

**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
FIGR BRANDS, INC., FIGR NORFOLK INC.
AND 1307849 B.C. LTD.**

Applicants

MOTION RECORD

April 13, 2022

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Sean Zweig (LSO# 57307I)
Mike Shakra (LSO# 64604K)
Aiden Nelms (LSO# 74170S)

Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants

INDEX

TAB	DESCRIPTION
1	Notice of Motion
2	Affidavit of Harvey Carroll sworn April 13, 2022
3	Draft CCAA Termination Order

TAB 1

**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
FIGR BRANDS, INC., FIGR NORFOLK INC.
AND 1307849 B.C. LTD.**

Applicants

**NOTICE OF MOTION
(Returnable April 21, 2022)
(CCAA Termination Order)**

FIGR Brands, Inc. ("**FIGR Brands**"), FIGR Norfolk Inc. ("**FIGR Norfolk**") and 1307849 B.C. Ltd. ("**Residual Co**" and together with FIGR Brands and FIGR Norfolk, the "**Applicants**" or the "**FIGR Group**") will make a motion before a Judge of the Ontario Superior Court of Justice (Commercial List) on Thursday, April 21, 2022 at 12:00 p.m. or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard via videoconference as a result of the COVID-19 pandemic, the details of which can be found at Schedule "A" hereto.

THE MOTION IS FOR:

1. An order (the "**CCAA Termination Order**") substantially in the form attached hereto at Tab "3" of this motion record, *inter alia*:
 - (a) abridging the time for service of the motion record returnable April 21, 2022 and dispensing with service on any person other than those served;
 - (b) extending the Stay Period (as defined below) until and including the CCAA Termination Time (as defined below); (the "**Stay Extension**");

- (c) authorizing each of the Applicants to file assignments in bankruptcy pursuant to the *Bankruptcy and Insolvency Act* (Canada) and name FTI Consulting Canada Inc. ("**FTI**") as trustee-in-bankruptcy (in such capacity, the "**Trustee**");
- (d) authorizing the Applicants to transfer the Bankruptcy Reserve (as defined below) to FTI;
- (e) recognizing the claims bar dates established in the CCAA Proceedings (as defined below) and any Claim or Employee Claim that is a Proven Claim (all as defined below) as determined in the CCAA Proceedings in the Bankruptcy Proceedings (as defined below);
- (f) terminating the CCAA Proceedings upon the Monitor's filing of the certificate appended to the CCAA Termination Order as Schedule "A" (the "**Discharge Certificate**");
- (g) discharging FTI as the Monitor of the Applicants upon the filing of the Discharge Certificate (the "**CCAA Termination Time**");
- (h) terminating the Director's Charge and the Administration Charge upon the filing of the Discharge Certificate;
- (i) approving the Ninth Report of the Monitor, to be filed (the "**Ninth Report**"), and the activities of the Monitor and its counsel described therein; and
- (j) approving the fees and disbursements of the Monitor and its counsel as set out in the Affidavits of Jeffrey Rosenberg and Ryan Jacobs, respectively, attached to the Ninth Report.

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

THE GROUNDS FOR THIS APPLICATION ARE:

Background¹

3. The Applicants operated two (2) licensed cannabis facilities – one in Simcoe, Ontario and the other in Charlottetown, Prince Edward Island. Since operations commenced, both facilities

¹ Note that any reference herein to the FIGR Group or the Applicants prior to June 28, 2021, being the closing of the CIG Transaction (as defined below), includes CIG and not Residual Co (each as defined below).

were cash flow negative and the FIGR Group was dependant on certain of its affiliate companies for funding. The cannabis facility in Charlottetown, Prince Edward Island was sold as part of the CIG Transaction (as defined below).

4. Facing significant liquidity issues, potential enforcement action from certain of their creditors and the cessation of its business, the Applicants sought protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("CCAA") pursuant to an order (the "**Initial Order**") on January 21, 2021 (the "**CCAA Proceedings**").

5. Among other things, the Initial Order:

- (a) appointed FTI as Monitor;
- (b) granted an initial 10-day stay of proceedings in favour of the Applicants and their Directors and Officers (the "**Stay Period**");
- (c) approved the Applicants' ability to borrow under a debtor-in-possession credit facility (the "**DIP Loan**") pursuant to a commitment letter dated January 20, 2021 with Alliance One Tobacco Canada, Inc. (in such capacity, the "**DIP Lender**"), whereby the DIP Lender agreed to provide the DIP Loan in the maximum principal amount of \$8,000,000 plus interest and costs (as may be amended from time to time, the "**DIP Commitment Letter**"); and
- (d) granted the Administration Charge, the Directors' Charge, the DIP Lender's Charge and the Intercompany Charge (all as defined in the Initial Order).

6. On January 29, 2021, the Court granted an amended and restated Initial Order which, among other things:

- (a) increased the Directors' Charge and the DIP Lender's Charge to \$2,700,000 and \$8,000,000 (plus interest and costs), respectively; and
- (b) extended the Stay Period to and including March 31, 2021.

7. On January 29, 2021, the Court also granted an order which, among other things, approved a sale and investment solicitation process in respect of the FIGR Group.

8. On February 22, 2021, the Court granted an Order (the "**Claims Procedure Order**") which, among other things, approved a process for the solicitation, identification, determination and adjudication of claims against the FIGR Group and their present and former Directors and Officers (the "**Claims Procedure**"). The Claims Procedure excluded Employee Claims (as defined in the Claims Procedure Order).

9. On February 22, 2021, the Court also granted an Order which, among other things:

- (a) approved a key employee retention plan for certain management and operations staff of Canada's Island Garden Inc. ("**CIG**");
- (b) extended the Stay Period until April 30, 2021;
- (c) approved the Pre-Filing Report of the Monitor dated January 21, 2021, the First Report of the Monitor dated January 27, 2021 and the Second Report of the Monitor dated February 18, 2021 (the "**Second Report**") and the activities of the Monitor and its counsel described therein; and
- (d) approved the fees and expenses of the Monitor and its counsel as set out in the Second Report.

10. On March 31, 2021, the Court granted an Order which, among other things:

- (a) authorized the execution of the first amendment to the DIP Commitment Letter, which increased the maximum borrowings available under the DIP Loan up to \$13,000,000 plus interest and costs (which was an increase of \$5,000,000) and a corresponding increase to the DIP Lender's Charge;
- (b) approved the Third Report of the Monitor dated March 26, 2021 (the "**Third Report**") and the activities of the Monitor and its counsel described therein; and
- (c) approved the fees and disbursements of the Monitor and its counsel as set out in the Third Report.

11. On April 30, 2021, the Court granted:

- (a) an Order (the "**Employee Claims Procedure Order**") which, among other things, established a procedure for the identification, determination and adjudication of

Employee Claims (as defined in the Employee Claims Procedure Order) against the FIGR Group and their current and former Directors and Officers (each as defined in the Employee Claims Procedure Order) (the "**Employee Claims Procedure**"); and

- (b) an Order which, among other things, extended the Stay Period until and including June 30, 2021, approved the Fourth Report of the Monitor dated April 27, 2021 (the "**Fourth Report**") and the activities of the Monitor and its counsel described therein and approved the fees and disbursements of the Monitor and its counsel as set out in the Fourth Report.

12. On June 10, 2021, the Court granted an order (the "**CIG Approval and Vesting Order**") which, among other things:

- (a) approved the sale transaction (the "**CIG Transaction**") contemplated by a subscription and share purchase agreement (the "**CIG Subscription and Share Purchase Agreement**") between FIGR Brands, as vendor, CIG, as the purchased entity (in such capacity, the "**Purchased Entity**") and 102604 P.E.I. Inc., as the purchaser (the "**CIG Purchaser**"), and vesting in the CIG Purchaser all of FIGR Brand's right, title and interest in and to all issued and outstanding shares in the Purchased Entity;
- (b) added a subsidiary of FIGR Brands, namely Residual Co, incorporated under the laws of British Columbia, as an Applicant in these CCAA Proceedings in order to effectuate the CIG Transaction;
- (c) removed CIG as an Applicant in these CCAA Proceedings upon closing of the CIG Transaction and deemed CIG to be released from the purview of the Initial Order and all other orders of the Court granted in these CCAA Proceedings; and
- (d) transferred and vested the Excluded Liabilities, the Excluded Assets and Excluded Contracts (each as defined in the CIG Subscription and Share Purchase Agreement) to Residual Co on or before closing such that the Excluded Liabilities became liabilities of Residual Co and not liabilities of CIG or the Purchased Entity.

13. On June 10, 2021, the Court also granted an order (the "**Norfolk Approval and Vesting Order**") and together with the CIG Approval and Vesting Order, the "**Approval and Vesting Orders**") which, among other things, approved the sale transaction (the "**Norfolk Transaction**" and together with the CIG Transaction, the "**Transactions**") contemplated by the asset purchase agreement between FIGR Norfolk, as vendor, and 11897985 Canada Inc. (dba) BEROXFOOD North America dated May 10, 2021 (the "**Norfolk Sale Agreement**"), and vesting in Woodside Greens Business Association Inc., or its designee all of the FIGR Norfolk's right, title and interest in and to the property described in the Norfolk Sale Agreement.

14. On June 10, 2021, the Court granted a further order (the "**June Ancillary Order**") which, among other things:

- (a) extended the Stay Period until and including September 3, 2021;
- (b) authorized the execution by the Applicants of the second amendment to the DIP Commitment Letter, which, among other things, increased the maximum borrowing available under the DIP Loan up to \$16,000,000 plus interest and costs (which was an increase of \$3,000,000). The June Ancillary Order also authorized a corresponding increase to the DIP Lender's Charge;
- (c) authorized and empowered the Applicants to make, or cause to be made, distributions from time to time to the DIP Lender in repayment of the obligations secured by the DIP Lender's Charge;
- (d) approved the Pre-Filing Intercompany Claims Resolution Process;
- (e) approved the Fifth Report of the Monitor dated June 4, 2021 (the "**Fifth Report**") and the activities of the Monitor described therein; and
- (f) approved the fees and disbursements of the Monitor and its counsel as set out in the Fifth Report.

15. The CIG Transaction closed on June 28, 2021 and the Norfolk Transaction, following a series of amendments to the Norfolk Sale Agreement, closed on January 28, 2022.

16. On August 24, 2021, the Court granted an order which, among other things:

- (a) extended the Stay Period until and including October 29, 2021;

- (b) approved a key employee retention plan for certain senior employees of FIGR Norfolk (the "**Norfolk KERP**") and sealed a summary of the Norfolk KERP;
 - (c) approved the Sixth Report of the Monitor (the "**Sixth Report**") and the activities of the Monitor described therein; and
 - (d) approved the fees and disbursements of the Monitor and its counsel as set out in the fee affidavits attached to the Sixth Report.
17. On October 19, 2021, the Court granted an order which, among other things:
- (a) extended the Stay Period until and including February 4, 2022;
 - (b) approved the Seventh Report of the Monitor (the "**Seventh Report**") and the activities of the Monitor described therein; and
 - (c) approved the fees and disbursements of the Monitor and its counsel as set out in the fee affidavits attached to the Seventh Report.
18. On February 2, 2022, the Court granted an order which, among other things:
- (a) extended the Stay Period to and including April 29, 2022;
 - (b) declared that pursuant to section 5(5) of the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s.1 ("**WEPPA**"), FIGR Norfolk and FIGR Brands met the criteria established by section 3.2 of the *Wage Earner Protection Program Regulations*, SOR/2008-222;
 - (c) approved the Proposed Distribution Methodology (as defined in the Stay Extension, Distribution and WEPPA Order);
 - (d) authorized and directed the Applicants to make one or more cash distributions (collectively, the "**Proposed Distributions**") to each Claimant with a Proven Claim pursuant to the Proposed Distribution Methodology, net of any withholding taxes based on applicable law;

- (e) approved the Eighth Report of the Monitor dated January 27, 2022 (the "**Eighth Report**"), and the activities of the Monitor and its counsel described therein; and
- (f) approved the fees and disbursements of the Monitor and its counsel as set out in the fee affidavits appended to the Eighth Report.

19. Since the granting of the Stay Extension, Distribution and WEPPA Order, the Applicants have continued to act in good faith and with due diligence to, among other things, wind-down their business, communicate, with the assistance of the Monitor, with key stakeholders in the CCAA Proceedings, terminate certain employees, work with certain former employees to facilitate payment on account of the Guarantees and Employee Settlements (each as defined below), work with the Applicants' tax advisor to finalize outstanding tax returns (the "**Outstanding Returns**"), work through and address certain pre-filing tax related issues, assist the Monitor in connection with WEPPA, assist the Monitor in finalizing the Claims Procedure and the Employee Claims Procedure and begin making the Proposed Distributions.

The Claims Procedure and Employee Claims Procedure²

20. The Monitor has completed the Claims Procedure and the Employee Claims Procedure in accordance with the Claims Procedure Order and the Employee Claims Procedure Order, as applicable. The Monitor engaged with various Claimants and Employee Claimants in an effort to resolve outstanding Claims and Employee Claims, as the case may be.

The Transactions

21. As previously noted, on June 10, 2021, the Court granted the Approval and Vesting Orders approving the Transactions. On June 28, 2021, the Applicants and the CIG Purchaser closed the CIG Transaction.

22. Following the closing of the CIG Transaction, and in accordance with the June Ancillary Order, on July 8, 2021, the Applicants caused a distribution to be made to the DIP Lender in full satisfaction of their obligations owing under the DIP Loan including, but not limited to,

² Capitalized terms not otherwise defined in this section have the meaning ascribed to them in the Claims Procedure Order or the Employee Claims Procedure Order, as the case may be.

outstanding principal, accrued interest, fees and expenses up and until July 8, 2021. As a result, there are no amounts currently owing by the Applicants to the DIP Lender.

23. Following a protracted process and a number of amendments to the Norfolk Sale Agreement, the Norfolk Transaction successfully closed on January 28, 2022.

Employee Guarantees, Tax Issues and the Proposed Distributions

24. Following the Stay Extension, Distribution and WEPPA Order, the Applicants, with the assistance of the Monitor, worked diligently in an effort to finalize and facilitate the Proposed Distributions. In connection with the foregoing, the Applicants facilitated settlements (the "**Employee Settlements**") between certain former employees with severance and termination guarantees (the "**Guarantees**") from the Applicants parent company, Pyxus Holdings, Inc. ("**Pyxus**")³. In order to facilitate payments owing under the Employee Settlements, Pyxus worked with Alliance One International Tabak B.V. ("**AOI Tabak**"), the Applicants' largest creditor and a related party, to redirect a portion of AOI Tabak's distribution to pay amounts owing under the Employee Settlements.

25. Following the granting of the Stay Extension, Distribution and WEPPA Order, the Applicants became aware of certain intercompany tax issues which were required to be resolved before certain of the Proposed Distributions could be made. These issues have now been substantially resolved.

26. The Applicants have commenced making the Proposed Distributions to third party creditors and anticipate completing the Proposed Distributions in the next 30 days.

The CCAA Termination Order

(i) Stay Extension

27. Pursuant to the Stay Extension, Distribution and WEPPA Order, the Court extended the Stay Period until and including April 29, 2022. Pursuant to the CCAA Termination Order, the Applicants are seeking an extension of the Stay Period until and including the CCAA Termination Time.

³ Pyxus is the guarantor under certain employment agreements by operation of a transaction effected by the Chapter 11 plan of reorganization of Old Holdco, Inc. f/k/a Pyxus International, Inc.

28. It is necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended as it will allow:

- (a) the Applicants to complete the Proposed Distributions;
- (b) the Applicants to finalize and file the Outstanding Returns; and
- (c) the Monitor to issue the Discharge Certificate with a view of bringing these CCAA Proceedings to an end.

29. The Monitor is supportive of the proposed Stay Extension and believes it will not materially prejudice any creditor. The FIGR Group is projected to have sufficient liquidity to fund their obligations and the costs of the CCAA Proceedings through the end of the proposed extended Stay Period.

(ii) CCAA Termination

30. Following the closing of the Norfolk Transaction, the Applicants no longer have any active business operations and the Applicants anticipate that the remaining wind-down matters in the CCAA Proceedings will be completed in the next 30 days. As noted below, prior to completion of the CCAA Proceedings, certain or all of the Applicants may pursue Bankruptcy Proceedings as part of the final wind-down of their estates.

31. The CCAA Termination Order provides that the CCAA Proceedings shall be terminated upon the filing of the Discharge Certificate by the Monitor, which shall confirm that all matters to be attended to in connection with the Applicants and the CCAA Proceedings have been completed.

32. Pursuant to the terms of the CCAA Termination Order, the Applicants, the Monitor and the DIP Lender, along with counsel to each of the Applicants, the Monitor and the DIP Lender, and each of their respective affiliates and officers, directors, partners, employees and agents (collectively, the "**Released Parties**") will be released from all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or thereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the CCAA Termination Time in any way relating to, arising out of or in respect of, the CCAA

Proceedings or with respect to their respective conduct in the CCAA Proceedings (collectively, the "**Released Claims**"). The Released Claims are sufficiently narrow and not overly broad.

33. The CCAA Termination Order contemplates that certain relief will be effective immediately, including the release of the Released Claims. Notwithstanding the foregoing, certain relief, including termination of the CCAA Proceedings, will only be effective upon the filing of the Discharge Certificate (the "**Discharge Relief**").

34. The Monitor will provide at least seven (7) days' notice of its intention to file the Discharge Certificate on the Service List.

35. If any person objects to the Discharge Relief, the person must send written notice of the objection and the grounds for such objection to the Monitor prior to the CCAA Termination Time. Similarly, if the Monitor does not receive any objections, it shall file the Discharge Certificate at the CCAA Termination Time and the Discharge Relief shall be immediately effective.

