



No. S-223941
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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 AND ARRANGEMENT OF
FRESHLOCAL SOLUTIONS INC. AND THOSE OTHER PETITIONERS SET OUT ON THE
ATTACHED SCHEDULE "A"

PETITIONERS

ORDER MADE AFTER APPLICATION

(Initial Order)

BEFORE THE HONOURABLE)
JUSTICE FITZPATRICK) 05/16/2022
)

THE APPLICATION of the Petitioners, Food-X Technologies Limited Partnership ("**Food-X Partnership**") and FoodX Technologies SA ("**FoodX SA**" and together with the Petitioners and Food-X Partnership, the "**Freshlocal Group**") coming on for hearing at Vancouver, British Columbia, on the 16 day of May, 2022 (the "**Order Date**"); AND ON HEARING David E. Gruber, counsel for the Freshlocal Group and those other counsel listed on **Schedule "B"** hereto; AND UPON READING the material filed, including the First Affidavit of Monika Russell sworn May 13, 2022 ("**First Affidavit**") and the consent of Ernst & Young, Inc. ("**EY**") to act as Monitor; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "**CCAA**"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:


SERVICE

1. Service of the materials filed in support of this Application by the Petitioners shall be deemed good and valid and, further, shall be and is hereby abridged, such that the service of such application materials is deemed to be timely and sufficient.

JURISDICTION

2. The Petitioners are companies to which the CCAA applies. For greater certainty, the companies set out in Schedule "A" to this Order shall enjoy the benefits of the protections provided herein, and shall be subject to the same restrictions hereunder. Although not Petitioners, Food-X Partnership and FoodX SA shall be bound by this Order as though they were Petitioners, enjoy the benefits of the protections and authorizations provided by this Order and shall be subject to the restrictions contained herein.

SUBSEQUENT HEARING DATE

3. The hearing of the Freshlocal Group's application for an extension of the Stay Period (as defined in paragraph 17 of this Order) and for any ancillary relief shall be held at the Courthouse at 800 Smithe Street, Vancouver, British Columbia at 1:30 PM on Thursday the 26th day of 2022, 2022 or such other date as this Court may order. 

PLAN OF ARRANGEMENT

4. The Freshlocal Group shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

5. Subject to this Order and any further Order of this Court, the Freshlocal Group shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), and continue to carry on their business (the "**Business**") in the ordinary course and in a manner consistent with the preservation of the Business and the Property. The Freshlocal Group shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deems reasonably necessary or desirable in the ordinary course of business or for carrying out the terms of this Order.

6. THIS COURT ORDERS that the Freshlocal Group shall be entitled to continue to utilize the cash management system currently in place as described in the First Affidavit or replace it with another substantially similar cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Freshlocal Group of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Freshlocal Group, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. The Freshlocal Group shall be entitled, but not required, to pay the following expenses which may have been incurred prior to the Order Date:

- (a) all outstanding wages, salaries, employee and pension benefits (including long and short term disability payments), vacation pay and expenses (but excluding severance pay) payable before or after the Order Date, in each case incurred in the

ordinary course of business and consistent with the relevant compensation policies and arrangements existing at the time incurred (collectively "Wages");

- (b) all outstanding or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations;
- (c) all outstanding or future amounts related to honouring gift cards issued before or after the date of this Order; and
- (d) the fees and disbursements of any Assistants retained or employed by the Freshlocal Group which are related to the Freshlocal Group's restructuring, at their standard rates and charges, including payment of the fees and disbursements of legal counsel retained by the Freshlocal Group, whenever and wherever incurred, in respect of:
 - (i) these proceedings or any other similar proceedings in other jurisdictions in which the Freshlocal Group or any subsidiaries or affiliated companies of the Freshlocal Group are domiciled;
 - (ii) any litigation in which the Freshlocal Group are named as a party or is otherwise involved, whether commenced before or after the Order Date; and
 - (iii) any related corporate matters.

8. Except as otherwise provided herein, the Freshlocal Group shall be entitled to pay all expenses reasonably incurred by the Freshlocal Group in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services, provided that any capital expenditure exceeding \$75,000 shall be approved by the Monitor;

- (b) all obligations incurred by the Freshlocal Group after the Order Date, including without limitation, with respect to goods and services actually supplied to the Freshlocal Group following the Order Date (including those under purchase orders outstanding at the Order Date but excluding any interest on the Freshlocal Group's obligations incurred prior to the Order Date);
- (c) payment for goods or services actually supplied to the Freshlocal Group following the date of this Order; and
- (d) fees and disbursements of the kind referred to in paragraph 7(d) which may be incurred after the Order Date.

9. The Freshlocal Group are authorized to remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from Wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Freshlocal Group in connection with the sale of goods and services by the Freshlocal Group, but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal property taxes, municipal business taxes or other taxes, assessments or

levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors.

