

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 CANADA'S ISLAND GARDEN INC.**

Applicants

MOTION RECORD

June 2, 2021

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INDEX

TAB	DESCRIPTION
1	Notice of Motion
2	Affidavit of Michael Devon sworn June 2, 2021
3	Draft CIG Approval and Vesting Order
4	Blackline of CIG Approval and Vesting Order to the Model Order
5	Draft Norfolk Approval and Vesting Order
6	Blackline of Norfolk Approval and Vesting Order to the Model Order
7	Draft Ancillary Order

TAB 1

**ONTARIO
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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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FIGR BRANDS, INC., FIGR NORFOLK INC.
AND CANADA'S ISLAND GARDEN INC.**

Applicants

**NOTICE OF MOTION
(Returnable June 9, 2021)
(Approval and Vesting Orders and Ancillary Order)**

The Applicants will make a motion before the Honourable Justice Hainey of the Ontario Superior Court of Justice (Commercial List) on Wednesday, June 9, 2021 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 "**CIG Approval and Vesting Order**") substantially in the form attached hereto at Tab 3 of this motion record, *inter alia*:

- (a) approving 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 (in such capacity, the "**CIG Vendor**"), CIG, as the purchased entity (in such capacity, the "**Purchased Entity**") and 102604 P.E.I. Inc., as the purchaser (the "**CIG Purchaser**" or the "**PEI Group**"), and vesting in the CIG Purchaser all of the CIG Vendor's right, title and interest in and to all issued and outstanding shares in the Purchased Entity;

- (b) adding a subsidiary of the Vendor, namely 1307849 B.C. Ltd., incorporated under the laws of British Columbia ("**Residual Co**") as an Applicant in these CCAA Proceedings (as defined below) in order to effectuate the CIG Transaction;
- (c) removing CIG as an Applicant in these CCAA Proceedings upon closing of the CIG Transaction and deeming 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) transferring and vesting 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 shall become liabilities of Residual Co and not liabilities of CIG or the Purchased Entity.

2. An order (the "**Norfolk Approval and Vesting Order**" and together with the CIG Approval and Vesting Order, the "**Approval and Vesting Orders**") substantially in the form attached hereto at Tab 5 of this motion record, *inter alia*, approving 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 (in such capacity, the "**Norfolk Vendor**"), and 11897985 Canada Inc. (dba) BEROXFOOD North America, as purchaser (the "**Norfolk Purchaser**"), dated May 10, 2021 (the "**Norfolk Sale Agreement**" and together with the CIG Subscription and Share Purchase Agreement, the "**Sale Agreements**"), and vesting in the Norfolk Purchaser, or as it may direct in accordance with the Norfolk Sale Agreement, all of the Norfolk Vendor's right, title and interest in and to the property described in the Norfolk Sale Agreement (the "**Norfolk Purchased Assets**").

3. An order (the "**Ancillary Order**") substantially in the form attached hereto at Tab 7 of this motion record, *inter alia*:

- (a) abridging the time for service of the motion record returnable June 9, 2021 and dispensing with service on any person other than those served;
- (b) extending the Stay Period (as defined below) until and including September 3, 2021;

- (c) authorizing the execution by the Applicants of the second amendment to the DIP Commitment Letter (as defined below) (the "**Second DIP Amendment**"), which will, among other things, increase the maximum borrowing available under the DIP Loan (as defined below) up to \$16,000,000 (which is an increase of \$3,000,000);
- (d) authorizing an increase to the DIP Lender's Charge (as defined in the Amended and Restated Initial Order) up to a maximum amount of \$16,000,000 (plus interest and costs);
- (e) authorizing and empowering the Applicants (or the Monitor on behalf of the Applicants) to make, or to cause to be made, distributions from time to time from available funds or proceeds at the time, or in the future, held or received by the Applicants (or the Monitor on behalf of the Applicants) to the DIP Lender (as defined below) in repayment of the obligations secured by the DIP Lender's Charge (as defined below);
- (f) approving the Proposed Pre-Filing Intercompany Claims Resolution Process (as defined in the Claims Procedure Order (as defined below));
- (g) sealing the Confidential Exhibits and the Confidential Appendix (each as defined below);
- (h) approving the Fifth Report of the Monitor, to be filed (the "**Fifth Report**"), and the activities of the Monitor described therein;
- (i) approving the fees and disbursements of the Monitor and its counsel, as set out in the Affidavits of Jeffrey Rosenberg and Ryan Jacobs, attached to the Fifth Report.

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

THE GROUNDS FOR THIS APPLICATION ARE:

Background

5. The FIGR Group operates two (2) licensed cannabis facilities – one in Simcoe, Ontario and the other in Charlottetown, Prince Edward Island. Since commencing operations, both facilities

have been cash flow negative and the FIGR Group has been dependant on certain of its affiliate companies for funding.

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**").

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 (all as defined in the Amended and Restated Initial Order).

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. On January 29, 2021, the Court also granted an order (the "**SISP Approval Order**") which, among other things, approved a sale and investment solicitation process (the "**SISP**") in respect of the FIGR Group.

10. 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**").

11. On February 22, 2021, the Court also granted an Order which, among other things, approved a key employee retention plan, extended the Stay Period until April 30, 2021 and approved the fees and expenses of the Monitor and its counsel, Cassels, Brock & Blackwell LLP ("**Cassels**"), up to February 7, 2021 and February 12, 2021, respectively.

12. On March 31, 2021, the Court granted an Order which, among other things, 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 (which was an increase of \$5,000,000) and authorized a corresponding increase to the DIP Lender's Charge.

13. 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 (the "**April Stay Extension and Fee Approval Order**") which, among other things, extended the Stay Period until and including June 30, 2021 and approved the fees and expenses of the Monitor and its counsel, Cassels.

14. Since the granting of the Employee Claims Procedure Order and the April Stay Extension and Fee Approval Order, the Applicants have acted in good faith and with due diligence to, among other things, continue stabilizing 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, assist the Monitor with the SISF, the Claims Procedure and the Employee Claims Procedure and, with the assistance of the Monitor, negotiate

the Sale Agreements and begin taking steps to be in a position to consummate the Transactions should the Court approve them.

The Claims Procedure and Employee Claims Procedure¹

15. 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, as applicable.

16. The Monitor continues to review, determine and adjudicate certain outstanding secured and unsecured Claims filed in accordance with the Claims Procedure Order and identify, determine and adjudicate Employee Claims in accordance with the Employee Claims Procedure Order.

17. The Claims Procedure Order required that Pre-Filing Intercompany Claims be filed by the Claims Bar Date, but did not include an adjudication process for such claims. The Claims Procedure Order requires the Monitor to serve on the Service List and file with the Court a Pre-Filing Intercompany Claims Report setting out the Proposed Pre-Filing Intercompany Claims Resolution Process.

18. The Monitor proposes the following Proposed Pre-Filing Intercompany Claims Resolution Process:

- (a) the Monitor will detail and summarize the Pre-Filing Intercompany Claims in the Fifth Report;
- (b) any Person that wishes to object to the treatment of the Pre-Filing Intercompany Claims must 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 will provide a notice of the Pre-Filing Intercompany Claims set out in the Fifth Report (the "**Pre-Filing Intercompany Claims Notice**") by email to the

¹ 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.

Service List, as well as to each Claimant that has submitted a Proof of Claim or Employee Claimant who has received an Employee Claim Statement by email;

- (d) the Monitor will work with Persons, if any, who file 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 cannot be resolved, the Monitor may 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 such motion, the Monitor shall 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 serves a Pre-Filing Intercompany Claims Objection by the Pre-Filing Intercompany Claims Objection Date, the Monitor shall 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 are deemed to be accepted as valid claims without further order of the Court.

The SISP, the Proposed Transactions and the Approval and Vesting Orders²

19. Since the last update provided in the affidavit of Michael Devon sworn April 23, 2021, the Monitor, together with its affiliate FTI Capital Advisors – Canada ULC, and the Applicants have taken steps to advance the SISP in accordance with the timelines set out in the SISP. The SISP is now complete and has culminated in the Applicants entering into the Sale Agreements.

(i) the SISP

20. The SISP contained the following three (3) milestones:

² Terms in this section not otherwise defined herein have the meanings ascribed to them in the SISP Approval Order, the CIG Sale Agreement or the Norfolk Sale Agreement, as applicable.

- (a) *Solicitation of Interest* - preliminary solicitation efforts commenced on January 22, 2021 and the Monitor sent the Teaser Letter and the NDA to each Known Potential Bidder by February 4, 2021;
- (b) *Phase 1 Bid Deadline* - February 26, 2021 at 5:00 PM (Eastern Time); and
- (c) *Phase 2 Bid Deadline* - April 1, 2021 at 5:00 PM (Eastern Time) as specified in the Bid Process Letter.

21. In accordance with the SISP, the following efforts were made to solicit interest in the Opportunity:

- (a) the list of Known Potential Bidders was developed;
- (b) notice of the SISP was published in *The Globe and Mail* (National Edition);
- (c) the FIGR Group issued a press released announcing the Opportunity; and
- (d) the Monitor, with the assistance with the FIGR Group and in consultation with the DIP Lender, prepared the Teaser Letter and the NDA.

22. The Monitor solicited interest in the Opportunity from in excess of 250 Known Potential Bidders by sending each a copy of the Teaser Letter and NDA. Approximately 250 Known Potential Bidders were provided with a copy of the Teaser Letter and 32 executed an NDA to engage in additional due diligence as Phase 1 Qualified Bidders.

23. With the assistance of the FIGR Group, the Monitor prepared and sent a confidential information package providing additional information considered relevant to the Opportunity to each Phase 1 Qualified Bidder and provided them with access to an electronic data room.

24. The Monitor and the Applicants, in consultation with the DIP Lender, prepared and distributed a Bid Process Letter for Phase 1. The Bid Process Letter was distributed to all Phase 1 Qualified Bidders by the Monitor on February 17, 2021.

25. As stipulated in the Phase 1 Bid Process Letter, all Phase 1 Qualified Bidders who wished to pursue the Opportunity further were required to submit an LOI to the Monitor and the Applicants

in accordance with the SISP by no later than 5:00 p.m. on February 26, 2021 (the "**Phase 1 Bid Deadline**"). Following the Phase 1 Bid Deadline, the Monitor, in consultation with the Applicants, assessed the Qualified LOIs to determine whether each Phase 1 Qualified Bidder constituted a Phase 2 Qualified Bidder.

26. Following determination by the Monitor, in consultation with the Applicants and the DIP Lender, a number of Phase 1 Qualified Bidders who submitted a Qualified LOI became Phase 2 Qualified Bidders.

27. In accordance with the SISP Approval Order, the Monitor and the Applicants, in consultation with the DIP Lender, prepared and distributed the Bid Process Letter to all Phase 2 Qualified Bidders and posted same on the Monitor's Website. Among other things, the Bid Process Letter established April 1, 2021 at 5:00 PM (ET) as the Phase 2 Bid Deadline and outlined certain Phase 2 qualification criteria.

28. Following the Phase 2 Bid Deadline, the Applicants and the Monitor assessed the Phase 2 Bids received and the Monitor, in consultation with the Applicants and the DIP Lender, designated the most competitive bids that complied with the criteria set out in the Bidding Procedure as Qualified Bids and subsequently advised each Phase 2 Qualified Bidder in writing whether or not their bid was a Qualified Bid. For the reasons discussed below, the Ancillary Order seeks to seal the confidential summary of the Phase 2 Bids prepared by the Monitor to be appended to the Fifth Report (the "**Confidential Appendix**").

29. The Monitor and the Applicants: (a) reviewed and evaluated each Qualified Bid, (b) negotiated certain Qualified Bids amongst the Applicants, the Monitor and the applicable Phase 2 Qualified Bidder; and (c) ultimately identified the Qualified Bid submitted by the PEI Group and the Norfolk Purchaser as the highest and best bids that would maximize value for the FIGR Group's stakeholders, and provided the highest likelihood to proceed to a successful closing for certain of the Property and the Business related to FIGR Brands, CIG (the "**PEI Successful Bid**") and FIGR Norfolk (the "**Norfolk Successful Bid**"), respectively.

(ii) *The Proposed Transactions*

(a) *The CIG Transaction*³

30. The FIGR Group, in consultation with the Monitor and the DIP Lender, negotiated and finalized the terms of the CIG Subscription and Share Purchase Agreement with the CIG Purchaser and its counsel after identifying the PEI Successful Bid.

31. The CIG Transaction has a target closing date of June 25, 2021 and requires certain events to have occurred, or be deemed to have occurred, upon delivery of the Monitor's Certificate to the CIG Purchaser. The CIG Subscription and Share Purchase Agreement and the CIG Approval and Vesting Order contemplate proceeding by way of reverse vesting structure which has certain benefits, including facilitating the continuation of the valuable Cannabis Licences.

32. Among other things:

- (a) the CIG Subscription and Share Purchase Agreement is the product of a broad, transparent and fair Court-approved SISP, the efforts of the FIGR Group and the Monitor to consummate value-maximizing transactions, and consultation with the DIP Lender;
- (b) the CIG Subscription and Share Purchase Agreement is the highest and best offer obtained for the CIG Purchased Goods in the SISP to maximize value for the FIGR Group's stakeholders;
- (c) the consideration to be paid under the CIG Subscription and Share Purchase Agreement is entirely composed of cash;
- (d) the CIG Subscription and Share Purchase Agreement provides the greatest certainty to successfully close the offers obtained for the CIG Purchased Goods;
- (e) the FIGR Group's entrance into the CIG Subscription and Share Purchase Agreement is supported by the Monitor and the DIP Lender;

³ Capitalized terms not otherwise defined in this section have the meaning ascribed to them in the CIG Subscription and Share Purchase Agreement.

- (f) the CIG Transaction will preserve all or substantially all of the jobs at CIG and will allow the company to continue to operate as a going concern;
- (g) the closing of the CIG Transaction is based on customary conditions and requisite approvals and is not predicated on onerous closing obligation; and
- (h) the CIG Transaction is notably also not conditioned on any financing being obtained or diligence being performed by the PEI Group.

(b) *The Norfolk Transaction*⁴

33. The FIGR Group, in consultation with the Monitor and the DIP Lender, negotiated and finalized the terms of the Norfolk Sale Agreement with the Norfolk Purchaser and its counsel after identifying the Norfolk Successful Bid.

34. Among other things:

- (a) the Norfolk Sale Agreement is the product of a broad, transparent and fair Court-approved SISP, the efforts of the FIGR Group and the Monitor to consummate value-maximizing transactions, and consultation with the DIP Lender;
- (b) the Norfolk Sale Agreement is the highest and best offer obtained for the Norfolk Purchased Assets in the SISP;
- (c) the FIGR Group's entrance into the Norfolk Sale Agreement is supported by the Monitor and the DIP Lender;
- (d) in addition to the granting of the Norfolk Approval and Vesting Order, closing of the Norfolk Transaction is based on customary conditions and requisite approvals and is not predicated on onerous closing obligation;
- (e) the Norfolk Transaction will preserve all or substantially all of the jobs at FIGR Norfolk and will allow the company to continue operating as a going concern; and

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

- (f) the Norfolk Transaction is notably also not conditioned on any financing being obtained or diligence being performed by the Norfolk Purchaser.

35. The Sale Agreements are the product of the Monitor and the FIGR Group's extensive efforts to solicit interest in the Business and Property in accordance with the SISP, with a view to maximizing value for the FIGR Group's stakeholders. The SISP was designed to be flexible and inclusive of creditor consultation. For the reasons discussed below, the Ancillary Order seeks the sealing of the unredacted Sale Agreements (the "**Confidential Exhibits**").

36. The FIGR Group believes that the Sale Agreements provide the best possible outcome for their creditors in the circumstances. The Monitor is supportive of the Sale Agreements and the Transactions.

The Ancillary Order

(i) Stay Extension

37. Pursuant to the April Stay Extension and Fee Approval Order, the Court extended the Stay Period until and including June 30, 2021. Pursuant to the proposed Ancillary Order, the Applicants are seeking an extension of the Stay Period until and including September 3, 2021.

38. It is necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended until and including September 3, 2021 as it will, among other things, allow the Applicants to:

- (a) close the Transactions, should the Approval and Vesting Orders be granted;
- (b) advance and complete the Claims Procedure in accordance with the Claims Procedure Order;
- (c) advance and complete the Employee Claims Process in accordance with the Employee Claims Procedure Order; and
- (d) continue to advance matters toward making distributions of sale proceeds to the DIP Lender and other creditors.

39. The Monitor is supportive of the proposed extension of the Stay Period 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 extended Stay Period.

(ii) The Second DIP Amendment

40. Pursuant to the Amended and Restated Initial Order, the Court authorized and empowered the FIGR Group to obtain and borrow a credit facility from the DIP Lender to finance the FIGR Group's working capital requirements and other general corporate purposes and capital expenditures.

41. As a result of certain revised revenue and expense projections, timing variances regarding a number of receipts, as well as additional time expected to be required to close the Transactions and administer the Claims Procedure and Employee Claims Process, the FIGR Group's management, in consultation with the Monitor and the DIP Lender, have determined that the FIGR Group will require additional funding.

42. As part of its ongoing support for the FIGR Group and the CCAA Proceedings, the DIP Lender has agreed to advance an additional \$3,000,000 pursuant to the Second DIP Amendment. Pursuant to the terms of the Second DIP Amendment:

- (a) the DIP Loan will be increased by \$3,000,000 to a maximum amount of \$16,000,000 (plus interest and costs); and
- (b) the Maturity Date will be extended to September 3, 2021.

43. As a result of the Second DIP Amendment and the additional funds available thereunder, the Ancillary Order seeks to increase the quantum of the DIP Lender's Charge to a maximum of \$16,000,000 (plus interest and costs). It is a condition of the Second DIP Amendment (and the availability of funds thereunder) that the DIP Lender's Charge be increased.

(iii) *Sealing*

44. The Confidential Exhibits and the Confidential Appendix contain commercially sensitive information that, if disclosed, could have an adverse impact on the FIGR Group in the event the Transactions do not close. The salutary effects of sealing the Confidential Exhibits and the Confidential Appendix outweigh the deleterious effects of its exclusion from public record. Accordingly, the proposed Ancillary Order seeks to seal the Confidential Exhibits and the Confidential Appendix.

(iv) *Approval of the Fifth Report and Fees*

45. The proposed Ancillary Order also seeks approval of the Fifth Report and the fees and activities of the Monitor and its counsel, Cassels.

(v) *Distributions to DIP Lender*

46. The proposed Ancillary Order also seeks to authorize or empower the Applicants (or the Monitor on behalf of the Applicants) to make, or to cause to be made, distributions from funds or proceeds held now or received in the future by the Applicants (or the Monitor on behalf of the Applicants) to the DIP Lender in repayment of the obligations secured by the DIP Lender's Charge.

47. The Monitor and the DIP Lender are supportive of the relief described herein and the Monitor does not believe that any creditor will be materially prejudiced by the granting of the Ancillary Order.

OTHER GROUNDS:

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

49. 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.

50. 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 Michael Devon, sworn on June 2, 2021, and the exhibits attached thereto;
- (b) the Factum of the Applicants, to be filed;
- (c) the Fifth Report of the Monitor, to be filed; and
- (d) such further and other evidence as counsel may advise and this Court may permit.

June 2, 2021

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Schedule "A"

Join Zoom Meeting

<https://us02web.zoom.us/j/86790303771>

Meeting ID: 867 9030 3771

One tap mobile

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+16465588656,,86790303771# US (New York)

Dial by your location

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+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 9030 3771

Find your local number: <https://us02web.zoom.us/u/kcT58irwJQ>

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Proceedings Commenced in Toronto

NOTICE OF MOTION

BENNETT JONES LLP

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TAB 2

**ONTARIO
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Applicants

**AFFIDAVIT OF MICHAEL DEVON
(Sworn June 2, 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. I swear this Affidavit in support of a motion by the Applicants for:

(a) an order (the "**CIG Approval and Vesting Order**"), among other things:

(i) approving 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 (in such capacity, the "**CIG Vendor**"), CIG, as the purchased entity (in such capacity, the "**Purchased Entity**") and 102604 P.E.I. Inc., as the purchaser (the "**CIG Purchaser**" or the "**PEI Group**"), and vesting in the CIG Purchaser all of the CIG Vendor's right, title and interest in and to all issued and outstanding shares in the Purchased Entity (the "**Purchased Shares**" together with the Transferred Assets (as defined in the CIG Subscription and Share Purchase Agreement, the "**CIG Purchased Goods**"));

- (ii) adding a subsidiary of the CIG Vendor, namely 1307849 B.C. Ltd., incorporated under the laws of British Columbia ("**Residual Co**") as an Applicant in these CCAA Proceedings (as defined below) in order to effectuate the CIG Transaction;
- (iii) removing CIG as an Applicant in these CCAA Proceedings upon closing of the CIG Transaction and deeming CIG to be released from the purview of the Initial Order and all other orders of the Court granted in these CCAA Proceedings;
- (iv) transferring and vesting 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 shall become liabilities of Residual Co and not liabilities of CIG or the Purchased Entity.

3. An order (the "**Norfolk Approval and Vesting Order**", and together with the CIG Approval and Vesting Order, the "**Approval and Vesting Orders**"), among other things, approving 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 (in such capacity, the "**Norfolk Vendor**"), and 11897985 Canada Inc. (dba) BEROXFOOD North America, as purchaser (the "**Norfolk Purchaser**"), dated May 10, 2021 (the "**Norfolk Sale Agreement**" and together with the CIG Subscription and Share Purchase Agreement, the "**Sale Agreements**"), and vesting in the Norfolk Purchaser, or as it may direct in accordance with the Norfolk Sale Agreement, all of the Norfolk Vendor's right, title and interest in and to the property described in the Norfolk Sale Agreement (the "**Norfolk Purchased Assets**").

4. An order (the "**Ancillary Order**"), among other things:

- (a) abridging the time for service of the motion record returnable June 9, 2021 and dispensing with service on any person other than those served;
- (b) extending the Stay Period (as defined below) until and including September 3, 2021;
- (c) authorizing the execution by the Applicants of the second amendment to the DIP Commitment Letter (as defined below) (the "**Second DIP Amendment**"), which will, among other things, increase the maximum borrowing available under the DIP Loan (as defined below) up to \$16,000,000 (which is an increase of \$3,000,000);
- (d) authorizing an increase to the DIP Lender's Charge (as defined in the Amended and Restated Initial Order) up to a maximum amount of \$16,000,000 (plus interest and costs);

- (e) authorizing and empowering the Applicants (or the Monitor on behalf of the Applicants) to make, or to cause to be made, distributions from time to time from available funds or proceeds at the time, or in the future, held or received by the Applicants (or the Monitor on behalf of the Applicants) to the DIP Lender (as defined below) in repayment of the obligations secured by the DIP Lender's Charge (as defined below);
- (f) approving the Proposed Pre-Filing Intercompany Claims Resolution Process (as defined in the Claims Procedure Order (as defined below));
- (g) sealing the Confidential Exhibits and the Confidential Appendix (each as defined below);
- (h) approving the Fifth Report of the Monitor, to be filed (the "**Fifth Report**"), and the activities of the Monitor described therein; and
- (i) 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 Fifth Report (together, the "**Fee Affidavits**").

5. All terms not otherwise defined herein have the meaning ascribed to them in, as applicable:

(a) the Initial Order (as defined below), (b) the Approval and Vesting Orders, (c) the Ancillary Order or (d) my affidavit sworn April 23, 2021 (the "**April 23 Affidavit**") in support of the Employee Claims Procedure Order and the April Stay Extension and Fee Approval Order (each as defined below), a copy of which is appended hereto (without exhibits) as Exhibit "A".

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

I. INTRODUCTION AND BACKGROUND

7. The FIGR Group operates two (2) licensed cannabis facilities – one in Simcoe, Ontario and the other in Charlottetown, Prince Edward Island. Since commencing operations, both facilities have been cash flow negative and the FIGR Group has been dependant on certain of its affiliate companies for funding.

8. 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.

9. 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.

10. 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.

11. A copy of the Amended and Restated Initial Order is attached hereto as Exhibit "C".

12. On January 29, 2021, the Court also granted an Order (the "**SISP Approval Order**") which, among other things, approved a sale and investment solicitation process (the "**SISP**") in respect of the FIGR Group. A copy of the SISP Approval Order is attached hereto as Exhibit "D".

13. 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.

14. On February 22, 2021, the Court also granted an Order which, among other things, approved a key employee retention plan, extended the Stay Period until April 30, 2021 and approved the fees and expenses of the Monitor and its counsel, Cassels Brock & Blackwell LLP,

for the periods from January 21, 2021 to February 7, 2021 and January 22, 2021 to February 12, 2021, respectively.

15. 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, among other things, 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 authorized a corresponding increase to the DIP Lender's Charge.

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

17. On April 30, 2021, the Court also granted an order (the "**April Stay Extension and Fee Approval Order**") which, among other things:

- (a) extended the Stay Period until and including June 30, 2021;
- (b) approved 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.

18. Since the granting of the Employee Claims Procedure Order and the April 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, assist the Monitor with the SISP, the Claims Procedure and the Employee Claims Procedure and, with the assistance of the Monitor, negotiate the Sale Agreements and begin taking steps to be in a position to consummate the Transactions should the Court approve them.

II. CLAIMS PROCEDURE AND THE EMPLOYEE CLAIMS PROCESS¹

19. I understand that the Monitor continues to carry out the Claims Procedure and the Employee Claims Process in accordance with the Claims Procedure Order and the Employee Claims Procedure Order, as applicable.

20. The Monitor continues to review, determine and adjudicate certain outstanding secured and unsecured Claims filed in accordance with the Claims Procedure Order and identify, determine and adjudicate Employee Claims in accordance with the Employee Claims Procedure Order. I understand that to date, the Monitor has issued fourteen (14) Employee Claim Statements in accordance with the Employee Claims Procedure Order and that, as of the date of this affidavit, no Notice of Dispute of Employee Claim Statement has been received.