36. The Released Parties have made, and continue to make, significant contributions to the CCAA Proceedings and the Applicants' restructuring efforts.

(iii) Authorization to Assign the Applicants into Bankruptcy

37. Pursuant to the CCAA Termination Order, the Applicants are also seeking authorization to assign one or more of the Applicants into bankruptcy (the "**Bankruptcy Proceedings**") and appoint FTI as the Trustee.

38. The CCAA Termination Order further provides that any Claim or Employee Claim that has been admitted in the CCAA Proceedings will continue to be a claim in the Applicants' anticipated Bankruptcy Proceedings. This will permit the efficient administration of the bankrupt estates by eliminating the requirement for creditors to re-submit claims in the Bankruptcy Proceedings and for the Trustee to make determinations in respect of those claims.

39. Authorization to commence the Bankruptcy Proceedings is being sought to, among other things, cause a deemed year end for one or more of the Applicants which will assist with the wind up of the estates.

(iv) *Bankruptcy Reserve*

40. As previously noted, on February 2, 2022, the Court approved the Stay Extension, Distribution and WEPPA Order. In addition to the relief outlined above, the Stay Extension, Distribution and WEPPA Order also directed the Applicants, with the assistance of the Monitor, to establish, hold and maintain a reserve from the funds remaining in the respective accounts of the Applicants in the amount of approximately \$2.1 million (the "**Administrative Reserve**") to secure certain obligations in connection with the CCAA Proceedings.

41. At that time, the Applicants had not contemplated pursuing the Bankruptcy Proceedings. In connection with the foregoing, and given that the Bankruptcy Proceedings are now anticipated, the Applicants are now seeking authorization to transfer \$150,000 (plus HST) (the "**Bankruptcy Reserve**") from the Administrative Reserve to FTI for the fees and disbursements of the Trustee and its counsel to be incurred in connection with the Bankruptcy Proceedings.

42. The CCAA Termination Order also seeks authorization for the Trustee to pay any available remainder from the Bankruptcy Reserve to AOI Tabak on account of its claim against the Applicants.

(v) *Approval of the Ninth Report and Fees*

43. The proposed CCAA Termination Order also seeks approval of the Ninth Report and the fees and activities of the Monitor and its counsel described therein.

OTHER GROUNDS:

44. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court.

45. Rules 1.04, 2.03, 3.02, 14.05(2), 16, 38 and 39 of the Ontario *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended and sections 106 and 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended.

46. 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 this motion:

- (a) the Affidavit of Harvey Carroll, sworn on April 13, 2022, and the exhibits attached thereto;
- (b) the Ninth Report of the Monitor, to be filed; and
- (c) such further and other evidence as counsel may advise and this Court may permit.

April 13, 2022

BENNETT JONES LLP

One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Sean Zweig (LSO# 57307I)
Mike Shakra (LSO# 64604K)
Aiden Nelms (LSO# 74170S)

Tel: 416-863-1200
Fax: 416-863-1716
Lawyers for the Applicants

Schedule "A"

Join Zoom Meeting

<https://us02web.zoom.us/j/86773234701>

Meeting ID: 867 7323 4701

One tap mobile

+13462487799,,86773234701# US (Houston)

+16465588656,,86773234701# US (New York)

Dial by your location

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

Meeting ID: 867 7323 4701

Find your local number: <https://us02web.zoom.us/u/kexkIQcgA2>

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 FIGR BRANDS, INC., FIGR NORFOLK INC. AND 1307849 B.C. LTD.

Court File No.: CV-21-00655373-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings Commenced in Toronto

NOTICE OF MOTION

BENNETT JONES LLP

One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Sean Zweig (LSO# 57307I)
Mike Shakra (LSO# 64604K)
Aiden Nelms (LSO# 74170S)

Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants

TAB 2

**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
FIGR BRANDS, INC., FIGR NORFOLK INC.
AND 1307849 B.C. LTD.**

Applicants

**AFFIDAVIT OF HARVEY CARROLL
(Sworn April 13, 2022)**

I, Harvey Carroll, of the town of Uxbridge, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the Chief Executive Officer of FIGR Brands, Inc. ("**FIGR Brands**") and a director of FIGR Norfolk Inc. ("**FIGR Norfolk**") and 1307849 B.C. Ltd.¹ ("**Residual Co**"), and together with FIGR Norfolk and FIGR Brands, the "**Applicants**" or the "**FIGR Group**"). As such, I have personal knowledge of the Applicants and the matters to which I depose in this affidavit. Where I have relied on other sources for information, I have so stated and I believe them to be true.

2. I swear this Affidavit in support of a motion by the Applicants for an order (the "**CCAA Termination Order**"), among other things:

¹ 1307849 B.C. Ltd. is a wholly owned subsidiary of FIGR Brands.

- (a) abridging the time for service of the motion record returnable April 21, 2022 and dispensing with service on any person other than those served;
- (b) extending the Stay Period (as defined below) until and including the CCAA Termination Time (as defined below) (the "**Stay Extension**");
- (c) authorizing each of the Applicants to file assignments in bankruptcy pursuant to the *Bankruptcy and Insolvency Act* (Canada) and name FTI Consulting Canada Inc. ("**FTI**") as trustee-in-bankruptcy (in such capacity, the "**Trustee**");
- (d) authorizing the Applicants to transfer the Bankruptcy Reserve (as defined below) to FTI;
- (e) recognizing the claims bar dates established in the CCAA Proceedings (as defined below) and any Claim or Employee Claim, that is a Proven Claim (each as defined below) as determined in the CCAA Proceedings, in the Bankruptcy Proceedings (as defined below);
- (f) terminating the CCAA Proceedings upon the Monitor's filing of the certificate appended to the CCAA Termination Order as Schedule "A" (the "**Discharge Certificate**");
- (g) discharging FTI as the Monitor of the Applicants upon the filing of the Discharge Certificate (the "**CCAA Termination Time**");
- (h) terminating the Director's Charge and the Administration Charge upon the filing of the Discharge Certificate;

- (i) approving the Ninth Report of the Monitor, to be filed (the "**Ninth Report**"), and the activities of the Monitor and its counsel described therein; and
- (j) approving the fees and disbursements of the Monitor and its counsel as set out in the Affidavits of Jeffrey Rosenberg and Ryan Jacobs, respectively, attached to the Ninth Report (together, the "**Fee Affidavits**").

3. All terms not otherwise defined herein have the meaning ascribed to them in, as applicable: (a) the Initial Order (as defined below) or (b) the affidavit of Michael Devon sworn January 26, 2022 in support of the Stay Extension, Distribution and WEPPA Order (as defined below), a copy of which is appended hereto (without exhibits) as Exhibit "A".

4. All references to monetary amounts in this affidavit are in Canadian dollars.

I. INTRODUCTION AND BACKGROUND²

5. The FIGR Group operated two (2) licensed cannabis facilities – one in Simcoe, Ontario and the other in Charlottetown, Prince Edward Island. Since operations commenced, both facilities were cash flow negative and the FIGR Group was dependant on certain of its affiliate companies for funding. As discussed in further detail below, the cannabis facility in Charlottetown, Prince Edward Island was sold as part of the CIG Transaction (as defined below).

6. Facing significant liquidity issues, potential enforcement action from certain of its creditors and the cessation of its business, the FIGR Group sought protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**") pursuant to an order (the "**Initial Order**") on January 21, 2021 (the "**CCAA Proceedings**"). The facts underlying the FIGR Group's

² Note that any reference in this Affidavit to the FIGR Group or the Applicants prior to June 28, 2021, being the closing of the CIG Transaction (as defined below), includes CIG (as defined below) and not Residual Co.

financial circumstances and need for CCAA protection are set out in the affidavit of Michael Devon sworn January 21, 2021, in support of the commencement of the CCAA Proceedings, a copy of which is appended hereto (without exhibits) as Exhibit "B" and are not repeated herein.

7. Among other things, the Initial Order:

- (a) appointed FTI as Monitor;
- (b) granted an initial 10-day stay of proceedings in favour of the Applicants and their Directors and Officers (the "**Stay Period**");
- (c) approved the Applicants' ability to borrow under a debtor-in-possession credit facility (the "**DIP Loan**") pursuant to a commitment letter dated January 20, 2021 with Alliance One Tobacco Canada, Inc. (in such capacity, the "**DIP Lender**"), whereby the DIP Lender agreed to provide the DIP Loan in the maximum principal amount of \$8,000,000 (as may be amended from time to time, the "**DIP Commitment Letter**"), although the DIP Lender's Charge was limited to \$2,500,000; and
- (d) granted the Administration Charge, the Directors' Charge, the DIP Lender's Charge and the Intercompany Charge.

8. On January 29, 2021, the Court granted an Amended and Restated Initial Order (the "**Amended and Restated Initial Order**") which, among other things:

- (a) increased the Directors' Charge and the DIP Lender's Charge to \$2,700,000 and \$8,000,000 (plus interest and costs), respectively; and
- (b) extended the Stay Period to and including March 31, 2021.

9. A copy of the Amended and Restated Initial Order is attached hereto as Exhibit "C".
10. On January 29, 2021, the Court also granted an order which, among other things, approved a sale and investment solicitation process in respect of the FIGR Group.
11. On February 22, 2021, the Court granted an order (the "**Claims Procedure Order**") which, among other things, approved a process for the solicitation, identification, determination and adjudication of claims against the FIGR Group and their present and former Directors and Officers (the "**Claims Procedure**"). The Claims Procedure excluded Employee Claims (as defined in the Claims Procedure Order).
12. On February 22, 2021, the Court also granted an order which, among other things:
 - (a) approved a key employee retention plan for certain management and operations staff of Canada's Island Garden Inc. ("**CIG**");
 - (b) extended the Stay Period until April 30, 2021;
 - (c) approved the Pre-Filing Report of the Monitor dated January 21, 2021, the First Report of the Monitor Dated January 27, 2021 and the Second Report of the Monitor dated February 18, 2021 (the "**Second Report**") and the activities of the Monitor set out therein; and
 - (d) approved the fees and disbursements of the Monitor and its counsel as set out in the Second Report.
13. On March 31, 2021, the Court granted an order (the "**DIP Amendment Order**") which, among other things, authorized the execution by the Applicants of the First Amendment to the DIP

Commitment Letter, which, *inter alia*, increased the maximum borrowing available under the DIP Loan up to \$13,000,000 (which was an increase of \$5,000,000). The DIP Amendment Order also:

- (a) authorized a corresponding increase to the DIP Lender's Charge;
- (b) approved the Third Report of the Monitor dated March 26, 2021 (the "**Third Report**") and the activities of the Monitor described therein; and
- (c) approved the fees and disbursements of the Monitor and its counsel as set out in the Third Report.

14. On April 30, 2021, the Court granted an order (the "**Employee Claims Procedure Order**") which, among other things, established a procedure (the "**Employee Claims Procedure**") for the identification, determination and adjudication of employee claims against the FIGR Group and their current and former Directors and Officers ("**Employee Claims**" and each an "**Employee Claim**").

15. On April 30, 2021, the Court also granted an order which, among other things:

- (a) extended the Stay Period until and including June 30, 2021;
- (b) approved the Fourth Report of the Monitor dated April 27, 2021 (the "**Fourth Report**") and the activities of the Monitor described therein; and
- (c) approved the fees and disbursements of the Monitor and its counsel as set out in the Fourth Report.

16. On June 10, 2021, the Court granted an order (the "**CIG Approval and Vesting Order**") which, among other things:

- (a) approved the sale transaction (the "**CIG Transaction**") contemplated by a subscription and share purchase agreement (the "**CIG Subscription and Share Purchase Agreement**") between FIGR Brands, as vendor, CIG, as the purchased entity and 102604 P.E.I. Inc., as the purchaser (the "**CIG Purchaser**"), and vesting in the CIG Purchaser all of FIGR Brands' right, title and interest in and to all issued and outstanding shares in CIG;
- (b) added a subsidiary of FIGR Brands, namely Residual Co, incorporated under the laws of British Columbia, as an Applicant in these CCAA Proceedings in order to effectuate the CIG Transaction;
- (c) removed CIG as an Applicant in these CCAA Proceedings upon closing of the CIG Transaction and deemed CIG to be released from the purview of the Initial Order and all other orders of the Court granted in these CCAA Proceedings; and
- (d) transferred and vested the Excluded Liabilities, the Excluded Assets and Excluded Contracts (each as defined in the CIG Subscription and Share Purchase Agreement) to Residual Co on or before closing such that the Excluded Liabilities became liabilities of Residual Co and were no longer liabilities of CIG.

17. On June 10, 2021, the Court also granted an order (the "**Norfolk Approval and Vesting Order**", and together with the CIG Approval and Vesting Order, the "**Approval and Vesting Orders**") which, among other things, approved the sale transaction (the "**Norfolk Transaction**", and together with the CIG Transaction, the "**Transactions**") contemplated by the asset purchase agreement between FIGR Norfolk, as vendor, and 11897985 Canada Inc. (dba) BEROXFOOD North America dated May 10, 2021 (the "**Norfolk Sale Agreement**"), and vested in Woodside

Greens Business Association Inc., or its designee, all of FIGR Norfolk's right, title and interest in and to the property described in the Norfolk Sale Agreement.

18. On June 10, 2021, the Court granted a further order (the "**June Ancillary Order**") which, among other things:

- (a) extended the Stay Period until and including September 3, 2021;
- (b) authorized the execution by the Applicants of the Second Amendment to the DIP Commitment Letter, which, among other things, increased the maximum borrowing available under the DIP Loan up to \$16,000,000 (which was an increase of \$3,000,000). The June Ancillary Order also authorized a corresponding increase to the DIP Lender's Charge;
- (c) authorized and empowered to Applicants to make, or cause to be made, distributions from time to time to the DIP Lender in repayment of the obligations secured by the DIP Lender's Charge;
- (d) approved the Proposed Pre-filing Intercompany Claims Resolution Process (as defined in the Claims Procedure Order);
- (e) approved the Fifth Report of the Monitor dated June 4, 2021 (the "**Fifth Report**") and the activities of the Monitor described therein; and
- (f) approved the fees and disbursements of the Monitor and its counsel as set out in the Fifth Report.

19. The CIG Transaction closed on June 28, 2021 and the Norfolk Transaction, following a series of amendments to the Norfolk Sale Agreement, ultimately closed on January 28, 2022.
20. On August 24, 2021, the Court granted an order which, among other things:
 - (a) extended the Stay Period until and including October 29, 2021;
 - (b) approved a key employee retention plan for certain senior employees of FIGR Norfolk and sealed a summary of same;
 - (c) approved the Sixth Report of the Monitor dated August 19, 2021 (the "**Sixth Report**") and the activities of the Monitor described therein; and
 - (d) approved the fees and disbursements of the Monitor and its counsel as set out in the Sixth Report.
21. On October 12, 2021, the Court granted an order which, among other things:
 - (a) extended the Stay Period until and including February 4, 2022;
 - (b) approved the Seventh Report of the Monitor dated October 14, 2021 (the "**Seventh Report**"), and the activities of the Monitor and its counsel described therein; and
 - (c) approved the fees and disbursements of the Monitor and its counsel as set out in the fee affidavit appended to the Seventh Report.
22. On February 2, 2022, the Court granted an order (the "**Stay Extension, Distribution, and WEPPA Order**") which, among other things:
 - (a) extended the Stay Period to and including April 29, 2022;

- (b) declared that pursuant to section 5(5) of the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s.1 ("**WEPPA**"), FIGR Norfolk and FIGR Brands met the criteria established by section 3.2 of the *Wage Earner Protection Program Regulations*, SOR/2008-222;
- (c) approved the Proposed Distribution Methodology (as defined in the Stay Extension, Distribution, and WEPPA Order);
- (d) authorized and directed the Applicants to make one or more cash distributions (collectively, the "**Proposed Distributions**") to each Claimant with a Proven Claim pursuant to the Proposed Distribution Methodology, net of any withholding taxes based on applicable law;
- (e) approved the Eighth Report of the Monitor dated January 27, 2022 (the "**Eighth Report**"), and the activities of the Monitor and its counsel described therein; and
- (f) approved the fees and disbursements of the Monitor and its counsel as set out in the fee affidavits appended to the Eighth Report.

23. Since the granting of the Stay Extension, Distribution and WEPPA Order, the Applicants have continued to act in good faith and with due diligence to, among other things, wind-down their business, communicate, with the assistance of the Monitor, with key stakeholders in the CCAA Proceedings, terminate certain employees, work with certain former employees to facilitate payment on account of the Guarantees and Employee Settlements (each as defined below), work with the Applicants' tax advisor to finalize outstanding tax returns (the "**Outstanding Returns**") for each of the Applicants, work through and address certain pre-filing tax related issues, assist the

Monitor in connection with WEPPA, assist the Monitor in finalizing the Claims Procedure and the Employee Claims Procedure and begin making the Proposed Distributions.

II. CLAIMS PROCEDURE AND THE EMPLOYEE CLAIMS PROCEDURE³

24. I understand that the Monitor has completed the Claims Procedure and the Employee Claims Procedure in accordance with the Claims Procedure Order and the Employee Claims Procedure Order, respectively. The Monitor engaged with various Claimants and Employee Claimants in an effort to resolve outstanding Claims and Employee Claims, as the case may be.

III. THE TRANSACTIONS

25. As previously noted, on June 10, 2021, the Court granted the Approval and Vesting Orders approving the Transactions, and on June 28, 2021, the Applicants and the CIG Purchaser closed the CIG Transaction.