10. Until such time as a real property lease is disclaimed in accordance with the CCAA, the Freshlocal Group shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated between the Freshlocal Group and the landlord from time to time ("**Rent**"), for the period commencing from and including the Order Date, twice-monthly in equal payments on the first and fifteenth day of the month in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including Order Date shall also be paid.

11. Except as specifically permitted herein, the Freshlocal Group are hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Freshlocal Group to any of their creditors as of the Order Date except as authorized by this Order;
- (b) to make no payments in respect of any financing leases which create security interests;
- (c) to grant no security interests, trust, mortgages, liens, charges or encumbrances upon or in respect of any of their Property, nor become a guarantor or surety, nor otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order;
- (d) to not grant credit except in the ordinary course of the Business only to their customers for goods and services actually supplied to those customers, provided such customers agree that there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by the Freshlocal Group to such customers as of the Order Date; and

(e) to not incur liabilities except in the ordinary course of Business.

12. Notwithstanding paragraph 11, the Freshlocal Group are permitted, with the consent of the Monitor, to make regular payments under all of the Freshlocal Group's real property lease agreements due and after the Order date.

RESTRUCTURING

13. Subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), the Freshlocal Group shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down all or any part of their Business or operations and commence marketing efforts in respect of any of their redundant or non-material assets and to dispose of redundant or non-material assets not exceeding \$10,000.00 in any one transaction or \$100,000.00 in the aggregate. If the disposition of assets exceeds these quantums, the Freshlocal Group shall seek the approval of the Monitor, and if the Monitor deems appropriate, the approval of the Court for such dispositions;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as it deems appropriate; and
- (c) pursue all avenues of refinancing for their Business or Property, in whole or part;

all of the foregoing to permit the Freshlocal Group to proceed with an orderly restructuring of the Business (the "**Restructuring**").

14. The Freshlocal Group shall provide each of the relevant landlords with notice of the Freshlocal Group's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Freshlocal Group's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable

secured creditors who claim a security interest in the fixtures, such landlord and the Freshlocal Group, or by further Order of this Court upon application by the Freshlocal Group, the landlord or the applicable secured creditors on at least two (2) clear days' notice to the other parties. If a member of the Freshlocal Group disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any dispute concerning such fixtures (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Freshlocal Group's claim to the fixtures in dispute.

15. If a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours on giving the Freshlocal Group and the Monitor 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims the landlord may have against the Freshlocal Group, or any other rights the landlord might have, in respect of such lease or leased premises and the landlord shall be entitled to notify the Freshlocal Group of the basis on which it is taking possession and gain possession of and re-lease such leased premises to any third party or parties on such terms as the landlord considers advisable, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

16. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronics Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63,, and Section 20(b) of the *Personal Information Protection Act*, SA 2003, c P-6.5, and any regulations promulgated under authority of any of the foregoing Acts, as applicable (the "**Relevant Enactment**"), the Freshlocal Group, in the course of these proceedings, are permitted to, and hereby shall, disclose personal information of identifiable individuals in their possession or control to stakeholders, their advisors, prospective investors, financiers, buyers or strategic partners (collectively, "**Third Parties**"), but only to the extent desirable or required to negotiate and complete the Restructuring or to prepare and implement the Plan or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter

into confidentiality agreements with the Freshlocal Group binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or to prepare and implement the Plan or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Freshlocal Group or destroy it. If the Third Parties acquire personal information as part of the Restructuring or the preparation and implementation of the Plan or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Freshlocal Group.

STAY OF PROCEEDINGS, RIGHTS AND REMEDIES

17. Until and including May 26, 2022, or such later date as this Court may order (the "**Stay Period**"), no action, suit or proceeding in any court or tribunal (each, a "**Proceeding**") against or in respect of the Freshlocal Group, or the Monitor, or affecting the Business or the Property, shall be commenced or continued except with the written consent of the Freshlocal Group and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Freshlocal Group or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

18. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Freshlocal Group or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Freshlocal Group and the Monitor or leave of this Court.

19. Nothing in this Order, including paragraphs 17 and 18, shall: (i) empower the Freshlocal Group to carry on any business which the Freshlocal Group are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted

by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Freshlocal Group.

NO INTERFERENCE WITH RIGHTS

20. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Freshlocal Group, except with the written consent of the Freshlocal Group and the Monitor or leave of this Court.

CONTINUATION OF SERVICES

21. During the Stay Period, all Persons having oral or written agreements with the Freshlocal Group or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Freshlocal Group, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by the Freshlocal Group, and that the Freshlocal Group shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Freshlocal Group in accordance with normal payment practices of the Freshlocal Group or such other practices as may be agreed upon by the supplier or service provider and the Freshlocal Group and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

22. Notwithstanding any provision in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Order Date, nor shall any Person be under any obligation to advance or re-advance any monies or otherwise extend any credit to the Freshlocal Group on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

23. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of the Freshlocal Group with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Freshlocal Group whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Freshlocal Group, if one is filed, is sanctioned by this Court or is refused by the creditors of the Freshlocal Group or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of the Freshlocal Group that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.