21. The Claims Procedure Order required that Pre-Filing Intercompany Claims be filed by the Claims Bar Date, but did not include an adjudication process for such claims. Rather, as contemplated in paragraph 41 of the Claims Procedure Order, the Monitor is required to serve on the Service List and file with the Court a Pre-Filing Intercompany Claims Report setting out the Proposed Pre-Filing Intercompany Claims Resolution Process (as each term is defined in the

¹ 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.

Claims Procedure Order). The Claims Procedure Order provides that, *inter alia*, any interested party has seven (7) days from the date the Monitor serves the Pre-Filing Intercompany Claims Report to file a notice of objection to the Monitor's Proposed Pre-Filing Intercompany Resolution Process, failing which the Proposed Pre-Filing Intercompany Claims Resolution Process shall be implemented without the need of a further Court order. Given the timing of this motion, the Applicants are seeking approval of the Proposed Pre-Filing Intercompany Claims Resolution Process at this motion in connection with the Ancillary Order. A determination of the validity and quantum of the Pre-Filing Intercompany Claims is required before any distribution can be made to creditors of the FIGR Group and the Applicants therefore wish to move forward with determining the amount of the Pre-Filing Intercompany Claims at this time, as they are expected to be the largest claims against the Applicants and have a significant impact on distributions.

22. I understand the Monitor proposes the following Proposed Pre-Filing Intercompany Claims Resolution Process:

- (a) the Monitor will detail and summarize the Pre-Filing Intercompany Claims in the Fifth Report;
- (b) any Person that wishes to object to the validity or quantum of any of the Pre-Filing Intercompany Claims as set out in the Fifth Report must serve an objection (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 will provide a notice of the Pre-Filing Intercompany Claims 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 has submitted a Proof of Claim or Employee Claimant who has received an Employee Claim Statement, by email to the email address indicated on such Proof of Claim or Employee Claim Statement. The Pre-Filing Intercompany Claims Notice will (i) provide an electronic link to the Fifth Report and indicate that the Monitor's review and summary of the Pre-Filing Intercompany Claims is set out therein; (ii) provide an electronic link to the Ancillary Order; and (iii) reference the Pre-Filing Intercompany Claims Objection Date;
- (d) Pre-Filing Intercompany Claims Objections must be in writing, must particularize the grounds for objection and be provided to the Monitor, with a copy to the Service List, on or before the Pre-Filing Intercompany Claims Objection Date;
- (e) the Monitor will work with Persons, if any, who file a Pre-Filing Intercompany Claims Objection to resolve or settle any Pre-Filing Intercompany Claims Objection;
- (f) in the event that a Pre-Filing Intercompany Claims Objection cannot be resolved, the Monitor may 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 such motion, the Monitor shall prepare a further report (the "**Objections and Recommendations 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

- (g) in the event that no Person serves a Pre-Filing Intercompany Claims Objection by the Pre-Filing Intercompany Claims Objection Date, the Monitor shall 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 are deemed to be accepted as valid claims without further order of the Court.

III. THE SISP AND THE PROPOSED TRANSACTIONS²

23. The SISP is described in detail in my affidavit dated January 25, 2021 in support of the Amended and Restated Initial Order and the SISP Approval Order. Since the last update provided in the April 23 Affidavit, the Monitor, together with its affiliate FTI Capital Advisors – Canada ULC, and the Applicants have taken steps to advance the SISP in accordance with the timelines set out in the SISP. The SISP is now complete and has culminated in the Applicants entering into the Sale Agreements. A summary of the SISP and the material terms of the Sale Agreements are set out below.

(i) *the SISP*

24. The SISP contained three (3) milestones which are described in the table below:

² Terms in this section not otherwise defined herein have the meaning ascribed to them in the SISP Approval Order.

Milestone	Description	Deadline
Solicitation of Interest	The Monitor commenced solicitation of interest from parties, including delivering an NDA and Teaser Letter to Known Potential Bidders, and provided each Known Potential Bidder, following the execution of an NDA, with the CIM and access to the Phase 1 data room.	Preliminary solicitation efforts commenced on January 22, 2021. The Monitor sent the Teaser Letter and the NDA to each Known Potential Bidder by February 4, 2021.
Phase 1 Bid Deadline	Any party who wished to participate in the SISP, and pursue an Opportunity therein, was invited to provide a non-binding letter of interest, in accordance with the Phase 1 Bid Process Letter.	February 26, 2021 at 5:00 PM (Eastern Time)
Phase 2 Bid Deadline	Formal binding offers were to be submitted by the date specified in the Phase 2 Bid Process Letter.	April 1, 2021 at 5:00 PM (Eastern Time)

25. In accordance with the SISP, the following efforts were made to solicit interest in the Opportunity:

- (a) Known Potential Bidders were identified by preparing a list of potential bidders, including, among others:
 - (i) parties that had approached the Monitor and/or the FIGR Group indicating an interest in the Opportunity;
 - (ii) multiple Canadian and international strategic and financial parties who the Monitor and/or the FIGR Group, in consultation with the DIP Lender, believed may have had an interest in purchasing all or part of the Business and Property or investing in the FIGR Group pursuant to the terms of the SISP; and

- (iii) any other credible parties as determined by the Monitor and/or the FIGR Group, in consultation with the DIP Lender, suggested by a stakeholder as a potential bidder who may be interested in the Opportunity;
- (b) the Monitor arranged for notice of the SISP to be published in *The Globe and Mail* (National Edition);
- (c) the FIGR Group issued a press release announcing the Opportunity; and
- (d) the Monitor, with the assistance of the FIGR Group and in consultation with the DIP Lender, prepared:
 - (i) the Teaser Letter which described the Opportunity, outlined the process under the SISP and invited recipients to express their interest pursuant to SISP; and
 - (ii) the NDA.

26. The Monitor solicited interest in the Opportunity from in excess of 250 Known Potential Bidders by sending each a copy of the Teaser Letter and NDA. Of the approximately 250 Known Potential Bidders provided with a copy of the Teaser Letter, 32 executed an NDA to engage in additional due diligence as Phase 1 Qualified Bidders.

27. With the assistance of the FIGR Group, the Monitor prepared and sent a confidential information package providing additional information considered relevant to the Opportunity to each Phase 1 Qualified Bidder. The Monitor provided Phase 1 Qualified Bidders with access to an electronic data room containing information related to the Property and the Business.

28. The Monitor and the Applicants, in consultation with the DIP Lender, prepared and distributed a Bid Process Letter for Phase 1. The Bid Process Letter was distributed to all Phase 1 Qualified Bidders by the Monitor on February 17, 2021.

29. As stipulated in the Phase 1 Bid Process Letter, all Phase 1 Qualified Bidders who wished to pursue the Opportunity further were required to submit an LOI to the Monitor and the Applicants in accordance with the SISP by no later than 5:00 p.m. on February 26, 2021 (the "**Phase 1 Bid Deadline**"). A number of LOIs were received from Phase 1 Qualified Bidders prior to the Phase 1 Bid Deadline. To be considered a qualified LOI (each a "**Qualified LOI**"), the LOI was required to:

- (a) in the case of a Sale Proposal, contain, among other things, (i) the purchase price or price range in Canadian dollars, (ii) a description of the Property that is expected to be subject to the Opportunity and any of the Property expected to be excluded, (iii) evidence of the financial capability of the Phase 1 Qualified Bidder to consummate the transaction and the expected structure and financing of the transaction, and (iv) any other terms or conditions of the Sale Proposal that the Phase 1 Qualified Bidder believed were material to the transaction; and
- (b) in the case of an Investment Proposal, contain, among other things, (i) a description of how the Phase 1 Qualified Bidder proposed to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization, (ii) the aggregate amount of the equity and/or debt investment to be made, (iii) key assumptions supporting the Phase 1 Bidder's valuation, (iv) the underlying assumptions regarding the pro forma capital structure, (v) an indication of the sources of capital

for the Phase 1 Qualified Bidder and the structure and financing of the transaction, and (vi) any other terms or conditions of the Investment Proposal that the Phase 1 Qualified Bidder believed were material to the transaction.

30. Following the Phase 1 Bid Deadline, the Monitor, in consultation with the Applicants, assessed the Qualified LOIs to determine whether each Phase 1 Qualified Bidder constituted a Phase 2 Qualified Bidder. Following determination by the Monitor, in consultation with the Applicants and the DIP Lender, a number of Phase 1 Qualified Bidders who submitted a Qualified LOI became Phase 2 Qualified Bidders.

31. In accordance with the SISP Approval Order, the Monitor and the Applicants, in consultation with the DIP Lender, prepared and distributed the Bid Process Letter for Phase 2. The Bid Process Letter was distributed to all Phase 2 Qualified Bidders by the Monitor and posted on the Monitor's Website. Among other things, the Bid Process Letter established the Phase 2 Bid Deadline (as defined below) and outlined certain Phase 2 qualification criteria. A copy of the Bid Process Letter is attached as Exhibit "D" to my affidavit sworn on March 25, 2021.

32. During Phase 2 of the SISP, Phase 2 Qualified Bidders were provided with an opportunity to conduct further due diligence in respect of the Opportunity. During such time, Phase 2 Qualified Bidders were provided with additional information regarding the assets and operations of the Applicants, access to a fulsome dataroom, virtual meetings with management and virtual tours of each of the facilities.

33. Phase 2 Qualified Bidders wishing to make a formal offer to purchase or make an investment in the Applicants or their Property or Business were required to submit a binding offer

(a "**Phase 2 Bid**") to the Monitor and the Applicants by no later than April 1, 2021 at 5:00 p.m. (the "**Phase 2 Bid Deadline**").

34. Following the Phase 2 Bid Deadline, the Applicants and the Monitor assessed the Phase 2 Bids received and the Monitor, in consultation with the Applicants and the DIP Lender, designated the most competitive bids that complied with the criteria set out in the Bidding Procedure (the "**Qualified Bids**"). The Monitor notified each Phase 2 Qualified Bidder as to whether its Phase 2 Bid constituted a Qualified Bid. I understand that the Monitor will be appending a confidential summary of the Phase 2 Bids to the Fifth Report (the "**Confidential Appendix**").

35. The Monitor and the Applicants then: (a) reviewed and evaluated each Qualified Bid, (b) negotiated certain Qualified Bids amongst the Applicants, the Monitor and the applicable Phase 2 Qualified Bidder; and (c) ultimately identified the Qualified Bid submitted by the PEI Group and the Norfolk Purchaser as the highest and best bids that would maximize value for the FIGR Group's stakeholders, and provided the highest likelihood to proceed to a successful Closing for certain of the Property and the Business related to FIGR Brands, CIG (the "**PEI Successful Bid**") and FIGR Norfolk, respectively (the "**Norfolk Successful Bid**").

(ii) The Proposed Transactions

(a) The CIG Transaction³

36. Having identified the PEI Successful Bid, the FIGR Group, in consultation with the Monitor and the DIP Lender, negotiated and finalized the terms of the CIG Subscription and Share Purchase Agreement with the CIG Purchaser and its counsel. A redacted copy of the CIG

³ Capitalized terms not otherwise defined in this section have the meaning ascribed to them in the CIG Subscription and Share Purchase Agreement.

Subscription and Share Purchase Agreement is attached hereto as Exhibit "E". An unredacted copy of the CIG Subscription and Share Purchase Agreement (the "**Unredacted CIG Subscription and Share Purchase Agreement**") is attached hereto as Confidential Exhibit "A". For the reasons discussed below, the FIGR Group is seeking a sealing order in respect of the Unredacted CIG Subscription and Share Purchase Agreement.

37. The key terms of the CIG Subscription and Share Purchase Agreement are summarized in the table below:

Term	Details
Purchase Price	The purchase price is made up of the Share Purchase Price and the Subscription Price, subject to the Working Capital Adjustment (the " Adjusted Subscription Price ", together with the Share Purchase Price, the " CIG Purchase Price "). The CIG Purchase Price is proposed to be sealed from the public record pursuant to the Ancillary Order.
Deposit	<p>A deposit equal to 10% of the Subscription Price was received pursuant to the CIG Subscription and Share Purchase Agreement.</p> <p>As further described below, if the Closing does not occur on or prior to the Target Closing Date, the Deposit shall increase by the amount of any Post-Target Period Payments, except during the period where closing not occurring by such date is solely at the fault of FIGR Brands or CIG, and provided that the CIG's failure to close is not Caused by Smith (as that term is defined in the CIG Subscription and Share Purchase Agreement).</p> <p>The Deposit is refundable if the CIG Transaction is not completed, except where the CIG Subscription and Share Purchase Agreement is terminated by the CIG Vendor in circumstances where there has been a material violation or breach of the terms of the CIG Subscription and Share Purchase Agreement by the CIG Purchaser or by the Purchased Entity (where the Purchased Entity's actions or omissions were Caused by Smith). In such case, the Deposit shall be transferred to the CIG Vendor as liquidated damages (and not as a penalty) to compensate the CIG Vendor for the expenses incurred and opportunities lost as a result of the failure to close the transactions under the CIG Subscription and Share Purchase Agreement.</p>
Purchased Shares	Purchased Shares means all of the issued and outstanding shares in the capital of the Purchased Entity owned by the CIG Vendor.

Retained Assets	On the Closing Date, the Purchased Entity shall retain all of the assets owned by it on the date of the CIG Subscription and Share Purchase Agreement and any assets acquired by it up to and including Closing, including its Contracts, Permits and Licences and Books and Records, except for inventory sold in the ordinary course of business in the Interim Period and the Excluded Assets, if any, Excluded Contracts and Excluded Liabilities.
Transferred Assets	The assets to be transferred by the CIG Vendor to the Purchased Entity, at the request and with the approval of the CIG Purchaser, pursuant to the Closing Sequence, including without limitation all of the intellectual property of the CIG Vendor, each as set out in Schedule "F" of the CIG Subscription and Share Purchase Agreement, an amended list of which may be delivered by the CIG Purchaser no later than ten (10) Business Days before the Target Closing Date, but for certainty excluding the Excluded Assets, Excluded Contracts and the Excluded Liabilities, As set out in the description of the Closing Sequence (defined below), the CIG Vendor will receive consideration in the amount of \$1,252,515.14 for the Transferred Assets.
Excluded Assets	Excluded Assets means those assets listed in Schedule "B" of the CIG Subscription and Share Purchase Agreement, an amended list of which may be delivered by the CIG Purchaser no later than ten (10) Business Days before the Target Closing Date.
Excluded Contracts	Excluded Contracts means those contracts listed in Schedule "C" of the CIG Subscription and Share Purchase Agreement, as may be amended by the list sent no later than twenty (20) days before the Target Closing Date pursuant to Section 7.1(k) of the CIG Subscription and Share Purchase Agreement.
Assumed Liabilities	<p>Assumed Liabilities means (a) Liabilities specifically and expressly designated by the CIG Purchaser as assumed Liabilities in Schedule "G" (which, for the avoidance of doubt, may be amended by the CIG Purchaser by submitting an amended list no later than ten (10) Business Days before the Target Closing Date, provided that such amended list shall in any event include those Liabilities listed under the Statement of Trade Payables); (b) Liabilities which relate to the Business under any Contracts, Permits and Licenses or Permitted Encumbrances (in each case, to the extent forming part of the Retained Assets or the Transferred Assets) arising out of events or circumstances that occur after the Closing; (c) Liabilities of the Purchased Entity which are to be performed after the Closing (including for the avoidance of doubt, Transaction Taxes); (d) the Transferred Asset Promissory Note and (e) the Excluded Liability Promissory Note.</p> <p>The Liabilities listed in Schedule G include all trade payables and liabilities incurred in the normal course of operations from the date of the Initial Order that remain outstanding as at the Closing Date (as such trade payables and liabilities are set out in the Statement of Trade Payables).</p>
Employees	Employees means all individuals who, as of Closing Time, are employed by the Purchased Entity, whether on a full-time or part-time basis, whether unionized or non-unionized, including all individuals who are on an approved and unexpired leave of absence and all individuals who have been placed on

	temporary lay-off which has not expired, but, for certainty, excludes any employees who are to be terminated pursuant to Section 7.1(g) of the CIG Subscription and Share Purchase Agreement.
Outside Date	July 31, 2021, or such other date as the CIG Vendor and the Purchased Entity (with the consent of the Monitor and the DIP Lender) and the CIG Purchaser may agree to in writing.
Conditions to Closing	<p>The CIG Purchaser shall not be obligated to complete the Transactions contemplated by the CIG Subscription and Share Purchase Agreement, unless, at or before the commencement of the first step in the Closing Sequence, each of the conditions listed below have been satisfied:</p> <ul style="list-style-type: none">(a) <u>Court Approval.</u> (i) the Approval and Vesting Order shall have been issued by the Court; (ii) the Approval and Vesting Order shall not have been vacated, set aside or stayed; (iii) the applicable appeal periods to appeal the Approval and Vesting Order have expired; provided that if the Approval and Vesting Order shall not have been subject to any unresolved material objections at the hearing at which it was approved by the Court, the applicable appeal periods need not have expired, but no appeal or leave for appeal shall have been filed, and (iv) at least two clear Business Days have elapsed since the Approval and Vesting Order was issued by the Court.(b) <u>The CIG Vendor's Deliverables.</u> The CIG Vendor shall have executed and delivered or caused to have been executed and delivered to the CIG Purchaser at the Closing all the documents contemplated in Section 6.3 of the CIG Subscription and Share Purchase Agreement.(c) <u>No Violation of Orders or Law.</u> During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has: (i) the effect of making any of the Transactions illegal, or (ii) the effect of otherwise prohibiting, preventing or restraining the consummation of any of the Transactions contemplated by the CIG Subscription and Share Purchase Agreement; or (iii) the effect of modifying or amending the CIG Approval and Vesting Order without the consent of the CIG Purchaser.(d) <u>No Material Adverse Effect.</u> During the Interim Period, there shall have been no Material Adverse Effect.(e) <u>No Breach of Representations and Warranties.</u> Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by the CIG Subscription and Share Purchase Agreement (including the CIG Approval and Vesting

	<p>Order), each of the representations and warranties contained in Sections 4.1 and 4.2 of the CIG Subscription and Share Purchase Agreement shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.</p> <p>(f) <u>No Breach of Covenants</u>. The CIG Vendor and the Purchased Entity shall have performed in all material respects all covenants, obligations and agreements contained in this CIG Subscription and Share Purchase Agreement required to be performed by the CIG Vendor or the Purchased Entity on or before the Closing.</p> <p>(g) <u>The Purchased Entity Employees</u>. The Purchased Entity shall have terminated the employment of the Terminated Employees, as requested by the CIG Purchaser in its sole discretion, and all Liabilities owing to any such terminated employees in respect of such terminations, including all amounts owing on account of statutory notice, termination payments, severance, vacation pay, benefits, bonuses or other compensation or entitlements, all of which Liabilities shall be Excluded Liabilities or shall be Discharged by the CIG Approval and Vesting Order.</p> <p>(h) <u>Residual Co Pursuant to the CIG Approval and Vesting Order</u>: (i) all Excluded Assets and Excluded Liabilities shall have been transferred to Residual Co. or to another Affiliate of the CIG Vendor that is not the Purchased Entity or Discharged; and (ii) the Purchased Entity, its business and property shall have been released and forever Discharged of all claims and Encumbrances (other than Assumed Liabilities, if any); such that, from and after Closing the business and property of the Purchased Entity shall exclude the Excluded Assets and shall not be subject to any Excluded Liabilities.</p> <p>(i) <u>PEI Regulatory Approval</u>. The CIG Purchaser shall have obtained all necessary approval to complete the CIG Transaction from the Island Regulatory and Appeals Commission and Executive Council pursuant to the Lands Protection Act (Prince Edward Island).</p> <p>(j) <u>CCAA Proceedings</u>. Upon Closing, the CCAA Proceedings will have been terminated in respect of the Purchased Entity, its business and property, as set out in the CIG Approval and Vesting Order.</p> <p>(k) <u>Disclaim Contracts</u>. The Purchased Entity shall have sent notices of disclaimer for such contracts and other agreements as the CIG Purchaser may require, as listed in a</p>
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list of contracts to disclaim as sent by the CIG Purchaser to the Vendor and which shall be delivered by the Purchaser no later than 20 days before the Target Closing Date.

- (l) Cannabis Licenses. The Cannabis Licenses shall be valid and in good standing at the Closing Time with no adverse conditions or restrictions, except for routine conditions or restrictions that do not result in a finding of non-compliance or suspension.
- (m) Current Asset Value. The aggregate value of the Current Assets of the Purchased Entity, as disclosed on the Closing Balance Sheet, shall not be less than an amount equal to (i) a threshold price minus (ii) any amount by which the actual expenses and disbursements of the Purchased Entity during the Interim Period are less than the Total Operating Costs.
- (n) FIGR Norfolk IP License. The CIG Vendor shall have delivered an agreement executed by FIGR Norfolk terminating its ability to use any of the intellectual property that forms part of the Transferred Assets as a business name 180 days after Closing.
- (o) The Transition Services MOU. The Transition Services MOU shall have been fully executed by all parties and delivered to the CIG Purchaser.

The CIG Vendor nor the Purchased Entity shall be obligated to complete the Transactions contemplated by the CIG Subscription and Share Purchase Agreement unless, at or before the commencement of the first step in the Closing Sequence, each of the conditions listed below have been satisfied:

- (a) Court Approval. The CIG Approval and Vesting Order shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed.
- (b) Purchaser's Deliverables. The CIG Purchaser shall have executed and delivered or caused to have been executed and delivered to the CIG Vendor at the Closing all the documents and payments contemplated in Section 6.4 of the CIG Subscription and Share Purchase Agreement.
- (c) No Violation of Orders or Law. During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of: (i) making any of the Transactions contemplated by the CIG Subscription and Share Purchase Agreement illegal; (ii) otherwise prohibiting, preventing or restraining the consummation of any of the Transactions contemplated by the CIG Subscription and Share Purchase Agreement; or (iii) modifying or amending the CIG

	<p>Approval and Vesting Order without the consent of the CIG Vendor.</p> <p>(d) <u>No Breach of Representations and Warranties.</u> Each of the representations and warranties contained in Section 4.3 of the CIG Subscription and Share Purchase Agreement shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.</p> <p>(e) <u>No Breach of Covenants.</u> The CIG Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in the CIG Subscription and Share Purchase Agreement required to be performed by the CIG Purchaser on or before the Closing, except for the covenant to pay the Share Purchase Price and the Cash Payment, which shall have been performed in all respects.</p> <p>(f) <u>Fees.</u> All fees payable in favor of directors of the Purchased Entity (including all retainers and board meeting fees) shall have been paid no later than on Closing.</p>
Termination	<p>The CIG Subscription and Share Purchase Agreement may be terminated on or prior to the Closing Date:</p> <p>(i) by the mutual agreement of the CIG Vendor, the Purchased Entity and the CIG Purchaser;</p> <p>(ii) by the CIG Purchaser, on the one hand, or the CIG Vendor and Purchased Entity (with the consent of the Monitor), on the other hand, at any time following the Outside Date, if Closing has not occurred on or prior to 11:59 p.m. (Eastern time) on the Outside Date, provided that the reason for the Closing not having occurred is not due to any act or omission, or breach of the CIG Subscription and Share Purchase Agreement, by the Party proposing to terminate the CIG Subscription and Share Purchase Agreement;</p> <p>(iii) by the CIG Purchaser, on the one hand, or the CIG Vendor and Purchased Entity (with the consent of the Monitor), on the other hand, upon notice to the other Parties if: (A) the CIG Approval and Vesting Order has not been obtained by the Closing Date or (B) the Court declines at any time to grant the CIG Approval and Vesting Order; in each case for reasons other than a breach of the CIG Subscription and Share Purchase Agreement by the Party</p>

	<p>proposing to terminate the CIG Subscription and Share Purchase Agreement;</p> <p>(iv) by the CIG Vendor, if there has been a material violation or breach by the CIG Purchaser or the Purchased Entity (in the case of the Purchased Entity, only where the Purchased Entity's actions or omissions were Caused by Smith), of any agreement, covenant, representation or warranty of the CIG Purchaser or the Purchased Entity in the CIG Subscription and Share Purchase Agreement which would prevent the satisfaction of, or compliance with, any condition set forth in Section 7.2 of the CIG Subscription and Share Purchase Agreement, as applicable, by the Outside Date and such violation or breach has not been waived by the CIG Vendor or cured by the CIG Purchaser or the Purchased Entity within five (5) Business Days of the CIG Vendor providing notice to the CIG Purchaser of such breach, unless the CIG Vendor is in material breach of its obligations under the CIG Subscription and Share Purchase Agreement at such time; or</p> <p>(v) by the CIG Purchaser, if there has been a material violation or breach by the CIG Vendor or the Purchased Entity (unless the Purchased Entity's breach is Caused by Smith) of any agreement, covenant, representation or warranty which would prevent the satisfaction of, or compliance with, any condition set forth in Section 7.1 of the CIG Subscription and Share Purchase Agreement, by the Outside Date and such violation or breach has not been waived by the CIG Purchaser or cured by the CIG Vendor within five (5) Business Days of the CIG Purchaser providing notice to the CIG Vendor of such breach, unless the CIG Purchaser is in material breach of its obligations under the CIG Subscription and Share Purchase Agreement at such time.</p>
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38. The CIG Subscription and Share Purchase Agreement is structured to facilitate an expedited timeline with a target closing date of June 25, 2021 (the "**Target Closing Date**"). Upon delivery of the Monitor's Certificate to the CIG Purchaser (the "**Effective Time**"), the below listed

events shall occur and shall be deemed to have occurred at the Effective Time (the "**Closing Sequence**") in the following sequence:

- (a) First, the CIG Purchaser shall pay the Share Purchase Price and the Cash Payment to be held in escrow by the Monitor, on behalf of the CIG Vendor and the Purchased Entity, as applicable, to be released in accordance with the Closing Sequence;
- (b) Second, the Purchased Entity shall purchase the Transferred Assets from the CIG Vendor pursuant to the Transferred Asset Bill of Sale, and the Purchased Entity shall issue the Transferred Asset Promissory Note, which for greater certainty will be in the amount of \$1,252,515.14 to the CIG Vendor;
- (c) Third, the CIG Vendor shall cause Residual Co to assume the Excluded Liabilities and Excluded Assets, if any, pursuant to the Excluded Liabilities Assumption Agreement, and the Purchased Entity shall issue the Excluded Liability Promissory Note to Residual Co;
- (d) Fourth, the CIG Purchaser shall acquire the Purchased Shares, the CIG Vendor shall deliver the Purchased Shares, and the Share Purchase Price shall be released from escrow for the benefit of the CIG Vendor, but shall continue to be held by the Monitor on the CIG Vendor's behalf;
- (e) Fifth, the Purchased Entity shall issue the Subscribed Shares and the CIG Purchaser shall purchase the Subscribed Shares, and the Adjusted Subscription Price shall be released from escrow for the benefit of the Purchased Entity, but shall continue to be held by the Monitor on the Purchased Entity's behalf;

- (f) Sixth, the Purchased Entity shall satisfy the amount owing under the Excluded Liability Promissory Note using the required portion of the proceeds of the Adjusted Subscription Price, and hereby irrevocably directs the Monitor to cause such payment to be made from the Adjusted Subscription Price held by the Monitor, although such amount shall continue to be held by the Monitor on behalf of Residual Co; and
- (g) Seventh, the Purchased Entity shall satisfy the amount owing under the Transferred Asset Promissory Note using the remaining proceeds of the Adjusted Subscription Price, and hereby irrevocably directs the Monitor to cause such payment to be made from the Adjusted Subscription Price held by the Monitor, although such amount shall continue to be held by the Monitor on behalf of the CIG Vendor.

