of the CCAA Entities, taken from the February 16, 2021 Marotta Affidavit.

A. Overview of FFG

15. FFG is the result of the business combination of various companies operating in the food sector in Canada and in the United States.

16. Today, FFG has grown into a group of companies which have become leading providers of branded and private-label offerings of fresh-cut fruits and vegetables, ready-to-go meals and meal kits, behind-the-glass salads, snacks, and ingredients/bulk food components to supermarkets, club stores, convenience stores, industrial, and food-service customers in the United States and Canada. Recently, FFG expanded its product offerings into *sous vide* and kettle cooking of chicken, fish, and beef entrees as well as pasta.

17. FFG carries the following brands:

(a) <u>Country Fresh</u>: Country Fresh provides and distributes in the US fresh-cut fruit, apple slices, vegetable and snacking solutions on a variety of blends, sizes and packaging options. Its product offering includes, *inter alia*, cut fruit and vegetables, snaking solutions, side dishes, parfaits, meal kits and sous-vide proteins and vegetable and its customers include retail and foodservice companies;

(b) Sun Rich: Sun Rich provides and distributes both in Canada (through Sun Rich Canada) and in the US (through Sun Rich USA) ready-to-serve fresh-cut fruits. Its product offering includes, *inter alia*, pails filled with a single type of precision-cut fruit, fresh fruit salads, meal kits that are ready to mix and serve and other snacking solutions, and its customers include retail and foodservice companies; and

(c) Tiffany Gate: Tiffany Gate creates, packages and delivers fresh-prepared food products to customers across Canada and the U.S. By combining state-of-the-art technology and food science with artisanal cooking techniques, Tiffany Gate is able to create homemade recipes on a commercial scale. Its product offering includes, *inter alia*, meal kits, pasta kits, soup and stew kits, deli salads, sauces, smoothies, butters and sous-vide proteins, vegetables and starches. Its customers include some of the largest retail food service companies and fresh-cut processors in Canada.

18. While some of the management functions of the entities forming part of FFG are intertwined in some respect, the respective business operations of each of these entities is generally divided geographically between Canada and the US.

19. The only debtors in the context of these CCAA Proceedings are the Canadian entities of FFG (i.e. TGF, Sun Rich Canada and Tiffany Gate), which are ultimately owned by Country Fresh LLC, a Chapter 11 Entity, which also own the other US operating entities of FFG.

B. Overview of the CCAA Entities

20. TGF is a private holding company which was incorporated under the British Columbia *Business Corporations Act* (the "**BCBCA**") for the purpose of acquiring the business and assets of Sun Rich Canada and of Tiffany Gate in 2017. While TGF is a borrower under the credit agreements entered into with the First Lien Lenders (as defined below) and the Second Lien Lenders (as defined below), TGF has no operations of its own and its assets essentially consists in its shares in each of Sun Rich Canada and Tiffany Gate. The shares of TGF are ultimately owned by Country Fresh Holding LP, a US entity which ultimately owns the shares of all of the entities forming part of FFG.

21. Sun Rich Canada is a private company wholly owned by TGF, which was incorporated under the BCBCA, whose business operations consist, as previously mentioned, in distributing

ready-to-serve fresh-cut fruits, meal kits and other snacking solutions to retail and foodservice companies in Canada.

22. Tiffany Gate is a private company wholly-owned by TGF, which was incorporated under the BCBCA, whose business operations consist, as previously mentioned, in creating, packaging and delivering fresh-prepared food products (including meal kits, pasta kits, soup and stew kits, deli salads, sauces, smoothies, butters and sous-vide proteins, vegetables and starches) to large retail food service companies in Canada.

23. Each of the CCAA Entities have separate managerial functions such as accounting, management of accounts receivables and payables with Tiffany Gate managed out of an office and facility located at 195 Steinway Blvd., Etobicoke, Ontario (the "**Steinway Property**"), which is owned by Tiffany Gate, and Sun Rich Canada having certain managerial functions managed out of the U.S.

C. The Assets of the CCAA Entities

24. As at November 2020, the assets of Sun Rich Canada and Tiffany Gate had a *book value* of approximately US$22 million and US$116 million, respectively, as appears from the tables below:

Sun Rich Canada	
Description of Assets	**Book Value**
Cash	US$2,037,828
Accounts Receivables	US$5,008.059
Inventory	US$546,336
Prepayment & Deposits	US$184,527
Equipment	US$6,279,954
Intangibles	US$7,938,899
Total:	**US$21,995,602**

Tiffany Gate	
Description of Assets	**Book Value**
Cash	US$1,834,978
Accounts Receivables	US$6,207,951
Prepayments & Deposits	US$94,378
PP&E	US$28,311,497
Intangibles	US$76,812,727
Other	US$590,382
Total:	**US$116,793,300**

25. The only real property owned by the CCAA Entities is the Steinway Property which is owned by Tiffany Gate.

26. As for TGF, it has no material assets of its own, other than its shares in Sun Rich Canada and Tiffany Gate.

D. The Liabilities of the CCAA Entities

27. As at November 2020, each of the CCAA Entities, including TGF, had liabilities totalling well in excess of US$100,000,000, as appears from the tables below:

TGF Acquisition Parent Ltd.	
Description of Liabilities	**Amount**
Secured Debt	US$119,000,000
Total:	US$119,000,000

Sun Rich Canada	
Description of Liabilities	**Amount**
Secured Debt	US$119,000,000
Accounts Payables	US$6,737,318
Note Payable	US$9,798,429
Intercompany	US$6,402,050
Other	US$4,786,280
Total:	**US$139,624.078**

Tiffany Gate	
Description of Liabilities	**Amount**
Secured Debt	US$119,000,000
Accounts Payable	US$9,486,154
Other Notes & Loans	US$808,403
Intercompany Loans	US$27,827,264
Other	US$1,848,594
Total:	**US$158,970,415**

28. As appears from the above, the principal liabilities of the CCAA Entities' consist in their long term secured debt, which is broken down in the table below:

Credit Agreements	**Facility**	**Principal Amount Outstanding (in millions)**	**Interest Rate**	**Maturity**
First Lien Credit Agreement	Revolving Loan	US$25.0	7.1%	April 2023
	Term Loan	US$10.0	7.1%	April 2023
Second Lien Credit Agreement	Term Loan	US$60.0	10.6%	April 2024
Super Senior Term Loan Credit Agreement	Term Loan No. 1 Term Loan No. 2	US$16.0 US$5.6	8.0% 8.0%	June 2023 June 2023
	Term Loan No. 3	US$2.4	8.0%	June 2023
	Total:	**US$119,000,000**		

E. The Financial Difficulties of the CCAA Entities

29. In 2019, FFG faced significant liquidity and other economic pressures, which forced it to consider and implement certain strategic measures in order to deleverage its consolidated balance sheet.

30. On April 29, 2019, FFG entered into an exchange transaction (the "**Exchange Transaction**") with its then existing lenders, including the current First Lien Lenders and the Second Lien Lenders, pursuant to which FFG restructured its indebtedness under the then existing first lien loan and second lien loan.

31. The Exchange Transaction resulted in a combination of a debt-for-equity exchange with the then First Lien Lenders (who now ultimately own 95% of the common shares of FFG) and Second Lien Lenders (who now ultimately own 5% of the common shares of FFG, as well as in an exit financing (the "**Exit Financing**", together with the Exchange Transaction, the "**2019 Restructuring Transactions**") entered into with the current First Lien Lenders, as part of which a new first lien loan in the aggregate amount of US$35 million ($10 million in first lien term loan

and $25 million in first lien revolver) and a new second lien loan in the aggregate amount of $60 million was made available to FFG.

32. Despite the Exchange Transaction, FFG has continued to face significant financial challenges in the context of its business operations, most recently due to economic pressures caused by the COVID-19 global pandemic.

33. More specifically, in 2020, the demand for FFG's largest product segments, fruits and vegetable trays, significantly declined as consumer habits began to change, and as the various federal, provincial and state governments in both Canada and in the US began imposing various sanitary measures and restrictions to prevent or limit the spread of the COVID-19 virus, which measures and restrictions have included the temporary closure of restaurants, businesses and schools (with students being forced, at times, to attend classes virtually).

34. FFG was also forced to temporarily close or idle several of its production facilities in the U.S., which contributed to a significant reduction of FFG's production, and, in turn, FFG's revenues.

35. FFG also faced supply-chain issues, which, for the most part, were caused by its suppliers also facing economic challenges as a result of the COVID-19 pandemic. These issues forced FFG to pay, at times, premiums for certain products as well as higher costs for the shipping of these products.

36. Taken together, these challenges have significantly affected FFG liquidity position throughout 2020.

III. FFG'S SALE AND INVESTMENT SOLICITATION PROCESS

F. The Informal Process

37. In response to the aforementioned challenges, FFG, engaged in a thorough review of its strategic alternatives with the advice and guidance of their legal and financial advisors.

38. Starting in 2020, and before Stout was engaged, FFG decided to explore M&A opportunities with potential strategic acquirers in the food and beverage industry, which had approached FFG to discuss the terms of a potential transaction (the "**Informal Solicitation Process**").

39. As part of the Informal Solicitation Process, FFG held strategic discussions with various parties which were either contacted by FFG, or which contacted FFG themselves with inquiries in connection with a potential sale transaction. In total, nine (9) parties submitted such inquiries to FFG, two (2) of which submitted offers to FFG.

40. The first offer submitted to FFG was for only a small, discrete portion of its assets, and was deemed too low in price at the time. The second offer was submitted by a large strategic food provider was for substantially all of the FFG's assets, including certain of the assets of the CCAA Entities ("**Initial Potential Buyer**"). Given the serious nature of the discussions with the Initial Potential Buyer and recognizing the need to ensure that the offer submitted by the Initial Potential Buyer was competitive, relative to the market value of FFG's assets, FFG then engaged an investment banker, to further explore market opportunities and expand the list of potential interested parties.

G. The Formal Solicitation Process

41. In late October 2020, FFG engaged Stout Capital ("**Stout**"), as investment banker, to conduct a formal sale and investment solicitation process (the "**First Formal Solicitation Process**").

42. As part of the First Formal Solicitation Process, Stout assembled a list of potential buyers and prospective plan sponsors, in addition to those that FFG had initially identified as part of the Informal Process. These potential buyers and prospective plan sponsors included strategic buyers in the food and beverage sector, private equity firms with portfolio companies in the food and beverage sector, and a select few pure financial buyers with significant industry experience and an appetite for distressed and/or turnaround transactions.

43. By the end of 2020, Stout had reached out to over thirty (30) potential acquirers. However, several of them advised Stout that they would pass on this opportunity for a variety of reasons, including the distressed nature of the business, lack of strategic fit, their own financial challenges, and/or inability to complete their due diligence in time over the 2020 holiday season.

44. However, some of these potential acquirers indicated that they remained interested in a potential transaction involving FFG's assets, in whole or in part, and indicated that they would consider participating in the Formal process conducted by Stout, which could eventually include an auction.

45. On December 14, 2020, having not received any serious alternative offer at that point, FFG entered into a non-binding letter of intent (the "**Initial LOI**") with the Initial Potential Buyer, which contemplated the sale and purchase of all or substantially all of the assets of the Chapter 11 Entities, as well as certain of the assets of the CCAA Entities. This Initial LOI further contemplated that the Initial Potential Buyer would act as a stalking horse bidder, to allow Stout and FFG to establish a "floor" price and provide certainty to the FFG's employees, customers and vendors. The Initial LOI contemplated the closing of a sale transaction by March 2021, should no superior offer be submitted to FFG.

46. Over the course of the 2020 holidays and in early January 2021, FFG, Stout and the Initial Potential Buyer continued their negotiations with a view of executing a binding stalking horse asset purchase agreement.

47. However, on January 7, 2021, FFG and Stout were advised that the Initial Potential Buyer was no longer prepared to enter into an asset purchase agreement and would therefore withdraw its offer set out in the Initial LOI, thereby forcing FFG and Stout to consider and implement contingency plans to try to keep the enterprise afloat while identifying a replacement bidder and/or new sources of financing.

48. Following the withdrawal of the Initial LOI by the Initial Potential Buyer, Stout launched a more comprehensive sale and investment solicitation process (the "**Second Formal Solicitation Process**", together with the First Formal Solicitation Process, the "**Formal Solicitation Process**"). In connection therewith, solicitation materials were sent to an additional one hundred seventy (170) potential acquirers or investors, which included sponsors in the food/beverage industry, strategic parties in the consumer/retail sector, and packaged food processors and food distributors.

49. As part of the Second Formal Solicitation Process, Stout informed potentially interested parties that FFG was receptive to a wide range of transaction structures including, without limitation, sale transactions to be implemented pursuant to section 363 of the US Bankruptcy Code and section 36 of the CCAA, plan sponsorship, out-of-court sale transactions, structured deals involving "*take back*" debt and/or equity. In addition, Stout solicited bids for FFG (including the CCAA Entities), either as a whole or piece-meal (including with respect to the assets of the CCAA Entities), recognizing that the selling such assets in pieces could potentially yield higher value to FFG's estate.

50. As at the commencement of the Restructuring Proceedings:

(a) More than 210 potentially interested parties had been solicited and had received solicitation packages, including:

(i) 90 strategic parties;

(ii) 20 "*hybrid*" parties (meaning private equity firms with strategic portfolio companies in the food and beverage sector); and

(iii) More than 100 financial parties.

(b) 83 non-disclosure agreements had been executed by potentially interested parties to whom access to the virtual data room set up by Stout was given.

51. On January 20, 2021, FFG received a letter of intent from Stellex, a global private equity firm dealing at arm's length with FFG, regarding a potential transaction whereby Stellex would acquire virtually all of FFG's American and Canadian assets, subject to certain exceptions, and would assume some of its liabilities.

IV. THE STALKING HORSE BID

52. On February 15, 2021, after several weeks of negotiations, Stellex and FFG executed an asset purchase agreement (i.e. the Stellex APA), which contemplated Stellex acting as a stalking horse bidder. On March 12, 2021, the Stellex APA was amended to as to clarify certain elements of the proposed transaction.

53. The Stellex APA contemplated the sale of all or substantially all of the assets of FFG (including the CCAA Entities) other than the excluded assets listed thereunder, for the following purchase price (the "**Purchase Price**"), to be allocated between the assets to be purchased from the Chapter 11 Entities and those from the CCAA Entities, provided that Stellex is designated as the "*Successful Bidder*" following the completion of the Bidding Procedures (as defined below):

(a) $30 million in cash consideration;

(b) $25 million senior secured note against FFG's real estate to be sold and conveyed to Stellex as part of the Stellex APA;

(c) payment or assumption of certain obligations and liabilities up to a total amount of $21.5 million; and

(d) payment or assumption of cure costs in connection with contracts to be assumed by and assigned to Stellex.

54. The Stellex APA also provided that in consideration for Stellex acting as the "*stalking horse bidder*", Stellex would also be entitled to certain bid protections payable by the Chapter 11 Entities in the event that Stellex was not designated as the "Successful Bidder" following completion of the Bidding Procedures.

55. On February 26, 2021 and March 1, 2021, respectively, the U.S. Court and the Canadian Court both approved the execution by FFG of the Stellex APA, as well as the related Bidding Procedures.

V. THE PURSUIT OF THE FORMAL SOLICITATION PROCESS IN ACCORDANCE WITH THE BIDDING PROCEDURES

56. Following the commencement of the Restructuring Proceedings and the approval of the Bidding Procedures by both the U.S. Court and the Canadian Court, FFG, with the assistance of Stout, pursued the Formal Solicitation Process in accordance with said Bidding Procedures, which contemplated the following milestones:

Milestone	**Key Dates**
Issuance of Additional Solicitation Packages	As soon as reasonably possible following court approval
Due Diligence Period	Until March 19, 2021
Bid Deadline	March 19, 2021
Auction	March 22, 2021
US Sale Hearing	No later than March 26, 2021
Canadian Sale Hearing	No later than March 26, 2021
Closing	March 31, 2021

57. On March 12, 2021, after consultation with Stout and the Consultation Parties described in the Bidding Procedures, which include the Monitor and the DIP Lenders, and in order to provide more time to consider bids that would be submitted by the March 19, 2021 Bid Deadline, FFG filed a *Notice of Reset Auction Date* in the context of the Chapter 11 Proceedings advising all potential purchasers that the Auction originally set for March 22, 2021, at 10:00 a.m. (CT) had been reset to March 23, 2021, at 10:00 a.m. (CT).

58. As part of the Formal Solicitation Process, FFG and Stout received a total of six (6) Qualified Bids (including the offer set out in the Stellex APA) in respect of the assets of FFG, including four (4) Qualified Bids in respect of some or all of the assets of the Canadian Entities.

59. On March 23 and 24, 2021, FFG and Stout conducted the Auction to which each Qualified Bidders Participated. The Auction was transparent and had competitive bidding between the various Qualified Bidders for the various assets. As result, as discussed below, FFG was able to achieve a combination of bids for the various assets that were significantly superior to the Stellex APA. Following the conduct of the Auction, Homestyle and Save-On were designated as the "*Successful Bidders*" for the assets of the Canadian Entities, and Stellex was designated as the "*Successful Bidder*" for the assets of the U.S. Entities. A copy of a table comparing the highest bids submitted as part of the auction (the "**Highest Bids Summary**") is attached hereto, as **Exhibit "B"**.

60. On the same date, and in accordance with the Bidding Procedures Orders, FFG issued a Post-Auction Notice confirming the identity of the "*Successful Bidders*" and "*Back-up Bidders*". A copy of the Post-Auction Notice is attached hereto as **Exhibit "C"**.

61. On March 25, 2021, the Homestyle APA and the Save-On APA were finalized and executed. A copy of each of the Homestyle APA and the Save-On APA (without schedules) is attached hereto, as **Exhibit "D"** and **Exhibit "E"**, respectively.

VI. THE SUCCESSFUL BIDS

A. The Homestyle Transaction

62. As appears from the Homestyle APA, its main terms and conditions are as follows:[1]

(a) Purchase Price: US$30,000,000;

(b) Homestyle Purchased Assets: All assets and properties owned by Sun Rich Canada and Tiffany Gate in connection with their respective Business of the Facilities, including the Brampton facility (leased) and the Steinway Property (owned), including, without limitation, the Inventory, Accounts Receivable, Assigned Contracts, Assigned Leases, Warranties, claims, Records, Permits, including Environmental Permits, goodwill and Intellectual Property;

(c) Assumed Liabilities:

(i) all liabilities arising from the ownership and operation of the Homestyle Purchased Assets from and after the Closing (including all Liabilities for Taxes);

(ii) all of Sun Rich Canada's and Tiffany Gate's respective Liabilities under the Assigned Contracts and Assigned Leases to the extent arising from and after the Closing or arising prior to the Closing to the extent requiring performance from and after the Closing, as well as all Cure Costs related to any such Assigned Contracts and Assigned Leases;

(iii) all Liabilities related to the Post-Petition Trade Payables attributable to the Business of the Facilities, up to a maximum amount of US$350,000;

(iv) all liability for any accrued but unpaid wages, vacation pay or overtime pay (up to two (2) weeks of wages) in relation to employees to whom Homestyle intends to make offers of employment and who accept such employment offer and commence working for Homestyle following Closing;

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[1] For the purpose of this section, all capitalized terms not otherwise defined shall have the meaning ascribed to them in the Homestyle APA.

(v) all Liabilities related to the Customer Rebates.

(d) Assignment of Contracts: All 11.3 Contracts and 11.3 Leases listed in Schedules 2.6(a)(i) and 2.6(a)(ii) of the Homestyle APA shall be assigned to Homestyle, subject to Homestyle's right, in consultation with Sun Rich Canada and Tiffany Gate, to designate any of the 11.3 Contracts and 11.3 Leases as being an Excluded Contract or an Excluded Lease;

(e) Employees: Within at least five (5) Business Days prior to the Closing, Homestyle shall provide a list of the Employees it intends to make offers of employment, provided that Homestyle shall hire a minimum of 193 employees of either Sun Rich Canada or Tiffany Gate, and Homestyle may also designate certain employees to retain following Closing that are deemed necessary to implement a course of action with respect to the Excluded Assets;

(f) Main Conditions:

(i) The Canadian Court shall have entered the Homestyle Sale Approval Order and such order shall be a Final Order on the Closing Date;

(ii) Execution of a transitional services agreement in a form to be mutually agreed upon between Sun Rich Canada, Tiffany Gate and Homestyle, acting reasonably; and

(iii) All required filings shall have been made with, and all necessary approvals or consents shall have been received from, applicable governmental authorities, if any.

(g) Outside Closing Date: May 31, 2021

B. The Save-On Transaction

63. As appears from the Save-On APA, its main terms and conditions are as follows: [2]

(a) Purchase Price: US$2,500,000

(b) Save-On Purchased Assets: All assets and properties owned by Sun Rich Canada in connection with the Business of the Vancouver facility, including, without limitation, Inventory, Accounts Receivable, Assigned Contracts, Assigned Leases, Assigned Permits, Warranties, Claims, Records, Permits, and Intangible Property;

(c) Assumed Liabilities:

(i) all liabilities arising from the ownership and operation of the Save-On Purchased Assets from and after the Closing (including all Liabilities for Taxes);

(ii) all of Sun Rich Canada's and Tiffany Gate's respective Liabilities under the Assigned Contracts and Assigned Leases to the extent arising from and after the Closing or arising prior to the Closing to the extent requiring performance from and after the Closing, as well as all Cure Costs related to Assigned Contracts and Assigned Leases listed in the schedules to the Save-on APA, up to US$100,000, with Sun Rich Canada being responsible for the Cure Costs on these specific Assigned Contracts and Assigned Leases above US$100,000;

(iii) all Liabilities related to the Post-Petition Trade Payables attributable to the Business of the Facilities, up to a maximum amount of US$750,000 (including Liabilities relating to Critical Vendor Payments);

(iv) all accrued Liabilities with respect to any employee of Sun Rich Canada employed by Save-On following Closing, which shall include all employees providing direct labor in connection with production for the Business of the Facility;

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[2] For the purpose of this section, all capitalized terms not otherwise defined shall have the meaning ascribed to them in the Save-On APA.

(d) Assignment of Contracts: All 11.3 Contracts and Third Party Lease listed in Schedules 2.6(a)(i) and 2.6(a)(ii) of the Save-On APA shall be assigned to Save-On, subject to Save-On's right to designate any of the 11.3 Contracts as being an Excluded Contract;

(e) Employees: Within at least five (5) Business Days prior to the Closing, Save-On shall provide a list of the Employees it intends to make offers of employment, provided that Save-On shall hire a minimum of eighty percent (80%) of the Employees employed in connection with the Business of the Facility;

(f) Main Conditions:

(i) The Canadian Court shall have entered the Save-On Sale Approval Order and such order shall not be subject to a stay pending appeal;

(g) Outside Closing Date: May 31, 2021

C. The New Stellex Transaction

64. In addition to the Homestyle Transaction and Save-On Transaction, the US Entities agreed to a revised transaction with Stellex for only the assets of the U.S. Entities (the "**New Stellex Transaction**"). The New Stellex Transaction, among other things, increased the cash consideration paid by Stellex, favourably adjusted certain terms related to purchase price adjustments and favourably changed certain terms related to assumed liabilities under the sale.

65. After consulting the Consultation Parties, FFG and the Consultation Parties all agreed that the transactions contemplated in the Homestyle Transaction, the Save-On Transaction, and the New Stellex Transaction, constituted the best offers in respect of FFG's various assets and maximized value for the CCAA Entities, the Chapter 11 Entities and their stakeholders.

VII. THE SALE APPROVAL ORDERS SOUGHT

A. Sale Approval Orders

66. As previously discussed, the execution of the Homestyle APA and the Save-On APA constitutes the culmination of a solicitation process which began several months ago, and was pursued after the commencement of the Restructuring Proceedings in accordance with the Bidding Procedures previously approved by both the U.S. Court and the Canadian Court.

67. The Homestyle Transaction and the Save-On Transactions represent the best outcome following a competitive sales process since:

(a) based on the Purchase Price payable under both the Homestyle APA and the Save-On APA, the Homestyle Transaction and the Save-On Transaction each provide for the best available value, well in excess of the values offered prior to the Auction under the Stellex APA) for the Homestyle Purchased Assets and the Save-On Purchased Assets, which will ultimately be to the benefit of the CCAA Entities' creditors;

(b) both the Homestyle Transaction and the Save-On Transaction will allow the pursuit of the CCAA Entities' operations through Homestyle and Save-On, which, in turn, will allow for certain of the CCAA Entities' employees to preserve their employment and will allow for some of the CCAA Entities goods and service providers to maintain their business with a new client; and

(c) Homestyle and Save-On have both committed to providing minimum amounts of employment offers to the employees of the CCAA Entities, which was not provided for under the Stellex APA and it was expect certain facilities may be required to be closed as part of the CCAA Proceedings.

68. At all times relevant, the Consultation Parties (as defined in the Bidding Procedures) which include the Monitor and the DIP Lenders, have been kept informed on a regular basis with respect to the conduct of the Formal Solicitation Process by Stout.

69. The Consultation Parties are supportive of the approval by this Court of the Homestyle Transaction and the Save-On Transaction, and the CCAA Entities understand that the Monitor shall be filing a report confirming such support in advance of the hearing on the Sale Approval Motion.

B. Assignment of Contracts

70. As part of both the Homestyle APA and the Save-On APA, Homestyle and Save-On have both provided a list of contracts and leases (together with the cure costs payable in respect therewith) which they intend on assuming, as part of the Homestyle Transaction and the Save-On Transaction (each of these contracts and leases are referred to in the Homestyle APA and the Save-On APA as the "*11.3 Contracts*" and the "*11.3 Leases*" (or the "*Third Party Lease*" in the Save-On APA)).

71. Pursuant to the draft Homestyle Sale Approval Order and the draft Save-On Sale Approval Order, the Applicants request the Canadian Court's approval of the assignment of the aforementioned contracts and leases subject to the following:

(a) each of Homestyle and Save-On will have the right, up until the Closing Date contemplated in each of the Homestyle APA and the Save-On APA, to designate any "*11.3 Contracts*" as an "*Excluded Contract*" and, in the Homestyle APA, to designate any of the "*11.3 Leases*" as an "*Excluded Lease*"; and

(b) unless any such "*11.3 Contracts*" and "*11.3 Leases*" as an "*Excluded Contract*" or an "*Excluded Lease*" by either Homestyle or Save-On, as applicable, then such "*11.3 Contracts*" and "*11.3 Leases*" shall be assigned to Homestyle or Save-On, as applicable, in accordance with section 11.3 of the CCAA, without further order of the Canadian Court;

(c) However, each counterparty to the "*11.3 Contracts*" and "*11.3 Leases*" listed in either the Homestyle APA or the Save-On APA shall be entitled, up until the Closing Date contemplated in the Homestyle APA or the Save-On APA, to object to such assignment, but only on the basis that on the basis that either Homestyle or Save-On, as applicable, will not be able to perform the obligations under such "*11.3 Contract*" or "*11.3 Lease*", but not on the basis of the other criteria set out in Section 11.3 of the CCAA (including the quantum of the cure costs to be paid upon the assignment of the "*11.3 Contract*" or "*11.3 Lease*"), as such issues, if any, will need to be dealt with at the hearing on the Applicants' Motion for the approval of the Homestyle Transaction and the Save-On APA. If any such objection is filed, the Applicants shall attempt to settle or resolve such objection, failing which, the Applicants shall schedule a hearing before the Canadian Court to resolve such objection.

72. As of the date hereof, I am not aware of any objection from any counterparties to the "*11.3 Contracts*" or "*11.3 Leases*" listed in the schedules to the draft Homestyle Sale Approval Order and to the draft Save-On Sale Approval Order, including with respect to the proposed amount of cure costs payable in respect of such contracts and leases.

73. It bears mentioning that, as part of the Canadian Bidding Procedures Order, the Canadian Court had previously approved an assumption and assignment procedures which contemplated the issuance of assumption and assignment notices, a form of which was also approved by the Canadian Court (the "**Assumption and Assignment Notice**") to the counterparties to contracts and leases that could be assigned to the Successful Bidder as part of an eventual transaction in respect of the assets of FFG (the "**Proposed Assigned Agreements**"), which Proposed Assigned Agreements included the aforementioned*11.3 Contracts*" or "*11.3 Leases*" listed in the schedules to the draft Homestyle Sale Approval Order and to the draft Save-On Sale Approval Order.

74. As part of the Assumption and Assignment Notice, the counterparties to the Proposed Assigned Agreements, were advised of the Restructuring Proceedings, the Formal Solicitation Process and of the fact that all contracts listed in such Assumption and Assignment Notice could potentially be assigned as part of an eventual transaction in respect of the assets of FFG, including those of the CCAA Entities.

75. Furthermore, the counterparties to the Proposed Assigned Agreements were each also advised of the proposed cure costs payable for the assignment of such Proposed Assigned Agreements, and that pursuant to the orders rendered by the U.S. Court and the Canadian Court approving the Bidding Procedures, the issuance of the Assumption and Assignment Notice would constitute proper notice of the upcoming sale hearing before the U.S. Court and the Canadian Court, and proposed assignment of such Proposed Assigned Agreements, and that if any of these counterparties to the Proposed Assigned Agreements had any objection to the assignment thereof (other than on the basis of the identity of the proposed assignee), then a formal objection (each a "**Contract Objection**") would need to be filed by no later than 5:00 p.m. EST on the earlier of (i) March 23, 2021, and (ii) fourteen (14) calendar days following service of the Assumption and Assignment Notice upon them.

76. On March 2, 2021, an Assumption and Assignment Notice was posted on the Monitor's website and was served by Epiq, on behalf of FFG, to all counterparties to the Proposed Assignment Agreements. On March 12, 2021, an amendment to the Assumption and Assignment Notice was posted on the Monitor's website and was served by Epiq, on behalf of FFG, to the same contract counterparties.

77. As at the date of this Affidavit, only two (2) Contract Objections have been filed in respect of a Proposed Assigned Contract entered into with one of the CCAA Entities, accordance with the Bidding Procedures Order. The Applicants expect to have such Contract Objections resolved before the hearing on its Motion.

78. In light of the foregoing, I believe that the issuance of an order approving the assignment of the Initial Assigned Agreements as well as the potential assignment of the Designated Agreements to the Canadian Buyer in accordance with the process set forth in the draft Sale Approval Order is reasonable and justified in the circumstances.

79. I understand that the Monitor is supportive of such proposed assignment of contracts, including the mechanics by which such proposed assignment of contracts is to be effected.

C. Extension of the Stay Period

80. As things currently stand, the Stay Period is currently expected to expire on March 28, 2021.

81. Accordingly, the CCAA Entities request that the Stay Period be extended until April 18, 2021, so as to allow them to proceed with the closing of the Homestyle Transaction and the Save-On Transaction, while at the same time preserving the status quo and preventing creditors and others from taking any steps to try and better their positions in comparison to other creditors. To the extent possible, and provided that the Homestyle Transaction and the Save-On Transaction will have closed by then, the CCAA Entities also intend to bring a motion to allow a distribution to be made in respect of the proceeds resulting from the aforementioned transaction to the secured creditors of the CCAA Entities, subject to the necessary holdbacks, on or before the next stay extension motion (on or about April 18, 2021). As part of such distribution motion, I understand that the Monitor shall report to the Court as to the validity of the secured lenders' security.

82. The CCAA Entities' stakeholders, including creditors, will all benefit from the Extension of the Stay Period.

83. As set out in the cash flow projections (the "**Cash Flow Statement**") that was prepared by the CCAA Entities in consultation with Ankura, and reviewed by the Monitor for the period from March 28, 2021 to April 18, 2021, the CCAA Entities expect that they will have sufficient cash to fund their projected operating costs during such period.

84. I understand that a copy of the Cash Flow Statement will be attached to the report of the Monitor, which will be filed with the Court in advance of the hearing on the Sale Approval Motion.

VIII. CONCLUSIONS

85. In light of the foregoing, I believe that the relief sought by the Applicants as part of the Sale Approval Motion are reasonable in the circumstances.

86. Furthermore, I understand that E&Y, in its capacity as Monitor, will also be filing a report in advance of the hearing on the Sale Approval Motion, confirming its support for such relief.

I confirm that while connected via video conference technology, the affiant showed me the front and back of his government-issued photo identity document and that I am reasonably satisfied it is the same person and the document is current and valid. I also confirm that I have reviewed each page of this affidavit with the affiant and verify that the pages are identical.

SWORN BEFORE ME remotely by video conference by Stephen Marotta, stated as being in the City of New York, in the State of New York, to the City of Toronto, in the Province of Ontario, on March [25], 2021, in accordance with O. Reg 431/20 *Administering Oath or Declaration Remotely*.

Commissioner for Taking Affidavits

STEPHEN MAROTTA

This is
EXHIBIT "A"
to the affidavit of
STEPHEN MAROTTA
sworn March 25, 2021

A commissioner etc.

Court File No. ________________

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

(Applicants)

AFFIDAVIT OF STEPHEN MAROTTA
(Sworn February 16, 2021)

I, **STEPHEN MAROTTA**, of the City of New York, in the State of New York, United States of America, MAKE OATH AND SAY:

1. I am a Senior Managing Director of Ankura Consulting Group, LLC ("**Ankura**"), which has been appointed to act as Chief Restructuring Organization of Country Fresh Holding Company Inc. ("**CF Holding**"), which indirectly holds all of the shares of the Applicants. In this capacity, I am responsible for overseeing the operations of FFG (as defined below), which includes the Applicants, their liquidity management and, ultimately, for assisting them with their restructuring process. As such, I have knowledge of the matters to which I hereinafter depose herein, except where otherwise stated. The facts stated in the present affidavit are based on my personal knowledge of FFG, my review of its books and records, as well as on information received from other individuals, such as directors, officers and/or employees of FFG, which information I believe to be true.

2. All references to currency in this affidavit are references to Canadian dollars, unless otherwise indicated.

I. BACKGROUND

3. This affidavit is sworn in support of an application (the "**Application**") by each of TGF Acquisition Parent Ltd. ("**TGF**"), Sun Rich Fresh Foods Inc. ("**Sun Rich Canada**") and Tiffany Gate Foods Inc. ("**Tiffany Gate**" and collectively with TGF and Sun Rich Canada, the "**Applicants**" or the "**CCAA Entities**"), for the following orders pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") :

(a) a first day initial order (the “**First Day Order**”), which will be sought by the Applicants at the “*first day hearing*” which will take place before the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) on Wednesday, February 17, 2021 (the “**First Day Hearing**”), among other things:

(i) declaring that the Applicants are affiliated debtor companies to which the CCAA applies;

(ii) staying all proceedings and remedies taken or that might be taken against or in respect of the Applicants, any of their respective property or director and officers, except as otherwise set forth in the First Day Order or as otherwise permitted by law (the “**Stay**”), for an initial period of ten (10) days in accordance with the CCAA (the "**Stay Period**");

(iii) appointing Ernst & Young Inc. (“**E&Y**” or the “**Proposed Monitor**”) as the monitor of the Applicants in these proceedings (the “**CCAA Proceedings**”);

(iv) approving the execution by the Applicants of a *Super Priority Senior Secured Debtor-in-Possession Financing Agreement* (the “**DIP Credit Agreement**”), together with certain ancillary agreements thereto (together with the DIP Credit Agreement, the “**DIP Documents**”) entered into on February 16, 2021, between, amongst others, the lenders thereunder (the “**DIP Lenders**”), Country Fresh Holdings, LLC, as borrower (in such capacity, the **“DIP Borrower**”), and several of its direct and indirect subsidiaries, including the Applicants, as guarantors, pursuant to which amounts of up to US$13,416,000 (the “**DIP Facility**”), will be made available to the DIP Borrower;

(v) granting: (a) a priority charge against the assets of the CCAA Entities in favour of the DIP Borrower and its U.S. subsidiaries that are party to the DIP Credit Agreement, securing the full amount of any funding or advances made by any of them to any of the CCAA Entities (the “**Intercompany DIP Advances**”) plus interest during the course of these CCAA Proceedings (the “**Intercompany DIP Charge**”); and (b) a priority charge against the assets of the CCAA Entities for the benefit of the DIP Agent (as defined below) and the DIP Lenders (the “**DIP Lenders’ Charge**”), securing the full amount of the Applicants’ obligations under the *Canadian Guaranty and Security Agreement* (the “**Canadian Guarantee Agreement**”) entered into in conjunction with the DIP Credit Agreement, which provides that, *inter alia*, the Applicants shall guarantee, in favour of the DIP Lender, the payment of an amount equivalent to the Intercompany DIP Advances, plus interest and the reasonable fees and disbursements of Canadian counsel to the DIP Lenders at their standard rates and charges both before and after the making of the First Day Order;

(vi) granting an “Administration Charge” in an amount of US$400,000 and a Directors’ Charge in an amount of US$2,500,000 to cover the potential exposure of the beneficiaries of such charges for the initial Stay Period;

(vii) approving a Canadian Intercompany Charge (as defined below) for the purpose of securing the repayment of the various amounts which may be advanced, from time to time, plus interest thereon, between the Applicants, during the initial Stay Period; and

(viii) authorizing the Applicants to make payments to certain suppliers deemed crucial by the Applicants, including with respect to goods delivered or services provided prior to the commencement of these CCAA Proceedings, up to an amount of $750,000, subject to the prior approval of the Proposed Monitor.

(b) an amended and restated initial order (the “**ARIO**”), which will be sought by the Applicants at the “*comeback hearing*” that will take place before the Canadian Court within ten (10) days of the First Day Hearing:

(i) extending the Stay Period until March 28, 2021;

(ii) confirming the appointment of E&Y as the Monitor of the Applicants in these CCAA Proceedings;

(iii) approving the engagement of Ankura (Stephen Marotta), as Chief Restructuring Organization, and of Stout Capital, LLC (“**Stout**”), as investment banker and financial advisor to FFG, including the Applicants, and granting to Stout a “Transaction Fee Charge” in the amount of US$2,500,000 in order to secure the payment of the “Transaction Fee” payable under the Stout Engagement Letter (as defined below);

(iv) confirming the approval of the DIP Credit Agreement, the Canadian Guarantee Agreement and the granting of the Intercompany DIP Charge and the DIP Lenders’ Charge;

(v) confirming and increasing, as applicable, the amount of the Administration Charge (US$750,000) and the Directors Charge (US$2,500,000) previously approved as part of the First Day Order;

(vi) confirming the Canadian Intercompany Charge previously approved as part of the First Day Order;

(vii) confirming the Applicants’ authority to make payments to certain suppliers deemed crucial by the Applicants, including with respect to goods delivered or services provided prior to the commencement of these CCAA Proceedings, up to an aggregate amount of $2 million, subject to the prior approval of the Proposed Monitor;

(viii) approving the execution by the CCAA Entities of a stalking horse asset purchase agreement (the “**Stellex APA**”) entered into between the Chapter 11 Entities, the CCAA Entities, as sellers, and Stellex US Newco and Stellex Canadian Newco (both newly incorporated entities whose shares are owned by Stellex Capital Management (“**Stellex**”)), as purchasers;

(ix) approving the bidding procedures (the “**Bidding Procedures**”) to be followed in connection with the pursuit and continuation of the Formal

Solicitation Process (as defined below) previously initiated by Stout in November 2020.

4. On February 15, 2021, certain US affiliates of the CCAA Entities, including CF Holding, Country Fresh Midco Corp., Country Fresh Acquisition Corp., Country Fresh Holdings, LLC, Country Fresh LLC, Country Fresh Dallas, LLC, Country Fresh Carolina, LLC, Country Fresh Midwest, LLC, Country Fresh Orlando, LLC, Country Fresh Transportation LLC, CF Products, LLC, Country Fresh Manufacturing, LLC, Champlain Valley Specialty of New York, Inc., Country Fresh Pennsylvania, LLC, Sun Rich Fresh Foods (NV) Inc., Sun Rich Foods (USA) Inc. and Sun Rich Fresh Foods (PA) Inc. (collectively, the "**Chapter 11 Entities**", together with the CCAA Entities, "**FFG**") filed voluntary petitions commencing parallel insolvency proceedings before the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**US Court**") under chapter 11 of title 11 of the United States Code (the "**Chapter 11 Proceedings**" and together with the CCAA Proceedings, the "**Restructuring Proceedings**"). A copy of the First Day Declaration that I swore in the Chapter 11 Proceedings is attached hereto as **Exhibit "A".**

5. As part of the Chapter 11 Proceedings, the Chapter 11 Entities will also be requesting to have the Stellex APA and related Bidding Procedures approved by the US Court, so as to pursue and conclude the Formal Solicitation Process, as it relates to the Chapter 11 Entities.

6. Accordingly, while the CCAA Entities and the Chapter 11 Entities intend to run the CCAA Proceedings and the Chapter 11 Proceedings as parallel *main* proceedings, it is their intention to pursue and conclude the Formal Solicitation Process previously initiated by Stout in November, 2020, and continue to solicit offers for the business and assets of each of the CCAA Entities and the Chapter 11 Entities, either as a whole or on a stand-alone basis.

7. In fact, as will be further discussed below, the assets to be sold and purchased pursuant to the Stellex APA are those of the CCAA Entities as well as those of the Chapter 11 Entities. Accordingly, should Stellex be ultimately determined to be the "*Successful Bidder*" in accordance with the proposed Bidding Procedures, the CCAA Entities and the

Chapter 11 Entities intend to return before both the Canadian Court and the US Court to seek approval of the transaction contemplated therein.

8. Pursuant to Bidding Procedures agreed upon with Stellex, in consultation with the DIP Lenders, the CCAA Entities and the Chapter 11 Entities contemplate presenting a motion seeking the approval of a transaction involving the sale and purchase of the assets of FFG, including the CCAA Entities, by no later than March 26, 2021, and have such transaction close as soon as reasonably possible thereafter.

II. THE FRESH FOOD GROUP

A. Overview

9. FFG is the result of the business combination of various companies operating in the food sector in Canada and in the United States.

10. Today, FFG has grown into a group of companies which have become leading providers of branded and private-label offerings of fresh-cut fruits and vegetables, ready-to-go meals and meal kits, behind-the-glass salads, snacks, and ingredients/bulk food components to supermarkets, club stores, convenience stores, industrial, and food-service customers in the United States and Canada. Recently, FFG expanded its product offerings into *sous vide* and kettle cooking of chicken, fish, and beef entrees as well as pasta.

11. FFG carries the following brands:

(a) Country Fresh: Country Fresh provides and distributes in the US fresh-cut fruit, apple slices, vegetable and snacking solutions on a variety of blends, sizes and packaging options. Its product offering includes, *inter alia*, cut fruit and vegetables, snaking solutions, side dishes, parfaits, meal kits and sous-vide proteins and vegetable and its customers include retail and foodservice companies;

(b) Sun Rich: Sun Rich provides and distributes both in Canada (through Sun Rich Canada) and in the US (through Sun Rich USA) ready-to-serve fresh-cut fruits. Its product offering includes, *inter alia*, pails filled with a single type of precision-cut fruit, fresh fruit salads, meal kits that are ready to mix and serve and other snacking solutions, and its customers include retail and foodservice companies; and

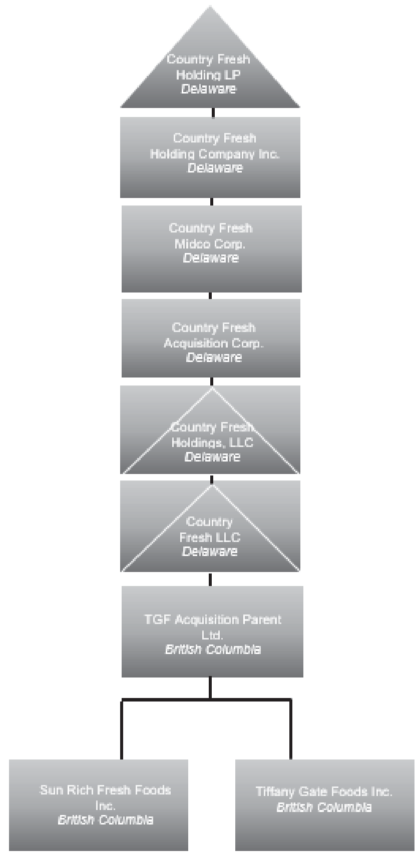
(c) Tiffany Gate: Tiffany Gate creates, packages and delivers fresh-prepared food products to customers across Canada and the U.S. By combining state-of-the-art technology and food science with artisanal cooking techniques, Tiffany Gate is able to create homemade recipes on a commercial scale. Its product offering includes, *inter alia*, meal kits, pasta kits, soup and stew kits, deli salads, sauces, smoothies, butters and sous-vide proteins, vegetables and starches. Its customers include some of the largest retail food service companies and fresh-cut processors in Canada.

B. The Corporate Structure

12. Attached at **Exhibit "B"** to this affidavit is a copy of the current complete corporate structure chart of FFG, which is the result of a business combination between the operating entities of each of the above brands, two (2) of which (Sun Rich and Tiffany Gate) were acquired and included as part of FFG in 2017.

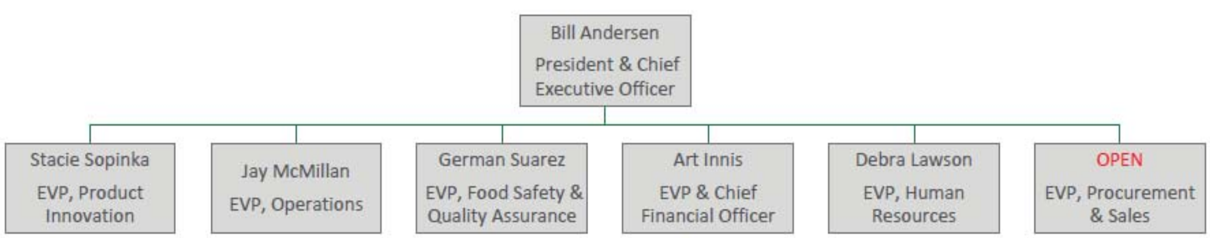
13. While some of the management functions of the entities forming part of FFG are intertwined in some respect, the respective business operations of each of these entities is generally divided geographically between Canada and the US.

14. The only debtors in the context of these CCAA Proceedings are the Canadian entities of FFG (i.e. TGF, Sun Rich Canada and Tiffany Gate), which are ultimately owned by Country Fresh LLC, a Chapter 11 Entity, which also own the other US operating entities of FFG, as appears from the below:



C. FFG's Management

15. FFG's management essentially consists in the following team, which also oversees the operations of the CCAA Entities, in conjunction with local management.



16. Mr. William (Bill) Andersen is the sole director of the CCAA Entities.

III. THE CCAA ENTITIES

A. Overview

17. TGF is a private holding company which was incorporated under the British Columbia *Business Corporations Act* (the "**BCBCA**") for the purpose of acquiring the business and assets of Sun Rich Canada and of Tiffany Gate in 2017. While TGF is a borrower under the credit agreements entered into with the First Lien Lenders (as defined below) and the Second Lien Lenders (as defined below), TGF has no operations of its own and its assets essentially consists in its shares in each of Sun Rich Canada and Tiffany Gate. As appears from the corporate structure chart attached at Exhibit "A" to this affidavit, the shares of TGF are ultimately owned by Country Fresh Holding LP, a US entity which ultimately owns the shares of all of the entities forming part of FFG.

18. Sun Rich Canada is a private company wholly owned by TGF, which was incorporated under the BCBCA, whose business operations consist, as previously mentioned, in distributing ready-to-serve fresh-cut fruits, meal kits and other snacking solutions to retail and foodservice companies in Canada.

19. Tiffany Gate is a private company wholly-owned by TGF, which was incorporated under the BCBCA, whose business operations consist, as previously mentioned, in creating, packaging and delivering fresh-prepared food products (including meal kits, pasta kits, soup and stew kits, deli salads, sauces, smoothies, butters and sous-vide proteins, vegetables and starches) to large retail food service companies in Canada.

20. Each of the CCAA Entities have separate managerial functions such as accounting, management of accounts receivables and payables with Tiffany Gate managed out of an office and facility located at 195 Steinway Blvd., Etobicoke, Ontario (the "**Steinway Property**"), which is owned by Tiffany Gate, and Sun Rich Canada having certain managerial functions managed out of the U.S.

21. The Steinway Property is the only real property owned by the CCAA Entities, and a substantial portion of the CCAA Entities' assets (i.e. equipment and inventory) is located within the Steinway Property.

22. In addition, and as will be discussed below, more than 77.5% of the CCAA Entities' employees (on payroll) are located in Ontario.