26. Following the closing of the CIG Transaction, and in accordance with the June Ancillary Order, on July 8, 2021, the Applicants caused a distribution to be made to the DIP Lender in full satisfaction of their obligations owing under the DIP Loan including, but not limited to, outstanding principal, accrued interest, fees and expenses up and until July 8, 2021. As a result, there are no amounts currently owing by the Applicants to the DIP Lender.

27. Following a protracted process and a number of amendments to the Norfolk Sale Agreement, the Norfolk Transaction successfully closed on January 28, 2022.

³ Terms in this section not otherwise defined herein have the meaning ascribed to them in the Claims Procedure Order or the Employee Claims Procedure Order, as applicable.

IV. EMPLOYEE GUARANTEES, TAX ISSUES AND THE PROPOSED DISTRIBUTIONS

28. Following the Stay Extension, Distribution and WEPPA Order, the Applicants, with the assistance of the Monitor, worked diligently in an effort to finalize and facilitate the Proposed Distributions. In connection with the foregoing, the Applicants facilitated settlements (the "**Employee Settlements**") between certain former employees with severance and termination guarantees (the "**Guarantees**") from the Applicants parent company Pyxus Holdings, Inc. ("**Pyxus**").⁴ In order to facilitate payments owing under the Employee Settlements by Pyxus, Pyxus worked with Alliance One International Tabak B.V. ("**AOI Tabak**"), the Applicants' largest creditor and a related party, to redirect a portion of AOI Tabak's distribution to pay amounts owing under the Employee Settlements. I understand that all necessary documentation in respect of the Employee Settlements has been finalized and executed by the relevant parties.

29. Following the granting of the Stay Extension, Distribution and WEPPA Order, the Applicants became aware of certain intercompany tax issues which were required to be resolved before certain of the Proposed Distributions could be made. I understand that these issues have now been resolved.

30. As of the date of this affidavit, the Applicants have commenced making the Proposed Distributions to third party creditors. The Applicants anticipate completing the Proposed Distributions in the next 30 days.

⁴ Pyxus is the guarantor under certain employment agreements by operation of a transaction effected by the Chapter 11 plan of reorganization of Old Holdco, Inc. f/k/a Pyxus International, Inc.

V. THE CCAA TERMINATION ORDER

(i) *Stay Extension*

31. Under the Stay Extension, Distribution and WEPPA Order, the Court extended the Stay Period until and including April 29, 2022. Pursuant to the CCAA Termination Order, the Applicants are seeking an extension of the Stay Period until and including the CCAA Termination Time.

32. It is necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended as it will allow:

- (a) the Applicants to complete the Proposed Distributions;
- (b) the Applicants to finalize and file the Outstanding Returns; and
- (c) the Monitor to issue the Discharge Certificate with a view of bringing these CCAA Proceedings to an end.

33. The Monitor has not provided a cash flow projection in the Ninth Report because the Applicants have sufficient liquidity to fund their obligations and the costs of the CCAA Proceedings through the end of the proposed extended Stay Period. Specifically, the Applicants do not expect any further receipts and the Applicants' expenses are anticipated to be covered by the amount of the Administrative Reserve.

34. I understand that the Monitor is supportive of the proposed Stay Extension and believes it will not materially prejudice any creditor.

(ii) CCAA Termination

35. Following the closing of the Norfolk Transaction, the Applicants no longer have any active business operations and the Applicants anticipate that the remaining wind-down matters in the CCAA Proceedings will be completed in the next 30 days. As noted below, the Applicants expect that, prior to completion of the CCAA Proceedings, certain or all of the Applicants may pursue Bankruptcy Proceedings as part of the final wind-down of their estates. Accordingly, the Applicants are seeking to terminate the CCAA Proceedings as further detailed below.

36. The CCAA Termination Order provides that the CCAA Proceedings shall be terminated upon the filing of the Discharge Certificate by the Monitor, which shall confirm that all matters to be attended to in connection with the Applicants and the CCAA Proceedings have been completed.

37. Pursuant to the terms of the CCAA Termination Order, the Applicants, the Monitor and the DIP Lender, along with counsel to each of the Applicants, the Monitor and the DIP Lender, and each of their respective affiliates and officers, directors, partners, employees and agents (collectively, the "**Released Parties**") will be released from all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or thereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the CCAA Termination Time in any way relating to, arising out of or in respect of, the CCAA Proceedings or with respect to their respective conduct in the CCAA Proceedings (collectively, the "**Released Claims**"). The Released Claims are sufficiently narrow and not overly broad given that they do not include any claim or liability arising out of any gross negligence or willful misconduct on the part of the applicable Released Party or any claim against the Applicants' current director that is not permitted to be released pursuant to subsection 5.1(2) of the CCAA.

38. The CCAA Termination Order contemplates that certain relief will be effective immediately, including the release of the Released Claims. However, other relief, including the termination of the CCAA Proceedings, will only be effective upon filing of the Discharge Certificate.

39. Specifically, upon filing of the Discharge Certificate (collectively, the "**Discharge Relief**"):

- (a) the Director's Charge and the Administration Charge will be terminated;
- (b) the Monitor shall be discharged effective as of the CCAA Termination Time, provided that, notwithstanding its discharge, it shall remain Monitor for the performance of incidental or ancillary duties, including, if necessary, effecting further distributions following the CCAA Termination Time; and
- (c) the release of the Released Claims would be deemed to be effective up to the CCAA Termination Time.

40. The Monitor will provide at least seven (7) days notice of its intention to file the Discharge Certificate to the Service List..

41. If any person objects to the Discharge Relief, the person must send written notice of the objection and the grounds of such objection to the Monitor prior of the CCAA Termination Time. Similarly, if the Monitor does not receive any objections, it shall file the Discharge Certificate at the CCAA Termination Time and the Discharge Relief shall be immediately effective.

42. The Released Parties have made, and continue to make, significant contributions to the CCAA Proceedings and the Applicants' restructuring efforts.

(iii) Authorization to Assign the Applicants into Bankruptcy

43. Pursuant to the CCAA Termination Order, the Applicants are also seeking authorization to assign one or more of the Applicants into bankruptcy (the "**Bankruptcy Proceedings**") and appoint FTI as the Trustee. The Applicants are also seeking authority to enable me to sign such documents in the name of any of the Applicants and take all such steps as are necessary to make the assignments in bankruptcy or commence the Bankruptcy Proceedings.

44. The CCAA Termination Order further provides that any Claim or Employee Claim that has been admitted in the CCAA Proceedings (each a "**Proven Claim**") will continue to be a claim in the Applicants' anticipated Bankruptcy Proceedings. This will permit the efficient administration of the bankrupt estates by eliminating the requirement for creditors to re-submit claims in the Bankruptcy Proceedings and for the Trustee to make determinations in respect of those claims.

45. Authorization to commence the Bankruptcy Proceedings is being sought to, among other things, cause a deemed year end for one or more of the Applicants which will assist with the wind up of the estates.

(iv) Bankruptcy Reserve

46. As previously noted, on February 2, 2022, the Court approved the Stay Extension, Distribution and WEPPA Order which, *inter alia*, directed the Applicants, with the assistance of the Monitor, to establish, hold and maintain a reserve from the funds remaining in the respective accounts of the Applicants in the amount of approximately \$2.1 million (the "**Administrative Reserve**") to secure, among other things:

- (a) the Applicants' and the Monitor's obligations to continue to administer these CCAA Proceedings; and
- (b) the indemnity provided in paragraph 20 of the Initial Order.

47. At the time the Stay Extension, Distribution and WEPPA Order was sought, the Applicants had not contemplated pursuing the Bankruptcy Proceedings. In connection with the foregoing, the Applicants are now seeking authorization to transfer \$150,000 (plus HST) (the "**Bankruptcy Reserve**") from the Administrative Reserve to FTI for the fees and disbursements of the Trustee and its counsel to be incurred in connection with the Bankruptcy Proceedings.

48. The CCAA Termination Order also seeks authorization for the Trustee to pay any available balance from the Bankruptcy Reserve to AOI Tabak on account of its claim against the Applicants.

(v) Approval of the Ninth Report and Fees

49. The proposed CCAA Termination Order seeks approval of the Ninth Report and the fees and activities of the Monitor and its counsel described therein. I understand that the Monitor and its counsel will prepare the Fee Affidavits, which will be attached to the Ninth Report.

VI. CONCLUSION

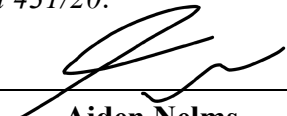
50. Since the granting of the Initial Order, the Applicants have acted and continue to act in good faith and with due diligence to, among other things, wind-up their business, assist with various ancillary matters including the Claims Procedure, the Employee Claims Procedure and the Proposed Distributions, each in an effort to maximize value for their stakeholders.

51. I believe that the relief sought and described herein is in the best interests of the Applicants and their stakeholders. Further, I understand that the Monitor is supportive of the relief described

herein and that the Monitor does not believe that any creditor will be materially prejudiced by the granting of the CCAA Termination Order.

52. I swear this affidavit in support of the Applicants' motion for the CCAA Termination Order, and for no other or improper purpose.

SWORN BEFORE ME over)
videoconference on this 13th day of April)
2022. The affiant was located in the Town of)
Uxbridge, in the Province of Ontario and the)
Commissioner was located in the City of)
Toronto, in the Province of Ontario. This)
affidavit was commissioned remotely as a)
result of COVID-19 and the declaration was)
administered in accordance with Ontario)
Regulation 431/20.)



Aiden Nelms
A Commissioner for Oaths in and for the
Province of Ontario



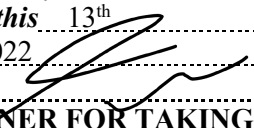
Harvey Carroll

This is Exhibit "A" *referred to in the*

affidavit of Harvey Carroll

sworn before me, this 13th

day of April, 2022



.....
A COMMISSIONER FOR TAKING AFFIDAVITS

Aiden Nelms

**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
FIGR BRANDS, INC., FIGR NORFOLK INC.
AND 1307849 B.C. LTD.**

Applicants

**AFFIDAVIT OF MICHAEL DEVON
(Sworn January 26, 2022)**

I, Michael Devon, of the city of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the Chief Financial Officer of FIGR Brands, Inc. ("**FIGR Brands**") and a director of FIGR Norfolk Inc. ("**FIGR Norfolk**") and 1307849 B.C. Ltd.¹ ("**Residual Co**", and together with FIGR Norfolk and FIGR Brands, the "**Applicants**" or the "**FIGR Group**"). As such, I have personal knowledge of the Applicants and the matters to which I depose in this affidavit. Where I have relied on other sources for information, I have so stated and I believe them to be true.

2. I swear this Affidavit in support of a motion by the Applicants for:

- (a) an order (the "**Stay Extension, Distribution, WEPPA and Fee Approval Order**"), among other things:

¹ 1307849 B.C. Ltd. is a wholly owned subsidiary of FIGR Brands.

- (i) abridging the time for service of the motion record returnable February 2, 2022 and dispensing with service on any person other than those served;
- (ii) extending the Stay Period (as defined below) until and including April 29, 2022;
- (iii) declaring pursuant to section 5(5) of the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1 ("**WEPPA**") that FIGR Norfolk and FIGR Brands meet the criteria established by section 3.2 of the *Wage Earner Protection Program Regulations*, SOR/2008-222 (the "**WEPPA Regulations**");
- (iv) approving the Proposed Distribution Methodology (as defined below);
- (v) authorizing and directing the Applicants to make one or more cash distributions (collectively, the "**Proposed Distributions**") to each Claimant with a Proven Claim pursuant to the Proposed Distribution Methodology, net of any withholding taxes based on applicable law;
- (vi) approving the Eighth Report of FTI Consulting Canada Inc. ("**FTI**") in its capacity as Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**"), to be filed (the "**Eighth Report**"), and the activities of the Monitor and its counsel described therein; and
- (vii) approving the fees and disbursements of the Monitor and its counsel as set out in the Affidavits of Jeffrey Rosenberg and Ryan Jacobs, respectively, attached to the Eighth Report (together, the "**Fee Affidavits**").

3. All terms not otherwise defined herein have the meaning ascribed to them in, as applicable: (a) the Initial Order (as defined below); or (b) my affidavit sworn October 12, 2021 in support of the October Stay Extension and Fee Approval Order (as defined below), a copy of which is appended hereto (without exhibits) as Exhibit "A".

4. All references to monetary amounts in this affidavit are in Canadian dollars.

I. INTRODUCTION AND BACKGROUND²

5. The FIGR Group operated two (2) licensed cannabis facilities – one in Simcoe, Ontario and the other in Charlottetown, Prince Edward Island. Since operations commenced, both facilities were cash flow negative and the FIGR Group was dependant on certain of its affiliate companies for funding. As discussed in further detail below, the cannabis facility in Charlottetown, Prince Edward Island was sold as part of the CIG Transaction (as defined below).

6. Facing significant liquidity issues, potential enforcement action from certain of its creditors and the cessation of its business, the FIGR Group sought protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("CCAA") pursuant to an Order (the "**Initial Order**") on January 21, 2021 (the "**CCAA Proceedings**"). The facts underlying the FIGR Group's financial circumstances and need for CCAA protection are set out in my affidavit sworn January 21, 2021, in support of the commencement of the CCAA Proceedings, a copy of which is appended hereto (without exhibits) as Exhibit "B" and are not repeated herein.

7. Among other things, the Initial Order:

(a) appointed FTI as Monitor;

² Note that any reference in this Affidavit to the FIGR Group or the Applicants prior to June 28, 2021, being the closing of the CIG Transaction (as defined below), includes CIG (as defined below) and not Residual Co.

- (b) granted an initial 10-day stay of proceedings in favour of the Applicants and their Directors and Officers (the "**Stay Period**");
 - (c) approved the Applicants' ability to borrow under a debtor-in-possession credit facility (the "**DIP Loan**") pursuant to a commitment letter dated January 20, 2021 with Alliance One Tobacco Canada, Inc. (in such capacity, the "**DIP Lender**"), whereby the DIP Lender agreed to provide the DIP Loan in the maximum principal amount of \$8,000,000, plus interest and costs (as may be amended from time to time, the "**DIP Commitment Letter**"); and
 - (d) granted the Administration Charge, the Directors' Charge, the DIP Lender's Charge and the Intercompany Charge (collectively, the "**CCAA Charges**").
8. On January 29, 2021, the Court granted an Amended and Restated Initial Order (the "**Amended and Restated Initial Order**") which, among other things:
- (a) increased the Directors' Charge from \$2,000,000 to \$2,700,000 and the DIP Lender's Charge from \$2,500,000 to \$8,000,000 (plus interest and costs), respectively;
 - (b) extended the Stay Period to and including March 31, 2021; and
 - (c) elevated the priority of the CCAA Charges over all secured creditors.
9. A copy of the Amended and Restated Initial Order is attached hereto as Exhibit "C".
10. On January 29, 2021, the Court also granted an order which, among other things, approved a sale and investment solicitation process (the "**SISP**") in respect of the FIGR Group.

11. On February 22, 2021, the Court granted an order (the "**Claims Procedure Order**") which, among other things, approved a process for the solicitation, identification, determination and adjudication of claims against the FIGR Group and their present and former Directors and Officers (the "**Claims Procedure**"). The Claims Procedure excluded Employee Claims (as defined in the Claims Procedure Order).

12. On February 22, 2021, the Court also granted an order which, among other things:

- (a) approved a key employee retention plan for certain management and operations staff of Canada's Island Garden Inc. ("**CIG**");
- (b) extended the Stay Period until April 30, 2021;
- (c) approved the Pre-Filing Report of the Monitor dated January 21, 2021, the First Report of the Monitor Dated January 27, 2021 and the Second Report of the Monitor dated February 18, 2021 (the "**Second Report**") and the activities of the Monitor set out therein; and
- (d) approved the fees and disbursements of the Monitor and its counsel as set out in the Second Report.

13. On March 31, 2021, the Court granted an order (the "**DIP Amendment Order**") which, among other things, authorized the execution by the Applicants of the First Amendment to the DIP Commitment Letter, which, *inter alia*, increased the maximum borrowing available under the DIP Loan up to \$13,000,000 plus interest and costs (which was an increase of \$5,000,000). The DIP Amendment Order also:

- (a) authorized a corresponding increase to the DIP Lender's Charge;

- (b) approved the Third Report of the Monitor dated March 26, 2021 (the "**Third Report**") and the activities of the Monitor described therein; and
- (c) approved the fees and disbursements of the Monitor and its counsel as set out in the Third Report.

14. On April 30, 2021, the Court granted an order (the "**Employee Claims Procedure Order**") which, among other things, established a procedure (the "**Employee Claims Procedure**") for the identification, determination and adjudication of employee claims against the FIGR Group and their current and former Directors and Officers ("**Employee Claims**" and each an "**Employee Claim**").

15. On April 30, 2021, the Court also granted an order which, among other things:

- (a) extended the Stay Period until and including June 30, 2021;
- (b) approved the Fourth Report of the Monitor dated April 27, 2021 (the "**Fourth Report**") and the activities of the Monitor described therein; and
- (c) approved the fees and disbursements of the Monitor and its counsel as set out in the Fourth Report.