39. Pursuant to the CIG Approval and Vesting Order, CIG will be removed as an Applicant in these CCAA Proceedings and Residual Co will be added as an Applicant.

40. For the purposes of determining the nature and priority of Claims (as defined in the CIG Approval and Vesting Order), subject to certain payments to BioAcuity Consulting, Fitzgerald & Snow (2010) Ltd. and Hansen Electric Ltd., the net proceeds from the sale of the Purchased Shares and the proceeds of the Transferred Asset Promissory Note (collectively, the "**Sale Proceeds**") shall be allocated to the CIG Vendor, and the net proceeds from the issuance of the Subscribed Shares (the "**Subscription Proceeds**", together with the Sale Proceeds, the "**Proceeds**") shall be allocated to Residual Co. Following delivery of the Monitor's Certificate, all Claims and Encumbrances (as defined in the CIG Approval and Vesting Order) shall attach to the Proceeds with the same priority as they had with respect to the Purchased Shares, the Transferred Assets

and the Purchased Entity Property (as defined in the CIG Approval and Vesting Order) immediately prior to the sale.

41. I believe that the allocation of value between the CIG Vendor and Residual Co is fair and reasonable. I understand that the Monitor believes that to be the case as well, and the Monitor will support such allocation in the Fifth Report. I also understand that notwithstanding the proposed reverse vesting structure of the CIG Transaction, the economic effect of the CIG Transaction will be identical to, if not more advantageous than, what could be achieved with a traditional asset sale structure. Accordingly, the proposed reverse vesting structure will not create any undue or additional prejudice to the FIGR Group's stakeholders and is intended to maximize efficiency and value.

42. As noted above, the Target Closing Date for the CIG Transaction is June 25, 2021. However, in the event the CIG Transaction does not close on or before the Target Closing Date, provided that the reason the CIG Transaction fails to close is not solely the fault of FIGR Brands or CIG, the CIG Purchaser has agreed to reimburse CIG for certain funding obligations in respect of CIG following the Target Closing Date. In particular, if the CIG Transaction does not close on or before the Target Closing Date then:

- (a) beginning on the day following the Target Closing Date and ending on the actual Closing Date of the CIG Transaction (the "**Post-Target Period**"), all costs and expenses incurred or disbursed by CIG in excess or below the Total Operating Costs, per Section 5.4(a) and (b) of the CIG Subscription and Share Purchase Agreement, shall no longer be applied on a dollar for dollar basis as an upward or

downward adjustment, as the case may be, to the Subscription Price through a reduction or increase in the Working Capital Adjustment;

- (b) the Subscription Price shall be increased by the amount of costs and expenses actually incurred or disbursed by CIG in the Post-Target Period, net of the actual receipts of CIG for the Post-Target Period (the "**Post-Target Cash Deficiency**"), which net costs and expenses shall be:
 - (i) set out in the Statement of Adjustments; and
 - (ii) applied on a dollar for dollar basis an upward adjustment to the Subscription Price through a reduction in the Working Capital Adjustment; and
- (c) on the Thursday of each week during the Post-Target Closing Period and on the Thursday prior to the Target Closing Date, CIG, with the consent of the CIG Purchaser, shall advise the Monitor of the amount required for CIG to fund its forecasted costs and expenses to be incurred or disbursed for the following week, net of the forecast receipts for such following week and the CIG Purchaser shall pay such net amount to the Monitor by no later than 5:00 p.m. (Eastern Time) on the Friday immediately following each applicable Thursday. Such weekly amounts (each a "**Post-Target Period Payment**") shall not exceed \$500,000. All Post-Target Period Payments are to be added to the Deposit and are to be treated for all purposes in the same manner as the other funds comprising the Deposit.

43. Should the CIG Transaction not close by the Target Closing Date for reasons which are solely the fault of FIGR Brands or CIG, and provided that the CIG's failure to close is not Caused

by Smith (as that term is defined in the CIG Subscription and Share Purchase Agreement), the foregoing mechanism for adjustments to the Subscription Price and Deposit shall not apply until such fault is remedied. During the Post-Target Period, the CIG Purchaser, the CIG Vendor and the Purchased Entity shall cooperate in good faith to extend the Purchased Entity Disbursement Budget (found at Schedule C to the CIG Subscription and Share Purchase Agreement) through to the Outside Date for the CIG Transaction for the purpose of calculating adjustments to the Subscription Price as set out in Section 5.4 of the CIG Subscription and Share Purchase Agreement.

44. The CIG Subscription and Share Purchase Agreement is the product of the Monitor and the FIGR Group's extensive efforts to solicit interest in the Business and Property in accordance with the SISP, with a view to maximizing value for the FIGR Group's stakeholders. The SISP was designed to be flexible and inclusive of creditor consultation. The CIG Subscription and Share Purchase Agreement is part of the culmination of these decisions and efforts as well as fulsome consultation with creditors.

45. Proceeding by way of reverse vesting structure as contemplated by the CIG Subscription and Share Purchase Agreement and the CIG Approval and Vesting Order has the benefit of facilitating the continuation of the valuable Cannabis Licences, which the Purchased Entity would not otherwise have the ability to transfer in the ordinary course. I understand that the reverse vesting structure contemplated by the CIG Transaction has been effectively implemented in other similar transactions for licensed cannabis companies and has the effect of minimizing regulatory hurdles and significantly decreasing closing uncertainty. I also understand that the CIG Purchaser was not prepared to proceed with a transaction in respect of CIG by way of an ordinary asset

purchase structure because, among other things, the regulatory restrictions on transferring cannabis licenses.

46. The FIGR Group believes that the CIG Subscription and Share Purchase Agreement provides the best possible outcome for their creditors in the circumstances given that, among other things:

- (a) the CIG Subscription and Share Purchase Agreement is the product of a broad, transparent and fair Court-approved SISP, the efforts of the FIGR Group and the Monitor to consummate value-maximizing transactions, and consultation with the DIP Lender;
- (b) the CIG Subscription and Share Purchase Agreement is the highest and best offer obtained for the CIG Purchased Goods in the SISP to maximize value for the FIGR Group's stakeholders;
- (c) the consideration to be paid under the CIG Subscription and Share Purchase Agreement is entirely composed of cash;
- (d) the CIG Subscription and Share Purchase Agreement provides the greatest certainty to successfully close of the offers obtained for the CIG Purchased Goods;
- (e) the FIGR Group's entrance into the CIG Subscription and Share Purchase Agreement is supported by the Monitor and the DIP Lender;

- (f) in addition to the granting of the CIG Approval and Vesting Order, closing of the CIG Transaction is based on customary conditions and requisite approvals and is not predicated on onerous closing obligation; and
- (g) the CIG Transaction is notably also not conditioned on any financing being obtained or diligence being performed by the PEI Group, or any specific treatment of the Minority Shareholders.

47. I have been advised that the CIG Transaction will preserve all or substantially all of the jobs at CIG and will allow the company to continue operating as a going concern.

48. I understand that the Monitor supports the CIG Subscription and Share Purchase Agreement approval and proposed reverse vesting structure and, as detailed in the Fifth Report, is of the opinion that the CIG Subscription and Share Purchase Agreement is the best offer obtained for the CIG Purchased Goods in the SISP.

49. I note that an individual with an ownership interest in the PEI Group is a current senior employee of CIG. I am advised by Sean Zweig of Bennett Jones LLP, counsel to the FIGR Group, that this fact alone does not necessarily make the PEI Group a related person as that term is contemplated under Section 36(5) of the CCAA (a "**Related Person**"). However, even if the PEI Group were determined to be a Related Person, the additional requirements placed on approving sales to a Related Person pursuant to Section 36(4) of the CCAA would be met given that:

- (a) good faith efforts were made to sell or otherwise dispose of the CIG Purchased Goods to persons who are not related to the FIGR Group; and

(b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the SISP.

(b) *The Norfolk Transaction*⁴

50. Having identified the Norfolk Successful Bid, the FIGR Group, in consultation with the Monitor and the DIP Lender, negotiated and finalized the terms of the Norfolk Sale Agreement with the Norfolk Purchaser and its counsel. A redacted copy of the Norfolk Sale Agreement is attached hereto as Exhibit "F". An unredacted copy of the Norfolk Sale Agreement (the "**Unredacted Norfolk Sale Agreement**" and together with the Unredacted CIG Subscription and Share Purchase Agreement, the "**Confidential Exhibits**") is attached hereto as Confidential Exhibit "B". For the reasons discussed below, the FIGR Group is seeking a sealing order in respect of the Unredacted Norfolk Sale Agreement.

51. The key terms of the Norfolk Sale Agreement are summarized in the table below:

Term	Details
Purchase Price	The Purchase Price is proposed to be sealed from the public record pursuant to the Ancillary Order.
Deposit	A deposit equal to 10% of the Purchase Price was received pursuant to the Norfolk Sale Agreement.
Purchased Assets	Means all of the Norfolk Vendor's right, title and interest in and to the assets set forth in Schedule "A" of the Norfolk Sale Agreement, and for greater certainty shall exclude all Excluded Assets. The Purchased Assets are substantially all of the assets of the Norfolk Vendor.
Excluded Assets	Means all of the Norfolk Vendor's right, title and interest, in and to those assets that are not Purchased Assets, and for greater certainty, includes those

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

	assets set forth in Schedule "B" of the Agreement. The Excluded Assets, among other things, includes all Cannabis Licences.
Assumed Obligations	<p>The Norfolk Purchaser shall assume as of the Closing Time, and shall from and after the Closing Time, perform, discharge and pay when due, as the case may be, the following obligations and liabilities of the Norfolk Vendor (the "Assumed Obligations"): </p> <ul style="list-style-type: none">(a) all debts, liabilities, obligations under the Contracts (to the extent assigned or transferred to the Norfolk Purchaser on Closing) for the period from and after the Closing Time;(b) the obligation and liability of the Norfolk Vendor to pay Cure Costs in respect of any Consent Required Contract;(c) all debts, liabilities and obligations arising from and after the Closing Date with respect to Transferred Employees;(d) all debts, liabilities and obligations arising from ownership and use of the Purchased Assets for the period from and after the Closing Time; and(e) any other liability which the Norfolk Purchaser agrees in writing to assume on or before the Closing Date.
Excluded Obligations	<p>Other than the Assumed Obligations, the Norfolk Purchaser shall not assume and shall not be liable, directly or indirectly, or otherwise responsible for any debts, liabilities or other obligations of the Norfolk Vendor (collectively, the "Excluded Obligations"), including, without limiting the generality of the foregoing:</p> <ul style="list-style-type: none">(a) Claims related to any Excluded Asset;(b) subject to Section 2.2 and section 2.4(b) of the Agreement, all debts, liabilities and obligations related to any Purchased Asset or the business of the Norfolk Vendor arising out of or related to the period prior to the Closing Time;(c) all taxes imposed on or relating to the Purchased Assets that are attributable to any pre-Closing tax period whether or not any such period ends on or before the Closing Date (other than any Transfer Taxes payable by the Norfolk Purchaser in accordance with Section 4.2 of the Agreement); and(d) all debts, liabilities and obligations of the Norfolk Vendor arising under the Norfolk Sale Agreement.
Employees	At least five (5) days in advance of the Closing Date, the Norfolk Purchaser shall make a written offer of employment, which will be conditional upon Closing, to those Employees listed on Schedule "F" of the Agreement. The Norfolk Purchaser may provide to the Norfolk Vendor the names of

	<p>additional Employees to whom the Norfolk Purchaser shall make a written offer of employment up to five (5) days in advance of the Closing Date.</p> <p>Immediately following the Closing, the Norfolk Purchaser shall provide each Transferred Employee with terms and conditions of employment that are substantially the same in all material respects as the terms and conditions of employment provided by the Norfolk Vendor immediately prior to the Closing. For clarity, (i) for purposes of the Norfolk Purchaser's obligation pursuant to this paragraph, each Transferred Employee's status as active or inactive and compensation and benefits as of immediately following the Closing shall reflect such Transferred Employee's status as active or inactive and such Transferred Employee's compensation and benefits in effect as of immediately prior to the Closing (inclusive of any temporary reduction or cessation of such compensation and benefits); (ii) the Norfolk Purchaser shall have no obligation to (A) offer to employ any Employee or (B) other than as contemplated by Section 6.3 of the Norfolk Sale Agreement, provide any Transferred Employee with any specific term or condition of employment, including any specific amount or type of compensation or benefits, for any period following the Closing; and (iii) each offer of employment will recognize the Transferred Employee's past service with the applicable Norfolk Vendor for all purposes.</p>
Outside Date	June 30, 2021 or such later date as the Norfolk Vendor (with the consent of the Monitor and the DIP Lender) may designate, in its sole discretion, on not less than five (5) Business Days' notice to the Norfolk Purchaser, or in any event as otherwise ordered by the Court.
Conditions to Closing	<p>The closing of the Norfolk Transaction is conditional upon the following notable conditions:</p> <ul style="list-style-type: none">(a) all representations and warranties of the Norfolk Vendor and the Norfolk Purchaser contained in the Norfolk Sale Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that time; and(b) the Norfolk Vendor shall maintain the Cannabis Licences up to the date of Closing and shall use commercially reasonable efforts to cooperate with the Norfolk Purchaser or the Purchaser Cannabis Licensees in the process of obtaining the Purchaser Cannabis Licences from Health Canada;(c) the Purchaser shall have obtained the Purchaser Cannabis Licences;(d) the Norfolk Vendor and the Norfolk Purchaser shall have performed in all material respects each of their obligations under the Norfolk Sale Agreement to the extent required to be performed at or before the Closing Time, including the delivery of each of the

	<p>items required pursuant to Section 8.3 and Section 8.2 of the Agreement, as applicable;</p> <p>(e) the Approval and Vesting Order shall have been obtained and shall not have been reversed, stayed, varied, or vacated;</p> <p>(f) no provision of and Applicable Law shall be in effect and/or no order shall have been issued by a Governmental Authority, which restrains or prohibits the completion of the Norfolk Transaction. For clarity, the Norfolk Purchaser's failure to take the steps necessary to obtain the Purchaser Cannabis Licences shall not constitute a condition for the benefit of the Norfolk Purchaser and the Norfolk Purchaser shall not be entitled to terminate the Norfolk Sale Agreement on this basis; and</p> <p>(g) no motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Norfolk Transaction contemplated by the Norfolk Sale Agreement.</p>
Termination	<p>The Sale Agreement may terminated at any time prior to Closing Time as follows:⁵</p> <p>(a) by mutual written agreement of the Norfolk Vendor (with the written consent of the Monitor) and the Norfolk Purchaser;</p> <p>(b) should Closing not have occurred on or prior to 11:59 pm (Eastern Time) on the Outside Date in accordance with Section 7.3 of the Norfolk Sale Agreement and either of the Parties shall have delivered written notice of termination to the other Party terminating the Norfolk Sale Agreement as a result thereof (provided that the terminating Party has not failed to satisfy a closing condition under the Norfolk Sale Agreement);</p> <p>(c) by the Norfolk Vendor, if there has been a material violation or breach by the Norfolk Purchaser of any agreement, covenant, representation or warranty of the Norfolk Purchaser in the Norfolk Sale Agreement which would prevent the satisfaction of, or compliance with, any condition set forth in Section 7.2 or Section 7.3 of the Agreement, as applicable, by the Outside Date or, if any event has occurred as a result of which any of the conditions in Sections 7.1-7.3 (inclusive) of the Norfolk Sale Agreement are not capable of being satisfied by the Outside Date, and such violation or breach has not been waived by the Norfolk Vendor or cured within five (5) Business Days of the Norfolk Vendor providing written notice to the Norfolk Purchaser of such breach, unless the</p>

⁵ Prior to the Norfolk Vendor agreeing to or electing to any termination pursuant to Section 8.6 of the Norfolk Sale Agreement, the Norfolk Vendor shall first obtain the written consent of the Monitor and DIP Lender.

	<p>Vendor is in material breach of its obligations under the Norfolk Sale Agreement; and</p> <p>(d) by the Norfolk Purchaser, if there has been a material violation or breach by the Norfolk Vendor of any agreement, covenant, representation or warranty which would prevent the satisfaction of, or compliance with, any condition set forth in Section 7.1 or Section 7.3 of the Norfolk Sale Agreement, as applicable by the Outside Date and such violation or breach has not been waived by the Norfolk Purchaser or cured within five (5) Business Days of the Norfolk Purchaser providing notice to the Norfolk Vendor of such breach, unless the Norfolk Purchaser is in material breach of its obligations under the Norfolk Sale Agreement.</p>
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52. The Norfolk Sale Agreement is the product of the Monitor and the FIGR Group's extensive efforts to solicit interest in the Business and Property in accordance with the SISP, with a view to maximizing value for the FIGR Group's stakeholders. The SISP was designed to be flexible and inclusive of creditor consultation. The Norfolk Sale Agreement is part of the culmination of these decisions and efforts as well as fulsome consultation with creditors.

53. The FIGR Group believes that the Norfolk Sale Agreement provides the best possible outcome for their creditors in the circumstances given that, among other things:

- (a) the Norfolk Sale Agreement is the product of a broad, transparent and fair Court-approved SISP, the efforts of the FIGR Group and the Monitor to consummate value-maximizing transactions, and consultation with the DIP Lender;
- (b) the Norfolk Sale Agreement is the highest and best offer obtained for the Norfolk Purchased Assets in the SISP;

- (c) the FIGR Group's entrance into the Norfolk Sale Agreement is supported by the Monitor and the DIP Lender;
- (d) in addition to the granting of the Norfolk Approval and Vesting Order, closing of the Norfolk Transaction is based on customary conditions and requisite approvals and, subject to Norfolk Purchaser obtaining the Purchaser Cannabis Licenses, is not predicated on onerous closing obligation; and
- (e) the Norfolk Transaction is notably also not conditioned on any financing being obtained or diligence being performed by the Norfolk Purchaser.

54. I have been advised that the Norfolk Transaction will preserve many of the jobs at FIGR Norfolk and the Norfolk Purchaser intends to operate the company as a going concern upon Closing.

55. I understand that the Monitor supports the Norfolk Sale Agreement approval and, as detailed in the Fifth Report, is of the opinion that the Norfolk Sale Agreement is the best offer obtained for the Norfolk Purchased Assets in the SISP.

IV. THE ANCILLARY ORDER

(i) Stay Extension

56. Under the April Stay Extension and Fee Approval Order, the Court extended the Stay Period until and including June 30, 2021. Pursuant to the Ancillary Order, the Applicants are seeking an extension of the Stay Period until and including September 3, 2021.

57. It is necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended until and including September 3, 2021, as it will:

- (a) allow the Applicants to close the Transactions, should the Approval and Vesting Orders be granted;
- (b) advance and complete the Claims Procedure in accordance with the Claims Procedure Order;
- (c) advance and complete the Employee Claims Process in accordance with the Employee Claims Procedure Order; and
- (d) continue to advance matters toward making distributions of sale proceeds to the DIP Lender and to other creditors.

58. As demonstrated in the Revised Cash Flow Forecast to be appended to the Fifth 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 extended Stay Period.

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

(ii) *The DIP Amendment*

60. As previously noted, pursuant to the Amended and Restated Initial Order, the Court authorized and empowered the FIGR Group to obtain and borrow a credit facility from the DIP Lender to finance the FIGR Group's working capital requirements and other general corporate purposes and capital expenditures. The Court also:

- (a) approved the DIP Commitment Letter; and
- (b) granted the DIP Lender's Charge up to a maximum amount of \$8,000,000 (plus interest and costs).

61. As previously noted, the DIP Amendment Order, which was granted on March 31, 2021, among other things, authorized the execution by the Applicants of the first amendment to the DIP Commitment Letter, which, among other things, 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 authorized a corresponding increase to the DIP Lender's Charge.

62. As a result of certain revised revenue and expense projections, timing variances regarding a number of receipts, as well as additional time expected to be required to close the Transactions and administer the Claims Procedure and Employee Claims Process, the FIGR Group's management, in consultation with the Monitor and the DIP Lender, have determined that the FIGR Group will require additional funding. The FIGR Group, with the assistance of the Monitor, has prepared revised and extended consolidated cash flow projections that reflect the FIGR Group's go-forward cash flow needs (the "**Revised Cash Flow Projection**"). I understand from the Monitor that the Revised Cash Flow Projection will be attached to the Fifth Report.

63. As part of its ongoing support for the FIGR Group and the CCAA Proceedings, the DIP Lender has agreed to advance an additional \$3,000,000 pursuant to the DIP Amendment. A copy of the form of Second DIP Amendment is attached hereto as Exhibit "G". I understand that the fully executed Second DIP Amendment will be attached to the Fifth Report.

64. Pursuant to the terms of the DIP Amendment:

- (a) the DIP Loan will be increased by \$3,000,000 to a maximum amount of \$16,000,000; and
- (b) the maturity date of the DIP Loan will be extended to September 3, 2021.

65. As a result of the Second DIP Amendment and the additional funds available thereunder, the Ancillary Order seeks to increase the quantum of the DIP Lender's Charge to a maximum of \$16,000,000 (plus interest and costs). The Second DIP Amendment and the corresponding increase to the DIP Lender's Charge are based on the go-forward funding needs of the Applicants and will allow them to continue to operate in the ordinary course while the Claims Procedure and the Employee Claims Procedure are administered and the Transactions close. It is a condition of the Second DIP Amendment (and the availability of funds thereunder) that the DIP Lender's Charge be increased.

66. The go-forward amounts funded under the DIP Loan, and the underlying mechanics, are largely entwined with when the CIG Transaction closes, as discussed in paragraphs 42 and 43 of this affidavit.

67. It is my view that the Second DIP Amendment is in the best interests of the FIGR Group's stakeholders as it will provide the FIGR Group with the funds necessary to continue its operations while the Claims Procedure and the Employee Claims Procedure are completed and the Transactions close, all of which will provide significant benefit to the FIGR Group's stakeholders. Further, I understand that the Monitor and the DIP Lender are supportive of the relief described herein and the Monitor does not believe that any creditor will be materially prejudiced by the granting of the Ancillary Order.

(iii) Sealing

68. The FIGR Group is seeking an order sealing from public record the Confidential Exhibits and the Confidential Appendix because their release could have an adverse impact on the FIGR Group in the event the Transactions do not close.

69. I am advised that the Monitor believes that the proposed sealing of the Confidential Exhibits and Confidential Appendix is appropriate in the circumstances as the salutary effects of sealing the Confidential Exhibits and Confidential Appendix outweigh the deleterious effects of its exclusion from the public record.

(iv) Approval of the Proposed Pre-Filing Intercompany Claims Resolution Process

70. The proposed Ancillary Order seeks approval of the Proposed Pre-Filing Intercompany Claims Resolution Process. It is my view that the approval of the Proposed Pre-Filing Intercompany Claims Resolution Process is in the best interests of the FIGR Group's stakeholders as a determination of the validity and quantum of the Pre-Filing Intercompany Claims is required before any distributions can be made to such stakeholders.

(v) Approval of the Fifth Report and Fees

71. The proposed Ancillary Order seeks approval of the Fifth 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 Fifth Report.

(vi) Distributions to DIP Lender

72. The proposed Ancillary Order also seeks to authorize or empower the Applicants (or the Monitor on behalf of the Applicants) to make, or to cause to be made, distributions from funds or

proceeds held now or received in the future by the Applicants (or the Monitor on behalf of the Applicants) to the DIP Lender in repayment of the obligations secured by the DIP Lender's Charge.

73. I expect that amounts held in reserve by the Applicants (or the Monitor on behalf of the Applicants) will be sufficient to cover the repayment of prior encumbrances such as the Administration Charge and Director's Charge (as such terms are defined in the Amended and Restated Initial Order).


V. CONCLUSION

74. 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 and assist with the SISF, the Claims Procedure and the Employee Claims Procedure, each with the view of maximizing value for their stakeholders.