B. The CCAA Entities' Owned and Leased Facilities

23. For the purposes of their operations, Sun Rich Canada and Tiffany Gate operate the following facilities in Canada:

LOCATION	PURPOSE	OWNED/LEASED	MONTHLY RENT	LEASE EXPIRATION DATE
195 Steinway Blvd., Etobicoke, Ontario (i.e. the Steinway Property)	Office, processing and manufacturing facility	Owned (Tiffany Gate)	N/A	N/A
35 Bramtree Court, Brampton, Ontario	Processing and manufacturing facility	Leased (Sun Rich Canada)	$22,316.20	06/30/2021
22151 Fraserwood Way, Richmond, British Columbia	Office, manufacturing facility and distribution centre	Leased (Sun Rich Canada)	$32,808.57	08/31/2022

C. The Employees

24. As at February 3, 2021, the CCAA Entities had a total of 538 employees on payroll, and, as at February 9, 2021, an additional 77 employees retained through various agencies, all of whom are located in Canada, as appears from the table below:

	LOCATION	EMPLOYEES ON PAYROLL	AGENCY/ CONTRACTUAL EMPLOYEES	TOTAL
SUN RICH CANADA	Brampton Facility	196	50	246
	Richmond Facility	121	0	121
	Total:	**317**	**50**	**367**
TIFFANY GATE	Etobicoke Facility	221	27	248
	Total:	**221**	**27**	**248**
	Grand Total:	**538**	**77**	**615**

25. None of the above employees are unionized nor are they subject to a collective bargaining agreement.

26. The CCAA Entities remain and intend to remain current in the payment of the wages of their respective employees. However, vacation accruals for 2021 (inclusive of accruals carried over from 2020) amount to approximately $1,178,799.78.

27. In addition, the above employees include a total of seven (7) employees whose involvement in these CCAA Proceedings as well as in the past few months leading up to these CCAA Proceedings were determined by FFG's management to be key employees who were included as part of a retention program to keep them employed throughout these CCAA Proceedings. The payments to the Canadian key employee totalled in aggregate approximately $115,000 which were made prior to the commencement of the CCAA Proceedings. The key employees forfeit their entitlement to the retention payments upon certain trigger events, including if their employment ends with the CCAA Entities during the CCAA Proceedings. The Proposed Monitor has been provided with details regarding the payments to the key employees and the retention program.

D. Supply Chain

28. In the ordinary course of their respective businesses, the CCAA entities receive most of their raw inventory from suppliers that are located in:

(a) Canada: 74%;

(b) US: 24%; and

(c) Other: 2%.

29. In 2020, the CCAA Entities had 14 significant suppliers which accounted for approximately 25% of supply needs.

30. As the CCAA Entities are in the business of selling fresh foods and given the perishable nature of their inventory, the CCAA Entities are supplied on a “just-in-time” basis. The CCAA Entities usually have limited supply of inventory on hand which is typically only sufficient to allow the business to continue operating for approximately 2 to 3 days. As discussed further below, any interruption to supply, even if short in duration, could have significant deferential impact on the CCAA Entities’ business and it will be very important for the CCAA Entities to be able to continue to rely on the above suppliers going forward.

E. Customers

31. As previously discussed, the CCAA Entities' customers are mainly comprised of Canadian retail and foodservice companies, with a portion of their revenues being attributable to club and industrial customers.

32. In 2020, the main sale channels of the CCAA Entities were as follows:

(a) Retail: 47%;

(b) Foodservice: 20%;

(c) Club: 26%; and

(d) Industrial and Others: 7%.

33. In 2020 also, the CCAA Entities had 10 significant customers which accounted for approximately 86% of their aggregate net revenues for that year.

F. Cash Management System

34. In the ordinary course of their business, each the CCAA Entities use a centralized cash management system (the "**Cash Management System**") to, among other things, collect funds and pay expenses associated with their operations.

35. The Cash Management System gives the CCAA Entities the ability to efficiently and accurately track and control corporate funds and ensure cash availability.

36. Sun Rich Canada maintains five (5) bank accounts, which are summarily described below:

(a) PNC Bank Accounts:

(i) A Canadian dollar operating bank account (#5578) located in the U.S., which essentially consists in a lockbox in which certain accounts receivables are deposited in, and from which certain expenses are made, including the payment of rent;

(ii) A Canadian dollar operating account (#5636) located in the U.S., which is funded on an as-needed basis from account #5578 to facilitate payments (either by cheques or wire transfers) in Canadian dollars in connection with various accounts payable and payroll. A portion of the money transferred into this account is also subsequently transferred into account #6523 described below;

(iii) A US dollar operating bank account (#8747) located in the U.S., which essentially consists in a zero-balance account in which US accounts receivables are deposited into, and subsequently transferred to account #7157 described below, for the purpose of paying US accounts payable; and

(iv) A US dollar operating bank account (#7157) located in Canada, which is funded on an as-needed basis from account #8747 to facilitate payments (either by cheques or wire transfers) in US dollars in connection with various accounts payable;

(b) RBC Account:

(i) A Canadian dollar operating account (#6523) located in Canada, which is funded on an as-needed basis from account #5636 to facilitate payments in respect health insurance of Sun Rich Canada's employees, as well as its utility bills.in which Canadian dollar deposits, tax refunds and subsidies are deposited into, and from which Canadian dollar cheques

37. As for Tiffany Gate, it maintains ten (10) bank accounts, which are summarily described below:

(a) RBC Accounts:

(i) a Canadian dollar operating bank account (#6317) located in Canada, in which Canadian dollar deposits, tax refunds and subsidies are deposited into, and from which cheques and wire transfers in Canadian dollars are issued from, namely to pay Canadian taxes and employee payroll;

(ii) a US dollar operating account (#0275) located in Canada, in which US dollar deposits are made, and from which cheques and wire transfers in US dollars are issued for the payment of certain accounts payable;

(iii) a Canadian dollar visa credit card account (#7007) located in Canada; and

(iv) a dormant Canadian dollar visa credit card account (#9823) located in Canada with currently no funds.

(b) PNC Bank Accounts:

(i) a Canadian dollar operating account (#5628) located in the U.S., which is operated on RBC's platform, which essentially consists in a lockbox in which certain Canadian dollars deposits are deposited into, and from which certain wire transfers are issued for the payment of certain accounts payable;

(ii) a US dollar operating account (#3893) located in the U.S., in which certain US dollar deposits are made, and from which cheques and wire transfers in US dollars are issued for the payment of certain accounts payable;

(iii) a US dollar operating account (#3906), located in the U.S., which essentially consists in a zero-balance account in which in which certain US dollar deposits are made, and subsequently transferred to account #3893 described above, for the purpose of paying certain US accounts payable; and

(iv) a dormant Canadian dollar account (#5545) located in the U.S., which is operated on RBC's platform with currently no funds;

(c) CIBC Accounts:

(i) a Canadian dollar operating account (#4910) located in Canada, in which sales tax refunds are deposited into, and subsequently transferred to account #6317 described above; and

(ii) a dormant US dollar account (#7313) located in Canada, with currently no funds.

38. Sun Rich Canada and Tiffany Gate's payroll is managed by Ceridian, which issues direct deposits to their respective employees on the date payroll is paid.

G. Intercompany Transactions

39. In light of the global nature of their business, in the ordinary course of business, the entities forming part of FFG maintain relationships with each other that result in claims arising from various transactions, both operational and financial. These entities track all intercompany transactions in their accounting system and can ascertain, trace and account for them as needed.

40. For instance, while Sun Rich Canada and Sun Rich USA's respective operations are geographically divided between Canada and the US, monies have, in the past, been transferred from their respective bank accounts, depending on their liquidity needs.

41. As for Tiffany Gate, in previous years, this entity has made various payments to certain of its US affiliates for monies owing in respect of management fees and delivery of supplies, and, in addition, has also paid various expenses and disbursements to Sun Rich Canada on account of shared operating and labour costs at Sun Rich Canada's Brampton and Vancouver facilities, and delivery of supplies.

42. In the immediate term, FFG will not incur any additional intercompany advances between the Chapter 11 Entities and the CCAA Entities, other than in connection with any Intercompany DIP Advances as set out in the DIP Credit Agreement, to the extent necessary to operate the business of the CCAA Entities.

43. However, certain intercompany advances may continue to be recorded amongst the CCAA Entities themselves, thus the reason for which the CCAA Entities requests this court to approve a Canadian Intercompany Charge in order to protect the estate of each of these CCAA Entities, as discussed below.

44. Following the initial proposed stay period, the CCAA Entities are also requesting, as part of the ARIO, the authorization from this Court for the CCAA Entities to advance funds to, or incur additional liabilities on behalf of, the Chapter 11 Entities, with approval of the Proposed Monitor and provided such amounts will be considered administrative expense claims in the Chapter 11 Proceedings. The CCAA Entities continued operations is dependent on continued existence of the Chapter 11 Entities due to the intertwined nature of their business and various

services provided by the Chapter 11 Entities to the CCAA Entities, including managerial services and strategic decision making by the senior managerial team. If any excess cash available to the CCAA Entities permitting it to be used in the operations of the Chapter 11 Entities with the oversight of the Proposed Monitor will assist maximize the value of the entire enterprise and ensure FFG is able to continue as "*going concern*" during the Restructuring Proceedings. Further, given the Applicants' primary secured lenders are also the secured lenders of the Chapter 11 Entities, advances by the Applicants to the Chapter 11 Entities is unlikely to prejudice any of their stakeholders.

IV. THE CCAA ENTITIES FINANCIAL SITUATION

A. Financial Statements

45. In the ordinary course of their business, the entities forming part of FFG issue their financial statements on a consolidated basis.

46. Copies of FFG's consolidated audited financial statements for the fiscal years 2018 and 2019 are attached hereto as **Exhibit "C"** and **Exhibit "D"**, respectively. Copies of FFG's consolidated financial statements for the fiscal year 2020 have not yet been prepared.

47. Also attached as **Exhibit "E"** and **Exhibit "F"**, respectively, are copies of internal unaudited balance sheets for each of the entities operating as Sun Rich (including Sun Rich Canada and certain Chapter 11 Entities) and Tiffany Gate, for the period ending November 2020.

A. The Assets of the CCAA Entities

48. As at November 2020, the assets of Sun Rich Canada and Tiffany Gate had a book value of approximately US$22 million and US$116 million, respectively, as appears from the tables below:

Sun Rich Canada	
Description of Assets	**Book Value**
Cash	US$2,037,828
Accounts Receivables	US$5,008.059

Inventory	US$546,336
Prepayment & Deposits	US$184,527
Equipment	US$6,279,954
Intangibles	US$7,938,899
Total:	**US$21,995,602**

Tiffany Gate	
Description of Assets	**Book Value**
Cash	US$1,834,978
Accounts Receivables	US$6,207,951
Prepayments & Deposits	US$94,378
PP&E	US$28,311,497
Intangibles	US$76,812,727
Other	US$590,382
Total:	**US$116,793,300**

49. As previously mentioned, TGF has no material assets of its own, other than its shares in Sun Rich Canada and Tiffany Gate.

B. The Liabilities of the CCAA Entities

50. As at November 2020, each of the CCAA Entities, including TGF, had liabilities totalling well in excess of US$100,000,000, as appears from the tables below:

TGF Acquisition Parent Ltd.	
Description of Liabilities	**Amount**

Secured Debt	US$119,000,000
Total:	US$119,000,000

Sun Rich Canada	
Description of Liabilities	**Amount**
Secured Debt	US$119,000,000
Accounts Payables	US$6,737,318
Note Payable	US$9,798,429
Intercompany	US$6,402,050
Other	US$4,786,280
Total:	**US$139,624.078**

Tiffany Gate	
Description of Liabilities	**Amount**
Secured Debt	US$119,000,000
Accounts Payable	US$9,486,154
Other Notes & Loans	US$808,403
Intercompany Loans	US$27,827,264
Other	US$1,848,594
Total:	**US$158,970,415**

51. As appears from the above, the principal liabilities of the CCAA Entities' consist in their long term secured debt, which is broken down in the table below:

Credit Agreements	Facility	Principal Amount Outstanding (in millions)	Interest Rate	Maturity
First Lien Credit Agreement	Revolving Loan	US$25.0	7.1%	April 2023
	Term Loan	US$10.0	7.1%	April 2023
Second Lien Credit Agreement	Term Loan	US$60.0	10.6%	April 2024
Super Senior Term Loan Credit Agreement	Term Loan No. 1 Term Loan No. 2	US$16.0 US$5.6	8.0% 8.0%	June 2023 June 2023
	Term Loan No. 3	US$2.4	8.0%	June 2023
	Total:	**US$119,000,000**		

52. The Credit Agreements listed in the above table are further described below.

C. The First Lien Credit Agreement

53. On April 29, 2019, as part of the Exit Financing (as defined and further detailed below) provided to FFG in the context of the 2019 Restructuring Transactions (as defined and further detailed below), a Credit Agreement (First Lien) (as amended on April 22, 2020, the "**First Lien Credit Agreement**") was entered into among Country Fresh Acquisition Corp., Country Fresh Holdings, LLC, as US Borrower, TGF, as Canadian Borrower and Cortland Capital Market Services LLC ("**Cortland**"), as administrative agent to the lenders under the First Lien Credit Agreement (collectively, the "**First Lien Lenders**"). A copy of the First Lien Credit Agreement is attached hereto as **Exhibit "G"**.

54. Pursuant to the First Lien Credit Agreement, the First Lien Lenders severally agreed (to the extent of such First Lien Lender's commitment under the First Lien Credit Agreement) to provide to the Borrowers thereunder:

(a) a revolving loan facility in an aggregate principal amount of US$25,000,000 of new money revolving commitments; and

(b) a term loan facility in an aggregate principal amount of US$10,000,000, which, as part of the 2019 Restructuring Transactions, the Borrowers under the First Lien

Credit Agreement and the First Lien Lenders agreed that such amount would be deemed outstanding under such agreement.

55. The obligations of the "Borrowers" under the First Lien Credit Agreement are guaranteed by the CCAA Entities and the Chapter 11 Entities that are not otherwise borrowers under such credit agreement, and secured against each of the CCAA Entities and Chapter 11 Entities' respective assets, in accordance with the terms of a Canadian Guaranty and Security Agreement (First Lien) (the "**First Lien Canadian Guaranty**") and a US Guaranty and Security Agreement (First Lien) both dated as of April 29, 2019. A copy of the First Lien Canadian Guaranty is attached hereto as **Exhibit "H"**.

56. As at the date of this affidavit, a total amount of US$35 million in principal (plus interests, costs and other allowable charges) remains outstanding under the First Lien Credit Agreement.

D. The Second Lien Credit Agreement

57. On April 29, 2019, also as part of the exit financing provided to FFG in the context of the 2019 Restructuring Transactions, a Credit Agreement (Second Lien) (as amended on April 22, 2020, the "**Second Lien Credit Agreement**") was entered into among Country Fresh Acquisition Corp., Country Fresh Holdings, LLC, as US Borrower, TGF, as Canadian Borrower and Cortland, as administrative agent to the lenders under the Second Lien Credit Agreement (collectively, the "**Second Lien Lenders**"), all of which were first lien lenders prior to the 2019 Restructuring Transaction.

58. Pursuant to the Second Lien Credit Agreement, the Second Lien Lenders agreed to term loans to the Borrowers thereunder in an aggregate principal amount of US$60,000,000, in exchange for, and to satisfy, a portion of the then pre-2019 Restructuring Transaction first lien loans and to pay a portion of the intercompany obligations between TGF and Country Fresh, LLC.

59. The Borrowers' obligations under the Second Lien Credit Agreement are guaranteed by the CCAA Entities and the Chapter 11 Entities that are not otherwise borrowers under such credit agreement, and secured against each of the CCAA Entities and Chapter 11 Entities' respective assets, in accordance with the terms of a Canadian Guaranty and Security Agreement (Second Lien) (the "**Second Lien Canadian Guaranty**") and a US Guaranty and Security Agreement (First Lien) both dated as of April 29, 2019. A copy of the Second Lien Canadian Guaranty is attached hereto as **Exhibit "I"**.

60. As at the date of this affidavit, a total amount of US$60 million in principal (plus interests, costs and other allowable charges) remains outstanding under the Second Lien Credit Agreement.

E. The Super Senior Term Loan Credit Agreement

61. On June 1, 2020, a *Term Loan Credit Agreement (Super Senior)* (the "**Super Senior Term Loan Credit Agreement**") was entered between Country Fresh Acquisition Corp., Country Fresh Holdings, LLC, as US Borrower, TGF, as Canadian Borrower and Cortland, as administrative agent to the lenders under the Super Senior Term Loan Credit Agreement (collectively, the "**Super Senior Term Loan Lenders**"). A copy of the Super Senior Term Loan Credit Agreement is attached hereto as **Exhibit "J"**.

62. Pursuant to the Super Senior Term Loan Agreement, an ad hoc group of First Lien Lenders agreed to provide to the Borrowers under the Super Senior Term Loan Agreement additional liquidity in the form of closing and delayed-draw super senior term loans in an aggregate principal amount of US$16,000,000 (the "**Super Senior Term Loan**") to be advanced several tranches, with a maturity date of June 1, 2022.

63. On December 29, 2020, the Super Senior Term Loan Credit Agreement was amended pursuant to the terms of the *First Amendment to Term Loan Credit Agreement (Super Senior)* (the "**First Amendment**"), providing the Borrowers under the Super Senior Term Loan with emergency bridge financing in the total amount of US$5,600,000 in the form of a term loan, which was to be advanced in two tranches. A copy of the First Amendment is attached hereto as **Exhibit "K"**.

64. On February 4, 2021, the Super Senior Term Loan Credit Agreement was once more amended pursuant to the terms of the *Second Amendment to Term Loan Credit Agreement (Super Senior)* (the "**Second Amendment**"), providing the Borrowers under the Super Senior Term Loan with further emergency bridge financing in the total amount of US$2,400,000 in the form of a term loan, which was advanced on the same day. A copy of the Second Amendment is attached hereto as **Exhibit "L"**.

65. The Borrowers' obligations under the Senior Term Loan Credit Agreement are guaranteed by the CCAA Entities and the Chapter 11 Entities that are not otherwise borrowers under such credit agreement, and secured against each of the CCAA Entities and Chapter 11 Entities' respective assets, in accordance with the terms of a Canadian Guaranty and Security

Agreement (Super Senior) (the "**Super Senior Canadian Guaranty**") and a US Guaranty and Security Agreement (Super Senior) both dated as of June 1, 2020. A copy of the Super Senior Canadian Guaranty is attached hereto as **Exhibit "M"**.

66. In addition to the Super Senior Canadian Guaranty, and in connection with the Super Senior Term Loan Credit Agreement, on July 30, 2020, Tiffany Gate also executed a Demand Debenture (the "**TG Debenture**") pursuant to which it acknowledged being indebted and agreed to pay to Cortland, as administrative agent to the Super Senior Term Loan Lenders, on demand, a principal amount of up to $50,000,000 in lawful money of Canada and interest thereon, from and including the date of the TG Debenture (or from and including the last interest payment date to which interest shall have been paid), at a rate of 25% per annum calculated and compounded monthly on the first day of each month. A copy of the TG Debenture is attached hereto as **Exhibit "N"**. Tiffany Gate's obligations under the TG Debenture are secured by a mortgage and charge against the Steinway Property.

67. As at the date of this affidavit, a total amount of US$24 million in principal (plus interests, costs and other allowable charges) remains outstanding under the Super Senior Term Loan Credit Agreement.

V. THE CCAA ENTITIES' FINANCIAL DIFFICULTIES

68. In 2019, FFG faced significant liquidity and other economic pressures, which forced it to consider and implement certain strategic measures in order to deleverage its consolidated balance sheet.

69. On April 29, 2019, FFG entered into an exchange transaction (the "**Exchange Transaction**") with its then existing lenders, including the current First Lien Lenders and the Second Lien Lenders, pursuant to which FFG restructured its indebtedness under the then existing first lien loan and second lien loan.

70. The Exchange Transaction resulted in a combination of a debt-for-equity exchange with the then First Lien Lenders (who now ultimately own 95% of the common shares of FFG) and Second Lien Lenders (who now ultimately own 5% of the common shares of FFG, as well as in an exit financing (the "**Exit Financing**", together with the Exchange Transaction, the "**2019 Restructuring Transactions**") entered into with the current First Lien Lenders, as part of which a new first lien loan in the aggregate amount of US$35 million ($10 million in first lien term loan

and $25 million in first lien revolver) and a new second lien loan in the aggregate amount of $60 million was made available to FFG.

71. Despite the Exchange Transaction, FFG has continued to face significant financial challenges in the context of its business operations, most recently due to economic pressures caused by the COVID-19 global pandemic.

72. More specifically, in 2020, the demand for FFG's largest product segments, fruits and vegetable trays, significantly declined as consumer habits began to change, and as the various federal, provincial and state governments in both Canada and in the US began imposing various sanitary measures and restrictions to prevent or limit the spread of the COVID-19 virus, which measures and restrictions have included the temporary closure of restaurants, businesses and schools (with students being forced, at times, to attend classes virtually).

73. FFG was also forced to temporarily close or idle several of its production facilities in the U.S., which contributed to a significant reduction of FFG's production, and, in turn, FFG's revenues.

74. FFG also faced supply-chain issues, which, for the most part, were caused by its suppliers also facing economic challenges as a result of the COVID-19 pandemic. These issues forced FFG to pay, at times, premiums for certain products as well as higher costs for the shipping of these products.

75. Taken together, these challenges have significantly affected FFG liquidity position throughout 2020.

VI. FFG'S SALE AND INVESTMENT SOLICITATION PROCESS

A. The Informal Process

76. In response to the aforementioned challenges, FFG, engaged in a thorough review of its strategic alternatives with the advice and guidance of their legal and financial advisors.

77. Starting in 2020, and before Stout was engaged, FFG decided to explore M&A opportunities with potential strategic acquirers in the food and beverage industry, which had approached FFG to discuss the terms of a potential transaction (the "**Informal Solicitation Process**").

78. As part of the Informal Solicitation Process, FFG held strategic discussions with various parties which were either contacted by FFG, or which contacted FFG themselves with inquiries in connection with a potential sale transaction. In total, nine (9) parties submitted such inquiries to FFG, two (2) of which submitted offers to FFG.

79. The first offer submitted to FFG was for only a small, discrete portion of its assets, and was deemed too low in price at the time. The second offer was submitted by a large strategic food provider was for substantially all of the FFG's assets, including certain of the assets of the CCAA Entities ("**Initial Potential Buyer**"). Given the serious nature of the discussions with the Initial Potential Buyer and recognizing the need to ensure that the offer submitted by the Initial Potential Buyer was competitive, relative to the market value of FFG's assets, FFG then engaged an investment banker, to further explore market opportunities and expand the list of potential interested parties.

B. The Formal Solicitation Process

80. In late October 2020, FFG engaged Stout Capital ("**Stout**"), as investment banker, to conduct a formal sale and investment solicitation process (the "**First Formal Solicitation Process**").

81. As part of the First Formal Solicitation Process, Stout assembled a list of potential buyers and prospective plan sponsors, in addition to those that FFG had initially identified as part of the Informal Process. These potential buyers and prospective plan sponsors included strategic buyers in the food and beverage sector, private equity firms with portfolio companies in the food and beverage sector, and a select few pure financial buyers with significant industry experience and an appetite for distressed and/or turnaround transactions.

82. By the end of 2020, Stout had reached out to over thirty (30) potential acquirers. However, several of them advised Stout that they would pass on this opportunity for a variety of reasons, including the distressed nature of the business, lack of strategic fit, their own financial challenges, and/or inability to complete their due diligence in time over the 2020 holiday season.

83. However, some of these potential acquirers indicated that they remained interested in a potential transaction involving FFG's assets, in whole or in part, and indicated that they would consider participating in the Formal process conducted by Stout, which could eventually include an auction.

84. On December 14, 2020, having not received any serious alternative offer at that point, FFG entered into a non-binding letter of intent (the "**Initial LOI**") with the Initial Potential Buyer, which contemplated the sale and purchase of all or substantially all of the assets of the Chapter 11 Entities, as well as certain of the assets of the CCAA Entities. This Initial LOI further contemplated that the Initial Potential Buyer would act as a stalking horse bidder, to allow Stout and FFG to establish a "floor" price and provide certainty to the FFG's employees, customers and vendors. The Initial LOI contemplated the closing of a sale transaction by March 2021, should no superior offer be submitted to FFG.

85. Over the course of the 2020 holidays and in early January 2021, FFG, Stout and the Initial Potential Buyer continued their negotiations with a view of executing a binding stalking horse asset purchase agreement.

86. However, on January 7, 2021, FFG and Stout were advised that the Initial Potential Buyer was no longer prepared to enter into an asset purchase agreement and would therefore withdraw its offer set out in the Initial LOI, thereby forcing FFG and Stout to consider and implement contingency plans to try to keep the enterprise afloat while identifying a replacement bidder and/or new sources of financing.

87. Following the withdrawal of the Initial LOI by the Initial Potential Buyer, Stout launched a more comprehensive sale and investment solicitation process (the "**Second Formal Solicitation Process**", together with the First Formal Solicitation Process, the "**Formal Solicitation Process**"). In connection therewith, solicitation materials were sent to an additional one hundred seventy (170) potential acquirers or investors, which included sponsors in the food/beverage industry, strategic parties in the consumer/retail sector, and packaged food processors and food distributors.

88. As part of the Second Formal Solicitation Process, Stout informed potentially interested parties that FFG was receptive to a wide range of transaction structures including, without limitation, sale transactions to be implemented pursuant to section 363 of the US Bankruptcy Code and section 36 of the CCAA, plan sponsorship, out-of-court sale transactions, structured deals involving "*take back*" debt and/or equity. In addition, Stout solicited bids for FFG (including the CCAA Entities), either as a whole or piece-meal (including with respect to the assets of the CCAA Entities), recognizing that the selling such assets in pieces could potentially yield higher value to FFG's estate.

89. As at the date of this Affidavit:

(a) Stout has reached out to more than 210 potentially interested parties were solicited and received solicitation packages, including:

(i) 90 strategic parties;

(ii) 20 "*hybrid*" parties (meaning private equity firms with strategic portfolio companies in the food and beverage sector); and

(iii) More than 100 financial parties.

(b) 83 non-disclosure agreements were executed and given access to the virtual data room set up by Stout.

90. Several of the above parties signed non-disclosure agreements with FFG and were given access to the virtual data room set up by Stout, and several of them have indicated that they are still interested in a transaction involving some or all of the business and/or assets of FFG, while others have indicated a preference for certain selected assets only.

91. On January 20, 2021, FFG received a letter of intent from Stellex, a global private equity firm dealing at arm's length with FFG, regarding a potential transaction whereby Stellex would acquire virtually all of FFG's American and Canadian assets, subject to certain exceptions, and would assume some of its liabilities.

92. On February 15, 2021, after several weeks of negotiations, Stellex and FFG executed an asset purchase agreement (i.e. the Stellex APA), which contemplated Stellex to act as a stalking horse bidder. A copy of the Stellex APA is attached hereto as **Exhibit "O"**.

VII. THE STELLEX APA

93. The Stellex APA contemplates the sale of all or substantially all of the assets of FFG (including the CCAA Entities) other than the excluded assets listed thereunder, for the following purchase price (the "**Purchase Price**"), to be allocated between the assets to be purchased from the Chapter 11 Entities and those from the CCAA Entities, provided that Stellex is designated as the "*Successful Bidder*" following the completion of the Bidding Procedures (as defined below):

(a) $30 million in cash consideration;

(b) $25 million senior secured note against FFG's real estate to be sold and conveyed to Stellex as part of the Stellex APA;

(c) payment or assumption of certain obligations and liabilities up to a total amount of $21.5 million; and

(d) payment or assumption of cure costs in connection with contracts to be assumed by and assigned to Stellex.

94. The Stellex APA also provides that in consideration for Stellex acting as the "*stalking horse bidder*", Stellex shall also be entitled to certain bid protections payable by the Chapter 11 Entities in the event that Stellex is not designated as the "Successful Bidder" following completion of the Bidding Procedures.

95. The Stellex APA is conditional upon, *inter alia*, approval of the Bidding Procedures (as defined below) and the transaction is ultimately conditional upon its approval by the Canadian Court and the US Court.

VIII. THE BIDDING PROCEDURES

96. In connection with the Stellex APA, FFG and Stellex have also designed and agreed upon the applicable procedures (the "**Bidding Procedures**") for the continuation of the Formal Solicitation Process previously initiated by Stout in November, 2020, which will allow the opportunity for FFG to pursue and conclude a competitive and expedient sale process, and, potentially obtain one or several superior offer to the Stellex APA. A copy of the Bidding Procedures is attached hereto as **Exhibit "P"**.

97. In essence, the Bidding Procedures contemplates the following milestones, which, as appears from the below, provides a deadline of March 31, 2021, for the closing of a transaction involving the assets of FFG:

Milestone	**Key Dates**
Issuance of Additional Solicitation Packages	As soon as reasonably possible following court approval

Due Diligence Period	Until March 19, 2021
Bid Deadline	March 19, 2021
Auction	March 22, 2021
US Sale Hearing	No later than March 26, 2021
Canadian Sale Hearing	No later than March 26, 2021
Closing	March 31, 2021

98. The DIP Lenders have been consulted in connection with the proposed Bidding Procedures and have advised that they are in agreement with them, as well as with the proposed milestones described above.

IX. THE CHAPTER 11 PROCEEDINGS

99. On February 15, 2021, the Chapter 11 Entities filed voluntary petitions to commence the Chapter 11 Proceedings. Contemporaneously therewith, the Chapter 11 Entities filed several "first day" motions seeking orders granting various forms of relief intended to stabilize FFG's business operations, minimize the adverse effects of the commencement of the Chapter 11 Cases and facilitate the efficient administration of the Chapter 11 Proceedings.

X. PROPOSED FIRST DAY ORDER & ARIO

A. Stay of Proceedings

100. Over the past few years, the CCAA Entities have struggled to conduct their business operations on a profitable basis. While Tiffany Gate has been able to generate positive cash-flow in 2020, Tiffany Gate (as well as the other CCAA Entities) remain nonetheless indebted, either as borrowers or guarantors, under the First Lien Credit Agreement, the Second Lien Credit Agreement, the Super Senior Term Loan Credit Agreement and the TG Debenture, such that on a balance sheet test, the CCAA Entities are insolvent.

101. The CCAA Entities are concerned that unless a stay of proceedings is ordered, certain suppliers, creditors, co-contracting parties and other stakeholders may take steps that will jeopardize or, at the very least, hinder, their current restructuring efforts.

102. A stay of proceedings under the CCAA will allow the CCAA Entities to maintain operations while benefiting from CCAA protection to pursue and conclude the Formal Solicitation Process previously initiated (and well-advanced) by Stout, and determine whether a superior offer can be obtained in respect of the assets of the CCAA Entities, for the benefit of their creditors and other stakeholders.

103. Accordingly, the CCAA Entities request a stay of proceedings for an initial period of ten (10) days (i.e. the Stay Period), following which the CCAA Entities will request an extension of the Stay Period until March 28, 2021, so as to preserve the status quo and prevent creditors and others from taking any steps to try and better their positions in comparison to other creditors. In general, the CCAA Entities' stakeholders, including creditors, will benefit from a stay of proceedings.

104. As set out in the cash flow projections (the "**Cash Flow Statement**") that was prepared by the CCAA Entities in consultation with Ankura, and reviewed by the Proposed Monitor for the period from February 15, 2021 to March 28, 2021, the CCAA Entities expect that they will have sufficient cash to fund their projected operating costs during such period.

105. However, to the extent that additional funding is required by the CCAA Entities during the proposed Stay Period, or any extension thereof, the CCAA Entities will have access to such additional funding through the Intercompany DIP Advances.

106. I understand that a copy of the Cash Flow Statement will be attached to the pre-filing report of the Proposed Monitor, which will be filed with the Court in advance of the Application.

B. Appointment of E&Y as Monitor

107. E&Y has consented to act as the Court-appointed Monitor of the CCAA Entities, subject to Court approval. A copy of EY's formal consent to act is attached hereto as **Exhibit "Q"**.

108. E&Y is a trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act* as amended and is not subject to any of the restrictions on who may be appointed as Monitor set out in section 11.7(2) of the CCAA.

109. I understand that E&Y has extensive experience in matters of this nature, including in cross-border restructuring proceedings, and is therefore well-suited to this mandate.

110. I am advised by Alex Morrison of E&Y that the Proposed Monitor is supportive of the relief being sought in favour of the CCAA Entities as further set out in this affidavit. Mr. Morrison has also advised me that the Proposed Monitor will be filing a pre-filing Monitor's report set out its views and recommendations in connection with such relief.

C. Engagement of Ankura

111. As described above, Ankura was previously retained by FFG (including the CCAA Entities) on December 7, 2020, as its financial advisor and has, thus far, played and continues to play a central role in advising and assisting FFG with liquidity management and operational restructuring initiatives.

112. On February 16, 2021, an engagement letter was entered into between Ankura and FFG, designating Ankura as the Chief Restructuring Organization of FFG (the "**Ankura Engagement Letter**"). A copy of the Ankura Engagement Letter is attached hereto as **Exhibit "R"**.

113. The CCAA Entities are seeking the Court's confirmation of the retention of Ankura (Stephen Marrotta) and the approval of the Ankura Engagement Letter.

114. I believe that such approval by the Canadian Court is appropriate in the circumstances as both Ankura and myself have worked extensively with FFG (including the CCAA Entities) over the course of the past few months, and we have significant knowledge with respect to FFG's business, operations and finances. Ankura's continued involvement will be critical to the successful completion of a going-concern restructuring transaction as part of the CCAA Proceedings and the Chapter 11 Proceedings that will maximize value for stakeholders.

115. It should be noted that as the work performed and to be performed by Ankura will benefit both the CCAA Entities and the Chapter 11 Entities, it is proposed that CCAA Proceedings-related work will be performed by Ankura will be invoiced to the CCAA Entities, while Chapter 11 Proceedings-related work will be performed by Ankura and invoiced to the Chapter 11 Entities. Where financial advisory services are provided for the benefit of the CCAA Entities and the Chapter 11 Entities as a whole, Ankura will invoice the CCAA Entities and the Chapter 11 Entities on a 50/50 basis.

116. The ARIO contemplate that the fees billed by Ankura shall be paid only upon the consent of the Proposed Monitor or by order of the Court.

D. Engagement of Stout

117. As described above, Stout was previously retained by FFG and has played a central role in assisting FFG in reviewing its strategic options, developing a pre-filing sale and investment solicitation process and otherwise advising and assisting FFG.

118. On October 30, 2020, FFG and Stout entered into an engagement letter (the "**Stout Engagement Letter**") setting out the terms and conditions of Stout's engagement. A copy of the Stout Engagement Letter is attached hereto as **Exhibit "S"**.

119. The Stout Engagement Letter provides that in consideration for its work and services, Stout will be entitled to a monthly fee, as well as a transaction fee (the "**Transaction Fee**") which will be earned upon the closing of a transaction in respect of FFG's assets.

120. The CCAA Entities are seeking the Court's confirmation of the retention of Stout and the approval of the Stout Engagement Letter, as well as the granting of a priority charge in the total amount of US$2.5 million securing the payment of the Transaction Fee (the "**Transaction Fee Charge**"), with the understanding, however, if earned, the Transaction Fee shall be allocated proportionately among the respective estates of the CCAA Entities and the Chapter 11 Entities, based on the proceeds resulting from the sale of their respective assets.

121. I believe that the approval of the Stout Engagement Letter and the Transaction Fee Charge is appropriate in the circumstances as Stout has worked extensively with FFG, including the CCAA Entities, since its initial engagement and has significant knowledge with respect to their business, operations and finances. Stout's continued involvement will also be critical to the successful completion of a going-concern restructuring transaction as part of the CCAA Proceedings and the Chapter 11 Proceedings that will maximize value for stakeholders.

122. It should be noted that as the work performed and to be performed by Stout will benefit both the CCAA Entities and the Chapter 11 Entities, Stout will split its monthly fee equally between the CCAA Entities and Chapter 11 Entities, and any Transaction Fee earned in accordance with the Stout Engagement Letter shall be allocated proportionately among the estates of the Canadian Entities and the Chapter 11 Entities based on sale proceeds.

123. The CCAA Entities have, in consultation with their advisors and the Proposed Monitor determined that the proposed system for allocating work by Stout is reasonable.

124. The ARIO contemplate that fees invoiced by Stout shall be paid only upon the consent of the Proposed Monitor or by order of the Court.

E. Administration Charge

125. The CCAA Entities seek a charge on their assets, property and undertakings (the "**Property**") in the maximum amount of US$400,000, as part of the First Day Order, and then increased to a total amount of US$750,000, as part of the ARIO, to secure the fees and disbursements incurred in connection with services rendered to the CCAA Entities both before and after the commencement of the CCAA Proceedings by, initially, the Proposed Monitor, counsel to the Proposed Monitor, counsel to the CCAA Entities, counsel to Mr. William Andersen, as sole director of the CCAA Entities, and, after the comeback hearing, together with the foregoing parties, Ankura, for its fees incurred for the benefit of the CCAA Entities and Stout, also for its monthly fee (but not the Transaction Fee) incurred for the benefit of the CCAA Entities (the "**Administration Charge**").

126. The CCAA Entities have worked with Ankura and the Proposed Monitor to estimate the proposed quantum of the Administration Charge. The Proposed Monitor has reviewed the quantum of the Administration Charge and believes it is reasonable and appropriate in view of the complexities of the CCAA Proceedings, to be conducted in parallel with the Chapter 11 Proceedings, and the services to be provided by the beneficiaries of the Administration Charge.

127. The CCAA Entities are represented by Stikeman Elliott LLP and Foley & Lardner LLP ("**Foley**"). Within the Restructuring Proceedings, it is expected that the majority of Foley's work will be for the benefit of the Chapter 11 Entities, and Foley will invoice its fees accordingly. However, Foley may provide legal services for the benefit of the CCAA Entities. In such event, Foley will maintain separate invoices for such work and will remit those bills to the CCAA Entities for payment with the approval of the Proposed Monitor.

F. DIP Financing, Intercompany DIP Charge and DIP Lenders' Charge

128. The CCAA Entities have historically self-funded their operations from available cash-flow. However, as described above, from time to time, costs and revenues fluctuate (particularly at Sun Rich Canada).

129. The Cash Flow Statement prepared by FFG does not project a need by the CCAA Entities for additional funding these CCAA Proceedings. However, there is the possibility, as a

result of the above-noted fluctuations in costs and revenues that the CCAA Entities may face an unanticipated need for additional funding.

130. Accordingly and as previously mentioned, on February 15, 2021, the DIP Credit Agreement, together with the other DIP Documents, were entered into between, *inter alia*, Country Fresh Holdings, LLC, as borrower (i.e. the DIP Borrower), several of the DIP Borrower's direct and indirect subsidiaries, including the CCAA Entities, as guarantors, Cortland Capital Market Services LLC, as administrative agent and collateral agent (the "**DIP Agent**") and the lenders party thereto (i.e. the DIP Lenders). A copy of the DIP Credit Agreement is attached hereto as **Exhibit "T"**.

131. Pursuant to the DIP Credit Agreement, the DIP Lenders have agreed to provide the DIP Borrower with a DIP Facility of up to US$13,416,000, to fund the working capital requirements and other general corporate purposes of the Chapter 11 Entities during the pendency of the Restructuring Proceedings.

132. As part of the DIP financing arrangements, FFG requested, and the DIP Lenders have agreed, to permit certain intercompany transfers of funds from the DIP Facility to occur between the Chapter 11 Entities and the CCAA Entities (i.e. the Intercompany DIP Advances), to the extent such transfers are required by the CCAA Entities and permitted by the DIP Credit Agreement, the DIP Budget (as defined in the DIP Credit Agreement) related thereto and the orders rendered by the US Court as part of the Chapter 11 Proceedings.

133. As a result of this arrangement, the CCAA Entities will not directly borrow monies from the DIP Lenders under the DIP Facility. Rather, they will have the ability to receive funding, if required, through Intercompany DIP Advances made by a Chapter 11 Entity (which funding, itself, will have been made available to the Chapter 11 Entities through the DIP Facility).

134. Accordingly, in order to reflect the above arrangement, the CCAA Entities have entered into the DIP Credit Agreement and that certain Canadian Guaranty and Security Agreement, to provide that the CCAA Entities will guarantee the obligations of the DIP Borrower under the DIP Credit Agreement (the "**DIP Guarantee**"), up to an amount equivalent to the Intercompany DIP Advances, if any, plus interest thereon. A copy of the DIP Guarantee is attached hereto as **Exhibit "U"**.

135. In order to secure the full repayment of the Intercompany DIP Advances, if any, plus any interest thereon, and the obligations under the DIP Guarantee, the DIP Lenders have required, and the CCAA Entities, have agreed, to grant the following priority charges:

(a) a priority charge (i.e. the Intercompany DIP Charge) against the assets of the CCAA Entities in favour of the DIP Borrower and its U.S. subsidiaries that are party to the DIP Credit Agreement (the "**Lending US Debtors**"), which shall be held by the Lending US Debtors for the sole benefit of the DIP Agent and the DIP Lenders, securing the full amount of any Intercompany DIP Advances outstanding, plus any unpaid interest thereon, made during the course of these CCAA Proceedings; and

(b) a priority charge (i.e. the DIP Lenders' Charge) against the assets of the CCAA Entities in favour of the DIP Agent and the DIP Lenders securing the CCAA Entities' obligations under the DIP Guarantee in an amount equivalent to the Intercompany DIP Advances outstanding, plus unpaid interest thereon and the reasonable fees and disbursements of Canadian counsel to the DIP Lenders at their standard rates and charges before and after the making of the First Day Order.

136. The amount of the Intercompany DIP Charge and the DIP Lenders' Charge shall each not exceed the cumulative amount of the Intercompany Advances made to the CCAA Entities, if any, plus interest and fees accrued thereon and the reasonable fees and disbursements of Canadian counsel to the DIP Lenders at their standard rates and charges before and after the making of the First Day Order.

137. No Intercompany DIP Advance may be made to the CCAA Entities unless the DIP Credit Agreement has been previously approved by this Court and the Intercompany DIP Charge and the DIP Lenders' Charge have been granted as part of the First Day Order.

138. Access, albeit indirect, to the DIP Facility by the CCAA Entities through the above arrangement will allow them to benefit from a cushion, should they require it during these CCAA Proceedings.

139. As the DIP Facility will be provided by existing lenders under the Super-Priority Term Loan, who already benefit from first ranking security interests on the assets of the CCAA

Entities, the CCAA Entities believe there will be no material prejudice to any of their existing creditors in approving the DIP Credit Agreement, the DIP Guarantee, the proposed Intercompany DIP Charge and the proposed DIP Lenders' Charge. Accordingly, the CCAA Entities seek an order authorizing and empowering the CCAA Entities to enter into the DIP Credit Agreement as guarantors and grant the Intercompany DIP Charge and the DIP Lenders' Charge.

140. The relief requested in the First Day Order limits the Intercompany DIP Advances that can be made to the CCAA Entities from the Chapter 11 Entities to US$1 million. The amount was determined to limit the relief sought during the initial stay period but still provide sufficient authorization to protect the business of the CCAA Entities should the need for funding arise due to variances in the CCAA Entities' expected receipts or disbursements as set out in the Cash Flow Statement.

G. Directors' Charge

141. In order to continue to carry on business during these CCAA Proceedings, the CCAA Entities require the active and committed involvement of its director and officers (the "**D&Os**"), particularly given the fact that the CCAA Entities only have one director.

142. Since the continued assistance of the D&Os is required to ensure that these CCAA Proceedings and the Formal Solicitation Process are successfully completed, these D&Os require, in turn, that the CCAA Entities indemnify them for all liabilities which they may incur in the context of their positions after the filing of these proceedings, including liabilities relating to employee vacations accrued prior to these CCAA Proceedings, but which may be crystalized after the commencement of such proceedings.

143. Although the CCAA Entities intend to comply with all applicable laws and regulations, including with respect to the timely remittance of deductions at source and federal and provincial sales taxes, its directors and officers remain nevertheless concerned about their potential personal liability, particularly in the present circumstances.

144. While the CCAA Entities maintain directors' and officers' liability insurance (the "**D&O Insurance**"), such D&O Insurance is currently scheduled to expire on April 29, 2021, and it is uncertain at this point and time whether or not the CCAA Entities will be in a position to extend such coverage period.

145. In addition, certain of the CCAA Entities for which D&Os may be personally liable for may not be covered by the D&O Insurance, or the current amount of coverage provided by the D&O Insurance may not be sufficient to protect them from all of the potential directors' and officers' liability.

146. The CCAA Entities therefore request a Court-ordered charge over its Property (the "**Directors' Charge**") in the amount of US$2.5 million, as part of both the First Day Order and ARIO, to allow the CCAA Entities to properly indemnify their D&Os in connection with any claim which may be asserted against them, personally, from and after the commencement of these proceedings, including claims relating to employee vacations accrued prior to these CCAA Proceedings, but which may be crystalized after the commencement of such proceedings. The Proposed Monitor has advised that it is supportive of the proposed Directors' Charge and quantum thereof.

147. While the Directors' Charge requested proposes to cover claims or potential claims, which may be asserted against the D&Os, personally, in connection with employee vacations accrued prior to these CCAA Proceedings, but which may crystalize after the commencement of such proceedings, it should be noted that such inclusion has been negotiated with the secured lenders of the CCAA Entities, who, in this case, are the main if not the only economic stakeholders of the CCAA Entities, of given the estimated value of the CCAA Entities' assets, relative to their respective indebtedness. The Directors' Charge securing the aforementioned claims or potential claims related to employee vacations will assist in retaining the D&Os of the CCAA Entities during the pendency of these CCAA Proceedings and assist in implementing a transaction involving the CCAA Entities and/or their assets.

148. The CCAA Entities believe and submit that in these circumstances, the requested Directors' Charge is reasonable and adequate given, notably, the complexity of their business, and the corresponding potential exposure of their directors and officers to personal liability, especially in the present context.

149. Absent the approval by this Court of the Directors' Charge in the amounts set out above, the CCAA Entities are concerned that one or more of their director or officers will be forced to resign, which would, in all likelihood, render these CCAA Proceedings (and potentially the Chapter 11 Proceedings) and the Formal Solicitation Process much more challenging, and

possibly much more costly, to the detriment of the CCAA Entities' creditors and other stakeholders.

H. Canadian Intercompany Advances and Canadian Intercompany Charge

150. As previously discussed, in the ordinary course of their business operations, amounts of moneys may flow, from time to time, between the CCAA Entities.

151. Accordingly, the CCAA submit that it is necessary for this court to allow such intercompany advances (the "**Canadian Intercompany Advances**") to continue, and to grant a "**Canadian Intercompany Charge**" in order to secure such Canadian Intercompany Advances, if any, and protect the respective estates of the CCAA Entities. Further, this relief is necessary within the initial stay period in the CCAA Proceedings as the CCAA Entities' cash flow and ability to operate on a stand-alone basis with additional financial is predicated on the CCAA Entities' ability to advance funds to each other. The Canadian Intercompany Charge will preserve the status quo and protect stakeholders during this initial period.

I. Ranking of the Court Ordered Charges

152. The proposed ranking of the court ordered charges is as follows:

(a) Administration Charge (up to the maximum amount of US$400,000 in the First Day Order and US$750,000 in the ARIO);

(b) Intercompany DIP Charge / DIP Lenders' Charge;

(c) Directors' Charge (up to the maximum amount of US$2,500,000 in both the First Day Order and the ARIO);

(d) the Transaction Fee Charge (up to the maximum amount of US$2,500,000 in the ARIO); and

(e) the Canadian Intercompany Charge.

J. Authority to Pay Certain Pre-Filing Amounts

153. As of the date of this affidavit, the CCAA Entities owe various amounts to suppliers and service providers, some of which are crucial for their continued operation.

154. While the draft First Day Order and the ARIO proposed in these CCAA Proceedings prevents counterparties from terminating their supply arrangements, uninterrupted supply of products is critical to ongoing operations and, by extension, the preservation of value of the business. Certain of these crucial suppliers are not located in Canada or have little business in Canada, and the CCAA Entities fear that such suppliers may be tempted to cease supply products to the CCAA Entities, to the extent that its claims are not fully paid. Further, given the CCAA Entities' limited inventory on hand, any supplier engaging in self-help, even for a short period of time, could disrupt the business of the CCAA Entities during a crucial period. A supplier operating in breach of the First Day Order could have a significant detrimental impact on the CCAA Entities' business and the Applicants may not have sufficient time to enforce the order with the Court. The CCAA Entities also have limited ability to replace certain suppliers in a timely manner.

155. In my opinion and the opinion of management of the CCAA Entities that, without payment of the pre-filing amounts owing to these suppliers, they may interrupt the CCAA Entities' ability to procure and sell products in the market, leading to a significant disruption in the CCAA Entities' business during the first important weeks of the CCAA Proceedings, potentially causing value dissipation. Further, I believe a limited amount of authorization is necessary in the First Day Order to ensure the continued operations of the CCAA Entities in the ordinary course of business during the initial stay period in the CCAA Proceedings.

156. As such, the CCAA Entities are seeking the authorization, but not the requirement, subject to the Definitive Documents (as defined in the proposed First Day Order and the ARIO) to make payments to these stakeholders, including those relating to the pre-filing period, with the prior approval of the Proposed Monitor. Pursuant to the terms of the draft First Day Order, such payments would not exceed an aggregate maximum of $750,000, which would be subsequently increased to $2,000,000, as part of the ARIO. These amounts were determined by Ankura, in consultation with the Proposed Monitor, as an estimate of potential amount that may be necessary to be paid in order to protect the CCAA Entities' continued supply during the initial stay period.