DIRECTORS AND OFFICERS INDEMNIFICATION AND CHARGE

24. The Freshlocal Group shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Freshlocal Group after the commencement of the within proceedings, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

25. The directors and officers of the Freshlocal Group shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed

an aggregate amount of \$250,000, as security for the indemnity provided in paragraph 24 of this Order. The Directors' Charge shall have the priority set out in paragraphs 42 and 45 herein.

26. Notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Freshlocal Group's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 24 of this Order.

APPOINTMENT OF MONITOR

27. EY is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Freshlocal Group with the powers and obligations set out in the CCAA or set forth herein, and that the Freshlocal Group and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Freshlocal Group pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

28. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Freshlocal Group's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Freshlocal Group, to the extent required, in its dissemination, to the Interim Lender (as hereinafter defined) and its counsel on a weekly basis of financial and other information as agreed to between the Freshlocal Group and the

Interim Lender which may be used in these proceedings including reporting on a basis to be agreed with the Interim Lender;

- (d) advise the Freshlocal Group in their preparation of the Freshlocal Group's cash flow statements;
- (e) advise the Freshlocal Group in their development of the Plan and any amendments to the Plan;
- (f) assist the Freshlocal Group, to the extent required by the Freshlocal Group, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Freshlocal Group, to the extent that is necessary to adequately assess the Freshlocal Group's business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

29. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting

in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

30. Nothing herein contained shall require or allow the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the British Columbia *Environmental Management Act*, the British Columbia *Fish Protection Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. For greater certainty, the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

31. The Monitor shall provide any creditor of the Freshlocal Group with information provided by the Freshlocal Group in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Freshlocal Group are confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Freshlocal Group may agree.

32. In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

33. The Monitor, counsel to the Monitor, if any, and counsel to the Freshlocal Group shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Freshlocal Group as part of the cost of these proceedings. The Freshlocal Group are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Freshlocal Group on a periodic basis and, in addition, the Freshlocal Group are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Freshlocal Group, retainers in the amounts of \$50,000 each to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

34. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

35. The Monitor, counsel to the Monitor, if any, and counsel to the Freshlocal Group shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$350,000, as security for their respective fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order which are related to the Freshlocal Group's restructuring. The Administration Charge shall have the priority set out in paragraphs 42 and 45 hereof.

INTERIM FINANCING

36. The Freshlocal Group are hereby authorized and empowered to obtain and borrow under a credit facility from Third Eye Capital Corporation, as administrative and collateral agent for one or more investment vehicles managed, advised or operated by the DIP Agent or its affiliates (collectively, the "**Interim Lender**") in order to finance the continuation of the Business and

preservation of the Property, provided that borrowings under such credit facility shall not exceed CAD \$2,500,000 unless permitted by further Order of this Court.

37. Such credit facility shall be on the terms and subject to the conditions set forth in a term sheet between the Freshlocal Group and the Interim Lender dated as of May 13, 2022 (as may be amended from time to time, the "**Term Sheet**"), filed.

38. The Freshlocal Group are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Term Sheet or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Freshlocal Group are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the Interim Lender under and pursuant to the Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

39. The Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property. The Interim Lender's Charge shall not secure an obligation that exists before this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 42 and 45 hereof.

40. Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under any of the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon 7 days notice to the Freshlocal Group and the Monitor, may exercise any and all of its rights and remedies against the Freshlocal Group or the Property under or pursuant to the Term Sheet, Definitive Documents and the Interim Lender's Charge, including

without limitation, to cease making advances to the Freshlocal Group and set off and/or consolidate any amounts owing by the Interim Lender to the Freshlocal Group against the obligations of the Freshlocal Group to the Interim Lender under the Term Sheet, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Freshlocal Group and for the appointment of a trustee in bankruptcy of the Freshlocal Group; and

- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Freshlocal Group or the Property.

41. The Interim Lender, in such capacity, shall be treated as unaffected in any plan of arrangement or compromise filed by the Freshlocal Group under the CCAA, or any proposal filed by the Freshlocal Group under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

42. The priorities of the Administration Charge, the Interim Lender's Charge and the Directors' Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$350,000);

Second – Interim Lender's Charge (to the maximum amount of \$2,500,000);

Third – Directors' Charge (to the maximum amount of \$250,000).

43. Any security documentation evidencing, or the filing, registration or perfection of, the Administration Charge, Interim Lender's Charge, and the Directors' Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest

filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.

44. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**"), in favour of any Person, save and except those claims contemplated by section 11.8(8) of the CCAA.