75. The Transactions, should they be approved, are the product of hard work that sees CIG and FIGR Norfolk's businesses continue as going concerns, preserve jobs and benefit their respective local communities. I believe that the relief sought and described herein is in the best interests of the FIGR Group and their stakeholders. Further, I understand that the Monitor and the DIP Lender are supportive of the relief described herein and do not believe that any creditor will be materially prejudiced by the granting of the Approval and Vesting Orders or the Ancillary Order.

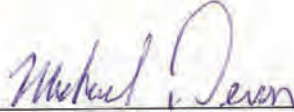
76. I swear this affidavit in support of the Applicants' motion for the Approval and Vesting Orders and the Ancillary Order, and for no other or improper purpose.

SWORN BEFORE ME over)
videoconference on this 2nd day of June 2021.)
The affiant was located in the City of)
Toronto, 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



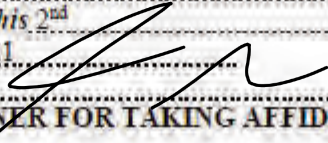
Michael Devon

This is Exhibit "A" referred to in the

affidavit of Michael Devon

sworn before me, this 2nd

day of June, 2021



A COMMISSIONER FOR TAKING AFFIDAVITS

**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 April 23, 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. I swear this Affidavit in support of a motion by the Applicants for:

- (a) an order (the "**Employee Claims Procedure Order**"), among other things, establishing a process 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 (the "**Stay Extension and Fee Approval Order**"), among other things:
 - (i) abridging the time for service of the motion record returnable April 30, 2021 and dispensing with service on any person other than those served;
 - (ii) extending the Stay Period (as defined below) until and including June 30, 2021;
 - (iii) approving the Fourth Report of the Monitor, to be filed (the "**Fourth Report**"), and the activities of the Monitor described therein; and
 - (iv) 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 Fourth Report (together, the "**Fee Affidavits**").

3. All terms not otherwise defined herein have the meaning ascribed to them in, as applicable: (a) the Employee Claims Procedure Order; (b) the Stay Extension and Fee Approval Order, or (c) my affidavit sworn March 25, 2021 (the "**March 25 Affidavit**") in support of the DIP Amendment 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 BACKGROUND

5. The FIGR Group operates two (2) licensed cannabis facilities – one in Simcoe, Ontario and the other in Charlottetown, Prince Edward Island. Since commencing operations, both facilities have been cash flow negative and the FIGR Group has been dependent on certain of its affiliate companies for funding.

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 Consulting Inc. as monitor of the FIGR Group (in such capacity, the "**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 (the "**SISP Approval Order**") which, among other things, approved a sale and investment solicitation process (the "**SISP**") in respect of the FIGR Group. A copy of the SISP Approval Order is attached hereto as Exhibit "D".

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.

12. On February 22, 2021, the Court also granted an Order (the "**Ancillary Order**") which, among other things, approved a key employee retention plan, extended the Stay Period until April 30, 2021 and approved the fees and expenses of the Monitor and its counsel, Cassels Brock &

Blackwell LLP ("**Cassels**"), for the periods from January 21, 2021 to February 7, 2021 and January 22, 2021 to February 12, 2021, respectively.

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, among other things, 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 authorized a corresponding increase to the DIP Lender's Charge and approved the fees and expenses of the Monitor and Cassels for the periods from February 7, 2021 to March 14, 2021 and February 13, 2021 to March 14, 2021, respectively.

14. Since the granting of the DIP Amendment 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 and assist the Monitor with the SISP and the Claims Procedure.

II. UPDATE ON THE SISP¹

15. Since the last update provided in the March 25 Affidavit, the Monitor, together with its affiliate FTI Capital Advisors – Canada ULC, and the Applicants have taken steps to advance the SISP in accordance with the timeline set out in the SISP.

16. Following the distribution of the Bid Process Letter to all Phase 2 Qualified Bidders, the Monitor, with the assistance of the FIGR Group, has been reviewing all Phase 2 Qualified Bids

¹ Terms in this section not otherwise defined herein have the meaning ascribed to them in the SISP Approval Order.

and corresponding with the appropriate Phase 2 Qualified Bidders in an attempt to advance the Phase 2 Qualified Bids into one or more closable transactions.

17. As of the date of this Affidavit, I understand that the Monitor continues to advance the SISP in accordance with the SISP Approval Order and I understand that additional information in this regard will be provided in the Fourth Report.

III. THE EMPLOYEE CLAIMS PROCEDURE ORDER²

18. The FIGR Group, in consultation with the Monitor, has developed the Employee Claims Procedure as set out in the proposed Employee Claims Procedure Order. The proposed Employee Claims Procedure provides a framework for identifying, determining and adjudicating Employee Claims against the FIGR Group and its Directors and Officers.

19. Employee Claims were expressly excluded from the Claims Procedure Order granted previously in the CCAA Proceedings.

(i) Employee Claims Packages

20. The Employee Claims Procedure provides that the Monitor, in consultation with the Applicants, shall deliver an Employee Claims Package containing, among other things, an Employee Claim Statement and a Notice of Dispute of Employee Claim Statement to any Employee with a Claim for vacation pay, termination pay, severance pay, wages, expenses, commissions, or other remuneration, arising as a result of the termination of employment or a layoff of such Employee by any Applicant prior to the Filing Date or during the CCAA Proceedings. The Employee Claim Statement will include an assessment of the quantum of such

² Terms in this section not otherwise defined herein have the meaning ascribed to them in the Employee Claims Procedure Order.

Employee's Claim based on the books and records of the FIGR Group and will advise as to certain of the Employee's rights and obligations.

21. The Employee Claims Package will be sent to each Employee, by ordinary mail or electronic mail to the last known address or email address of the Employee, as applicable, within:

- (a) ten (10) Business Days following the date that the proposed Employee Claims Procedure is granted if such Employee's employment with the FIGR Group was terminated prior to or on the date of the Employee Claims Procedure Order; or
- (b) ten (10) Business Days following the date on which an Employee's employment with the FIGR Group is terminated or an Employee's temporary layoff ceases to be temporary under the *Employment Standards Act, 2000*, S.O. 2000, c. 41, as amended (the "ESA") (or similar applicable provincial statute), if this occurs following the date of the Employee Claims Procedure Order.

22. The amounts set forth in an Employee Claim Statement will be calculated based on such Employee's contractual entitlement, if applicable. Should an Employee not have a written employment contract or should the employment contract be silent on any such entitlement, the amount set forth in the Employee Claim Statement will be calculated based on the statutory minimum under the ESA (or similar applicable provincial statute).

(ii) *Dispute of Employee Claim Statement*

23. Should an Employee disagree with the assessment of its Employee Claim as set out in their Employee Claim Statement, such Employee must complete and return to the Monitor, prior to the Employee Claims Bar Date, a completed Notice of Dispute of Employee Claim Statement

asserting a claim in a different amount supported by the appropriate documentation. The proposed Employee Claims Procedure Order provides for an Employee Claims Bar Date with respect to Employee Claims of 5:00 p.m. (Toronto time) on the date that is thirty (30) Calendar Days after the date on which the Monitor sends an Employee Claims Package to an Employee having an Employee Claim.

24. The Employee Claims Procedure Order provides that the Monitor shall, should it receive an Employee's Notice of Dispute of Employee Claim Statement on or before the Employee Claims Bar Date, review such Notice of Dispute of Employee Claim Statement, in consultation with the FIGR Group. If the Monitor disagrees with the amount of the Employee Claim as set out in the Notice of Dispute of Employee Claim Statement it shall, in consultation with the FIGR Group, attempt to resolve such dispute and settle the purported Employee Claim. Should such a resolution or settlement not be possible, or not be within a time period or manner satisfactory to the Monitor, the Monitor shall, in consultation with the FIGR Group, refer such dispute to a Claims Officer or the Court for adjudication at its election. The Monitor shall forthwith provide written notice to the Employee notifying them of the Monitor's election.

25. Per the proposed Employee Claims Procedure Order, should a Notice of Dispute of Employee Claim Statement not be received by the Employee Claims Bar Date, the Employee's claim will be deemed to be as set out in such Employee's Employee Claim Statement.

26. Approval of the Employee Claims Procedure is necessary to allow the FIGR Group and the Monitor to obtain finality with respect to the Employee Claims, which will be necessary in order to make distributions to unsecured creditors and ultimately bring the CCAA Proceedings to an end.

27. The proposed Employee Claims Procedure is the most expeditious and efficient method of identifying and resolving the Employee Claims. The FIGR Group believes that the proposed Employee Claims Procedure is flexible, fair and appropriate in the circumstances.

28. The Monitor believes that the proposed Employee Claims Procedure contemplated by the proposed Employee Claims Procedure Order is reasonable in the circumstances and necessary in order to advance the FIGR Group's restructuring efforts. Accordingly, the Monitor is supportive of the Employee Claims Procedure, as set out in the proposed Employee Claims Procedure Order.

IV. THE STAY EXTENSION AND FEE APPROVAL ORDER

(i) Stay Extension

29. Under the Ancillary Order, the Court extended the Stay Period until and including April 30, 2021. Pursuant to the Stay Extension and Fee Approval Order, the Applicants are seeking an extension of the Stay Period until and including June 30, 2021.

30. It is necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended until and including June 30, 2021, as it will:

- (a) allow the Monitor, with the assistance of the Applicants, to advance the Employee Claims Procedure, should it be approved;
- (b) allow the Monitor, with the assistance of the Applicants, to complete the SISP and seek any necessary Court approvals;
- (c) advance and complete the Claims Procedure in accordance with the Claims Procedure Order; and

- (d) continue to advance matters toward making distributions of sale proceeds to the DIP Lender and to other creditors of the FIGR Group.

31. As demonstrated in the Cash Flow Forecast to be appended to the Fourth 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 extended Stay Period.

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

(ii) Approval of the Fourth Report and Fees

33. The proposed Stay Extension and Fee Approval Order seeks approval of the Fourth 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 Fourth Report.

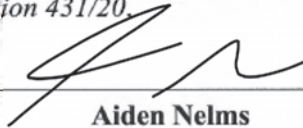
V. CONCLUSION

34. 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 and assist with the SISP and the Claims Process, each with the view of maximizing value for their stakeholders.

35. I believe that the relief sought and described herein is in the best interests of the FIGR Group and their stakeholders. Further, I understand that the Monitor and the DIP Lender are supportive of the relief described herein and do not believe that any creditor will be materially prejudiced by the granting of the Employee Claims Procedure Order and the Stay Extension and Fee Approval Order.

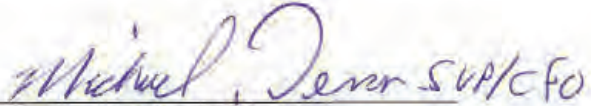
36. I swear this affidavit in support of the Applicants' motion for the Employee Claims Procedure Order and the Stay Extension and Fee Approval Order, and for no other or improper purpose.

SWORN BEFORE ME over
videoconference on this 23rd day of April
2021. The affiant was located in the City of
Toronto, 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



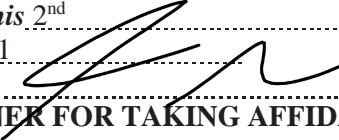
Michael Devon

This is Exhibit **“B”** *referred to in the*

affidavit of Michael Devon

sworn before me, this 2nd

day of June, 2021



.....
A COMMISSIONER FOR TAKING AFFIDAVITS

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 uninterrupted 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.

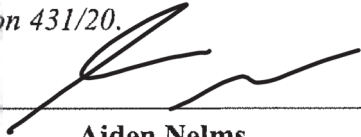
114. The Cash Flow Forecast indicates that the Applicants urgently require DIP financing to ensure that they have the liquidity required to meet their obligations and continue their business operations during the Stay of Proceedings.

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

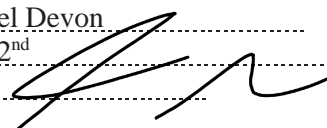

Michael Devon

This is Exhibit “C” *referred to in the*

affidavit of Michael Devon

sworn before me, this 2nd

day of June, 2021

A handwritten signature in black ink, appearing to be 'M. Devon', is written over the signature line of the affidavit text.

.....
A COMMISSIONER FOR TAKING AFFIDAVITS

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	FRIDAY, THE 29 th
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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.

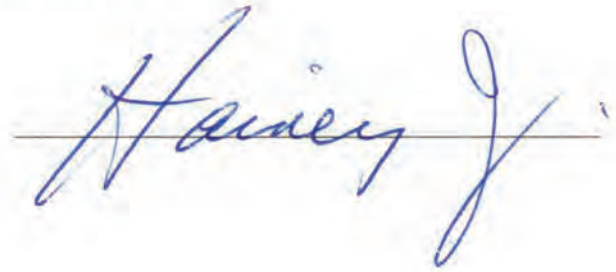
50. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

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 large initial "H" and a final flourish.

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

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

Lawyers for the Applicants

This is Exhibit “D” *referred to in the*

affidavit of Michael Devon

sworn before me, this 2nd

day of June, 2021

A handwritten signature in black ink, appearing to be the name of the commissioner, written over the signature line.

.....
A COMMISSIONER FOR TAKING AFFIDAVITS



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**")

SISP APPROVAL ORDER

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*, approving the SISP (as defined below) and certain related relief, was heard this day by Zoom videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the affidavit of Michael Devon sworn January 25, 2021, the First report of FTI Consulting Canada Inc. (the "**First Report**"), in its capacity as monitor of the Applicants (the "**Monitor**"), filed, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for Alliance One Tobacco Canada Inc. (in such capacity, the "**DIP Lender**"), 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 January 26, 2021;

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** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them under the Sale and Investment Solicitation Process attached hereto as Schedule "A" (the "**SISP**") or the Amended and Restated Initial Order dated January 29, 2021 (the "**Amended and Restated Initial Order**"), as applicable.

APPROVAL OF THE SISP

3. **THIS COURT ORDERS** that the SISP (subject to any amendments thereto that may be made in accordance therewith and with this Order) be and is hereby approved and the Monitor, together with its affiliate, FTI Capital Advisors – Canada ULC ("**FTI Capital Advisors**"), and the Applicants are authorized and directed to carry out the SISP in accordance with its terms and this Order, and are hereby authorized and directed to take such steps as they consider necessary or desirable in carrying out each of their obligations thereunder, subject to prior approval of this Court being obtained before completion of any transaction(s) under the SISP.
4. **THIS COURT ORDERS** that the Applicants, the Monitor, FTI Capital Advisors and their respective Assistants, affiliates, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or wilful misconduct of the Applicants, the Monitor or FTI Capital Advisors, as applicable, as determined by this Court.
5. **THIS COURT ORDERS** that notwithstanding anything contained herein or in the SISP, the Monitor and FTI Capital Advisors shall not take possession of the Property or be deemed to take possession of the Property, including pursuant to any provision of the Cannabis Legislation.

6. **THIS COURT ORDERS** that the Monitor or the Applicants may apply to this Court for directions with respect to the SISP at any time.

PIPEDA

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Applicants, the Monitor, FTI Capital Advisors and their respective Assistants are hereby authorized and permitted to disclose and transfer to each Phase 1 Qualified Bidder personal information of identifiable individuals but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the SISP (a "**Transaction**"). Each Phase 1 Qualified Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Applicants, the Monitor or FTI Capital Advisors, as applicable, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Applicants, the Monitor or FTI Capital Advisors. The Successful Bidder(s) shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Applicants, the Monitor or FTI Capital Advisors or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Applicants, the Monitor or FTI Capital Advisors, as applicable.

GENERAL

8. **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, the Monitor and their respective agents in carrying out the terms of this Order.

9. **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, 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.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. on the date of this Order.



Toronto Estates Office
330 University Avenue, 9th Fl,
Toronto, ON
M5G 1R7

TF

SCHEDULE "A"

[attached]

SALE AND INVESTMENT SOLICITATION PROCESS

On January 21, 2021, FIGR Brands, Inc., FIGR Norfolk Inc. and Canada's Island Garden Inc. (collectively, the “**Applicants**”) were granted an initial order (as amended and restated from time to time, the “**Initial Order**”) under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**” and the Applicants' proceedings thereunder, the “**CCAA Proceedings**”), by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). All capitalized terms utilized herein and not otherwise defined shall have the meaning ascribed to them in the Initial Order.

Pursuant to an order dated January 29, 2021 (the “**SISP Approval Order**”) the Court approved, among other things, the sale and investment solicitation process (the “**SISP**”) described herein. In accordance with the SISP Approval Order, FTI Consulting Canada Inc., with the assistance of its affiliate FTI Capital Advisors Canada ULC (the “**Monitor**”), with the assistance of the Applicants, will conduct the SISP. The SISP is intended to solicit interest from qualified parties in an acquisition or refinancing of the business or a sale of a portion of or all the assets and/or the business of the Applicants by way of merger, reorganization, recapitalization, sale or other similar transaction.

This document (the “**SISP Procedure**”) outlines the SISP, which will include a notification process followed by two (2) phases of activity for qualified interested bidders (“**Phase 1**” and “**Phase 2**”, respectively).

Opportunity

1. The SISP is intended to solicit interest in, and opportunities for, a sale of all or part of the Property and/or an investment in the Business (the “**Opportunity**”). The Opportunity may include one or more of a restructuring, recapitalization or other form of reorganization of the business and affairs of the Applicants as a going concern or a sale of all, substantially all or one or more components of the Property and the Business as a going concern or otherwise.
2. Except to the extent otherwise set forth in a definitive agreement with a successful bidder, any sale of the Property or an investment in the Business will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Monitor or the Applicants, or any of their respective agents or advisors, and, in the event of a sale, all of the right, title and interest of the Applicants in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, to the extent that the Court deems it appropriate to grant such relief and except as otherwise provided in such Court orders.

Timeline

3. The following table sets out the key milestones under the SISP:

Milestone	Deadline
Commence solicitation of interest from parties, including delivering NDA and Teaser Letter, and upon execution of NDA, CIM and Phase 1 data room.	Preliminary solicitation efforts commenced on January 22, 2021 The Monitor will send the Teaser Letter and the NDA to each Known Potential Bidder by no later than February 4, 2021
Phase 1 Bid Deadline	February 26, 2021 at 5:00 PM (Eastern Time)
Phase 2 Bid Deadline	To be Specified in Phase 2 Bid Process Letter

Any extensions or amendments to the deadlines above will be communicated to Phase 1 Qualified Bidders or Phase 2 Qualified Bidders (each as defined below), as applicable, in writing and such extensions or amendments shall be posted on the website the Monitor maintains in respect of the CCAA Proceedings at <http://cfcanda.fticonsulting.com/figr> (the “**Monitor’s Website**”).

Solicitation of Interest: Notice of the SISP

4. As soon as reasonably practicable, but in any event by no later than February 4, 2021:
 - (a) the Monitor, with the assistance of the Applicants and in consultation with Alliance One Tobacco Canada, Inc. (the “**DIP Lender**”), will prepare a list of potential bidders, including: (i) parties that have approached the Monitor or the Applicants and advised that they have an interest in the Opportunity; (ii) local and international strategic and financial parties who the Monitor and/or the Applicants, in consultation with the DIP Lender, believe may be interested in purchasing all or part of the Business and Property or investing in the Applicants pursuant to the SISP; and (iii) any other credible parties as determined by the Monitor and/or Applicant, in consultation of the DIP Lender suggested in writing by a stakeholder as a potential bidder who may be interested in the Opportunity (collectively, the “**Known Potential Bidders**”);
 - (b) the Monitor will arrange for a notice of the SISP (and such other relevant information which the Monitor in consultation with the Applicants and the DIP Lender, consider appropriate) (the “**Notice**”) to be published as soon as reasonably practicable after the date hereof in *The Globe and Mail (National Edition)*, HortiDaily.com and any other newspaper or journal the Monitor considers appropriate, if any;
 - (c) the Applicants will issue a press release setting out the information contained in the Notice and such other relevant information which the Applicants and the Monitor,

in consultation with the DIP Lender, consider appropriate, for dissemination in Canada and major financial centres in the United States;

- (d) the Monitor, with the assistance of the Applicants and in consultation with the DIP Lender, will prepare a process summary (the “**Teaser Letter**”) describing the Opportunity, outlining the process under this SISP Procedure and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and
 - (e) the Applicants will prepare a non-disclosure agreement in form and substance satisfactory to the Monitor (an “**NDA**”).
5. The Monitor will send the Teaser Letter and NDA to each Known Potential Bidder by no later than February 4, 2021 and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the Monitor or the Applicants as a potential bidder, if deemed a credible bidder by the Monitor and the Applicants as soon as reasonably practicable after such request or identification, as applicable.

PHASE 1: NON-BINDING LOIs

Qualified Bidders and Delivery of Confidential Information Package

6. Any party who wishes to participate in the SISP (a “**Potential Bidder**”) must provide to the Monitor and the Applicants, an NDA executed by it, which shall enure to the benefit of any purchaser of or investor in the Business or Property, or any portion thereof, and a letter setting forth the identity of the Potential Bidder, and the contact information for such Potential Bidder (each a “**Phase 1 Qualified Bidder**”).
7. The Monitor, in consultation with the Applicants, will prepare and send to each Phase 1 Qualified Bidder a confidential information package providing additional information considered relevant to the Opportunity (the “**Confidential Information Package**”).
8. The Applicants, with the consent of the Monitor, reserve the right to limit any Phase 1 Qualified Bidder’s access to any confidential information (including any information in the Confidential Information Package or a data room) and to customers and suppliers of the Applicants, where, in the Applicants' opinion after consultation with the Monitor, such access could negatively impact the SISP, the ability to maintain the confidentiality of the confidential information, the Business or the Property.

Due Diligence

9. The Monitor, in consultation with the Applicants, shall in its reasonable business judgment and subject to the Applicants' competitive and other business considerations, afford each Phase 1 Qualified Bidder such access to due diligence material and information relating to the Property and Business as they deem appropriate. Due diligence access may include access to electronic data rooms, on-site inspections, and other matters, which a Phase 1 Qualified Bidder may reasonably request and as to which the Applicants in consultation with the Monitor, may agree. The Monitor will designate a representative to coordinate all

reasonable requests for additional information and due diligence access from Phase 1 Qualified Bidders and the manner in which such requests must be communicated.

10. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any transaction they may enter into with the Applicants.

Non-Binding Letters of Intent from Phase 1 Qualified Bidders

11. A Phase 1 Qualified Bidder that wishes to pursue the Opportunity further must deliver a non-binding letter of interest (an “**LOI**”) to the Monitor and the Applicants in accordance with this SISP Procedure at the addresses specified in Schedule “A” hereto (including by email) so as to be received by them no later than 5:00 PM (Eastern Time) on February 26, 2021, or such later date or time as may be agreed to by the Monitor, with the consent of the Applicants (the “**Phase 1 Bid Deadline**”).
12. Subject to paragraph 13, an LOI so submitted will be considered a qualified LOI (each a “**Qualified LOI**”) only if:
 - (a) in the case of a proposal to acquire all, substantially all or a portion of the Property (a “**Sale Proposal**”), it identifies or contains the following:
 - (i) the Qualified Phase 1 Bidder and representatives thereof who are authorized to appear and act on behalf of the Qualified Phase 1 Bidder for all purposes regarding the transaction;
 - (ii) the identity of each entity or person that will be sponsoring or participating in or benefiting from the transaction contemplated by the LOI;
 - (iii) the purchase price or price range in Canadian dollars, including details of any liabilities to be assumed by the Phase 1 Qualified Bidder and key assumptions supporting the valuation;
 - (iv) a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
 - (v) evidence of the financial capability of the Phase 1 Qualified Bidder to consummate the transaction and the expected structure and financing of the transaction;
 - (vi) a description of the liabilities and obligations to be assumed by the Phase 1 Qualified Bidder along with information sufficient for the Monitor and the Applicants to determine that the Phase 1 Qualified Bidder has sufficient ability to satisfy and perform any liabilities or obligations to be assumed;
 - (vii) a description of the conditions and approvals required for the Phase 1 Qualified Bidder to be in a position to submit a final and binding offer,

- including any anticipated corporate, securityholder or other internal approvals and any anticipated impediments for obtaining such approvals;
- (viii) an outline of any additional due diligence required to be conducted in order to submit a final and binding offer;
 - (ix) a description of all conditions to closing that the Phase 1 Qualified Bidder expects to include in its final and binding offer, including without limitation any regulatory approvals and any form of agreement required from a government body, stakeholder or other third party (“**Third Party Agreement**”) and an outline of the principal terms thereof; and
 - (x) any other terms or conditions of the Sale Proposal that the Phase 1 Qualified Bidder believes are material to the transaction;
- (b) in the case of a proposal to make an investment in, restructure, recapitalize, reorganize or refinance the Business or the Applicants (each an “**Investment Proposal**”), it identifies or contains the following:
- (i) the Qualified Phase 1 Bidder and representatives thereof who are authorized to appear and act on behalf of the Qualified Phase 1 Bidder for all purposes regarding the transaction;
 - (ii) the identity of each entity or person that will be sponsoring or participating in or benefiting from the transaction contemplated by the LOI;
 - (iii) a description of how the Phase 1 Qualified Bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization;
 - (iv) the aggregate amount of the equity and/or debt investment to be made in the Business and/or the Applicants in Canadian dollars;
 - (v) key assumptions supporting the Phase 1 Qualified Bidder’s valuation;
 - (vi) a description of the Phase 1 Qualified Bidder’s proposed treatment of any obligations or liabilities, including, without limitation, material contracts and employees;
 - (vii) information sufficient for the Monitor and the Applicants to determine that the Phase 1 Qualified Bidder has the ability to satisfy and perform any liabilities or obligations assumed pursuant to subparagraph (iv) above;
 - (viii) the underlying assumptions regarding the pro forma capital structure (including the form and amount of anticipated equity and/or debt levels, debt service fees, interests or dividend rates, amortization, voting rights or other protective provisions (as applicable), redemption, prepayment or repayment attributes and any other material attributes of the investment);

- (ix) a specific indication of the sources of capital for the Phase 1 Qualified Bidder and the structure and financing of the transaction;
 - (x) a description of the conditions and approvals required for the Phase 1 Qualified Bidder to be in a position to submit a final and binding offer, including any anticipated corporate, securityholder or other internal approvals and any anticipated impediments for obtaining such approvals;
 - (xi) an outline of any additional due diligence required to be conducted in order to submit a final and binding offer;
 - (xii) a description of all conditions to closing that the Phase 1 Qualified Bidder expects to include in its final and binding offer, including without limitation, any regulatory approvals and any Third Party Agreement required and an outline of the principal terms thereof; and
 - (xiii) any other terms or conditions of the Investment Proposal that the Phase 1 Qualified Bidder believes are material to the transaction; and
- (c) in the case of either a Sale Proposal or an Investment Proposal, it contains such other information as reasonably requested by the Monitor after consultation with the Applicants.
13. The Monitor, with the consent of the Applicants, and in consultation with the DIP Lender, may waive compliance with any one or more of the requirements specified above and deem such non-compliant bids to be a Qualified LOI.