XI. PROPOSED STALKING HORSE AND BIDDING PROCEDURES ORDER

157. In addition to the above, and as part of the ARIO, the CCAA Entities will also be seeking the Canadian Court's approval of the Stellex APA and the Bidding Procedures.

158. As previously discussed, the Stellex APA and Bidding Procedures are the result of extensive discussions and negotiations among FFG, Stout and Stellex, and their respective legal and financial advisors over the course of the last few weeks, in consultation with the DIP Lenders.

159. At this point and time, the Stellex APA represents the best offer received by FFG and Stout in the context of the Formal Solicitation Process.

160. Most notably, the Stellex APA, in addition to being fully committed, fully financed and not contingent on additional business diligence, it also provides:

(a) a clear path to the maintenance and pursuit of the operations of FFG, including the CCAA Entities;

(b) a preservation of the employment of certain employees of FFG, including the CCAA Entities, if the Stellex is determined to be the Successful Bidder following the completion of the Bidding Procedures; and

(c) reasonable consideration for FFG's assets, which will allow to maximize creditor recovery; and

(d) a short timeline to closing the transaction,

while at the same time establishing a valuable baseline consideration which has the potential to improve any bids received in the context of the Formal Solicitation Process.

161. As previously mentioned, as things currently stand, FFG, including the CCAA Entities, consider that the Stellex APA represents the best possible option for maximizing value for FFG's creditors and other stakeholders, and that it is in its and their best interest that the execution of the Stellex APA be approved and ratified by the Canadian Court (and the US Court).

162. In connection with the Stellex APA, the parties thereto, in consultation with the DIP Lenders, agreed upon the Bidding Procedures and the pursuit and continuation of the Formal Solicitation Process, which will allow FFG (including the CCAA Entities) to continue the marketing process in respect of its assets, and ultimately maximize the value thereof, for the benefit of all of its creditors and other stakeholders.

163. While the Formal Solicitation Process will proceed expeditiously, I believe that the proposed timeline for the pursuit and continuation of such Formal Solicitation Process, in accordance with the Bidding Procedures, is reasonable in the circumstances, taking into account the fact that the assets of FFG have been formally marketed with the assistance of Stout since November, 2020, and FFG's current secured lenders have clearly advised that they are not willing to provide any additional funding, other than the DIP Facility and that the Restructuring Proceedings must be completed in short order.

164. Nonetheless, the pursuit and continuation of the Formal Solicitation Process in accordance with the Bidding Procedures will allow FFG, including the CCAA Entities, an opportunity to solicit a superior offer to that of Stellex, to maximize value for the benefit of its creditors and other stakeholders, all in a fair and transparent manner.

165. The DIP Lenders, as the principal economic stakeholders in these Restructuring Proceedings, have advised the CCAA Entities and the Chapter 11 Entities that they are supportive of the process outlined above.

XII. CONCLUSIONS

166. In light of the foregoing, I believe that the relief sought by the Applicants as part of the Application are reasonable in the circumstances.

167. Furthermore, I understand that E&Y, in its capacity as Proposed Monitor, will also be filing a pre-filing report in advance of the hearing on the Application, confirming its support for such relief.

I confirm that while connected via video conference technology, the affiant showed me the front and back of his government-issued photo identity document and that I am reasonably satisfied it is the same person and the document is current and valid. I also confirm that I have reviewed each page of this affidavit with the affiant and verify that the pages are identical.

Sworn before me by video conference from the City of New York, to the City of Toronto, Ontario, on February 16, 2021.

DocuSigned by:

Lee Nicholson

82C0CC8E694B4AB...

Commissioner for Taking Affidavits

DocuSigned by:

Stephen Marotta

196AADD5E64F43D...

STEPHEN MAROTTA

This is
EXHIBIT "B"
to the affidavit of
STEPHEN MAROTTA
sworn March 25, 2021

A commissioner etc.

Summary of Highest Bids

	Stalking Horse	US & Canada	US	US	Toronto & Brampton	Vancouver
	Stellex	**Combination**	**Stellex**	**Taylor**	**Homestyle**	**Save-On Foods**
Cash Price	$ 30,000,000	$ 65,850,000	$ 33,350,000	$ 35,000,000	$ 30,000,000	$ 2,500,000
Add: Breakup Fee & Expense Reimbursement	0	0	2,150,000	0	0	0
Note (Face Value)	25,000,000	0	0	0	0	0
Less: Discount on Note	(2,321,487)	0	0	0	0	0
Less: Estimated Adjustment for Current Assets Below Collar	(7,300,000)	0	0	0	0	0
Less: Estimated Adjustment for Current Liabilities Above Cap	(3,500,000)	(2,585,000)	(2,585,000)	(2,585,000)	0	0
Net Purchase Price	**41,878,513**	**63,265,000**	**32,915,000**	**32,415,000**	**30,000,000**	**2,500,000**
Adjustments to Bid Value:						
Add: Assumed PACA & Post-Petition Trade Claims	25,000,000	25,000,000	24,085,000	24,085,000	350,000	565,000
Add: Avoidance of Post-Petition Canadian Employee Termination Claims	0	619,000	0	0	251,000	368,000
Net Bid Value	**$ 66,878,513**	**$ 88,884,000**	**$ 57,000,000**	**$ 56,500,000**	**$ 30,601,000**	**$ 3,433,000**

This is
EXHIBIT "C"
to the affidavit of
STEPHEN MAROTTA
sworn March 25, 2021

A commissioner etc.

Court File No. CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

NOTICE OF DESIGNATION OF SUCCESSFUL BIDDERS AND BACK-UP BIDDERS

PLEASE TAKE NOTICE OF THE FOLLOWING:

On February 15, 2021, Country Fresh Holding LP and certain of its debtor affiliates[1], as debtors and debtors-in-possession (collectively, the "**U.S. Debtors**") filed voluntary petitions commencing parallel insolvency proceedings (the "**Chapter 11 Cases**") before the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**Bankruptcy Court**") under chapter 11 of title 11 of the United States Bankruptcy Code.

On February 17, 2021, the Canadian affiliates of the U.S. Debtors[2] (the "**Canadian Debtors**") commenced parallel insolvency proceedings (the "**CCAA Proceedings**") before the Ontario Superior Court of Justice (Commercial List) (the "**CCAA Court**") under the *Companies' Creditors Arrangement Act* ("**CCAA**"). The U.S. Debtors and the Canadian Debtors are collectively referred to as the "**Sellers**".

On February 17, 2021, the U.S. Debtors filed their *Emergency Motion For Entry of an Order: (I) (A) Authorizing and Approving Bid Procedures; (B) Authorizing and Approving the Debtors' Entry into the Stalking Horse Purchase Agreement; (C) Authorizing and Approving the Expense Reimbursement and Break-Up Fee; (D) Scheduling an Auction and Sale Hearing; (E) Authorizing and Approving Assumption and Assignment Procedures; and (F) Approving Notice Procedures; (II) Approving the Sale of Substantially All of the U.S. Debtors' Assets Free and Clear*

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[1] The U.S. Debtors in the Chapter 11 Cases, along with the last four digits of each U.S. Debtor's federal tax identification number, are: Country Fresh Holding Company Inc. (7822), Country Fresh Midco Corp. (0702), Country Fresh Acquisition Corp. (5936), Country Fresh Holdings, LLC (7551), Country Fresh LLC (1258), Country Fresh Dallas, LLC (7237), Country Fresh Carolina, LLC (8026), Country Fresh Midwest, LLC (0065), Country Fresh Orlando, LLC (7876), Country Fresh Transportation LLC (8244), CF Products, LLC (8404), Country Fresh Manufacturing, LLC (7839), Champlain Valley Specialty of New York, Inc. (9030), Country Fresh Pennsylvania, LLC (7969), Sun Rich Fresh Foods (NV) Inc. (5526), Sun Rich Foods (USA) Inc. (0429), Sun Rich Fresh Foods (PA) Inc. (4661). The principal place of business is 3200 Research Forest Drive, Suite A5, The Woodlands, TX, 77381.

[2] The Canadian Debtors in the CCAA Proceedings are TGF Acquisition Parent Ltd., Sunrich Fresh Foods Inc. and Tiffany Gate Foods Inc.

Of All Liens, Claims, Encumbrances and Interests; and (III) Granting Related Relief [Docket No. 51] in the Bankruptcy Court.

On February 26, 2021, the Bankruptcy Court entered its *Order (I) (A) Authorizing and Approving Bid Procedures; (B) Authorizing the Debtors' Entry into the Stalking Horse Purchase Agreement; (C) Authorizing and Approving Expense Reimbursement and Break-Up Fee; (D) Scheduling an Auction and Sale Hearing; (E) Authorizing and Approving Assumption and Assignment Procedures; and (F) Approving Notice Procedures* [Docket No. 164] (the "**Bid Procedures Order**")[3] in the Chapter 11 Cases, authorizing the U.S. Debtors to market their business and assets in accordance with the sale and bid procedures annexed to the Bid Procedures Order (the "**U.S. Bid Procedures**") and conduct an auction (the "**Auction**") to select a party or parties to purchase all or some of the U.S. Debtors' assets in accordance with the U.S. Bid Procedures.

On March 1, 2021, the CCAA Court issued a Bidding Procedures Order in the CCAA Proceedings (the "**Canadian Bidding Procedures Order**") which, among other things, approved the execution of the Stalking Horse Agreement and authorized the Canadian Debtors to market their business and assets in accordance with the sale and bid procedures annexed to the Canadian Bidding Procedures Order (the "**Canadian Bid Procedures**" and, together with the U.S. Bid Procedures, the "**Bid Procedures**").

Pursuant to the Bid Procedures Orders, the Sellers conducted an auction, which started on **March 23, 2021 and concluded on March 24, 2021** (the "**Auction**").

At the Auction, the Sellers determined that the highest or best offers were submitted as follows:

U.S. Assets:

U.S. Successful Bidder: Stellex/CF Buyer (US) LLC

U.S. Back-Up Bidder: Taylor Fresh Foods, Inc.

Toronto / Brampton Assets:

Toronto / Brampton Successful Bidder: Homestyle Selections LP

Toronto / Brampton Back-Up Bidder: Summer Fresh Salads Incorporated

Vancouver Assets:

Vancouver Successful Bidder: Save-On-Foods Limited Partnership

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[3] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bid Procedures Order or the Bid Procedures annexed thereto, as applicable.

Sale Hearings:

The hearing to approve and authorized the sale of the U.S. Debtors' Assets pursuant to the Sale Transaction (the "**U.S. Sale Hearing**") shall be held electronically via video/telephone before the Bankruptcy Court before the Honorable Marvin Isgur on **March 25, 2021 at 9:30 a.m (prevailing Central Time)**. If you wish to participate telephonically, you must use the Bankruptcy Court's teleconference system at **1-832-917-1510** and entering conference code 954554. You may also join by videoconference by use of an internet connection, using the website **www.join.me**, selecting "**join a meeting**," and entering meeting code "**JudgeIsgur**." At such hearing, the U.S. Debtors will seek the entry of an order of the Bankruptcy Court approving and authorizing the Sale of the U.S. Assets to the Successful Bidder on the terms and conditions of the Successful Bid. The Successful Bidder shall appear at the U.S. Sale Hearing and be prepared to testify in support of the Successful Bid and the Successful Bidder's ability to close in a timely manner, including with respect to demonstrating adequate assurance of future performance that may be required in connection with any executory contracts or unexpired leases.

PLEASE TAKE FURTHER NOTICE that the hearing to approve and authorize the sale of the Canadian Debtors' Assets will be held on **March 26, 2021 at 12:00 p.m. prevailing Eastern time** (the "**Canadian Sale Hearing**").

The Sellers' presentations to the Bankruptcy Court and CCAA Court for approval of the sale of Assets, as applicable, to the Successful Bidders do not constitute the Sellers' acceptance of the Successful Bids. The Sellers shall be deemed to have accepted a Successful Bids only when the Successful Bids has been approved by order of the Bankruptcy Court and CCAA Court, as applicable.

If the Sale Transactions are not consummated with the applicable Successful Bidder, the Sellers shall designate the applicable Back-up Bidder as the Successful Bidder for the applicable U.S. or Canadian Assets, as indicated above.

PLEASE TAKE FURTHER NOTICE that copies of pleadings related to the proposed Sale as related to the U.S. Debtors, including the Bid Procedures Order (and attached bid procedures) approved by the Bankruptcy Court, are available on the U.S. Debtors' website at https://dm.epiq11.com/freshfoodgroup or on the Bankruptcy Court's website at https://ecf.txsb.uscourts.gov/. You can request any pleading you need from (i) the proposed noticing agent, Epiq Corporate Restructuring, LLC (CountryFreshInfo@epiqglobal.com), or (ii) counsel for the U.S. Debtors at: Foley & Lardner LLP, c/o Sharon M. Beausoleil (sbeausoleil@foley.com).

PLEASE TAKE FURTHER NOTICE that copies of motions and materials related to the proposed Sale as related to the Canadian Debtors and the CCAA Proceedings, including the Canadian Bidding Procedures Order, are available on the website of Ernst & Young Inc., in its capacity as Court-appointed Monitor of the Canadian Debtors (the "**Monitor**") at https://www.ey.com/ca/freshfoodcanada. Should you require further information regarding the Canadian Debtors and the CCAA Proceedings you may contact, (i) the Monitor at freshfoodcanada.monitor@ca.ey.com; or (ii) counsel for the Canadian Debtors at: Stikeman Elliott LLP, c/o Lee Nicholson (leenicholson@stikeman.com).

DATED: March 24, 2021

This is
EXHIBIT "D"
to the affidavit of
STEPHEN MAROTTA
sworn March 25, 2021

A commissioner etc.

Execution Version

ASSET PURCHASE AGREEMENT

by and between

TIFFANY GATE FOODS INC. AND SUN RICH FRESH FOODS INC.
(“Sellers”)

and

HOMESTYLE SELECTIONS LP
(“Buyer”)

Dated: March 25, 2021

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "**Agreement**"), is made as of the 25th day of March, 2021 (the "**Effective Date**"), by and between (i) Tiffany Gate Foods Inc., a British Columbia corporation and Sun Rich Fresh Foods Inc., a British Columbia corporation (together, the "**Sellers**"), and (ii) Homestyle Selections LP, an Alberta limited partnership (the "**Buyer**").

RECITALS

A. Sellers are in the business of providing fresh-cut fruits and vegetables, snacking products and home meal replacement solutions for retail, food-service, club and convenience stores, including merchandising and category support (the "**Business**").

B. On February 17, 2021 (the "**Filing Date**"), Sellers commenced a proceeding (the "**Canadian Proceeding**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") with the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") in respect of the Sellers.

C. Sellers desire to sell the Assets (as defined herein) to Buyer and have Buyer assume certain specified liabilities and Buyer desires to purchase the Assets and assume such specified liabilities of Sellers, all on the terms and conditions set forth in this Agreement.

D. The Parties intend to effectuate the transactions contemplated by this Agreement through a sale of the Assets pursuant to Section 36 of the CCAA.

E. Sellers' ability to consummate the transactions set forth in this Agreement is subject to, among other things, the entry of the Sale Order.

NOW, THEREFORE, in consideration of the foregoing and the respective promises, representations, warranties and covenants herein contained, the parties hereto, intending to be legally bound hereby, do agree as follows:

ARTICLE I
DEFINITIONS

1.1 Definitions. For purposes of this Agreement the following terms shall have the meanings ascribed below:

"***11.3 Contracts***" shall mean those contracts set forth on Schedule 1.1.

"***11.3 Leases***" shall mean those leases set forth on Schedule 1.2.

"***Accounts Receivable***" shall mean (a) all trade accounts receivable and other rights to payment from customers of Sellers (whether current or non-current) and the full benefit of all security for such accounts or rights to payment, (b) all other accounts or notes receivable of Sellers and the full benefit of all security for such accounts or notes, (c) other amounts due to any Seller that such Seller has historically classified as accounts receivable in the balance sheet of such Seller and (d) any security interest, claim, cause of action, remedy or other right related to any of the foregoing.

"***Affiliate***" shall mean with respect to any Person, any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

"***Agreement***" shall have the meaning set forth in the preamble.

*"**Ancillary Agreements**"* shall have the meaning set forth in Section 5.2(b).

"***Applicable Accounting Principles***" means generally accepted accounting principles in the Canada as in effect from time to time (GAAP).

"***Assets***" shall have the meaning set forth in Section 2.2.

"***Assigned Contracts***" shall mean those Desired 11.3 Contracts which the applicable Seller shall assign to Buyer pursuant to and in accordance with Section 2.6.

"***Assigned Leases***" shall mean those Desired 11.3 Leases (including the Third Party Leases) which the applicable Seller shall assign to Buyer pursuant to and in accordance with Section 2.6.

"***Assignment and Assumption Agreement***" shall have the meaning set forth in Section 4.2(a)(ii).

"***Assumed Liabilities***" shall have the meaning set forth in Section 2.4.

"***Bill of Sale***" shall mean the bill of sale substantially in the form of Exhibit B attached hereto.

"***Business***" shall have the meaning set forth in the Recitals.

"***Business Day***" shall mean any day except a Saturday, a Sunday or any other day on which commercial banks are required or authorized to close in Toronto, Ontario or Montreal, Quebec.

"***Buyer***" shall have the meaning set forth in the Recitals.

*"**Buyer Ancillary Agreements**"* shall have the meaning set forth in Section 5.2(b).

"***Canadian Court***" shall have the meaning set forth in the Recitals.

"***Canadian Proceeding***" shall have the meaning set forth in the Recitals.

"***CCAA***" shall have the meaning set forth in the Recitals.

"CFIA" shall mean the Canadian Food Inspection Agency.

"***Closing***" shall have the meaning set forth in Section 4.1.

"***Closing Date***" shall have the meaning set forth in Section 4.1.

"***Company Intellectual Property***" shall have the meaning set forth in Section 5.1(h).

"***Confidentiality Agreement***" shall mean the confidentiality agreement dated January 25, 2021 between Country Fresh Holding Company Inc. and Homestyle Selections LP, by its general partner, Homestyle Selections GP Ltd.

"***Contract***" shall mean any written or oral agreement, contract, lease, sublease, indenture, mortgage, hypothec, instrument, guaranty, loan or credit agreement, note, bond, customer order, purchase order, sales order, quotes, quote schedules, statements of work, sales agent agreement, supply agreement, development agreement, joint venture agreement, license agreement, contribution agreement, partnership agreement or other arrangement, understanding, permission or commitment that, in each case, is legally binding, including in all cases any schedules, annexes, exhibits, amendments, supplements or modifications thereto.

"***COVID-19***" means SARS-CoV-2 or COVID-19, and any evolutions or mutations thereof or related or associated epidemics, pandemic or disease outbreaks.

"***COVID-19 Measures***" means any of the Sellers' compliance with any quarantine, "shelter in place," "stay at home," work force reduction, social distancing, shut down, closure, sequester, safety or similar Law, policies, guidelines or recommendations promulgated by any Governmental Entity or the Centers for Disease Control and Prevention, in each case, in connection with, related to, or in response to COVID-19.

"***COVID-19 Response***" means any reasonable action or inaction, including the establishment of any policy, procedure or protocol, by any Seller that such Seller determines in its reasonable discretion is necessary, advisable or prudent in connection with (i) mitigating the adverse effects of COVID-19 or applicable COVID-19 Measures, (ii) ensuring compliance by the Sellers with COVID-19 Measures applicable to any of them and/or (iii) in respect of COVID-19, protecting the health and safety of employees or other persons with whom the Sellers and/or any of their respective personnel come into contact with during the course of business operations.

"*Critical Vendor Payments*" shall mean those payments to certain vendors made by Buyer with respect to pre-petition obligations of Sellers as set forth on Schedule 1.3.

"***Customer Rebates***" shall mean the rebate claims owed by Tiffany Gate Foods Inc. to a certain customer with respect to the provision of quinoa (such customer, the "***Rebate Customer***"), currently estimated to be USD$1,500,000.00.

"*Cure Costs*" shall mean all monetary Liabilities, including monetary Liabilities arising prior to the Filing Date, that must be paid or otherwise satisfied to cure all monetary and other defaults under the Assigned Leases or Assigned Contracts, as applicable, pursuant to Section 11.3 of the CCAA.

*"**Desired 11.3 Contracts**"* shall have the meaning set forth in Section 2.6(a).

"***Desired 11.3 Leases***" shall have the meaning set forth in Section 2.6(a).

"***Deposit***" shall have the meaning set forth in Section 3.1(a).

"***Effective Date***" shall have the meaning set forth in the Recitals.

"***Employees***" shall have the meaning set forth in Section 5.1(o).

"***Encumbrance***" shall mean any pledge, lien, mortgage, hypothec, deed of trust, interest, charge, claim, right of first refusal or other similar option, easement, encroachment, right of way or restriction.

"***Environmental Claim***" shall mean any action, claim, proceeding, governmental order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

"***Environmental Laws***" shall mean all Laws relating to the presence or release of Hazardous Materials waste disposal or protecting the environment, including without limitation: (i) the Canadian Environmental Protection Act, 1999 (S.C. 1999, c. 33) and (ii) the Ontario Environmental Protection Act R.S.O.1990, c.E.19 and regulations thereunder, as amended.

"***Environmental Notice***" shall mean any written directive, notice of violation or infraction relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit, or written notice respecting an Environmental Claim.

"***Environmental Permit***" shall mean any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

"***Escrow***" shall have the meaning set forth in Section 3.1.

"***Escrow Agent***" shall mean Ernst & Young, Inc., in its capacity as the court-appointed monitor of the Sellers.

"***ETA***" shall mean the Excise Tax Act (Canada).

"***Excluded Assets***" shall have the meaning set forth in Section 2.3.

"***Excluded Contracts***" means all 11.3 Contracts that are not Assigned Contracts.

"***Excluded Leases***" means all 11.3 Leases that are not Assigned Leases.

"***Excluded Liabilities***" has the meaning set forth in Section 2.5.

"***Excluded Records***" shall mean (a) the general corporate files and records of Sellers, insofar as they relate to the business generally and are not required for the future ownership or operation of the Assets, (b) all legal files and records (other than files exclusively related to Assumed Liabilities), (c) Sellers' Income Tax files and records, (d) employee files that Sellers are required by Law to retain, (e) records relating to the sale of the Assets, including competing bids, (f) proprietary data, (g) copies of records stored for archival and/or back up purposes, and (h) any other files or records to the extent relating to any Excluded Assets.

"***Facilities***" shall mean each of the facilities and related buildings, structures, signage, improvements erected or located thereon as set forth on Schedule 1.4 attached hereto.

"***Filing Date***" shall have the meaning set forth in the Recitals.

"***Final Order***" shall mean an order entered by the Canadian Court as to which: (i) no appeal, notice of appeal, motion for reconsideration, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been timely filed; (ii) the time for instituting or filing an appeal, motion for rehearing or motion for new trial shall have expired; and (iii) if an appeal has been timely filed no stay pending an appeal is in effect and the time for requesting a stay pending appeal shall have expired.

"***Food Safety Laws***" shall mean all applicable Laws issued or implemented by the CFIA, Health Canada and/or any other comparable Governmental Authority, including the Safe Food for Canadians Act, the federal Food and Drugs Act and/or any other similar federal, provincial or local Law and including those related to recordkeeping, food safety, food additives, food contact substances, supplier verification, current good manufacturing practices, import and export compliance, corrective action preparedness, preventive control plans, traceability and food labeling and advertising.

"***GAAP***" means generally accepted accounting principles in Canada applied on a consistent basis.

"***Governmental Authority***" shall mean any federal, state, provincial or local government or any court of competent jurisdiction, administrative agency or commission or other governmental or quasi-governmental authority or instrumentality, domestic or foreign.

"***GST/HST***" means all Taxes payable under Part IX of the ETA or under any provincial legislation similar to the ETA, and any reference to a specific provision of the ETA shall refer to any successor provision thereto of like or similar effect.

"***Hazardous Materials***" shall mean (i) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral, gas, noise or odour, in each case, whether naturally occurring or manmade, that is regulated under Environmental Laws; (ii) those substances, materials, or wastes included within statutory and/or regulatory definitions or listings of “hazardous substance,” “deleterious substance,” “hazardous waste,” “extremely hazardous substance,” “waste” “medical waste,” “regulated substance,” “hazardous materials,” “toxic substances,” “pollutant”, or “contaminant”, or words of similar import or regulatory effect, under any Environmental Law; and/or (iii) any substance, material, or waste which is or contains: (A) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls, (B) explosives, or (C) radioactive materials (including naturally occurring radioactive materials).

“***Intellectual Property***” means any right or protection existing from time to time in a specific jurisdiction, whether registered or not, under any patent law or other invention or discovery law, copyright law, performance or moral rights law, trade-secret law, industrial design law, confidential information law (including breach of confidence), integrated circuit topography, trade-mark law, trade-name law, passing off, unfair competition law or other similar laws, and includes legislation by competent governmental authorities and judicial decisions under common law or equity, and for greater certainty includes: (i) the right to file any applications, and the right to claim for the same the priority rights derived from any applications filed under any treaty, convention, or any domestic laws of a country in which a prior application is filed; and (ii) the right to sue for any misappropriation, misuse, dilution, or unfair trade practices, or any other relief in connection with any of the foregoing rights.

“***Intercompany Accounts Payable***” means all trade and other accounts payable, notes payable and other debts payable or accruing by the Sellers to each other or to any of their Affiliates;

“***Intercompany Accounts Receivable***” means all Accounts Receivable and other amounts owing to or accruing to the Sellers from each other or from any of their Affiliates;

“***Inventory***” shall mean all inventories of Sellers including all finished goods, work in process, raw materials and all other materials and supplies to be used or consumed by Sellers in the production of finished goods, at book value on a consistent basis in accordance with past practices.

“***Knowledge***” shall mean (a) in the case of Sellers, the actual knowledge on the date hereof of any individuals listed on Schedule 1.5 with respect to such matter and (b) in the case of Buyer, the actual knowledge on the date hereof of any individuals listed on Schedule 1.6 with respect to such matter.

“***Law***” shall mean (i) any Canadian or foreign, federal, state, provincial, municipal or local law, statute, code, treaty, constitution, ordinance, rule, regulation, principle of common law or equity, rule, by-law, decree, policy, practice, protocol, standard, guideline or other requirement of any Governmental Authority or any other requirement have the force of law, or (ii) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law.

"***Letter of Intent***" shall mean the non-binding term sheet dated as of March 9, 2021, between the Sellers and Homestyle Selections LP, by its general partner, Homestyle Selections GP Ltd.

"***Liability***" shall mean any and all debts, indebtedness, liens, losses, damages, adverse claims, liabilities, fines, penalties, duties, responsibilities, taxes, obligations and expenses (including reasonable attorneys' fees and reasonable costs of investigation and defense) of any kind, character, or description, whether known or unknown, direct or indirect, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, asserted or unasserted, ascertained or ascertainable, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, vested or unvested, executory, determined, determinable, in contract, tort, strict liability, or otherwise, or otherwise due or to become due.

"***Losses***" shall mean any demands, claims, allegations, assertions, actions or causes of action, assessments, losses, damages, deficiencies, liabilities, costs and expenses (including, without limitation, reasonable legal fees, interest, penalties and all reasonable amounts paid in investigation, defense or settlement of any of the foregoing, whether or not the underlying demands, claims or allegations of third parties are meritorious).

"***Material Adverse Change***" or "***Material Adverse Effect***" shall mean any fact, event, change, occurrence or development that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of the Business of the Facilities, taken as a whole, or (b) the ability of Sellers to consummate the transactions contemplated hereby on a timely basis. Notwithstanding anything to the contrary contained in this paragraph, none of the following shall be deemed, individually or in the aggregate, to constitute a Material Adverse Effect or Material Adverse Change: (a) any change, effect, event, circumstance, state of facts or development resulting from or relating to (directly or indirectly) any of the following: (i) general political, business, economic, financial, or capital market conditions (including interest rates); (ii) changes in Laws or orders or interpretations thereof or changes in accounting standards, requirements or principles (including GAAP); (iii) changes, occurrences, or developments in the industries, markets or geographical areas in which the Sellers operate in general; (iv) any action taken by the Sellers as contemplated or permitted by this Agreement or with the Buyer's written consent; (v) any natural disaster, other acts of God or any acts of terrorism, sabotage, civil unrest, military action or war (whether or not declared), epidemic, pandemic or similar health outbreak (including but not limited to COVID-19, the effects of COVID-19 or any COVID-19 Measures or any change in such COVID-19 Measures or the effects of any COVID-19 Response) or any escalation or worsening thereof, whether or not occurring or commencing before or after the date of this Agreement, and any actions taken in response to any of the foregoing; (vi) any action required to be taken under any Law (including any COVID-19 Measures) or order by which Sellers (or any of the Assets) are bound; (vii) the failure, in and of itself, of the financial or operating performance of Sellers to meet internal or Buyer projections, forecasts, or budgets for any period; or (viii) any effect arising out of the execution or delivery of this Agreement or the transactions contemplated by this Agreement or the public announcement thereof.

“***Monitor***” shall mean Ernst & Young Inc., in its capacity as court-appointed monitor of the Sellers, not in its personal capacity.

“***Owned Real Property***” shall have the meaning set forth in Section 5.1(r)(i).

“***Party***” shall mean either Buyer or Sellers, as the case may be, and “***Parties***” shall mean both Buyer and Sellers.

“***Permits***” shall mean all licenses, permits, registrations, certificates, approvals, consents, waivers, registrations, orders, or other similar documents or authorizations issued, granted or given by any Governmental Authority.

“***Permitted Encumbrances***” shall mean (i) any liens for Taxes not yet due and payable; (ii) mechanics’ carriers, workmen’s, repairmen’s or other similar liens arising or incurred in the ordinary course of business or amounts that are not delinquent and which are not, individually or in the aggregate, material to the Business of the Facilities or the Assets; (iii) with respect to real property, easements, rights of way, zoning ordinances and other similar encumbrances which are not individually or in the aggregate, material to the Business of the Facilities or the Assets; and (iv) purchase-money-security interests arising under Assigned Leases with third parties entered into in the ordinary course of business.

“***Person***” shall mean any individual, firm, corporation, partnership, limited liability company, trust, joint venture, Governmental Authority or other entity whatsoever.

“***Post-Petition Trade Payables***” shall mean the aggregate costs and expenses incurred by Sellers following the Filing Date, consistent with post-petition terms, which are outstanding as of the Closing Date and that are directly attributable to the production of product for the Business of the Facilities and generation of Accounts Receivable, except for any such costs and expenses related to overhead, selling, general and administrative expenses, professional fees, Taxes or services not directly attributable to products for the Business of the Facilities.

“***Purchase Price***” shall have the meaning set forth in Section 3.1.

“***Real Property***” shall mean, collectively, the Owned Real Property and the Leased Real Property.

“***Records***” shall mean books, records, ledgers, files, invoices, documents, work papers, correspondence, lists (including customer lists and supplier lists), plans, drawings, designs, specifications, creative materials, advertising and promotional materials, marketing plans, studies, reports, data and other printed materials which were utilized in connection with the operation of the Business of the Facilities.

“***Representative***” shall mean with respect to a particular Person, any director, officer, manager, partner, member, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants, and financial advisors.

“*Required Consents*” shall have the meaning set forth in Section 5.1(c).

"***Sale Order***" shall mean an order of the Canadian Court pursuant to Section 36 and other applicable provisions of the CCAA, in form and substance satisfactory to the Buyer, which shall, among other things, (a) approve the sale of the Assets by the Sellers; (b) vest the Assets in the Buyer free and clear of Encumbrances other than Permitted Encumbrances; and (c) authorize and effect the assignment of the Assigned Contracts and the assumption of Assumed Liabilities.

"***Schedule Amendments***" shall have the meaning set forth in Section 6.11.

"***Sellers***" shall have the meaning set forth in the Recitals.

"***Sellers Ancillary Agreements***" shall have the meaning set forth in Section 5.1(b).

"***Tax***" or "***Taxes***" shall mean (i) any and all federal, state, provincial, local or foreign taxes, charges, fees, imposts, levies or other assessments, including all net income, gross receipts, capital, sales, use, harmonized sales, goods and services, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, escheat, stamp, occupation, property and estimated taxes, customs duties, fees, assessments and charges of any kind whatsoever; (ii) all interest, penalties, fines, installments, additions to tax or additional amounts imposed by any Taxing Authority in connection with any item described in clause (i); and (iii) any liability in respect of any items described in clauses (i) and/or (ii) payable by reason of Contract, assumption, transferee liability, operation of Law, or otherwise, in each case, whether disputed or not.

"***Taxing Authority***" shall mean the Canada Revenue Agency and any other Governmental Authority responsible for the administration of any Tax.

"***Tax Return***" shall mean any return, declaration, report, claim for refund, estimate, information return, election, notice, statement or other similar document relating to or required to be filed with any Governmental Authority in respect of any Taxes, including any schedule, or attachment thereto and including any amendment thereof, or any extension of time to file or pay any of the foregoing.

"***Third Party Leases***" shall mean that certain third party real property lease for units 1-4 located in the building, municipally known as 1801 Albion Road, Etobicoke, Ontario M9W 5W8, which is being assumed and assigned to Buyer.

"***Transaction***" shall have the meaning set forth in Section 2.1.

"***Transfer Taxes***" means all transfer, documentary, sales, use, stamp, registration, customs duties, import and export taxes, surtaxes, value added, Goods and Services Tax, Harmonized Sales Tax, Quebec Sales Tax, provincial sales/retail Taxes, fees and any other similar Taxes (including any real property transfer Tax and any other similar Tax) and any related penalties and interest.

"***Warranties***" shall have the meaning set forth in Section 2.2(f).

ARTICLE II
SALE AND PURCHASE OF ASSETS

2.1 **Agreement to Sell and Purchase**. Subject to the terms and conditions of this Agreement and in consideration of the Purchase Price, on the Closing Date, Sellers shall sell, transfer, convey and assign to Buyer and Buyer shall purchase from Sellers substantially all of the assets of Sellers (other than the Excluded Assets), which are owned, used or held for use by Sellers to conduct, or in connection with the Business of the Facilities and as specified in Section 2.2 pursuant to Section 36 of the CCAA (the "**Transaction**").

2.2 **Assets**. Without limiting the generality of Section 2.1, the Assets to be purchased by Buyer at the Closing include all of Sellers' right, title and interest in all assets and properties owned by Sellers in connection with the Business of the Facilities, including without limitation the following (other than the Excluded Assets)(together, the "**Assets**"):

(a) the Owned Real Property as set forth on Schedule 5.1(r)(i);

(b) the Facilities and all tangible property, apparatus, equipment, machinery, furniture, fixtures, and other items of personal property which are utilized in connection with the Business of the Facilities and located thereat (together, the "**PP&E**");

(c) all Inventory attributable solely to the Business of the Facilities ("**Acquired Inventory**");

(d) all Accounts Receivable attributable solely to the Business of the Facilities excluding all Intercompany Accounts Receivable ("**Acquired AR**");

(e) all Assigned Contracts and Assigned Leases;

(f) all assignable or transferable warranties and guaranties presently in effect from contractors, suppliers or manufacturers of personal property installed in or used in connection with the PP&E (to the extent assignable) (collectively, the "**Warranties**");

(g) except for Excluded Liabilities, all claims, causes of action and other legal rights and remedies of Sellers, whether or not known as of the Closing Date, relating to or in connection with the Business of the Facilities, the Sellers' ownership of the Assets or necessary to preserve for the benefit of Buyer full rights to the Assets, but excluding causes of action and other legal rights and remedies of Sellers (i) against Buyer with respect to the transactions contemplated by this Agreement or (ii) relating exclusively to the Excluded Assets;

(h) all Records attributable solely to the Business of the Facilities;

(i) all Permits, including Environmental Permits, held by Sellers attributable solely to the Business of the Facilities to the extent that either (i) the same are assignable by Sellers without consent of or fee payable to any third party or (ii) all required consents are actually obtained and any required fee is actually paid by Sellers;

(j) all goodwill in or otherwise associated with the Business of the Facilities, the Company Intellectual Property (and all goodwill therein), and all other Intellectual Property and intangible personal property used in or attributable to the ownership and/or operation of the Business of the Facilities, including the intellectual property used in connection with the Business of the Facilities, including, but not limited to, any patents, confidential information, trade secrets, mailing lists, recipes, processes, customer lists, vendor lists, and Sellers' rights that are transferable without consent from or fee payable to a third party, including, software, and website(s) and internet address(es) dedicated to the Business of the Facilities; and

(k) all rights of Sellers relating to deposits and prepaid expenses, claims for refunds and rights of offset in respect thereof that are not Excluded Assets.

2.3 **Excluded Assets**. The Assets being conveyed to Buyer shall not include any of the property, rights or interests below and as set forth on **Schedule 2.3** (the "**Excluded Assets**").

Notwithstanding the foregoing, nothing herein will be deemed to constitute an agreement to sell, transfer, assign or convey the Excluded Assets to Buyer, and Sellers will retain all right, title and interest to, in and under the Excluded Assets. The term "**Excluded Assets**" means all assets of the Sellers other than the Assets, including but not limited to:

(a) any amounts (including the Purchase Price) paid or payable to the Sellers pursuant to this Agreement;

(b) any shares of capital stock or other equity interest of the Sellers or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interest of the Sellers;

(c) all minute books, stock ledgers, corporate seals and stock certificates of the Sellers;

(d) all Excluded Records;

(e) all Excluded Contracts and Excluded Leases, including all rights thereunder and PP&E leased by the Sellers pursuant to the Excluded Leases;

(f) all Tax assets (including any refunds or prepayments) of Sellers or any of its Affiliates;

(g) all rights, claims or causes of action by or in the right of the Sellers against any current or former director or officer of the Sellers;

(h) all rights to any action, suit or claim of any nature available to or being pursued by Sellers, whether arising by way of counterclaim or otherwise;

(i) any rights, claims or causes of action of the Sellers under this Agreement, any other transaction document or confidentiality agreement entered into in connection herewith;

(j) (i) any solicitor-client privilege and solicitor work-product protection of the Sellers or associated with the Business as a result of legal counsel representing the Sellers or the Business, including in connection with the transactions contemplated by this Agreement; (ii) all documents subject to the attorney-client privilege and work-product protection described in the foregoing clause (i); and (iii) all documents maintained by the Sellers relating to the drafting, negotiation, execution, delivery and performance of this Agreement, any other transaction document or any agreements with any other bidder in connection with any sale process previously conducted by or in which the Sellers were previously involved, including the sale process leading to the entry into this Agreement;

(k) all bank accounts, safety deposit boxes, lock boxes and securities accounts of the Sellers and the contents thereof;

(l) all cash and cash equivalents;

(m) those security deposits set forth on Schedule 2.3(m).

(n) all insurance policies of Sellers and all rights to applicable claims and proceeds thereunder;

(o) all outside of the ordinary course of business deposits made or required to be made by the Sellers to suppliers or other any other third party after the Filing Date as a result of the filing of the Canadian Proceeding;

(p) Sellers' benefit plans related to the Employees;

(q) all Intercompany Accounts Receivable; and

(r) the assets or property of the Sellers attributable to their facility located at 22151 Fraserwood Way, Richmond, British Columbia.

2.4 Assumed Liabilities. Subject to the terms and conditions herein, Buyer shall assume and agrees to pay, discharge and otherwise perform the following Liabilities of Sellers (the "**Assumed Liabilities**"):

(a) Generally. All Liabilities arising from the ownership and operation of the Assets by Buyer from and after the Closing (including all Liabilities for Taxes).

(b) Assigned Contracts and Assigned Leases. All of Sellers' Liabilities under the Assigned Contracts and Assigned Leases to the extent arising from and after the Closing or arising prior to the Closing to the extent requiring performance from and after the Closing, as well as all Cure Costs related to any such Assigned Contracts and Assigned Leases.

(c) Post-Petition Trade Payables. All Liabilities related to the Post-Petition Trade Payables attributable to the Business of the Facilities.

(d) Employees. Subject to Section 2.5(e), all liability for any accrued but unpaid wages, vacation pay or overtime pay in relation to the Buyer Selected Employees who accept Buyer's offer of employment, and commence working for Buyer following closing. Notwithstanding the foregoing, Buyer's liability with respect to unpaid wages shall not exceed an aggregate amount equal to two (2) weeks of wages.

(e) Customer Rebates. All Liabilities related to the Customer Rebates.

Notwithstanding the foregoing, Buyer's assumption of Liabilities related to Post-Petition Trade Payables shall not exceed USD$350,000.

2.5 Excluded Liabilities. Buyer will not assume and will not be obligated to assume or be obliged to pay, perform or otherwise discharge any Liability of Sellers other than the Assumed Liabilities (such Liabilities, collectively, the "**Excluded Liabilities**"). Without limiting the generality or effect of the foregoing, Buyer shall not assume, pursuant to this Agreement or otherwise, any of the following:

(a) any indebtedness of Sellers;

(b) any Liability to the extent arising out of or related to the breach, performance or non-performance by Sellers prior to the Closing (in each case, regardless of when any claims arising therefrom or relating thereto mature or are asserted) of any Permit;

(c) any Liability in respect of the pending or threatened proceedings set forth (or that should have been set forth) on **Schedule 2.5(c)**;

(d) all Liabilities arising from the ownership and/or operation of the Assets by the Sellers prior to Closing, including all Liability for Taxes, and including any income and franchise tax of Sellers and any taxes relating to the Excluded Assets;

(e) subject to Section 2.4(d), all Liabilities arising out of, relating to or with respect to the employment or performance of services for or termination of employment or services for, or potential employment or engagement for the performance of services for, any employee or independent contractor of Sellers for periods on or prior to Closing, except, in the case of any Employee that is a Buyer Selected Employee who accepts Buyer's offer of employment and commences employment with the Buyer, any liability for any accrued but unpaid wages, vacation pay or overtime pay;

(f) subject to Section 2.4(d), all Liabilities under, relating to or with respect to any Employee Plans;

(g) all Liabilities arising out of, under or in connection with Contracts that are not Assigned Contracts or Assigned Leases;

(h) any Liability to the extent relating to any Excluded Asset or other asset that is not an Asset and the ownership, operation and conduct of any business in connection therewith or therefrom;

(i) any Liability arising from the gross negligence or willful misconduct of Sellers prior to, at or after the Closing;

(j) any Liabilities related to or arising from any: (i) actual or alleged violation of or Liability under Environmental Law, including any Environmental Permit; (ii) any release of Hazardous Materials by either of the Sellers; and (iii) any Environmental Claim, in each case, related to the period prior to or existing as of the Closing Date;

(k) any Liability related to or arising from any actual or alleged violation or Liability under any Food Safety Laws prior to Closing (in each case, regardless of when any claims arising therefrom or relating thereto mature or are asserted); and

(l) all Intercompany Accounts Payable.

2.6 Designation of Contracts.

(a) Schedule 2.6(a)(i) sets forth a complete list as of the Effective Date of all 11.3 Contracts the Buyer intends will be Assigned Contracts (the "**Desired 11.3 Contracts**"). Schedule 2.6(a)(ii) sets forth a complete list as of the Effective Date of all 11.3 Leases that Buyer intends will be Assigned Leases, including any Third Party Leases (the "**Desired 11.3 Leases**"). Until the Closing, Buyer will have the right, in consultation with Sellers, to provide written notice to Sellers of Buyer's election to:

(i) designate a 11.3 Contract (including any 11.3 Contract that is a Desired 11.3 Contract immediately before such designation) as an Excluded Contract and Excluded Asset, and upon such designation, such 11.3 Contract will constitute an Excluded Contract and Excluded Asset (and, if applicable, will cease to constitute an Asset);

(ii) designate a 11.3 Lease (including any 11.3 Lease that is a Desired 11.3 Lease immediately before such designation) as an Excluded Lease and Excluded Asset, and upon such designation such 11.3 Lease will constitute an Excluded Lease and Excluded Asset (and, if applicable, will cease to constitute an Asset);

(iii) designate a 11.3 Contract as a Desired 11.3 Contract, and upon such designation such 11.3 Contract will constitute an Asset and Assigned Contract and will be conveyed to Buyer under this Agreement at Closing (and, if applicable, will cease to constitute an Excluded Asset), so long as (A) such 11.3 Contract is added to the Assigned Contracts prior to the entry of any Order of the Canadian Court approving the disclaimer of such 11.3 Contract, and (B) the Third Party to such 11.3 Contract receives information evidencing Buyer's adequate assurance of future performance and has an opportunity to object within such period of time set forth in an Order of the Canadian Court.

(iv) designate a 11.3 Lease as a Desired 11.3 Lease, and upon such designation such 11.3 Lease will constitute an Asset and Assigned Lease and will be conveyed to Buyer under this Agreement at Closing (and, if applicable, will cease to constitute an Excluded Asset), so long as (A) such 11.3 Lease is added to the Assigned Leases prior to the Sellers disclaiming such 11.3 Lease pursuant to the CCAA, and (B) the counterparty to such 11.3 Lease receives information evidencing Buyer's adequate assurance of future performance and has an opportunity to object within such period of time set forth in an Order of the Canadian Court.

(b) To the extent that Buyer makes a valid designation with respect to any 11.3 Contracts or 11.3 Leases pursuant to Section 2.6(a) above, the applicable Exhibits and Schedules to this Agreement will be deemed to have automatically been updated (without action of any Party or Person) to reflect such designation.

(c) If Buyer exercises its rights in Section 2.6(a) above to designate a 11.3 Contract or 11.3 Lease as an Asset or as an Excluded Asset (as the case may be), then the Parties acknowledge and agree that there will be no reduction in the Purchase Price as a result of such designation or change in designation, nor will there be any delay to the Closing; provided, however, that either such designation may increase or decrease (as applicable) the extent of the Assumed Liabilities.

ARTICLE III
PURCHASE PRICE; PRORATIONS; ALLOCATION

3.1 **Purchase Price**. In exchange for the sale of the Assets, Buyer shall pay to the Sellers, in accordance with the allocable percentage set forth on Schedule 3.1, the aggregate consideration of Thirty Million U.S. Dollars (USD$30,000,000) (the "**Purchase Price**") which shall be paid as follows:

(a) On the date hereof, Buyer shall deposit with the Escrow Agent One Million Nine Hundred Thousand U.S. Dollars (USD$1,900,000) (the "**Deposit**") which shall be held by the Escrow Agent until the Closing in an escrow account ("**Escrow**") pursuant to the terms of the bid procedures approved by the Canadian Court.

(b) At Closing, Buyer shall pay to Sellers the Purchase Price less the Deposit, payable by wire transfer of immediately available funds to a bank account designated by Sellers in writing to Buyer no less than three (3) Business Days prior to Closing.

(c) The Purchase Price shall be allocated to the Assets in such manner as may be directed by the Buyer, acting reasonably. The Buyer and Sellers shall file their respective Tax Returns in a manner consistent with such allocation and shall not refile any Tax Returns or take any contrary positions respecting Taxes during any audit or investigation, except as required by applicable laws.

3.2 Prorations. The following prorations shall be made between Sellers and Buyer at the Closing, computed as of the Closing Date. To the extent required to give effect to the prorations and provisions set forth herein, this Section 3.2 shall survive the Closing.

(a) Taxes. All real property, personal property, sales, use and ad valorem Taxes and similar recurring Taxes and fees on the Assets for taxable periods beginning before, and ending after, the Closing Date, shall be prorated between Buyer and Sellers as of the Closing Date. Sellers shall be responsible for all such Taxes and fees on the Assets accruing during any period up to the Closing Date. Buyer shall be responsible for all such Taxes and fees on the Assets accruing during any period commencing on or after the Closing Date. With respect to Taxes described in this Section 3.2(a), Sellers shall timely file all Tax Returns due before the Closing Date with respect to such Taxes and Buyer shall prepare and timely file all Tax Returns due on or after the Closing Date with respect to such Taxes. If one party remits to the appropriate Taxing Authority payment for Taxes, which are subject to proration under this Section 3.2(a) and such payment includes the other party's share of such Taxes, such other party shall promptly reimburse the remitting party for its share of such Taxes.

(b) Leased Real Property Expenses. Except as otherwise specifically provided below, all expenses and obligations relating to the operation of the Third Party Leases shall be prorated on a *per diem* basis to the Closing Date using a calendar year and adjusted between Sellers and Buyer as of 11:59 p.m. (Central Standard Time) on the day immediately preceding the Closing Date, and for purposes of these prorations and adjustments, Sellers shall be deemed the lessee under the Third Party Leases, in each case, on the day immediately preceding the Closing Date, and Buyer shall be deemed the lessee under the Third Party Leases, in each case, on and after the Closing Date. To the extent that the amounts of the items to be adjusted are not reasonably ascertainable as of the Closing, they shall be re-adjusted and paid as promptly thereafter as the amounts thereof can be ascertained. For purposes of this Section 3.2, the amount of any expense credited by one Party to the other shall be deemed an expense paid by that Party.

(c) Adjustment to Prorations. In the event that any prorations, apportionments or computations made under Sections 3.2(a) and 3.2(b) above shall require final adjustment, then the Parties shall use good faith and diligent efforts to make the appropriate adjustments promptly when accurate information becomes available and either Party shall be entitled to an adjustment to correct the same provided that, it makes written demand on the one from whom it is entitled to such adjustment within six (6) months of the Closing Date (or prior to the end of any applicable tax period).