16. On June 10, 2021, the Court granted an order (the "**CIG Approval and Vesting Order**") which, among other things:

- (a) approved the sale transaction (the "**CIG Transaction**") contemplated by a subscription and share purchase agreement (the "**CIG Subscription and Share Purchase Agreement**") between FIGR Brands, as vendor, CIG, as the purchased entity and 102604 P.E.I. Inc., as the purchaser (the "**CIG Purchaser**"), and vesting

in the CIG Purchaser all of FIGR Brands' right, title and interest in and to all issued and outstanding shares in CIG, free and clear of any Encumbrances (as defined in the CIG Subscription and Share Purchase Agreement);

- (b) vested the Transferred Assets in CIG, free and clear from any Encumbrances, other than Permitted Encumbrances (as defined in the CIG Subscription and Share Purchase Agreement);
- (c) added a subsidiary of FIGR Brands, namely Residual Co, incorporated under the laws of British Columbia, as an Applicant in these CCAA Proceedings in order to effectuate the CIG Transaction;
- (d) removed CIG as an Applicant in these CCAA Proceedings upon closing of the CIG Transaction and deemed CIG to be released from the purview of the Initial Order and all other orders of the Court granted in these CCAA Proceedings; and
- (e) transferred and vested the Excluded Liabilities, the Excluded Assets and Excluded Contracts (each as defined in the CIG Subscription and Share Purchase Agreement) to Residual Co on or before closing such that the Excluded Liabilities became liabilities of Residual Co and were no longer liabilities of CIG.

17. On June 10, 2021, the Court also granted an order (the "**Norfolk Approval and Vesting Order**", and together with the CIG Approval and Vesting Order, the "**Approval and Vesting Orders**") which, among other things, approved the sale transaction (the "**Norfolk Transaction**", and together with the CIG Transaction, the "**Transactions**") contemplated by the asset purchase agreement between FIGR Norfolk, as vendor, and 11897985 Canada Inc. (dba) BEROXFOOD North America (the "**Norfolk Purchaser**") dated May 10, 2021 (the "**Norfolk Sale Agreement**"),

and vested in Woodside Greens Business Association Inc., or its designee ("**Woodside Greens**"), all of FIGR Norfolk's right, title and interest in and to the Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances (as such terms are defined in the Norfolk Sale Agreement).

18. On June 10, 2021, the Court granted a further order (the "**June Ancillary Order**") which, among other things:

- (a) extended the Stay Period until and including September 3, 2021;
- (b) authorized the execution by the Applicants of the Second Amendment to the DIP Commitment Letter, which, among other things, increased the maximum borrowing available under the DIP Loan up to \$16,000,000 plus interest and costs (which was an increase of \$3,000,000). The June Ancillary Order also authorized a corresponding increase to the DIP Lender's Charge;
- (c) authorized and empowered the Applicants to make, or cause to be made, distributions from time to time to the DIP Lender in repayment of the obligations secured by the DIP Lender's Charge;
- (d) approved the Proposed Pre-Filing Intercompany Claims Resolution Process (as defined in the Claims Procedure Order);
- (e) approved the Fifth Report of the Monitor dated June 4, 2021 (the "**Fifth Report**") and the activities of the Monitor described therein; and
- (f) approved the fees and disbursements of the Monitor and its counsel as set out in the Fifth Report.

19. The CIG Transaction closed on June 28, 2021 and, as described in further detail below, following several delays, the Norfolk Transaction is slated to close on January 28, 2022.

20. On August 24, 2021, the Court granted an order (the "**Norfolk KERP and Stay Extension Order**") which, among other things:

- (a) extended the Stay Period until and including October 29, 2021;
- (b) approved a key employee retention plan for certain senior employees of FIGR Norfolk and sealed a summary of same;
- (c) approved the Sixth Report of the Monitor dated August 19, 2021 (the "**Sixth Report**") and the activities of the Monitor described therein; and
- (d) approved the fees and disbursements of the Monitor and its counsel as set out in the Sixth Report.

21. On October 19, 2021, the Court granted an order (the "**October Stay Extension and Fee Approval Order**") which, among other things:

- (a) extended the Stay Period until and including February 4, 2022;
- (b) approved the Seventh Report of the Monitor dated October 14, 2021 (the "**Seventh Report**"), and the activities of the Monitor and its counsel described therein; and
- (c) approved the fees and disbursements of the Monitor and its counsel as set out in the fee affidavit appended to the Seventh Report.

22. Since the granting of the October Stay Extension and Fee Approval Order, the Applicants have continued to act in good faith and with due diligence to, among other things, stabilize their business, communicate, with the assistance of the Monitor, with Health Canada, employees,

customers (including the provincial cannabis boards), suppliers and other key stakeholders in the CCAA Proceedings, wind down head office operations, terminate certain FIGR Norfolk employees, settle outstanding Claims, work to close the Norfolk Transaction and assist the Monitor with the Claims Procedure and the Employee Claims Procedure.

II. CLAIMS PROCEDURE AND THE EMPLOYEE CLAIMS PROCEDURE³

(i) Claims Procedure and Employee Claims Procedure Update

23. I understand that the Monitor continues to carry out the Claims Procedure and the Employee Claims Procedure in accordance with the Claims Procedure Order and the Employee Claims Procedure Order, respectively. The Monitor continues to engage with various Claimants and Employee Claimants in an effort to resolve outstanding Claims and Employee Claims, as the case may be.

24. The Monitor continues to send Employee Claims Packages to the Applicants' former Employees within ten (10) Business Days of their employment being terminated if such employment was terminated, or their temporary layoff ceased to be temporary under the *Employment Standards Act*, 2000, S.O. 2000, c. 41, as amended (or similar applicable provincial statute), following the date of the Employee Claims Procedure Order.

25. I understand that as of the date of this affidavit, thirty-eight (38) Employees have had their employment terminated since the commencement of the CCAA Proceedings including twenty-two (22) of FIGR Brands and sixteen (16) of FIGR Norfolk. In accordance with the Employee Claims Procedure Order, the Monitor sent Employee Claim Statements and Employee Claim Packages to

³ Terms in this section not otherwise defined herein have the meaning ascribed to them in the Claims Procedure Order or the Employee Claims Procedure Order, as applicable.

all of the aforementioned Employees. I also understand that no Notice of Dispute of Employee Claim Statement has been received.

26. I understand that the Monitor will provide a more fulsome update on the Claims Procedure and the Employee Claims Procedure in the Eighth Report.

(ii) Pre-Filing Intercompany Claims

27. The Claims Procedure Order contemplated that the adjudication process in respect of Pre-Filing Claims and D&O Pre-Filing Claims would not apply to Pre-Filing Intercompany Claims.

28. Pursuant to the Claims Procedure Order, the Monitor, with the assistance of the Applicants, was to review all Proofs of Claim received by the Pre-Filing Claims Bar Date in respect of Pre-Filing Intercompany Claims and was to thereafter serve on the Service List and file with the Court the Pre-Filing Intercompany Claims Report which was to set out the Proposed Pre-Filing Intercompany Claims Resolution Process.

29. On June 11, 2021, the Monitor proposed the following Proposed Intercompany Claims Resolution Process in its Fifth Report:

- (a) the Monitor would detail and summarize the Pre-Filing Intercompany Claims in the Fifth Report;
- (b) any Person that wished to object to the treatment of the Pre-Filing Intercompany Claims was required to serve an objection (each a "**Pre-Filing Intercompany Claims Objection**") by no later than 5:00 p.m. (Toronto time) on the date that is thirty (30) days after the Monitor serves the Pre-Filing Intercompany Claims Notice (as defined below) (the "**Pre-Filing Intercompany Claims Objection Date**");

- (c) the Monitor would provide a notice of the Pre-Filing Intercompany Claims as set out in the Fifth Report (the "**Pre-Filing Intercompany Claims Notice**") by email to the Service List, as well as to each Claimant that had submitted a Proof of Claim or Employee Claimant who had received an Employee Claim Statement by email;
- (d) the Monitor would work with Persons, if any, who filed a Pre-Filing Intercompany Claims Objection to resolve or settle any Pre-Filing Intercompany Claims Objection;
- (e) in the event that a Pre-Filing Intercompany Claims Objection could not be resolved, the Monitor would seek a scheduling appointment before the Court, on notice to the Service List, to seek a schedule for the hearing of a motion to determine the validity and quantum of one or more of the Pre-Filing Intercompany Claims. Prior to any such motion, the Monitor would prepare a further report summarizing all Pre-Filing Intercompany Claims Objections received and the Monitor's view and recommendation to the Court with respect to the Pre-Filing Intercompany Claims Objections; and
- (f) in the event that no Person served a Pre-Filing Intercompany Claims Objection by the Pre-Filing Intercompany Claims Objection Date, the Monitor would advise the Service List in writing that no Pre-Filing Intercompany Claims Objections were received, and that the Pre-Filing Intercompany Claims as set out in the Fifth Report would be deemed to be accepted as Proven Claims without further order of the Court.

30. I understand that as of the Pre-Filing Intercompany Claims Bar Date, the Monitor received five (5) Pre-Filing Intercompany Claims in the aggregate amount of \$355,234,872.66. I further understand that no Pre-Filing Intercompany Claims Objection was received by the Pre-Filing Intercompany Claims Objection Date and that the Pre-Filing Intercompany Claims as set out in the Fifth Report were deemed to be accepted as valid claims.

III. THE TRANSACTIONS

31. As previously noted, on June 10, 2021, the Court granted the Approval and Vesting Orders approving the Transactions, and on June 28, 2021, the Applicants and the CIG Purchaser closed the CIG Transaction.

32. Following the closing of the CIG Transaction, and in accordance with the June Ancillary Order, on July 8, 2021, the Applicants caused a distribution to be made to the DIP Lender in full satisfaction of their obligations owing under the DIP Loan including, but not limited to, outstanding principal, accrued interest, fees and expenses up and until July 8, 2021. As a result, there are no amounts currently owing by the Applicants to the DIP Lender.

(i) The Norfolk Transaction⁴

33. As noted above, on May 10, 2021, FIGR Norfolk entered into the Norfolk Sale Agreement with the Norfolk Purchaser. A copy of the redacted Norfolk Sale Agreement, which was approved by this Court pursuant to the Norfolk Approval and Vesting Order, is attached hereto as Exhibit "D".

⁴ Terms in this section not otherwise defined herein have the meaning ascribed to them in the Norfolk Sale Agreement.

34. On June 29, 2021, FIGR Norfolk and the Norfolk Purchaser, with the consent of the DIP Lender and the Monitor, entered into the First Amendment to the Norfolk Sale Agreement dated as of June 28, 2021 (the "**First Norfolk APA Amendment**") which, among other things:

- (a) extended the Outside Date from June 30, 2021 to July 30, 2021; and
- (b) amended Section 4.3 of the Norfolk Sale Agreement to extend the date upon which the Financing Covenant needed to be satisfied to July 16, 2021.

A copy of the First Norfolk APA Amendment is attached hereto as Exhibit "E".

35. On August 9, 2021, FIGR Norfolk and the Norfolk Purchaser, with the consent of the DIP Lender and the Monitor, entered into the Second Amendment to the Norfolk Sale Agreement (the "**Second Norfolk APA Amendment**") which, among other things, extended the Outside Date from July 30, 2021 to August 31, 2021. A copy of the Second Norfolk APA Amendment is attached hereto as Exhibit "F".

36. On October 13, 2021, FIGR Norfolk and the Norfolk Purchaser, with the consent of the DIP Lender and the Monitor, entered into the Third Amendment to the Norfolk Sale Agreement (the "**Third Norfolk APA Amendment**") which, among other things:

- (a) extended the Outside Date from August 31, 2021 to October 29, 2021; and
- (b) modified section 9.6 of the Norfolk Sale Agreement to reflect the terms of the Norfolk Approval and Vesting Order to permit the assignment by the Norfolk Purchaser to Woodside Greens of the Norfolk Purchaser's rights to the Purchased Assets (as defined in the Norfolk Sale Agreement) with notice to FIGR Norfolk and Monitor (but without requiring their consent to such assignment).

A copy of the Third Norfolk APA Amendment is attached hereto as Exhibit "G".

37. On January 1, 2022, FIGR Norfolk and the Norfolk Purchaser, with the consent of the DIP Lender and the Monitor, entered into the Fourth Amendment to the Norfolk Sale Agreement (the "**Fourth Norfolk APA Amendment**") which, among other things:

- (a) contained certain acknowledgments in respect of the Norfolk Sale Agreement and the Norfolk Transaction;
- (b) authorized the Norfolk Purchaser, subject to the conditions outlined in the Fourth Norfolk APA Amendment, to carry out the Purchaser Work (as defined in the Fourth Norfolk APA Amendment);
- (c) extended the Outside Date from October 29, 2021 to January 14, 2022; and
- (d) deleted and replaced Schedule "F" of the Norfolk Sale Agreement which sets out the names of the Transferred Employees (as defined in the Norfolk Sale Agreement).

A copy of the Fourth Norfolk APA Amendment is attached hereto as Exhibit "H".

38. On January 8, 2022, following execution of the Fourth Norfolk APA Amendment, FIGR Norfolk received correspondence from counsel to the Norfolk Purchaser which, in addition to certain factual inaccuracies, suggested that certain of the conditions to which the Norfolk Purchaser agreed to pursuant to the Fourth Norfolk APA Amendment would not be met (the "**January 8 Email**"). In light of the foregoing, coupled with FIGR Norfolk and the Monitor's ongoing concerns of the Norfolk Purchaser's ability to close the Norfolk Transaction, including the ability to fund the balance of the Purchase Price, on January 10, 2022, FIGR Norfolk issued a

letter which, among other things: (i) detailed certain defaults committed by the Norfolk Purchaser under the Norfolk Sale Agreement; (ii) terminated the Norfolk Sale Agreement with immediate effect pursuant to Section 4.3 thereof (the "**APA Termination**"); and (iii) advised the Norfolk Purchaser that FIGR Norfolk would retain the full amount of the Deposit, together with all interest accrued thereon, if any, pursuant to Section 4.2(d) of the Norfolk Sale Agreement (the "**APA Termination Letter**"). A copy of the APA Termination Letter is attached hereto as Exhibit "I".

39. In response to the APA Termination Letter, the Norfolk Purchaser advised the Monitor that, notwithstanding the APA Termination, it still wished to close the Norfolk Transaction. In connection with the foregoing, counsel to the Norfolk Purchaser delivered a letter on January 11, 2022 (the "**January 11 Reply Letter**") which, among other things: (i) disagreed that the Norfolk Sale Agreement was terminated; (ii) responded to certain items in the APA Termination Letter; and (iii) advised that the Norfolk Purchaser remained ready, willing and able to close the Norfolk Transaction. A copy of the January 11 Reply Letter is attached hereto as Exhibit "J".

40. In an effort to mitigate its damages caused by the need to terminate the Norfolk Sale Agreement for the reasons outlined in the APA Termination Letter, FIGR Norfolk issued a further letter to counsel to the Norfolk Purchaser on January 12, 2022 (the "**Reinstatement Letter**") which outlined the terms (the "**Reinstatement Conditions**") on which it was prepared to reinstate and further amend the Norfolk Sale Agreement with the ultimate goal of closing the Norfolk Transaction as soon as possible. The Reinstatement Letter also provided a deadline by which time the Reinstatement Conditions were required to be met (the "**Reinstatement Deadline**"). In the event that the Reinstatement Conditions were not met prior to the Reinstatement Deadline, the proposal as outlined in the Reinstatement Letter and any agreement memorializing same would be

null and void and of no force and effect, and the APA Termination Letter would continue to be of full force and effect. A copy of the Reinstatement Letter is attached hereto as Exhibit "K".

41. Following delivery of the Reinstatement Letter, counsel to the Norfolk Purchaser advised that, although it believed reinstatement was not necessary given its position that the Norfolk Sale Agreement remained valid, the Reinstatement Conditions and the proposal advanced by FIGR Norfolk was acceptable.

42. On January 19, 2022, FIGR Norfolk and the Norfolk Purchaser, with the consent of the DIP Lender and the Monitor, entered into the Reinstatement Agreement and Fifth Amendment to the Norfolk Sale Agreement (the "**Reinstatement Agreement and Fifth Norfolk APA Amendment**") which, among other things: (i) extended the Outside Date from January 14, 2022 to January 28, 2022; (ii) contained additional acknowledgements related to the Norfolk Sale Agreement and the Norfolk Transaction; and (iii) provided that FIGR Norfolk, in light of the Norfolk Purchaser's need to borrow funds to satisfy the Closing Funds and the interest cost incurred in connection with same, would provide the Norfolk Purchaser with a reduction to the Purchase Price of up to \$20,000 to be applied on Closing. A copy of the Reinstatement Agreement and Fifth Norfolk APA Amendment is attached hereto as Exhibit "L".

43. Further to the above, the Reinstatement Agreement and Fifth Norfolk APA Amendment provided that FIGR Norfolk would instruct Hyde Advisory & Investments ("**Hyde**") to advise Health Canada that the Parties were ready and prepared to close the Norfolk Transaction on January 28, 2022 (the "**Hyde Communication**") in the event the Norfolk Purchaser, on or prior to January 19, 2022 at 6:00 PM (Toronto Time) (the "**Reinstatement Deadline**");

- (a) delivered an executed a copy of the Reinstatement Agreement and Fifth Norfolk APA Amendment; and
- (b) delivered to the Monitor in escrow the following (the "**Escrow Deliverables**"):
 - (i) executed copies of the Norfolk Transaction closing documents provided to the Norfolk Purchaser by FIGR Norfolk on January 14, 2022;
 - (ii) completed and executed employment agreement assignments for all Transferred Employees in the form provided to the Norfolk Purchaser by FIGR Norfolk on January 5, 2022; and
 - (iii) \$4,470,000 (which amount shall be subject to mutually agreed adjustments on Closing).

44. In addition, the Reinstatement Agreement and Fifth Norfolk APA Amendment provides that:

- (a) the Escrow Deliverables will be released to FIGR Norfolk or returned to the Norfolk Purchaser by the Monitor in accordance with the escrow terms contained in Schedule "A" (the "**Escrow Terms**") to the Reinstatement Agreement and Fifth Norfolk APA Amendment; and
- (b) should the Norfolk Purchaser fail to satisfy any or all of the Reinstatement Conditions, the proposal as outlined in the Reinstatement Letter and the Reinstatement Agreement and Fifth Norfolk APA Amendment will be null and void and of no force and effect, provided however that the Escrow Terms shall survive and the APA Termination Letter will continue to be of full force and effect.