Preliminary Assessment of Phase 1 Bids and Subsequent Process

14. Following the Phase 1 Bid Deadline, the Monitor in consultation with the Applicants and the DIP Lender will assess the Qualified LOIs. If it is determined by the Monitor, in consultation with the Applicants and the DIP Lender, that a Phase 1 Qualified Bidder that has submitted a Qualified LOI: (i) has a bona fide interest in completing a Sale Proposal or Investment Proposal (as the case may be); and (ii) has the financial capability (based on availability of financing, experience and other considerations) to consummate such a transaction based on the financial information provided, then such Phase 1 Qualified Bidder will be deemed a “**Phase 2 Qualified Bidder**”, provided that the Monitor may, in its reasonable business judgment and with the consent of the Applicants, limit the number of Phase 2 Qualified Bidders (and thereby eliminate any bidders from the process) taking into account the factors identified in paragraph 15 below and any material adverse impact on the operations and performance of the Applicants. Only Phase 2 Qualified Bidders shall be permitted to proceed to Phase 2 of the SISF. No Phase 1 Qualified Bidder that has submitted a Qualified LOI shall be deemed not to be a Phase 2 Qualified Bidder without the approval of the Monitor.
15. As part of the assessment of Qualified LOIs and the determination of the process subsequent thereto, the Monitor and the Applicants, in consultation with the DIP Lender, shall determine the process and timing to be followed in pursuing Qualified LOIs based on

such factors and circumstances as they consider appropriate in the circumstances including, but not limited to: (i) the number of Qualified LOIs received; (ii) the extent to which the Qualified LOIs relate to the same Property or Business or involve Investment Proposals predicated on certain Property or Business; (iii) the scope of the Property or Business to which any Qualified LOIs may relate; (iv) the conditions to closing contained in the Qualified LOIs; and (v) whether to proceed by way of sealed bid or auction (with or without a stalking horse bidder) with respect to some or all of the Property.

16. Upon the determination by the Monitor and the Applicants, in consultation with the DIP Lender, of the manner in which to proceed to Phase 2 of the SISP, the Monitor and the Applicants, in consultation the DIP Lender, will prepare a bid process letter for Phase 2 (the “**Bid Process Letter**”), and the Bid Process Letter will be: (i) sent by the Monitor to all Phase 2 Qualified Bidders as soon as practically possible following the Phase 1 Bid Deadline; and (ii) posted by the Monitor on the Monitor’s Website.
17. Notwithstanding the process and deadlines outlined above with respect to Phase 1 of the SISP and the process to supplement Phase 2 by way of the Bid Process Letter,
 - (a) the Monitor may, with the consent of the Applicants and in consultation with the DIP Lender, at any time:
 - (i) in accordance with paragraph 39 herein, pause, terminate, amend or modify the SISP or this SISP Procedure;
 - (ii) remove any portion of the Business and the Property from the SISP;
 - (iii) establish further or other procedures for Phase 1;
 - (b) the Applicants may, with the consent of the Monitor and in consultation with the DIP Lender, at any time bring a motion to the Court to seek approval of:
 - (i) a sale of, or investment in, all or part of the Property or the Business whether or not such sale or investment is in accordance with the terms or timelines set out in this SISP Procedure or the Bid Process Letter; or
 - (ii) a stalking horse agreement in respect of some or all of the Property or Business and related bid procedures in respect of such Property.

PHASE 2: FORMAL OFFERS AND SELECTION OF SUCCESSFUL BIDDER

18. Paragraphs 19 to 34 below and the conduct of Phase 2 are subject to paragraphs 14 to 17, above, any adjustments made to Phase 2 in accordance with the Bid Process Letter and any further Court order regarding the SISP.

Formal Binding Offers

19. Phase 2 Qualified Bidders that wish to make a formal offer to purchase or make an investment in the Applicants or their Property or Business shall submit a binding offer (a

“**Phase 2 Bid**”) that complies with all of the following requirements to the Monitor and the Applicants at the addresses specified in Schedule “A” hereto (including by email), so as to be received by them no later than the date set out in the Bid Process Letter (the “**Phase 2 Bid Deadline**”):

- (a) the bid shall comply with all of the requirements set forth in paragraph 12 above in respect of Phase 1 Qualified LOIs;
- (b) the bid (either individually or in combination with other bids that make up one bid) is an offer to purchase or make an investment in some or all of the Applicants or their Property or Business and is consistent with any necessary terms and conditions established by the Applicants and the Monitor and communicated to Phase 2 Qualified Bidders;
- (c) the bid includes a letter stating that the Phase 2 Qualified Bidder’s offer is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Phase 2 Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
- (d) the bid includes duly authorized and executed transaction agreements, including the purchase price (in an exact figure and not expressed as a range), investment amount and any other key economic terms expressed in Canadian dollars (the “**Purchase Price**”), together with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such agreements), and proposed order to approve the transaction by the Court;
- (e) the bid include a blackline comparison between the transaction agreements submitted and the template provided to Phase 2 Qualified Bidder in the data room;
- (f) the bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Applicants and the Monitor to make a determination as to the Phase 2 Qualified Bidder’s financial and other capabilities to consummate the proposed transaction;
- (g) the bid is not conditioned on: (i) the outcome of unperformed due diligence by the Phase 2 Qualified Bidder, apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which was withheld in Phase 1 from the Phase 2 Qualified Bidder; or (ii) obtaining financing, but may be conditioned upon the Applicants receiving the required approvals or amendments relating to the licenses required to operate its business, if necessary;
- (h) the bid fully discloses the identity of each entity that will be (directly or indirectly) entering into the transaction or the financing (including through the issuance of debt in connection with such bid), or that is participating or benefiting from such bid, and such disclosure shall include, without limitation: (i) in the case of a Phase 2 Qualified Bidder formed for the purposes of entering into the proposed transaction,

the identity of each of the actual or proposed direct or indirect equity holders of such Phase 2 Qualified Bidder and the terms and participation percentage of such equity holder's interest in such bid; and (ii) the identity of each entity that has or will receive a benefit from such bid from or through the Phase 2 Qualified Bidder or any of its equity holders and the terms of such benefit;

- (i) for a Sale Proposal, the bid includes a commitment by the Phase 2 Qualified Bidder to provide a deposit in the amount of not less than 10% of the Purchase Price offered upon the Phase 2 Qualified Bidder being selected as the Successful Bidder;
 - (j) for an Investment Proposal, the bid includes a commitment by the Phase 2 Qualified Bidder to provide a deposit in the amount of not less than 10% of the total new investment contemplated in the bid upon the Phase 2 Qualified Bidder being selected as the Successful Bidder;
 - (k) the bid includes acknowledgements and representations of the Phase 2 Qualified Bidder that the Phase 2 Qualified Bidder: (i) confirms that the transaction is on an "as is, where is" basis; (ii) has had an opportunity to conduct any and all due diligence regarding the Property, the Business and the Applicants prior to making its offer (apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which were withheld in Phase 1 from the Phase 2 Qualified Bidder); (iii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its bid; and (iv) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Business, the Property, or the Applicants or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the applicable Applicants;
 - (l) the bid contains other information required by the Monitor in consultation with the Applicants including, without limitation, such additional information as may be required in the event Phase 2 is supplemented in accordance with paragraph 16 to contemplate that an auction of certain Property be conducted; and
 - (m) the bid is received by the Phase 2 Bid Deadline.
20. Following the Phase 2 Bid Deadline, the Monitor and the Applicants will assess the Phase 2 Bids received. The Monitor, in consultation with the Applicants and the DIP Lender, will designate the most competitive bids that comply with the foregoing requirements to be "**Qualified Bids**". Only Phase 2 Qualified Bidders whose bids have been designed as Qualified Bids are eligible to become the Successful Bidder(s).
21. The Monitor, with the consent of the Applicants and in consultation with the DIP Lender, may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant Phase 2 Bids to be a Qualified Bid.

22. The Monitor shall notify each Phase 2 Qualified Bidder in writing as to whether its Phase 2 Bid constituted a Qualified Bid within ten (10) business days of the Phase 2 Bid Deadline, or at such later time as the Monitor deems appropriate.
23. If the Applicants, in consultation with the Monitor and the DIP Lender, are not satisfied with the number or terms of the Qualified Bids, the Applicants may, in consultation with the DIP Lender and with the approval of the Monitor, extend the Phase 2 Bid Deadline, or the Applicants may amend the SISP or this SISP Procedure in accordance with the terms set out herein.
24. The Monitor and the Applicants may, in consultation with the DIP Lender, aggregate separate Phase 2 Bids from unaffiliated Phase 2 Qualified Bidders to create one Qualified Bid.

Evaluation of Competing Bids

25. A Qualified Bid will be evaluated based upon several factors including, without limitation: (i) the Purchase Price and the value provided by such bid; (ii) the identity, circumstances and ability of the Phase 2 Qualified Bidder to successfully complete such transactions; (iii) the proposed transaction documents; (iv) factors affecting the speed, certainty and value of the transaction; (v) the assets or liabilities included or excluded from the bid; (vi) any related restructuring costs; and (vii) the likelihood and timing of consummating such transaction, each as determined by the Monitor and the Applicants, in consultation with the DIP Lender.

Selection of Successful Bid

26. The Monitor and the Applicants, in consultation with the DIP Lender, will: (a) review and evaluate each Qualified Bid, provided that each Qualified Bid may be negotiated between the Applicants, the Monitor and the applicable Phase 2 Qualified Bidder, and may be amended, modified or varied to improve such Phase 2 Qualified Bid as a result of such negotiations; and (b) identify the highest or otherwise best bid (the “**Successful Bid**”, and the Phase 2 Qualified Bidder making such Successful Bid, the “**Successful Bidder**”) for any particular Property or the Business in whole or part. The determination of any Successful Bid by the Applicants, with the assistance and approval of the Monitor, and in consultation with the DIP Lender, shall be subject to approval by the Court.
27. The Applicants shall have no obligation to enter into a Successful Bid, and they reserve the right, in consultation with the Monitor and the DIP Lender, to reject any or all Phase 2 Qualified Bids.
28. Notwithstanding the process and deadlines outlined above with respect to Phase 2 of the SISP and the process to supplement Phase 2 by way of the Bid Process Letter
 - (a) the Monitor may, in consultation with the DIP Lender and with the consent of the Applicants, at any time:

- (i) in accordance with paragraph 39 herein, pause, terminate, amend or modify the SISP or this SISP Procedure;
 - (ii) remove any portion of the Business and the Property from the SISP;
 - (iii) establish further or other procedures for Phase 2;
- (b) the Applicants may, in consultation with the DIP Lender and with the consent of the Monitor, at any time bring a motion to the Court to seek approval of:
- (i) a sale of, or investment in, all or part of the Property or the Business whether or not such sale or investment is in accordance with the timelines set out in this SISP Procedure or the Bid Process Letter; or
 - (ii) a stalking horse agreement in respect of some or all of the Property or Business and related bid procedures in respect of such Property.

Sale Approval Motion Hearing

29. At the hearing of any motion to approve any transaction with a Successful Bidder (the “**Sale Approval Motion**”), the Applicants shall seek, among other things, approval from the Court to consummate such Successful Bid. To the extent other Phase 2 Qualified Bids other than the Successful Bid are in respect of the same Property as such Successful Bid, such other Phase 2 Qualified Bids shall be deemed to be rejected on and as of the date of approval of the Successful Bid by the Court.
30. For the avoidance of doubt, the completion of any Sale Proposal or Investment Proposal shall be subject to the approval of the Court and the requirement of approval of the Court may not be waived.

Confidentiality and Access to Information

31. The Monitor and the Applicants and their respective advisors make no representation or warranty as to the information contained in the Confidential Information Package, data room or otherwise made available pursuant to the SISP, except in respect of the Applicants to the extent expressly contemplated in any definitive agreement with a Successful Bidder ultimately executed and delivered by the Applicants.
32. Participants and prospective participants in the SISP shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Potential Bidders, Phase 1 Qualified Bidders, Phase 2 Qualified Bidders, Phase 2 Qualified Bids, the details of any bids submitted or the details of any confidential discussions or correspondence between the Applicants, the Monitor and such other bidders or Potential Bidders in connection with the SISP, except to the extent the Applicants, with the approval of the Monitor and consent of the applicable participants, are seeking to combine separate bids from Phase 1 Qualified Bidders or Phase 2 Qualified Bidders.

33. Notwithstanding anything contained herein, forthwith following the Phase 1 Bid Deadline, the DIP Lender shall be entitled to receive all LOIs from the Applicants on a confidential basis pursuant to the DIP Term Sheet regardless of any confidentiality restrictions that may appear in any LOI. Further, the DIP Lender, having provided written notice to the Monitor that it will not participate in the SISP as a Potential Bidder, will be entitled to be consulted throughout the SISP and, will have access to copies of all bidder information including but not limited to, bidder solicitation materials, LOIs, Phase 2 Bids, Qualified Bids, Successful Bids and any definitive agreements in connection therewith, together with weekly updates from the Monitor on the SISP, provided that the DIP Lender has entered into confidentiality arrangements satisfactory to the Applicants and the Monitor. For greater certainty, nothing herein prevents the DIP Lender from participating in any transaction involving the Applicants should the SISP terminate or as permitted by the Bid Process Letter.
34. In addition to the consultation rights granted to the Monitor and the DIP Lender, herein, the Applicants and the Monitor may consult with any other parties with a material interest in the CCAA Proceedings regarding the status of and material information and developments relating to the SISP to the extent considered appropriate by such party (subject to paragraph 32 and taking into account, among other things, whether any particular party or any of its affiliates is a Potential Bidder, Phase 1 Qualified Bidder, Phase 2 Qualified Bidder or other participant or prospective participant in the SISP or involved in a bid), provided that such parties shall have entered into confidentiality arrangements satisfactory to the Applicants and the Monitor.

Supervision of the SISP

35. The Monitor shall oversee, in all respects, the conduct of the SISP and, without limitation to that role, the Monitor will participate in the SISP in the manner set out in this SISP Procedure, the SISP Approval Order, the Initial Order and any other orders of the Court, and is entitled to receive all information in relation to the SISP.
36. This SISP does not, and will not be interpreted to, create any contractual or other legal relationship between the Applicants or the Monitor and any Phase 1 Qualified Bidder, any Phase 2 Qualified Bidder or any other party, other than as specifically set forth in a definitive agreement that may be entered into with the Applicants.
37. Without limiting the preceding paragraph, the Monitor shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, Phase 1 Qualified Bidder, Phase 2 Qualified Bidder, the Successful Bidder, the Applicants, the DIP Lender or any other creditor or other stakeholder of the Applicants, for any act or omission related to the process contemplated by this SISP Procedure, except to the extent such act or omission is the result from its gross negligence or wilful misconduct. By submitting a bid, each Phase 1 Qualified Bidder, Phase 2 Qualified Bidder, or Successful Bidder shall be deemed to have agreed that it has no claim against the Monitor for any reason whatsoever, except to the extent that such claim is the result of gross negligence or wilful misconduct of the Monitor.

38. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any LOI, Phase 2 Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
39. The Monitor shall have the right to modify the SISP and this SISP Procedure (including, without limitation, pursuant to the Bid Process Letter) in consultation with the DIP Lender and with the prior approval of the Applicants, if, in its reasonable business judgment, such modification will enhance the process or better achieve the objectives of the SISP; provided that the Service List in the CCAA Proceedings shall be advised of any substantive modification to the procedures set forth herein.

SCHEDULE “A”

The Monitor:

FTI Consulting Canada Inc.

TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Jeff Rosenberg and Jodi Porepa

Email: Jeffrey.Rosenberg@fticonsulting.com / Jodi.Porepa@fticonsulting.com

with copies to:

Cassels Brock & Blackwell LLP

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40 King Street West
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Attention: Ryan Jacobs and Jane Dietrich

Email: rjacobs@cassels.com / jdietrich@cassels.com

The Applicants:

The FIGR Group

C/O Bennett Jones LLP

100 King Street West, Suite 3400
Toronto, ON M5X 1A5

Attention: Sean Zweig and Mike Shakra

Email: zweigs@bennettjones.com
shakram@bennettjones.com

**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

SISP APPROVAL ORDER

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

Sean Zweig (LSO# 573071)
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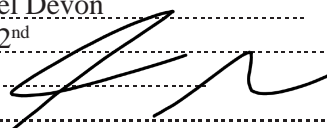
Lawyers for the Applicants

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

affidavit of Michael Devon

sworn before me, this 2nd

day of June, 2021

A handwritten signature in black ink, appearing to be the name of the commissioner, written over the signature line of the affidavit text.

.....
A COMMISSIONER FOR TAKING AFFIDAVITS

FIGR BRANDS, INC.

- AND -

CANADA'S ISLAND GARDEN INC.

- AND -

102604 P.E.I. INC.

SUBSCRIPTION & SHARE PURCHASE AGREEMENT

DATED MAY 25, 2021

ARTICLE 1 INTERPRETATION	2
1.1 Definitions.....	2
1.2 Actions on Non-Business Days.....	11
1.3 Currency and Payment Obligations.....	11
1.4 Calculation of Time.....	11
1.5 Additional Rules of Interpretation.....	11
1.6 Exhibits and Schedules.....	12
ARTICLE 2 PURCHASE OF PURCHASED SHARES, SUBSCRIPTION FOR SUBSCRIBED SHARES AND ASSUMPTION OF LIABILITIES	13
2.1 Purchase and Sale of the Purchased Shares & Subscription for Subscribed Shares.....	13
2.2 Deposit.....	13
2.3 Share Purchase Price.....	13
2.4 Subscription Price.....	13
2.5 Allocation of Value Regarding Transferred Assets.....	14
ARTICLE 3 TRANSFER OF CERTAIN ASSETS AND LIABILITIES	14
3.1 Transfer of Transferred Assets to Purchased Entity.....	14
3.2 Transfer of Excluded Liabilities to Residual Co.	14
3.3 Transfer of Excluded Assets and Excluded Contracts to Residual Co.	15
ARTICLE 4 REPRESENTATIONS AND WARRANTIES	15
4.1 Representations and Warranties as to the Vendor.....	15
4.2 Representations and Warranties as to the Purchased Entity.....	16
4.3 Representations and Warranties as to the Purchaser.....	17
4.4 As is, Where is.....	18
ARTICLE 5 COVENANTS	19
5.1 Target Closing Date.....	19
5.2 Motion for Approval and Vesting Order.....	19
5.3 Reconciliation of Overdue Receivables and HST Refunds.....	19
5.4 Interim Period.....	20
5.5 Access During Interim Period.....	21
5.6 Regulatory Approvals and Consents.....	21
5.7 Post-Target Closing Date.....	22
5.8 Insurance Matters.....	23
5.9 Books and Records.....	23
5.10 Use of Business Name.....	23
5.11 Payment of Certain Claims.....	23
5.12 Transport of Assets.....	24
5.13 Filing of Tax Election.....	24
5.14 Pre-Roll Equipment.....	24
ARTICLE 6 CLOSING ARRANGEMENTS	24
6.1 Closing.....	24
6.2 Closing Sequence.....	24
6.3 The Vendor's Closing Deliveries.....	25
6.4 The Purchaser's Closing Deliveries.....	26
6.5 The Purchased Entity's Closing Deliveries.....	26

ARTICLE 7 CONDITIONS OF CLOSING	26
7.1 The Purchaser's Conditions.....	26
7.2 The Vendor's and Purchased Entity's Conditions.....	28
7.3 Monitor's Certificate	29
ARTICLE 8 TERMINATION	29
8.1 Grounds for Termination	29
8.2 Effect of Termination.	30
ARTICLE 9 GENERAL	31
9.1 Tax Returns.....	31
9.2 Survival.....	31
9.3 Expenses.	31
9.4 Public Announcements.	31
9.5 Notices.	32
9.6 Time of Essence.....	33
9.7 Further Assurances.	33
9.8 Entire Agreement.....	34
9.9 Waiver and Amendment.	34
9.10 Severability.....	34
9.11 Remedies Cumulative.....	34
9.12 Governing Law.	34
9.13 Dispute Resolution.....	34
9.14 Attornment.....	34
9.15 Successors and Assigns.	35
9.16 Assignment.	35
9.17 No Liability.....	35
9.18 Third Party Beneficiaries.....	35
9.19 Counterparts.....	35
EXHIBIT "A" MARCH 31, 2021 BALANCE SHEET	A-1
EXHIBIT "B" PURCHASED ENTITY DISBURSEMENT BUDGET	A-2
SCHEDULE "A" FORM OF APPROVAL AND VESTING ORDER	A-1
SCHEDULE "B" EXCLUDED ASSETS	B-1
SCHEDULE "C" EXCLUDED CONTRACTS	C-2
SCHEDULE "D" EXCLUDED LIABILITIES	D-1
SCHEDULE "E" ENCUMBRANCES TO BE DISCHARGED	E-1
SCHEDULE "F" TRANSFERRED ASSETS	F-1
SCHEDULE "G" ASSUMED LIABILITIES	G-1
SCHEDULE "H" PERMITTED ENCUMBRANCES	H-1
SCHEDULE "I" ADDITIONAL SYSTEMS AND SOFTWARE FOR MOU	I-2

SUBSCRIPTION & SHARE PURCHASE AGREEMENT

THIS SUBSCRIPTION & SHARE PURCHASE AGREEMENT dated May 25, 2021 is made by and between:

FIGR BRANDS, INC., a corporation incorporated under the laws of British Columbia

(hereinafter, the "**Vendor**")

- and -

102604 P.E.I. INC., a corporation incorporated under the laws of Prince Edward Island

(hereinafter, the "**Purchaser**")

- and -

CANADA'S ISLAND GARDEN INC., a corporation incorporated under the laws of Prince Edward Island

(hereinafter, the "**Purchased Entity**")

RECITALS:

WHEREAS the Vendor is the owner of the Purchased Shares;

AND WHEREAS the Purchased Entity holds Cannabis Licenses under the *Cannabis Act* (Canada) and the *Excise Act, 2001* (Canada) for the sale, processing and cultivation of cannabis;

AND WHEREAS the Vendor wishes to sell to the Purchaser, and the Purchaser wishes to purchase from the Vendor, the Purchased Shares on the terms and conditions set forth in this Agreement;

AND WHEREAS the Purchaser wishes to subscribe for and purchase the Subscribed Shares from the Purchased Entity;

AND WHEREAS the Purchased Entity wishes to acquire the Transferred Assets at the request of the Purchaser;

AND WHEREAS the Purchased Entity wishes to assign and transfer the Excluded Liabilities and the Excluded Assets, if any, to Residual Co.;

AND WHEREAS on January 21, 2021, pursuant to the Initial Order: (i) the CCAA Applicants obtained relief under the CCAA; and (ii) FTI Consulting Canada Inc. was appointed as Monitor in the CCAA Proceedings;

AND WHEREAS on January 29, 2021, pursuant to the SISP Approval Order, the Monitor, with the assistance of its affiliate, FTI Capital Advisors - Canada ULC, and the CCAA Applicants, were authorized and directed to carry out the SISP in accordance with its terms;

AND WHEREAS the Purchaser has been selected as a Phase 2 Qualified Bidder, as defined in the SISP, and with the consent of the CCAA Applicants and the Monitor has submitted this Agreement;

NOW THEREFORE in consideration of the covenants and mutual promises set forth in this Agreement (including the recitals hereof) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions.

In this Agreement.

"**Action**" means any claim, action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity and by or before a Governmental Authority.

"**Adjusted Subscription Price**" has the meaning set out in Section 2.4.

"**Affiliate**" means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to "control" another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term "controlled" shall have a similar meaning.

"**Agreement**" means this Subscription and Share Purchase Agreement between FIGR Brands, Inc., Canada's Island Garden Inc. and 102604 P.E.I. Inc., as may be amended, supplemented, restated or otherwise modified in accordance with the terms hereof.

"**Allocation Statement**" has the meaning set out in Section 2.5.

"**Applicable Law**" means, with respect to any Person, property, transaction, event or other matter, any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, Order (including any securities laws or requirements of stock exchanges and any consent decree or administrative Order) or other requirement having the force of law ("**Law**"), in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.