(d) Access to Records. From and after the Closing, Buyer shall promptly provide to Sellers and the Monitor and their respective Representatives (after reasonable notice and during normal business hours and without charge to Sellers or the Monitor) access to all Records included in the Assets for periods prior to the Closing and shall preserve such Records until the latest of (i) seven years after the Closing Date, (ii) the required retention period for all government contact information, records or documents, (iii) the conclusion of all bankruptcy proceedings relating to the Canadian Proceeding or (iv) in the case of Records related to Taxes, the expiration of the statute of limitation applicable to such Taxes. Such access shall include access to any information in electronic form to the extent reasonably available. Buyer acknowledges that Sellers have the right to retain copies of all Records included in the Assets for periods prior to the Closing. Prior to destroying any Records included in the Assets for periods prior to the Closing, Buyer shall notify Sellers thirty (30) days in advance of any such proposed destruction of its intent to destroy such Records, and Buyer will permit Sellers to retain such Records. With respect to any litigation and claims that are Excluded Liabilities, Buyer shall render, at Sellers' expense, all reasonable assistance that Sellers may request in defending such litigation or claim and shall make available to Sellers' personnel most knowledgeable about the matter in question.

3.3 [Reserved].

3.4 Transfer and Sales Taxes.

(a) The Buyer shall be responsible for and shall pay, or cause to be paid, any Transfer Tax in respect of the purchase and sale of the Assets under this Agreement and such Transfer Tax shall be remitted to the appropriate Governmental Authority as provided for under Law (except any Transfer Tax which, under Law, is collectible by the Sellers, in which case such Transfer Tax shall be collected by the Sellers and remitted by the Sellers to the appropriate Governmental Authority as provided for under the Law but, for the avoidance of doubt, the Buyer shall remain economically responsible for and shall pay to or reimburse, or cause to be paid or reimbursed, as the case may be, the Sellers for any such Transfer Tax). For greater certainty, the Buyer will self-assess and remit or cause to be remitted directly to the Receiver General of Canada the Harmonized Sales Tax payable in connection with the sale and conveyance of the Owned Real Property and will file such forms and reports in respect of such Harmonized Sales Tax as is required under the *Excise Tax Act* (Canada). The Sellers and the Buyer shall reasonably cooperate to (i) mitigate and/or eliminate the amount of Transfer Taxes resulting from the transactions contemplated herein and (ii) timely prepare and file any Tax Returns relating to such Transfer Taxes, including any claim for exemption or exclusion from the application or imposition of any such Transfer Taxes. The Buyer shall be responsible for preparing and filing all necessary Tax Returns or other documents with respect to such Transfer Taxes (other than any such returns legally required to be filed by any Sellers); provided, however, that in the event any such Tax Return requires execution by any Sellers, the Buyer shall deliver it to such Sellers not less than ten (10) Business Days before the due date thereof, and the Sellers shall reasonably promptly execute such Tax Return and return it to the Buyer.

(b) The Parties will furnish or cause to be furnished to the other and to the Monitor, each at their own expense, as promptly as practicable, such information, documentation and assistance and provide additional information and explanations of any material provided, relating to the purchase and sale of the Assets under this Agreement as is reasonably necessary for the filing of any Tax returns, for the claim or application for any relief, for the claim of any Tax credit, refund or similar payment, for the preparation of any audit and for the prosecution or defense of any claim, relating to any adjustment or proposed adjustment with respect to Taxes.

3.5 Tax Elections

(a) Section 20(24) Election. To the extent permitted by the applicable Tax legislation, each Seller selling Assets and the Buyer acquiring Assets will jointly execute an election in the prescribed manner and within the prescribed time limits, to have the rules in subsection 20(24) of the *Income Tax Act* (Canada), and any equivalent or corresponding provision under applicable provincial or territorial Tax legislation, apply to the obligations of such Seller in respect of undertakings which arise from the operation of the Business and to which paragraph 12(1)(a) and 12(1)(e) of the *Income Tax Act* (Canada) apply. For the purposes of such election(s), the Buyer and the Seller will, acting reasonably, jointly determine the elected amount and the Buyer and the Seller acknowledge that the applicable Seller is transferring assets to the Buyer which have a value equal to such elected amount as consideration for the assumption by the Buyer of such obligations of such Seller.

(b) Section 22 Election. To the extent permitted by the applicable Tax legislation, each Seller selling Assets and the Buyer acquiring the Assets will jointly execute, and each of them will file promptly following the Closing Date, an election under Section 22 of the *Income Tax Act* (Canada), and any corresponding provisions of any applicable provincial income Tax legislation. For the purposes of such elections, the Buyer and the Sellers will, acting reasonably, jointly determine the amount that the parties will designate as the portion of the Purchase Price allocable to the debts in respect of which such elections are made. For greater certainty, each Seller and the Buyer agree to prepare and file their respective Tax Returns in a manner consistent with such election(s).

(c) Section 167 Election. To the extent permitted under subsection 167(1) of the ETA and any equivalent or corresponding provision under any applicable provincial legislation, Sellers agree to jointly elect with Buyer, on the Closing Date, under subsection 167(1) of the ETA, and under any similar provision of any applicable provincial legislation, in the form prescribed for the purposes of that provision, in respect of the sale and transfer of the Assets by Sellers hereunder, and Buyer shall file such elections with the Canada Revenue Agency within the time periods prescribed under the ETA, and provide Sellers within 20 days of receipt with a photocopy of a written acknowledgement by the Canada Revenue Agency (and by the provincial Taxing Authority, where applicable) of the receipt of such elections. Notwithstanding anything to the contrary in this Agreement, Buyer shall indemnify and hold Sellers harmless in respect of any Transfer Taxes, penalties, interest and other amounts which may be assessed against Sellers as a result of the transactions under this Agreement including as a result of the Assets not being eligible for such elections or as a result of Buyer's failure to file the elections within the prescribed time. Buyer is registered, or will be registered by the Closing Date, for GST/HST purposes under Part IX of the ETA and will provide its GST/HST number to the Sellers prior to the Closing Date. Sellers are registered for GST/HST purposes under Part IX of the ETA and the GST/HST number of Tiffany Gate Foods Inc. is 139526099 RT0001 and the GST/HST number of Sun Rich Fresh Foods Inc. is 119317410 RT0001. For greater certainty, this provision may result in one or two Section 167 elections being prepared and filed under this Section 3.5(c).

(d) To the extent that the joint elections under subsection 167(1) of the ETA are not executed as set out in Section 3.5(c) of this Agreement and to the extent permitted under subsection 221(2) of the ETA and any equivalent or corresponding provision under any applicable provincial or territorial legislation, Buyer shall self-assess and remit directly to the appropriate Taxing Authority any applicable GST/HST imposed under the ETA and any similar value added or multi-staged tax imposed by any applicable provincial or territorial legislation payable in connection with the transfer of any of the Owned Real Property not included under Section 2.1. Buyer shall make and file a return(s) in accordance with the requirements of subsection 228(4) of the ETA and any equivalent or corresponding provision under any applicable provincial or territorial legislation.

(e) Canada Emergency Wage Subsidy. To the extent permitted by section 125.7 of the *Income Tax Act* (Canada), each Seller shall jointly execute and file at the request of Buyer and on a timely basis, pursuant to subsection 125.7(4.1) of the *Income Tax Act* (Canada) (or any successor provision thereto), an election in respect of each "qualifying period" (as defined in the *Income Tax Act* (Canada)), designated by Buyer in its request to Seller. The relevant parties shall file such election with the Minister of National Revenue (Canada) within the time period contemplated by section 125.7 of the *Income Tax Act* (Canada).

ARTICLE IV
CLOSING

4.1 **<u>Closing</u>**. The closing of the transactions contemplated by this Agreement (the "**Closing**") shall take place remotely by exchange of electronic signatures and shall occur on the later of (i) March 31, 2021 or (ii) such date that is two (2) Business Days following approval by the Canadian Court, but in no event shall occur later than May 31, 2021, unless otherwise agreed to by Sellers and Buyer (the "**Closing Date**"). The Closing shall be deemed to have occurred at 11:59 p.m. (Central Standard Time) on the Closing Date.

4.2 **<u>Closing Deliveries</u>**.

(a) At the Closing, Sellers will deliver to Buyer the following documents and other items, duly executed by an authorized person of Sellers, as applicable:

(i) the Bill of Sale;

(ii) an Assignment and Assumption Agreement substantially in the form of <u>Exhibit D</u> attached hereto (the "**Assignment and Assumption Agreement**");

(iii) a certificate signed by an authorized officer of Sellers to the effect that each of the conditions specified in <u>Sections 7.2(a)</u> and <u>7.2(b)</u> is satisfied in accordance with the terms thereof;

(iv) a copy of the resolutions adopted by the governing body of Sellers evidencing its authorization of the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, certified by an officer of Sellers;

(v) any tax elections referred to in <u>Section 3.5</u>;

(vi) a transitional services agreement in a form to be mutually agreed upon by the Buyer and the Sellers, acting reasonably; and

(vii) any and all other customary materials and documents anticipated to be signed and delivered by Sellers at the Closing or which are reasonably requested by Buyer or Escrow Agent and consistent with this Agreement.

(b) At the Closing, Buyer will deliver to Sellers the following documents and other items, duly executed by an authorized person of Buyer, as applicable:

(i) the Purchase Price (less the Deposit);

(ii) the Bill of Sale;

(iii) the Assignment and Assumption Agreement;

(iv) a certificate to the effect that each of the conditions specified in Sections 7.3(a) and 7.3(b) is satisfied in accordance with the terms thereof;

(v) a certificate of good standing of Buyer issued reasonably soon before the Closing Date;

(vi) a copy of the resolutions adopted by the governing body of Buyer evidencing its authorization of the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, certified by an officer of Buyer;

(vii) any tax elections referred to in Section 3.5;

(viii) a transitional services agreement in a form to be mutually agreed upon by the Buyer and the Sellers, acting reasonably; and

(ix) any and all other customary materials and documents anticipated to be signed and delivered by Buyer at the Closing or which are reasonably requested by Sellers or Escrow Agent and consistent with this Agreement.

4.3 Payment of Cure Costs for Assigned Contracts. Upon receipt of the Purchase Price from Buyer, (i) Sellers shall assign pursuant to section 11.3 of the CCAA each of the Assigned Contracts that may be assumed and assigned pursuant to the Sale Order, (ii) Buyer shall assume and thereafter in due course pay, discharge, perform and satisfy in accordance with their respective terms all of the obligations under such Assigned Contracts from and after the Closing, and (iii) Buyer shall pay the Cure Costs in accordance with the Sale Order so that all applicable Assigned Contracts and Assigned Leases may be assumed and assigned to Buyer.

4.4 Further Assurances. From time to time following the Closing, Sellers and Buyer shall, and shall cause their respective Affiliates to, execute, acknowledge and deliver all such further conveyances, notices, assumptions, releases and acquaintances and such other instruments, and shall take such further actions, as may be necessary or appropriate to assure fully to Buyer and its respective successors or assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be conveyed to Buyer under this Agreement and to assure fully to Sellers and its Affiliates and their successors and assigns, the assumption of the liabilities and obligations intended to be assumed by Buyer under this Agreement, and to otherwise make effective the transactions contemplated hereby and thereby.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF THE PARTIES

5.1 Sellers' Representations and Warranties. To induce Buyer to enter into this Agreement, Sellers hereby, jointly and severally, represent and warrant to Buyer as of the date of this Agreement and re-states as of the Closing Date, as follows. Any reference to "Business" in this Article V shall be deemed to reference solely the Business of the Facilities:

(a) Organization. Each Seller is a corporation validly existing and in good standing under the laws of the province of British Columbia. Each Seller has the necessary corporate power and authority to conduct business in the manner in which its business is currently being conducted. Each Seller is qualified and in good standing (to the extent applicable) under each foreign jurisdiction where the nature of its business requires such qualification, except where the failure to be so qualified or be in good standing would not have a Material Adverse Effect.

(b) Authority. Subject to obtaining the Sale Order, each Seller has the corporate, company or partnership power and authority to enter into and to perform its obligations under this Agreement and each of the agreements, certificates and documents required to be delivered by such Seller pursuant to the terms of this Agreement (the "**Sellers Ancillary Agreements**"). The execution, delivery and performance of this Agreement and the Sellers Ancillary Agreements, and the consummation of the transactions contemplated by this Agreement and the Sellers Ancillary Agreements, have been duly authorized and approved by all necessary action on the part of each Seller. Subject to obtaining the Sale Order, this Agreement and each of the Sellers Ancillary Agreements constitute the legal, valid and binding obligations of each Seller, enforceable against each such Seller in accordance with their terms.

(c) Non-Contravention; Required Consents. Except as set forth on **Schedule 5.1(c)** ("**Required Consents**"), neither the execution and delivery of this Agreement or any Ancillary Agreement to be executed and delivered by Sellers, nor the consummation of the transactions contemplated hereby and thereby, will, subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, (i) conflict with or result in a breach of the certificate of incorporation, articles or other organizational documents of Sellers, (ii) violate any Law to which Sellers are, or its respective assets or properties are, subject, or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel or require any notice under any Contract to which a Seller is a party or by which it is bound or to which any of the Assets is subject, except, in the case of either clause (ii) or (iii), for such conflicts, breaches, defaults, accelerations, rights or failures to give notice as (A) individually or in the aggregate, are not material or (B) would be discharged by the Sale Order. Subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, neither Seller is required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any Governmental Authority (x) in order for the Parties to consummate the transactions contemplated by this Agreement or any Ancillary Agreement, or (y) for the continuing validity and effectiveness immediately following the Closing of any Contract or Permit of Sellers, except, in each case, where the failure to give notice, file or obtain such authorization, consent or approval would not, individually or in the aggregate, be material.

(d) Financial Statements. **Schedule 5.1(d)** sets forth true and complete copies of (i) the Sellers' audited consolidated statements of income and cash flows for the year ended December 31, 2019 and unaudited consolidated statements of income and cash flows for the eleven (11) month period ended November 30, 2020 (the "**Income Statement Financials**"), (ii) the Sellers' audited consolidated balance sheet as of December 31, 2019 and (iii) the unaudited consolidated balance sheet of Sellers, as well as separate balance sheets for each of the three (3) business segments of the Sellers, in each case, as of the period ended November 30, 2019 and the period ended November 30, 2020 (such date, the "**Balance Sheet Date**") (such balance sheets in clauses (ii) and (iii), the "**Balance Sheet Financials**") (the Income Statement Financials and Balance Sheet Financials, including the notes thereto, are collectively referred to as the "**Financial Statements**"). The Financial Statements (x) were prepared from the books and records of Sellers in accordance with GAAP, unless otherwise noted therein and (y) present fairly in all material respects the financial position of Sellers as of the date thereof and the results of their operations for the periods then ended (except with respect to the Balance Sheet Financials, subject to normal year-end adjustments and any other adjustments expressly described therein or in the Schedules).

(e) Absence of Changes. Except as reflected in the Balance Sheet Financials or **Schedule 5.1(e),** since November 30, 2020, other than in compliance with and as a result of COVID-19 Measures or pursuant to a COVID-19 Response or in connection with the CCAA, Sellers have operated in the ordinary course of business in all material respects and, since November 30, 2020, Sellers have not:

(i) suffered any Material Adverse Change;

(ii) other than in the ordinary course of business consistent with past practices, permitted or allowed any of its properties or assets to be mortgaged, pledged or subject to any Encumbrance, except for Permitted Encumbrances;

(iii) entered into any Material Contract (other than renewals or amendments of Material Contracts in the ordinary course of business consistent with past practices);

(iv) caused or experienced the acceleration, termination, modification, or cancellation of any Material Contract, or received written notice, or to the Knowledge of the Sellers, received any oral notice that any other Person intends to accelerate, terminate, modify or cancel any Material Contract;

(v) made or committed to make any capital expenditure (or series of related capital expenditures) for additions to property or equipment except for expenditures made in the ordinary course of business and involving no more than CAD$100,000;

(vi) other than in the ordinary course of business consistent with past practices, (vii) incurred any indebtedness for borrowed money in excess of CAD$100,000, or (viii) assumed or guaranteed any indebtedness or other obligation of any third party;

(vii) granted any increase in compensation or benefits of employees, officers, directors, agents, contractors or consultants (including, without limitation, any increase pursuant to any bonus, pension, profit-sharing, retirement or other plan or commitment), or any increase in any such compensation or benefits payable or to become payable to any officer, employee, director, agent, contractor or consultant, except for in the ordinary course of business consistent with past practice;

(viii) entered into, or agreed to enter into, any collective bargaining agreement or Contract with any labour union or other representative of the Employees'

(ix) given notice of termination to employees that under applicable Law required the delivery of a group notice of termination to a Governmental Authority;

(x) made any material change in the accounting methods used by Sellers;

(xi) instituted any employee welfare, equity compensation plan, profit-sharing, retirement or similar plan or arrangement with, any of the officers, directors, managers or employees of Sellers; or

(xii) entered into any Contract, or authorized any of its officers, employees, agents, contractors or consultants, to take any of the actions referred to in clauses (i) through (xi).

(f) Customers, Suppliers and Vendors. **Schedule 5.1(f)** sets forth a list of all customers, suppliers and vendors of Sellers to which Sellers have received or made payments aggregating CAD$100,000 or more for the fiscal year ended December 31, 2019 or which Sellers expect to be paid or made for the fiscal year ending December 31, 2020. **Schedule 5.1(f)** shows, with respect to each, the name and dollar volume involved. The Sellers have not experienced and there does not exist any material quality control or similar problems with the products currently being supplied or on order from any of the customers, suppliers or vendors.

(g) Accounts Receivable. All accounts receivable set forth on the books and records of Sellers have arisen from bona fide transactions entered into by Sellers related to the sale of goods or rendering of services incurred in the ordinary course of business.

(h) Intellectual Property. **Schedule 5.1(h)** contains a list of all registered and other material Intellectual Property that is owned by Tiffany Gate Foods Inc. in any jurisdiction in the world (the "**Company Intellectual Property**") as of the Effective Date, other than "off-the-shelf" software products. Except as set forth on **Schedule 5.1(h),** there are no registered patents, copyrights or trademarks (whether state or federal) associated with the Business and neither Seller has any pending application for registration of any patents, copyrights or trademarks (whether state or federal). **Schedule 5.1(h)** lists all domain name registrations of Sellers. The Company Intellectual Property is exclusively owned by Sellers, free and clear of all joint ownership, assignments, licenses, sublicenses, liens, security interests and Encumbrances, except for any rights of the Affiliates of the Sellers in respect of the Company Intellectual Property. Neither Seller has granted, or is obligated to grant, any license or other permission to any Person with respect to any Company Intellectual Property other than to the extent specified on **Schedule 5.1(h)**. Neither Seller has received written notice asserting that any infringement or misappropriation has occurred regarding any Company Intellectual Property.

(i) Title to Assets.

(i) Sellers own and have good and valid title to, or lease and have a valid leasehold interest in, the Assets, which, subject to obtaining the Sale Order, may be sold free and clear of any Encumbrance (except for Permitted Encumbrances) to the Buyer. Except as set forth on **Schedule 5.1(i),** the Assets constitute all of the assets and properties used to conduct the

Business in the manner in which and to the extent to which such business was conducted during the periods reflected in the Financial Statements and is currently being conducted. The items of equipment and other tangible assets owned by or leased to Sellers are in good operating condition and repair (ordinary wear and tear excepted).

(j) Contracts.

(i) **Schedule 5.1(j)** lists each of the following Contracts (x) by which any of the Assets are bound or affected or (y) to which either Seller is a party or by which either Seller is bound in connection with the Business or the Assets (collectively, the "**Material Contracts**"):

(A) any guaranty or suretyship, indemnification or contribution agreement (in each case of a Person not Sellers), power of attorney, joint venture, partnership or profit-sharing agreement, or letter of credit, pledge, bond or similar arrangement given by or running to the account of Sellers;

(B) any Contract obligating any Seller: (1) to refrain from competing with any business, (2) to refrain from conducting business in any particular jurisdiction or (3) that otherwise restrains or prevents either Seller from carrying on any lawful business;

(C) any Contract relating to indebtedness for borrowed money;

(D) any Contract to purchase or sell real property;

(E) any Contract with customers, suppliers or vendors for which Sellers received or paid CAD$100,000 or more during the most recent twelve (12) month period;

(F) all Contracts that provide for the assumption of any Tax, environmental, food safety or other Liability of any Person;

(G) all Contracts that relate to the acquisition or disposition of any business, a material amount of stock or assets of any other Person or any real property (whether by merger, sale of stock, sale of assets or otherwise);

(H) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting and advertising Contracts;

(I) all employment agreements with Employees who earned a base salary or base wages in 2020 of CAD$100,000 or more;

(J) all Contracts with independent contractors or consultants (or similar arrangements) and which are not cancellable without material penalty or without more than ninety (90) days' notice;

(K) all Contracts with staffing or temporary help agencies;

(L) all Contracts with any Governmental Authority;

(M) all Contracts for the sale of any of the Assets or for the grant to any Person of any option, right of first refusal or preferential or similar right to purchase any of the Assets;

(N) all collective bargaining agreements or Contracts with any labour union or other representative of the Employees; and

(O) all other Contracts that are material to the Assets or the operation of the Business and not previously disclosed pursuant to this Section 5.1(j).

(ii) Each Material Contract is valid and binding on the applicable Seller in accordance with its terms and is in full force and effect. No Seller, or to Sellers' Knowledge, any other party thereto is in material breach of or default under (or is alleged to be in breach of or default under) nor has either Seller or any other party provided or received, any written notice of any intention to terminate or materially modify any Material Contract. To the Sellers' Knowledge, no event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder.

(k) Legal Proceedings. Except as set forth in **Schedule 5.1(k),** there are no legal proceedings pending, or to the Knowledge of the Sellers, threatened against Sellers. There are no legal proceedings threatened by either Seller. Neither Seller is subject to any judgment, decree, injunction or order of any Governmental Authority.

(l) Permits; Compliance with Laws. **Schedule 5.1(l),** contains a true, correct and complete list of all Permits that each Seller holds in connection with the operation of the Business. Sellers hold the Permits necessary to enable it to conduct its business in the manner in which such business is currently being conducted and to perform all of its obligations under the Contracts to which it is a party, including but not limited to all required Permits or other authorizations required by the Canadian Food Inspection Agency, the U.S. Food and Drug Administration, and any other agencies that regulate the production, distribution, storage or international trade of food for human consumption in Canada or the United States. The business, product and output of the Sellers are operated in compliance and are compliant in all material respects with all applicable Laws, rules, regulations, codes, ordinances, and Orders of all Governmental Authorities applicable to them or their business or properties and have been in compliance in all material respects with all such Laws applicable to their business or properties.

Neither Seller has received any written communication from any Governmental Authority (i) asserting any violation of or failure to comply with any Law, including Food Safety Laws, or any Permit; or (ii) notifying such Person of the revocation or withdrawal of any Permit. Sellers have complied with, and are not in violation of, any applicable Laws including but not limited to (i) economic sanctions laws and regulations as administered by the Office of Foreign Assets Control (31 C.F.R. Part 500 et seq.) and Global Affairs Canada, (ii) all import laws and regulations, including but not limited to those administered by U.S. Customs and Border Protection, Canada Border Services Agency and Global Affairs Canada, (iii) export control regulations, including but not limited to laws and regulations issued by the Department of Commerce pursuant to the Export Administration Regulations (15 C.F.R. 730 et seq.) and Global Affairs Canada. The Sellers have not initiated or conducted a product recall, withdrawal or other action to quarantine or remove a product from the marketplace relating to an alleged lack of safety or regulatory compliance of the Sellers' products.

(m) Tax Matters.

(i) All Tax Returns required to be filed with any Governmental Authority by Sellers have been properly and timely filed on or prior to the applicable due date (including applicable extensions) for such Tax Returns. Except as set forth in **Schedule 5.1(m),** Sellers have not requested any extension of time within which to file any Tax Return, which Tax Return has not yet been filed. All Tax Returns filed by or on behalf of Sellers accurately and fairly reflect the Taxes to which such Tax Returns relate of such Person for the periods covered thereby. Sellers have timely paid all applicable Taxes shown as owing on such Tax Returns.

(ii) Except as set forth on **Schedule 5.1(m),** neither Seller has received written notice from a Governmental Authority in a jurisdiction where Sellers do not file Tax Returns that either Seller is or may be subject to taxation by such jurisdiction.

(iii) Except as set forth in **Schedule 5.1(m),** there is no Tax deficiency or delinquency asserted in writing or, to the Knowledge of the Sellers, threatened in writing against Sellers and no audit, action or similar legal proceeding relating to such tax matters is pending or, to the Knowledge of the Sellers, threatened in writing by any Governmental Authority against either Seller. No adjustment relating to any Tax Return of Sellers has been proposed in writing by any Governmental Authority. Sellers have not granted any extension to any Governmental Authority of the limitations period during which any Tax liability may be assessed or collected.

(iv) Sellers have withheld and paid over to the appropriate Governmental Authority all Taxes required to have been withheld and paid in connection with the amounts paid to any employee, independent contractor, non-resident of Canada, creditor, owner, customer or other third party.

(v) The Financial Statements reflect all Taxes owed or paid by Sellers and an adequate reserve for all unpaid Taxes of Sellers through the date of the Balance Sheet Financials, and such reserve, as adjusted for the passage of time through the Closing Date, is adequate for all Taxes payable by Sellers for the taxable periods and portions ending on the Closing

Date. Since the date of the Balance Sheet Financials, neither Seller has incurred any liability for Taxes arising from extraordinary gains or losses that are outside the ordinary course of business.

(vi) There are no Taxes of the Sellers that, as a result of transfer and assignment in Section 2.1 will become a Liability for such Taxes of the Buyer.

(vii) Each Seller is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

(n) Employee Benefit Matters. Set forth in **Schedule 5.1(n)** is a list identifying each material employee benefit plan, each material employment, notice of termination, termination pay, severance or similar contract, plan, arrangement or policy and each other material plan or arrangement (written or oral) providing for compensation, bonuses, change of control, retention, profit-sharing, equity-based compensation or other forms of incentive or deferred compensation, vacation benefits, health and welfare benefits, notice of termination, termination pay, severance or post-employment or retirement benefits, in each case which is sponsored, maintained, administered or contributed to by Sellers and which covers any current or former director, manager, officer or employee of Sellers, or with respect to which Sellers have any liability or obligation. Each such plan, contract, arrangement or policy is referred to herein as an "**Employee Plan**." There is no action, suit, investigation, audit or proceeding pending against or involving or, to the Knowledge of Sellers, threatened against any Employee Plan before any Governmental Authority (other than routine benefit claims made in the ordinary course under an Employee Plan). Each Employee Plan has been maintained, registered (if required), funded, operated and administered in compliance in all material respects, with its terms and applicable Laws. Neither of the Sellers sponsors or participates in, or has sponsored or participated in, an Employee Plan that is a registered pension plan. Except as set forth on **Schedule 5.1(n)**, none of the Employee Plans provides for retiree benefits or for benefits to retired employees or to the beneficiaries or dependents of retired employees.

(o) Employee Matters. Except as set forth on **Schedule 5.1(o),** neither Seller is a party to or bound by any collective bargaining agreement, labor contract, letter of understanding, letter of intent, voluntary recognition agreement, legally binding commitment to any labor or trade union or bargaining relationship covering the employees of Sellers (collectively, the "**Employees**"), nor is any such contract or agreement presently being negotiated. To the Knowledge of Sellers, there is no organizational effort or other campaign or activity presently being made or threatened to authorize representation by any labor organization with respect to Employees, and no such attempts have occurred within the past three (3) years. Neither Seller has been declared a related employer or successor employer pursuant to the Ontario Labour Relations Act or similar legislation in any other jurisdiction and, to the Knowledge of Sellers, no Person has filed such an application. **Schedule 5.1(o)** sets forth with respect to each Employee, as of the date hereof: such Employee's full name (other than in respect of Canadian Employees), employing entity, title or position, status (full-time, part-time, seasonal or temporary), employment classification (exempt or non-exempt from the overtime pay requirements under the applicable employment standards legislation), work location, start date and seniority date (if different from start date), wages, bonus eligibility, benefits to which entitled and whether such Employee is on a leave of absence and if so, the reason for such leave and the expected date of return. Sellers have been in material compliance with all applicable Laws relating to labor and employment, including with respect to compensation, human rights, accessibility, labor relations, employment standards, employment equity, pay equity, workers' minimum wage, overtime compensation, workers' compensation and the proper classification of workers as independent contractors, and there are no pending or, to the Knowledge of Sellers, threatened claims, complaints, investigations, audits, proceedings or orders under any such Laws. Sellers have been in material compliance with all applicable Laws relating to occupational safety and health, including without limitation, the Ontario Occupational Health and Safety Act, and any applicable state or foreign occupational safety and health Law, and there are no pending or, to the Knowledge of Sellers, threatened claims, complaints, investigations, audits, proceedings or orders under any such Laws. All amounts due and payable to the current and former Employees, current and former temporary agency employees, and current and former independent contractors of the Sellers have been paid in full and all amounts accruing due to same (including for overtime pay and vacation pay) have been accurately reflected in the Seller's financial records. In the past three (3) years, no allegations of sexual or other unlawful harassment or discrimination have been made against any of the current or former directors, officers or executive-level Employees of the Sellers.

(p) Environmental Matters. The operations of Sellers with respect to the Business and the Assets are currently in compliance in all material respects with all Environmental Laws. Neither Seller has received from any Person, with respect to the Business or Assets, any: (i) Environmental Notice or (ii) written request for information pursuant to any Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date. Sellers have obtained and are in material compliance with the Environmental Permits (each of which is disclosed in **Schedule 5.1(p)**) used to conduct the Business as currently conducted. All such Environmental Permits are in full force and effect. There has been no release of Hazardous Materials in contravention of Environmental Law by Sellers with respect to the Assets or at any real property currently owned, leased or operated by Sellers in connection with the Business. To the Knowledge of the Sellers, there are no Hazardous Materials present in, on or under any real property currently owned, leased or operated by Sellers in connection with the Business or Assets other than in material compliance with Environmental Laws and at levels that are not reasonably likely to result in material Liability for any person. **Schedule 5.1(p)** sets forth any and all environmental reports, studies, audits, records, sampling data, site assessments, risk assessments, economic models and other similar documents with respect to the Business or the Assets or any real property currently or formerly owned, leased or operated by Sellers in connection with the Business or Assets which are in the possession or control of Sellers related to environmental matters, including compliance with Environmental Laws, Environmental Claims or an Environmental Notice or the release of Hazardous Materials.

(q) Insurance. **Schedule 5.1(q)** sets forth a list of all policies of insurance for Sellers (other than those underlying the Employee Plans). All such policies are in full force and effect. No notice of cancellation, refusal of coverage, any notice that a defense will be afforded with reservation of rights, or non-renewal with respect to any insurance policy has been received in writing by either Seller.

(r) Real Property.

(i) Owned Real Property. **Schedule 5.1(r)(i)** sets forth the address of each parcel of real property owned by Sellers (together with all buildings, fixtures and improvements erected thereon and all appurtenant easements and other rights and interests appurtenant thereto, the "**Owned Real Property**"). Sellers have made available to Buyers copies of all deeds and other instruments by which the applicable Seller acquired the Owned Real Property and copies of all title insurance policies, environmental reports, food safety reports, assessments, zoning reports and surveys, in each case to the extent in the possession or under the control of Sellers relating to the Owned Real Property. With respect to the Owned Real Property: (1) Sellers have good and marketable fee simple title to the Owned Real Property, free and clear of all Encumbrances other than the Permitted Encumbrances; (2) Sellers have not assigned, transferred, conveyed, mortgaged, leased, licensed, deeded in trust or encumbered any interest in the Owned Real Property other than the Permitted Encumbrances, nor has an agreement (other than this Agreement) been entered into to do so; (3) Sellers are not in receipt of any notice of default pursuant to any Encumbrance, nor does any condition exist that is or could be a default by any party under any Encumbrance; (4) to the Sellers' Knowledge, there is no pending or threatened expropriation actions relating to the Owned Real Property; (5) Sellers have not received written notice of any breach of any municipal or other governmental requirements relating to the Owned Real Property or the requirements of insurers of the Owned Real Property; (6) Sellers have not received written notice of any present or future obligation to pay monies to any Governmental Authority in connection with off-site roads, services, utilities or similar services nor, to the Sellers' Knowledge, do they now have any present or future obligation to construct or provide off-site roads, services, utilities or similar services in connection with the Owned Real Property. Without limiting the generality of the foregoing, but rather in furtherance and confirmation thereof, to Sellers' Knowledge, the Owned Real Property is not subject to any ongoing license, lease or tenancy of any kind and there are no parties, other than the Sellers (and holders of recorded easements and other encumbrances listed in the Title Policies) occupying or with a right to occupy the Owned Real Property. The respective Seller's title to the Owned Real Property is insured under valid and collectible title insurance policies.

(ii) Leased Real Property. **Schedule 5.1(r)(ii)** sets forth the address of each leased real property (together, the "**Leased Real Property**") and a true and complete list of all leases for such Leased Real Property (the "**Leases**"). Sellers have made available to Buyer true and complete copy of each such Lease, as amended through the date hereof. With respect to each of the Leases: (1) such Lease is legal, valid, binding, enforceable and in full force and effect and the applicable Seller has a valid and enforceable leasehold interest under each of the Leases and is entitled to the full benefit and advantage of each Lease in accordance with its terms subject, in each case, to proper authorization and execution of such Lease by the other party thereto; (ii) and other than arising as result of the commencement of the Canadian Proceeding, the applicable Seller is not in breach or default under such Lease and, to the Knowledge of the Sellers, no event has occurred or circumstance exists which, with the delivery of notice, the passage of time or both, would constitute such a breach or default, and, to the Knowledge of Sellers, no other party is in default thereof, and no party to any of the Leases has exercised any termination rights with respect thereto.

(iii) All of the Real Property, and all components of all improvements included within such Real Property, including the roofs and structural elements thereof and the sprinkler and fire protection, heating, ventilation, air conditioning, plumbing, electrical, mechanical, sewer, waste water, storm water, paving and parking equipment, systems and facilities included therein, are in good condition, working order and repair and do not require material repair or replacement in order to serve their intended purposes, including use and operation consistent with their present use and operation, except for scheduled maintenance, repairs and replacements conducted or required in the ordinary course with respect to the operation of the Real Property. The Sellers have made all material repairs and replacements that, to the Knowledge of Sellers, are required to be made under the Leases or as required under applicable Law.

(iv) To the Sellers' Knowledge, each parcel of Real Property abuts on at least one side a public street or road in a manner so as to permit reasonable, customary and adequate commercial and noncommercial vehicular and pedestrian ingress, egress and access to such parcel, or has adequate easements across intervening property to permit reasonable, customary and adequate commercial and non-commercial vehicular and pedestrian ingress, egress and access to such parcel from a public street or road. There are no restrictions on entrance to or exits from the Real Property to adjacent public streets, and no conditions exist which may result in the termination of the present access from the Real Property to existing public streets and roads.

(v) To the Sellers' Knowledge, the applicable zoning of each parcel of Real Property permits the presently existing improvements and the continuation of the Business being conducted on such parcel. There is no pending or contemplated zoning or rezoning of any Real Property. The Real Property and the use thereof are in compliance with applicable Laws, including those which relate to zoning.

(s) Broker’s Fees. Except as set forth on **Schedule 5.1(s)**, neither Seller has entered into any Contract to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Buyer could become liable or obligated to pay.

(t) Food Regulatory Compliance.

(i) All Products currently being manufactured, developed, processed, labeled, stored or distributed by or on behalf of Sellers, which are subject to the jurisdiction of the CFIA, Health Canada or any comparable Governmental Authority, are being manufactured, tested, developed, processed, prepared, labeled, stored, distributed, and marketed and promoted in compliance with all applicable Laws including all Food Safety Laws, and regulatory directives and guidance documents issued by Health Canada, the CFIA or any other comparable Governmental Authority.

(ii) All the operations of Sellers are and have been in compliance in all material respects with all applicable Laws, including those issued or implemented by the CFIA or Health Canada or any other comparable Governmental Authority, including those related to Food Safety Laws and the Sellers have received no notice of actual or threatened administrative or regulatory action, warnings, notices of violation, complaint or compliance or enforcement action by any Governmental Authority, including Health Canada and CFIA.

(iii) Sellers currently maintain Safe Quality Food (SQF) Food Safety Program or Global Food Safety Initiative (GFSI) food safety certifications for each of their manufacturing and processing facilities, and there is no pending or, to the Knowledge of the Sellers, threatened repeal, failure to renew, or challenge to any such certifications.

(u) No Other Representations or Warranties; Disclosure Schedules. Except for the representations and warranties contained in this Article V (as qualified, amended, supplemented and modified by the Disclosure Schedules), neither Sellers nor any other Person make (and Buyer is not relying upon) any other express or implied representation or warranty with respect to Sellers, the Business, the Assets (including the value, condition or use of any Asset), the Assumed Liabilities or the transactions contemplated by this Agreement, and Sellers disclaim any other representations or warranties, whether made by Sellers, any Affiliate of Sellers or any of their respective officers, directors, employees, agents or Representatives. The disclosure of any matter or item in the Disclosure Schedules shall not be deemed to constitute an acknowledgment that any such matter is required to be disclosed or is material or that such matter would result in a Material Adverse Effect.

(v) Sale "As Is, Where is". Buyer acknowledges and agrees that upon Closing, Sellers shall sell and convey to Buyer and Buyer shall accept the Assets "**AS IS, WHERE IS, WITH ALL FAULTS**" except to the extent expressly provided otherwise in this Agreement. Except as expressly set forth in this Agreement, Buyer has not relied and will not rely on, and Sellers have not made and are not liable for or bound by, any express or implied warranties, guarantees, statements, representations or information pertaining to the Assets or relating thereto made or furnished by Sellers or third party representing or purporting to represent Sellers, to whomever made or given, directly or indirectly, orally or in writing. The Parties agree that all understandings and agreements heretofore made between them or their respective agents or representatives are merged in this Agreement, which alone fully and completely expresses their agreement, and that this Agreement has been entered into after full investigation, or with the Parties satisfied with the opportunity afforded for full investigation, neither party relying upon any statement or representation by the other unless such statement or representation is specifically embodied in this Agreement, and then, subject to the limitations in this Agreement applicable thereto.

(w) Buyer's Investigation. Buyer represents that it is a knowledgeable, experienced and sophisticated buyer of the Assets and that, it is relying solely on its own expertise and that of Buyer's consultants in purchasing the Assets and shall make an independent verification of the accuracy of any documents and information provided by Sellers, including any information relating to the Assets. Buyer will conduct such inspections and investigations of the Assets as Buyer deems necessary. Buyer acknowledges that Sellers have afforded Buyer a full opportunity to conduct such investigations of the Assets as Buyer deemed necessary to satisfy itself as to such requirements and conditions and the condition of the Assets, and, Buyer will rely solely upon same and not upon any information provided by or on behalf of Sellers with respect thereto, other than such representations, warranties and covenants of Sellers as are expressly set forth in this Agreement (and then, subject to the limitation in this Agreement applicable thereto).

(x) Survival of Sellers' Representations and Warranties. Except as otherwise expressly provided in this Agreement, all of the representations and warranties of Sellers contained in this Agreement, or in any schedules, exhibits or any other ancillary agreement delivered pursuant hereto shall terminate upon the Closing and be of no further force or effect thereafter. Notwithstanding anything to the contrary herein, the remedies of Buyer with respect to any breach of any Sellers' representation, warranty or covenant contained in this Agreement prior to Closing shall be limited to Buyer's rights under Article IX.

5.2 Buyer's Representations and Warranties. To induce Sellers to enter into this Agreement, Buyer hereby represents and warrants to Sellers as of the date of this Agreement and the Closing Date, as follows:

(a) Organization. Buyer is a limited partnership validly existing and in good standing under the laws of the province of Alberta Buyer has the necessary power and authority to conduct business in the manner in which its business is currently being conducted.

(b) Authority. Buyer has the power and authority to enter into and to perform its obligations under this Agreement and each of the agreements, certificates and documents required to be delivered by Buyer pursuant to the terms of this Agreement (the "**Buyer Ancillary Agreements**", and together with the Sellers Ancillary Agreements, the "**Ancillary Agreements**"). The execution, delivery and performance of this Agreement and the Buyer Ancillary Agreements, and the consummation of the transactions contemplated by this Agreement and the Buyer Ancillary Agreements, have been duly authorized and approved by all necessary action on the part of Buyer. This Agreement and each of the Buyer Ancillary Agreements constitute the legal, valid and binding obligations of Buyer, enforceable against Buyer in accordance with their terms.

(c) Non-Contravention; Required Consents. Neither the execution and delivery of this Agreement or any Ancillary Agreement to be executed and delivered by Sellers, nor the consummation of the transactions contemplated hereby and thereby, will, subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, (i) conflict with or result in a breach of the certificate of incorporation, by-laws or other organizational documents of Buyer, (ii) violate any Law to which Buyer is, or its respective assets or properties are, subject, or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel or require any notice under any Contract to which Buyer is a party or by which it is bound or to which any of the Assets is subject, except, in the case of either clause (ii) or (iii), for such conflicts, breaches, defaults, accelerations, rights or failures to give notice as (A) individually or in the aggregate, are not material or (B) would be discharged by the Sale Order. Subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, Buyer is not required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any Governmental Authority in order for the Parties to consummate the transactions contemplated by this Agreement or any Ancillary Agreement, except where the failure to give notice, file or obtain such authorization, consent or approval would not, individually or in the aggregate, be material.

(d) Broker's Fees. Buyer has not entered into any Contract to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Sellers could become liable or obligated to pay.

(e) Sufficient Funds; Adequate Assurances. Buyer has, and upon the Closing Buyer will have, immediately available funds sufficient for the satisfaction of all of Buyer's obligations under this Agreement, including the payment of the Closing Cash Payment and all fees, expenses of, and other amounts required to be paid by, Buyer in connection with the transactions contemplated hereby.

ARTICLE VI
INTERIM OPERATIONS AND COVENANTS

6.1 Conduct of Business Pending Closing. From the Effective Date until the Closing Date, Sellers shall, except (i) as provided in this Agreement, (ii) as required by Law (including any COVID-19 Measures), (iii) pursuant to any COVID-19 Response, (iv) as required by the terms of any Contract to which either Seller is party, (v) in compliance with the CCAA or (vi) as consented to by Buyer in writing (which consent may not be unreasonably withheld, conditioned or delayed):

(a) continue to operate the Business of the Facilities in a manner substantially similar to the manner in which Sellers operate the Business of the Facilities as of the Effective Date;

(b) maintain the Assets substantially in their present condition (ordinary wear and tear and casualty excepted) and conduct its business in the ordinary and usual manner consistent with its current operations;

(c) maintain the Permits and in the ordinary and usual manner consistent with its current operations;

(d) maintain in full force and effect substantially the same liability and casualty insurance coverage that Sellers now maintain in effect with respect to the Business of the Facilities and its operations thereof;

(e) until the Closing Date, (i) continue to employ all the Employees, subject to Sellers' existing employment practices and (ii) notify Buyer promptly (and in any event within three (3) Business Days) of the termination of employment of any Employee for cause or the replacement or hiring of any new Employee or otherwise for the Business of the Facilities (and the terms of employment of such replacement or new Employee);

(f) continue to perform in all material respects all obligations of Sellers under all Contracts;

(g) continue to (i) pay, collect and remit all applicable Taxes within the time prescribed by applicable laws respecting Taxes, and (ii) file all Tax Returns due on or before the Closing Date; and

(h) notify the Buyer of any audit, inquiry or investigation by a Governmental Authority respecting Taxes.

6.2 Prohibited Actions Pending Closing. Other than as set forth in Section 6.3, mandated by the Canadian Court or approved by Buyer in writing, from the Effective Date until the Closing Date, Sellers shall not:

(a) enter into or agree to enter into any merger or consolidation with, any corporation or other entity, and not engage in any new business or invest in, make a loan, advance or capital contribution to, or otherwise acquire the securities of any other Person;

(b) sell or otherwise dispose of, or agree to sell or dispose of any of the Assets, except in the ordinary course of business as permitted by this Agreement;

(c) enter into, modify or terminate any labor or collective bargaining agreement or, through negotiation or otherwise, make any commitment or incur any liability to any labor organization;

(d) terminate, amend, restate, supplement or waive any rights under any (A) Material Contract or Lease or (B) Permit;

(e) make any loan or advance to any Person;

(f) make or rescind any election relating to Taxes, settle or compromise any claim, action, suit, litigation, proceeding, arbitration, investigation, audit or controversy relating to Taxes, or except as may be required by applicable Law or Applicable Accounting Principles, make any material change to any of its methods of accounting or methods of reporting income or deductions for Tax or accounting practice or policy from those employed in the preparation of its most recent Tax Returns;

(g) (A) grant any unusual or extraordinary bonus, benefit or other direct or indirect compensation to any Employee, director or consultant or (B) materially increase the coverage or benefits available under any (or create any new) notice of termination, severance pay, termination pay, vacation pay, company awards, salary continuation for disability, sick leave, deferred compensation, bonus or other incentive compensation, insurance, pension or other employee benefit plan or arrangement made to, for, or with any of the directors, officers, employees, agents or representatives of Sellers;

(h) except for any Liens granted by the Canadian Court, subject to any Lien or otherwise encumber or permit, allow or suffer to be encumbered, any of the Assets;

(i) take any action prior to the Closing Date that would breach any of the representations and warranties contained in this Agreement; and

(j) agree to be responsible for any Critical Vendor Payments other than those set forth on Schedule 1.3.

6.3 **Notices**. Subject to, in the case of Sellers, the CCAA and the orders of the Canadian Court, each of the Parties will give any notices to, make any filings with, and use its reasonable best efforts to obtain any authorizations, consents, and approvals of Governmental Authorities in connection with the matters referred to in **Schedule 6.3** or as are otherwise necessary to consummate the transactions contemplated hereby. Subject to the terms and conditions set forth in this Agreement and applicable Law, Buyer and Sellers shall, with respect to this Agreement and the transactions contemplated by this Agreement, (A) promptly notify the other Party of any communication to that Party from any Governmental Authority in respect of any filing, investigation or inquiry concerning this Agreement or the transactions contemplated by this Agreement, (B) if practicable, permit the other Party the opportunity to review in advance all the information relating to Sellers and its respective Affiliates or Buyer and its respective Affiliates, as the case may be, that appears in any filing made with, or written materials submitted to, any third party and/or any Governmental Authority in connection with the Agreement and the transactions contemplated by this Agreement and incorporate the other Party's reasonable comments, (C) not participate in any substantive meeting or discussion with any Governmental Authority in respect of any filing, investigation, or inquiry concerning this Agreement and the transactions contemplated by this Agreement unless it consults with the other Party in advance, and, to the extent permitted by such Governmental Authority, gives the other Party the opportunity to attend, and (D) furnish the other Party with copies of all correspondences, filings, and written communications between them and their Affiliates and Representatives, on the one hand, and any Governmental Authority or its respective staff, on the other hand; provided, however, that any materials provided under this Section 6.3 may be redacted before being provided to the other Party (i) to remove references concerning the valuation of Buyer, Sellers, or any of their Affiliates, (ii) financing arrangements, (iii) as necessary to comply with contractual arrangements, and (iv) as necessary to address reasonable privilege or confidentiality issues.

6.4 **Canadian Court Approval**.

(a) Sellers and Buyer each acknowledge that this Agreement and the sale of the Assets to Buyer and the assumption of the Assumed Liabilities by Buyer are subject to Canadian Court approval pursuant to the Sale Order.

(b) From and after the date of execution of this Agreement and until the Closing Date, the Sellers shall use commercially reasonable efforts to deliver to the Buyer copies of all pleadings, motions, notices, statements, schedules, applications, reports and other papers that relate, in whole or in part, to this Agreement, or to the Buyer, its Affiliates or their respective Representatives, that are to be filed by the Sellers in connection with the approval of the Transaction by the Canadian Court in advance of their filing, and shall provide the Buyer with a reasonable opportunity to review and comment thereon.

(c) The Sellers shall act reasonably and in good faith in considering any comments provided by the Buyer to such papers; *provided, however* that, subject in each case to the foregoing good faith obligations of the Sellers, the Sellers shall have no obligation to accept and incorporate the Buyer's comments to such papers and neither the Seller's inadvertent failure to comply with this Section 6.4, nor the Sellers' failure to comply with this Section 6.4 due to emergency circumstances, shall constitute a breach under this Agreement.

6.5 Cooperation.

(a) To the extent that the assignment to Buyer of any Assigned Contract or Assigned Lease pursuant to this Agreement is not permitted without the consent of a third party and such restriction cannot be effectively overridden or canceled by the Sale Order or other related order of the Canadian Court, then this Agreement will not be deemed to constitute an assignment of or an undertaking or attempt to assign such Contract or any right or interest therein unless and until such consent is obtained; provided, however, that the Parties will use their commercially reasonable efforts, before the Closing, to obtain all such consents; provided, further, that if any such consents are not obtained prior to the Closing Date, Sellers and Buyer will reasonably cooperate with each other in any lawful and feasible arrangement designed to provide Buyer with the benefits and obligations of any such Contract and Buyer shall be responsible for performing all obligations under such Contract required to be performed by Sellers on or after the Closing Date to the extent set forth in this Agreement.