45. The Norfolk Purchaser ultimately satisfied the Reinstatement Conditions by the Reinstatement Deadline and the Norfolk Purchaser and FIGR Norfolk instructed Hyde to issue the Hyde Communication on January 19, 2022. As a result, pending Health Canada approval – which FIGR Norfolk and the Norfolk Purchaser are confident will be received - the Norfolk Transaction is expected to close on January 28, 2022. I understand the Monitor will provide a further update on the status of the Norfolk Transaction.

IV. THE STAY EXTENSION, DISTRIBUTION, WEPPA AND FEE APPROVAL ORDER

(i) Stay Extension

46. Pursuant to the October Stay Extension and Fee Approval Order, the Court extended the Stay Period until and including February 4, 2022. Pursuant to the Stay Extension, Distribution, WEPPA and Fee Approval Order, the Applicants are seeking an extension of the Stay Period until and including April 29, 2022.

47. It is necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended as it is expected to allow the Applicants and/or the Monitor to:

- (a) advance and complete the Claims Procedure in accordance with the Claims Procedure Order;
- (b) advance and complete the Employee Claims Process in accordance with the Employee Claims Procedure Order;
- (c) administer WEPPA; and
- (d) make the Proposed Distributions.

48. As demonstrated in the Revised Cash Flow Forecast to be appended to the Eighth Report, the Applicants are forecast to have sufficient liquidity to fund their obligations and the costs of the CCAA Proceedings through the end of the proposed extended Stay Period.

49. I understand that the Monitor is supportive of the proposed extension of the Stay Period and believes it will not materially prejudice any creditor.

50. The Applicants intend to return to Court in advance of the end of the proposed extension to the Stay Period to, among other things, terminate the CCAA Proceedings and discharge the Monitor.

(ii) *The WEPPA Relief*

51. I understand from Mike Shakra, a Partner at Bennett Jones LLP and counsel to the Applicants, that recent amendments to WEPPA and the WEPPA Regulations have given the Court discretion, under section 5(5) and 3.2, respectively, to, in proceedings under the CCAA, order that a former employer meets the criteria prescribed by regulation where the former employer is the employer of all whose employees in Canada have been terminated other than any retained to wind-down business operations.

52. At the outset of these CCAA Proceedings, FIGR Norfolk had approximately twenty-five (25) Employees. As of the date of this affidavit, employment of all FIGR Norfolk's Employees, with the exception of the six (6) Transferred Employees (as that term is defined in the Norfolk Sale Agreement), has been terminated. The Transferred Employees were required to assist in realizing on the assets of FIGR Norfolk.

53. At the outset of these CCAA Proceedings, FIGR Brands had approximately thirty (30) Employees. As of the date of this Affidavit, employment of all FIGR Brands' Employees, with the

exception of two (2) Employees (the "**FIGR Brands Executives**"), has been terminated. The FIGR Brands Executives have been retained to assist and facilitate, among other things, the closing of the Norfolk Transaction and the general wind-down of the Applicants.

54. As of the date of this motion, it is expected that all of the Applicants' employees, other than those necessary to wind down the Applicants' remaining business operations, have either been terminated or assumed by the Norfolk Purchaser.

55. Notwithstanding the foregoing, I understand that as of the date of this affidavit that discussions with WEPPA representatives at Service Canada in respect of the relief being sought are ongoing. A further update is expected to be provided in the Eighth Report.

(iii) The Proposed Distributions and the Net Cash Balance

56. The Applicants have realized on substantially all of their assets and collected any amounts owing, including accounts receivable. The Applicants and the Monitor have also reviewed and determined substantially all of the Claims and Employee Claims filed against the Applicants and the Directors and Officers pursuant to the Claims Procedure Order and the Employee Claims Procedure Order, as the case may be. As described below, the Applicants are holding certain cash balances that, at this time and following closing of the Norfolk Transaction, should be distributed to holders of Proven Claims subject to a reserve for administrative costs in the amount of approximately \$2.1 million (the "**Administrative Reserve**")⁵. The Administrative Reserve will be used to secure, among other things: (i) all remaining fees and expenses of counsel to the Applicants, the Monitor, and counsel to the Monitor in respect of the CCAA Proceedings; (ii) wages and fees of certain directors and officers of the Applicants incurred or to be incurred

⁵ The Administrative Reserve will stand as security for the Administration Charge.

following Filing Date; (iii) any remaining costs to wind down the Applicants; and (iv) the indemnity provided for in paragraph 20 of the Initial Order in favor of the directors and officers of the Applicants. In light of the foregoing, the Applicants are seeking approval to make the Proposed Distributions in accordance with the Proposed Distribution Methodology.

57. The Monitor and the Applicants have received funds totalling approximately \$27.7 million. The estimated net cash available for distribution by the Applicants is approximately \$10.2 million (the "**Net Cash Balance**").

58. The deduction from, and adjustments to, the funds received from the realization on the Applicants' assets and the collection of other amounts owing, including accounts receivable, to arrive at the Net Cash Balance is further detailed in the Eighth Report.

(iv) The Proposed Distribution Methodology

59. The proposed process for distribution of the Net Cash Balance (the "**Proposed Distribution Methodology**") may be summarized as follows:

- (a) each Claimant holding a Proven Claim will receive a *pro rata* distribution from each Applicant entity up to the maximum amount of their Proven Claim;
- (b) all distributions will be made in Canadian dollars. Any Proven Claim denominated in a foreign currency shall be converted to Canadian Dollars at the Bank of Canada daily average exchange rate on the Filing Date (USD 1: CAD 1.2627);
- (c) for greater certainty, Proven Claims include all Claims (including Pre-Filing Intercompany Claims) and Employee Claims having been finally determined in

accordance with the Claims Procedure Order or Employee Claims Procedure Order, as the case may be;

- (d) the Pre-Filing Intercompany Claims include Claims by one Applicant against another Applicant. Distributions made by one Applicant with respect to Pre-Filing Intercompany Claims of another Applicant will ultimately form cash available for distribution to third party Claimants of another Applicant; and
- (e) certain Pre-Filing Intercompany Claims are held by Alliance One International Tabak B.V. ("**Pyxus**"), a party related to the Applicants, and form the most significant (by value) of the unsecured Claims against the Applicants (the "**Pyxus Claims**"). For the purposes of the Proposed Distributions, the Pyxus Claims are to be treated as third party claims.

60. Canada Revenue Agency, who originally filed placeholder Claims, has voluntarily withdrawn its claim against each of the Applicants. In light of the size of the Pyxus Claims, it is proposed that the Administrative Reserve be held back entirely from those claims. This will in turn facilitate distributions and significantly reduce administrative costs, since it will allow there to be a single distribution to the holders of Proven Claims other than the Pyxus Claims. I understand from Mr. Shakra that Pyxus has been consulted and has agreed with the foregoing.

61. I understand that the Monitor is supportive of the Proposed Distributions and the Proposed Distribution Methodology.

(v) *Approval of the Eighth Report and Fees*

62. The proposed Stay Extension, Distribution, WEPPA and Fee Approval Order seeks approval of the Eighth Report and the fees and activities of the Monitor and its counsel described

therein. I understand that the Monitor and its counsel will prepare the Fee Affidavits, which will be attached to the Eighth Report.

V. CONCLUSION

63. Since the granting of the Initial Order, the Applicants have acted and continue to act in good faith and with due diligence to, among other things, stabilize their business, close the CIG Transaction, close the Norfolk Transaction and assist with various ancillary matters including the Claims Procedure and the Employee Claims Procedure, each in an effort to maximize value for their stakeholders.

64. I believe that the relief sought and described herein is in the best interests of the Applicants and their stakeholders. Further, I understand that the Monitor is supportive of the relief described herein and that the Monitor does not believe that any creditor will be materially prejudiced by the granting of the Stay Extension, Distribution, WEPPA and Fee Approval Order.

65. I swear this affidavit in support of the Applicants' motion for the Stay Extension, Distribution, WEPPA and Fee Approval Order, and for no other or improper purpose.

SWORN BEFORE ME over)
videoconference on this 26th day of January)
2022. The affiant was located in the City of)
Toronto, in the Province of Ontario and the)
Commissioner was located in the Town of)
Kimberley, in the Province of Ontario. This)
affidavit was commissioned remotely as a)
result of COVID-19 and the declaration was)
administered in accordance with Ontario)
Regulation 431/20.)



Aiden Nelms

A Commissioner for Oaths in and for the
Province of Ontario



Michael Devon

This is Exhibit "B" *referred to in the*

affidavit of Harvey Carroll

sworn before me, this 13th

day of April, 2022

.....
A COMMISSIONER FOR TAKING AFFIDAVITS

Aiden Nelms

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 COMPROMISE OR ARRANGEMENT OF
FIGR BRANDS, INC., FIGR NORFOLK INC.
AND CANADA'S ISLAND GARDEN INC.**

Applicants

**AFFIDAVIT OF MICHAEL DEVON
(Sworn January 21, 2021)**

I, Michael Devon, of the city of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the Chief Financial Officer of FIGR Brands, Inc. ("**FIGR Brands**") and a director of FIGR Norfolk Inc. ("**FIGR Norfolk**") and Canada's Island Garden Inc. ("**CIG**", and together with FIGR Brands and FIGR Norfolk, the "**Applicants**" or the "**FIGR Group**"). As such, I have personal knowledge of the Applicants and the matters to which I depose in this affidavit. Where I have relied on other sources for information, I have so stated and I believe them to be true.
2. All references to currency in this affidavit are in Canadian dollars unless noted otherwise.

I. RELIEF REQUESTED

3. I swear this affidavit in support of an urgent Application by the Applicants for an Order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), *inter alia*:

- (a) declaring that the Applicants are parties to which the CCAA applies;
- (b) appointing FTI Consulting Canada Inc. ("**FTI**" or the "**Proposed Monitor**") as an officer of the Court to monitor the assets, business, and affairs of the Applicants (once appointed in such capacity, the "**Monitor**");
- (c) approving the Applicants' ability to borrow under a debtor-in-possession ("**DIP**") credit facility (the "**DIP Loan**") to finance their working capital requirements and other general corporate purposes, post-filing expenses and costs;
- (d) staying, for an initial period of not more than ten (10) days (the "**Stay of Proceedings**"), all proceedings and remedies taken or that might be taken in respect of the Applicants, the Monitor or the Directors and Officers (as defined below), or affecting the Applicants' business or the Property (as defined below), except with the written consent of the Applicants and the Monitor, or with leave of the Court; and
- (e) granting the following priority charges (collectively, the "**Charges**") over the Applicants' current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the "**Property**"):

- (i) the Administration Charge (as defined below) in favour of the Monitor, counsel to the Monitor, and counsel to the Applicants;
- (ii) the Directors' Charge (as defined below) in favour of the Directors and Officers;
- (iii) the DIP Lender's Charge in favour of the DIP Lender (each as defined below); and
- (iv) the Intercompany Charge (as defined below) in favour of any Intercompany Lender (as defined below).

4. If the Initial Order is granted, the Applicants intend to return to Court within ten (10) days (the "**Comeback Hearing**") to seek approval of an amended and restated Initial Order, which, among other things, would:

- (a) extend the Stay of Proceedings;
- (b) increase the quantum of each of the DIP Lender's Charge, the Directors' Charge and the Administration Charge;
- (c) approve a sale and investment solicitation process (the "**SISP**"); and
- (d) seek such other relief as may be required to advance the Applicants' restructuring.

II. OVERVIEW

5. The FIGR Group operates two cannabis facilities – one in Simcoe, Ontario and the other in Charlottetown, Prince Edward Island ("**PEI**"). Since commencing operations, both facilities

have been cash flow negative and are dependant on indirect subsidiaries of New Pyxus International (as defined below) for funding. As described below, Alliance One International Tabak B.V. ("**AOI Tabak**"), an indirect subsidiary of New Pyxus International, was owed approximately \$189,729,870 by FIGR Brands as at November 30, 2020, which amount has only increased since that date as a result of further advances and accruing interest.

6. AOI Tabak is no longer prepared to continue funding the FIGR Group without an exit strategy. As a result, the Applicants are seeking protection under the CCAA to, among other things, obtain additional financing in order to continue operations and to implement a restructuring and consummate a transaction that would see all or a portion of the Applicants' business sold as a going concern.

7. Subject to certain conditions, including Court approval, Alliance One Tobacco Canada, Inc. (in such capacity, the "**DIP Lender**") has agreed to provide additional financing through the DIP Loan to, *inter alia*, provide the Applicants with the liquidity necessary to continue to operate while the SISP is conducted. As noted above, the relief in respect of the SISP is intended to be sought at the Comeback Hearing.

8. The CCAA filing and the proposed SISP are intended to benefit all of the Applicants' stakeholders, including the FIGR Group's employees, customers, suppliers and contracting parties, and Health Canada and relevant provincial regulators.

III. CORPORATE STRUCTURE OF THE FIGR GROUP

9. A copy of the FIGR Group's current corporate structure is attached hereto as Exhibit "A". FIGR Brands is a wholly-owned, indirect subsidiary of Pyxus International, Inc. ("**New Pyxus International**").

10. On June 15, 2020, Pyxus International Inc., as it then was ("**Original Pyxus International**"), and 4 affiliated debtors (collectively, the "**US Debtors**") each filed a voluntary petition for relief under title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended in the United States Bankruptcy Court (the "**US Court**") for the District of Delaware (the "**Pyxus Chapter 11 Proceedings**").

11. On August 21, 2020, the Amended Joint Prepackaged Chapter 11 Plan of Reorganization in respect of the US Debtors (the "**US Plan**") became effective and on September 11, 2020, the US Court entered a Final Decree closing each of the US Debtors' cases except Original Pyxus International which is being administered under the name Old Holdco, Inc. Under the US Plan, the US Debtors' debt was reduced by more than USD\$400 million and certain debt maturities were extended. The primary purpose of the Pyxus Chapter 11 Proceedings was to enhance the US Debtors' financial flexibility with a view to strengthening the company with a foundation that bolsters its position in target markets with long-term value for all stakeholders, and to refocus the US Debtors' business on its core-operations.

12. For the purpose of this affidavit and for greater certainty, all references to the Applicants include all predecessor entities.

A. FIGR Brands

13. FIGR Brands was incorporated under the *Business Corporations Act*, SBC 2002, c 57 (British Columbia) on October 28, 2019. FIGR Brands' principal place of business is located in Toronto, Ontario and its registered head office is located in Vancouver, British Columbia. FIGR Brands is the majority shareholder of each of FIGR Norfolk and CIG. A copy of FIGR Brands' corporate profile report is attached hereto as Exhibit "B".

14. On December 30, 2020, FIGR Brands amalgamated (the "**FIGR Amalgamation**") with its wholly-owned subsidiary, FIGR Canada Holdings ULC ("**FIGR Canada**"), formerly FIGR Inc., pursuant to a certificate of amalgamation (the "**Certificate of Amalgamation**"). A copy of the Certificate of Amalgamation is attached hereto as Exhibit "C". I understand that the FIGR Amalgamation was completed as part of an earlier-established global tax and structuring plan.

B. FIGR Norfolk

15. FIGR Norfolk was originally incorporated as Goldleaf Pharm Inc. ("**Goldleaf**") under the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16 on March 6, 2014. On February 28, 2019, Goldleaf changed its name to FIGR Norfolk Inc. pursuant to articles of amendment. A copy of FIGR Norfolk's corporate profile report is attached hereto as Exhibit "D".

16. FIGR Norfolk was founded by Larry W. Huszczo ("**Huszczo**") and Catherine M. Armstrong ("**Armstrong**"). Both Huszczo and Armstrong continue to be involved in the day-to-day operations of FIGR Norfolk.

17. Pursuant to a Share Purchase Agreement dated January 29, 2018 (the "**FIGR Norfolk SPA**"), Canadian Cultivated Products Ltd. (the former name of one of the amalgamated entities

which now forms FIGR Brands) ("**Canadian Cultivated**") acquired 80% of the common shares of what was then Goldleaf (the "**Norfolk Common Shares**") from Huszczo and Armstrong. Concurrently with the execution of the FIGR Norfolk SPA, Canadian Cultivated, Huszczo and Armstrong entered into a unanimous shareholders' agreement in respect of FIGR Norfolk (the "**FIGR Norfolk USA**"). A copy of the FIGR Norfolk USA is attached hereto as Exhibit "E".

18. As a result of the FIGR Amalgamation, the Norfolk Common Shares that were the subject of the FIGR Norfolk SPA are now owned directly by FIGR Brands. FIGR Brands owns 80% of the Norfolk Common Shares, while Huszczo and Armstrong each own 10% of the Norfolk Common Shares.

C. CIG

19. CIG was incorporated under the PEI *Business Corporation Act*, R.S.P.E.I. 1988, c B-6.01 on August 8, 2013. CIG's principal place of business and registered head office are located in Charlottetown, PEI. CIG currently carries on business under the trade name "FIGR East". A copy of CIG's corporate profile report is attached hereto as Exhibit "F".

20. On January 25, 2018, Canadian Cultivated entered into several share purchase agreements (collectively, the "**CIG SPAs**") with the shareholders of CIG, whereby it acquired 75% of the common shares of CIG (the "**CIG Common Shares**"). Concurrently with the execution of the CIG SPAs, Canadian Cultivated and the shareholders of CIG entered into a unanimous shareholders' agreement (the "**CIG USA**"). Through subsequent purchases, Canadian Cultivated increased its holdings in CIG and as of the date of this affidavit, as a result of the FIGR Amalgamation, FIGR Brands owns 94.25% of the CIG Common Shares. A copy of the CIG USA is attached hereto as Exhibit "G".