"**Approval and Vesting Order**" means an order issued by the Court substantially in the form attached hereto as Schedule "A" and otherwise acceptable to the Purchaser, the Vendor and the Monitor, each acting reasonably: (i) approving the Transactions; (ii) vesting in the Purchased Entity all the right, title and interest of the Vendor in and to the Transferred Assets, free and clear from any Encumbrances, except for the Permitted Encumbrances (and, to the extent required, assigning any Contracts from the Vendor to the Purchased Entity), (iii) vesting in the Purchaser (or as it may direct) all the right, title and interest of the Vendor in and to the Purchased Shares, free and clear from any Encumbrances; (iv) authorizing and directing the Purchased Entity to issue the Subscribed Shares, and vesting in the Purchaser (or as it may direct) all right, title and interest in and to the Subscribed Shares, free and clear of any Encumbrances; (v)

vesting out of the Purchased Entity all Excluded Assets, if any, Excluded Contracts and Excluded Liabilities and discharging all Encumbrances against the Purchased Entity other than Permitted Encumbrances; and (vi) directing the Vendor to pay the amounts described in Section 5.11 hereof.

"Assumed Liabilities" means (a) Liabilities specifically and expressly designated by the Purchaser as assumed Liabilities in Schedule "G" (which, for the avoidance of doubt, may be amended by the Purchaser by submitting an amended list no later than ten Business Days before the Target Closing Date, provided that such amended list shall in any event include those Liabilities listed under the Statement of Trade Payables); (b) Liabilities which relate to the Business under any Contracts, Permits and Licenses or Permitted Encumbrances (in each case, to the extent forming part of the Retained Assets or the Transferred Assets) arising out of events or circumstances that occur after the Closing; (c) Liabilities of the Purchased Entity which are to be performed after the Closing (including for the avoidance of doubt, Transaction Taxes), (d) the Transferred Asset Promissory Note and (e) the Excluded Liability Promissory Note.

"Authorization" means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Authority having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person's property or business and affairs (including any zoning approval, mining permit, development permit or building permit) or from any Person in connection with any easements, contractual rights or other matters.

"Biological Assets" means, collectively, flowering plants, vegetative plants, mother plants and fresh cannabis in drying rooms.

"Books and Records" means all books, records, files, papers, books of account and other financial data including Tax Returns related to the Retained Assets and the Transferred Assets in the possession, custody or control of the Vendor, including sales and advertising materials, sales and purchase data, trade association files, research and development records, lists of present and former customers and suppliers, personnel, employment and other records, and all records, data and information stored electronically, digitally or on computer-related media.

"Business" means the business and operations carried on by the Purchased Entity as at the date of this Agreement and as at the date of Closing pertaining to the sale, processing and cultivation of cannabis.

"Business Day" means any day except Saturday, Sunday or any day on which banks are generally not open for business in the Province of Ontario or the Province of Prince Edward Island.

"Cannabis Licenses" means all Authorizations related to cannabis and issued by Health Canada to the Purchased Entity, including Authorizations to plant, grow, cultivate, extract, produce, process, store, destroy, sell, provide, ship, deliver, transport and/or distribute cannabis under Applicable Law.

"Cash Payment" has the meaning set out in Section 2.4(a).

"Caused by Smith" means where any action by Smith, or direction or instruction given by Smith, gives rise to a result or consequence where that result or consequence is foreseeable, on a reasonable person standard, at the time the action occurred or the direction or instruction was given, provided that such action, direction, or instruction by Smith was not consented to by the Monitor or the Vendor.

"CCAA" means the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36.

"CCAA Applicants" means collectively, FIGR Brands, Inc., Canada's Island Garden Inc. and FIGR Norfolk Inc.

"**CCAA Proceedings**" means the proceedings commenced by the CCAA Applicants under the CCAA.

"**Closing**" means the completion of the Transactions in accordance with the Closing Sequence and the other provisions of this Agreement.

"**Closing Balance Sheet**" means a balance sheet, certified by an officer of the Purchased Entity and acceptable to the Monitor, showing the value of the Purchased Entity's Current Assets as of the Friday immediately prior to the Closing Date, prepared in accordance with GAAP on a basis consistent with the accounting principles, methodologies, policies and practices used in the March 31, 2021 Balance Sheet as included in Exhibit "B" hereto, except that the Closing Balance Sheet will not include any incremental provisions, fair-value adjustments or write-downs of inventory carrying values that otherwise do not already exist on the March 31, 2021 Balance Sheet.

"**Closing Date**" means the date on which Closing occurs.

"**Closing Sequence**" has the meaning set out in Section 6.2.

"**Closing Time**" means the time on the Closing Date at which Closing occurs, as evidenced by the Monitor's Certificate.

"**Conditions Certificates**" has the meaning set out in Section 7.3.

"**Contracts**" means all written contracts, agreements, leases, understandings and arrangements that are Related to the Business to which the Purchased Entity is a party or will at Closing be a party by assignment following the transfer of the Transferred Assets to it or by which the Purchased Entity is bound or in which the Purchased Entity has, or will at Closing have, any rights, including any Personal Property Leases, any Real Property Leases and any Contracts in respect of Employees, in each case excluding Excluded Assets and Excluded Contracts, but including Transferred Assets.

"**Court**" means the Ontario Superior Court of Justice (Commercial List).

"**Current Assets**" means the sum of balance sheet captions on the Closing Balance Sheet consisting of Cash, Third Party Receivables, Prepaid Expenses, Biological Assets, Inventory and Other Current Assets; such that all captions referenced herein are prepared on a basis consistent with the accounting principles, methodologies, policies and practices used in the March 31, 2021 Balance Sheet, and shall not include any incremental provisions, fair value adjustments or write-downs of inventory carrying values that otherwise do not already exist on the March 31, 2021 Balance Sheet; for certainty, Current Assets shall include any Tax refunds owing to the Purchased Entity as of the Closing Date in respect of any Tax Returns filed for any period prior to Closing.

"**Deposit**" has the meaning set out in Section 2.2.

"**DIP Lender**" means Alliance One Tobacco Canada Inc.

"**Discharged**" means, in relation to any Encumbrance against any Person or upon any asset, undertaking or property, including all proceeds thereof, the full, final, complete and permanent waiver, release, discharge, cancellation, termination and extinguishment of such Encumbrance against such Person or upon such asset, undertaking or property and all proceeds thereof.

"**Employees**" means all individuals who, as of Closing Time, are employed by the Purchased Entity, whether on a full-time or part-time basis, whether unionized or non-unionized, including all individuals

who are on an approved and unexpired leave of absence and all individuals who have been placed on temporary lay-off which has not expired, but, for certainty, excludes any employees who are to be terminated pursuant to Section 7.1(g), and "**Employee**" means any one of them.

"**Encumbrances**" means all claims, Liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, liens, security interests, charges, hypothecs, trusts, deemed trusts (statutory or otherwise), judgments, writs of seizure or execution, notices of sale, contractual rights (including purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual rights) and encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise.

"**Encumbrances To Be Discharged**" means all Encumbrances on the Purchased Shares, Subscribed Shares, Retained Assets and the Transferred Assets, including without limitation the Encumbrances listed in Schedule "E", and excluding only the Permitted Encumbrances.

"**Excluded Assets**" means those assets listed in Schedule "B", an amended list of which may be delivered by the Purchaser no later than ten Business Days before the Target Closing Date.

"**Excluded Contracts**" means those contracts listed in Schedule "B", as may be amended by the list sent pursuant to Section 7.1(k).

"**Excluded Liabilities**" means all debts, obligations, Liabilities, Encumbrances, indebtedness, contracts, leases, agreements, undertakings, claims, rights and entitlements of any kind or nature whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or in equity and whether based in statute or otherwise) of or against the Purchased Entity or relating to any Excluded Assets and Excluded Contracts as at the Closing Time, other than Assumed Liabilities, including, *inter alia*, the non-exhaustive list of those certain Liabilities set forth in Schedule "D", any and all Liability relating to any change of control provision that may arise in connection with the change of control contemplated by the Transactions and to which the Purchased Entity may be bound as at the Closing Time, all Liabilities relating to or under the Excluded Contracts and Excluded Assets, Liabilities for Employees whose employment with the Purchased Entity or its Affiliates is terminated on or before Closing and all Liabilities to or in respect of the Purchased Entity's Affiliates.

"**Excluded Liability Assumption Agreement**" has the meaning set out in Section 3.2.

"**Excluded Liability Price**" has the meaning set out in Section 3.2.

"**Excluded Liability Promissory Note**" has the meaning set out in Section 3.2.

"**Filing Date**" means January 21, 2021.

"**GAAP**" means the generally accepted accounting principles in Canada, including without limitation, International Financial Reporting Standards (IFRS) published by the International Accounting Standards Board (IASB) and incorporated in Part I (International Financial Reporting Standards) of the CPA Canada Handbook, as applicable, and those approved or recommended by the Chartered Professional Accountants of Canada (CPA) or any successor institute, and published in the CPA Handbook – Accounting as in effect in the date hereof, applied on a consistent basis.

"**Governmental Authority**" means the government of Canada, or any other nation, or of any political subdivision thereof, whether state, provincial (including the government of Prince Edward Island),

territorial, municipal or local, and any agency, authority, instrumentality, regulatory body, court, arbitrator or arbitrators, tribunal, central bank or other entity exercising executive, legislative, judicial or arbitral, taxing, regulatory or administrative powers or functions (including any applicable stock exchange).

“**HST**” means the goods and services tax and harmonized sales tax imposed under Part IX of the *Excise Tax Act* (Canada).

“**HST Refunds**” has the meaning set out in Section 5.3(b).

"**Initial Order**" means the Initial Order of the Court dated January 21, 2021, as amended and restated on January 29, 2021 and as may be further amended, restated or varied from time to time.

"**Interim Period**" means the period from the date that this Agreement is entered into by the Parties to the Closing Time.

"**Investment Canada Act**" means the *Investment Canada Act*, R.S.C., 1985, c. 28. "Law" has the meaning set out in the definition of "Applicable Law".

"**Legal Proceeding**" means any litigation, Action, application, suit, investigation, hearing, claim, complaint, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar proceeding, before or by any court or other tribunal or Governmental Authority and includes any appeal or review thereof and any application for leave for appeal or review.

"**Liability**" means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“**Material Adverse Effect**” means any change, event, development, occurrence, facts, condition or effect (each, an “**Effect**”) that is, or would reasonably be expected to be, individually or in the aggregate with all other Effects, materially adverse to the Business or condition (financial or otherwise), assets, liabilities, operations, earnings of the Purchased Entity or results of the Business taken as a whole, *provided that* (a) an epidemic, pandemic or disease outbreak (and any public health measures enacted in response to a pandemic, including travel restrictions or lockdowns), including without limitation COVID-19, (b) a change in sales or forecasted sales, (c) a change in general economic, business, political or market conditions, or a development in the financial, banking, credit, debt, currency, capital or securities markets in general, including changes in interest rates; (d) any loss or threatened loss of, or adverse change or threatened adverse change in, the relationship of the Purchased Entity with any third party, including any of the Purchased Entity’s customers, employees, shareholders, financing sources, vendors, distributors, partners or suppliers as a direct result of the execution, announcement or performance of this Agreement; or (e) any Effect that is Caused by Smith, shall not qualify as a Material Adverse Effect.

"**Minority Shareholders**" means, collectively, 101845 P.E.I. Inc., Edwin P. Jewell, HAS Enterprises Inc., KAP Enterprises Inc. and Smith.

"**Minority Shares**" means the equity interests in the capital of the Purchased Entity held by the Minority Shareholders.

"**Monitor**" means FTI Consulting Canada Inc. in its capacity as court-appointed monitor in the CCAA Proceedings.

"Monitor's Certificate" means the certificate, substantially in the form attached as Schedule "B" to the Approval and Vesting Order, to be delivered by the Monitor to the Vendor and the Purchaser in accordance with Section 7.3, and thereafter filed by the Monitor with the Court.

"Order" means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

"Organizational Documents" means any trust document, charter, certificate or articles of incorporation or amalgamation, articles of amendment, articles of association, articles of organization, articles of continuance, bylaws, as amended, partnership agreement or similar formation or governing documents of a Person (excluding individuals).

"Outside Date" means July 31, 2021, or such other date as the Vendor and the Purchased Entity (with the consent of the Monitor and the DIP Lender) and the Purchaser may agree to in writing.

"Overdue Receivables" has the meaning set out in Section 5.3(a).

"Party" means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and **"Parties"** means more than one of them.

"Permits and Licenses" means the permits, licenses, Authorizations, approvals or other evidence of authority Related to the Business, including: (i) the permits, licenses, Authorizations, approvals or other evidence of authority Related to the Business and issued to, granted to, conferred upon, or otherwise created for, the Purchased Entity; and (ii) the Cannabis Licenses.

"Permitted Encumbrances" means the Encumbrances related to the Retained Assets and/or Transferred Assets listed in Schedule "H", an amended list of which may be agreed to by the Purchaser, Vendor, Purchased Entity and Monitor prior to the granting of the Approval and Vesting Order.

"Person" is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity.

"Personal Property" means all machinery, equipment, furniture, motor vehicles and other personal property that is Related to the Business, wherever located (including those in possession of suppliers, customers and other third parties).

"Personal Property Lease" means a lease, equipment lease, financing lease, conditional sales contract and other similar agreement relating to Personal Property to which the Purchased Entity is a party or under which it has rights to use Personal Property.

"Post-Target Cash Deficiency" has the meaning set out in Section 5.7(a)(ii).f

"Post-Target Period" has the meaning set out in Section 5.7(a)(i).

"Post-Target Period Payment" has the meaning set out in Section 5.7(a)(iii).

"Pre-Roll Equipment" has the meaning set out in Section 5.14.

"Pre-Roll Settlement Funds" has the meaning set out in Section 5.14.

"Professional Costs" means amounts owing to professional advisors in connection with the CCAA Proceedings, including, without limitation, CCAA Applicants' counsel, the Monitor and Monitor's counsel and any other financial advisor retained by the CCAA Applicants or Monitor.

"Purchase and Sale Transactions" means the transactions contemplated by this Agreement which provide for, among other things, (a) the acquisition from the Vendor by the Purchased Entity of the Transferred Assets in consideration for the Transferred Asset Purchase Price; (b) the assignment by the Purchased Entity to Residual Co. of the Excluded Liabilities, Excluded Assets, if any, and Excluded Contracts in consideration for the Excluded Liability Price; (c) the acquisition from the Vendor by the Purchaser of the Purchased Shares in consideration for the Share Purchase Price; and (d) the issuance by the Purchased Entity of the Subscribed Shares to the Purchaser in consideration for the Subscription Price, each on and subject to the terms set forth herein.

"Purchased Entity" means Canada's Island Garden Inc.

"Purchased Entity Disbursement Budget" means the disbursement budget as shown in Exhibit "C", as may be amended from time to time in accordance with the terms of this Agreement.

"Purchased Shares" means all of the issued and outstanding shares in the capital of the Purchased Entity owned by the Vendor.

"Purchaser" means 102604 P.E.I. Inc.

"Pyxus" means Pyxus International Inc.

"Real Property Lease" means the offer to lease between Twinprop Investments Inc. and the Purchased Entity dated January 1, 2021.

"Receipt Shortfall" has the meaning in Section 5.4(b).

"Related to the Business" means primarily (i) used in; (ii) arising from; or (iii) otherwise related to the Business or any part thereof.

"Representative" when used with respect to a Person means each director, officer, employee, consultant, financial adviser, legal counsel, accountant and other agent, adviser or representative of that Person.

"Residual Co." means a corporation to be incorporated as a wholly owned subsidiary of the Vendor, to which the Excluded Assets and Excluded Liabilities will be transferred as part of the Closing Sequence.

"Retained Assets" has the meaning set out in Section 3.3.

"Share Purchase Price" has the meaning set out in Section 2.3.

"SISP" means the Court-approved sale and investment solicitation process conducted further to and approved by the SISP Approval Order (including Schedule "B" thereto).

"SISP Approval Order" means the order of the Court dated January 29, 2021, among other things, approving the SISP.

"Smith" means Robert Alexander Smith.

"Straddle Period Tax Returns" has the meaning set out in Section 9.1.

"Statement of Trade Payables" means a statement from the Vendor, certified by an officer of the Purchased Entity and acceptable to the Monitor, setting out (a) a list of vendors that have provided goods and/or services to the Purchased Entity in the ordinary course of business from and after the Filing Date but have not been paid for such goods and services as at the Closing Time, and (b) the corresponding amounts owing to each such vendor.

"Statement of Adjustments" means a statement from the Vendor, certified by an officer of the Purchased Entity and acceptable to the Monitor, setting out the Working Capital Adjustment, which Statement of Adjustments is to be formulated in consultation with the Purchaser.

"Subscribed Shares" means 1000 Class A Voting Common Shares in the capital of the Purchased Entity, to be subscribed for by the Purchaser and issued by the Purchased Entity, in accordance with the terms of this Agreement.

"Subscription Price" has the meaning set out in Section 2.4.

"Target Closing Date" means June 25, 2021, or such other date as the Vendor (with the consent of the Monitor and the DIP Lender) and the Purchaser may agree to in writing.

"Tax Act" means the *Income Tax Act* (Canada).

"Tax Returns" means all returns, reports, declarations, designations, forms, elections, notices, filings, information returns, and statements in respect of Taxes that are filed or required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form.

"Taxes" or "Tax" means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, mining taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, license taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, social security premiums, workers' compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, HST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties and any liability for the payment of any amounts of the type described in this paragraph as a result any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any Person.

"Terminated Employees" means those individuals employed by the Purchased Entity whose employment will be terminated prior to Closing, as listed in a terminated employee list to be sent by the Purchaser to the Vendor and the Purchased Entity no later than ten Business Days before the Target Closing Date.

"Total Operating Costs" means the aggregate total dollar amount, excluding the amounts in respect of Professional Costs, shown in the line item captioned "Total Operating Costs" in the Purchased Entity Disbursement Budget for the period up until the Closing Date, as the same may be amended from time to time in accordance with Section 5.4(b).

"Transaction Taxes" means all documentary, stamp, transfer, sales and transfer taxes, registration charges and transfer fees, including HST, use, value added, and excise taxes and all filing and recording fees (and

any penalties and interest associated with such taxes and fees) or any other Tax consequences arising from, or relating to, or in respect of the consummation of the Transactions.

"Transactions" means all of the transactions contemplated by this Agreement, including the Purchase and Sale Transactions.

"Transferred Asset Bill of Sale" has the meaning set out in Section 3.1.

"Transferred Asset Promissory Note" has the meaning set out in Section 3.1.

"Transferred Asset Purchase Price" has the meaning set out in Section 3.1.

"Transferred Assets" means the assets to be transferred by the Vendor to the Purchased Entity, at the request and with the approval of the Purchaser, pursuant to the Closing Sequence, including without limitation all of the intellectual property of the Vendor, each as set out in Schedule "F", an amended list of which may be delivered by the Purchaser no later than ten Business Days before the Target Closing Date, but for certainty excluding the Excluded Assets, Excluded Contracts and the Excluded Liabilities.

"Transition Services MOU" means a memorandum of understanding between the Purchased Entity and Pyxus (or a subsidiary or affiliate thereof) to be, in form and substance acceptable to Pyxus and the Purchaser, and which shall be finalized on or before 10 Business Days following execution of this Agreement and include (a) a licence granted by Pyxus (or a subsidiary or affiliate thereof) to the Purchased Entity allowing the Purchased Entity to use, in its current form, certain inventory tracking software commonly referred to as "Sentri", on a royalty-free basis for a period of 180 days following the Closing Date, and otherwise on terms acceptable to Pyxus and the Purchaser, and (b) a right to access or use the SAP system, granted to the Purchased Entity, in the manner currently used by the Purchased Entity, for six months following the Closing Date, and for the payment by the Purchased Entity to Pyxus for consulting services related to the SAP system, as necessary, at the rate of US\$200/hour (provided that any work done by Pyxus personnel that is done in connection with transferring the SAP system away from the Purchased Entity or otherwise decoupling the Pyxus systems from the Purchased Entity systems shall not be considered consulting services and shall not be charged to the Purchased Entity), (c) provisions for the security and privacy of the Purchased Entity's data associated with the systems listed in Schedule "I", post-Closing, it being agreed that any related costs that are presently directly or indirectly paid by Pyxus will be transferred to the Purchased Entity on Closing, and (d) provisions for the wind-down or transfer of such systems in an orderly manner, all on such terms as are acceptable to the Purchased Entity, Pyxus, the Vendor and the Purchaser, as applicable, and in each case where terms shall be "acceptable" to a party, such party shall act reasonably in respect of agreeing to such terms.

"Vendor" means FIGR Brands, Inc.

"Working Capital Adjustment" means an amount calculated as:

- (a) the aggregate amounts owing by the Purchased Entity to its trade vendors for goods and services provided from and after the Filing Date but not yet paid as of the Closing Date, as set out in the Statement of Trade Payables,

plus
- (b) subject to Section 5.7, the amount by which, if any, the actual costs and expenses incurred by the Purchased Entity, or disbursements made by the Purchased Entity, during the Interim Period are less than the Total Operating Costs,

minus

- (c) subject to Section 5.7, the amount by which, if any, of the costs and expenses incurred by the Purchased Entity, or disbursements made by the Purchased Entity, during the Interim Period that are in excess of the Total Operating Costs,

minus

- (d) any Post-Target Cash Deficiency.

For clarity, the Working Capital Adjustment may be a negative number.

1.2 Actions on Non-Business Days

If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

1.3 Currency and Payment Obligations

Except as otherwise expressly provided in this Agreement, all dollar amounts referred to in this Agreement are stated in the lawful currency of Canada.

1.4 Calculation of Time

In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. Eastern time on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. Eastern time on the next succeeding Business Day.

1.5 Additional Rules of Interpretation

- (a) *Consents, Agreements, Approval, Confirmations and Notice to be Written.* Any consent, agreement, approval or confirmations from, or notice to, any party permitted or required by this Agreement shall be written consent, agreement, approval, confirmation, or notice, and email shall be sufficient.
- (b) *Gender and Number.* In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.
- (c) *Headings and Table of Contents.* The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.
- (d) *Section References.* Unless the context requires otherwise, references in this Agreement to Articles, Sections or Schedules are to Articles or Sections of this Agreement, and Schedules to this Agreement.
- (e) *Words of Inclusion.* Wherever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation" and

the words following "include", "includes" or "including" shall not be considered to set forth an exhaustive list.

- (f) *References to this Agreement.* The words "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Section or portion of it.
- (g) *Statute References.* Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.
- (h) *Document References.* All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules attached thereto.

1.6 Exhibits and Schedules

- (a) The following are the Exhibits and Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

EXHIBITS

- Exhibit "A" - March 31, 2021 Balance Sheet
- Exhibit "B" - Purchased Entity Disbursement Budget

SCHEDULES

- Schedule "A" - Form of Approval and Vesting Order
- Schedule "B" - Excluded Assets
- Schedule "C" - Excluded Contracts
- Schedule "D" - Excluded Liabilities
- Schedule "E" - Encumbrances to be Discharged
- Schedule "F" - Transferred Assets
- Schedule "G" - Assumed Liabilities
- Schedule "H" - Permitted Encumbrances
- Schedule "I" - Additional Systems and Software for MOU

- (b) Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Exhibits and Schedules and the interpretation provisions set out in this Agreement apply to the Exhibits and Schedules. Unless the

context otherwise requires, or a contrary intention appears, references in the Exhibits and Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

ARTICLE 2 PURCHASE OF PURCHASED SHARES, SUBSCRIPTION FOR SUBSCRIBED SHARES AND ASSUMPTION OF LIABILITIES

2.1 Purchase and Sale of the Purchased Shares & Subscription for Subscribed Shares

Subject to the terms and conditions of this Agreement, on the Closing Date in accordance with the Closing Sequence, (a) the Vendor shall sell, assign and transfer the Purchased Shares to the Purchaser, and the Purchaser shall purchase the Purchased Shares from the Vendor, free and clear of all Encumbrances, and (b) the Purchaser shall subscribe for and purchase from the Purchased Entity, and the Purchased Entity shall issue to the Purchaser, the Subscribed Shares, free and clear of all Encumbrances.

2.2 Deposit

The Purchaser shall pay [REDACTED] and any Post-Target Period Payment required to be paid by Section 5.7(a)(iii) (collectively, the "**Deposit**") to the Monitor, by wire transfer of immediately available funds, (a) in the case of the initial [REDACTED] on the second Business Day after execution by the Parties of this Agreement, and (b) in the case of Post-Target Period Payments, if any, on the date or dates required by Section 5.7(a)(iii), and the Deposit shall be held in escrow by the Monitor. If the Closing does not occur for any reason other than the Agreement having been terminated by the Vendor pursuant to Section 8.1(a)(iv), the Deposit will be forthwith refunded in full to the Purchaser (without interest, offset or deduction). If the Agreement is terminated by the Vendor pursuant to Section 8.1(a)(iv), the full amount of the Deposit shall become the property of, and shall be transferred to, the Vendor as liquidated damages (and not as a penalty) to compensate the Vendor for the expenses incurred and opportunities foregone as a result of the failure to close the Transactions; the retention of the Deposit in accordance with this Section 2.2 shall be the sole and exclusive remedy of the Vendor for a breach of this Agreement by the Purchaser.

2.3 Share Purchase Price

The purchase price for the Purchased Shares shall be [REDACTED] (the "**Share Purchase Price**"), which shall be paid on the Closing Date to the Monitor, on behalf of the Vendor, by wire transfer of immediately available funds to an account designated by the Monitor. The Share Purchase Price may be paid to the Monitor together with the Cash Payment.

2.4 Subscription Price

The subscription price for the Subscribed Shares shall be [REDACTED] (the "**Subscription Price**"), subject to the Working Capital Adjustment set out in Section 2.4(b), if any (the "**Adjusted Subscription Price**"). The Purchaser's obligation to pay the Adjusted Subscription Price, shall be:

- (a) Cash Consideration: on the Closing Date and in accordance with the Closing Sequence (i) the Purchaser shall pay an amount equal to the Adjusted Subscription Price less the Deposit to the Monitor, on behalf of the Purchased Entity (the "**Cash Payment**") by wire transfer of immediately available funds to an account designated by the Monitor; and (ii) the Deposit will be released to the Purchased Entity.