6.6 Employees. Within at least five (5) Business Days prior to the Closing, Buyer shall provide a list of the Employees it intends to make offers of employment to (the "**Buyer Selected Employees**") provided that Buyer agrees that it shall hire a minimum of 193 Employees of the Sellers and the Sellers may designate certain employees to retain following Closing that are deemed necessary implement a course of action with respect to the Excluded Assets (the "**Sellers' Retained Employees**"). To the extent any Buyer Selected Employee is a Sellers' Retained Employee, Buyer shall have the right to hire such individual following completion of their employment with the Sellers. The provisions of this Section 6.6 are solely for the benefit of the Parties, and no current or former employee, director, independent contractor or consultant of Sellers, Buyer or any other Person associated therewith shall be regarded as a third party beneficiary of this Section 6.6. No provision of this Agreement shall be construed as amending any Employee Plan.

6.7 Confidentiality. Subject to Section 6.4 and the requirements of the CCAA and the Canadian Court, and except as may otherwise be provided for in this Agreement, the terms of the Confidentiality Agreement are hereby incorporated by reference and shall continue in full force and effect from the date hereof until the Closing with respect to information pertaining to the Business, in accordance with the terms thereof, such that the information obtained by Buyer or its Representatives during any investigation conducted as provided for in this Agreement in connection with the negotiation execution and performance of this Agreement or the consummation of the transactions contemplated hereby or otherwise, shall be governed by the Confidentiality Agreement; provided however, in the event of the termination of this Agreement, the terms of the Confidentiality Agreement shall survive for the term as provided therein.

6.8 Press Releases. Other than statements made in the Canadian Court (or in pleadings and motions filed therein), prior to the Closing and following the Closing Date, no Party shall issue any press release or make any public announcement relating to the existence or subject matter of this Agreement without the prior written approval of the other Party, which shall not be unreasonably withheld or delayed; provided, however, that any Party may make (and permit the making of) any public disclosure that it believes in good faith is required by applicable Law (in which case the disclosing Party will use its reasonable best efforts to advise the other Parties prior to making the disclosure).

6.9 **Access**. Upon reasonable advance written request by Buyer, Sellers will permit Buyer and its Representatives to have reasonable access during normal business hours, and in a manner so as not to interfere unreasonably with the normal business operations of Sellers to all premises, properties, personnel, Records and Contracts related to the Business, in each case, for the sole purpose of evaluating the Business; provided, however, that, for avoidance of doubt, the foregoing shall not require any Party to waive, or take any action with the effect of waiving, its attorney client privilege or take any action in violation of applicable Law.

6.10 **Litigation Support**. From and after the Closing, in the event and for so long as any Party actively is contesting or defending against any litigation commenced by any Person that is not a Party with respect to (i) any transaction contemplated by this Agreement or any other Ancillary Agreement or (ii) any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act or transaction on or prior to the Closing Date involving the Business of the Facilities, each other Party will cooperate with the contesting or defending Party and/or the Monitor and their counsel in the contest or defense, make available its personnel on a reasonable basis and provide such testimony and access to its books and records as shall be reasonably necessary in connection with the contest or defense, all at the sole cost and expense of the contesting or defending Party and/or the Monitor; provided, however, that, for avoidance of doubt, the foregoing shall not require any Party to waive, or take any action with the effect of waiving, its solicitor-client privilege with respect thereto. As a condition to providing the cooperation required pursuant to this Section 6.10, the Party to provide such cooperation or assistance may require the Party receiving such cooperation or assistance to enter into a non-disclosure agreement reasonably satisfactory in form and substance to the providing Party.

6.11 **Amendments to Disclosure Schedules**. The Parties agrees that, with respect to the representations and warranties of Sellers contained in this Agreement, Sellers shall have the continuing right until the Closing to add, supplement or amend the Disclosure Schedules with respect to any matter hereafter arising or discovered which, if existing or known at the Effective Date or thereafter, would have been required to be set forth or described in such Disclosure Schedules (together, the "**Schedule Amendments**"). For purposes of determining whether the conditions set forth in Article VII have been fulfilled, the Disclosure Schedules shall be deemed to include the Schedule Amendments; provided that, if such Schedule Amendment results in reduction in the value of the Assets in a material respect, Buyer shall have the right to terminate the Agreement as provided under Section 9.1(b)(i).

ARTICLE VII
CONDITIONS PRECEDENT

7.1 **Mutual Conditions to Closing**. Subject to Section 7.4, the Parties' obligation to consummate the transactions contemplated hereby in connection with the Closing is subject to satisfaction or waiver of the following conditions:

(a) no Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Law or decree that is in effect and that has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing;

(b) the Canadian Court shall have entered the Sale Order and such order shall be a Final Order on the Closing Date; and

(c) all required filings shall have been made with, and all necessary approvals or consents shall have been received from, applicable Governmental Authorities, if any.

7.2 Conditions Precedent to Buyer's Obligations. Subject to Section 7.4, the obligation of Buyer under this Agreement to Close is subject to the fulfillment or satisfaction, prior to or at the Closing, of each of the following conditions precedent (any of which may be waived in writing in whole or in part by Buyer in its sole discretion):

(a) Sellers' representations and warranties contained in this Agreement shall be true as of the Effective Date and on the Closing Date in all material respects (other than representations and warranties that by their terms address matters only as of another specified date, which shall be so true only as of such other specified date);

(b) Sellers shall have performed and compiled in all material respects with all agreements and conditions contained in this Agreement that are required to be performed or complied with by it prior to or at the Closing;

(c) Buyer shall have received all of Sellers' deliveries described in Section 4.2(a); and

(d) Since the Effective Date, there has been no Material Adverse Change.

7.3 Conditions Precedent to Sellers' Obligations. Subject to Section 7.4, the obligation of Sellers under this Agreement to Close is subject to the fulfillment or satisfaction, prior to or at the Closing, of each of the following conditions precedent (any of which may be waived in writing in whole or in part by Sellers in their sole discretion):

(a) Buyer's representations and warranties contained in this Agreement shall be true as of the Effective Date and on the Closing Date in all material respects (other than representations and warranties that by their terms address matters only as of another specified date, which shall be so true only as of such other specified date);

(b) Buyer shall have performed and complied in all material respects with all agreements and conditions contained in this Agreement that are required to be performed or complied with by it prior to or at the Closing; and

(c) Sellers shall have received all of Buyer's deliveries described in Section 4.2(b).

7.4 **No Frustration of Closing Conditions**. Neither Buyer nor Sellers may rely on the failure of any condition to its obligation to consummate the transactions contemplated hereby set forth in Sections 7.1, 7.2 or 7.3, as the case may be, to be satisfied if such failure was caused by such Party's failure to use its reasonable best efforts or commercially reasonable efforts, as applicable, with respect to those matters contemplated by the applicable Sections of this Agreement to satisfy the conditions to the consummation of the transactions contemplated hereby or other breach of a representation, warranty or covenant hereunder.

ARTICLE VIII
[RESERVED]

ARTICLE IX
TERMINATION; DEFAULT

9.1 **Termination of Agreement**. This Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Closing upon the occurrence of any of the following events, subject in all cases, to any conditions set forth in this Article IX:

(a) by Buyer or Sellers, by written notice of either to the other Party:

(i) if the Closing shall not have occurred by the close of business on May 31, 2021 ("**End Date**"); provided however, that if the Closing shall not have occurred on or before the End Date due to a material breach of any representations, warranties, covenants or agreements contained in this Agreement by Buyer or Sellers, then the breaching party may not terminate this Agreement pursuant to this Section 9.1(a)(i);

(ii) if there shall be in effect a final non-appealable decree of a Governmental Entity of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby; it being agreed that the parties hereto shall promptly appeal any adverse determination which is not non-appealable (and pursue such appeal with reasonable diligence); provided that, a Party may not terminate this Agreement pursuant to this Section 9.1(a)(ii) if such Party is in material breach of its representations, warranties, covenants or agreements contained herein;

(iii) if the Canadian Proceeding is, without Sellers' consent, terminated and discharged and converted into a proceeding under the *Bankruptcy and Insolvency Act* (Canada) such that a trustee-in-bankruptcy is appointed in respect of the Sellers; or

(iv) by mutual written consent of Sellers and Buyer.

(b) by Buyer, by written notice to Sellers:

(i) if any of the conditions to the obligations of Buyer set forth in Sections 7.1 or 7.2 shall have become incapable of fulfillment on or prior to the End Date, other than as a result of a breach by Buyer of any covenant or agreement contained in this Agreement, and such condition is not waived by Buyer;

(ii) if there shall be a material breach by Sellers of any representation or warranty, or any covenant or agreement contained in this Agreement which would result in a failure of a condition set forth in Sections 7.1 or 7.2 and which breach cannot be cured or, if capable of cure, has not been cured by the earlier of (i) three (3) Business Days after the giving of written notice by Buyer to Sellers of such breach and (ii) the End Date, so long as Buyer is not in material breach of its obligations under this Agreement.

(c) by Sellers, by written notice to Buyer:

(i) if any condition to the obligations of Sellers set forth in Sections 7.1 or 7.3 shall have become incapable of fulfillment on or prior to the End Date, other than as a result of a breach by Sellers of any covenant or agreement contained in this Agreement, and such condition is not waived by Sellers;

(ii) if there shall be a material breach by Buyer of any representation or warranty, or any covenant or agreement contained in this Agreement which would result in a failure of a condition set forth in Section 7.1 or 7.3 and which breach cannot be cured or has not been cured by the earlier of (i) three (3) Business Days after the giving of written notice by Sellers to Buyer of such breach and (ii) the End Date, so long as Sellers are not in material breach of their obligations under this Agreement; or

(iii) if Buyer fails to consummate the transactions contemplated hereby, including payment of the Purchase Price, as and when required by Articles III and IV.

9.2 Procedure Upon Termination. In the event of termination and abandonment by Buyer, on the one hand, or Sellers, on the other hand, or both, pursuant to Section 9.1, written notice thereof shall forthwith be given to the other Party or Parties, and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned, without further action by Buyer or Sellers.

9.3 Effect of Termination.

(a) If any Party terminates this Agreement pursuant to Section 9.1, then all rights and obligations of the Parties hereunder shall terminate upon such termination and shall become null and void (except that Article I (Definitions), Article X (Miscellaneous), and this Article IX (Termination; Default) shall survive any such termination) and no Party shall have any Liability or obligation to any other Party hereunder except as set forth in Sections 9.3(b) and 9.3(c) below. Upon any termination of this Agreement (other than pursuant to Sections 9.1(c)(i) through 9.1(c)(iii)), Sellers shall instruct the Escrow Agent within two (2) Business Days of receipt of Buyer's notice of termination, to release the Deposit together with all accrued investment income or interest thereon to Buyer. If this Agreement is terminated pursuant to Sections 9.1(c)(i) through 9.1(c)(iii), then the Deposit, together with all accrued investment income or interest thereon, shall be delivered to Sellers.

(b) The Confidentiality Agreement shall survive any termination of this Agreement and nothing in this Section 9.3 shall relieve Buyer or Sellers of its respective obligations under the Confidentiality Agreement.

(c) Except as otherwise provided herein or in the case of fraud or willful misconduct, the Parties acknowledge and agree that, in the event the Closing does not occur, the remedies provided in this Article IX shall be the Parties' sole and exclusive remedies.

ARTICLE X
MISCELLANEOUS

10.1 Entire Agreement; Amendment. This Agreement constitutes the entire agreement among the Parties hereto pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the Parties, whether oral or written, including, but not limited to, the Letter of Intent, and there are no warranties, representations or other agreements among the Parties in connection with the subject matter hereof except as specifically set forth herein. No amendment, supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. No Party shall be deemed to have waived the exercise of any right which it holds under this Agreement unless such waiver is made expressly and in writing. No delay or omission by any Party in exercising any right shall be deemed a waiver of its future exercise. No waiver made as to any instance involving the exercise of any right shall be deemed a waiver as to any other instance, or any other right.

10.2 Applicable Law. This Agreement shall be given effect and construed by application of the laws of the Province of Ontario without regard to conflicts of laws. Any action arising out of, in connection with, or relating to this Agreement shall be brought in the Canadian Court or, if the Canadian Proceeding has been terminated and/or discharged, the Ontario Superior Court of Justice in Toronto, Ontario.

10.3 Notices. Any notice to be provided hereunder to a Party shall be in writing, and shall be deemed to have been provided the next Business Day after having been deposited with a national courier service, or on having been sent by immediate electronic communication, in each case if receipt is acknowledged or confirmed or delivery is first refused, to the persons and addresses set forth below, as such address may be changed from time to time by notice to the other Party. Any notice by one Party amending or terminating this Agreement shall include a notice to the Escrow Agent.

To Sellers: Tiffany Gate Foods Inc. and Sun Rich Fresh Foods Inc.
c/o Country Fresh Holding Company Inc.
3200 Research Forest Drive, Suite A5
The Woodlands, TX 77831
Attention: William Anderson
Email: william.anderson@freshfoodgroup.com

with a copy to: Foley & Lardner LLP
1000 Louisiana Street, Suite 2000

Houston, TX 77002
Attention: Eunice Song
Email: esong@foley.com

with a copy to:	Stikeman Elliott LLP 1155 Rene-Levesque Blvd. West, 41st Floor Montreal, Quebec, H3B 3V2 Canada Attention: Joseph Reynaud Email: jreynaud@stikeman.com
To Buyer:	Homestyle Selections LP 9702 96 Street Edmonton, Alberta T6C 3Z3 Attention: Leigh Newton Email: lnewton@homestyleselectionslp.com
with a copy to:	Bennett Jones LLP 4500 – 855, 2nd Street S.W. Calgary Alberta, T2P 4K7 Attention: Kristos Iatridis / Chris Simard E-mail: iatridisk@bennettjones.com / simardc@bennettjones.com

Any notice by one Party amending or terminating this Agreement or alleging a default under this Agreement shall include a notice to Escrow Agent. Notice provided by legal counsel for a Party shall be effective as notice given by such Party.

10.4 **Construction**. All references made in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders; and in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well.

10.5 **Severability**. If any provision, clause or part of this Agreement, or the application thereof under certain circumstances, is held invalid or unenforceable by a final order of a court of competent jurisdiction, then the remainder of this Agreement, or the application of such provision, clause or part under other circumstances, shall not be affected thereby and the Parties hereto agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term.

10.6 **Time of Essence**. Time shall be of the essence of this Agreement.

10.7 **Counterparts; Headings**. This Agreement may be executed in several counterparts, each of which shall be deemed original, but such counterparts shall together constitute but one and the same agreement. The Table of Contents and Article and Section headings in this Agreement are inserted for convenience of reference only and shall not constitute a part hereof or be used as interpreting the meaning of this Agreement.

10.8 Facsimile or Electronic Signatures. The exchange of copies of this Agreement and of signature pages by facsimile or electronic transmission shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile or e-mail shall be deemed to be their original signatures for all purposes.

10.9 Equal Participation. Each Party hereto hereby acknowledges that all Parties hereto participated equally in the negotiation and drafting of this Agreement and that, accordingly, no court construing this Agreement shall construe it more stringently against one Party than against the other.

10.10 Assignment. The Buyer shall not, without the prior written consent of the Sellers, assign any right or interest in this Agreement, which consent may be withheld in the Sellers' sole and absolute discretion, except that the Buyer shall have the right to assign any or all of its rights, interests or obligations hereunder to one or more Affiliates of the Buyer, provided that: (a) such Affiliate agrees to be bound by the terms of this Agreement; (b) the Buyer shall remain liable hereunder for any breach of the terms of this Agreement by such Affiliate; (c) such assignment shall not release the Buyer from any obligation or liability hereunder in favour of the Sellers; and (d) the Buyer shall acknowledge and confirm its continuing obligations in favour of the Sellers in an assignment and assumption agreement in form and substance satisfactory to the Sellers.

10.11 No Reliance. No third party, other than a successor by operation of law or an assignee permitted by this Agreement (and then, subject to the applicable limitations in this Agreement), is entitled to rely on any of the representations, warranties and agreements contained in this Agreement and no Party to this Agreement assumes any liability to any third party, other than an assignee permitted by this Agreement (and then, subject to the applicable limitations in this Agreement), because of any reliance on the representations, warranties and agreements contained in this Agreement.

10.12 Expenses. Except to the extent otherwise provided herein, each of the Parties hereto shall pay the fees and expenses of their respective counsel, consultants and other expenses incident to the negotiation and preparation of this Agreement and consummation of the transactions contemplated by this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, each Party has executed this Agreement by its duly authorized representatives, to be effective as of the Effective Date.

SELLERS:

TIFFANY GATE FOODS INC.	**SUN RICH FRESH FOODS INC.**
Per: William T. Andersen	Per: William T. Andersen
Name: William T. Andersen	Name: William T. Andersen
Title: CEO	Title: CEO

BUYER:

HOMESTYLE SELECTIONS LP, by its general partner, HOMESTYLE SELECTIONS GP LTD.

Per: ________________________________
Name:
Title:

IN WITNESS WHEREOF, each Party has executed this Agreement by its duly authorized representatives, to be effective as of the Effective Date.

SELLERS:

TIFFANY GATE FOODS INC.

Per: ____________________________
Name:
Title:

SUN RICH FRESH FOODS INC.

Per: ____________________________
Name:
Title:

BUYER:

HOMESTYLE SELECTIONS LP, by its general partner, HOMESTYLE SELECTIONS GP LTD.

Per: ____________________________
Name: Leigh Newton
Title: EVP, Business Development

[*Schedules Not Included*]

EXHIBIT A

[Reserved]

EXHIBIT B

Form of Bill of Sale

BILL OF SALE

THIS BILL OF SALE, dated as of [__], 2021 (the "Bill of Sale"), is made, executed and delivered by (i) Tiffany Gate Foods Inc., a British Columbia corporation and Sun Rich Fresh Foods Inc., a British Columbia corporation (together, the "Sellers"), and (ii) Homestyle Selections LP, an Alberta limited partnership (the "Buyer").

Capitalized terms used and not otherwise defined herein shall have the meanings given to them in that certain Asset Purchase Agreement, dated as of March [__], 2021, by and between the Sellers and Buyer (the "Purchase Agreement").

W I T N E S S E T H:

WHEREAS, pursuant to the Purchase Agreement and the Sale Order, the Sellers are required to transfer the Assets to the Buyer.

WHEREAS, the execution and delivery of this Bill of Sale by the Sellers is made pursuant to the Purchase Agreement and the Sale Order.

NOW, **THEREFORE**, in consideration of the above premises and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Transfer. The Sellers do hereby irrevocably and unconditionally sell, convey, assign, transfer and deliver (collectively, the "Transfer") to the Buyer all of the Sellers' right, title and interest in and to the Assets pursuant to and to the extent set forth in the Purchase Agreement and the Sale Order. The Buyer hereby accepts title to the Assets.

Section 2. Excluded Assets. Notwithstanding anything to the contrary contained herein, in no event shall the Sellers Transfer to the Buyer any Excluded Assets.

Section 3. Further Assurances. The Sellers hereby agree to take any and all additional actions and to execute, acknowledge and deliver any and all documents which the Buyer may reasonably request in order to effect the intent and purposes of the Transfer and the transactions contemplated hereby.

Section 4. Amendment and Modification; Waiver. No provision of this Bill of Sale may be waived, amended, supplemented or modified by either party, unless such waiver, amendment, supplement or modification is explicitly set forth in writing and executed by the authorized representative of the party against whom it is sought to enforce such waiver, amendment, supplement or modification. The waiver by any party hereto of a breach of any provisions of this Bill of Sale shall not operate or be construed as a waiver of any other or subsequent breach.

Section 5. No Third Party Beneficiaries. This Bill of Sale is for the sole and exclusive benefit of the parties hereto and their respective successors and permitted assigns and nothing herein is intended or shall be construed to confer upon any person other than the parties hereto and their respective successors and permitted assigns any rights, remedies or claims under, or by any reason of, this Bill of Sale or any term, covenant or condition hereof.

Section 6. Governing Law. This Bill of Sale shall be given effect and construed by application of the laws of the Province of Ontario without regard to conflicts of laws. Any action arising out of, in connection with, or relating to this Bill of Sale shall be brought in the Canadian Court or, if the Canadian Proceedings has been terminated and/or discharged, the Ontario Superior Court of Justice in Toronto, Ontario.

Section 7. Headings. The headings of this Bill of Sale are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

Section 8. Counterparts. This Bill of Sale may be executed in more than one counterpart, including by facsimile or pdf transmission, each of which shall be deemed an original, but all of such counterparts together shall be deemed to be one and the same agreement.

Section 9. Purchase Agreement. This Bill of Sale is subject in all respects to the terms and conditions of the Purchase Agreement. To the extent of any conflict between the terms of the Purchase Agreement and this Bill of Sale, the Purchase Agreement shall control. Nothing contained in this Bill of Sale shall be deemed to supersede any of the covenants, agreements, representations or warranties of the applicable parties contained in the Purchase Agreement.

Section 10. Severability. Any term or provision of this Bill of Sale which is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Bill of Sale or affecting the validity or enforceability of any of the terms or other provisions of this Bill of Sale in any other jurisdiction.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused this Bill of Sale to be executed as of the date first above written.

<u>SELLERS</u>

SUN RICH FRESH FOODS INC.

By: ___________________________________
Name:
Title:

TIFFANY GATE FOODS INC.

By: ___________________________________
Name:
Title:

<u>BUYER</u>

HOMESTYLE SELECTIONS LP, by its general partner, HOMESTYLE SELECTIONS GP LTD.

By: ___________________________________
Name:
Title:

<u>EXHIBIT C</u>

[Reserved]

EXHIBIT D

Form of Assignment and Assumption Agreement

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of [__], 2021 (the "Agreement"), is entered into by and between (i) Tiffany Gate Foods Inc., a British Columbia corporation and Sun Rich Fresh Foods Inc., a British Columbia corporation (together, the "Sellers"), and (ii) Homestyle Selections LP, an Alberta limited partnership (the "Buyer").

Reference is made to that certain Asset Purchase Agreement, dated as of March [__], 2021 (the "Purchase Agreement"), by and between the Sellers and the Buyer. Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Purchase Agreement.

W I T N E S S E T H:

WHEREAS, pursuant to the Purchase Agreement and the Sale Order, the Buyer has agreed to assume the Assumed Liabilities.

WHEREAS, the execution and delivery of this Assignment and Assumption Agreement by the Buyer and Sellers is made pursuant to the Purchase Agreement and the Sale Order.

NOW, **THEREFORE**, in consideration of the above premises and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Assumption. On and subject to the terms of the Purchase Agreement and the Sale Order, the Buyer hereby assumes, accepts responsibility and liability for (as the foregoing concepts may be applicable) and agrees to pay, satisfy, perform, fulfill and discharge, when due in accordance with the terms thereof, the Assumed Liabilities.

Section 2. Assignment. The Sellers hereby assign and transfer to the Buyer the Assumed Liabilities.

Section 3. Excluded Liabilities. Notwithstanding anything to the contrary contained herein, in no event shall the Buyer assume any Excluded Liabilities.

Section 4. Further Assurances. Each of the Buyer and the Sellers hereby agrees to take any and all additional actions and to execute, acknowledge and deliver any and all documents which any other party hereto may reasonably request in order to effect the intent and purposes of the transactions contemplated hereby.

Section 5. Amendment and Modification; Waiver. Subject to applicable law, this Agreement may only be amended, modified and supplemented by written instrument authorized and executed by the Buyer and the Sellers any time with respect to any of the terms contained herein. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and executed by the party so waiving. The waiver by either party hereto of a breach of any provisions of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach.

Section 6. No Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the parties hereto and their respective successors and permitted assigns and nothing herein is intended or shall be construed to confer upon any person other than the parties hereto and their respective successors and permitted assigns any rights, remedies or claims under, or by any reason of, this Agreement or any term, covenant or condition hereof.

Section 7. Governing Law. This Agreement shall be given effect and construed by application of the laws of the Province of Ontario without regard to conflicts of laws. Any action arising out of, in connection with, or relating to this Agreement shall be brought in the Canadian Court or, if the Canadian Proceedings has been terminated and/or discharged, the Ontario Superior Court of Justice in Toronto, Ontario.

Section 8. Headings. The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

Section 9. Purchase Agreement. This Agreement is subject in all respects to the terms and conditions of the Purchase Agreement. To the extent of any conflict between the terms of the Purchase Agreement and this Agreement, the Purchase Agreement shall control. Nothing contained in this Agreement shall be deemed to supersede any of the covenants, agreements, representations or warranties of the applicable parties contained in the Purchase Agreement.

Section 10. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or other provisions of this Agreement in any other jurisdiction.

Section 11. Counterparts. This Agreement may be executed in two (2) or more counterparts (delivery of which may be by facsimile, or via email as a portable document format (.pdf)), each of which will be deemed an original, and it will not be necessary in making proof of this Agreement or the terms of this Agreement to produce or account for more than one (1) of such counterparts.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

SELLERS

SUN RICH FRESH FOODS INC.

By: ________________________________
Name:
Title:

TIFFANY GATE FOODS INC.

By: ________________________________
Name:
Title:

BUYER

HOMESTYLE SELECTIONS LP, by its general partner, HOMESTYLE SELECTIONS GP LTD.

By: ________________________________
Name:
Title:

This is
EXHIBIT "E"
to the affidavit of
STEPHEN MAROTTA
sworn March 25, 2021

A commissioner etc.

<u>Execution Version</u>

ASSET PURCHASE AGREEMENT

by and between

SUN RICH FRESH FOODS INC.
("Seller")

and

SAVE-ON-FOODS LIMITED PARTNERSHIP
("Buyer")

Dated: March 25, 2021

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "**Agreement**"), is made as of the 25th day of March, 2021 (the "**Effective Date**"), by and between (i) Sun Rich Fresh Foods Inc., a British Columbia corporation (the "**Seller**"), and (ii), Save-On-Foods Limited Partnership, a limited partnership formed pursuant to the laws of British Columbia, having an address at 19855 92A Avenue, British Columbia, V1M 3B6, or its nominee ("**Buyer**").

RECITALS

A. Seller is in the business of providing fresh-cut fruits and vegetables, snacking products and home meal replacement solutions for retail, food-service, club and convenience stores, including merchandising and category support (the "**Business**").

B. On February 17, 2021 (the "**Filing Date**"), Seller commenced a proceeding (the "**Canadian Proceeding**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") with the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") in respect of the Seller.

C. Seller desires to sell the Assets (as defined herein) to Buyer and have Buyer assume certain specified liabilities and Buyer desires to purchase the Assets and assume such specified liabilities of Seller, all on the terms and conditions set forth in this Agreement.

D. The Parties intend to effectuate the transactions contemplated by this Agreement through a sale of the Assets pursuant to Section 36 of the CCAA.

E. Seller's ability to consummate the transactions set forth in this Agreement is subject to, among other things, the entry of the Sale Order.

NOW, THEREFORE, in consideration of the foregoing and the respective promises, representations, warranties and covenants herein contained, the parties hereto, intending to be legally bound hereby, do agree as follows:

ARTICLE I
DEFINITIONS

1.1 **Definitions**. For purposes of this Agreement the following terms shall have the meanings ascribed below:

"***11.3 Contracts***" shall mean those contracts set forth on Schedule 1.1.

"***Accounts Receivable***" shall mean (a) all trade accounts receivable and other rights to payment from customers of the Seller (whether current or non-current) and the full benefit of all security for such accounts or rights to payment, (b) all other accounts or notes receivable of Seller and the full benefit of all security for such accounts or notes, (c) other amounts due to any Seller that such Seller has historically classified as accounts receivable in the balance sheet of such Seller and (d) any security interest, claim, cause of action, remedy or other right related to any of the foregoing, in each case, and doubtful accounts which shall include accounts overdue by more than thirty (30) days ("***Overdue Accounts***"); provided, that if Buyers are able to collect such Overdue Accounts prior to submission of the Closing Statement, such Overdue Accounts shall not be considered doubtful accounts".

"***Affiliate***" shall mean with respect to any Person, any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

"***Agreement***" shall have the meaning set forth in the preamble.

*"**Ancillary Agreements**"* shall have the meaning set forth in Section 5.2(b).

"***Applicable Accounting Principles***" means generally accepted accounting principles in the Canada as in effect from time to time (GAAP).

"***Assets***" shall have the meaning set forth in Section 2.2.

"***Assigned Contracts***" shall mean those Desired 11.3 Contracts which the applicable Seller shall assume and assign to Buyer pursuant to and in accordance with Section 2.6.

"***Assigned Leases***" shall mean the Third Party Lease which the Seller shall assign to Buyer pursuant to and subject to Section 2.6.

"***Assignment and Assumption Agreement***" shall have the meaning set forth in Section 4.2.

"***Assumed Liabilities***" shall have the meaning set forth in Section 2.4.

"***Bill of Sale***" shall mean the bill of sale substantially in the form of Exhibit B attached hereto.

"***Business***" shall have the meaning set forth in the Recitals.

"***Business Day***" shall mean any day except a Saturday, a Sunday or any other day on which commercial banks are required or authorized to close in Vancouver, British Columbia.

"***Buyer***" shall have the meaning set forth in the Recitals.

*"**Buyer Ancillary Agreements**"* shall have the meaning set forth in Section 5.2(b).

"Canadian Bidding Procedures Order" shall refer to the Order to be entered by the Canadian Court approving, among other things, the Bidding Procedures, which shall be in form and substance satisfactory to the Buyers.

"***Canadian Court***" shall have the meaning set forth in the Recitals.

"***Canadian Proceeding***" shall have the meaning set forth in the Recitals.

"***CCAA***" shall have the meaning set forth in the Recitals.

"***Closing***" shall have the meaning set forth in Section 4.1.

"***Closing Date***" shall have the meaning set forth in Section 4.1.

"***Company Intellectual Property***" shall have the meaning set forth in Section 5.1(h).

"***Confidentiality Agreement***" shall mean the confidentiality agreement signed between Country Fresh Holding Company Inc. and Pattison Food Group with an effective date of February 24, 2021.

"***Contract***" shall mean any written or oral agreement, contract, lease, sublease, indenture, mortgage, hypothec, instrument, guaranty, loan or credit agreement, note, bond, customer order, purchase order, sales order, quotes, quote schedules, statements of work, sales agent agreement, supply agreement, development agreement, joint venture agreement, license agreement, contribution agreement, partnership agreement or other arrangement, understanding, permission or commitment that, in each case, is legally binding, including in all cases any schedules, annexes, exhibits, amendments, supplements or modifications thereto.

"COVID-19" means SARS-CoV-2 or COVID-19, and any evolutions or mutations thereof or related or associated epidemics, pandemic or disease outbreaks.

"COVID-19 Measures" means any of the Acquired Companies' compliance with any quarantine, "shelter in place," "stay at home," work force reduction, social distancing, shut down, closure, sequester, safety or similar Law, policies, guidelines or recommendations promulgated by any Governmental Entity or the Centers for Disease Control and Prevention, in each case, in connection with, related to, or in response to COVID-19.

"COVID-19 Response" means any reasonable action or inaction, including the establishment of any policy, procedure or protocol, by any Acquired Company that such Acquired Company determines in its reasonable discretion is necessary, advisable or prudent in connection with (i) mitigating the adverse effects of COVID-19 or applicable COVID-19 Measures, (ii) ensuring compliance by the Acquired Companies with COVID-19 Measures applicable to any of them and/or (iii) in respect of COVID-19, protecting the health and safety of employees or other persons with whom the Acquired Companies and/or any of their respective personnel come into contact with during the course of business operations.

"***Critical Vendor Payments***" shall mean those payments to certain vendors made by Buyer with respect to pre-petition obligations of Seller as set forth on Schedule 1.3.

"***Cure Costs***" shall mean all monetary Liabilities, including monetary Liabilities arising prior to the Filing Date, that must be paid or otherwise satisfied to cure all of monetary and other defaults under the Assigned Leases or Assigned Contracts, as applicable, pursuant to Section 11.3 of the CCAA.

"***Desired 11.3 Contracts***" shall have the meaning set forth in Section 2.6(a).

"***Deposit***" shall have the meaning set forth in Section 3.1(a).

"***Disclosure Schedules***" shall mean all of the schedules referenced in Section 5.1.

"***Effective Date***" shall have the meaning set forth in the Recitals.

"***Employees***" shall have the meaning set forth in Section 5.1(o).

"***Encumbrance***" shall mean any pledge, lien, mortgage, hypothec, deed of trust, interest, charge, claim, right of first refusal or other similar option, easement, encroachment, right of way or restriction.

"***Environmental Claim***" shall mean any action, governmental order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, release of, or exposure to, any Hazardous Materials; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

"***Environmental Laws***" shall mean all federal, state, provincial or local laws, ordinances, requirements and regulations relating to waste disposal or protecting the environment, including without limitation: (i) the Canadian Environmental Protection Act, 1999 (S.C. 1999, c. 33) and (ii) the Environmental Management Act SBC 2003, c 53 and regulations thereunder, as amended.

"***Environmental Notice***" shall mean any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

"***Environmental Permit***" shall mean any Permit, letter, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Environmental Law.

"***Equipment***" shall have the meaning set forth in Section 2.2(a).

"***ETA***" shall mean the Excise Tax Act (Canada).

"***Excluded Assets***" shall have the meaning set forth in Section 2.3.

"***Excluded Contracts***" means all 11.3 Contracts that are not Assigned Contracts.

"***Excluded Leases***" means all real property leases that are not Assigned Leases.

"***Excluded Liabilities***" has the meaning set forth in Section 2.5.

"***Excluded Records***" shall mean (a) the general corporate files and records of Seller, insofar as they relate to the business generally and are not required for the future ownership or operation of the Assets, (b) all legal files and records (other than files exclusively related to Assumed Liabilities), (c) Seller's Income Tax files and records, (d) employee files that Seller is required by Law to retain, (e) records relating to the sale of the Assets, including competing bids, (f) proprietary data, (g) copies of records stored for archival and/or back up purposes, and (h) any other files or records to the extent relating to any Excluded Assets.

"***Facility***" shall mean the facility and related buildings, structures, signage, improvements erected or located thereon as set forth on Schedule 1.4 attached hereto.

"***Filing Date***" shall have the meaning set forth in the Recitals.

"***Final Order***" shall mean an order entered by the Canadian Court as to which: (i) no appeal, notice of appeal, motion for reconsideration, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been timely filed; (ii) the time for instituting or filing an appeal, motion for rehearing or motion for new trial shall have expired; and (iii) if an appeal has been timely filed no stay pending an appeal is in effect and the time for requesting a stay pending appeal shall have expired.

"***GAAP***" means generally accepted accounting principles in Canada applied on a consistent basis.

"***Governmental Authority***" shall mean any federal, state, provincial or local government or any court of competent jurisdiction, administrative agency or commission or other governmental or quasi-governmental authority or instrumentality, domestic or foreign.

"***Hazardous Materials***" shall mean (i) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; (ii) those substances, materials, or wastes included within statutory and/or regulatory definitions or listings of "hazardous substance," "special waste," "hazardous waste," "extremely hazardous substance," "solid waste" "medical waste," "regulated substance," "hazardous materials," "toxic substances," or "air contaminant" under any Environmental Law; and/or (iii) any substance, material, or waste which is or contains: (A) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation and polychlorinated biphenyls, (B) explosives, or (C) radioactive materials (including naturally occurring radioactive materials).

"***Intangible Property***" shall have the meaning set forth in Section 2.2(i).

"***Inventory***" shall mean all inventories of Seller including all finished goods, work in process, raw materials and all other materials and supplies to be used or consumed by Seller in the production of finished goods, at book value on a consistent basis in accordance with past practices.

"***Knowledge***" shall mean (a) in the case of Seller, the actual knowledge on the date hereof of any individuals listed on Schedule 1.5 with respect to such matter and (b) in the case of

Buyer, the actual knowledge on the date hereof of any individuals listed on Schedule 1.6 with respect to such matter.

"***Law***" shall mean (i) any Canadian or foreign, federal, state, provincial, municipal or local law, statute, code, treaty, constitution, ordinance, rule, regulation, principle of common law or equity, rule, by-law, decree, policy, practice, protocol, standard, guideline or other requirement of any Governmental Authority or any other requirement have the force of law, or (ii) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law.

"***Letter of Intent***" shall mean the non-binding term sheet between Sun Rich Fresh Foods Inc. and the Buyer with an effective date of March 8, 2021.

"***Liability***" shall mean any and all debts, indebtedness, liens, losses, damages, adverse claims, liabilities, fines, penalties, duties, responsibilities, taxes, obligations and expenses (including reasonable attorneys' fees and reasonable costs of investigation and defense) of any kind, character, or description, whether known or unknown, direct or indirect, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, asserted or unasserted, ascertained or ascertainable, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, vested or unvested, executory, determined, determinable, in contract, tort, strict liability, or otherwise, or otherwise due or to become due.

"***Losses***" shall mean any demands, claims, allegations, assertions, actions or causes of action, assessments, losses, damages, deficiencies, liabilities, costs and expenses (including, without limitation, reasonable legal fees, interest, penalties and all reasonable amounts paid in investigation, defense or settlement of any of the foregoing, whether or not the underlying demands, claims or allegations of third parties are meritorious).

"***Material Adverse Change***" or "***Material Adverse Effect***" shall mean any fact, event, change, occurrence or development that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the business, results of operations, condition (financial or otherwise) or assets of the Business of the Facility, taken as a whole, or (b) the ability of Seller to consummate the transactions contemplated hereby on a timely basis. Notwithstanding anything to the contrary contained in this paragraph, none of the following shall be deemed, individually or in the aggregate, to constitute a Material Adverse Effect or Material Adverse Change: (a) any change, effect, event, circumstance, state of facts or development resulting from or relating to (directly or indirectly) any of the following: (i) general political, business, economic, financial, or capital market conditions (including interest rates); (ii) changes in Laws or orders or interpretations thereof or changes in accounting standards, requirements or principles (including GAAP); (iii) changes, occurrences, or developments in the industries, markets or geographical areas in which the Seller operate in general; (iv) any action taken by the Seller as contemplated or permitted by this Agreement or with the Buyer's written consent; (v) any natural disaster, other acts of God or any acts of terrorism, sabotage, civil unrest, military action or war (whether or not declared), epidemic, pandemic or similar health outbreak (including but not limited to COVID-19, the effects of COVID-19 or any COVID-19 Measures or any change in such COVID-19 Measures or the effects of any COVID-19 Response) or any escalation or worsening thereof, whether or not occurring or commencing before or after the date of this Agreement, and any actions taken in response to any of the foregoing; (vi) any action required to be taken under any Law (including any COVID-19 Measures) or order by which Seller (or any of the Assets) are bound; (vii) the failure, in and of itself, of the financial or operating performance of Seller to meet internal or Buyer projections, forecasts, or budgets for any period; or (viii) any effect arising out of the execution or delivery of this Agreement or the transactions contemplated by this Agreement or the public announcement thereof.

*"**Monitor**"* shall mean Ernst & Young Inc., in its capacity as court-appointed monitor of the Seller, not in its personal capacity.

"***Owned Real Property***" shall mean such real property owned by Seller as described on Schedule 1.7.

"***Party***" shall mean either Buyer or Seller, as the case may be, and "***Parties***" shall mean both Buyer and Seller.

"***Permits***" shall mean all licenses, permits, certificates, approvals, consents, waivers, registrations, orders, or other similar documents or authorizations issued by any Governmental Authority.

"***Permitted Encumbrances***" shall mean (i) any liens for Taxes not yet due and payable; (ii) mechanics' carriers, workmen's, repairmen's or other similar liens arising or incurred in the ordinary course of business or amounts that are not delinquent and which are not, individually or in the aggregate, material to the Business of the Facility or the Assets; (iii) with respect to real property, easements, rights of way, zoning ordinances and other similar encumbrances which are not individually or in the aggregate, material to the Business of the Facility or the Assets; and (iv) purchase-money-security interests arising under Assigned Contacts which are equipment leases with third parties entered into in the ordinary course of business.

"***Person***" shall mean any individual, firm, corporation, partnership, limited liability company, trust, joint venture, Governmental Authority or other entity whatsoever.

"***Post-Petition Trade Payables***" shall mean the aggregate costs and expenses incurred by Seller following the Filing Date, consistent with post-petition terms, which are outstanding as of the Closing Date and that are directly attributable to the production of product for the Business of the Facility and generation of Accounts Receivable, except for any such costs and expenses related to overhead, selling, general and administrative expenses, professional fees, Taxes or services not directly attributable to products for the Business of the Facility.

"***Purchase Price***" shall have the meaning set forth in Section 3.1.

"***Records***" shall mean books, records, ledgers, files, invoices, documents, work papers, correspondence, lists (including customer lists and supplier lists), plans, drawings, designs, specifications, creative materials, advertising and promotional materials, marketing plans, studies, reports, data and other printed materials which were utilized in connection with the operation of the Business of the Facility.

"***Representative***" shall mean with respect to a particular Person, any director, officer, manager, partner, member, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants, and financial advisors.

"*Required Consents*" shall have the meaning set forth in Section 2.1.

"***Sale Order***" shall mean an order of the Canadian Court pursuant to Section 36 and other applicable provisions of the CCAA, in form and substance satisfactory to the Buyers, which shall, among other things, (a) approve the sale of the Canadian Assets by the Seller; (b) vest the Assets in the Buyer free and clear of Encumbrances other than Permitted Encumbrances; and (c) authorize and effect the assignment of the Assigned Contracts and the assumption of Assumed Liabilities.

"***Schedule Amendments***" shall have the meaning set forth in Section 6.11.

"***Seller***" shall have the meaning set forth in the Recitals.

*"**Seller Ancillary Agreements**"* shall have the meaning set forth in Section 5.1(b).

"***Tax***" or "***Taxes***" shall mean (i) any and all federal, state, provincial, local or foreign taxes, charges, fees, imposts, levies or other assessments, including all net income, gross receipts, capital, sales, use, harmonized sales, goods and services, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, escheat, stamp, occupation, property and estimated taxes, customs duties, fees, assessments and charges of any kind whatsoever; (ii) all interest, penalties, fines, installments, additions to tax or additional amounts imposed by any Taxing Authority in connection with any item described in clause (i); and (iii) any liability in respect of any items described in clauses (i) and/or (ii) payable by reason of Contract, assumption, transferee liability, operation of Law, or otherwise, in each case, whether disputed or not.

"***Taxing Authority***" shall mean the Canada Revenue Agency and any other Governmental Authority responsible for the administration of any Tax.

"***Third Party Leases***" shall mean the third party real property lease for the following location: 22151 Fraserwood Way, Richmond, BC V8W 1J5, which are being assumed and assigned to Buyer.

"***Transaction***" shall have the meaning set forth in Section 2.1.

"***Transfer Taxes***" means all transfer, documentary, sales, use, stamp, registration, customs duties, import and export taxes, surtaxes, value added, Goods and Services Tax, Harmonized Sales Tax, Quebec Sales Tax, provincial sales/retail Taxes, fees and any other similar Taxes (including any real property transfer Tax and any other similar Tax) and any related penalties and interest.

"***Warranties***" shall have the meaning set forth in Section 2.2(e).

ARTICLE II
SALE AND PURCHASE OF ASSETS

2.1 **Agreement to Sell and Purchase**. Subject to the terms and conditions of this Agreement and in consideration of the Purchase Price, on the Closing Date, Seller shall sell, transfer, convey and assign to Buyer and Buyer shall purchase from Seller substantially all of the assets of Seller (other than the Excluded Assets), which are owned, used or held for use by Seller to conduct, or in connection with the Business of the Facility and as specified in Section 2.2 (collectively, the "**Assets**") pursuant to Section 36 of the CCAA (the "**Transaction**").

2.2 **Assets**. Without limiting the generality of Section 2.1, the Assets to be purchased by Buyer at the Closing include all of Seller's right, title and interest in all assets and properties owned by Seller in connection with the Business of the Facility, including without limitation the following (other than the Excluded Assets) (together, the "**Assets**"):

(a) the Owned Real Property as set forth on Schedule 1.7;

(b) the Facility and all tangible property, apparatus, equipment, machinery, furniture, fixtures, and other items of personal property which are utilized in connection with the Business of the Facility and located thereat (together, the "**PP&E**");

(c) all Inventory attributable solely to the Business of the Facility;

(d) all Accounts Receivable attributable solely to the Business of the Facility;

(e) all Assigned Contracts; Assigned Leases and Assigned Permits;

(f) all assignable or transferable warranties and guaranties presently in effect from contractors, suppliers or manufacturers of personal property installed in or used in connection with the PP&E (to the extent assignable) (collectively, the "**Warranties**");

(g) except for Excluded Liabilities, all claims, causes of action and other legal rights and remedies of Seller, whether or not known as of the Closing Date, relating to or in connection with Seller's ownership of the Assets attributable to the Facility or necessary to preserve for the benefit of Buyer full rights to the Assets attributable to the Facility, but excluding causes of action and other legal rights and remedies of Seller (i) against Buyer with respect to the transactions contemplated by this Agreement or (ii) relating exclusively to the Excluded Assets;

(h) all Records attributable solely to the Business of the Facility;

(i) all Permits held by Seller attributable solely to the Business of the Facility to the extent that either (i) the same are assignable by Seller without consent of or fee payable to any third party or (ii) all required consents are actually obtained and any required fee is actually paid by Seller;

(j) all goodwill, other intangible personal property attributable solely to the ownership and operation of the Business of the Facility, including the intellectual property used exclusively in connection with the Business of the Facility, including, but not limited to, any patents, trade secrets, mailing lists, customer lists, vendor lists, and Seller's rights that are transferable without consent from or fee payable to a third party, including, software, and website(s) and internet address(es) dedicated to the Business of the Facility (collectively, the "**Intangible Property**"). Notwithstanding the above, Intangible Property shall include the intangible property as set forth on Schedule 2.2(j); and

(k) all rights of Seller relating to deposits and prepaid expenses, claims for refunds and rights of offset in respect thereof that are not Excluded Assets.

2.3 **Excluded Assets**. The Assets being conveyed to Buyer shall not include any of the property, rights or interests below and as set forth on Schedule 2.3 (the "**Excluded Assets**").

Notwithstanding the foregoing, nothing herein will be deemed to constitute an agreement to sell, transfer, assign or convey the Excluded Assets to Buyer, and Seller will retain all right, title and interest to, in and under the Excluded Assets. The term "**Excluded Assets**" means all assets of the Seller other than the Assets, including but not limited to:

(a) any amounts (including the Purchase Price) paid or payable to the Seller pursuant to this Agreement;

(b) any shares of capital stock or other equity interest of the Seller or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interest of the Seller;

(c) all minute books, stock ledgers, corporate seals and stock certificates of the Seller;

(d) all Excluded Records;

(e) all Excluded Contracts and Excluded Leases, including all rights thereunder and PP&E leased by the Seller pursuant to the Excluded Leases;

(f) all Tax assets (including any refunds or prepayments) of Seller or any of its Affiliates;

(g) all rights, claims or causes of action by or in the right of the Seller against any current or former director or officer of the Seller;

(h) all rights to any action, suit or claim of any nature available to or being pursued by Seller, whether arising by way of counterclaim or otherwise;

(i) any rights, claims or causes of action of the Seller under this Agreement, any other transaction document or confidentiality agreement;

(j) (i) any solicitor-client privilege and solicitor work-product protection of the Seller or associated with the Business as a result of legal counsel representing the Seller or the Business, including in connection with the transactions contemplated by this Agreement; (ii) all documents subject to the attorney-client privilege and work-product protection described in the foregoing clause (i); and (iii) all documents maintained by the Seller relating to the drafting, negotiation, execution, delivery and performance of this Agreement, any other transaction document or any agreements with any other bidder in connection with any sale process previously conducted by or in which the Seller were previously involved, including the sale process leading to the entry into this Agreement;

(k) all bank accounts, safety deposit boxes, lock boxes and securities accounts of the Seller and the contents thereof;

(l) all cash and cash equivalents;

(m) those security deposits set forth on Schedule 2.3(m).

(n) all insurance policies of Seller and all rights to applicable claims and proceeds thereunder;

(o) all outside of the ordinary course of business deposits made or required to be made by the Seller to suppliers or other any other third party after the Filing Date as a result of the filing of the Canadian Proceeding;

(p) Seller's benefit plans related to the Employees; and

(q) The assets or property of the Seller attributable to its facility located at 35 Bramtree Court, Brampton, Ontario, Canada.

2.4 Assumed Liabilities. Subject to the terms and conditions herein, Buyer shall assume and agrees to pay, discharge and otherwise perform the following Liabilities of Seller (the "**Assumed Liabilities**"):

(a) Generally. All Liabilities arising from the ownership and operation of the Assets by Buyer from and after the Closing (including all Liabilities for Taxes) arising from the ownership or operation of the Assets by Buyer from and after the Closing.

(b) Assigned Contracts and Assigned Leases. All of Seller's Liabilities under the Assigned Contracts and Assigned Leases to the extent arising from and after the Closing or arising prior to the Closing to the extent requiring performance from and after the Closing, as well as all Cure Costs related to any such Assigned Contracts and Assigned Leases.