IV. BUSINESS OF THE APPLICANTS

A. The Cannabis Industry in Canada

21. The cannabis industry has evolved, and continues to evolve, rapidly in Canada. Licenses to cultivate, process and/or sell cannabis, among other things, are regulated under the *Cannabis Act*, S.C. 2018, c. 16, as amended and related regulations (together, the "**Cannabis Act**").

22. On October 17, 2018, recreational use of cannabis was legalized in Canada. On that date, the Cannabis Act, which regulates retail cannabis for recreational/adult-use, medical cannabis and industrial hemp in Canada, came into effect. Additionally, cannabis was removed as a controlled substance from the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, and the *Access to Cannabis for Medical Purposes Regulations* were repealed.

23. On October 17, 2019, the Cannabis Act was amended to broaden the scope of legal cannabis products, to include edible cannabis, cannabis extracts and cannabis topicals.

24. The cannabis industry continues to be a highly regulated industry, with the Cannabis Act regulating the possession, cultivation, production, distribution, sale, research, testing, import, export and promotion of cannabis.

B. Business

25. The FIGR Group is a vertically integrated cannabis business with expertise at each stage of the cannabinoid product life-cycle, from cultivation and extraction to brand development, marketing and sales. The FIGR Group applies a consumer-driven approach to developing premium

brands and is dedicated to selling high-quality, consumer cannabinoid products in Canada. As a result, the FIGR Group's products capture a broad customer base.

26. The FIGR Group's brand portfolio was developed to target the varying consumer demands along with the different sales and distribution channels within the market (the "**FIGR Product Portfolio**"). The FIGR Group produces an array of premium cannabis and hemp-derived CBD products including, among others, dried flower, pre-roll, tincture oil and vape cartages.

27. The FIGR Group supplies various cannabinoid products to a number of provincial purchasing entities pursuant to supply agreements, including:

- (a) British Columbia (BC Liquor Distribution Branch);
- (b) Alberta (Alberta Gaming, Liquor and Cannabis Commission);
- (c) Manitoba (Manitoba Liquor and Lotteries);
- (d) Ontario (Ontario Cannabis Retail Corporation);
- (e) PEI (PEI Cannabis Management Corporation);
- (f) Nova Scotia (Nova Scotia Liquor Corporation);
- (g) Saskatchewan (Saskatchewan Liquor and Gaming Authority);
- (h) Newfoundland (Newfoundland Labrador Liquor Corporation); and
- (i) New Brunswick (Cannabis NB Ltd.).

28. The FIGR Group also has sale and supply agreements in place with a number of private third-party purchasers and retailers. The FIGR Product Portfolio was created with the intention of offering a carefully crafted product for every consumer type in the market. The FIGR Product Portfolio was developed using a consumer-centric strategy and is the product of significant consumer driven market research coupled with the FIGR Group's extensive knowledge in the cannabis space. Additionally, the FIGR Group leverages the sentry seed-to-sale tracking platform to position itself as a leading competitor in the cannabis industry.

1. *The Facilities and Production*

29. The FIGR Group has advanced cannabis cultivation and cannabinoid extraction and processing facilities which include high-quality indoor and purpose-built greenhouse cannabis cultivation and cannabinoid extraction infrastructure at the CIG Facility and the Norfolk Facility (each as defined below).

(i) *The CIG Facility*

30. CIG's original facility was a purpose-built indoor cannabis processing and hydroponic cultivation facility located in an industrial park in Charlottetown, PEI (the "**Original CIG Facility**"). The Original CIG Facility contained 24,000 square feet of production-licensed area with a production capacity capable of yielding approximately 1,400 kilograms of dried cannabis and dried cannabis equivalent products per annum.

31. In November 2019, CIG completed the expansion of the Original CIG Facility to add an additional 306,200 square feet of hydroponic cultivation space through the construction of a

purpose-built greenhouse adjacent to the Original CIG Facility (the "**CIG Expansion Facility**") and together with the Original CIG Facility, the "**CIG Facility**").

32. Following the completion of the CIG Expansion Facility, and after obtaining the necessary regulatory approvals from Health Canada, the CIG Facility has an annual production capacity of approximately 43,170 kilograms which is derived from approximately 163,904 square feet of flowering area.

33. There is a mechanics lien on title to the CIG Facility which relates to a dispute between Fitzgerald & Snow (2010) Ltd, CIG's general contractor in respect of the CIG Expansion Facility, and one of its subcontractors (the "**CIG Mechanics Lien**"). I understand that the dispute relating to the CIG Mechanics Lien is proceeding to arbitration. A copy of the CIG Mechanics Lien is attached hereto as Exhibit "H".

34. CIG owns the CIG Facility and the approximately 15 acres of land on which it is located.

(ii) ***The FIGR Norfolk Facility***

35. FIGR Norfolk's facility is located in Simcoe, Ontario and is licensed for cultivation by Health Canada (the "**FIGR Norfolk Facility**"). The FIGR Norfolk Facility consists of approximately 19,100 square feet of indoor space allocated for cultivation and processing. The FIGR Norfolk Facility has an annual production capacity of approximately 1,205 kilograms of dried cannabis and dried cannabis equivalent. The FIGR Norfolk Facility employs a hydroponic cultivation method to grow its premium quality cannabis. In July 2018, Goldleaf (the predecessor name of FIGR Norfolk) purchased the 18.72 acre plot of vacant land adjacent to the FIGR Norfolk Facility to accommodate a proposed expansion, but no expansion has been undertaken to date.

36. FIGR Norfolk owns the FIGR Norfolk Facility and the land on which it is situated.

C. Cannabis Licenses

37. FIGR Norfolk holds a Standard Cultivation, Standard Processing and Sale for Medical Purposes licence (the "**FIGR Norfolk Licence**") under the Cannabis Act. The licensed site is located at 11 Grigg Drive in Simcoe, Ontario. The most recent amendment to the FIGR Norfolk Licence was granted on May 8, 2020. The FIGR Norfolk Licence expires on September 28, 2021. Pursuant to the FIGR Norfolk Licence, FIGR Norfolk is authorized to conduct the following activities at the licensed site:

- (i) possess cannabis;
- (ii) obtain dried cannabis, fresh cannabis, cannabis plants or cannabis plant seeds by cultivating, propagating and harvesting cannabis;
- (iii) for the purpose of testing, to obtain cannabis by altering its chemical or physical properties by any means;
- (iv) produce cannabis, other than obtain it by cultivating, propagating or harvesting it; and
- (v) sell recreational or medicinal dried cannabis, fresh cannabis, cannabis plants or cannabis plant seeds to authorized individuals under the Cannabis Act.

38. CIG holds a Standard Cultivation, Standard Processing and Sale for Medical Purposes licence (the "**CIG Licence**"). The licensed site is located at 7 Innovation Way, Charlottetown, PEI,

Canada. The CIG Licence was renewed on June 12, 2020 and expires on June 12, 2023. Pursuant to the CIG Licence, CIG is authorized to conduct the following activities at the licensed site:

- (i) possess cannabis;
- (ii) obtain dried cannabis, fresh cannabis, cannabis plants or cannabis plant seeds by cultivating, propagating and harvesting cannabis;
- (iii) produce cannabis, other than obtain it by cultivating, propagating or harvesting it; and
- (iv) sell recreational or medicinal dried cannabis, fresh cannabis, cannabis plants, cannabis plant seeds, edible cannabis, cannabis topicals or cannabis extracts to authorized individuals under the Cannabis Act.

39. FIGR Norfolk and CIG are subject to a comprehensive and rigorous regulatory regime as set out in the Cannabis Act and enforced by Health Canada. This regime requires ongoing compliance, record keeping, and reporting. There are strict site, security and operational requirements, including that directors, officers, individuals in a position to exercise direct control, and key individuals on the ground at the licensed site must hold security clearances.

D. Employees

1. General Overview

40. The FIGR Group currently employs 189 people (the "**Employees**"). The Employees and their designations are further detailed in the chart below:

Employee Designation	CIG	FIGR Norfolk	FIGR Brands	Total
<i>Full Time (Salaried)</i>	27	11	19	56
<i>Full Time (Hourly)</i>	99	13	0	112
<i>Full Time (Temporary)</i>	15	0	0	15
<i>Part Time (Salaried)</i>	1	0	0	1
<i>Part Time (Hourly)</i>	1	0	0	1
<i>On Leave</i>	1	2	1	4
Total	144	25	20	189

41. The aggregate payroll, and respective payroll providers, for the FIGR Group are as follows:

- (a) FIGR Brands – approximately \$170,000 semi-monthly (administered through Ceridian);
- (b) FIGR Norfolk – approximately \$59,000 bi-weekly (administered through Good Redden Klosler LLP); and
- (c) CIG – approximately \$244,229 bi-weekly (administered through ADP, LLC).

(b) Retention and Severance Entitlements

42. Certain executives and key employees of the FIGR Group were subject to key employee retention arrangements with New Pyxus International (collectively, the "**Pyxus Retention Agreements**"). I understand that all amounts owing under the Pyxus Retention Agreements were paid in full on or prior to January 15, 2021.

43. Pursuant to amendments to the Pyxus Retention Agreements, New Pyxus International has also guaranteed certain termination and severance obligations owing to certain executives and key employees of the FIGR Group.

(c) Agency Agreement

44. On January 11, 2021, FIGR Canada and Velvet Management Inc. ("**Velvet**") entered into a Services Agreement (the "**Agency Agreement**"). Under the Agency Agreement, Velvet is responsible for the promotion and commercialization of the Products (as that term is defined in the Agency Agreement) for the Term (as that term is defined in the Agency Agreement) to government-operated or government-licensed provincial and territory physical and online cannabis retailer. The Agency Agreement does not allow Velvet to promote or commercialize the Products for sale to medical customers and customers who purchase the Products for sale to medical customers only. A copy of the Agency Agreement is attached hereto as Exhibit "I".

E. Owned and Leased Real Property

45. As detailed above, the Applicants own the CIG Facility, the FIGR Norfolk Facility and the land on which they are located.

46. The FIGR Group also leases certain office space located at: (i) Atria III, 2225 Sheppard Avenue East, Suite No. 900, Toronto, ON (the "**Ontario Office Space**") and (ii) 23 Fourth Street, Charlottetown, PEI (the "**PEI Office Space**").

47. The Ontario Office Space is leased pursuant to a Lease of Office Space Agreement between FIGR Inc. (the former name of one of the amalgamated entities which now forms FIGR Brands) and Dorsay Development Corporation and Ontario Holdings Ltd dated June 18, 2019 (the

"Ontario Office Space Lease Agreement"). The Office Space Lease Agreement is guaranteed by Alliance One International GmbH ("**AOI**"), a Swiss entity related to the FIGR Group, pursuant to a Guarantee Agreement dated June 18, 2019 (the "**Ontario Office Space Lease Agreement Guarantee**"). Copies of the Ontario Office Space Lease Agreement and the Ontario Office Space Lease Agreement Guarantee are attached hereto as Exhibit "J" and Exhibit "K", respectively.

48. The PEI Office Space is leased pursuant to an Offer to Lease by and between Twinprop Investments Inc. and CIG dated December 1, 2020 (the "**PEI Office Space Lease Agreement**"). A copy of the PEI Office Space Lease Agreement is attached hereto as Exhibit "L".

F. Suppliers

49. The FIGR Group relies on a number of vendors and third-party service providers to operate its business. For instance, logistics providers, lab services and utility providers are all essential to the FIGR Group's operations. The FIGR Group is current with respect to most of their obligations under a number of agreements with these vendors and third-party service providers.

G. Excise Duty

50. Cannabis producers are required to post security pursuant to the *Excise Act, 2001*, S.C. 2002, c. 22. The security provides the Canada Revenue Agency ("**CRA**") with financial assurance for any outstanding excise duty payable. The security can be posted in the form of a surety bond or a deposit with the CRA.

51. The security required to be posted with the CRA is calculated as the highest amount of cannabis duties payable for a calendar month in the previous 12 calendar months. These duties are

calculated, in part, based on the expected number of grams or milligrams of packaged cannabis products sold to the recreational market.

52. As of the date of this affidavit:

- (a) FIGR Norfolk has provided a deposit with the CRA in the amount of \$5,000; and
- (b) CIG has provided a surety bond through Intact Insurance in the amount of \$300,000 which is secured via a irrevocable letter of credit issued by Provincial.

H. Intellectual Property

53. The Canadian trademarks are currently held by FIGR Inc. The FIGR Group is in the process of filing the necessary paperwork with the various intellectual property offices to update/amend the ownership entity to FIGR Brands (as a result of the FIGR Amalgamation).

54. Certain other intellectual property, such as trade names and plant genetics, are held by other Applicants.

I. Cash Management and Credit Cards

55. The FIGR Group maintains six (6) bank accounts – one (1) with Provincial Credit Union Limited ("**Provincial**") and five (5) with Bank of Montreal.

56. The FIGR Group's cash management system is managed out of Toronto, Ontario and Charlottetown, PEI. As detailed below, funding from AOI has been provided to FIGR Brands and subsequently disbursed by FIGR Brands to each of FIGR Norfolk and CIG, respectively.

57. CIG has one corporate credit with Collabria Visa through Provincial.

V. FINANCIAL POSITION OF THE FIGR GROUP

58. The FIGR Group has been cash flow negative since inception and has been reliant on funding from New Pyxus International and its indirect subsidiaries.

59. A copy of the FIGR Group's unaudited consolidated balance sheet as at November 30, 2020 is attached hereto as Exhibit "M". Certain information contained in this unaudited balance sheet is summarized below.

A. Assets

60. As at November 30, 2020, the FIGR Group had total consolidated assets with a book value of approximately \$153,166,418, which consisted primarily of the following:

Asset Type	Value
Current Assets: \$27,869,914	
Cash	\$1,774,333
Third Party Receivables	\$1,765,619
Prepaid Expenses and Deposits	\$1,242,673
Harmonized sales tax receivable	\$588,582
Inventory	\$20,896,163
Biological Assets	\$1,458,254
Other Assets	\$144,290
Non-Current Assets: \$125,296,504	
Investment Tax Credits	\$468,240
Intangible Assets	\$33,214,283

Asset Type	Value
Right-of-use Lease Assets	\$417,121
Property, Plant and Equipment	\$91,196,859
Total	\$153,166,418

B. Liabilities

61. As at November 30, 2020, the unaudited book value of the FIGR Group's consolidated liabilities was approximately \$203,362,540:

Liability Type	Value
Current Liabilities: \$4,624,163	
Accounts Payables and Accrued Liabilities	\$4,208,106
Harmonized sales tax payable	\$217,507
Lease Obligations	\$131,877
Current Portion of Long-Term Debt	\$66,672
Non-Current Liabilities: \$198,738,377	
Lease Obligations	\$336,497
Long-Term Debt	\$627,633
Related Party Payable	\$189,729,870
Deferred tax liability	\$8,044,377
Total	\$203,362,540

C. Secured Obligations

62. The FIGR Group does not have any secured funded debt. All of the intercompany advances have been made on an unsecured basis.

63. Attached as Exhibit "N" are search results from searches conducted against each of the Applicants under the *Personal Property Security Act* (Ontario), the *Personal Property Security Act* (British Columbia) and the *Personal Property Security Act* (Prince Edward Island).

64. There is a registered financing statement against CGI in PEI, and FIGR Inc. (the former name of one of the amalgamated entities which now forms FIGR Brands) has a number of registered financing statements against it in Ontario.

65. The party with a registration against CGI is Compaction Credit Ltd., and the collateral secured was described as follows:

"[o]ne 2x13 litre extraction unit serial number P4900 manufacturer Advanced Extraction Systems and all present and after acquired attachments, accessories, repair parts and other goods placed on the said extraction unit (the "Collateral") and all proceeds that are present or after acquired personal property with respect to the Collateral.

66. The party with certain registrations against FIGR Inc. is Jim Pattison Industries Ltd. These registrations are all in respect of certain leased motor vehicles.

67. The parties with registrations will not be served for the application for the Initial Order, and are not proposed to be primed. The Applicants expect to seek to prime them at the Comeback Hearing.

D. Unsecured Intercompany Obligations

1. *The AOI Note*

68. FIGR Inc. was the borrower under a promissory note (the "**AOI Note**") issued to AOI. The AOI Note bears interest at a rate equal to 0.5% plus the arithmetic average of: (a) LIBOR 1-month rate plus 0.025%; and (b) US prime rate plus 0.015%. As at November 30, 2020, approximately \$189,729,870 was outstanding under the AOI Note.

69. The AOI Note has no stated maturity and may be prepaid at any time.

70. Proceeds from the AOI Note were used by FIGR Inc. to fund its obligations and those of CIG and FIGR Norfolk through intercompany notes detailed below. On December 30, 2020, AOI assigned (the "**AOI Assignment**") its rights under the AOI Note to its parent company and sole shareholder, AOI Tabak (the "**AOI Assignment Agreement**").

71. Copies of the AOI Note and the AOI Assignment Agreement are attached hereto as Exhibit "O" and Exhibit "P", respectively.

2. *The CIG Note*

72. CIG is the borrower under a promissory note (the "**CIG Note**") issued by FIGR Inc. (the former name of one of the amalgamated entities which now forms FIGR Brands). The CIG Note bears interest at a rate equal to 1.0% plus the arithmetic average of: (a) LIBOR 1-month rate plus 0.025%; and (b) US prime rate plus 0.015%.

73. Proceeds from the CIG Note were used by CIG to fund the construction of the CIG Expansion Facility and CIG's operating losses. The CIG Note has no stated maturity and may be prepaid at any time.