- (b) Working Capital Adjustment: if (i) the Working Capital Adjustment is a positive number, the Subscription Price shall be reduced by the amount of the Working Capital Adjustment; and (ii) the Working Capital Adjustment is a negative number, the Subscription Price shall be increased by the amount of Working Capital Adjustment; in each case, on a dollar for dollar basis. The Working Capital Adjustment shall be made in accordance with Sections 5.4(a), 5.4(b) and 5.7, and subject to the Statement of Adjustments which is to be delivered to the Purchaser 2 Business Days prior to the Closing Date, together with such back up documentation as may be reasonably requested by the Purchaser.

2.5 Allocation of Value Regarding Transferred Assets

Subject to Section 3.1, no later than 3 Business Days prior to the Closing Date or such other time as agreed to by the Purchaser, the Vendor, the Purchased Entity and the Monitor, the Vendor, the Purchased Entity and the Purchaser shall agree to an allocation of value of the Transferred Asset Purchase Price among the Transferred Assets, and such allocation shall be reflected in a statement of agreed allocations (the "**Allocation Statement**"). The Purchaser and Vendor agree that they will make all relevant tax and other filings in accordance with such Allocation Statement.

ARTICLE 3 TRANSFER OF CERTAIN ASSETS AND LIABILITIES

3.1 Transfer of Transferred Assets to Purchased Entity

On the Closing Date, the Transferred Assets shall be transferred to the Purchased Entity by the Vendor, in accordance with the Closing Sequence, pursuant to the Approval and Vesting Order and evidenced by a bill of sale and an assignment of intellectual property in form and substance acceptable to the Purchaser, the Vendor and the Monitor (collectively, the "**Transferred Asset Bill of Sale**") in consideration for the issuance of an interest-free promissory note by the Purchased Entity in favour of the Vendor (the "**Transferred Asset Promissory Note**") in the amount of [REDACTED] (the "**Transferred Asset Purchase Price**").

3.2 Transfer of Excluded Liabilities to Residual Co.

On the Closing Date, the Excluded Liabilities shall be assumed by Residual Co. and the Purchased Entity shall issue to Residual Co. an interest-free promissory note (the "**Excluded Liability Promissory Note**") in the amount equal to (a) the Adjusted Subscription Price minus (b) the Transferred Asset Purchase Price (the "**Excluded Liability Price**") in consideration for Residual Co. assuming the Excluded Liabilities. The Excluded Liabilities shall be assumed in accordance with the Closing Sequence, pursuant to the Approval and Vesting Order and evidenced by an assignment and assumption agreement in form and substance acceptable to the Purchaser, the Vendor and the Monitor (the "**Excluded Liability Assumption Agreement**"). Notwithstanding any other provision of this Agreement, neither the Purchaser nor the Purchased Entity shall assume or have any Liability for any of the Excluded Liabilities and all Excluded Liabilities shall be Discharged from the Purchased Entity and its assets, undertaking, business and properties as at and from and after the Closing Time, pursuant to the Approval and Vesting Order. For greater certainty, the Purchased Entity shall be solely liable for all Tax Liabilities and Transaction Taxes, if any, of the Purchased Entity arising in connection with the assignment of the Excluded Liabilities to Residual Co. and the assumption by Residual Co. of same.

3.3 Transfer of Excluded Assets and Excluded Contracts to Residual Co.

On the Closing Date, the Purchased Entity shall retain all of the assets owned by it on the date of this Agreement and any assets acquired by it up to and including Closing, including its Contracts, Permits and Licences and Books and Records (the "**Retained Assets**"), except for inventory sold in the ordinary course of business in the Interim Period and the Excluded Assets, if any, and Excluded Contracts. The Purchased Entity shall transfer the Excluded Assets, if any, and Excluded Contracts to Residual Co., in accordance with the Closing Sequence, on the Closing Date and same shall be vested in Residual Co. pursuant to the Approval and Vesting Order as evidenced by a bill of sale and assignment of contracts, in form and substance satisfactory to the Purchaser, Vendor, Purchased Entity and the Monitor (collectively, the "**Excluded Assets Bill of Sale**"), in consideration of the Excluded Liability Promissory Note.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties as to the Vendor

Subject to the issuance of the Approval and Vesting Order, the Vendor represents and warrants to the Purchaser as follows and acknowledges and agrees that the Purchaser is relying upon such representations and warranties in connection with the purchase by Purchaser of the Purchased Shares:

- (a) Incorporation and Status. The Vendor is a corporation incorporated and existing under the laws of the Province of British Columbia, is in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Corporate Authorization. The execution, delivery and performance by the Vendor of this Agreement has been authorized by all necessary corporate actions on the part of the Vendor.
- (c) No Conflict. The execution, delivery and performance by the Vendor of this Agreement do not or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of the Vendor.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding obligation of the Vendor, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.
- (e) Title to Purchased Shares. The Vendor is the registered and beneficial owner of the Purchased Shares.
- (f) Title to Transferred Assets. As at the Closing Time, the Vendor is the registered and beneficial owner of the Transferred Assets.
- (g) No Other Agreements to Purchase. Except for the Purchaser's rights under this Agreement, no Person has any contractual right, option or privilege for the purchase or acquisition from the Vendor of any of the Purchased Shares, the Retained Assets or the Transferred Assets.

- (h) No Commissions. There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the Transactions based on any arrangement or agreement.
- (i) Proceedings. There are no Legal Proceedings pending against the Vendor or, to the knowledge of the Vendor, threatened, with respect to, or in any manner affecting, title to the Purchased Shares, the Transferred Assets or the Retained Assets or which would reasonably be expected to enjoin, delay, restrict or prohibit the transfer of all or any part of the Purchased Shares or the Transferred Assets as contemplated by this Agreement or which would reasonably be expected to delay, restrict or prevent the Vendor from fulfilling any of its obligations set forth in this Agreement.
- (j) Residence of the Vendor. The Vendor is not a non-resident of Canada within the meaning of the Tax Act.

4.2 Representations and Warranties as to the Purchased Entity

Subject to the issuance of the Approval and Vesting Order, the Vendor and the Purchased Entity represent and warrant to the Purchaser as follows and acknowledge and agree that the Purchaser is relying upon such representations and warranties in connection with the purchase by the Purchaser of the Purchased Shares and the Subscribed Shares:

- (a) Incorporation and Status. The Purchased Entity is a corporation incorporated and existing under the laws of the Province of Prince Edward Island, in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Corporate Authorization. The execution, delivery and performance by the Purchased Entity of this Agreement, including the issuance of the Subscribed Shares, has been authorized by all necessary corporate action on the part of the Purchased Entity.
- (c) No Conflict. The execution, delivery and performance by the Purchased Entity of this Agreement does not or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of the Purchased Entity.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchased Entity and constitutes a legal, valid and binding obligation of the Purchased Entity, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.
- (e) Authorized and Issued Capital. The authorized capital of the Purchased Entity consists of an unlimited number of Class A Voting Common Shares, Class B Voting Common Shares, Class C Voting Common Shares, Class D Voting Common Shares, Class E Voting Common Shares, Class F Voting Common Shares, Class G Non-Voting Common Shares, Class H Non-Voting Common Shares, Class I Non-Voting Common Shares, Class J Non-Voting Common Shares, Class K Non-Voting Common Shares, and Class L Non-Voting Common Shares and an unlimited number of Class A Preferred Shares, Class B Preferred Shares, Class C Preferred Shares, Class D Preferred Shares, Class E Preferred Shares, Class F Preferred Shares, Class G Preferred Shares, Class H Preferred Shares, Class I Preferred Shares, Class J Preferred Shares, Class K Preferred Shares, and Class L Preferred Shares.

The Purchased Shares constitute 94.3% of the issued and outstanding securities in the capital of the Purchased Entity, with the balance of the issued and outstanding securities in the capital of the Purchased Entity being held by the Minority Shareholders. There are no issued and outstanding common shares or other securities of the Purchased Entity other than the Purchased Shares and the Minority Shares, nor are there any securities convertible into or options, equity-based awards or other rights, agreements or commitments that are held by any Person and which are convertible into or exchangeable for common shares or any other securities of the Purchased Entity.

- (f) No Other Agreements to Purchase. Except for the Purchaser's rights under this Agreement, no Person has any contractual right, option or privilege for the purchase or acquisition from the Purchased Entity of any of the Retained Assets or the Transferred Assets.
- (g) Proceedings. There are no Legal Proceedings pending against the Purchased Entity or, to the knowledge of the Vendor, threatened, with respect to, or in any manner affecting, title to the Purchased Shares, the Retained Assets or the Transferred Assets or which would reasonably be expected to enjoin, delay, restrict or prohibit the transfer of all or any part of the Purchased Shares, the Retained Assets or the Transferred Assets or the Closing of the Transactions, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Vendor or the Purchased Entity from fulfilling any of their obligations set forth in this Agreement.
- (h) Cannabis Licenses. The Cannabis Licenses are in full force and effect. Except for the Purchaser's rights under this Agreement, no Person has any contractual right, option or privilege for the purchase or acquisition of any interest in, or the creation of any Encumbrance in respect of, the Cannabis Licenses.
- (i) Tax. All Taxes shown as due and owing on the Tax Returns and any related notices of assessment for the Purchased Entity for all Tax periods ending on or prior to the Closing Date have been duly and timely paid. The Purchased Entity has withheld and has duly and timely remitted, or shall duly and timely remit, to the appropriate Governmental Authority all Taxes required by law to be withheld or deducted.

4.3 Representations and Warranties as to the Purchaser

The Purchaser represents and warrants to and in favour of the Vendor and the Purchased Entity as follows and acknowledges and agrees that the Vendor and the Purchased Entity are relying upon such representations and warranties in connection with the sale by the Vendor of the Purchased Shares and the issuance by the Purchased Entity of the Subscribed Shares.

- (a) Incorporation and Status. The Purchaser is incorporated and existing under the Laws of its jurisdiction of incorporation and has the corporate power and authority to enter into, deliver and perform its obligations under, this Agreement.
- (b) Corporate Authorization. The execution, delivery and performance by the Purchaser of this Agreement has been authorized by all necessary corporate action on the part of the Purchaser.
- (c) No Conflict. The execution, delivery and performance by the Purchaser of this Agreement and the completion of the Transactions contemplated by this Agreement does not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event

or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of the Purchaser.

- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchaser and this Agreement a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.
- (e) No Commissions. There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement.
- (f) Litigation. There are no Legal Proceedings pending, or to the knowledge of the Purchaser, threatened against the Purchaser before any Governmental Authority, which would: (i) prevent the Purchaser from paying the Share Purchase Price to the Vendor or the Adjusted Subscription Price to the Purchased Entity; (ii) prohibit or seek to enjoin, restrict or prohibit the Transactions contemplated by this Agreement or (iii) which would reasonably be expected to delay, restrict or prevent the Purchaser from fulfilling any of its obligations set forth in this Agreement.
- (g) Security Clearances. Each officer, director, or any other Person that may exercise, or is in a position to exercise, direct control over either holder of the Cannabis Licenses or of the Purchaser, namely Smith, have obtained security clearances as required to maintain the Cannabis Licenses under Applicable Law.
- (h) Investment Canada Act. The Purchaser is a "Canadian" or a "WTO Investor" within the meaning of the Investment Canada Act, and the regulations thereunder.
- (i) Consents. Except for: (i) the issuance of the Approval and Vesting Order; and (ii) any regulatory approvals required to be obtained pursuant to this Agreement, no Authorization, consent or approval of, or filing with or notice to, any Governmental Authority, court or other Person is required in connection with the execution, delivery or performance of this Agreement by the Purchaser, and each of the agreements to be executed and delivered by the Purchaser hereunder, the purchase of the Purchased Shares or Subscribed Shares hereunder.
- (j) Residence of Purchaser. The Purchaser is not a non-resident of Canada within the meaning of the Tax Act.

4.4 As is, Where is

The Subscribed Shares shall be issued and the Purchased Shares (for clarity, together with all assets held by the Purchased Entity at Closing, including the Retained Assets and Transferred Assets) shall be sold and delivered to the Purchaser on an "as is, where is" basis, subject to the representations and warranties contained herein. Other than those representations and warranties contained herein, no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition or quality or in respect of any other matter or thing whatsoever, including with respect to the Subscribed Shares, the Purchased Shares, the Retained Assets or the Transferred Assets.

Without limiting the generality of the foregoing, except as may be expressly set out in this Agreement, no representations or warranties have been given by any Party with respect to the Liability any Party has with respect to Taxes in connection with entering into this Agreement, the issuance of the Approval and Vesting Order, the consummation of the Transactions or for any other reason. Each Party is to rely on its own investigations in respect of any Liability for Taxes payable, collectible or required to be remitted by the Purchased Entity or any other Party on or after Closing and the quantum of such Liability, if any, and the Purchaser acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of the Vendor and the Purchased Entity in order to make an independent analysis of same. For certainty, the Vendor shall have no Liability for any Taxes payable, collectible or required to be remitted on or after Closing by the Purchased Entity in connection with (a) the Vendor or the Purchased Entity entering into this Agreement, (b) the issuance of the Approval and Vesting Order or (c) the consummation of the Transactions.

ARTICLE 5 COVENANTS

5.1 Target Closing Date

The Parties shall cooperate with each other and shall use their commercially reasonable efforts to effect the Closing on the Target Closing Date.

5.2 Motion for Approval and Vesting Order

As soon as practicable after the execution of this Agreement, the CCAA Applicants shall serve and file with the Court a motion for the issuance of the Approval and Vesting Order.

The Vendor shall diligently use its commercially reasonable efforts to seek the issuance and entry of the Approval and Vesting Order and the Purchaser shall cooperate with the Vendor in its efforts to obtain the issuance and entry of the Approval and Vesting Order. The CCAA Applicants' motion materials seeking the Approval and Vesting Order shall be in form and substance satisfactory to the Purchaser, acting reasonably. The CCAA Applicants will provide to the Purchaser a reasonable opportunity to review a draft of the motion materials to be served and filed with the Court, it being acknowledged that such motion materials should be served as promptly as reasonably possible following the execution of this Agreement, and will serve such materials on the current service list and on such other interested parties, and in such manner, as the Purchaser may reasonably require. The Vendor will promptly inform counsel for the Purchaser of any and all threatened or actual objections to the motion for the issuance of the Approval and Vesting Order of which it becomes aware, and will promptly provide to the Purchaser a copy of all written objections received.

5.3 Reconciliation of Overdue Receivables and HST Refunds

- (a) The Purchaser shall pay by wire transfer in immediately available funds to the Vendor (or such party as the Vendor may direct in writing), as soon as reasonably possible and in any case not later than 5 Business Days after receipt, the aggregate amounts of "Third Party Receivables" captioned on the Closing Balance Sheet that are due to be paid to the Purchased Entity during the Interim Period but that have not been paid as of the Closing Date ("**Overdue Receivables**"), to the extent such Overdue Receivables are actually collected by the Purchased Entity within 120 days after the Closing Date.
- (b) The Purchaser shall pay by wire transfer in immediately available funds to the Vendor (or such party as the Vendor may direct in writing), as soon as reasonably possible and in any

case not later than 5 Business Days after receipt, the amount of any HST net tax refunds actually received by the Purchased Entity within 3 years from the Closing Date for the reporting periods ending January 31, 2021, February 28, 2021 and March 31, 2021 (collectively the “**HST Refunds**”). For certainty, any set-offs by a Governmental Authority of the HST Refunds shall reduce the amounts payable hereunder, provided that any reduction to the amount of the HST Refunds caused by the Purchaser not filing or paying post-Closing returns will not result in any such reduction.

- (c) For up to 120 days following the Closing Date, the Purchaser shall cause the Purchased Entity to undertake all commercially reasonable efforts to collect the Overdue Receivables and the HST Refunds. The Purchaser will provide the Vendor and the Monitor twice monthly detailed updates in writing with respect to collection efforts of the aforementioned Overdue Receivables and HST Refunds for 120 days following Closing, and thereafter shall respond to any reasonable inquiries from the Vendor or the Monitor regarding the HST Refunds.

5.4 Interim Period

- (a) During the Interim Period, except: (i) as contemplated or permitted by this Agreement (including the Approval and Vesting Order); (ii) as necessary in connection with the CCAA Proceedings; (iii) as otherwise provided in the Initial Order and any other Court orders, prior to the Closing Time; or (iv) as consented to by the Purchaser and the Vendor, such consent not to be unreasonably withheld, conditioned or delayed: (A) the Purchased Entity shall continue to maintain its business and operations in substantially the same manner as conducted on the date of this Agreement; (B) other than the Excluded Assets and the Purchased Entity's cannabis inventory pursuant to purchase orders from third parties, the Purchased Entity shall not, and the Vendor shall not permit the Purchased Entity to, transport, remove or dispose of, any of its assets out of their current locations; (C) the Purchaser and the Vendor agree that the Purchased Entity shall operate in accordance with the Purchased Entity Disbursement Budget and the Purchased Entity will not incur any incremental costs and expenses, or make disbursements, in excess of the Total Operating Costs on a weekly basis unless expressly agreed to by the Vendor, the Purchaser and the Monitor. For greater certainty, subject to Section 5.7, during the Interim Period, any costs and expenses incurred or disbursed in excess of the Total Operating Costs shall be applied on a dollar for dollar basis as an upward adjustment to the Subscription Price through a reduction in the Working Capital Adjustment.
- (b) During the Interim Period, each time and to the extent actual collected receipts from the Business are less than the amount of receipts forecasted to be collected during any weekly period (listed in the row of the Purchased Entity Disbursement Budget titled "Receipts" (a "**Receipt Shortfall**"), the Purchased Entity Disbursement Budget shall be amended by the Purchased Entity, in consultation with the Monitor, the Vendor and the Purchaser, to reduce the Total Operating Costs to be incurred or disbursed by the Business in an amount corresponding to the Receipt Shortfall, on a dollar for dollar basis, by way of expense reductions or deferrals, in a manner that is only as disruptive or prejudicial to the Business as is reasonably necessary, provided that payments of Taxes and payroll shall not be reduced or deferred. Each amendment to the Purchased Entity Disbursement Budget, if any, must be made as soon as practicable once it becomes apparent to the Purchased Entity that a Receipt Shortfall will occur during any weekly period, and in any case no later than 1 Business Day after each weekly period where a Receipt Shortfall occurred (and in the case of the week that Closing occurs, no later than the time when the Statement of

Adjustments is delivered). If any Receipt Shortfall is collected in a subsequent week and prior to the Closing Date, the amount of such Receipt Shortfall may be used by the Purchased Entity for operating costs and expenses of the Business expressly agreed to by the Vendor (with notice to the Monitor and Purchaser delivered concurrently). Total Operating Costs may also be reduced in any weekly period by agreement of the Purchased Entity, the Purchaser and the Vendor, in consultation with the Monitor, irrespective of whether there is a corresponding Receipt Shortfall. For greater certainty, subject to Section 5.7, during the Interim Period, any reduction in costs and expenses incurred or disbursed that are below the Total Operating Costs shall be applied on a dollar for dollar basis as a downward adjustment to the Subscription Price through an increase of the Working Capital Adjustment.

- (c) During the Interim Period, except as contemplated or permitted by this Agreement (including the Approval and Vesting Order), neither the Vendor nor the Purchased Entity shall enter into any non-arms' length transactions involving the Purchased Entity or its assets or the Business without the prior approval of the Purchaser.
- (d) During the Interim Period, the Purchaser shall furnish to the Vendor such information concerning the Purchaser as shall be reasonably requested, including all such information as shall be necessary to enable the Vendor to verify that the representations and warranties and covenants of the Purchaser contained in this Agreement have been complied with.

5.5 Access During Interim Period

During the Interim Period, the Vendor and the Purchased Entity shall give, or cause to be given, to the Purchaser, and its Representatives, reasonable access during normal business hours to the Retained Assets and to the Transferred Assets, including the Books and Records, to conduct such investigations, inspections, surveys or tests thereof and of the financial and legal condition of the Business, the Retained Assets and the Transferred Assets as the Purchaser reasonably deems necessary or desirable to further familiarize themselves with the Business, the Retained Assets and the Transferred Assets. Without limiting the generality of the foregoing: (a) the Purchaser and its Representatives shall be permitted reasonable access during normal business hours to all documents relating to information scheduled or required to be disclosed under this Agreement and to the Employees; (b) any invasive testing, including with respect to any real property, shall require the prior consent of the Vendor; and (c) subject to the ongoing reasonable oversight and participation of the Vendor and the Monitor, and with prior notice to the Monitor, the Purchaser and its Representatives shall be permitted to contact and discuss the transactions contemplated herein with Governmental Authorities and the Vendor's and Purchased Entity's customers and contractual counterparties. Such investigations, inspections, surveys and tests shall be carried out at the Purchaser's sole and exclusive risk and cost, during normal business hours, and without undue interference with the Purchased Entity's operations and the Vendor and the Purchased Entity shall co-operate reasonably in facilitating such investigations, inspections, surveys and tests and shall furnish copies of all such documents and materials relating to such matters as may be reasonably requested by or on behalf of the Purchaser.

5.6 Regulatory Approvals and Consents

- (a) Each of the Parties shall use its commercially reasonable efforts to: (i) take, or cause to be taken, all appropriate action, and do, or cause to be done, all things necessary, proper or advisable under any Applicable Law or otherwise to consummate and make effective the Transactions; (ii) obtain any consents, approvals or orders required to be obtained or made in connection with the authorization, execution and delivery of this Agreement and the consummation of the Transactions; and (iii) make all filings and give any notice, and

thereafter make any other submissions either required or reasonably deemed appropriate by each of the Parties, with respect to this Agreement and the Transactions required under any Applicable Law. Without limiting the generality of the foregoing, the Purchaser shall, within the period of time prescribed by Applicable Law, notify the relevant Governmental Authority of the change in any individual requiring security clearance as mandated by the Cannabis Act and Cannabis Regulations.

- (b) The Parties shall use reasonable efforts to cooperate and consult with each other in connection with the making of any such filings and notices, including providing copies of all such documents to the non-filing Party and its advisors within a reasonable period of time prior to filing or the giving of notice. Each Party shall pay for its own filing fees and other charges arising out of the actions taken under this Section 5.6.

5.7 Post-Target Closing Date

- (a) In the event that the Closing does not occur on or prior to the Target Closing Date, the following Sections 5.7(a)(i) – (iii) inclusive shall apply; provided, however, such provisions shall not apply and Section 5.7(b) shall apply instead during any time where Closing has not occurred on or prior to the Target Closing Date solely at the fault of the Vendor and/or the Purchased Entity (provided that the Purchased Entity’s failure to close is not Caused by Smith). For greater certainty, if the fault is remedied by the Vendor and/or the Purchased Entity and Closing still has not occurred following the Target Closing Date, then Sections 5.7(a)(i) – (iii) shall apply from and after the date the fault is remedied.
 - (i) the upward and downward adjustments to the Subscription Price contemplated by the final sentences of Sections 5.4(a) and (b) shall cease to apply to the period commencing on the day after Target Closing Date and ending on the Closing Date (the “**Post-Target Period**”) (but, for certainty, shall continue to apply from the commencement of the Interim Period up to and including the Target Closing Date);
 - (ii) the Subscription Price shall be increased by the amount of the costs and expenses of the Purchased Entity actually incurred or disbursed in the Post-Target Period, net of the actual receipts of the Purchased Entity for the Post-Target Period (the “**Post-Target Cash Deficiency**”), which net costs and expenses shall be (i) set out in the Statement of Adjustments, and (ii) applied on a dollar for dollar basis as an upward adjustment to the Subscription Price through a reduction in the Working Capital Adjustment;
 - (iii) on the Thursday of each week in the Post-Target Period and on the Thursday prior to the Target Closing Date, the Purchased Entity, with the consent of the Purchaser, shall advise the Monitor of the amount required for the Purchased Entity to fund the forecasted costs and expenses to be incurred or disbursed in for the following week, net of forecasted receipts for such following week, and the Purchaser shall pay such net amount to the Monitor no later than 5:00pm Eastern time on the Friday immediately following each applicable Thursday, provided that the weekly net amount shall not exceed \$500,000 (each a “**Post-Target Period Payment**”). The amount of the weekly Post-Target Period Payment plus the actual receipts received by the Purchased Entity in such week shall be deemed to be the amount of the Total Operating Costs for the applicable week, for the purposes of Section 5.4(a)(C). For the avoidance of doubt, all Post-Target Period Payments shall be

added to the Deposit and treated for all purposes the same as the other funds comprising the Deposit.

- (b) In the event that the Closing does not occur on or prior to the Target Closing Date solely at the fault of the Vendor and/or the Purchased Entity (provided that the Purchased Entity's failure to close is not Caused by Smith), then the final sentences of Sections 5.4(a) and (b) shall continue to apply after the Target Closing Date until such time as the fault has been remedied. During this time, the Purchaser, the Vendor and the Purchased Entity shall cooperate in good faith to extend the Purchased Entity Disbursement Budget through to the Outside Date for the purposes of calculating the adjustments to the Subscription Price described in Sections 5.4.

5.8 Insurance Matters

Until the Closing, the Vendor and the Purchased Entity shall keep in full force and effect all of their applicable existing insurance policies and give any notice or present any claim under any such insurance policies consistent with past practices of the Vendor and the Purchased Entity in the ordinary course of business.