(c) Post-Petition Trade Payables. All Liabilities related to the Post-Petition Trade Payables attributable to the Business of the Facility.

(d) Employees. All accrued Liabilities with respect to any employee of Seller employed by Buyer following Closing, which shall include all employees providing direct labor in connection with production for the Business of the Facility.

(e) Customer Rebates. (intentionally deleted).

Buyer's assumption of Liabilities related to Critical Vendor Payments and Post-Petition Trade Payables shall not exceed Seven Hundred and Fifty Thousand US Dollars ($750,000.00 USD).

2.5 **Excluded Liabilities**. Buyer will not assume and will not be obligated to assume or be obliged to pay, perform or otherwise discharge any Liability of Seller other than the Assumed Liabilities (such Liabilities, collectively, the "**Excluded Liabilities**"). Without limiting the generality or effect of the foregoing, Buyer shall not assume, pursuant to this Agreement or otherwise, any of the following:

(a) any indebtedness of the Seller;

(b) any Liability to the extent arising out of or related to the breach, performance or non-performance by Seller prior to the Closing (in each case, regardless of when any claims arising therefrom or relating thereto mature or are asserted) of any Permit;

(c) any Liability in respect of the pending or threatened proceedings set forth (or that should have been set forth) on Schedule 2.5(c);

(d) any income or franchise tax of Seller and any taxes relating to the Excluded Assets;

(e) subject to Section 2.4(e), all Liabilities arising out of, relating to or with respect to the employment or performance of services for or termination of employment or services for, or potential employment or engagement for the performance of services for, Seller of any employee for periods on or prior to Closing, except, in the case of any Canadian Employee that is a Buyer Selected Employee who accepts Buyer's offer of employment, any liability for any accrued but unpaid vacation pay or banked overtime;

(f) subject to Section 2.4(e), all Liabilities under, relating to or with respect to any Employee Plans;

(g) all Liabilities arising out of, under or in connection with Contracts that are not Assigned Contracts or Assigned Leases;

(h) any Liability to the extent relating to any Excluded Asset or other asset that is not an Asset and the ownership, operation and conduct of any business in connection therewith or therefrom; and

(i) any Liability arising from the gross negligence or willful misconduct of Seller prior to, at or after the Closing.

2.6 **Designation of Contracts**.

(a) Schedule 2.6(a)(i) sets forth a complete list as of the Effective Date of all 11.3 Contracts the Buyer intends will be Assigned Contracts (the "**Desired 11.3 Contracts**"). Schedule 2.6(a)(ii) sets forth the Third Party Lease which the Buyer intends will be the Assigned

Leases under this Agreement. Until the Closing, Buyer will have the right, in consultation with Seller, to provide written notice to Seller of Buyer's election to:

(i) designate a 11.3 Contract (including any 11.3 Contract that is a Desired 11.3 Contract immediately before such designation) as an Excluded Contract and Excluded Asset, and upon such designation, such 11.3 Contract will constitute an Excluded Contract and Excluded Asset (and, if applicable, will cease to constitute an Asset);

(ii) designate a 11.3 Contract as a Desired 11.3 Contract, and upon such designation, the Seller shall use its reasonable best efforts to assign and convey such 11.3 Contract to Buyer under this Agreement at Closing as it specifically relates to the Business of the Facility (and, if applicable, will cease to constitute an Excluded Asset), so long as (A) such 11.3 Contract is added to the Assigned Contracts prior to the entry of two (2) Business Days prior to the Seller obtaining the Sale Order, and (B) the Third Party to such 11.3 Contract receives information evidencing Buyer's adequate assurance of future performance and has an opportunity to object within such period of time set forth in an Order of the Canadian Court. The Buyer understands that each 11.3 Contract may be required to be assigned to another buyer of the Seller's Excluded Assets. If the Seller cannot assign a Desired 11.3 Contract to the Buyer because it is assigned to another buyer of the Seller's Excluded Asset such Desired 11.3 Contract shall be an Excluded Contract, *provided that*, the Seller shall facilitate discussion between Buyer and any counterparty to a Desired 11.3 Contract to allow the Buyer to enter into a new agreement or contract for substantiality similar goods or services provided to the Seller solely as it relates to the Business of the Facility; and

(iii) the Seller will assign and convey to Buyer under this Agreement at Closing the Assigned Leases (and, if applicable, will cease to constitute an Excluded Asset), so long the counterparty to such Assigned Leases receives information evidencing Buyer's adequate assurance of future performance and has an opportunity to object within such period of time set forth in an Order of the Canadian Court.

(b) To the extent that Buyer makes a valid designation with respect to any 11.3 Contracts pursuant to Section 2.6(a) above, the applicable Exhibits and Schedules to this Agreement will be deemed to have automatically been updated (without action of any Party or Person) to reflect such designation.

(c) If Buyer exercises its rights in Section 2.6(a) above to designate a 11.3 Contract as an Asset or as an Excluded Asset (as the case may be), then the Parties acknowledge and agree that there will be no reduction in the Purchase Price as a result of such designation or change in designation, nor will there be any delay to the Closing; provided, however, that either such designation may increase or decrease (as applicable) the extent of the Assumed Liabilities.

ARTICLE III
PURCHASE PRICE; PRORATIONS; ALLOCATION

3.1 Purchase Price. In exchange for the sale of the Assets, Buyer shall pay to the Seller, in accordance with the allocable percentage set forth on Schedule 3.1, the aggregate consideration of Two Million Five Hundred Thousand US Dollars ($2,500,000.00 USD) (the "**Purchase Price**") which shall be paid as follows:

(a) On the date hereof, Buyer shall deposit with the Monitor, in trust, Two Hundred Fifty Thousand US Dollars ($250,000.00 USD) (the "**Deposit**") which shall be held by the Monitor until the Closing in a trust account.

(b) At Closing, Buyer shall pay to Seller the Purchase Price less the Deposit, payable by wire transfer of immediately available funds to a bank account designated by Seller in writing to Buyer no less than three (3) Business Days prior to Closing.

3.2 Prorations. The following prorations shall be made between Seller and Buyer at the Closing, computed as of the Closing Date. To the extent required to give effect to the prorations and provisions set forth herein, this Section 3.2 shall survive the Closing.

(a) Taxes. All real property, personal property, sales, use and ad valorem Taxes and similar recurring Taxes and fees on the Assets for taxable periods beginning before, and ending after, the Closing Date, shall be prorated between Buyer and Seller as of the Closing Date. Seller shall be responsible for all such Taxes and fees on the Assets accruing during any period up to the Closing Date. Buyer shall be responsible for all such Taxes and fees on the Assets accruing during any period commencing on or after the Closing Date. With respect to Taxes described in this Section 3.2(a), Seller shall timely file all Tax Returns due before the Closing Date with respect to such Taxes and Buyer shall prepare and timely file all Tax Returns due on or after the Closing Date with respect to such Taxes. If one party remits to the appropriate Taxing Authority payment for Taxes, which are subject to proration under this Section 3.2(a) and such payment includes the other party's share of such Taxes, such other party shall promptly reimburse the remitting party for its share of such Taxes.

(b) Leased Real Property Expenses. Except as otherwise specifically provided below, all expenses and obligations relating to the operation of the Third Party Leases shall be prorated on a *per diem* basis to the Closing Date using a calendar year and adjusted between Seller and Buyer as of 11:59 p.m. (Pacific Daylight Time) on the day immediately preceding the Closing Date, and for purposes of these prorations and adjustments, Seller shall be deemed the lessee under the Third Party Leases, in each case, on the day immediately preceding the Closing Date, and Buyer shall be deemed the lessee under the Third Party Leases, in each case, on and after the Closing Date. To the extent that the amounts of the items to be adjusted are not reasonably ascertainable as of the Closing, they shall be re-adjusted and paid as promptly thereafter as the amounts thereof can be ascertained. For purposes of this Section 3.2, the amount of any expense credited by one Party to the other shall be deemed an expense paid by that Party.

(c) Adjustment to Prorations. In the event that any prorations, apportionments or computations made under Section 3.2(a) and 3.2(b) above shall require final adjustment, then the Parties shall use good faith and diligent efforts to make the appropriate adjustments promptly when accurate information becomes available and either Party shall be entitled to an adjustment to correct the same provided that, it makes written demand on the one from whom it is entitled to such adjustment within six (6) months of the Closing Date (or prior to the end of any applicable tax period).

(d) Access to Records. From and after the Closing, Buyer shall promptly provide to Seller and the Monitor and their respective Representatives (after reasonable notice and during normal business hours and without charge to Seller or the Monitor) access to all Records included in the Assets for periods prior to the Closing and shall preserve such Records until the latest of (i) seven years after the Closing Date, (ii) the required retention period for all government contact information, records or documents, (iii) the conclusion of all bankruptcy proceedings relating to the Canadian Proceeding or (iv) in the case of Records related to Taxes, the expiration of the statute of limitation applicable to such Taxes. Such access shall include access to any information in electronic form to the extent reasonably available. Buyer acknowledges that Seller have the right to retain copies of all Records included in the Assets for periods prior to the Closing. Prior to destroying any Records included in the Assets for periods prior to the Closing, Buyer shall notify Seller thirty (30) days in advance of any such proposed destruction of its intent to destroy such Records, and Buyer will permit Seller to retain such Records. With respect to any litigation and claims that are Excluded Liabilities, Buyer shall render, at Seller's expense, all reasonable assistance that Seller may request in defending such litigation or claim and shall make available to Seller's personnel most knowledgeable about the matter in question.

3.3 [Reserved].

3.4 Transfer and Sales Taxes.

(a) The Buyer shall be responsible for and shall pay, or cause to be paid, any Transfer Tax in respect of the purchase and sale of the Assets under this Agreement (including for greater certainty, any Transfer Tax related with the importation, or change of importation classification, of Assets) and such Transfer Tax shall be remitted to the appropriate Governmental Authority as provided for under Law (except any Transfer Tax which, under Law, is collectible by the Seller, in which case such Transfer Tax shall be collected by the Seller and remitted by the Seller to the appropriate Governmental Authority as provided for under the Law but, for the avoidance of doubt, the Buyer shall remain economically responsible for and shall pay to or reimburse, or cause to be paid or reimbursed, as the case may be, the Seller for any such Transfer Tax). The Seller and the Buyer shall reasonably cooperate to (i) mitigate and/or eliminate the amount of Transfer Taxes resulting from the transactions contemplated herein and (ii) timely prepare and file any Tax Returns relating to such Transfer Taxes, including any claim for exemption or exclusion from the application or imposition of any such Transfer Taxes. The Buyer shall be responsible for preparing and filing all necessary Tax Returns or other documents with respect to such Transfer Taxes (other than any such returns legally required to be filed by any Seller); provided, however, that in the event any such Tax Return requires execution by any Seller, the Buyer shall deliver it to such Seller not less than ten (10) Business Days before the due date thereof, and the Seller shall reasonably promptly execute such Tax Return and return it to the Buyer.

(b) The Parties will furnish or cause to be furnished to the other and to the Monitor, each at their own expense, as promptly as practicable, such information, documentation and assistance and provide additional information and explanations of any material provided, relating to the purchase and sale of the Assets under this Agreement as is reasonably necessary for the filing of any Tax returns, for the claim or application for any relief, for the claim of any Tax credit, refund or similar payment, for the preparation of any audit and for the prosecution or defense of any claim, relating to any adjustment or proposed adjustment with respect to Taxes.

3.5 Tax Elections

(a) Section 20(24) Election. To the extent permitted by the applicable Tax legislation, each Seller selling Assets and the Buyer acquiring Assets will jointly execute an election in the prescribed manner and within the prescribed time limits, to have the rules in subsection 20(24) of the *Income Tax Act* (Canada), and any equivalent or corresponding provision under applicable provincial or territorial Tax legislation, apply to the obligations of such Seller in respect of undertakings which arise from the operation of the Business and to which paragraph 12(1)(a) and 12(1)(e) of the *Income Tax Act* (Canada) apply. For the purposes of such election(s), the Buyer and the Seller will, acting reasonably, jointly determine the elected amount and the Buyer and the Seller acknowledge that the applicable Seller is transferring assets to the Buyer which have a value equal to such elected amount as consideration for the assumption by the Buyer of such obligations of such Seller.

(b) Section 22 Election. To the extent permitted by the applicable Tax legislation, each Seller selling Assets and the Buyer acquiring the Assets will jointly execute, and each of them will file promptly following the Closing Date, an election under Section 22 of the *Income Tax Act* (Canada), and any corresponding provisions of any applicable provincial income Tax legislation. For the purposes of such elections, the Buyer and the Seller will, acting reasonably, jointly determine the amount that the parties will designate as the portion of the Purchase Price allocable to the debts in respect of which such elections are made. For greater certainty, each Seller and the Buyer agree to prepare and file their respective Tax Returns in a manner consistent with such election(s).

(c) Section 167 Election. To the extent permitted under subsection 167(1) of the ETA and any equivalent or corresponding provision under any applicable provincial legislation, Seller agrees to jointly elect with Buyer, on the Closing Date, under subsection 167(1) of the ETA, and under any similar provision of any applicable provincial legislation, in the form prescribed for the purposes of that provision, in respect of the sale and transfer of the Assets by Seller hereunder, and Buyer shall file such elections with the Canada Revenue Agency within the time periods prescribed under the ETA. Notwithstanding anything to the contrary in this Agreement, Buyer shall indemnify and hold Seller harmless in respect of any Transfer Taxes, penalties, interest and other amounts which may be assessed against Seller as a result of the transactions under this Agreement including as a result of the Assets not being eligible for such elections or as a result of Buyer's failure to file the elections within the prescribed time. Buyer is registered for GST/HST purposes under Part IX of the ETA and will provide its GST/HST number to the Seller prior to the Closing Date. Seller is registered for GST/HST purposes under Part IX of the ETA and its GST/HST number is 119317410 RT0001.

ARTICLE IV
CLOSING

4.1 Closing. The closing of the transactions contemplated by this Agreement (the "**Closing**") shall take place remotely by exchange of electronic signatures and shall occur on the later of (i) March 31, 2021 or (ii) such date that is two (2) Business Days following approval by the Canadian Court, but in no event shall occur later than May 31, 2021, unless otherwise agreed to by Seller and Buyer (the "**Closing Date**"). The Closing shall be deemed to have occurred at 11:59 p.m. (Pacific Daylight Time) on the Closing Date.

4.2 Closing Deliveries.

(a) At the Closing, Seller will deliver to Buyer the following documents and other items, duly executed by an authorized person of Seller, as applicable:

(i) the Bill of Sale;

(ii) an Assignment and Assumption Agreement substantially in the form of Exhibit D attached hereto (the "**Assignment and Assumption Agreement**");

(iii) (intentionally deleted);

(iv) a certificate signed by an authorized officer of Seller to the effect that each of the conditions specified in Sections 7.2(a) and 7.2(b) is satisfied in accordance with the terms thereof;

(v) a certificate of good standing of Seller issued reasonably soon before the Closing Date;

(vi) a copy of the resolutions adopted by the governing body of Seller evidencing its authorization of the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, certified by an officer of Seller; and

(vii) any and all other customary materials and documents anticipated to be signed and delivered by Seller at the Closing or which are reasonably requested by Buyer and consistent with this Agreement.

(b) At the Closing, Buyer will deliver to Seller the following documents and other items, duly executed by an authorized person of Buyer, as applicable:

(i) the Purchase Price (less the Deposit);

(ii) the Bill of Sale;

(iii) the Assignment and Assumption Agreement;

(iv) (intentionally deleted);

(v) a certificate to the effect that each of the conditions specified in Sections 7.3(a) and 7.3(b) is satisfied in accordance with the terms thereof;

(vi) a certificate of good standing of Buyer issued reasonably soon before the Closing Date;

(vii) a copy of the resolutions adopted by the governing body of Buyer evidencing its authorization of the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, certified by an officer of Buyer; and

(viii) any and all other customary materials and documents anticipated to be signed and delivered by Buyer at the Closing or which are reasonably requested by Seller and consistent with this Agreement.

4.3 Payment of Cure Costs for Assigned Contracts. Upon receipt of the Purchase Price from Buyer, (i) Seller shall assume and assign pursuant to section 11.3 of the CCAA each of the Assigned Contracts that may be assumed and assigned pursuant to the Sale Order, (ii) Buyer shall assume and thereafter in due course pay, discharge, perform and satisfy in accordance with their respective terms all of the obligations under such Assigned Contracts and Assigned Leases from and after the Closing, and (iii) Buyer shall pay the Cure Costs, up to an amount of One Hundred Thousand US Dollars ($100,000.00 USD) so that all applicable Assigned Contracts and the Assigned Leases may be assumed and assigned to Buyer. The Seller shall be responsible for paying any and all Cure Costs above the Buyer's liability of One Hundred Thousand US Dollars ($100,000.00 USD).

4.4 Further Assurances. From time to time following the Closing, Seller and Buyer shall, and shall cause their respective Affiliates to, execute, acknowledge and deliver all such further conveyances, notices, assumptions, releases and acquaintances and such other instruments, and shall take such further actions, as may be necessary or appropriate to assure fully to Buyer and its respective successors or assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be conveyed to Buyer under this Agreement and to assure fully to Seller and its Affiliates and their successors and assigns, the assumption of the liabilities and obligations intended to be assumed by Buyer under this Agreement, and to otherwise make effective the transactions contemplated hereby and thereby.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF THE PARTIES

5.1 Seller's Representations and Warranties. To induce Buyer to enter into this Agreement, Seller hereby, jointly and severally, represent and warrant to Buyer as of the date of this Agreement and re-states as of the Closing Date, as follows. Any reference to "Business" in this Article V shall be deemed to reference solely the Business of the Facility:

(a) Organization. Each Seller is a corporation validly existing and in good standing under the laws of the province of British Columbia. Each Seller has the necessary corporate power and authority to conduct business in the manner in which its business is currently being conducted. Each Seller is qualified and in good standing (to the extent applicable) under each foreign jurisdiction where the nature of its business requires such qualification, except where the failure to be so qualified or be in good standing would not have a Material Adverse Effect.

(b) Authority. Subject to obtaining the Sale Order, each Seller has the corporate, company or partnership power and authority to enter into and to perform its obligations under this Agreement and each of the agreements, certificates and documents required to be delivered by such Seller pursuant to the terms of this Agreement (the "**Seller Ancillary Agreements**"). The execution, delivery and performance of this Agreement and the Seller Ancillary Agreements, and the consummation of the transactions contemplated by this Agreement and the Seller Ancillary Agreements, have been duly authorized and approved by all necessary action on the part of each Seller. Subject to obtaining the Sale Order, this Agreement and each of the Seller Ancillary Agreements constitute the legal, valid and binding obligations of each Seller, enforceable against each such Seller in accordance with their terms.

(c) Non-Contravention; Required Consents. Except as set forth on **Schedule 5.1(c)** ("**Required Consents**"), neither the execution and delivery of this Agreement or any Ancillary Agreement to be executed and delivered by Seller, nor the consummation of the transactions contemplated hereby and thereby, will, subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, (i) conflict with or result in a breach of the certificate of incorporation, articles or other organizational documents of Seller, (ii) violate any Law to which Seller is, or its respective assets or properties are, subject, or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel or require any notice under any Contract to which a Seller is a party or by which it is bound or to which any of the Assets is subject, except, in the case of either clause (ii) or (iii), for such conflicts, breaches, defaults, accelerations, rights or failures to give notice as (A) individually or in the aggregate, are not material or (B) would be discharged by the Sale Order. Subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, neither Seller is required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any Governmental Authority (x) in order for the Parties to consummate the transactions contemplated by this Agreement or any Ancillary Agreement, or (y) for the continuing validity and effectiveness immediately following the Closing of any Contract or Permit of Seller, except, in each case, where the failure to give notice, file or obtain such authorization, consent or approval would not, individually or in the aggregate, be material.

(d) Financial Statements. **Schedule 5.1(d)** sets forth true and complete copies of (i) the Seller's audited consolidated statements of income and cash flows for the year ended December 31, 2019 and unaudited consolidated statements of income and cash flows for the eleven (11) month period ended November 30, 2020 (the "**Income Statement Financials**"), (ii) the Seller's audited consolidated balance sheet as of December 31, 2019 and (iii) the unaudited consolidated balance sheet of Seller, as well as separate balance sheets for each of the three (3) business segments of the Seller, in each case, as of the period ended November 30, 2019 and the period ended November 30, 2020 (such date, the "**Balance Sheet Date**") (such balance sheets in clauses (ii) and (iii), the "**Balance Sheet Financials**") (the Income Statement Financials and Balance Sheet Financials, including the notes thereto, are collectively referred to as the "**Financial Statements**"). The Financial Statements (x) were prepared from the books and records of Seller in accordance with GAAP, unless otherwise noted therein and (y) present fairly in all material respects the financial position of Seller as of the date thereof and the results of their operations for the periods then ended (except with respect to the Balance Sheet Financials, subject to normal year-end adjustments and any other adjustments expressly described therein or in the Schedules).

(e) Absence of Changes. Except as reflected in the Balance Sheet Financials or **Schedule 5.1(e),** since November 30, 2020, other than in compliance with and as a result of

COVID-19 Measures or pursuant to a COVID-19 Response or in connection with the CCAA, Seller have operated in the ordinary course of business in all material respects and, since November 30, 2020, Seller have not:

(i) suffered any Material Adverse Change;

(ii) other than in the ordinary course of business consistent with past practices, permitted or allowed any of its properties or assets to be mortgaged, pledged or subject to any Encumbrance, except for Permitted Encumbrances;

(iii) entered into any Material Contract (other than renewals or amendments of Material Contracts in the ordinary course of business consistent with past practices);

(iv) caused or experienced the acceleration, termination, modification, or cancellation of any Material Contract, or received written notice, or to the Knowledge of the Seller, received any oral notice that any other Person intends to accelerate, terminate, modify or cancel any Material Contract;

(v) made or committed to make any capital expenditure (or series of related capital expenditures) for additions to property or equipment except for expenditures made in the ordinary course of business and involving no more than $100,000;

(vi) other than in the ordinary course of business consistent with past practices (i) incurred any indebtedness for borrowed money in excess of $100,000, or (ii) assumed or guaranteed any indebtedness or other obligation of any third party;

(vii) granted any increase in compensation of employees, officers, directors, agents, contractors or consultants (including, without limitation, any increase pursuant to any bonus, pension, profit-sharing, retirement or other plan or commitment), or any increase in any such compensation payable or to become payable to any officer, employee, director, agent, contractor or consultant, except for in the ordinary course of business consistent with past practice;

(viii) made any material change in the accounting methods used by Seller;

(ix) instituted any employee welfare, equity compensation plan, profit-sharing, retirement or similar plan or arrangement with, any of the officers, directors, managers or employees of Seller; or

(x) entered into any Contract, or authorized any of its officers, employees, agents, contractors or consultants, to take any of the actions referred to in clauses (i) through (xi).

(f) Customers, Supplier and Vendors. **Schedule 5.1(f)** sets forth a list of all customers, suppliers and vendors of Seller to which Seller have received or made payments aggregating $100,000 or more for the fiscal year ended December 31, 2019 or which Seller expect to be paid or made for the fiscal year ending December 31, 2020. **Schedule 5.1(f)** shows, with respect to each, the name and dollar volume involved.

(g) Accounts Receivable. All accounts receivable set forth on the books and records of Seller have arisen from bona fide transactions entered into by Seller related to the sale of goods or rendering of services incurred in the ordinary course of business.

(h) Intellectual Property. **Schedule 5.1(h)** contains a list of all registered and other material Intellectual Property that is owned by Seller in any jurisdiction in the world (the "**Company Intellectual Property**") as of the Effective Date, other than "off-the-shelf" software products. Except as set forth on **Schedule 5.1(h),** there are no registered patents, copyrights or trademarks (whether state or federal) associated with the Business and neither Seller has any pending application for registration of any patents, copyrights or trademarks (whether state or federal). **Schedule 5.1(h)** lists all domain name registrations of Seller. The Company Intellectual Property is exclusively owned by Seller, free and clear of all joint ownership, assignments, licenses, sublicenses, liens, security interests and Encumbrances, except for any rights of the Affiliates of the Seller in respect of the Company Intellectual Property. Neither Seller has granted, or is obligated to grant, any license or other permission to any Person with respect to any Company Intellectual Property other than to the extent specified on **Schedule 5.1(h)**. Neither Seller has received written notice asserting that any infringement or misappropriation has occured regarding any Company Intellectual Property.

(i) Title to Assets.

(i) Seller own and have good and valid title to, or lease and have a valid leasehold interest in, the Assets, which, subject to obtaining the Sale Order, may be sold free and clear of any Encumbrance (except for Permitted Encumbrances) to the Buyer. Except as set forth on **Schedule 5.1(i),** the Assets constitute all of the assets and properties used to conduct the Business in the manner in which and to the extent to which such business was conducted during the periods reflected in the Financial Statements and is currently being conducted. The items of equipment and other tangible assets owned by or leased to Seller is in good operating condition and repair (ordinary wear and tear excepted).

(j) Contracts.

(i) **Schedule 5.1(j)** lists each of the following Contracts (i) by which any of the Assets are bound or affected or (ii) to which either Seller is a party or by which either Seller is bound in connection with the Business or the Assets (collectively, the "**Material Contracts**"):

(A) any guaranty or suretyship, indemnification or contribution agreement (in each case of a Person not Seller), power of attorney, joint venture, partnership or profit-sharing agreement, or letter of credit, pledge, bond or similar arrangement given by or running to the account of Seller;

(B) any Contract obligating any Seller: (1) to refrain from competing with any business, (2) to refrain from conducting business in any particular jurisdiction or (3) that otherwise restrains or prevents either Seller from carrying on any lawful business;

(C) any Contract relating to indebtedness for borrowed money;

(D) any Contract to purchase or sell real property;

(E) any Contract with customers, suppliers or vendors for which Seller received or paid $100,000 or more during the most recent twelve (12) month period;

(F) all Contracts that provide for the assumption of any Tax, environmental or other Liability of any Person;

(G) all Contracts that relate to the acquisition or disposition of any business, a material amount of stock or assets of any other Person or any real property (whether by merger, sale of stock, sale of assets or otherwise);

(H) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting and advertising Contracts;

(I) all employment agreements and Contracts with independent contractors or consultants (or similar arrangements) and which are not cancellable without material penalty or without more than ninety (90) days' notice;

(J) all Contracts with any Governmental Authority;

(K) all Contracts for the sale of any of the Assets or for the grant to any Person of any option, right of first refusal or preferential or similar right to purchase any of the Assets;

(L) all collective bargaining agreements or Contracts with any union; and

(M) all other Contracts that are material to the Assets or the operation of the Business and not previously disclosed pursuant to this Section 5.1(j).

(ii) Each Material Contract is valid and binding on the applicable Seller in accordance with its terms and is in full force and effect. No Seller, or to Seller's Knowledge, any other party thereto is in material breach of or default under (or is alleged to be in breach of or default under) nor has either Seller or any other party provided or received, any written notice of any intention to terminate or materially modify any Material Contract. To the Seller's Knowledge, no event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder.

(k) Legal Proceedings. Except as set forth in **Schedule 5.1(k),** there are no legal proceedings pending, or to the Knowledge of the Seller, threatened against Seller. There are no legal proceedings threatened by either Seller. Neither Seller is subject to any judgment, decree, injunction or order of any Governmental Authority.

(l) Permits; Compliance with Laws. Seller hold the Permits necessary to enable it to conduct its business in the manner in which such business is currently being conducted and to perform all of its obligations under the Contracts to which it is a party, except where the failure to do so would not have a Material Adverse Effect. Neither Seller has received any written communication from any Governmental Authority (i) asserting any violation of or failure to comply with any Law of any Permit or (ii) notifying such Person of the revocation or withdrawal of any Permit. Seller have complied with, and are not in violation of, any applicable Laws, except where the failure to comply would not have a Material Adverse Effect.

(m) Tax Matters.

(i) All Tax Returns required to be filed with any Governmental Authority by Seller have been properly and timely filed on or prior to the applicable due date (including applicable extensions) for such Tax Returns. Except as set forth in **Schedule 5.1(m),** Seller have not requested any extension of time within which to file any Tax Return, which Tax Return has not yet been filed. All Tax Returns filed by or on behalf of Seller accurately and fairly reflect the Taxes to which such Tax Returns relate of such Person for the periods covered thereby. Seller have timely paid all applicable Taxes shown as owing on such Tax Returns.

(ii) Except as set forth on **Schedule 5.1(m),** neither Seller has received written notice from a Governmental Authority in a jurisdiction where Seller do not file Tax Returns that either Seller is or may be subject to taxation by such jurisdiction.

(iii) Except as set forth in **Schedule 5.1(m),** there is no Tax deficiency or delinquency asserted in writing or, to the Knowledge of the Seller, threatened in writing against Seller and no audit, action or similar legal proceeding relating to such tax matters is pending or, to the Knowledge of the Seller, threatened in writing by any Governmental Authority against either Seller. No adjustment relating to any Tax Return of Seller has been proposed in writing by any Governmental Authority. Seller have not granted any extension to any Governmental Authority of the limitations period during which any Tax liability may be assessed or collected.

(iv) Seller have withheld and paid over to the appropriate Governmental Authority all Taxes required to have been withheld and paid in connection with the amounts paid to any employee, independent contractor, creditor, owner, or other third party.

(v) The Financial Statements reflect all Taxes owed or paid by Seller and an adequate reserve for all unpaid Taxes of Seller through the date of the Balance Sheet Financials, and such reserve, as adjusted for the passage of time through the Closing Date, is adequate for all Taxes payable by Seller for the taxable periods and portions ending on the Closing Date. Since the date of the Balance Sheet Financials, neither Seller has incurred any liability for Taxes arising from extraordinary gains or losses that are outside the ordinary course of business.

(n) Employee Benefit Matters. Set forth in **Schedule 5.1(n)** is a list identifying each material "employee benefit plan," as defined in Section 3(3) of ERISA, each material employment, severance or similar contract, plan, arrangement or policy and each other material plan or arrangement (written or oral) providing for compensation, bonuses, profit-sharing, equity-based compensation or other forms of incentive or deferred compensation, vacation benefits, health and welfare benefits, severance or post-employment or retirement benefits, in each case which is sponsored, maintained, administered or contributed to by Seller and which covers any current or former director, manager, officer or employee of Seller, or with respect to which Seller have any liability or obligation. Each such plan, contract, arrangement or policy is referred to herein as an "**Employee Plan**." There is no action, suit, investigation, audit or proceeding pending against or involving or, to the Knowledge of Seller, threatened against any Employee Plan before any Governmental Authority (other than routine benefit claims made in the ordinary course under an Employee Plan). Each Employee Plan has been maintained, registered (if required), funded, operated and administered in compliance in all material respects, with its terms and applicable Laws.

(o) Employee Matters. Except as set forth on **Schedule 5.1(o),** neither Seller is a party to or bound by any collective bargaining agreement, labor contract, letter of understanding, letter of intent, voluntary recognition agreement, legally binding commitment to any labor or trade union or bargaining relationship covering the employees of Seller (collectively, the "**Employees**"). **Schedule 5.1(o)** sets forth with respect to each Employee, as of the date hereof: such Employee's full name (other than in respect of Canadian Employees), title or position, employment classification (exempt or non-exempt), work location and wages, benefits to which entitled. Seller have been in material compliance with all applicable Laws relating to compensation, human rights, accessibility, labor relations, occupational health and safety, employment equity, pay equity and workers' minimum wage and overtime compensation, human rights, accessibility, labor relations, employment equity and workers' compensation. Seller have been in material compliance with all applicable Laws relating to occupational safety and health, including without limitation, the Ontario Occupational Health and Safety Act, and any applicable state or foreign occupational safety and health Law.

(p) Environmental Matters. The operations of Seller with respect to the Business and the Assets are currently in compliance in all material respects with all Environmental Laws. Neither Seller has received from any Person, with respect to the Business or Assets, any: (i) Environmental Notice or (ii) written request for information pursuant to any Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date. Seller have obtained and are in material compliance with the Environmental Permits (each of which is disclosed in **Schedule 5.1(p)**) used to conduct the Business as currently conducted. All such Environmental Permits are in full force and effect except where the failure for any such Environmental Permit to be in full force and effect shall not have a Material Adverse Effect. There has been no release of Hazardous Materials in contravention of Environmental Law by Seller with respect to the Assets or at any real property currently owned, leased or operated by Seller in connection with the Business. **Schedule 5.1(p)** sets forth any and all environmental reports, studies, audits, records, sampling data, site assessments, risk assessments, economic models and other similar documents with respect to the Business or the Assets or any real property currently or formerly owned, leased or operated by Seller in connection with the Business or Assets which are in the possession or control of Seller related to compliance with Environmental Laws, Environmental Claims or an Environmental Notice or the release of Hazardous Materials.

(q) Insurance. **Schedule 5.1(q)** sets forth a list of all policies of insurance for Seller (other than those underlying the Employee Plans). All such policies are in full force and effect. No notice of cancellation, refusal of coverage, any notice that a defense will be afforded with reservation of rights, or non-renewal with respect to any insurance policy has been received in writing by either Seller.

(r) Leased Real Property. **Schedule 5.1(r)** sets forth the address of each leased real property (together, the "**Leased Real Property**") and a true and complete list of all leases for such Leased Real Property (the "**Leases**"). Seller have made available to Buyer true and complete copy of each such Lease, as amended through the date hereof. With respect to each of the Leases:

(i) such Lease is legal, valid, binding, enforceable and in full force and effect and the applicable Seller has a valid and enforceable leasehold interest under each of the Leases and is entitled to the full benefit and advantage of each Lease in accordance with its terms subject, in each case, to proper authorization and execution of such Lease by the other party thereto; and

(ii) Other than arising as result of the commencement of the Canadian Proceeding, the applicable Seller is not in breach or default under such Lease and, to the Knowledge of the Seller, no event has occurred or circumstance exists which, with the delivery of notice, the passage of time or both, would constitute such a breach or default, and, to the Knowledge of Seller, no other party is in default thereof, and no party to any of the Leases has exercised any termination rights with respect thereto.

(s) Broker's Fees. Except as set forth on **Schedule 5.1(s)**, neither Seller has entered into any Contract to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Buyer could become liable or obligated to pay.

(t) No Other Representations or Warranties; Disclosure Schedules. Except for the representations and warranties contained in this Article V (as qualified, amended, supplemented and modified by the Disclosure Schedules), neither Seller nor any other Person make (and Buyer is not relying upon) any other express or implied representation or warranty with respect to Seller, the Business, the Assets (including the value, condition or use of any Asset), the Assumed Liabilities or the transactions contemplated by this Agreement, and Seller disclaim any other representations or warranties, whether made by Seller, any Affiliate of Seller or any of their respective officers, directors, employees, agents or Representatives. The disclosure of any matter or item in the Disclosure Schedules shall not be deemed to constitute an acknowledgment that any such matter is required to be disclosed or is material or that such matter would result in a Material Adverse Effect.

(u) Sale "As Is, Where is". Buyer acknowledges and agrees that upon Closing, Seller shall sell and convey to Buyer and Buyer shall accept the Assets "**AS IS, WHERE IS, WITH ALL FAULTS**" except to the extent expressly provided otherwise in this Agreement. Except as expressly set forth in this Agreement, Buyer has not relied and will not rely on, and Seller have not made and are not liable for or bound by, any express or implied warranties, guarantees, statements, representations or information pertaining to the Assets or relating thereto made or furnished by Seller or third party representing or purporting to represent Seller, to whomever made or given, directly or indirectly, orally or in writing. The Parties agree that all understandings and agreements heretofore made between them or their respective agents or representatives are merged in this Agreement, which alone fully and completely expresses their agreement, and that this Agreement has been entered into after full investigation, or with the Parties satisfied with the opportunity afforded for full investigation, neither party relying upon any statement or representation by the other unless such statement or representation is specifically embodied in this Agreement, and then, subject to the limitations in this Agreement applicable thereto.

(v) Buyer's Investigation. Buyer represents that it is a knowledgeable, experienced and sophisticated buyer of the Assets and that, it is relying solely on its own expertise and that of Buyer's consultants in purchasing the Assets and shall make an independent verification of the accuracy of any documents and information provided by Seller, including any information relating to the Assets. Buyer will conduct such inspections and investigations of the Assets as Buyer deems necessary. Buyer acknowledges that Seller have afforded Buyer a full opportunity to conduct such investigations of the Assets as Buyer deemed necessary to satisfy itself as to such requirements and conditions and the condition of the Assets, and, Buyer will rely solely upon same and not upon any information provided by or on behalf of Seller with respect thereto, other than such representations, warranties and covenants of Seller as are expressly set forth in this Agreement (and then, subject to the limitation in this Agreement applicable thereto).

(w) Survival of Seller's Representations and Warranties. Except as otherwise expressly provided in this Agreement, all of the representations and warranties of Seller contained in this Agreement, or in any schedules, exhibits or any other ancillary agreement delivered pursuant hereto shall terminate upon the Closing and be of no further force or effect thereafter. Notwithstanding anything to the contrary herein, the remedies of Buyer with respect to any breach of any Seller's representation, warranty or covenant contained in this Agreement prior to Closing shall be limited to Buyer's rights under Article IX.

5.2 Buyer's Representations and Warranties. To induce Seller to enter into this Agreement, Buyer hereby represents and warrants to Seller as of the date of this Agreement and the Closing Date, as follows:

(a) Organization. Buyer is validly existing and in good standing under the laws of the province of British Columbia. Buyer has the necessary power and authority to conduct business in the manner in which its business is currently being conducted.

(b) Authority. Buyer has the power and authority to enter into and to perform its obligations under this Agreement and each of the agreements, certificates and documents required to be delivered by Buyer pursuant to the terms of this Agreement (the "**Buyer Ancillary Agreements**", and together with the Seller Ancillary Agreements, the "**Ancillary Agreements**"). The execution, delivery and performance of this Agreement and the Buyer Ancillary Agreements, and the consummation of the transactions contemplated by this Agreement and the Buyer Ancillary Agreements, have been duly authorized and approved by all necessary action on the part of Buyer. This Agreement and each of the Buyer Ancillary Agreements constitute the legal, valid and binding obligations of Buyer, enforceable against Buyer in accordance with their terms.

(c) Non-Contravention; Required Consents. Neither the execution and delivery of this Agreement or any Ancillary Agreement to be executed and delivered by Seller, nor the consummation of the transactions contemplated hereby and thereby, will, subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, (i) conflict with or result in a breach of the certificate of incorporation, by-laws or other organizational documents of Buyer, (ii) violate any Law to which Buyer is, or its respective assets or properties are, subject, or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel or require any notice under any Contract to which Buyer is a party or by which it is bound or to which any of the Assets is subject, except, in the case of either clause (ii) or (iii), for such conflicts, breaches, defaults, accelerations, rights or failures to give notice as (A) individually or in the aggregate, are not material or (B) would be discharged by the Sale Order. Subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, Buyer is not required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any Governmental Authority in order for the Parties to consummate the transactions contemplated by this Agreement or any Ancillary Agreement, except where the failure to give notice, file or obtain such authorization, consent or approval would not, individually or in the aggregate, be material.

(d) Broker's Fees. Buyer has not entered into any Contract to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Seller could become liable or obligated to pay.

(e) Sufficient Funds; Adequate Assurances. Buyer has, and upon the Closing Buyer will have, immediately available funds sufficient for the satisfaction of all of Buyer's obligations under this Agreement, including the payment of the Closing Cash Payment and all fees, expenses of, and other amounts required to be paid by, Buyer in connection with the transactions contemplated hereby.

ARTICLE VI
INTERIM OPERATIONS AND COVENANTS

6.1 Conduct of Business Pending Closing. From the Effective Date until the Closing Date, Seller shall, except (i) as provided in this Agreement, (ii) as required by Law (including any COVID-19 Measures), (iii) pursuant to any COVID-19 Response, (iv) as required by the terms of any Contract to which either Seller is party, (v) in compliance with the CCAA or (vi) as consented to by Buyer in writing (which consent may not be unreasonably withheld, conditioned or delayed):

(a) continue to operate the Business of the Facility in a manner substantially similar to the manner in which Seller operate the Business of the Facility as of the Effective Date;

(b) maintain the Assets substantially in their present condition (ordinary wear and tear and casualty excepted) and conduct its business in the ordinary and usual manner consistent with its current operations;

(c) maintain the Permits and in the ordinary and usual manner consistent with its current operations;

(d) maintain in full force and effect substantially the same liability and casualty insurance coverage that Seller now maintain in effect with respect to the Business of the Facility and its operations thereof;

(e) until the Closing Date, (i) continue to employ all the Employees, subject to Seller's existing employment practices and (ii) notify Buyer promptly (and in any event within three (3) Business Days) of the termination of employment of any Employee for cause or the replacement or hiring of any new Employee or otherwise for the Business of the Facility (and the terms of employment of such replacement or new Employee); and

(f) continue to perform in all material respects all obligations of Seller under all Contracts.

6.2 Prohibited Actions Pending Closing. Other than as set forth in Section 6.3, mandated by the Canadian Court or approved by Buyer in writing, from the Effective Date until the Closing Date, Seller shall not:

(a) enter into or agree to enter into any merger or consolidation with, any corporation or other entity, and not engage in any new business or invest in, make a loan, advance or capital contribution to, or otherwise acquire the securities of any other Person;

(b) sell or otherwise dispose of, or agree to sell or dispose of any of the Assets, except in the ordinary course of business as permitted by this Agreement;

(c) enter into, modify or terminate any labor or collective bargaining agreement or, through negotiation or otherwise, make any commitment or incur any liability to any labor organization;

(d) terminate, amend, restate, supplement or waive any rights under any (A) Material Contract or Lease or (B) Permit;

(e) make any loan or advance to any Person;

(f) make or rescind any election relating to Taxes, settle or compromise any claim, action, suit, litigation, proceeding, arbitration, investigation, audit or controversy relating to Taxes, or except as may be required by applicable Law or Applicable Accounting Principles, make any material change to any of its methods of accounting or methods of reporting income or deductions for Tax or accounting practice or policy from those employed in the preparation of its most recent Tax Returns;

(g) (A) other than the Seller's Key Employee Incentive Plan and Key Employee Retention Plan, grant any unusual or extraordinary material bonus, benefit or other direct or indirect compensation to any Employee, director or consultant or (B) materially increase the coverage or benefits available under any (or create any new) severance pay, termination pay, vacation pay, company awards, salary continuation for disability, sick leave, deferred compensation, bonus or other incentive compensation, insurance, pension or other employee benefit plan or arrangement made to, for, or with any of the directors, officers, employees, agents or representatives of Seller;

(h) except for any Liens granted by the Canadian Court, subject to any Lien or otherwise encumber or permit, allow or suffer to be encumbered, any of the Assets; and

(i) take any action prior to the Closing Date that would breach any of the representations and warranties contained in this Agreement.

6.3 **Notices**. Subject to, in the case of Seller, the CCAA and the orders of the Canadian Court, each of the Parties will give any notices to, make any filings with, and use its reasonable best efforts to obtain any authorizations, consents, and approvals of Governmental Authorities in connection with the matters referred to in **Schedule 6.3** or as are otherwise necessary to consummate the transactions contemplated hereby. Subject to the terms and conditions set forth in this Agreement and applicable Law, Buyer and Seller shall, with respect to this Agreement and the transactions contemplated by this Agreement, (A) promptly notify the other Party of any communication to that Party from any Governmental Authority in respect of any filing, investigation or inquiry concerning this Agreement or the transactions contemplated by this Agreement, (B) if practicable, permit the other Party the opportunity to review in advance all the information relating to Seller and its respective Affiliates or Buyer and its respective Affiliates, as the case may be, that appears in any filing made with, or written materials submitted to, any third party and/or any Governmental Authority in connection with the Agreement and the transactions contemplated by this Agreement and incorporate the other Party's reasonable comments, (C) not participate in any substantive meeting or discussion with any Governmental Authority in respect of any filing, investigation, or inquiry concerning this Agreement and the transactions contemplated by this Agreement unless it consults with the other Party in advance, and, to the extent permitted by such Governmental Authority, gives the other Party the opportunity to attend, and (D) furnish the other Party with copies of all correspondences, filings, and written communications between them and their Affiliates and Representatives, on the one hand, and any Governmental Authority or its respective staff, on the other hand; provided, however, that any materials provided under this Section 6.3 may be redacted before being provided to the other Party (i) to remove references concerning the valuation of Buyer, Seller, or any of their Affiliates, (ii) financing arrangements, (iii) as necessary to comply with contractual arrangements, and (iv) as necessary to address reasonable privilege or confidentiality issues.

6.4 **Canadian Court Approval**.

(a) Seller and Buyer each acknowledge that this Agreement and the sale of the Assets to Buyer and the assumption of the Assumed Liabilities by Buyer are subject to Canadian Court approval pursuant to the Sale Order.

(b) Each of Seller and Buyer agree to take any action reasonably necessary or appropriate to obtain the issuance and entry of the Sale Order, including furnishing affidavits, declarations or other documents or information for filing with the Canadian Court.

6.5 Cooperation.

(a) To the extent that the assignment to Buyer of any Assigned Contract or Assigned Lease pursuant to this Agreement is not permitted without the consent of a third party and such restriction cannot be effectively overridden or canceled by the Sale Order or other related order of the Canadian Court, then this Agreement will not be deemed to constitute an assignment of or an undertaking or attempt to assign such Contract or any right or interest therein unless and until such consent is obtained; provided, however, that the Parties will use their commercially reasonable efforts, before the Closing, to obtain all such consents; provided, further, that if any such consents are not obtained prior to the Closing Date, Seller and Buyer will reasonably cooperate with each other in any lawful and feasible arrangement designed to provide Buyer with the benefits and obligations of any such Contract and Buyer shall be responsible for performing all obligations under such Contract required to be performed by Seller on or after the Closing Date to the extent set forth in this Agreement.

6.6 Employees. Within at least five (5) Business Days prior to the Closing, Buyer shall provide a list of the Employees it intends to make offers of employment to (the "**Buyer Selected Employees**") provided that Buyer agrees that it shall hire a minimum of eighty percent (80%) of the Employees employed in connection with the Business of the Facility. The provisions of this Section 6.6 are solely for the benefit of the Parties, and no current or former employee, director, independent contractor or consultant of Seller, Buyer or any other Person associated therewith shall be regarded as a third party beneficiary of this Section 6.6. No provision of this Agreement shall be construed as amending any Employee Plan.

6.7 Confidentiality. Subject to Section 6.4 and the requirements of the CCAA and the Canadian Court, and except as may otherwise be provided for in this Agreement, the terms of the Confidentiality Agreement are hereby incorporated by reference and shall continue in full force and effect from the date hereof until the Closing with respect to information pertaining to the Business, in accordance with the terms thereof, such that the information obtained by Buyer or its Representatives during any investigation conducted as provided for in this Agreement in connection with the negotiation execution and performance of this Agreement or the consummation of the transactions contemplated hereby or otherwise, shall be governed by the Confidentiality Agreement; provided however, in the event of the termination of this Agreement, the terms of the Confidentiality Agreement shall survive for the term as provided therein.

6.8 Press Releases. Other than statements made in the Canadian Court (or in pleadings and motions filed therein), prior to the Closing and following the Closing Date, no Party shall issue any press release or make any public announcement relating to the existence or subject matter of this Agreement without the prior written approval of the other Party, which shall not be unreasonably withheld or delayed; provided, however, that any Party may make (and permit the making of) any public disclosure that it believes in good faith is required by applicable Law (in which case the disclosing Party will use its reasonable best efforts to advise the other Parties prior to making the disclosure).

6.9 **Access**. Upon reasonable advance written request by Buyer, Seller will permit Buyer and its Representatives to have reasonable access during normal business hours, and in a manner so as not to interfere unreasonably with the normal business operations of Seller to all premises, properties, personnel, Records and Contracts related to the Business, in each case, for the sole purpose of evaluating the Business; provided, however, that, for avoidance of doubt, the foregoing shall not require any Party to waive, or take any action with the effect of waiving, its attorney client privilege or take any action in violation of applicable Law.

6.10 **Litigation Support**. From and after the Closing, in the event and for so long as any Party actively is contesting or defending against any litigation commenced by any Person that is not a Party with respect to (i) any transaction contemplated by this Agreement or any other Ancillary Agreement or (ii) any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act or transaction on or prior to the Closing Date involving the Business of the Facility, each other Party will cooperate with the contesting or defending Party and/or the Monitor and their counsel in the contest or defense, make available its personnel on a reasonable basis and provide such testimony and access to its books and records as shall be reasonably necessary in connection with the contest or defense, all at the sole cost and expense of the contesting or defending Party and/or the Monitor; provided, however, that, for avoidance of doubt, the foregoing shall not require any Party to waive, or take any action with the effect of waiving, its solicitor-client privilege with respect thereto. As a condition to providing the cooperation required pursuant to this Section 6.10, the Party to provide such cooperation or assistance may require the Party receiving such cooperation or assistance to enter into a non-disclosure agreement reasonably satisfactory in form and substance to the providing Party.