74. As at November 30, 2020, approximately \$93,910,479 was outstanding under the CIG Note.

75. A copy of the CIG Note is attached hereto as Exhibit "Q".

3. The FIGR Norfolk Note

76. FIGR Norfolk is the borrower under a promissory note issued by FIGR Inc. (the former name of one of the amalgamated entities which now forms FIGR Brands) (the "**FIGR Norfolk Note**") pursuant to the FIGR Norfolk USA. The FIGR Norfolk Note bears interest at a rate of 9% per annum, compounded quarterly and payable monthly commencing January 29, 2020 and thereafter on the first day of each month for the remainder of the term. The FIGR Norfolk Note matures on January 29, 2023.

77. Proceeds from the FIGR Norfolk Note were used by FIGR Norfolk to fund operating losses.

78. As at November 30, 2020, approximately \$40,103,454 was outstanding under the FIGR Norfolk Note.

79. A copy of the FIGR Norfolk Note is attached hereto as Exhibit "R".

4. Other Unsecured Obligations and Claims

(a) ACOA Contribution Agreement

80. CIG entered into a Contribution Agreement with the Atlantic Canada Opportunities Agency ("ACOA") on June 10, 2019 (the "**Contribution Agreement**"). A copy of the Contribution Agreement is attached hereto as Exhibit "S". ACOA is a Canadian Federal economic development agency responsible for creating opportunities for economic growth in Canada's Atlantic Provinces.

81. Pursuant to the Contribution Agreement, ACOA agreed to contribute up to \$800,000 (the "**Contribution Amount**") for the expansion of the CIG Expansion Facility. Pursuant to the terms of the Contribution Agreement, CIG is obligated to repay the Contribution Amount in monthly installments between the period of March 1, 2021 and February 1, 2029. Approximately \$627,633 remains outstanding under the Contribution Agreement as at November 30, 2020.

(b) Third Party Suppliers

82. Given the nature of its business, the FIGR Group relies on a number of vendors and third party service providers and, as such, are party to a number of agreements for the provision of certain essential services including, among other things, insurance, phone and internet, security, utilities, professional costs and other services provided in connection with operating a business in the cannabis industry. As of the date of this affidavit, the FIGR Group is indebted to certain third party suppliers.

(c) Shareholder Obligations:

83. Pursuant to the FIGR Norfolk USA, FIGR Brands is obligated to fund the operational requirements of FIGR Norfolk provided, however, that as soon as FIGR Norfolk has sufficient cash flow to finance its own operations it is required to do so instead of incurring additional debt (the "**Operational Funding Obligations**"). To date, the Operational Funding Obligations have been met through amounts lent under the FIGR Norfolk Note. The FIGR Norfolk Note requires FIGR Norfolk to make interest payments on the principal amount outstanding beginning January 29, 2020. FIGR Norfolk is in arrears in respect of these payment obligations.

84. In addition, pursuant to the FIGR Norfolk USA, FIGR Brands was obligated to fund the construction of the FIGR Norfolk Facility, including, on commercially reasonable terms and in certain circumstances, the financing of at least an 80,000 square foot facility for the phase II buildout of the FIGR Norfolk Facility with the size, cost and type of facility to be determined by the shareholders of FIGR Norfolk, acting reasonably. The FIGR Norfolk shareholders are also obligated, in this context, to pursue replacement financing from third party lenders on certain terms stipulated in the Norfolk USA and otherwise on commercially reasonable terms. To date, the FIGR Norfolk shareholders have yet to establish terms concerning the size, cost or type of facility contemplated by any phase II expansion, nor have they been able to obtain third party financing for any such expansion on the terms contemplated by the FIGR Norfolk USA.

5. Employee Liabilities

85. As discussed above, the FIGR Group's aggregate payroll is as follows:

- (a) FIGR Brands – approximately \$170,000 semi-monthly;

- (b) FIGR Norfolk – approximately \$59,000 bi-weekly; and
- (c) CIG – approximately \$244,229 bi-weekly.

86. While the FIGR Group is current with respect to its payment of payroll and the remittance of employee source reductions, its ability to meet future payroll obligations, including payroll due in respect of FIGR Norfolk on January 23, CIG on January 30 and FIGR Brands on January 31 is contingent on the granting of the relief sought in the Initial Order.

VI. THE PROPOSED DIP LOAN

87. On January 20, 2021, FIGR Brands, as borrower (in such capacity, the "**Borrower**"), FIGR Norfolk and CIG, as guarantors (in such capacity, the "**Guarantors**" and each a "**Guarantor**") and the DIP Lender, entered into a term sheet in respect to the DIP Loan (the "**DIP Term Sheet**"). A copy of the DIP Term Sheet is attached hereto as Exhibit "T".

88. The DIP Term Sheet provides for a super-priority, DIP interim, non-revolving credit facility up to a maximum principal amount of \$8 million. The interest rate applicable to advances under the DIP Loan is 8% per annum and shall accrue and be paid on the Maturity Date (as defined in the DIP Term Sheet).

89. The DIP Loan is conditional, among other things, upon the granting of a priority charge over the Property in favour of the DIP Lender to secure the amounts borrowed under the DIP Loan (the "**DIP Lender's Charge**"). In accordance with the DIP Term Sheet, the DIP Loan is to be used during these CCAA proceedings (the "**CCAA Proceedings**") to fund:

- (a) working capital needs in accordance with the Cash Flow Forecast (as defined below);
- (b) fees and expenses associated with the DIP Loan (including without limitation certain expenses, fees of the Monitor, and legal fees of counsel to the DIP Lender, the Applicants and the Monitor); and
- (c) such other costs and expenses of the FIGR Group as agreed to by the DIP Lender, in writing.

90. The DIP Loan is subject to customary covenants, conditions precedent, and representations and warranties made by the Applicants to the Lender. The DIP Loan must be repaid in full by the date that is the earlier of:

- (a) the occurrence of an Event of Default (as defined in the DIP Term Sheet); and
- (b) June 30, 2021.

91. The amount of the DIP Loan to be funded during the initial Stay of Proceedings (up to \$2.5 million) is only that portion that is necessary to ensure the continued operation of the Applicants' business in the ordinary course during the initial 10 days.

VII. RELIEF SOUGHT

A. Stay of Proceedings

92. The FIGR Group urgently requires a broad stay of proceedings to prevent enforcement action by certain contractual counter parties and to provide the FIGR Group with breathing space

while it conducts the SISP, all the while permitting its business to continue to operate as a going concern.

93. The FIGR Group is concerned about its failure to meet certain obligations as they become due. It would be detrimental to the FIGR Group's business if proceedings were commenced or continued, or rights and remedies were executed, against the FIGR Group. Absent the Stay of Proceedings, the FIGR Group will not be able to continue to operate its business.

94. In light of the foregoing, the Stay of Proceedings is in the best interests of the FIGR Group and its stakeholders. I understand that the Proposed Monitor believes that the Stay of Proceedings is appropriate in the circumstances.

B. Proposed Monitor

95. The proposed Initial Order contemplates that FTI will act as Monitor in the Applicants' CCAA Proceedings. I understand that FTI has consented to act as Monitor of the Applicants in the CCAA Proceedings if the proposed Initial Order is granted. A copy of FTI's consent to act as Monitor is attached hereto as Exhibit "U".

C. Ability to Pay Certain Pre-Filing Amounts

96. Pursuant to the proposed Initial Order, the Applicants are seeking authorization (but not the obligation) to pay, among other things:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and employee expenses payable on or after the date of this Order, in each case

incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

- (b) with the consent of the Monitor and the DIP Lender, amounts owing for goods and services actually supplied to the Applicants and all outstanding amounts related to honouring customer obligations whether existing before or after the date of the proposed Initial Order, incurred in the ordinary course of business and consistent with existing policies and procedures.

97. I believe this relief is necessary to maintain ordinary course operations, particularly given the highly regulated nature of the FIGR Group's business. The FIGR Group's ability to operate its business in the normal course is dependent on its ability to obtain an interrupted supply of certain goods and services.

98. I understand that the Monitor and the DIP Lender are supportive of that relief.

D. Administration Charge

99. The Initial Order provides for a Court-ordered charge in favour of the Proposed Monitor, as well as counsel to the Proposed Monitor and the Applicants, over the Property, to secure payment of their respective fees and disbursements incurred in connection with services rendered in respect of the Applicants up to a maximum amount of \$600,000 (the “**Administration Charge**”). The Administration Charge is proposed to rank ahead of and have priority over all of the other Charges.

100. The Applicants require the expertise, knowledge, and continued participation of the proposed beneficiaries of the Administration Charge during the CCAA Proceedings in order to

complete a successful restructuring. Each of the beneficiaries of the Administration Charge will have distinct roles in the Applicants' restructuring.

101. The Applicants and the Proposed Monitor worked collaboratively to estimate the quantum of the Administration Charge required, which takes into account the limited retainers the professionals currently have and their existing outstanding fees. I believe that the Administration Charge is fair and reasonable in the circumstances. I understand that the Proposed Monitor is also of the view that the Administration Charge is fair and reasonable in the circumstances.

E. Directors' Charge

102. Under the Initial Order, the Applicants are seeking to stay all proceedings against the directors and officers of the Applicants (collectively, the "**Directors and Officers**").

103. I am advised by Sean Zweig of Bennett Jones LLP, and believe that, in certain circumstances, directors and officers can be held liable for obligations of a company, including those owed to employees and government entities. Among other things, I understand that these obligations may include unpaid accrued wages and unpaid accrued vacation pay, together with unremitted excise, sales, goods and services, and harmonized sales taxes.

104. It is my understanding that the Applicants' present and former Directors and Officers who are or were employed by the Applicants are among the potential beneficiaries under liability insurance policies maintained by New Pyxus International for the benefit of itself and its direct and indirect subsidiaries. However, I understand that these policies have various exceptions, exclusions and carve-outs and that they may not provide sufficient coverage against the potential liability that the Directors and Officers could incur in connection with the CCAA Proceedings.

105. Given the risks related to these CCAA Proceedings and the uncertainty surrounding available indemnities and insurance, I understand that the current Directors and Officers' involvement in the CCAA Proceedings is conditional upon the granting of a priority charge in favour of the Directors and Officers in the amount of \$2 million (the "**Directors' Charge**"). The Director's Charge would serve as security for the indemnification obligations and potential liabilities the Directors and Officers may face during the initial 10-day period of the CCAA Proceedings. The Directors' Charge is proposed to rank in priority to the DIP Lender's Charge and the Intercompany Charge, but subordinate to the Administration Charge.

106. The Applicants believe that the Directors' Charge is reasonable in the circumstances. I understand that the Proposed Monitor is supportive of the Directors' Charge and its quantum.

F. DIP Lender's Charge

107. The DIP Term Sheet provides, among other things, that the DIP Loan is contingent on the granting of the DIP Lender's Charge. The proposed Initial Order contemplates that the DIP Lender's Charge will rank subordinate to Administration Charge and the Directors' Charge, but in priority to the Intercompany Charge and all other claims (except secured creditors who did not receive notice of this application).

108. Pursuant to the proposed Initial Order, the DIP Lender's Charge will secure all of the credit advanced under the DIP Loan. The DIP Lender's Charge will not secure obligations incurred prior to the CCAA Proceedings.

109. The amount to be funded under the DIP Loan during the initial Stay of Proceedings is limited to the amount necessary to ensure the continued operations of the Applicants' business.

Correspondingly, the DIP Lender's Charge under the proposed Initial Order is limited to the amount to be funded during the initial Stay of Proceedings. The Applicants intend to seek an increase to the DIP Lender's Charge at the Comeback Hearing.

G. Intercompany Charge

110. Should the Initial Order be granted, to the extent that any member of the FIGR Group (each an "**Intercompany Lender**") makes any payment or incurs or discharges any obligation that is a payment or obligation of one or more of the other members of the FIGR Group (other than the Intercompany Lender) or otherwise transfers value to or for the benefit to one or more of the other members of the FIGR Group (other than the Intercompany Lender, as applicable), it is proposed that such Intercompany Lender be granted a charge on the Property in the amount of such payment or obligation or transfer (the "**Intercompany Charge**").

111. The Intercompany Charge is necessary to protect members of the FIGR Group (and their respective creditors) for any obligation an Intercompany Lender incurs on behalf of another member of the FIGR Group (other than its own obligations) and to secure such amounts.

112. The proposed Initial Order contemplates that the Intercompany Charge will rank subordinate to Administration Charge, the Directors' Charge and the DIP Lender's Charge, but in priority to all other claims (except secured creditors who did not receive notice of this application). The Intercompany Charge will not secure any intercompany advances made by an Intercompany Lender to an Intercompany Borrower before the date of the Initial Order.

H. Cash Flow Forecast

113. With the assistance of the Proposed Monitor, the Applicants have undertaken a cash flow analysis to determine the quantum of funding required to finance their operations, assuming the Initial Order is granted, over the 13-week period from January 16, 2021, to April 16, 2021 (the "**Cash Flow Forecast**"). I understand that the Cash Flow Forecast will be attached to the pre-filing report of the Proposed Monitor.

114. The Cash Flow Forecast indicates that the Applicants urgently require DIP financing to ensure that they have the liquidity required to meet their obligations and continue their business operations during the Stay of Proceedings.

VIII. CONCLUSION

115. The proposed Initial Order is in the best interests of the Applicants and their stakeholders. The Stay of Proceedings and the DIP Loan will allow the Applicants to continue ordinary course operations with the breathing space and stability necessary to develop a plan for their restructuring. Absent the Stay of Proceedings and the DIP Loan, the Applicants will be unable to fund payroll and will be forced to cease their operations, which would be detrimental to the value of their business, and in turn, the interests of their stakeholders.

116. In the circumstances, I believe that the CCAA Proceedings are the only viable means of restructuring the Applicants' business for the benefit of their stakeholders and that the relief sought in the Initial Order is limited to what is reasonably necessary to stabilize the Applicants' business.

SWORN BEFORE ME over)
videoconference on this 21st day of January)
2021. The affiant was located in the City of)
Toronto, in the Province of Ontario and the)
Commissioner was located in the Town of)
Kimberley, in the Province of Ontario. This)
affidavit was commissioned remotely as a)
result of COVID-19 and the declaration was)
administered in accordance with Ontario)
Regulation 431/20.)



Aiden Nelms

A Commissioner for Oaths in and for the
Province of Ontario



Michael Devon

This is Exhibit "C" *referred to in the*

affidavit of Harvey Carroll

sworn before me, this 13th

day of April, 2022

.....
A COMMISSIONER FOR TAKING AFFIDAVITS

Aiden Nelms



Court File No. CV-21-00655373-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) FRIDAY, THE 29th
JUSTICE HAINEY) DAY OF JANUARY, 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 FIGR
BRANDS, INC., FIGR NORFOLK INC. AND CANADA'S ISLAND GARDEN INC.
(collectively, the "**Applicants**")

AMENDED AND RESTATED INITIAL ORDER

(amending Initial Order dated January 21, 2021)

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day by Zoom videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michael Devon sworn January 21, 2021 and the Exhibits thereto (the "**Devon Affidavit**"), the affidavit of Michael Devon sworn January 25, 2021 and the Exhibits thereto (the "**Second Devon Affidavit**"), the Pre-Filing Report of FTI Consulting Canada Inc. ("**FTI**") in its capacity as proposed monitor of the Applicants dated January 21, 2021 and the First Report of FTI in its capacity as monitor dated January 27, 2021 (the "**First Report**"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, counsel for FTI in its capacity as court-appointed monitor (the "**Monitor**"), counsel for Alliance One Tobacco Canada, Inc. (the "**DIP Lender**"), and such other parties listed on the Counsel Slip, no one appearing for any other party although duly served as appears from the Affidavit of Service of Aiden Nelms sworn January 26, 2021:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that each of the Applicants 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

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are 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 deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the Devon Affidavit or, with the consent of the Monitor and the DIP Lender, replace it with another substantially similar central 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 Applicants 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 Applicants, 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.

6. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and employee expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) with the consent of the Monitor and the DIP Lender, amounts owing for goods and services actually supplied to the Applicants and all outstanding amounts related to honouring customer obligations whether existing before or after the date of this Order, incurred in the ordinary course of business and consistent with existing policies and procedures; and
- (c) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and subject to the Definitive Documents (as defined below), the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course prior to, on, or, after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably 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; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

Payments for amounts incurred prior to this Order shall require the consent of the Monitor and the DIP Lender, or leave of this Court.

8. **THIS COURT ORDERS** that the Applicants shall 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 employees' wages, including, without limitation, amounts in respect of (i) employment insurance; (ii) Canada Pension Plan; and (iii) income taxes.
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, 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 realty, municipal business 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 and which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants 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 to the landlord under the lease) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each 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 the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein and pursuant to the Definitive Documents, the Applicants 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 Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. **THIS COURT ORDERS** that each of the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) sell inventory in the ordinary course of business consistent with past practice, or otherwise with the consent of the Monitor and the DIP Lender;
- (c) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (d) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing.

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

12. **THIS COURT ORDERS** that the applicable Applicant shall provide each relevant landlord with notice of the Applicant'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 such Applicant'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, such landlord and the applicable Applicant, or by further Order of this Court upon application by the applicable Applicant on at least two (2) days notice to such landlord and any such secured creditors. If any Applicant disclaims a 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 such dispute (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 such Applicant's claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the notice 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 applicable Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the applicable Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including March 31, 2021, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor or their respective employees and representatives acting in such

capacities, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that 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 Applicants or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower the Applicants to carry on any business which the Applicants 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 security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that 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 Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, security services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, 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 Applicants, and that the Applicants 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 date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. **THIS COURT ORDERS** that, notwithstanding anything else 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 date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as a director or officer of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer

or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. **THIS COURT ORDERS** that the directors and officers of the Applicants 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 \$2,700,000, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 40 and 42 herein.