45. Except as otherwise expressly provided herein, or as may be approved by this Court, the Freshlocal Group shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to, or *pari passu* with the Charges, unless the Freshlocal Group obtains the prior written consent of the Monitor and the beneficiaries of the Administration Charge, Interim Lender's Charge and the Director's Charge.

46. The Administration Charge, Interim Lender's Charge and the Director's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Freshlocal Group; and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Term Sheet, shall create or be deemed to constitute a breach by the Freshlocal Group of any Agreement to which it is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges or from the Freshlocal Group entering into the Term Sheet, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Freshlocal Group pursuant to this Order, the Term Sheet, the Definitive Documents and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

47. Any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Freshlocal Group's interest in such real property leases.

RELIEF FROM REPORTING OBLIGATIONS

48. The decision by Freshlocal Solutions Inc. to incur no further expenses in relation to any filings, disclosures, core or non-core documents, restatements, amendments to existing filings, press releases or any other actions (collectively, the "**Securities Filings**") that may be required by any federal, provincial or other law respecting securities or capital markets in Canada or the United States, or by the rules and regulations of a stock exchange, including without limitation, the *Securities Act (British Columbia)* and comparable statutes enacted by other provinces of Canada, the *Securities Act of 1933 (United States)* and the *Securities Exchange Act of 1934 (United States)* and comparable statutes enacted by individual states of the United States, the TSX Company Manual and other rules, regulations and policies of the Toronto Stock Exchange (collectively, the "**Securities Provisions**"), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of Freshlocal Solutions Inc. failing to make any Securities Filings required by the Securities Provisions.

49. None of the directors, officers, employees and other representatives of the Freshlocal Group, the Monitor (and its directors, officers, employees and representatives, shall have any

personal liability for any failure by Freshlocal Solutions Inc. to make any Securities Filings required by the Securities Provisions.

SERVICE AND NOTICE

50. The Monitor shall (i) without delay, publish in the *Vancouver Sun* a notice containing the information prescribed under the CCAA, (ii) within five days after Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Freshlocal Group of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

51. The Freshlocal Group and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Freshlocal Group's creditors or other interested parties at their respective addresses as last shown on the records of the Freshlocal Group and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

52. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the "**Service List**") to be maintained by the Monitor. The Monitor shall post and maintain an up to date form of the Service List on its website at: www.ey.com/ca/freshlocal.

53. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on its website at: www.ey.com/ca/freshlocal.

54. Notwithstanding paragraphs 51 and 53 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the Federal Crown, and the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown.

GENERAL

55. The Freshlocal Group or the Monitor may from time to time apply to this Court for directions in the discharge of its powers and duties hereunder.

56. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Freshlocal Group, the Business or the Property.

57. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Freshlocal Group 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 Freshlocal Group and the Monitor and their respective agents in carrying out the terms of this Order.

58. Each of the Freshlocal Group and the Monitor shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

59. The Freshlocal Group may (subject to the provisions of the CCAA and the BIA) at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if and when the Freshlocal Group determines that such a filing is appropriate.

60. The Freshlocal Group are hereby at liberty to apply for such further interim or interlocutory relief as it deems advisable within the time limited for Persons to file and serve Responses to the Petition.

61. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.

62. Any interested party (including the Freshlocal Group and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

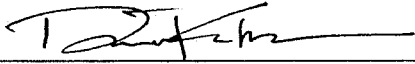
63. Endorsement of this Order by counsel appearing on this application other than counsel for the Freshlocal Group is hereby dispensed with.

64. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

ENDORSEMENTS ATTACHED





Signature of David Gruber

Party Lawyer for the Freshlocal Group

~~BY THE COURT~~



REGISTRAR



Schedule "A"

Sustainable Produce Urban Delivery Inc.

569672 BC Limited

Organics Express Inc.

Mainland Fresh Distribution Inc.

Food-X Urban Delivery Inc.

Food-X Technologies Inc.

Food-X Technologies GP Inc.

Food-X Technologies (eGMS) Inc.

Be Fresh (AB) Inc.

Blush Lane Organic Produce Ltd.

Schedule "B"

List of Counsel

Name of Counsel	Party Represented
David Gruber and Jesse Mighton (Bennett Jones LLP)	Freshlocal Solutions Inc.
Lisa Hiebert (Borden Ladner Gervais LLP)	Ernst & Young Inc. in its capacity as proposed Monitor
Kyle Plunkett (Aird & Berlis LLP)	Silicon Valley Bank
Lance Willams (McCarthy Tetrault LLP)	Ayal Capital Advisors Fund LP, Ayal Capital Advisors Elite Fund LP, Ayal Capital Advisors Select Fund LP, Heidi S. Shippell Heiland 2008 Irrevocable Trust and Pender Private Debt Opportunities Fund I Limited Partnership