6.11 **Amendments to Disclosure Schedules**. The Parties agrees that, with respect to the representations and warranties of Seller contained in this Agreement, Seller shall have the continuing right until the Closing to add, supplement or amend the Disclosure Schedules with respect to any matter hereafter arising or discovered which, if existing or known at the Effective Date or thereafter, would have been required to be set forth or described in such Disclosure Schedules (together, the "**Schedule Amendments**"). For purposes of determining whether the conditions set forth in Article VII have been fulfilled, the Disclosure Schedules shall be deemed to include the Schedule Amendments; provided that, if such Schedule Amendment results in reduction in the value of the Assets in a material respect, Buyer shall have the right to terminate the Agreement as provided under Section 9.1(b)(i).

ARTICLE VII
CONDITIONS PRECEDENT

7.1 **Mutual Conditions to Closing**. Subject to Section 7.4, the Parties' obligation to consummate the transactions contemplated hereby in connection with the Closing is subject to satisfaction or waiver of the following conditions:

(a) no Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Law or decree that is in effect and that has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing; and

(b) the Canadian Court shall have entered the Sale Order and such order shall not be subject to a stay pending appeal.

7.2 Conditions Precedent to Buyer's Obligations. Subject to Section 7.4, the obligation of Buyer under this Agreement to Close is subject to the fulfillment or satisfaction, prior to or at the Closing, of each of the following conditions precedent (any of which may be waived in writing in whole or in part by Buyer in its sole discretion):

(a) Seller's representations and warranties contained in this Agreement shall be true as of the Effective Date and on the Closing Date in all material respects (other than representations and warranties that by their terms address matters only as of another specified date, which shall be so true only as of such other specified date);

(b) Seller shall have performed and complied in all material respects with all agreements and conditions contained in this Agreement that are required to be performed or complied with by it prior to or at the Closing;

(c) Buyer shall have received all of Seller's deliveries described in Section 4.2(a); and

(d) Since the Effective Date, there has been no Material Adverse Change.

7.3 Conditions Precedent to Seller's Obligations. Subject to Section 7.4, the obligation of Seller under this Agreement to Close is subject to the fulfillment or satisfaction, prior to or at the Closing, of each of the following conditions precedent (any of which may be waived in writing in whole or in part by Seller in their sole discretion):

(a) Buyer's representations and warranties contained in this Agreement shall be true as of the Effective Date and on the Closing Date in all material respects (other than representations and warranties that by their terms address matters only as of another specified date, which shall be so true only as of such other specified date);

(b) Buyer shall have performed and complied in all material respects with all agreements and conditions contained in this Agreement that are required to be performed or complied with by it prior to or at the Closing;

(c) Seller shall have obtained entry of the Sale Order in the form reasonably acceptable to Buyer; and

(d) Seller shall have received all of Buyer's deliveries described in Section 4.2(b).

7.4 No Frustration of Closing Conditions. Neither Buyer nor Seller may rely on the failure of any condition to its obligation to consummate the transactions contemplated hereby set forth in Sections 7.1, 7.2 or 7.3, as the case may be, to be satisfied if such failure was caused by such Party's failure to use its reasonable best efforts or commercially reasonable efforts, as applicable, with respect to those matters contemplated by the applicable Sections of this Agreement to satisfy the conditions to the consummation of the transactions contemplated hereby or other breach of a representation, warranty or covenant hereunder.

ARTICLE VIII
[RESERVED]

ARTICLE IX
TERMINATION; DEFAULT

9.1 Termination of Agreement. This Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Closing upon the occurrence of any of the following events, subject in all cases, to any conditions set forth in this Article IX:

(a) by Buyer or Seller, by written notice of either to the other Party:

(i) if the Closing shall not have occurred by the close of business on May 31, 2021 ("**End Date**"); provided however, that if the Closing shall not have occurred on or before the End Date due to a material breach of any representations, warranties, covenants or agreements contained in this Agreement by Buyer or Seller, then the breaching party may not terminate this Agreement pursuant to this Section 9.1(a)(i);

(ii) if there shall be in effect a final non-appealable decree of a Governmental Entity of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby; it being agreed that the parties hereto shall promptly appeal any adverse determination which is not non-appealable (and pursue such appeal with reasonable diligence); provided that, a Party may not terminate this Agreement pursuant to this Section 9.1(a)(ii) if such Party is in material breach of its representations, warranties, covenants or agreements contained herein;

(iii) if the Canadian Proceeding are, without Seller's consent, terminated and discharged and converted into a proceeding under the *Bankruptcy and Insolvency Act* (Canada) such that a trustee-in-bankruptcy is appointed in respect of the Seller; or

(iv) by mutual written consent of Seller and Buyer.

(b) by Buyer, by written notice to Seller:

(i) if any of the conditions to the obligations of Buyer set forth in Sections 7.1 or 7.2 shall have become incapable of fulfillment other than as a result of a breach by Buyer of any covenant or agreement contained in this Agreement, and such condition is not waived by Buyer;

(ii) if there shall be a material breach by Seller of any representation or warranty, or any covenant or agreement contained in this Agreement which would result in a failure of a condition set forth in Sections 7.1 or 7.2 and which breach cannot be cured or, if capable of cure, has not been cured by the earlier of (i) three (3) Business Days after the giving of written notice by Buyer to Seller of such breach and (ii) the End Date, so long as Buyer is not in material breach of its obligations under this Agreement.

(c) by Seller, by written notice to Buyer:

(i) if any condition to the obligations of Seller set forth in Sections 7.1 or 7.3 shall have become incapable of fulfillment other than as a result of a breach by Seller of any covenant or agreement contained in this Agreement, and such condition is not waived by Seller;

(ii) if there shall be a material breach by Buyer of any representation or warranty, or any covenant or agreement contained in this Agreement which would result in a failure of a condition set forth in Section 7.1 or 7.3 and which breach cannot be cured or has not been cured by the earlier of (i) three (3) Business Days after the giving of written notice by Seller to Buyer of such breach and (ii) the End Date, so long as Seller is not in material breach of their obligations under this Agreement; or

(iii) if Buyer fails to consummate the transactions contemplated hereby, including payment of the Purchase Price, as and when required by Articles III and IV.

9.2 Procedure Upon Termination. In the event of termination and abandonment by Buyer, on the one hand, or Seller, on the other hand, or both, pursuant to Section 9.1, written notice thereof shall forthwith be given to the other Party or Parties, and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned, without further action by Buyer or Seller.

9.3 Effect of Termination.

(a) If any Party terminates this Agreement pursuant to Section 9.1, then all rights and obligations of the Parties hereunder shall terminate upon such termination and shall become null and void (except that Article I (Definitions), Article X (Miscellaneous), and this Article IX (Termination) shall survive any such termination) and no Party shall have any Liability or obligation to any other Party hereunder except as set forth in Sections 9.3(b) and 9.3(c) below. Upon any termination of this Agreement (other than pursuant to Sections 9.1(c)(i) through 9.1(c)(iii)), Seller shall instruct the Monitor within two (2) Business Days of receipt of Buyer's notice of termination, to release the Deposit together with all accrued investment income or interest thereon to Buyer. If this Agreement is terminated pursuant to Sections 9.1(c)(i) through 9.1(c)(iii)), then the Deposit, together with all accrued investment income or interest thereon, shall be delivered to Seller.

(b) The Confidentiality Agreement shall survive any termination of this Agreement and nothing in this Section 9.3 shall relieve Buyer or Seller of its respective obligations under the Confidentiality Agreement.

(c) Except as otherwise provided herein or in the case of fraud or willful misconduct, the Parties acknowledge and agree that, in the event the Closing does not occur, the remedies provided in this Article IX shall be the Parties' sole and exclusive remedies.

ARTICLE X
MISCELLANEOUS

10.1 Entire Agreement; Amendment. This Agreement constitutes the entire agreement among the Parties hereto pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the Parties, whether oral or written, including, but not limited to, the Letter of Intent, and there are no warranties, representations or other agreements among the Parties in connection with the subject matter hereof except as specifically set forth herein. No amendment, supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. No Party shall be deemed to have waived the exercise of any right which it holds under this Agreement unless such waiver is made expressly and in writing. No delay or omission by any Party in exercising any right shall be deemed a waiver of its future exercise. No waiver made as to any instance involving the exercise of any right shall be deemed a waiver as to any other instance, or any other right.

10.2 Applicable Law. This Agreement shall be given effect and construed by application of the laws of the Province of British Columbia without regard to conflicts of laws. Any action arising out of, in connection with, or relating to this Agreement shall be brought in the Canadian Court or, if the Canadian Proceeding has been terminated and/or discharged, the courts of the Province of British Columbia and all courts competent to hear appeals therefrom.

10.3 Notices. Any notice to be provided hereunder to a Party shall be in writing, and shall be deemed to have been provided the next Business Day after having been deposited with a national courier service, or on having been sent by immediate electronic communication, in each case if receipt is acknowledged or confirmed or delivery is first refused, to the persons and addresses set forth below, as such address may be changed from time to time by notice to the other Party. Any notice by one Party amending or terminating this Agreement shall include a notice to the Monitor.

To Seller:	Sun Rich Fresh Foods Inc 22151 Fraserwood Way Richmond, BC V6W1J5
with a copy to:	Foley & Lardner LLP 1000 Louisiana Street, Suite 2000 Houston, TX 77002 Attention: Eunice Song Email: esong@foley.com
with a copy to:	Stikeman Elliott LLP 1155 Rene-Levesque Blvd. West, 41st Floor Montreal, Quebec, H3B 3V2 Canada Attention: Joseph Reynaud

Email : jreynaud@stikeman.com

To Buyer:	Save-On-Foods Limited Partnership 19855 92A Avenue Langley, BC V1M 3B6 Attention: Michael Fong, VP Business Development Email: mike_fong@saveonfoods.com
with a copy to:	Save-On-Foods Limited Partnership Legal Department 19855 92A Avenue Langley, BC V1M 3B6 Email : legal@saveonfoods.com

Any notice by one Party amending or terminating this Agreement or alleging a default under this Agreement shall include a notice to the Monitor. Notice provided by legal counsel for a Party shall be effective as notice given by such Party.

10.4 **Construction**. All references made in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders; and in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well.

10.5 **Severability**. If any provision, clause or part of this Agreement, or the application thereof under certain circumstances, is held invalid or unenforceable by a final order of a court of competent jurisdiction, then the remainder of this Agreement, or the application of such provision, clause or part under other circumstances, shall not be affected thereby and the Parties hereto agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term.

10.6 **Time of Essence**. Time shall be of the essence of this Agreement.

10.7 **Counterparts; Headings**. This Agreement may be executed in several counterparts, each of which shall be deemed original, but such counterparts shall together constitute but one and the same agreement. The Table of Contents and Article and Section headings in this Agreement are inserted for convenience of reference only and shall not constitute a part hereof or be used as interpreting the meaning of this Agreement.

10.8 **Facsimile or Electronic Signatures**. The exchange of copies of this Agreement and of signature pages by facsimile or electronic transmission shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile or e-mail shall be deemed to be their original signatures for all purposes.

10.9 **(Intentionally Deleted)**.

10.10 **Assignment**. This Agreement and each Party's respective rights hereunder may not be assigned at any time without the prior written consent of the other Party hereto.

Notwithstanding the above, the Buyer may assign this Agreement and its respective rights hereunder to any Affiliate.

10.11 No Reliance. No third party, other than a successor by operation of law or an assignee permitted by this Agreement (and then, subject to the applicable limitations in this Agreement), is entitled to rely on any of the representations, warranties and agreements contained in this Agreement and no Party to this Agreement assumes any liability to any third party, other than an assignee permitted by this Agreement (and then, subject to the applicable limitations in this Agreement), because of any reliance on the representations, warranties and agreements contained in this Agreement.

10.12 Expenses. Except to the extent otherwise provided herein, each of the Parties hereto shall pay the fees and expenses of their respective counsel, consultants and other expenses incident to the negotiation and preparation of this Agreement and consummation of the transactions contemplated by this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, each Party has executed this Agreement by its duly authorized representatives, to be effective as of the Effective Date.

SELLER:

SUN RICH FRESH FOODS INC.

By: William T. Andersen

Name: William T. Andersen

Title: CEO

BUYER:

SAVE-ON-FOODS LIMITED PARTNERSHIP, by its general partner, Save-On-Foods Ltd.

By:____________________________

Name:____________________________

Title:____________________________

IN WITNESS WHEREOF, each Party has executed this Agreement by its duly authorized representatives, to be effective as of the Effective Date.

SELLER:

SUN RICH FRESH FOODS INC.

By:____________________________

Name:__________________________

Title:___________________________

BUYER:

SAVE-ON-FOODS LIMITED PARTNERSHIP, by its general partner, Save-On-Foods Ltd.

By: Mike Fong

Name: MICHAEL FONG

Title: VP BUSINESS DEVELOPMENT

113105545 v2

[*Schedules Not Included*]

<u>EXHIBIT A</u>

[Reserved]

<u>EXHIBIT B</u>

Form of Bill of Sale

(see attached)

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of [__], 2021 (the "Agreement"), is entered into by and between (i) Sun Rich Fresh Foods Inc., a British Columbia corporation (the "Seller"), and (ii) [**Save-On-Foods Limited Partnership or its nominee or assignee**] (the "Buyer").

Reference is made to that certain Asset Purchase Agreement, dated as of March [__], 2021 (the "Purchase Agreement"), by and between the Seller and the Buyer. Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Purchase Agreement.

W I T N E S S E T H:

WHEREAS, pursuant to the Purchase Agreement and the Sale Order, the Buyer has agreed to assume the Assumed Liabilities.

WHEREAS, the execution and delivery of this Assignment and Assumption Agreement by the Buyer and Seller is made pursuant to the Purchase Agreement and the Sale Order.

NOW, **THEREFORE**, in consideration of the above premises and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Assumption. On and subject to the terms of the Purchase Agreement and the Sale Order, the Buyer hereby assumes, accepts responsibility and liability for (as the foregoing concepts may be applicable) and agrees to pay, satisfy, perform, fulfill and discharge, when due in accordance with the terms thereof, the Assumed Liabilities.

Section 2. Assignment. The Seller hereby assigns and transfers to the Buyer the Assumed Liabilities.

Section 3. Excluded Liabilities. Notwithstanding anything to the contrary contained herein, in no event shall the Buyer assume any Excluded Liabilities.

Section 4. Further Assurances. Each of the Buyer and the Seller hereby agrees to take any and all additional actions and to execute, acknowledge and deliver any and all documents which any other party hereto may reasonably request in order to effect the intent and purposes of the transactions contemplated hereby.

Section 5. Amendment and Modification; Waiver. Subject to applicable law, this Agreement may only be amended, modified and supplemented by written instrument authorized and executed by the Buyer and the Seller any time with respect to any of the terms contained herein. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and executed by the party so waiving. The waiver by either party hereto of a breach of any provisions of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach.

Section 6. No Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the parties hereto and their respective successors and permitted assigns and nothing herein is intended or shall be construed to confer upon any person other than the parties hereto and their respective successors and permitted assigns any rights, remedies or claims under, or by any reason of, this Agreement or any term, covenant or condition hereof.

Section 7. Governing Law. This Agreement shall be given effect and construed by application of the laws of the Province of British Columbia without regard to conflicts of laws. Any action arising out of, in connection with, or relating to this Agreement shall be brought in the Canadian Court or, if the Canadian Proceeding has been terminated and/or discharged, the courts of the Province of British Columbia and all courts competent to hear appeals therefrom.

Section 8. Headings. The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

Section 9. Purchase Agreement. This Agreement is subject in all respects to the terms and conditions of the Purchase Agreement. To the extent of any conflict between the terms of the Purchase Agreement and this Agreement, the Purchase Agreement shall control. Nothing contained in this Agreement shall be deemed to supersede any of the covenants, agreements, representations or warranties of the applicable parties contained in the Purchase Agreement.

Section 10. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or other provisions of this Agreement in any other jurisdiction.

Section 11. Counterparts. This Agreement may be executed in two (2) or more counterparts (delivery of which may be by facsimile, or via email as a portable document format (.pdf)), each of which will be deemed an original, and it will not be necessary in making proof of this Agreement or the terms of this Agreement to produce or account for more than one (1) of such counterparts.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

SELLER

SUN RICH FRESH FOODS INC.

By: ________________________________
Name:
Title:

BUYER

[SAVE-ON-FOODS LIMITED PARTNERSHIP OR ITS ASSIGNEE OR NOMINEE]

By: ________________________________
Name:
Title:

<u>EXHIBIT C</u>

[Reserved]

EXHIBIT D

Form of Assignment and Assumption Agreement

(see attached)

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of [__], 2021 (the "Agreement"), is entered into by and between (i) Sun Rich Fresh Foods Inc., a British Columbia corporation (the "Seller"), and (ii) [**Save-On-Foods Limited Partnership or its nominee or assignee**] (the "Buyer").

Reference is made to that certain Asset Purchase Agreement, dated as of March [__], 2021 (the "Purchase Agreement"), by and between the Seller and the Buyer. Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Purchase Agreement.

W I T N E S S E T H:

WHEREAS, pursuant to the Purchase Agreement and the Sale Order, the Buyer has agreed to assume the Assumed Liabilities.

WHEREAS, the execution and delivery of this Assignment and Assumption Agreement by the Buyer and Seller is made pursuant to the Purchase Agreement and the Sale Order.

NOW, **THEREFORE**, in consideration of the above premises and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Assumption. On and subject to the terms of the Purchase Agreement and the Sale Order, the Buyer hereby assumes, accepts responsibility and liability for (as the foregoing concepts may be applicable) and agrees to pay, satisfy, perform, fulfill and discharge, when due in accordance with the terms thereof, the Assumed Liabilities.

Section 2. Assignment. The Seller hereby assigns and transfers to the Buyer the Assumed Liabilities.

Section 3. Excluded Liabilities. Notwithstanding anything to the contrary contained herein, in no event shall the Buyer assume any Excluded Liabilities.

Section 4. Further Assurances. Each of the Buyer and the Seller hereby agrees to take any and all additional actions and to execute, acknowledge and deliver any and all documents which any other party hereto may reasonably request in order to effect the intent and purposes of the transactions contemplated hereby.

Section 5. Amendment and Modification; Waiver. Subject to applicable law, this Agreement may only be amended, modified and supplemented by written instrument authorized and executed by the Buyer and the Seller any time with respect to any of the terms contained herein. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and executed by the party so waiving. The waiver by either party hereto of a breach of any provisions of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach.

Section 6. No Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the parties hereto and their respective successors and permitted assigns and nothing herein is intended or shall be construed to confer upon any person other than the parties hereto and their respective successors and permitted assigns any rights, remedies or claims under, or by any reason of, this Agreement or any term, covenant or condition hereof.

Section 7. Governing Law. This Agreement shall be given effect and construed by application of the laws of the Province of British Columbia without regard to conflicts of laws. Any action arising out of, in connection with, or relating to this Agreement shall be brought in the Canadian Court or, if the Canadian Proceeding has been terminated and/or discharged, the courts of the Province of British Columbia and all courts competent to hear appeals therefrom.

Section 8. Headings. The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

Section 9. Purchase Agreement. This Agreement is subject in all respects to the terms and conditions of the Purchase Agreement. To the extent of any conflict between the terms of the Purchase Agreement and this Agreement, the Purchase Agreement shall control. Nothing contained in this Agreement shall be deemed to supersede any of the covenants, agreements, representations or warranties of the applicable parties contained in the Purchase Agreement.

Section 10. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or other provisions of this Agreement in any other jurisdiction.

Section 11. Counterparts. This Agreement may be executed in two (2) or more counterparts (delivery of which may be by facsimile, or via email as a portable document format (.pdf)), each of which will be deemed an original, and it will not be necessary in making proof of this Agreement or the terms of this Agreement to produce or account for more than one (1) of such counterparts.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

SELLER

SUN RICH FRESH FOODS INC.

By: ___________________________________
Name:
Title:

BUYER

[SAVE-ON-FOODS LIMITED PARTNERSHIP OR ITS ASSIGNEE OR NOMINEE]

By: ___________________________________
Name:
Title:

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Court File No. CV-21-00657098-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AFFIDAVIT OF STEPHEN MAROTTA
(SWORN ON MARCH 25, 2021)

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Joseph Reynaud
Tel: (514) 397-3019
E-mail: jreynaud@stikeman.com

Danny Duy Vu
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E-mail: ddvu@stikeman.com

Lee Nicholson LSO#: 66412I
Tel: (416) 869 5604
E-mail: leenicholson@stikeman.com

Lawyers for the Applicants

Tab 3

Court File No. CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	**)**	FRIDAY, THE 26th
	)	
JUSTICE HAINEY	**)**	DAY OF MARCH, 2021

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

APPROVAL AND VESTING ORDER (Re: Homestyle Transaction)

THIS MOTION, made by the TGF Acquisition Parent Ltd., Sun Rich Fresh Foods Inc., and Tiffany Gate Foods Inc. (collectively, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA"**) for an Order substantially in the form included at Tab 3 of the Motion Record approving the sale transaction (the "**Sale Transaction**") contemplated by the Asset Purchase Agreement (the "**APA**") by and between Homestyle Selections LP (the "**Buyer**"), a limited partnership formed under the laws of Alberta, and Sun Rich Fresh Foods Inc., a corporation incorporated under the laws of British Columbia, and Tiffany Gate Foods Inc., a corporation incorporated under the laws of British Columbia, (together, the "**Sellers**"), dated March 25, 2021 and appended as Exhibit "D" to the Affidavit of Stephen Marotta sworn March 25, 2021 (the "**Marotta Affidavit**"), and vesting the Sellers' right, title and interest in and to the Assets to the Buyer (as defined and described in the APA), was heard this day via video-conference due to the ongoing COVID-19 pandemic.

ON READING the Marotta Affidavit, the Second Report of Ernst & Young Inc., in its capacity as Monitor of the Applicants (the "**Monitor**"); and

UPON HEARING the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the DIP lenders, counsel for the Buyer, counsel for the Royal Bank of Canada, counsel for HSBC, counsel for the Official Unsecured Creditors Committee of the affiliates of the

Applicants and other counsel as listed on the Counsel Slip, no one else appearing for any party although duly served as appears on the affidavit of service.

SERVICE

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.

DEFINITIONS

2. **THIS COURT ORDERS** capitalized terms not otherwise defined herein have the meaning ascribed to them in the APA.

STAY PERIOD

3. **THIS COURT ORDERS** that the stay period referred to in the Amended and Restated Initial Order of the Honourable Justice Hainey dated February 26, 2021 (the "**Initial Order**") is extended until and including April 18, 2021.

SALE TRANSACTION

4. **THIS COURT ORDERS AND DECLARES** that the Sale Transaction is hereby approved, and the execution of the APA by the Sellers is hereby authorized, with such minor amendments as the Sellers and the Buyer, with the approval of the Monitor, may agree upon. The Sellers 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 Sale Transaction and for the conveyance of the Assets to the Buyer.

5. **THIS COURT ORDERS** that the Sellers are authorized and directed to perform their obligations under the APA and any ancillary documents related thereto.

6. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Sellers (or their counsel) and to the Buyer (or its counsel) substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**"), all of the Sellers' right, title and interest in and to the Assets shall vest absolutely in the Buyer, 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 Initial Order or any other orders made in these CCAA proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (British Columbia) or any other personal property registry system; and (iii) any Excluded Liabilities (as defined and described in the APA); (iv) all mortgages, pledges, charges, liens, debentures, trust deeds, assignments by way of security, security interests, conditional sales contracts, or other title retention agreements or similar interests or instruments charging, or creating a security interest in the real property identified in Schedule "C" hereto and municipally known as 195 Steinway Boulevard, Toronto, Ontario and legally described on PIN 07301-0016 (LT) (the "**Real Property**") or any part thereof or any interest therein, and any agreements, leases, options, easements, rights of way, restrictions, executions, or other encumbrances (including notices or other registrations in respect of any of the foregoing) affecting title to the Real Property or any part thereof or interest therein, including but not limited to any of the foregoing which are registered on title to the Real Property following the date referred to in Schedule "C" hereto but prior to the registration in the Land Registry Office for the Land Titles Division of Toronto (No. 66) if an Application for Vesting Order to which this order is attached; and (v) those Claims listed in Schedule "C" hereto (all of which are, collectively with those items set out in paragraph 6(i), (ii) and (iii) above, referred to as the "**Encumbrances**", which term shall not include the Permitted Encumbrances under the APA, including but not limited to those listed in Schedule "D" hereto, or the Assumed Liabilities set forth in Section 2.4 of the APA) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Assets are hereby expunged and discharged as against the Assets except for the Permitted Encumbrances and Assumed Liabilities.

7. **THIS COURT ORDERS** that upon the registration in the Land Registry Office No. 66 of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, which the Buyer is authorized to submit for registration following delivery of the Monitor's Certificate, the Land Registrar is hereby directed to enter the Buyer as the owner of the subject 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 "D" hereto.

8. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Assets shall stand in the place and stead of the Assets, and that from and after the delivery of the Monitor's Certificate all Claims and

Encumbrances shall attach to the net proceeds from the sale of the Assets with the same priority as they had with respect to the Assets immediately prior to the sale, as if the 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 Transaction.

9. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof to the Sellers and the Buyer, or to their respective counsel.

10. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Sellers and the Buyer or their respective counsel regarding the satisfaction or waiver of the conditions to Closing under the APA, and shall incur no liability with respect to the delivery of the Monitor's Certificate.

11. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Sellers are authorized and permitted to disclose and transfer to the Buyer all human resources and payroll information in the Sellers' records pertaining to the Sellers' past and current employees. The Buyer 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 Sellers.

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

(a) the pendency of these CCAA proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") in respect of the Sellers and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Sellers;

the vesting of the Assets in the Buyer and transactions, payments, distributions and disbursements made pursuant to this Order shall be binding on any trustee-in-bankruptcy that may be appointed in respect of the Sellers (or any one of them) and shall not be void or voidable by creditors of the Sellers, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

ASSIGNED AGREEMENTS

13. **THIS COURT ORDERS** that upon the filing of the Monitor's Certificate, the Sellers' rights and obligations under the 11.3 Contracts and 11.3 Leases set out in Schedule "E" hereto (collectively, the "**11.3 Agreements**") may be assigned to and assumed by the Buyer in accordance with section 2.1 and 2.6 of the APA and such assignment and assumption is hereby approved pursuant to section 11.3 of the CCAA, provided that, the Buyer may designate any 11.3 Contract and 11.3 Lease as an Excluded Contract or Excluded Lease prior to the Closing Date in accordance with the APA and this Order. Each 11.3 Contract and 11.3 Lease assigned to and assumed by the Buyer in accordance with the APA as of the Closing Date shall be an "**Assigned Contract**" or an "**Assigned Lease**", respectively (collectively, the "**Assigned Agreements**" and each a "**Assigned Agreement**").

14. **THIS COURT ORDERS** that, with respect to the Assigned Agreements that are real property leases (collectively, the "**Real Property Leases**"), the Buyer shall be entitled to all of the rights and benefits and subject to all of the obligations as tenant pursuant to the terms of the Real Property Leases for the period commencing from and after the Closing Date (as defined below) and may enter into and upon and hold and have quiet enjoyment of the premises contemplated by the Real Property Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Real Property Leases, without any interruption from the Sellers, the landlords under the Real Property Leases or any other person whomsoever claiming through or under any of the Sellers or the landlords under the Real Property Leases.

15. **THIS COURT ORDERS** that the outstanding monetary defaults under the 11.3 Agreements shall be as set out in Schedule “E” (the “**Cure Amounts**”) or as otherwise agreed in writing between the relevant counterparty of the Assigned Agreement (each a “**Contract Counterparty**”). Within fourteen (14) Business Days following the Closing Date, the Buyer shall pay the Cure Amounts with respect to each applicable Assigned Agreement, in full and final satisfaction of any monetary defaults under the Assigned Agreements arising prior to the Closing Date.

16. **THIS COURT ORDERS** that the assumption of the Sellers’ rights and obligations under the Assigned Agreements by the Buyer and the assignment of the Assigned Agreements by the Sellers to the Buyer pursuant to the CCAA and this Order is valid and binding upon each Contract Counterparty notwithstanding any restriction, condition or prohibition contained in any Assigned Agreement relating to the assignment thereof, including any provision requiring the consent of any party to the assignment and each Contract Counterparty shall be forever barred, estopped, and permanently enjoined from enforcing the same against the Buyer or the Sellers.

17. **THIS COURT ORDERS** that, except as otherwise dealt with herein, the Sellers’ right, title and interest in the Assigned Agreements shall vest absolutely in the Buyer free and clear of all Encumbrances other than the Permitted Encumbrances.

18. **THIS COURT ORDERS** that, from and after the Closing Date and conditional on the payment of the relevant Cure Amount, if any, (a) the Assigned Agreements will remain in full force and effect and the Buyer shall be entitled to all the rights, benefits and entitlements of the Sellers thereunder (subject to any amendments agreed to between the Contract Counterparty and the Buyer), (b) no default (monetary or other cure) shall exist under the Assigned Agreement; and (c) no Contract Counterparty shall be permitted (i) to declare a default by the Buyer under such Assigned Agreement, or (ii) to accelerate, terminate, rescind, refuse to perform, repudiate its obligations thereunder, or otherwise exercise any rights or remedies or take any action or proceedings against the Buyer, as a result of: (A) any circumstance that existed on or prior to the Closing Date; (B) any Sellers’ financial condition, the insolvency of the Sellers or the affiliates of the Sellers in the United States; (C) the commencement of these proceedings by the Sellers or the chapter 11 proceedings in respect of the affiliates of the Sellers in the United States; (D) any steps taken by the Sellers in these proceedings or pursuant to the APA or this Order; (E) any change of control of the Sellers arising from the implementation of the Sale Transaction or any anti-assignment provision in the Assigned

Agreements; or (F) any failure of the Sellers or their affiliates to perform a non-monetary obligation under the Assigned Agreements.

19. **THIS COURT ORDERS** that any Contract Counterparty may apply to this Court prior to the Closing Date to vary or amend this Order on not less than five (5) business days' notice to the Applicants, the Monitor and the Buyer, if such Contract Counterparty objects to the assignment and assumption of their 11.3 Contract or 11.3 Lease on the basis that the Buyer will not be able to perform the obligations under such 11.3 Contract or 11.3 Lease. For greater certainty, no Contract Counterparty may further apply to this Court to amend or vary the Cure Amount under the 11.3 Contract or 11.3 Lease.

GENERAL

20. **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 Applicants, the Monitor and their respective 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 Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

21. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without any need for filing or entry.

<u>Schedule A – Form of Monitor's Certificate</u>

Court File No. CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

(Applicants)

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (the "**Court**") dated February 17, 2021 Ernst & Young Inc. was appointed as the Monitor (the "**Monitor**") of the undertakings, property and assets of Applicants.

B. Pursuant to an Order of the Court dated February 26, 2021 (the "**Approval and Vesting Order**"), the Court approved the Asset Purchase Agreement (the "**APA**") by and between Sun Rich Fresh Foods Inc. and Tiffany Gate Foods Inc. (together, the "**Sellers**"), and Homestyle Selections LP (the "**Buyer**"), dated March 25, 2021 and the sale transaction (the "**Sale Transaction**") contemplated therein, and provided for the vesting in the Buyer of the Applicants' right, title and interest in and to the Assets, which vesting is to be effective upon the delivery by the Monitor to the Sellers and the Buyer (or their counsel) of a certificate confirming (i) the payment by the Buyer of the Purchase Price for the Assets; (ii) that the conditions to Closing as set out in the APA have been satisfied or waived by the Sellers and/or the Buyer, as applicable; and (iii) the Sale Transaction has been completed to the satisfaction of the Monitor.

C. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Sellers and the Buyer regarding fulfillment of conditions to closing under the APA.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APA.

THE MONITOR CERTIFIES the following:

1. The Sellers and the Buyer have each delivered written notice to the Monitor that all applicable conditions under the APA have been satisfied and/or waived, as applicable;

2. The Buyer have paid and the Sellers, as applicable, have received the Purchase Price, subject to applicable adjustments, for the Assets payable on the Closing Date pursuant to the APA;

3. The Sale Transaction has been completed to the satisfaction of the Monitor; and

4. This Certificate was delivered by the Monitor at ________ [TIME] on _______ [DATE].

Ernst & Young Inc., in its capacity as Monitor of the Applicants, and not in its personal or corporate capacity

Per: ____________________________________

Name:

Title:

Schedule "B" – Permitted Encumbrances

Real Property Encumbrances

Reg. No.	Date	Type	Amount	Parties From	Parties To
C604826	1989/10/24	Notice	N/A	N/A	THE CORPORATION OF THE CITY OF ETOBICOKE
C613296	1989/11/29	Notice	N/A	N/A	THE CORPORATION OF THE CITY OF ETOBICOKE
C613297	1989/11/29	Notice	N/A	N/A	THE CORPORATION OF THE CITY OF ETOBICOKE
E317117	2000/03/27	Notice	N/A	HER MAJESTY THE QUEEN IN RIGHT OF THE DEPARTMENT OF TRANSPORT CANADA	N/A
AT3216489	2013/01/15	Transfer	$9,000,000	NORDIC CAPITAL CORP.	TIFFANY GATE FOODS INC.
AT4540192	2017/04/19	Notice	$2	CITY OF TORONTO	TIFFANY GATE FOODS INC.

Schedule "C" – Real Property

PIN 07301-0016 (LT)

PARCEL BLK 13-1, SECTION 66M2260 BLKS 13 & 18, PLAN 66M2260. ETOBICOKE, CITY OF TORONTO

Schedule “D” – Claims to be deleted and expunged from title to Real Property

Instruments on Title

Current as of March 25, 2021

Reg. No.	Date	Type	Amount	Parties From	Parties To
AT5172948	2019/06/28	Charge	$100,000,000	TIFFANY GATE FOODS INC.	CORTLAND CAPITAL MARKET SERVICES LLC
AT5172949	2019/06/28	Charge	$100,000,000	TIFFANY GATE FOODS INC.	CORTLAND CAPITAL MARKET SERVICES LLC
AT5484713	2020/07/30	Charge	$50,000,000	TIFFANY GATE FOODS INC.	CORTLAND CAPITAL MARKET SERVICES LLC

Schedule "E" –11.3 Contracts and 11.3 Leases

11.3 Contracts

#	Counterparty	Debtor Entity	Contract Type	Description	Contract Date	Cure Costs
1.	786 Employment Inc	Tiffany Gate Foods, Inc.	Staffing Agreement	786 Staffing Agreement - TG	3/20/2019	$-
2.	Equilease Corp	Tiffany Gate Foods, Inc.	Equipment Lease	Lease # 2923550	4/1/2019	$2,986.03
3.	Gangerdeen, Dianne	Tiffany Gate Foods, Inc.	Employment Agreement	Dianne Gangerdeen - Consultant Letter	3/31/2020	$-
4.	Great American E&S Insurance Company	Tiffany Gate Foods, Inc.	Insurance	Environmental Policy	3/31/2020	$-
5.	HSBC Bank Canada	Tiffany Gate Foods, Inc.	Equipment Lease	Lease # 34092 005	9/27/2016	$29,244.43 (plus HST of $3,801.78)
6.	Hudson Energy Canada Corp	Les Aliments Tiffany Gate Foods, Inc.	Utility Agreement	Hudson Energy Tiffany Gate 5/1/20 Agreement	5/1/2020	$-
7.	Hudson Energy Canada Corp	Les Aliments Tiffany Gate Foods, Inc.	Utility Agreement	Hudson Energy Tiffany Gate 12/8/20 Agreement	12/7/2020	$-
8.	Konica Minola Business Solutions (Canada) Ltd	Tiffany Gate Foods, Inc.	Equipment Lease	Premier Lease Agreement	3/22/2019	$162.41
9.	Royal Bank Of Canada	Tiffany Gate Foods, Inc.	Equipment Lease	RBC Lease # 201000041730	9/12/2019	$21,007.56 (plus PST of $1,680.60 and GST of $1,050.38)
10.	Sealed Air (Canada) Co/Cie	Tiffany Gate FreshfoodSystems / Tiffany Gate Foods Corporation / Tiffany Gates Food Corp	Settlement Agreement	Cryovac Agreement	6/10/2020	$-
11.	Whole Foods Market Inc	Tiffany Gate Foods, Inc.	Supply Agreement	Whole Foods Agreement-TGF Nov 6, 2013	11/6/2013	$-
12.	Winpak Ltd	Tiffany Gate Foods, Inc.	Equipment Lease	Winpak VC999 Rollstock Lease	3/5/2019	$273,154.65
13.	Costco	Tiffany Gate Foods, Inc.	Customer Agreement	Customer Agreement		$1,500,000.00
14.	Biscuits Café	Sun Rich Fresh Foods, Inc.	Letter Agreement	Biscuits Café - 2021	1/1/2021	$-
15.	Civeo Canada Limited Partnership	Sun Rich Fresh Foods, Inc.	Supply Agreement	CIVEO Pricing Agreement	7/1/2020	$-
16.	Gate Gourmet Canada Inc	Sun Rich Fresh Foods, Inc.	Product Supply Agreement	Sun Rich - Gate Gourmet	4/1/2020	$-
17.	GS1 Canada	Sun Rich Fresh Foods Inc.	Service Agreement	Sun Rich Global Data Synchronization Network	5/25/2015	$-
18.	Healthpro Procurement Services Inc	Sun Rich Fresh Foods, Inc.	Letter Agreement	Healthpro Agreement	4/1/2020	$-
19.	Horizon North Camps And Catering	Sun Rich Fresh Foods, Inc.	Letter Agreement	Horizon North Camps and Catering- June 1 2020 to May 31 2021	6/1/2020	$-
20.	Mister Produce	Sun Rich Fresh Foods, Inc.	Letter Agreement	Mister Produce - 1.1.2021 - 12.31.2021	1/1/2021	$-
21.	Original Cakerie, The	Sun Rich Fresh Foods, Inc.	Letter Agreement	The Original Cakerie - 1.1.2020 -12.31.2021	1/1/2020	$-
22.	Smitty's Canada Inc	Sun Rich Fresh Foods, Inc.	Letter Agreement	Smitty's Program Offer 2021	1/1/2021	$-

23.	Dion's	Sun Rich Fresh Foods, Inc.	Letter Agreement	Dions - January 1, 2021 to December 31, 2021	1/1/2021	$-
24.	Feeding Our Future	Sun Rich Fresh Foods, Inc.	Letter Agreement	Feeding Our Future - May 1 2020-April 30-2021	5/1/2020	$-
25.	Finney Hospitality Group	Sun Rich Fresh Foods, Inc.	Letter Agreement	Finney Hospitality Group Agreement	1/1/2021	$-
26.	Harbor Wholesale Foods	Sun Rich Fresh Foods Inc.	Service Agreement	Continuing Guarantee and Indemnity	6/10/2015	$-
27.	Island Fin Poke	Sun Rich Fresh Foods, Inc.	Letter Agreement	Island Fin Poke - June 1, 2020 - May 31, 2021	6/1/2020	$-
28.	Key Impact Sales & Systems Inc	Sun Rich Fresh Foods, Inc.	Letter Agreement	Rutger's University - May 5, 2020 -Sun Rich Customer Program Letter	7/1/2020	$69,043.20
29.	Kitchen Table Café	Sun Rich Fresh Foods, Inc.	Letter Agreement	Kitchen Table Cafe - January 1, 2021 to December 31, 2021	1/1/2021	$-
30.	Lola's Handcrafted Kitchen LLC	Sun Rich Fresh Foods, Inc.	Letter Agreement	Jalapeno Tree and Lolas Handcrafted Kitchen - 6.1.20 - 5.31.21	6/1/2020	$-
31.	Spirit Mountain Casino	Sun Rich Fresh Foods, Inc.	Letter Agreement	Spirit Mountain Casino - Oct 1, 2020 - Sep 30, 2021	10/1/2020	$-
32.	St. Mary's	Sun Rich Fresh Foods, Inc.	Letter Agreement	St. Mary's - April 1, 2020 to April 30, 2021	4/1/2020	$-
33.	Suneys, LLC	Sun Rich Fresh Foods Inc.	Service Agreement	Master license agreement together with licenses	4/13/2017	$-
34.	Sysco Eastern Maryland	Sun Rich Fresh Foods, Inc.	Letter Agreement	Sysco Eastern Maryland July 1 2020 to June 30 2021	7/1/2020	$-
35.	Sysco Metro New York	Sun Rich Fresh Foods, Inc.	Letter Agreement	Sysco Metro NY - July 1 2020 to June 30 2021	7/1/2020	$-
36.	Us Foods Montgomery	Sun Rich Fresh Foods, Inc.	Letter Agreement	Chappy's Deli - 1.1.21 - 12.31.21	1/1/2021	$-
37.	Zeke's	Sun Rich Fresh Foods, Inc.	Letter Agreement	Zekes - January 1, 2021 to December 31, 2021	1/1/2021	$-
38.	786 Employment Inc	Sun Rich Fresh Foods, Inc.	Staffing Agreement	786 Staffing Agreement - SR	5/9/2019	$-
39.	Cintas Canada Limited	Sun Rich Fresh Foods, Inc.	Service Agreement	Rental Service Agreement (Shopcoats and Labcoats)	12/21/2018	$-
40.	Hudson Energy Canada Corp	Sun Rich Fresh Foods, Inc.	Utility Agreement	Hudson Energy Brampton Agreement	2/19/2020	$-
41.	ITradeNetwork, Inc.	Sun Rich Fresh Foods Inc.	Service Agreement	addendums	2/14/2014	$-
42.	Konica Minolta	Sun Rich Fresh Foods Inc.	Equipment Lease	Order package S005790030	11/9/2020	$-
43.	Liftow Limited	Sun Rich Fresh Foods Inc.	Equipment Lease	4 Toyota forklifts, batteries, and maintenance agreement	11/3/2017	$3,646.30
44.	UPS	Sun Rich Fresh Foods Inc.	Power of Attorney	Customs Power of Attorney	9/29/2015	$4,519.57
45.	Willson International	Sun Rich Fresh Foods Inc.	Power of Attorney	Customs Power of Attorney	7/27/2016	$-
46.	Axxess International Inc	Sun Rich Fresh Foods Inc.	Power of Attorney	Customs Power of Attorney	10/13/2016	$-
47.	Canadian Linen And Uniform Service Co	Sun Rich Richmond	Service Agreement	Richmond Contract	11/1/2018	$-
48.	Alberta Health Services	Sun Rich Fresh	Letter	Alberta Health Services -	4/1/2020	$-

		Foods, Inc.	Agreement	April 1 2020 to March 31 2021		
49.	Cleo Communications LLC	Sun Rich Fresh Foods Inc.	Purchase Agreement	Cleo LexiCom connections, support, and maintenance	5/23/2017	$-
50.	Hosting.Com (Ntirety)	Sun Rich Fresh Foods, Inc.	Service Agreement	Data hosting agreement	1/31/2019	$9,666.06
51.	IBM Canada Limited	Sun Rich Fresh Foods Inc.	Order Letter	Quote number 18772954	8/28/2020	$236.52
52.	TELUS	Sun Rich Fresh Foods Inc.	Service Agreement	Service agreement together with amendments	2/27/2020	$23,101.57
53.	Pitney Bowes	Sun Rich Fresh Foods Inc.	Lease Agreement	Lease number 0030140205	4/13/2017	$-
54.	Atlas Pacific Engineering Co.	Sun Rich Fresh Foods Inc.	Equipment Lease	Lease no. 2018-SRM	9/1/2018	$4,904.43
55.	Atlas Pacific Engineering Company	Sun Rich Fresh Foods, Inc.	Equipment Lease	Apple machine lease	9/1/2018	
56.	Bunzl Processor Distribution LLC	Sun Rich Fresh Foods Inc.	Supply Agreement	JIT Supply Agreement	12/1/2014	$711,572.93
57.	Packers Sanitation Services, Inc., Ltd. (PSSI)	Country Fresh Holdings, LLC	Service Agreement SOW	Supply Agreement (Country Fresh) SOW (Tiffany Gate, Toronto, ON)	9/7/2019	

11.3 Leases

#	Counterparty	Debtor Entity	Contract Type	Description	Contract Date	Cure Costs
1.	Mucher Enterprises Limited	Tiffany Gate Foods, Inc.	Real Estate Lease	Steinway Dry Storage Lease	5/25/2018	$3,922.19
2.	Piret Brampton Holdings Inc	Sun Rich Fresh Foods, Inc.	Lease	Brampton - Piret Contract together with all amendments and consents	7/1/2018	$22,701.51

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C 36, AS AMENDED

Court File No.: CV-21-00657098-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
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Lawyers for the Applicants

Tab 4

~~Revised: January 21, 2014~~

Court File No. ~~———~~CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE ~~———~~MR.	)	~~WEEKDAY~~FRIDAY, THE ~~#~~ 26th
	)	
JUSTICE ~~———~~HAINEY	)	DAY OF ~~MONTH~~MARCH, ~~20YR~~ 2021

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

~~B E T W E E N:~~

~~**PLAINTIFF**~~

~~Plaintiff~~

~~- and -~~

~~**DEFENDANT**~~

~~Defendant~~

APPROVAL AND VESTING ORDER

~~THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.~~

~~ON READING the Report and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the~~

~~service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed[1]:~~

(Re: Homestyle Transaction)

THIS MOTION, made by the TGF Acquisition Parent Ltd., Sun Rich Fresh Foods Inc., and Tiffany Gate Foods Inc. (collectively, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA"**) for an Order substantially in the form included at Tab 3 of the Motion Record approving the sale transaction (the "**Sale Transaction**") contemplated by the Asset Purchase Agreement (the "**APA**") by and between Homestyle Selections LP (the "**Buyer**"), a limited partnership formed under the laws of Alberta, and Sun Rich Fresh Foods Inc., a corporation incorporated under the laws of British Columbia, and Tiffany Gate Foods Inc., a corporation incorporated under the laws of British Columbia, (together, the "**Sellers**"), dated March 25, 2021 and appended as Exhibit "D" to the Affidavit of Stephen Marotta sworn March 25, 2021 (the "**Marotta Affidavit**"), and vesting the Sellers' right, title and interest in and to the Assets to the Buyer (as defined and described in the APA), was heard this day via video-conference due to the ongoing COVID-19 pandemic.

ON READING the Marotta Affidavit, the Second Report of Ernst & Young Inc., in its capacity as Monitor of the Applicants (the "**Monitor**"); and

UPON HEARING the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the DIP lenders, counsel for the Buyer, counsel for the Royal Bank of Canada, counsel for HSBC, counsel for the Official Unsecured Creditors Committee of the affiliates of the Applicants and other counsel as listed on the Counsel Slip, no one else appearing for any party although duly served as appears on the affidavit of service.

~~[1] 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.~~

SERVICE

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.

DEFINITIONS

2. **THIS COURT ORDERS** capitalized terms not otherwise defined herein have the meaning ascribed to them in the APA.

STAY PERIOD

3. **THIS COURT ORDERS** that the stay period referred to in the Amended and Restated Initial Order of the Honourable Justice Hainey dated February 26, 2021 (the "**Initial Order**") is extended until and including April 18, 2021.

SALE TRANSACTION

4. ~~1.~~**THIS COURT ORDERS AND DECLARES** that the Sale Transaction is hereby approved~~[2]~~, and the execution of the ~~Sale Agreement~~ APA by the ~~Receiver[3]~~ Sellers is hereby authorized~~ and approved~~, with such minor amendments as the ~~Receiver may deem necessary. The Receiver is~~ Sellers and the Buyer, with the approval of the Monitor, may agree upon. The Sellers 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 Sale Transaction and for the conveyance of the ~~Purchased~~ Assets to the ~~Purchaser~~Buyer.

5. **THIS COURT ORDERS** that the Sellers are authorized and directed to perform their obligations under the APA and any ancillary documents related thereto.

6. ~~2.~~**THIS COURT ORDERS AND DECLARES** that upon the delivery of a ~~Receiver's~~ Monitor's certificate to the ~~Purchaser~~ Sellers (or their counsel) and to the Buyer (or its counsel)

~~[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.~~

substantially in the form attached as Schedule ~~A~~ "A" hereto (the "~~Receiver's~~ **Monitor's Certificate**"), all of the ~~Debtor's~~ Sellers' right, title and interest in and to the ~~Purchased~~ Assets ~~described in the Sale Agreement [and listed on Schedule B hereto]~~[4] shall vest absolutely in the ~~Purchaser~~Buyer, 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**"[5]) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the ~~Order of the Honourable Justice [NAME] dated [DATE]~~Initial Order or any other orders made in these CCAA proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (British Columbia) or any other personal property registry system; and (iii) ~~those Claims listed on Schedule C~~ any Excluded Liabilities (as defined and described in the APA); (iv) all mortgages, pledges, charges, liens, debentures, trust deeds, assignments by way of security, security interests, conditional sales contracts, or other title retention agreements or similar interests or instruments charging, or creating a security interest in the real property identified in Schedule "C" hereto and municipally known as 195 Steinway Boulevard, Toronto, Ontario and legally described on PIN 07301-0016 (LT) (the "**Real Property**") or any part thereof or any interest therein, and any agreements, leases, options, easements, rights of way, restrictions, executions, or other encumbrances (including notices or other registrations in respect of any of the foregoing) affecting title to the Real Property or any part thereof or interest therein, including but not limited to any of the foregoing which are registered on title to the Real Property following the date referred to in Schedule "C" hereto but prior to the registration in the Land Registry Office for the Land Titles Division of Toronto (No. 66) if an Application for Vesting Order to which this order is attached; and (v) those Claims listed in Schedule "C" hereto (all of which are~~.~~, collectively with those items set out in paragraph 6(i), (ii) and (iii) above, referred to as the "**Encumbrances**", which term

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~~[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.~~

~~[5] The "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.~~

shall not include the ~~permitted encumbrances, easements and restrictive covenants listed on Schedule D~~Permitted Encumbrances under the APA, including but not limited to those listed in Schedule "D" hereto, or the Assumed Liabilities set forth in Section 2.4 of the APA) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the ~~Purchased~~ Assets are hereby expunged and discharged as against the ~~Purchased~~ Assets except for the Permitted Encumbrances and Assumed Liabilities.