22. **THIS COURT ORDERS** that, 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 Applicants' 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 director's and officer's insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

24. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' 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 Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel on a weekly basis of financial and other information as agreed to between the Applicants and, the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicant's cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lender;
- (e) monitor all payments, obligations or transfers as between the Applicants for purposes of determining the amounts subject to the Intercompany Charges (as defined below);
- (f) advise the Applicants in their development of the Plan (if any) and any amendments to the Plan;
- (g) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (h) 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 Applicants, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (i) 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
- (j) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property or be deemed to take possession of the Property, pursuant to any provision of any federal, provincial or other law respecting, among other things, the manufacturing, possession, processing and distribution of cannabis or cannabis products including, without limitation, under the *Cannabis*

Act S.C. 2018, c.16, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, the *Excise Tax Act*, R.S.C., 1985, c. E-15, the *Ontario Cannabis Licence Act*, S.O. 2018, c. 12, Sched. 2, the *Ontario Cannabis Control Act*, S.O. 2017, c. 26, Sched. 1, the *Prince Edward Island Cannabis Management Corporation Act*, R.S.P.E.I. 1988, c C-1.3, the *Prince Edward Island Cannabis Control Act*, R.S.P.E.I. 1988, c C-1.2, the *British Columbia Cannabis Control and Licensing Act*, S.B.C. 2018, c. 29, the *British Columbia Cannabis Distribution Act*, S.B.C. 2018, c. 28, or other such applicable federal or provincial legislation or regulations (collectively, the "**Cannabis Legislation**"), 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, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof within the meaning of any Cannabis Legislation or otherwise, and nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity for any purpose whatsoever.

26. **THIS COURT ORDERS** that nothing herein contained shall require 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 *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Prince Edward Island Environmental Protection Act*, R.S.P.E.I. 1988, c E-9, the *Prince Edward Island Occupational Health and Safety Act*, R.S.P.E.I. 1988, c O-1.01, the *British Columbia Environmental Management Act*, S.B.C. 2003, c 53, the *British Columbia Water Protection Act*, RSBC 1996, c 484, the *British Columbia Occupational Health and Safety Regulation*, B.C. Reg. 296/97, and all 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. 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.

27. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the DIP Lender under this Order or at law, the DIP Lender shall not incur any liability or obligation as a result of the carrying out of the provisions of this Order, including under any Cannabis Legislation, save and except for any gross negligence or willful misconduct on its part.

28. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants, including without limitation, the DIP Lender, with information provided by the Applicants 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 Applicants is 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 Applicants may agree.

29. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its respective employees and representatives acting in such capacities shall incur any liability or obligation as a result of the appointment of the Monitor or the carrying out by it of the provisions of this Order, including under any Cannabis Legislation, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

30. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to, the date of this Order, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis, and in addition, the Applicants are hereby authorized to pay to the Monitor and counsel to the Monitor a retainer in the aggregate amount of \$100,000, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

31. **THIS COURT ORDERS** that 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 Commercial List of the Ontario Superior Court of Justice.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Applicants' counsel 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 \$600,000 as security for their professional 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 in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 40 and 42 hereof.

DIP FINANCING

33. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lender in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures.

34. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicants and the DIP Lender dated as of January 20, 2021 (as may be amended from time to time, the "**Commitment Letter**"), filed.

35. **THIS COURT ORDERS** that the Applicants 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 Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

36. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's

Charge shall not exceed the amount of \$8,000,000 (plus interest and costs) or secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 40 and 42 hereof.

37. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon 5 days notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP 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 Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

38. **THIS COURT ORDERS AND DECLARES** that, unless otherwise agreed to by the DIP Lender, the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by any of Applicants under the CCAA, or any proposal filed by any of the Applicants under the BIA, with respect to any advances made under the Definitive Documents.

INTERCOMPANY LENDING

39. **THIS COURT ORDERS** that to the extent that any Applicant (an "**Intercompany Lender**") after the date of this Order makes any payment to or on behalf of, or incurs any obligation on behalf of, or discharges any obligation of, an Applicant (other than itself) (the "**Debtor Applicant**") or otherwise transfers value to or for the benefit of one or more Applicants (other than the Debtor Applicant), such Intercompany Lender is hereby granted a charge (each an "**Intercompany Charge**") on all of the Property of such Debtor Applicant in the amount of such payment, obligation or transfer. The Intercompany Charge shall have the priority set out in paragraphs 40 and 42 herein.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

40. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge, the DIP Lender's Charge and each Intercompany Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First - Administration Charge (to the maximum amount of \$600,000);

Second - Directors' Charge (to the maximum amount of \$2,700,000);

Third - DIP Lender's Charge (to the maximum amount of \$8,000,000 (plus interest and costs)); and

Fourth - Intercompany Charge.

41. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

42. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

43. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

44. **THIS COURT ORDERS** that the Charges, the Commitment Letter and the Definitive Documents 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**") and/or the DIP Lender thereunder 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 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, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, 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 Commitment Letter or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are 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 Applicants entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Commitment Letter or 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.

45. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Applicant's interest in such real property leases.

SERVICE AND NOTICE

46. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the Globe and Mail, National Edition, a notice containing the information prescribed under the CCAA; and (ii) within five days after the date of this Order, (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 any of the Applicants of more than \$1,000 (excluding individual employees, former employees with retirement savings plan entitlements, and retirees and other beneficiaries who have entitlements under any retirement savings plans), 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.

47. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://cfcanada.fticonsulting.com/figr>.

48. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in

satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2175 (SOR/DORS).

GENERAL

49. **THIS COURT ORDERS** that each of the Applicants, the DIP Lender or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties under this Order or in the interpretation of this Order hereunder.

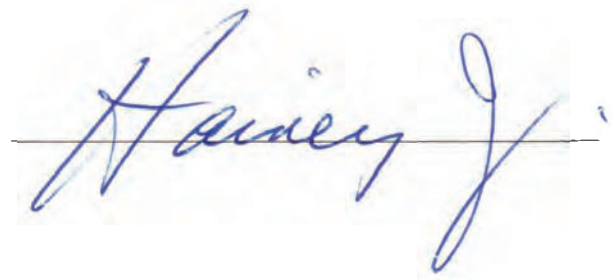
50. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

51. **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.

52. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are 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 that 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.

53. **THIS COURT ORDERS** that any interested party (including each of the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice 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.

54. **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.



A handwritten signature in blue ink, appearing to read "Hainey J.", is written over a horizontal line. The signature is cursive and includes a small mark above the letter 'i'.

IN THE MATTER OF THE COMPANIES' CREDITORS' ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF FIGR BRANDS, INC., FIGR NORFOLK INC. AND CANADA'S ISLAND GARDEN INC.

Court File No.: CV-21-00655373-00CL

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

Proceedings Commenced in Toronto

**AMENDED AND RESTATED INITIAL
ORDER**

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Sean Zweig (LSO# 573071)
Mike Shakra (LSO# 64604K)
Aiden Nelms (LSO# 74170S)

Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants

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 FIGR BRANDS, INC., FIGR NORFOLK INC. AND 1307849 B.C. LTD.

Court File No.: CV-21-00655373-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings Commenced in Toronto

AFFIDAVIT OF HARVEY CARROLL
(Sworn April 13, 2022)

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Sean Zweig (LSO# 57307I)
Mike Shakra (LSO# 64604K)
Aiden Nelms (LSO# 74170S)

Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	THURSDAY, THE 21 ST
)	
JUSTICE MCEWEN)	DAY OF APRIL, 2022

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 FIGR
BRANDS, INC., FIGR NORFOLK INC. AND 1307849 B.C. LTD.

(collectively, the "**Applicants**")

**ORDER
(CCAA Termination)**

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, *inter alia*: (i) approving an extension of the Stay Period; (ii) approving the Ninth Report (as defined below) and the Monitor's activities and fees described therein; (iii) terminating the proceedings of the Applicants under the CCAA (the "**CCAA Proceedings**"); (iv) discharging FTI Consulting Canada Inc. ("**FTI**") in its capacity as Monitor of the Applicants (in such capacity, the "**Monitor**") at the CCAA Termination Time (as defined below); and (v) authorizing the Applicants to file assignments in bankruptcy pursuant to the *Bankruptcy and Insolvency Act* R.S.C. 1985 c. B-3 as amended (the "**BIA**"), and certain related relief, was heard this day by video-conference by the Ontario Superior Court of Justice (Commercial List).

ON READING the Notice of Motion of the Applicants, the affidavit of Harvey Carroll ("**Carroll**") sworn April 13, 2022 (the "**Carroll Affidavit**"), the Ninth Report of the Monitor dated April [●], 2022 (the "**Ninth Report**"), filed, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of Aiden Nelms sworn and filed;

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS AND DECLARES** that all terms not otherwise defined herein shall have the meaning ascribed to them in the Amended and Restated Initial Order dated January 29, 2021, the Carroll Affidavit or the Ninth Report, as applicable.

EXTENSION OF THE STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until the CCAA Termination Time.

APPROVAL OF THE NINTH REPORT AND THE MONITOR'S ACTIVITIES AND FEES

4. **THIS COURT ORDERS** that the Ninth Report, and the activities of the Monitor and its counsel referred to therein be and are hereby approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

5. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Ninth Report, including the estimated fees and disbursements up to the CCAA Termination Time, be and are hereby approved.

BANKRUPTCY MATTERS

6. **THIS COURT ORDERS** that from the Administrative Reserve (as defined in the Order of the Honourable Mr. Justice McEwen made in these proceedings on February 2, 2022), the Applicants are hereby authorized and directed to transfer \$150,000 (plus HST) to FTI for the fees and disbursements of the Trustee and its counsel (the "**Bankruptcy Reserve**") incurred in connection with Applicants' intended assignments in to bankruptcy pursuant the BIA.

7. **THIS COURT ORDERS** that, the Applicants are authorized to make an assignment in bankruptcy pursuant to the BIA in the City of Toronto, Province of Ontario naming FTI as the

trustee in bankruptcy (the "**Trustee**"), and, in that regard, Carroll is authorized to sign such documents in the name of any of the Applicants and take all such steps as are necessary to make the assignments in bankruptcy and commence proceedings under the BIA (the "**BIA Proceedings**").

8. **THIS COURT ORDERS** that following completion of the Applicants' BIA Proceedings, the Trustee is hereby authorized and directed to pay any available remainder from the Bankruptcy Reserve to Alliance One International Tabak B.V.

9. **THIS COURT ORDERS** that notwithstanding the termination of the CCAA Proceedings pursuant to the process described below, the Claims Procedure Order and the Employee Claims Procedure Order (the "**Claims Orders**"), including the bar dates set forth therein shall remain in full force and effect.

10. **THIS COURT ORDERS** that any Claim, including a Pre-Filing Intercompany Claim, or any Employee Claim determined to be a Proven Claim shall constitute a claim in the relevant Applicants' future BIA Proceedings.

TERMINATION OF CCAA PROCEEDINGS & DISCHARGE OF THE MONITOR

11. **THIS COURT ORDERS** that upon the Monitor filing a certificate substantially in the form attached at Schedule "A" (the "**Discharge Certificate**") certifying that all matters to be attended to in connection with the CCAA Proceedings have been completed to the satisfaction of the Monitor, FTI shall be discharged as Monitor effective immediately and shall have no further duties, obligations, or responsibilities as Monitor (the "**CCAA Termination Time**").

12. **THIS COURT ORDERS** that the Monitor shall, at least seven (7) days prior to the CCAA Termination Time, provide notice to the Service List in the CCAA Proceedings, (a) of the Monitor's intention to file the Discharge Certificate; and (b) that, upon the filing of the Discharge Certificate and subject to the provisions of this Order, the relief set out in paragraph 17 of this Order (the "**CCAA Termination Relief**") shall be automatically deemed to be effective.

13. **THIS COURT ORDERS** that upon the filing of the Discharge Certificate:

- (a) the CCAA Proceedings and the Stay Period are hereby terminated without any other act or formality;

- (b) the Charges, to the extent applicable, shall be and are hereby terminated, released and discharged; and
- (c) the release and discharge from liability set out in paragraph 17 of this Order shall be automatically deemed to be effective up to and including the CCAA Termination Time (the "**Release Extension**").

14. **THIS COURT ORDERS** that, notwithstanding the discharge of FTI as Monitor and the termination of the CCAA Proceedings, FTI shall have the authority from and after the CCAA Termination Time to complete any matters that may be incidental to the termination of the CCAA Proceedings, including the discretion to authorize an assignment in bankruptcy pursuant to paragraph 7 hereof. In completing any such incidental matters, FTI shall continue to have the benefit of the provisions of all Orders made in the CCAA Proceedings and all protections under the CCAA, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as the Monitor, and nothing in this Order shall affect, vary, derogate from or amend any of the protections in favour of the Monitor pursuant to any Order issued in the CCAA Proceedings.

15. **THIS COURT ORDERS** that, notwithstanding any provision of this Order and the termination of the CCAA Proceedings, nothing herein shall affect, vary, derogate from, limit or amend any of the protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order or any other Order of this Court in the CCAA Proceedings, all of which are expressly continued and confirmed following the CCAA Termination Time, including in connection with any actions taken by FTI following the CCAA Termination Time with respect to the Applicants or these proceedings.

16. **THIS COURT ORDERS** that in the event that any person objects to the Release Extension or any other relief that will become effective at the CCAA Termination Time, that person must send a written notice of the objection, and the grounds therefor, to the email address of the Monitor and its counsel as set out in the Service List, such that the objection is received by the Monitor prior to the proposed CCAA Termination Time. If no objection is received by the Monitor prior to the proposed CCAA Termination Time, the Monitor shall file the Discharge Certificate on the proposed CCAA Termination Time and the CCAA Termination Relief shall be deemed to be effective at such time, without further order of the Court.

RELEASES

17. **THIS COURT ORDERS** that, effective as of the date hereof, and upon filing of the Discharge Certificate effective as of the CCAA Termination Time, the Monitor, the Applicants, the DIP Lender, counsel to the Monitor, counsel to the Applicants, counsel to the DIP Lender and each of their respective affiliates and officers, directors, partners, employees and agents (collectively, the "**Released Parties**") are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the CCAA Termination Time in any way relating to, arising out of, or in respect of, the CCAA Proceedings or with respect to their respective conduct in the CCAA Proceedings (collectively, the "**Released Claims**"), and any such Released Claims are hereby released, stayed, extinguished and forever barred, and the Released Parties shall have no liability in respect thereof, provided that the Released Claims shall not include any claim or liability: (i) arising out of any gross negligence or wilful misconduct on the part of the applicable Released Party; or (ii) that is not permitted pursuant to section 5.1(2) of the CCAA.

18. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against any of the Released Parties in any way arising from or related to the CCAA Proceedings, except with prior leave of this Court on at least seven (7) days' prior written notice to the applicable Released Parties.

GENERAL

19. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada against all persons, firms, corporations, governmental, municipal and regulatory authorities against whom it may be enforceable, notwithstanding the pendency of the CCAA Proceedings, the conversion of the CCAA Proceedings to the BIA Proceedings or other restructuring, insolvency, receivership, bankruptcy or other similar proceedings, or the commencement of the BIA Proceedings or other restructuring, insolvency, receivership, bankruptcy or other similar proceedings.

20. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or any other

jurisdiction, 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 and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and 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 each of the Applicants and the Monitor 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.

22. **THIS COURT ORDERS** that this Order, and all of its provisions, are effective as of 12:01 a.m. EDT on the date hereof without the need for filing.

SCHEDULE "A"

Court File No.: CV-21-00655373-00CL

**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 FIGR
BRANDS, INC., FIGR NORFOLK INC. AND 1307849 B.C. LTD.

(collectively, the "**Applicants**")

MONITOR'S DISCHARGE CERTIFICATE

RECITALS

1. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 21, 2021, as amended from time to time, FTI Consulting Canada Inc. ("**FTI**") was appointed as the Monitor (in such capacity, the "**Monitor**") of the Applicants.
2. Pursuant to an Order of the Court dated April 21, 2022 (the "**CCAA Termination Order**"), FTI was to be discharged as Monitor of the Applicants to be effective upon the filing by the Monitor with the Court of a certificate confirming that all matters to be attended to in connection with the CCAA Proceedings have been completed to the satisfaction of the Monitor.
3. Capitalized terms not otherwise defined herein have the meanings set out in the CCAA Termination Order.

THE MONITOR CERTIFIES the following:

4. All matters to be attended to in connection with the CCAA Proceedings have been completed to the satisfaction of the Monitor.
5. This Certificate was filed by the Monitor with the Court on the [●] day of [month], 2022 at [time].

FTI CONSULTING CANADA INC.,
solely in its capacity as the Monitor of the
Applicants and not in its personal or
corporate capacity

Per: _____

Name: [●]

Title: [●]

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36*, AS AMENDED AND IN THE
MATTER OF FIGR BRANDS, INC., FIGR NORFOLK INC. AND 1307849 B.C. LTD.**

Court File No.: CV-21-00655373-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings Commenced in Toronto

ORDER
(CCAA Termination)

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Sean Zweig (LSO# 57307I)
Mike Shakra (LSO# 64604K)
Aiden Nelms (LSO# 74170S)

Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants

**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 FIGR BRANDS, INC., FIGR NORFOLK
INC. AND 1307849 B.C. LTD.**

Court File No.: CV-21-00655373-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings Commenced in Toronto

MOTION RECORD

BENNETT JONES LLP

One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Sean Zweig (LSO# 57307I)

Mike Shakra (LSO# 64604K)

Aiden Nelms (LSO# 74170S)

Tel: 416-863-1200

Fax: 416-863-1716

Lawyers for the Applicants