7. ~~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}~~ No. 66 of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*~~]~~, which the Buyer is authorized to submit for registration following delivery of the Monitor's Certificate~~[6]~~, the Land Registrar is hereby directed to enter the ~~Purchaser~~ Buyer as the owner of the subject ~~real property identified in Schedule B hereto (the "Real Property")~~ 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~~ "D" hereto.

8. ~~4.~~**THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds~~[7]~~ 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~~ Monitor'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~~[8]~~, 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~~Sale Transaction.

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

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

~~[8] This 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.~~

9. ~~5.~~**THIS COURT ORDERS AND DIRECTS** the ~~Receiver~~ Monitor to file with the Court a copy of the ~~Receiver's~~ Monitor's Certificate, forthwith after delivery thereof to the Sellers and the Buyer, or to their respective counsel.

10. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Sellers and the Buyer or their respective counsel regarding the satisfaction or waiver of the conditions to Closing under the APA, and shall incur no liability with respect to the delivery of the Monitor's Certificate.

11. ~~6.~~**THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the ~~Receiver is~~ Sellers are authorized and permitted to disclose and transfer to the ~~Purchaser~~ Buyer all human resources and payroll information in the ~~Company's~~ Sellers' records pertaining to the ~~Debtor's~~ Sellers' past and current employees~~, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser~~. The Buyer 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~~Sellers.

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

(a) the pendency of these CCAA proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") in respect of the ~~Debtor~~ Sellers and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the ~~Debtor~~Sellers;

the vesting of the ~~Purchased~~ Assets in the ~~Purchaser~~ Buyer and transactions, payments, distributions and disbursements made pursuant to this Order shall be binding on any trustee~~ in~~ -in-bankruptcy that may be appointed in respect of the ~~Debtor~~ Sellers (or any one of them) and shall not be void or voidable by creditors of the ~~Debtor~~Sellers, 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)~~

BIA 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.

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

ASSIGNED AGREEMENTS

13. **THIS COURT ORDERS** that upon the filing of the Monitor's Certificate, the Sellers' rights and obligations under the 11.3 Contracts and 11.3 Leases set out in Schedule "E" hereto (collectively, the "**11.3 Agreements**") may be assigned to and assumed by the Buyer in accordance with section 2.1 and 2.6 of the APA and such assignment and assumption is hereby approved pursuant to section 11.3 of the CCAA, provided that, the Buyer may designate any 11.3 Contract and 11.3 Lease as an Excluded Contract or Excluded Lease prior to the Closing Date in accordance with the APA and this Order. Each 11.3 Contract and 11.3 Lease assigned to and assumed by the Buyer in accordance with the APA as of the Closing Date shall be an "**Assigned Contract**" or an "**Assigned Lease**", respectively (collectively, the "**Assigned Agreements**" and each a "**Assigned Agreement**").

14. **THIS COURT ORDERS** that, with respect to the Assigned Agreements that are real property leases (collectively, the "**Real Property Leases**"), the Buyer shall be entitled to all of the rights and benefits and subject to all of the obligations as tenant pursuant to the terms of the Real Property Leases for the period commencing from and after the Closing Date (as defined below) and may enter into and upon and hold and have quiet enjoyment of the premises contemplated by the Real Property Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Real Property Leases, without any interruption from the Sellers, the landlords under the Real Property Leases or any other person whomsoever claiming through or under any of the Sellers or the landlords under the Real Property Leases.

15. **THIS COURT ORDERS** that the outstanding monetary defaults under the 11.3 Agreements shall be as set out in Schedule "E" (the "**Cure Amounts**") or as otherwise agreed in writing between the relevant counterparty of the Assigned Agreement (each a "**Contract Counterparty**"). Within fourteen (14) Business Days following the Closing Date, the Buyer shall pay the Cure Amounts with respect to each applicable Assigned Agreement, in full and final satisfaction of any monetary defaults under the Assigned Agreements arising prior to the Closing Date.

16. **THIS COURT ORDERS** that the assumption of the Sellers' rights and obligations under the Assigned Agreements by the Buyer and the assignment of the Assigned Agreements by the Sellers to the Buyer pursuant to the CCAA and this Order is valid and binding upon each Contract Counterparty notwithstanding any restriction, condition or prohibition contained in any Assigned Agreement relating to the assignment thereof, including any provision requiring the consent of any party to the assignment and each Contract Counterparty shall be forever barred, estopped, and permanently enjoined from enforcing the same against the Buyer or the Sellers.

17. **THIS COURT ORDERS** that, except as otherwise dealt with herein, the Sellers' right, title and interest in the Assigned Agreements shall vest absolutely in the Buyer free and clear of all Encumbrances other than the Permitted Encumbrances.

18. **THIS COURT ORDERS** that, from and after the Closing Date and conditional on the payment of the relevant Cure Amount, if any, (a) the Assigned Agreements will remain in full force and effect and the Buyer shall be entitled to all the rights, benefits and entitlements of the Sellers thereunder (subject to any amendments agreed to between the Contract Counterparty and the Buyer), (b) no default (monetary or other cure) shall exist under the Assigned Agreement; and (c) no Contract Counterparty shall be permitted (i) to declare a default by the Buyer under such Assigned Agreement, or (ii) to accelerate, terminate, rescind, refuse to perform, repudiate its obligations thereunder, or otherwise exercise any rights or remedies or take any action or proceedings against the Buyer, as a result of: (A) any circumstance that existed on or prior to the Closing Date; (B) any Sellers' financial condition, the insolvency of the Sellers or the affiliates of the Sellers in the United States; (C) the commencement of these proceedings by the Sellers or the chapter 11 proceedings in respect of the affiliates of the Sellers in the United States; (D) any steps taken by the Sellers in these proceedings or pursuant to the APA or this Order; (E) any change of control of the Sellers arising from the implementation of the Sale Transaction or any anti-assignment provision in the Assigned

Agreements; or (F) any failure of the Sellers or their affiliates to perform a non-monetary obligation under the Assigned Agreements.

19. **THIS COURT ORDERS** that any Contract Counterparty may apply to this Court prior to the Closing Date to vary or amend this Order on not less than five (5) business days' notice to the Applicants, the Monitor and the Buyer, if such Contract Counterparty objects to the assignment and assumption of their 11.3 Contract or 11.3 Lease on the basis that the Buyer will not be able to perform the obligations under such 11.3 Contract or 11.3 Lease. For greater certainty, no Contract Counterparty may further apply to this Court to amend or vary the Cure Amount under the 11.3 Contract or 11.3 Lease.

GENERAL

20. ~~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~~ Applicants, the Monitor and their respective 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~~Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order~~.~~, to grant representative status to the Monitor in any foreign proceeding, or to assist the ~~Receiver and its~~ Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

21. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without any need for filing or entry.

~~Revised: January 21, 2014~~

Schedule A – Form of ~~Receiver's~~ Monitor's Certificate

Court File No. ~~___________~~CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
~~**COMMERCIAL LIST**~~

~~B E T W E E N:~~

~~**PLAINTIFF**~~

~~Plaintiff~~

(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

(Applicants)

~~- and -~~

~~**DEFENDANT**~~

~~Defendant~~

~~RECEIVER'S~~ MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Hainey of the Ontario Superior Court of Justice (the "**Court**") dated ~~[DATE OF ORDER], [NAME OF RECEIVER]~~ February 17, 2021 Ernst & Young Inc. was appointed as the ~~receiver (the "Receiver") of the undertaking~~Monitor (the "**Monitor**") of the undertakings, property and assets of ~~[DEBTOR] (the "Debtor")~~Applicants.

B. Pursuant to an Order of the Court dated ~~[DATE]~~February 26, 2021 (the "**Approval and Vesting Order**"), the Court approved the ~~agreement of purchase and sale made as of [DATE OF~~

~~AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser")~~ Asset Purchase Agreement (the "**APA**") by and between Sun Rich Fresh Foods Inc. and Tiffany Gate Foods Inc. (together, the "**Sellers**"), and Homestyle Selections LP (the "**Buyer**"), dated March 25, 2021 and the sale transaction (the "**Sale Transaction**") contemplated therein, and provided for the vesting in the ~~Purchaser~~ Buyer of the ~~Debtor's~~ Applicants' right, title and interest in and to the ~~Purchased~~ Assets, which vesting is to be effective ~~with respect to the Purchased Assets~~ upon the delivery by the ~~Receiver~~ Monitor to the ~~Purchaser~~ Sellers and the Buyer (or their counsel) of a certificate confirming (i) the payment by the ~~Purchaser~~ Buyer of the Purchase Price for the ~~Purchased~~ Assets; (ii) that the conditions to Closing as set out in ~~section ● of~~ the ~~Sale Agreement~~ APA have been satisfied or waived by the ~~Receiver and the Purchaser~~Sellers and/or the Buyer, as applicable; and (iii) the Sale Transaction has been completed to the satisfaction of the ~~Receiver~~Monitor.

C. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Sellers and the Buyer regarding fulfillment of conditions to closing under the APA.

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

THE ~~RECEIVER~~ **MONITOR CERTIFIES** the following:

1. The Sellers and the Buyer have each delivered written notice to the Monitor that all applicable conditions under the APA have been satisfied and/or waived, as applicable;

~~1.The Purchaser has~~ 2. The Buyer have paid and the ~~Receiver has~~ Sellers, as applicable, have received the Purchase Price~~.~~, subject to applicable adjustments, for the ~~Purchased~~ Assets payable on the Closing Date pursuant to the ~~Sale Agreement~~APA;

~~2. The conditions to Closing as set out in section ● of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and~~

3. The Sale Transaction has been completed to the satisfaction of the ~~Receiver.~~Monitor; and

4. This Certificate was delivered by the ~~Receiver~~ Monitor at ________ [TIME] on _______ [DATE].

~~[NAME OF RECEIVER]~~Ernst & Young Inc., in its capacity as ~~Receiver of the undertaking, property and assets of [DEBTOR]~~Monitor of the Applicants, and not in its personal or corporate capacity

Per: ________________________________

Name:

Title:

Schedule ~~B – Purchased Assets~~“B” – Permitted Encumbrances

Real Property Encumbrances

Reg. No.	Date	Type	Amount	Parties From	Parties To
C604826	1989/10/24	Notice	N/A	N/A	THE CORPORATION OF THE CITY OF ETOBICOKE
C613296	1989/11/29	Notice	N/A	N/A	THE CORPORATION OF THE CITY OF ETOBICOKE
C613297	1989/11/29	Notice	N/A	N/A	THE CORPORATION OF THE CITY OF ETOBICOKE
E317117	2000/03/27	Notice	N/A	HER MAJESTY THE QUEEN IN RIGHT OF THE DEPARTMENT OF TRANSPORT CANADA	N/A
AT3216489	2013/01/15	Transfer	$9,000,000	NORDIC CAPITAL CORP.	TIFFANY GATE FOODS INC.
AT4540192	2017/04/19	Notice	$2	CITY OF TORONTO	TIFFANY GATE FOODS INC.

Schedule “C” – Real Property

PIN 07301-0016 (LT)

PARCEL BLK 13-1, SECTION 66M2260 BLKS 13 & 18, PLAN 66M2260. ETOBICOKE, CITY OF TORONTO

~~C~~ Schedule "D" – Claims to be deleted and expunged from title to Real Property

Instruments on Title

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

~~**(unaffected by the Vesting Order)**~~

Current as of March 25, 2021

Reg. No.	**Date**	**Type**	**Amount**	**Parties From**	**Parties To**
AT5172948	2019/06/28	Charge	$100,000,000	TIFFANY GATE FOODS INC.	CORTLAND CAPITAL MARKET SERVICES LLC
AT5172949	2019/06/28	Charge	$100,000,000	TIFFANY GATE FOODS INC.	CORTLAND CAPITAL MARKET SERVICES LLC
AT5484713	2020/07/30	Charge	$50,000,000	TIFFANY GATE FOODS INC.	CORTLAND CAPITAL MARKET SERVICES LLC

Schedule "E" –11.3 Contracts and 11.3 Leases

11.3 Contracts

#	Counterparty	Debtor Entity	Contract Type	Description	Contract Date	Cure Costs
0.	786 Employment Inc	Tiffany Gate Foods, Inc.	Staffing Agreement	786 Staffing Agreement - TG	3/20/2019	$-
1.	Equilease Corp	Tiffany Gate Foods, Inc.	Equipment Lease	Lease # 2923550	4/1/2019	$2,986.03
2.	Gangerdeen, Dianne	Tiffany Gate Foods, Inc.	Employment Agreement	Dianne Gangerdeen - Consultant Letter	3/31/2020	$-
3.	Great American E&S Insurance Company	Tiffany Gate Foods, Inc.	Insurance	Environmental Policy	3/31/2020	$-
4.	HSBC Bank Canada	Tiffany Gate Foods, Inc.	Equipment Lease	Lease # 34092 005	9/27/2016	$29,244.43 (plus HST of $3,801.78)
5.	Hudson Energy Canada Corp	Les Aliments Tiffany Gate Foods, Inc.	Utility Agreement	Hudson Energy Tiffany Gate 5/1/20 Agreement	5/1/2020	$-
6.	Hudson Energy Canada Corp	Les Aliments Tiffany Gate Foods, Inc.	Utility Agreement	Hudson Energy Tiffany Gate 12/8/20 Agreement	12/7/2020	$-
7.	Konica Minola Business Solutions (Canada) Ltd	Tiffany Gate Foods, Inc.	Equipment Lease	Premier Lease Agreement	3/22/2019	$162.41
8.	Royal Bank Of Canada	Tiffany Gate Foods, Inc.	Equipment Lease	RBC Lease # 201000041730	9/12/2019	$21,007.56 (plus PST of $1,680.60 and GST of $1,050.38)
9.	Sealed Air (Canada) Co/Cie	Tiffany Gate FreshfoodSystems / Tiffany Gate Foods Corporation / Tiffany Gates Food Corp	Settlement Agreement	Cryovac Agreement	6/10/2020	$-
10.	Whole Foods Market Inc	Tiffany Gate Foods, Inc.	Supply Agreement	Whole Foods Agreement-TGF Nov 6, 2013	11/6/2013	$-
11.	Winpak Ltd	Tiffany Gate Foods, Inc.	Equipment Lease	Winpak VC999 Rollstock Lease	3/5/2019	$273,154.65
12.	Costco	Tiffany Gate Foods, Inc.	Customer Agreement	Customer Agreement		$1,500,000.00
13.	Biscuits Café	Sun Rich Fresh Foods, Inc.	Letter Agreement	Biscuits Café - 2021	1/1/2021	$-
14.	Civeo Canada Limited Partnership	Sun Rich Fresh Foods, Inc.	Supply Agreement	CIVEO Pricing Agreement	7/1/2020	$-
15.	Gate Gourmet Canada Inc	Sun Rich Fresh Foods, Inc.	Product Supply Agreement	Sun Rich - Gate Gourmet	4/1/2020	$-
16.	GS1 Canada	Sun Rich Fresh Foods Inc.	Service Agreement	Sun Rich Global Data Synchronization Network	5/25/2015	$-
17.	Healthpro Procurement Services Inc	Sun Rich Fresh Foods, Inc.	Letter Agreement	Healthpro Agreement	4/1/2020	$-
18.	Horizon North Camps And Catering	Sun Rich Fresh Foods, Inc.	Letter Agreement	Horizon North Camps and Catering- June 1 2020 to May 31 2021	6/1/2020	$-
19.	Mister Produce	Sun Rich Fresh Foods, Inc.	Letter Agreement	Mister Produce - 1.1.2021 - 12.31.2021	1/1/2021	$-
20.	Original Cakerie, The	Sun Rich Fresh Foods, Inc.	Letter Agreement	The Original Cakerie - 1.1.2020 -12.31.2021	1/1/2020	$-
21.	Smitty's Canada Inc	Sun Rich Fresh	Letter	Smitty's Program Offer	1/1/2021	$-

		Foods, Inc.	Agreement	2021		
22.	Dion's	Sun Rich Fresh Foods, Inc.	Letter Agreement	Dions - January 1, 2021 to December 31, 2021	1/1/2021	$-
23.	Feeding Our Future	Sun Rich Fresh Foods, Inc.	Letter Agreement	Feeding Our Future - May 1 2020-April 30-2021	5/1/2020	$-
24.	Finney Hospitality Group	Sun Rich Fresh Foods, Inc.	Letter Agreement	Finney Hospitality Group Agreement	1/1/2021	$-
25.	Harbor Wholesale Foods	Sun Rich Fresh Foods Inc.	Service Agreement	Continuing Guarantee and Indemnity	6/10/2015	$-
26.	Island Fin Poke	Sun Rich Fresh Foods, Inc.	Letter Agreement	Island Fin Poke - June 1, 2020 - May 31, 2021	6/1/2020	$-
27.	Key Impact Sales & Systems Inc	Sun Rich Fresh Foods, Inc.	Letter Agreement	Rutger's University - May 5, 2020 -Sun Rich Customer Program Letter	7/1/2020	$69,043.20
28.	Kitchen Table Café	Sun Rich Fresh Foods, Inc.	Letter Agreement	Kitchen Table Cafe - January 1, 2021 to December 31, 2021	1/1/2021	$-
29.	Lola's Handcrafted Kitchen LLC	Sun Rich Fresh Foods, Inc.	Letter Agreement	Jalapeno Tree and Lolas Handcrafted Kitchen - 6.1.20 - 5.31.21	6/1/2020	$-
30.	Spirit Mountain Casino	Sun Rich Fresh Foods, Inc.	Letter Agreement	Spirit Mountain Casino - Oct 1, 2020 - Sep 30, 2021	10/1/2020	$-
31.	St. Mary's	Sun Rich Fresh Foods, Inc.	Letter Agreement	St. Mary's - April 1, 2020 to April 30, 2021	4/1/2020	$-
32.	Suneys, LLC	Sun Rich Fresh Foods Inc.	Service Agreement	Master license agreement together with licenses	4/13/2017	$-
33.	Sysco Eastern Maryland	Sun Rich Fresh Foods, Inc.	Letter Agreement	Sysco Eastern Maryland July 1 2020 to June 30 2021	7/1/2020	$-
34.	Sysco Metro New York	Sun Rich Fresh Foods, Inc.	Letter Agreement	Sysco Metro NY - July 1 2020 to June 30 2021	7/1/2020	$-
35.	Us Foods Montgomery	Sun Rich Fresh Foods, Inc.	Letter Agreement	Chappy's Deli - 1.1.21 - 12.31.21	1/1/2021	$-
36.	Zeke's	Sun Rich Fresh Foods, Inc.	Letter Agreement	Zekes - January 1, 2021 to December 31, 2021	1/1/2021	$-
37.	786 Employment Inc	Sun Rich Fresh Foods, Inc.	Staffing Agreement	786 Staffing Agreement - SR	5/9/2019	$-
38.	Cintas Canada Limited	Sun Rich Fresh Foods, Inc.	Service Agreement	Rental Service Agreement (Shopcoats and Labcoats)	12/21/2018	$-
39.	Hudson Energy Canada Corp	Sun Rich Fresh Foods, Inc.	Utility Agreement	Hudson Energy Brampton Agreement	2/19/2020	$-
40.	ITradeNetwork, Inc.	Sun Rich Fresh Foods Inc.	Service Agreement	addendums	2/14/2014	$-
41.	Konica Minolta	Sun Rich Fresh Foods Inc.	Equipment Lease	Order package S005790030	11/9/2020	$-
42.	Liftow Limited	Sun Rich Fresh Foods Inc.	Equipment Lease	4 Toyota forklifts, batteries, and maintenance agreement	11/3/2017	$3,646.30
43.	UPS	Sun Rich Fresh Foods Inc.	Power of Attorney	Customs Power of Attorney	9/29/2015	$4,519.57
44.	Willson International	Sun Rich Fresh Foods Inc.	Power of Attorney	Customs Power of Attorney	7/27/2016	$-
45.	Axxess International Inc	Sun Rich Fresh Foods Inc.	Power of Attorney	Customs Power of Attorney	10/13/2016	$-

46.	Canadian Linen And Uniform Service Co	Sun Rich Richmond	Service Agreement	Richmond Contract	11/1/2018	$-
47.	Alberta Health Services	Sun Rich Fresh Foods, Inc.	Letter Agreement	Alberta Health Services - April 1 2020 to March 31 2021	4/1/2020	$-
48.	Cleo Communications LLC	Sun Rich Fresh Foods Inc.	Purchase Agreement	Cleo LexiCom connections, support, and maintenance	5/23/2017	$-
49.	Hosting.Com (Ntirety)	Sun Rich Fresh Foods, Inc.	Service Agreement	Data hosting agreement	1/31/2019	$9,666.06
50.	IBM Canada Limited	Sun Rich Fresh Foods Inc.	Order Letter	Quote number 18772954	8/28/2020	$236.52
51.	TELUS	Sun Rich Fresh Foods Inc.	Service Agreement	Service agreement together with amendments	2/27/2020	$23,101.57
52.	Pitney Bowes	Sun Rich Fresh Foods Inc.	Lease Agreement	Lease number 0030140205	4/13/2017	$-
53.	Atlas Pacific Engineering Co.	Sun Rich Fresh Foods Inc.	Equipment Lease	Lease no. 2018-SRM	9/1/2018	$4,904.43
54.	Atlas Pacific Engineering Company	Sun Rich Fresh Foods, Inc.	Equipment Lease	Apple machine lease	9/1/2018	
55.	Bunzl Processor Distribution LLC	Sun Rich Fresh Foods Inc.	Supply Agreement	JIT Supply Agreement	12/1/2014	$711,572.93
56.	Packers Sanitation Services, Inc., Ltd. (PSSI)	Country Fresh Holdings, LLC	Service Agreement SOW	Supply Agreement (Country Fresh) SOW (Tiffany Gate, Toronto, ON)	9/7/2019	

11.3 Leases

#	Counterparty	Debtor Entity	Contract Type	Description	Contract Date	Cure Costs
1.	Mucher Enterprises Limited	Tiffany Gate Foods, Inc.	Real Estate Lease	Steinway Dry Storage Lease	5/25/2018	$3,922.19
2.	Piret Brampton Holdings Inc	Sun Rich Fresh Foods, Inc.	Lease	Brampton - Piret Contract together with all amendments and consents	7/1/2018	$22,701.51

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C 36, AS AMENDED

Court File No.: CV-21-00657098-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

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Lawyers for the Applicants

Tab 5

Court File No. CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	)	FRIDAY, THE 26th
	)	
JUSTICE HAINEY	)	DAY OF MARCH, 2021

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

APPROVAL AND VESTING ORDER
(Re: Save-On-Foods Transaction)

THIS MOTION, made by the TGF Acquisition Parent Ltd., Sun Rich Fresh Foods Inc., and Tiffany Gate Foods Inc. (collectively, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA"**) for an Order substantially in the form included at Tab 3 of the Motion Record approving the sale transaction (the "**Sale Transaction**") contemplated by the Asset Purchase Agreement (the "**APA**") by and between Save-On-Foods Limited Partnership (the "**Save-On**"), a limited partnership formed under the laws of British Columbia, and Sun Rich Fresh Foods Inc., a corporation incorporated under the laws of British Columbia (the "**Seller**"), dated March 25, 2021 and appended as Exhibit "E" to the Marotta Affidavit sworn March 25, 2021 (the "**Marotta Affidavit**"), and vesting the Seller's right, title and interest in the Assets to Save-On or any Affiliate of Save-On which the APA is assigned to in accordance with Section 10.10 of the APA (the "**Buyer**"), was heard this day via video-conference due to the ongoing COVID-19 pandemic.

ON READING the Marotta Affidavit, the Second Report of Ernst & Young Inc., in its capacity as Monitor of the Applicants (the "**Monitor**"); and

UPON HEARING the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the DIP lenders, counsel for the Buyer, counsel for the Royal Bank of Canada, counsel for HSBC, counsel for the Official Unsecured Creditors Committee of the affiliates of the

Applicants and other counsel as listed on the Counsel Slip, no one else appearing for any party although duly served as appears on the affidavit of service.

SERVICE

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.

DEFINITIONS

2. **THIS COURT ORDERS** capitalized terms not otherwise defined herein have the meaning ascribed to them in the APA.

SALE TRANSACTION

3. **THIS COURT ORDERS AND DECLARES** that the Sale Transaction is hereby approved, and the execution of the APA by the Seller is hereby authorized, with such minor amendments as the Seller and the Buyer, with the approval of the Monitor, may agree upon. The Seller is 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 Sale Transaction and for the conveyance of the Assets to the Buyer.

4. **THIS COURT ORDERS** that the Seller is authorized and directed to perform its obligations under the APA and any ancillary documents related thereto.

5. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Seller (or its counsel) and to the Buyer (or its counsel) substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**"), all of the Seller's right, title and interest in and to the Assets shall vest absolutely in the Buyer, 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 Initial Order or any other orders made in these CCAA proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (British Columbia) or any other personal property registry system; and (iii) any Excluded Liabilities (all of which are collectively

referred to as the "**Encumbrances**"), provided that, the Claims and the Encumbrances referred to herein shall not include Permitted Encumbrances under the APA or the Assumed Liabilities set forth in Section 2.4 of the APA. For greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Assets are hereby expunged and discharged as against the Assets except for the Permitted Encumbrances and Assumed Liabilities.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Assets shall stand in the place and stead of the Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Assets with the same priority as they had with respect to the Assets immediately prior to the sale, as if the 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 Transaction.

7. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof to the Seller and the Buyer, or to their respective counsel.

8. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Seller and the Buyer or their respective counsel regarding the satisfaction or waiver of the conditions to Closing under the APA, and shall incur no liability with respect to the delivery of the Monitor's Certificate.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Seller are authorized and permitted to disclose and transfer to the Buyer all human resources and payroll information in the Seller's records pertaining to the Seller's past and current employees. The Buyer 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 Seller.

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

(a) the pendency of these CCAA proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") in respect of the Seller and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Seller;

the vesting of the Assets in the Buyer and transactions, payments, distributions and disbursements made pursuant to this Order shall be binding on any trustee-in-bankruptcy that may be appointed in respect of the Seller (or any one of them) and shall not be void or voidable by creditors of the Seller, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

ASSIGNED AGREEMENTS

11. **THIS COURT ORDERS** that upon the filing of the Monitor's Certificate, the Seller's rights and obligations under the 11.3 Contracts and the Third Party Lease set out in Schedule "B" hereto may be assigned to and assumed by the Buyer in accordance with section 2.1 and 2.6 of the APA and such assignment and assumption is hereby approved pursuant to section 11.3 of the CCAA, provided that, the Buyer may designate any 11.3 Contract as an Excluded Contract prior to the Closing Date in accordance with the APA and this Order. Each 11.3 Contract and Third Party Lease assigned to and assumed by the Buyer in accordance with the APA as of the Closing Date shall be an "**Assigned Agreement**" and collectively, the "**Assigned Agreements**".

12. **THIS COURT ORDERS** that, with respect to the Assigned Agreements that are real property leases (collectively, the "**Real Property Leases**"), the Buyer shall be entitled to all of the rights and benefits and subject to all of the obligations as tenant pursuant to the terms of the Real Property Leases for the period commencing from and after the Assumption Effective Date (as defined below) and may enter into and upon and hold and have quiet enjoyment of the premises contemplated by the Real Property Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Real Property Leases, without any interruption from the Seller, the landlords under the Real Property Leases or any

other person whomsoever claiming through or under any of the Seller or the landlords under the Real Property Leases.

13. **THIS COURT ORDERS** that the outstanding monetary defaults under the 11.3 Contracts and Third Party Lease shall be as set out in Schedule "B" (the "**Cure Amounts**") or as otherwise agreed in writing between the relevant counterparty of the Assigned Agreement (each a "**Contract Counterparty**"). Within fourteen (14) Business Days following the Closing Date, the Buyer shall pay the Cure Amounts with respect to each applicable Assigned Agreement, in full and final satisfaction of any monetary defaults under the Assigned Agreements arising prior to the Closing Date.

14. **THIS COURT ORDERS** that the assumption of the Seller's rights and obligations under the Assigned Agreements by the Buyer and the assignment of the Assigned Agreements by the Seller to the Buyer pursuant to the CCAA and this Order is valid and binding upon each Contract Counterparty notwithstanding any restriction or prohibition contained in any Assigned Agreement relating to the assignment thereof, including any provision requiring the consent of any party to the assignment and each Contract Counterparty shall be forever barred, estopped, and permanently enjoined from enforcing the same against the Buyer or the Seller.

15. **THIS COURT ORDERS** that, except as otherwise dealt with herein, the Seller's right, title and interest in the Assigned Agreements shall vest absolutely in the Buyer free and clear of all Encumbrances other than the Permitted Encumbrances.

16. **THIS COURT ORDERS** that, from and after the Closing Date and conditional on the payment of the relevant Cure Amount, if any, (a) the Assigned Agreements will remain in full force and effect and the Buyer shall be entitled to all the rights, benefits and entitlements of the Seller thereunder (subject to any amendments agreed to between the Contract Counterparty and the Buyer), (b) no default (monetary or other cure) shall exist under the Assigned Agreement; and (c) no Contract Counterparty shall be permitted (i) to declare a default by the Buyer under such Assigned Agreement, or (ii) to accelerate, terminate, rescind, refuse to perform, repudiate its obligations thereunder, or otherwise exercise any rights or remedies or take any action or proceedings against the Buyer, as a result of: (A) any circumstance that existed on or prior to the Closing Date; (B) any Seller's financial condition, the insolvency of the Seller or the affiliates of the Seller in the United States; (C) the commencement of these proceedings by the Seller or the chapter 11 proceedings in respect of the affiliates of the Seller in the United States; (D) any steps taken by the Seller in these proceedings or pursuant to the

APA or this Order; (E) any change of control of the Seller arising from the implementation of the Sale Transaction or any anti-assignment provision in the Assigned Agreements; or (F) any failure of the Seller or their affiliates to perform a non-monetary obligation under the Assigned Agreements.

17. **THIS COURT ORDERS** that any Contract Counterparty may apply to this Court prior to the Closing Date to vary or amend this Order on not less than five (5) business days' notice to the Applicants, the Monitor and the Buyer, if such Contract Counterparty objects to the assignment and assumption of their 11.3 Contract or the Third Party Lease on the basis that the Buyer will not be able to perform the obligations under such 11.3 Contract or Third Party Lease. For greater certainty, no Contract Counterparty may further apply to this Court to amend or vary the Cure Amount under the 11.3 Contract or Third Party Lease.

GENERAL

18. **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 Applicants, the Monitor and their respective 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 Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without any need for filing or entry.

<u>Schedule A – Form of Monitor's Certificate</u>

Court File No. CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

(Applicants)

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (the "**Court**") dated February 17, 2021 Ernst & Young Inc. was appointed as the Monitor (the "**Monitor**") of the undertakings, property and assets of Applicants.

B. Pursuant to an Order of the Court dated February 26, 2021 (the "**Approval and Vesting Order**"), the Court approved the Asset Purchase Agreement (the "**APA**") by and between Sun Rich Fresh Foods Inc. (the "**Seller**"), and Save-On-Foods Limited Partnership (the "**Buyer**"), dated March 25, 2021 and the sale transaction (the "**Sale Transaction**") contemplated therein, and provided for the vesting in the Buyer of the Applicants' right, title and interest in and to the Assets, which vesting is to be effective upon the delivery by the Monitor to the Seller and the Buyer (or their counsel) of a certificate confirming (i) the payment by the Buyer of the Purchase Price for the Assets; (ii) that the conditions to Closing as set out in the APA have been satisfied or waived by the Seller and/or the Buyer, as applicable; and (iii) the Sale Transaction has been completed to the satisfaction of the Monitor.

C. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Seller and the Buyer regarding fulfillment of conditions to closing under the APA.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APA.

THE MONITOR CERTIFIES the following:

1. The Seller and the Buyer have each delivered written notice to the Monitor that all applicable conditions under the APA have been satisfied and/or waived, as applicable;

2. The Buyer have paid and the Seller, as applicable, have received the Purchase Price, subject to applicable adjustments, for the Assets payable on the Closing Date pursuant to the APA;

3. The Sale Transaction has been completed to the satisfaction of the Monitor; and

4. This Certificate was delivered by the Monitor at ________ [TIME] on _______ [DATE].

Ernst & Young Inc., in its capacity as Monitor of the Applicants, and not in its personal or corporate capacity

Per: ______________________________

Name:

Title:

Schedule "B" – 11.3 Contracts and Third Party Lease

11.3 Contracts

#	Counterparty	Debtor Entity	Contract Type	Description	Contract Date	Cure Costs
1.	Atlas Pacific Engineering Co.	Sun Rich Fresh Foods Inc.	Equipment Lease	Lease no. 2018-SRM	9/1/2018	$4,904.43
2.	Ceridian Canada Ltd.	Sun Rich Fresh Foods Inc. and Tiffany Gate Foods Inc., among others	Service Agreement	Ceridian Contract	5/9/2020	$6,875.88
3.	TELUS	Sun Rich Fresh Foods Inc.	Service Agreement	Service agreement together with amendments	2/27/2020	$23,101.57
4.	Vita-Pakt Citrus Products Co.	Sun Rich Fresh Foods Inc.	Supply Agreement	Raw Materials Supply Agreement	8/26/2016	$-

Third Party Leases

#	Counterparty	Debtor Entity	Contract Type	Description	Contract Date	Cure Costs
1.	592209 B.C. Ltd	Sun Rich Fresh Foods, Inc.	Lease	Dayhu Lease together with all amendments	9/1/2017	$-

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C 36, AS AMENDED

Court File No.: CV-21-00657098-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
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Lawyers for the Applicants

Tab 6

~~Revised: January 21, 2014~~

Court File No. ~~———~~CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE ~~———~~MR.	)	~~WEEKDAY~~FRIDAY, THE ~~#~~ 26th
	)	
JUSTICE ~~———~~HAINEY	)	DAY OF ~~MONTH~~MARCH, ~~20YR~~ 2021

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

~~B E T W E E N:~~

~~**PLAINTIFF**~~

~~Plaintiff~~

~~- and -~~

~~**DEFENDANT**~~

~~Defendant~~

APPROVAL AND VESTING ORDER

~~THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.~~

~~ON READING the Report and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the~~

~~service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed[1]:~~

(Re: Save-On-Foods Transaction)

THIS MOTION, made by the TGF Acquisition Parent Ltd., Sun Rich Fresh Foods Inc., and Tiffany Gate Foods Inc. (collectively, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA"**) for an Order substantially in the form included at Tab 3 of the Motion Record approving the sale transaction (the "**Sale Transaction**") contemplated by the Asset Purchase Agreement (the "**APA**") by and between Save-On-Foods Limited Partnership (the "**Save-On**"), a limited partnership formed under the laws of British Columbia, and Sun Rich Fresh Foods Inc., a corporation incorporated under the laws of British Columbia (the "**Seller**"), dated March 25, 2021 and appended as Exhibit "E" to the Marotta Affidavit sworn March 25, 2021 (the "**Marotta Affidavit**"), and vesting the Seller's right, title and interest in the Assets to Save-On or any Affiliate of Save-On which the APA is assigned to in accordance with Section 10.10 of the APA (the "**Buyer**"), was heard this day via video-conference due to the ongoing COVID-19 pandemic.

ON READING the Marotta Affidavit, the Second Report of Ernst & Young Inc., in its capacity as Monitor of the Applicants (the "**Monitor**"); and

UPON HEARING the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the DIP lenders, counsel for the Buyer, counsel for the Royal Bank of Canada, counsel for HSBC, counsel for the Official Unsecured Creditors Committee of the affiliates of the Applicants and other counsel as listed on the Counsel Slip, no one else appearing for any party although duly served as appears on the affidavit of service.

~~[1] 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.~~

SERVICE

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.

DEFINITIONS

2. **THIS COURT ORDERS** capitalized terms not otherwise defined herein have the meaning ascribed to them in the APA.

SALE TRANSACTION

3. ~~1.~~**THIS COURT ORDERS AND DECLARES** that the Sale Transaction is hereby approved[2], and the execution of the ~~Sale Agreement~~ APA by the ~~Receiver[3]~~ Seller is hereby authorized ~~and approved~~, with such minor amendments as the ~~Receiver may deem necessary. The Receiver~~ Seller and the Buyer, with the approval of the Monitor, may agree upon. The Seller is 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 Sale Transaction and for the conveyance of the ~~Purchased~~ Assets to the ~~Purchaser~~Buyer.

4. **THIS COURT ORDERS** that the Seller is authorized and directed to perform its obligations under the APA and any ancillary documents related thereto.

5. ~~2.~~**THIS COURT ORDERS AND DECLARES** that upon the delivery of a ~~Receiver's~~ Monitor's certificate to the ~~Purchaser~~ Seller (or its counsel) and to the Buyer (or its counsel) substantially in the form attached as Schedule ~~A~~ "A" hereto (the "~~Receiver's~~ **Monitor's Certificate**"), all of the ~~Debtor's~~ Seller's right, title and interest in and to the ~~Purchased~~ Assets ~~described in the Sale Agreement [and listed on Schedule B hereto][4]~~ shall vest absolutely in the

---

~~[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.~~

~~Purchaser~~Buyer, 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**"~~[5]~~) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the ~~Order of the Honourable Justice [NAME] dated [DATE]~~Initial Order or any other orders made in these CCAA proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (British Columbia) or any other personal property registry system; and (iii) ~~those Claims listed on Schedule C hereto~~ any Excluded Liabilities (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) and, for~~), provided that, the Claims and the Encumbrances referred to herein shall not include Permitted Encumbrances under the APA or the Assumed Liabilities set forth in Section 2.4 of the APA. For greater certainty, this Court orders that all of the Encumbrances affecting or relating to the ~~Purchased~~ Assets are hereby expunged and discharged as against the ~~Purchased~~ Assets except for the Permitted Encumbrances and Assumed Liabilities.

~~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.~~

~~[5] The "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.~~

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

6. ~~4.~~**THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds~~[7]~~ 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~~ Monitor'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~~[8]~~, 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~~Sale Transaction.

7. ~~5.~~**THIS COURT ORDERS AND DIRECTS** the ~~Receiver~~ Monitor to file with the Court a copy of the ~~Receiver's~~ Monitor's Certificate, forthwith after delivery thereof to the Seller and the Buyer, or to their respective counsel.

8. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Seller and the Buyer or their respective counsel regarding the satisfaction or waiver of the conditions to Closing under the APA, and shall incur no liability with respect to the delivery of the Monitor's Certificate.

9. ~~6.~~**THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the ~~Receiver is~~ Seller are authorized and permitted to disclose and transfer to the ~~Purchaser~~ Buyer all human resources and payroll information in the ~~Company's~~ Seller's records pertaining to the ~~Debtor's~~ Seller's past and current employees~~, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser~~. The Buyer 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~~Seller.

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

(a) the pendency of these CCAA proceedings;

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

~~[8] This 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.~~

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") in respect of the ~~Debtor~~ Seller and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the ~~Debtor~~Seller;

the vesting of the ~~Purchased~~ Assets in the ~~Purchaser~~ Buyer and transactions, payments, distributions and disbursements made pursuant to this Order shall be binding on any trustee ~~in~~ -in-bankruptcy that may be appointed in respect of the ~~Debtor~~ Seller (or any one of them) and shall not be void or voidable by creditors of the ~~Debtor~~Seller, 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)~~ BIA 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.

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

ASSIGNED AGREEMENTS

11. **THIS COURT ORDERS** that upon the filing of the Monitor's Certificate, the Seller's rights and obligations under the 11.3 Contracts and the Third Party Lease set out in Schedule "B" hereto may be assigned to and assumed by the Buyer in accordance with section 2.1 and 2.6 of the APA and such assignment and assumption is hereby approved pursuant to section 11.3 of the CCAA, provided that, the Buyer may designate any 11.3 Contract as an Excluded Contract prior to the Closing Date in accordance with the APA and this Order. Each 11.3 Contract and Third Party Lease assigned to and assumed by the Buyer in accordance with the APA as of the Closing Date shall be an "**Assigned Agreement**" and collectively, the "**Assigned Agreements**".

12. **THIS COURT ORDERS** that, with respect to the Assigned Agreements that are real property leases (collectively, the "**Real Property Leases**"), the Buyer shall be entitled to all of the rights and benefits and subject to all of the obligations as tenant pursuant to the terms of the Real Property Leases for the period commencing from and after the Assumption Effective Date (as defined below) and may enter into and upon and hold and have quiet enjoyment of the

premises contemplated by the Real Property Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Real Property Leases, without any interruption from the Seller, the landlords under the Real Property Leases or any other person whomsoever claiming through or under any of the Seller or the landlords under the Real Property Leases.

13. **THIS COURT ORDERS** that the outstanding monetary defaults under the 11.3 Contracts and Third Party Lease shall be as set out in Schedule "B" (the "**Cure Amounts**") or as otherwise agreed in writing between the relevant counterparty of the Assigned Agreement (each a "**Contract Counterparty**"). Within fourteen (14) Business Days following the Closing Date, the Buyer shall pay the Cure Amounts with respect to each applicable Assigned Agreement, in full and final satisfaction of any monetary defaults under the Assigned Agreements arising prior to the Closing Date.

14. **THIS COURT ORDERS** that the assumption of the Seller's rights and obligations under the Assigned Agreements by the Buyer and the assignment of the Assigned Agreements by the Seller to the Buyer pursuant to the CCAA and this Order is valid and binding upon each Contract Counterparty notwithstanding any restriction or prohibition contained in any Assigned Agreement relating to the assignment thereof, including any provision requiring the consent of any party to the assignment and each Contract Counterparty shall be forever barred, estopped, and permanently enjoined from enforcing the same against the Buyer or the Seller.

15. **THIS COURT ORDERS** that, except as otherwise dealt with herein, the Seller's right, title and interest in the Assigned Agreements shall vest absolutely in the Buyer free and clear of all Encumbrances other than the Permitted Encumbrances.

16. **THIS COURT ORDERS** that, from and after the Closing Date and conditional on the payment of the relevant Cure Amount, if any, (a) the Assigned Agreements will remain in full force and effect and the Buyer shall be entitled to all the rights, benefits and entitlements of the Seller thereunder (subject to any amendments agreed to between the Contract Counterparty and the Buyer), (b) no default (monetary or other cure) shall exist under the Assigned Agreement; and (c) no Contract Counterparty shall be permitted (i) to declare a default by the Buyer under such Assigned Agreement, or (ii) to accelerate, terminate, rescind, refuse to perform, repudiate its obligations thereunder, or otherwise exercise any rights or remedies or take any action or proceedings against the Buyer, as a result of: (A) any circumstance that existed on or prior to the Closing Date; (B) any Seller's financial condition, the insolvency of the

Seller or the affiliates of the Seller in the United States; (C) the commencement of these proceedings by the Seller or the chapter 11 proceedings in respect of the affiliates of the Seller in the United States; (D) any steps taken by the Seller in these proceedings or pursuant to the APA or this Order; (E) any change of control of the Seller arising from the implementation of the Sale Transaction or any anti-assignment provision in the Assigned Agreements; or (F) any failure of the Seller or their affiliates to perform a non-monetary obligation under the Assigned Agreements.

17. **THIS COURT ORDERS** that any Contract Counterparty may apply to this Court prior to the Closing Date to vary or amend this Order on not less than five (5) business days' notice to the Applicants, the Monitor and the Buyer, if such Contract Counterparty objects to the assignment and assumption of their 11.3 Contract or the Third Party Lease on the basis that the Buyer will not be able to perform the obligations under such 11.3 Contract or Third Party Lease. For greater certainty, no Contract Counterparty may further apply to this Court to amend or vary the Cure Amount under the 11.3 Contract or Third Party Lease.

GENERAL

18. ~~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~~ Applicants, the Monitor and their respective 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~~Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order~~,~~, to grant representative status to the Monitor in any foreign proceeding, or to assist the ~~Receiver and its~~ Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without any need for filing or entry.

____

~~Revised: January 21, 2014~~

Schedule A – Form of ~~Receiver's~~ Monitor's Certificate

Court File No. CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
~~**COMMERCIAL LIST**~~

~~B E T W E E N:~~

~~**PLAINTIFF**~~

~~Plaintiff~~

(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

(Applicants)

~~- and -~~

~~**DEFENDANT**~~

~~Defendant~~

~~RECEIVER'S~~ MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Hainey of the Ontario Superior Court of Justice (the "**Court**") dated ~~[DATE OF ORDER], [NAME OF RECEIVER]~~ February 17, 2021 Ernst & Young Inc. was appointed as the ~~receiver (the "Receiver") of the undertaking~~Monitor (the "**Monitor**") of the undertakings, property and assets of ~~[DEBTOR] (the "Debtor")~~Applicants.

B. Pursuant to an Order of the Court dated ~~[DATE]~~February 26, 2021 (the "**Approval and Vesting Order**"), the Court approved the ~~agreement of purchase and sale made as of [DATE OF~~

~~AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser")~~ Asset Purchase Agreement (the "**APA**") by and between Sun Rich Fresh Foods Inc. (the "**Seller**"), and Save-On-Foods Limited Partnership (the "**Buyer**"), dated March 25, 2021 and the sale transaction (the "**Sale Transaction**") contemplated therein, and provided for the vesting in the ~~Purchaser~~ Buyer of the ~~Debtor's~~ Applicants' right, title and interest in and to the ~~Purchased~~ Assets, which vesting is to be effective ~~with respect to the Purchased Assets~~ upon the delivery by the ~~Receiver~~ Monitor to the ~~Purchaser~~ Seller and the Buyer (or their counsel) of a certificate confirming (i) the payment by the ~~Purchaser~~ Buyer of the Purchase Price for the ~~Purchased~~ Assets; (ii) that the conditions to Closing as set out in ~~section ● of~~ the ~~Sale Agreement~~ APA have been satisfied or waived by the ~~Receiver and the Purchaser~~Seller and/or the Buyer, as applicable; and (iii) the Sale Transaction has been completed to the satisfaction of the ~~Receiver~~Monitor.

C. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Seller and the Buyer regarding fulfillment of conditions to closing under the APA.

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

THE ~~RECEIVER~~ MONITOR CERTIFIES the following:

1. The Seller and the Buyer have each delivered written notice to the Monitor that all applicable conditions under the APA have been satisfied and/or waived, as applicable;

~~1.The Purchaser has~~ 2. The Buyer have paid and the ~~Receiver has~~ Seller, as applicable, have received the Purchase Price~~-~~, subject to applicable adjustments, for the ~~Purchased~~ Assets payable on the Closing Date pursuant to the ~~Sale Agreement~~APA;

~~2. The conditions to Closing as set out in section ● of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and~~

3. The Sale Transaction has been completed to the satisfaction of the ~~Receiver.~~Monitor; and

4. This Certificate was delivered by the ~~Receiver~~ Monitor at ________ [TIME] on _______ [DATE].

~~[NAME OF RECEIVER]~~Ernst & Young Inc., in its capacity as ~~Receiver of the undertaking, property and assets of [DEBTOR]~~Monitor of the Applicants, and not in its personal or corporate capacity

Per: ______________________________

Name:

Title:

Schedule "B" – 11.3 Contracts and Third Party Lease

~~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 Property**~~

~~**(unaffected by the Vesting Order)**~~

11.3 Contracts

#	Counterparty	Debtor Entity	Contract Type	Description	Contract Date	Cure Costs
1.	Atlas Pacific Engineering Co.	Sun Rich Fresh Foods Inc.	Equipment Lease	Lease no. 2018-SRM	9/1/2018	$4,904.43
2.	Ceridian Canada Ltd.	Sun Rich Fresh Foods Inc. and Tiffany Gate Foods Inc., among others	Service Agreement	Ceridian Contract	5/9/2020	$6,875.88
3.	TELUS	Sun Rich Fresh Foods Inc.	Service Agreement	Service agreement together with amendments	2/27/2020	$23,101.57
4.	Vita-Pakt Citrus Products Co.	Sun Rich Fresh Foods Inc.	Supply Agreement	Raw Materials Supply Agreement	8/26/2016	$-

Third Party Leases

#	Counterparty	Debtor Entity	Contract Type	Description	Contract Date	Cure Costs
1.	592209 B.C. Ltd	Sun Rich Fresh Foods, Inc.	Lease	Dayhu Lease together with all amendments	9/1/2017	$-

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C 36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

Court File No.: CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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Lawyers for the Applicants

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Court File No. CV-21-00657098-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

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

MOTION RECORD OF THE APPLICANTS
(Re: Sale Approval)
(Returnable March 26, 2021)

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