5.9 Books and Records

The Purchaser shall preserve and keep the Books and Records acquired by it pursuant to this Agreement for a period of six (6) years after Closing, or for any longer periods as may be required by any Laws applicable to such Books and Records. The Purchaser shall make such Books and Records, as well as electronic copies of such books and records (to the extent such electronic copies exist), available to the Monitor and the Vendor, their successors, and any trustee in bankruptcy or receiver of the Vendor, and shall, at such party's sole expense, permit any of the foregoing persons to take copies of such Books and Records as they may reasonably require. As soon as practicable following Closing and in any event no later than 45 days following Closing, the Vendor shall deliver, at the cost of the Purchaser: (a) any and all Books and Records reasonably requested by the Purchaser; and (b) an electronic copy of all of the materials relating to the Retained Assets established in connection with the Transactions, and such materials available on such electronic copy shall be unlocked, unprotected and fully available to the Purchaser. Until such electronic copy is provided to the Purchaser, the Vendor shall permit access to such materials in such data room.

5.10 Use of Business Name

Notwithstanding any transfer of the Transferred Assets pursuant to this Agreement, the Vendor (prior to the transfer) and the Purchaser (after the transfer) agree that each will continue to permit and shall not terminate any right that FIGR Norfolk Inc. has to use any of the intellectual property that forms part of the Transferred Assets as a business name for a period of up to 180 days after Closing.

5.11 Payment of Certain Claims

The Vendor shall, at Closing or immediately thereafter, using the proceeds of the Transactions and in accordance with the Approval and Vesting Order, pay the debt claims against the Purchased Entity of BioAcuity Consulting Inc. in the amount of \$137,230, Fitzgerald & Snow (2010) Ltd. in the amount of \$81,627 and Hansen Electric Ltd. in the amount of \$159,517.32 will be paid from the proceeds of Closing, and shall take commercially reasonable steps to cause these creditors to discharge liens and encumbrances registered against the Purchased Entity's property in their name.

5.12 Transport of Assets

The Purchaser shall coordinate the delivery and/or pick up and shall physically remove all physical assets and personal property that are included in the Transferred Assets or Retained Assets at its own cost and expense from wherever situate within seven days of the Closing Date.

5.13 Filing of Tax Election

The Purchaser shall cause the Purchased Entity to make an election pursuant to subsection 256(9) of the Tax Act in respect of the taxation year ending as a result of the acquisition of control of it by the Purchaser.

5.14 Pre-Roll Equipment

[REDACTED]

**ARTICLE 6
CLOSING ARRANGEMENTS**

6.1 Closing

The Closing shall take place virtually by exchange of documents in PDF format on the Closing Date, in accordance with the Closing Sequence, and shall be subject to such escrow document release arrangements as the Parties may agree.

6.2 Closing Sequence

On the Closing Date, Closing shall take place in the following sequence (the “**Closing Sequence**”):

- (a) First, the Purchaser shall pay the Share Purchase Price and the Cash Payment to be held in escrow by the Monitor, on behalf of the Vendor and the Purchased Entity, as applicable, to be released in accordance with this Closing Sequence;
- (b) Second, the Purchased Entity shall purchase the Transferred Assets from the Vendor pursuant to the Transferred Asset Bill of Sale, and the Purchased Entity shall issue the Transferred Asset Promissory Note to the Vendor;
- (c) Third, the Vendor shall cause Residual Co. to assume the Excluded Liabilities and Excluded Assets, if any, pursuant to the Excluded Liabilities Assumption Agreement, and the Purchased Entity shall issue the Excluded Liability Promissory Note to Residual Co.;
- (d) Fourth, the Purchaser shall acquire the Purchased Shares, the Vendor shall deliver the Purchased Shares, and the Share Purchase Price shall be released from escrow for the benefit of the Vendor, but shall continue to be held by the Monitor on the Vendor’s behalf;
- (e) Fifth, the Purchased Entity shall issue the Subscribed Shares and the Purchaser shall purchase the Subscribed Shares, and the Adjusted Subscription Price shall be released from

escrow for the benefit of the Purchased Entity, but shall continue to be held by the Monitor on the Purchased Entity's behalf;

- (f) Sixth, the Purchased Entity shall satisfy the amount owing under the Excluded Liability Promissory Note using the required portion of the proceeds of the Adjusted Subscription Price, and hereby irrevocably directs the Monitor to cause such payment to be made from the Adjusted Subscription Price held by the Monitor, although such amount shall continue to be held by the Monitor on behalf of Residual Co.; and
- (g) Seventh, the Purchased Entity shall satisfy the amount owing under the Transferred Asset Promissory Note using the remaining proceeds of the Adjusted Subscription Price, and hereby irrevocably directs the Monitor to cause such payment to be made from the Adjusted Subscription Price held by the Monitor, although such amount shall continue to be held by the Monitor on behalf of the Vendor.

6.3 The Vendor's Closing Deliveries

At or before the Closing (as applicable), the Vendor shall deliver or cause to be delivered to the Purchaser the following:

- (a) a true copy of the Approval and Vesting Order, as issued by the Court;
- (b) share certificates representing the Purchased Shares duly endorsed in blank for transfer, or accompanied by irrevocable stock transfer powers duly executed in blank, in either case, by the holder of record;
- (c) the Statement of Trade Payables, reviewed by the Monitor;
- (d) Statement of Adjustments;
- (e) the Closing Balance Sheet, reviewed by the Monitor;
- (f) a copy of the Transferred Asset Bill of Sale, signed by the Vendor and the Purchased Entity;
- (g) a certificate of status, compliance, good standing or like certificate with respect to the Vendor issued by the appropriate government official of its jurisdiction of incorporation, to the extent such certificate exists in such jurisdiction;
- (h) a certificate dated as of the Closing Date and executed by an executive officer of the Vendor confirming and certifying that each the conditions in Sections 7.1(d), 7.1(e) and 7.1(f) have been satisfied; and
- (i) such other agreements, documents and instruments, including without limitation conveyance documents related to the Transferred Assets, as may be reasonably required by the Purchaser to complete the Transactions (including the Purchase and Sale Transactions and the Closing Sequence) provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

6.4 The Purchaser's Closing Deliveries

At or before the Closing (as applicable), the Purchaser shall deliver or cause to be delivered to the Vendor (or to the Monitor, if so indicated below), the following:

- (a) a certificate of status, compliance, good standing or like certificate with respect to the Purchaser issued by the appropriate government official of its jurisdiction of formation;
- (b) a certificate dated as of the Closing Date and executed by an executive officer of the Purchaser confirming and certifying that each the conditions in Sections 7.2(d) and 7.2(e) have been satisfied;
- (c) the Share Purchase Price, in accordance with Section 6.2(a);
- (d) the Cash Payment, in accordance with Section 6.2(a); and
- (e) such other agreements, documents and instruments as may be reasonably required by the Vendor to complete the Transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

6.5 The Purchased Entity's Closing Deliveries

At or before the Closing (as applicable), the Purchased Entity shall deliver or cause to be delivered to the Purchaser, the following:

- (a) a certificate of status, compliance, good standing or like certificate with respect to the Purchased Entity issued by the appropriate government official of its jurisdiction of incorporation, to the extent such certificate exists in such jurisdiction;
- (b) the Transferred Asset Promissory Note, in escrow;
- (c) the Excluded Liability Promissory Note, in escrow;
- (d) a copy of the Excluded Liability Assumption Agreement, signed by the Purchased Entity and Residual Co.;
- (e) a copy of the Excluded Asset Bill of Sale, signed by the Purchased Entity and Residual Co.; and
- (f) share certificates representing the Subscribed Shares.

ARTICLE 7 CONDITIONS OF CLOSING

7.1 The Purchaser's Conditions

The Purchaser shall not be obligated to complete the Transactions contemplated by this Agreement, unless, at or before the commencement of the first step in the Closing Sequence, each of the conditions listed below in this Section 7.1 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Purchaser, and may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non- fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing; provided that if the

Purchaser does not waive a condition(s) and completes the Closing, such condition(s) shall be deemed to have been waived by the Purchaser. The Vendor shall take, and cause the Purchased Entity to take, all such commercially reasonable actions, steps and proceedings as are reasonably within its control to ensure that the conditions listed below in this Section 7.1 are fulfilled at or before the Closing Time.

- (a) Court Approval. The following conditions have been met: (i) the Approval and Vesting Order shall have been issued by the Court; (ii) the Approval and Vesting Order shall not have been vacated, set aside or stayed; (iii) the applicable appeal periods to appeal the Approval and Vesting Order have expired; provided that if the Approval and Vesting Order shall not have been subject to any unresolved material objections at the hearing at which it was approved by the Court, the applicable appeal periods need not have expired, but no appeal or leave for appeal shall have been filed, and (iv) at least two clear Business Days have elapsed since the Approval and Vesting Order was issued by the Court.
- (b) The Vendor's Deliverables. The Vendor shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 6.3.
- (c) No Violation of Orders or Law. During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has: (i) the effect of making any of the Transactions illegal, or (ii) the effect of otherwise prohibiting, preventing or restraining the consummation of any of the Transactions contemplated by this Agreement; or (iii) the effect of modifying or amending the Approval and Vesting Order without the consent of Purchaser.
- (d) No Material Adverse Effect. During the Interim Period, there shall have been no Material Adverse Effect.
- (e) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement (including the Approval and Vesting Order), each of the representations and warranties contained in Sections 4.1 and 4.2 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (f) No Breach of Covenants. The Vendor and the Purchased Entity shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendor or the Purchased Entity on or before the Closing.
- (g) The Purchased Entity Employees. The Purchased Entity shall have terminated the employment of the Terminated Employees, as requested by the Purchaser in its sole discretion, and all Liabilities owing to any such terminated employees in respect of such terminations, including all amounts owing on account of statutory notice, termination payments, severance, vacation pay, benefits, bonuses or other compensation or entitlements, all of which Liabilities shall be Excluded Liabilities or shall be Discharged by the Approval and Vesting Order.
- (h) Residual Co. Pursuant to the Approval and Vesting Order: (i) all Excluded Assets and Excluded Liabilities shall have been transferred to Residual Co. or to another Affiliate of the Vendor that is not the Purchased Entity or Discharged; and (ii) the Purchased Entity, its business and property shall have been released and forever Discharged of all claims and

Encumbrances (other than Assumed Liabilities, if any); such that, from and after Closing the business and property of the Purchased Entity shall exclude the Excluded Assets and shall not be subject to any Excluded Liabilities.

- (i) PEI Regulatory Approval. The Purchaser shall have obtained all necessary approval to complete the Transaction from the Island Regulatory and Appeals Commission and Executive Council pursuant to the Lands Protection Act (Prince Edward Island).
- (j) CCAA Proceedings. Upon Closing, the CCAA Proceedings will have been terminated in respect of the Purchased Entity, its business and property, as set out in the Approval and Vesting Order.
- (k) Disclaim Contracts. The Purchased Entity shall have sent notices of disclaimer for such contracts and other agreements as the Purchaser may require, as listed in a list of contracts to disclaim as sent by the Purchaser to the Vendor and which shall be delivered by the Purchaser no later than 20 days before the Target Closing Date.
- (l) Cannabis Licenses. The Cannabis Licenses shall be valid and in good standing at the Closing Time with no adverse conditions or restrictions, except for routine conditions or restrictions that do not result in a finding of non-compliance or suspension.
- (m) Current Asset Value. The aggregate value of the Current Assets of the Purchased Entity, as disclosed on the Closing Balance Sheet, shall not be less than an amount equal to (i) [REDACTED] minus (ii) any amount by which the actual expenses and disbursements of the Purchased Entity during the Interim Period are less than the Total Operating Costs.
- (n) FIGR Norfolk IP License. The Vendor shall have delivered an agreement executed by FIGR Norfolk Inc. terminating its ability to use any of the intellectual property that forms part of the Transferred Assets as a business name 180 days after Closing.
- (o) The Transition Services MOU. The Transition Services MOU shall have been fully executed by all parties and delivered to the Purchaser.

7.2 The Vendor's and Purchased Entity's Conditions

Neither the Vendor nor the Purchased Entity shall be obligated to complete the Transactions contemplated by this Agreement unless, at or before the commencement of the first step in the Closing Sequence, each of the conditions listed below in this Section 7.2 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Vendor and the Purchased Entity, and may be waived by the Vendor and the Purchased Entity in whole or in part, without prejudice to any of their rights of termination in the event of nonfulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Vendor and Purchased Entity only if made in writing. The Purchaser shall take all such actions, steps and proceedings as are reasonably within the Purchaser's control as may be necessary to ensure that the conditions listed below in this Section 7.2 are fulfilled at or before the Closing Time.

- (a) Court Approval. The Approval and Vesting Order shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed.
- (b) Purchaser's Deliverables. The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents and payments contemplated in Section 6.4.

- (c) No Violation of Orders or Law. During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of: (i) making any of the Transactions contemplated by this Agreement illegal; (ii) otherwise prohibiting, preventing or restraining the consummation of any of the Transactions contemplated by this Agreement; or (iii) modifying or amending the Approval and Vesting Order without the consent of the Vendor.
- (d) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 4.3 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (e) No Breach of Covenants. The Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing, except for the covenant to pay the Share Purchase Price and the Cash Payment, which shall have been performed in all respects.
- (f) Fees. All fees payable in favor of directors of the Purchased Entity (including all retainers and board meeting fees) shall have been paid no later than on Closing.

7.3 Monitor's Certificate

When the conditions to Closing set out in Section 7.1 and Section 7.2 have been satisfied and/or waived by the Vendor, Purchased Entity or the Purchaser, as applicable, the Vendor, the Purchased Entity, the Purchaser or their respective counsel will each deliver to the Monitor confirmation that such conditions of Closing, as applicable, have been satisfied and/or waived (the "**Conditions Certificates**"). Upon receipt of the Conditions Certificates, the Monitor shall: (i) issue forthwith its Monitor's Certificate concurrently to the Vendor, the Purchased Entity and the Purchaser, at which time the Closing Sequence will be deemed to have commenced and be completed in the order set out in the Closing Sequence, and Closing will be deemed to have occurred; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the Court (and shall provide a true copy of such filed certificate to the Vendor, the Purchased Entity and the Purchaser). In the case of: (i) and (ii) above, the Monitor will be relying exclusively on the basis of the Conditions Certificates without any obligation whatsoever to verify the satisfaction or waiver of the applicable conditions.

ARTICLE 8 TERMINATION

8.1 Grounds for Termination

- (a) This Agreement may be terminated on or prior to the Closing Date:
 - (i) by the mutual agreement of the Vendor, the Purchased Entity and the Purchaser;
 - (ii) by the Purchaser, on the one hand, or the Vendor and Purchased Entity (with the consent of the Monitor), on the other hand, at any time following the Outside Date, if Closing has not occurred on or prior to 11:59 p.m. (Eastern time) on the Outside Date, provided that the reason for the Closing not having occurred is not due to any act or omission, or breach of this Agreement, by the Party proposing to terminate this Agreement;

- (iii) by the Purchaser, on the one hand, or the Vendor and Purchased Entity (with the consent of the Monitor), on the other hand, upon notice to the other Parties if: (A) the Approval and Vesting Order has not been obtained by the Closing Date or (B) the Court declines at any time to grant the Approval and Vesting Order; in each case for reasons other than a breach of this Agreement by the Party proposing to terminate this Agreement;
 - (iv) by the Vendor, if there has been a material violation or breach by the Purchaser or the Purchased Entity (in the case of the Purchased Entity, only where the Purchased Entity's actions or omissions were Caused by Smith), of any agreement, covenant, representation or warranty of the Purchaser or the Purchased Entity in this Agreement which would prevent the satisfaction of, or compliance with, any condition set forth in Section 7.2, as applicable, by the Outside Date and such violation or breach has not been waived by the Vendor or cured by the Purchaser or the Purchased Entity within five (5) Business Days of the Vendor providing notice to the Purchaser of such breach, unless the Vendor is in material breach of its obligations under this Agreement at such time; or
 - (v) by the Purchaser, if there has been a material violation or breach by the Vendor or the Purchased Entity (unless the Purchased Entity's breach is Caused by Smith) of any agreement, covenant, representation or warranty which would prevent the satisfaction of, or compliance with, any condition set forth in Section 7.1, by the Outside Date and such violation or breach has not been waived by the Purchaser or cured by the Vendor within five (5) Business Days of the Purchaser providing notice to the Vendor of such breach, unless the Purchaser is in material breach of its obligations under this Agreement at such time.
- (b) Prior to the Vendor and Purchased Entity agreeing to or electing to any termination pursuant to this Section 8.1, the Vendor shall first obtain the consent of the Monitor and DIP Lender.

8.2 Effect of Termination.

If this Agreement is terminated pursuant to Section 8.1:

- (a) all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder, except as contemplated in Sections 2.2 (*Deposit*), 9.4 (*Public Announcements*), 9.5 (*Notices*), 9.9 (*Waiver and Amendment*), 9.12 (*Governing Law*), 9.13 (*Dispute Resolution*), 9.14 (*Attornment*), 9.15 (*Successors and Assigns*), 9.16 (*Assignment*), 9.17 (*No Liability*), and 9.18 (*Third Party Beneficiaries*), which shall survive such termination. For the avoidance of doubt, any Liability incurred by a Party prior to the termination of this Agreement shall survive such termination; and
- (b) if the Share Purchase Price or Cash Payment have been paid to the Monitor pursuant to Section 6.2(a), and for any reason the Closing Sequence steps set out in Sections 6.2(b) through 6.2(e) have not occurred, the Monitor shall promptly return the Share Purchase Price and the Cash Payment to the Purchaser; provided, however, that this Section 8.2(b) shall be subject to Section 2.2 with respect to the Deposit.

**ARTICLE 9
GENERAL**

9.1 Tax Returns.

The Purchaser shall: (a) prepare or cause to be prepared and file or cause to be filed all Tax Returns for the Purchased Entity for all Tax periods ending on or prior to the Closing Date and for which Tax Returns have not been filed as of such date; and (b) cause the Purchased Entity to duly and timely make or prepare all Tax Returns required to be made or prepared by them to duly and timely file all Tax Returns required to be filed by them for periods beginning before and ending after the Closing Date. All such Tax Returns in clauses (a) and (b) of this Section 9.1 constitute the "**Straddle Period Tax Returns**". The Vendor, the Monitor and the Purchaser shall co-operate fully with each other and make available to each other in a timely fashion such data and other information as may reasonably be required for the preparation of any Straddle Period Tax Return and the Purchaser and the Monitor shall preserve such data and other information until the expiration of any applicable limitation period under Applicable Law with respect to Taxes. Having regard to when the Closing Date occurs and the fact that the Purchased Entity's filing date for 2020 returns is June 30, 2021, the Purchaser will use commercially reasonable best efforts to provide drafts of all Straddle Period Tax Returns required to be prepared by the Purchaser to the Vendor and the Monitor in advance of their filing with the relevant Governmental Authority. The Purchaser, the Vendor and the Monitor shall, subject only to Applicable Law, cooperate in considering any amendments to such Tax Returns as the Vendor or the Monitor may request.

9.2 Survival.

All representations, warranties, covenants and agreements of the Vendor or the Purchaser made in this Agreement or any other agreement, certificate or instrument delivered pursuant to this Agreement shall not survive the Closing except where, and only to the extent that, the terms of any such covenant or agreement expressly provide for rights, duties or obligations extending after the Closing, or as otherwise expressly provided in this Agreement.

9.3 Expenses.

Except if otherwise agreed upon amongst the Parties, each Party shall be responsible for its own costs and expenses (including any Taxes imposed on such expenses) incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the Transactions (including the fees and disbursements of legal counsel, bankers, agents, investment bankers, accountants, brokers and other advisers).

9.4 Public Announcements.

The Vendor shall be entitled to disclose this Agreement to the Court and parties in interest in the CCAA Proceedings, other than any information which the Purchaser advises the Vendor in writing as being confidential, and this Agreement may be posted on the Monitor's website maintained in connection with the CCAA Proceedings. Other than as provided in the preceding sentence or statements made in Court (or in pleadings filed therein) or where required to meet timely disclosure obligations of the Vendor or any of their Affiliates under Applicable Laws or stock exchange rules, the Vendor shall not issue (prior to or after the Closing) any press release or make any public statement or public communication with respect to this Agreement or the Transactions contemplated hereby without the prior consent of the other Parties, which shall not be unreasonably withheld or delayed.

9.5 Notices.

- (a) Mode of Giving Notice. Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if: (i) delivered personally; (ii) sent by prepaid courier service; or (iii) sent by e-mail, in each case, to the applicable address set out below:

if to the Vendor to:

FIGR Brands Inc.:

c/o Bennett Jones LLP

100 King Street West
1 First Canadian Place
Suite 3400, P.O. Box 50
Toronto ON M5X 1B8

Attention: Sean Zweig
Tel: 416-777-6254
E-mail: zweigs@bennettjones.com

Attention: Mike Shakra
Tel: 416-777-6236
E-mail: shakram@bennettjones.com

with a copy to the Monitor, to:

FTI Consulting Canada Inc.

79 Wellington Street West
Toronto Dominion Centre, Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Jeff Rosenberg
Tel: 416 649 8073
E-mail: jeffrey.rosenberg@fticonsulting.com

Attention: Jodi Porepa
Tel: 416 649 8127
E-mail: jodi.porepa@fticonsulting.com

with a copy (which shall not constitute notice) to:

Cassels Brock & Blackwell LLP

Suite 2100, Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

Attention: Ryan Jacobs
Tel: 416 860 6465
E-mail: rjacobs@cassels.com

Attention: Jane Dietrich
Tel: 416 860 5223
E-mail: jdietrich@cassels.com

If to the Purchaser:

102604 P.E.I. INC.
25 Riverside Dr
Charlottetown, PE C1A 9R9

Attention: Robert Alexander Smith
E-mail: smittya19@gmail.com

with a copy (which shall not constitute notice) to:

Blake, Cassels & Graydon LLP
Suite 4000, 199 Bay Street
Toronto, ON M5L 1A9

Attention: Linc Rogers
Tel: 416 863 4168
E-mail: linc.rogers@blakes.com

Attention: Chris Burr
Tel: 416 863 3261
E-mail: chris.burr@blakes.com

- (b) Deemed Delivery of Notice. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of e-mailing, provided that such day in either event is a Business Day and the communication is so delivered, e-mailed or sent before 5:00 p.m. Eastern time on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.
- (c) Change of Address. Any Party may from time to time change its address under this Section 9.5 by notice to the other Parties given in the manner provided by this Section 9.5.

9.6 Time of Essence.

Time shall be of the essence of this Agreement in all respects.

9.7 Further Assurances.

The Vendor, the Purchased Entity and the Purchaser shall, at the sole expense of the requesting Party, from time to time promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other Parties may reasonably require as being necessary or desirable in order to

effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

9.8 Entire Agreement.

This Agreement and the deliverables delivered by the Parties in connection with the Transactions contemplated herein constitute the entire agreement between the Parties or any of them pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no conditions, representations, warranties, obligations or other agreements between the Parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as explicitly set out in this Agreement.

9.9 Waiver and Amendment.

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless: (a) executed in writing by the Vendor and Purchaser (including by way of email); and (b) the Monitor shall have provided its prior consent. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

9.10 Severability.

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

9.11 Remedies Cumulative.

The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.

9.12 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

9.13 Dispute Resolution.

If any dispute arises with respect to the interpretation or enforcement of this Agreement, including as to what constitutes a breach or material breach of this Agreement for the purposes of Article 8, such dispute shall be determined by the Court within the CCAA Proceedings, or by such other Person or in such other manner as the Court may direct. The Parties irrevocably submit and attorn to the exclusive jurisdiction of the Court.

9.14 Attornment.

Each Party agrees: (a) that any Legal Proceeding relating to this Agreement shall be brought in the Court, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of the Court; (b) that it irrevocably waives any right to, and shall not, oppose any such Legal Proceeding in the

Court on any jurisdictional basis, including forum non conveniens; and (c) not to oppose the enforcement against it in any other jurisdiction of any Order duly obtained from the Court as contemplated by this Section 9.14. Each Party agrees that service of process on such Party as provided in this Section 9.14 shall be deemed effective service of process on such Party.

9.15 Successors and Assigns.

This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns.

9.16 Assignment.

Prior to Closing, the Purchaser may assign, upon notice to the Vendor, all or any portion of its rights and obligations under this Agreement to an Affiliate, including the rights of the Purchaser to purchase from the Vendor the Purchased Shares or from the Purchased Entity the Subscribed Shares prior to the issuance of the Approval and Vesting Order; provided that no such assignment shall relieve the Purchaser of any of its obligations or Liabilities under this Agreement (including the obligation to pay the Cash Payment at Closing). Prior to Closing, neither the Vendor nor the Purchased Entity may assign or transfer, whether absolutely, by way of security or otherwise, all or any part of their rights or obligations under this Agreement. Following Closing, the Vendor shall have the authority to assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its rights or obligations under this Agreement.

9.17 No Liability.

The Purchaser acknowledges and agrees that the Monitor, acting in its capacity as the Monitor of the Vendor and the other parties in the CCAA Proceedings, and the Monitor's Affiliates will have no Liability in connection with this Agreement whatsoever in their capacity as Monitor, in their personal capacity or otherwise.

9.18 Third Party Beneficiaries.

Except with respect to the Monitor pursuant to Section 9.17, this Agreement is for the sole benefit of the Parties, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

9.19 Counterparts.

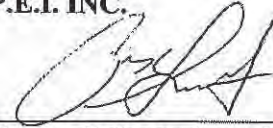
This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Parties by e-mail in pdf format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

102604 P.E.I. INC.

By:



Name: Robert Alexander Smith
Title: President

FIGR BRANDS, INC.

By:

Name:
Title:

CANADA'S ISLAND GARDEN INC.

By:

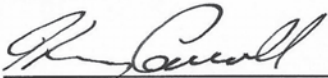
Name:
Title:

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

102604 P.E.I. INC.

By: _____
Name: Robert Alexander Smith
Title: President

FIGR BRANDS, INC.

By: 
Name: HARRY J CARROLL
Title: DIRECTOR

CANADA'S ISLAND GARDEN INC.

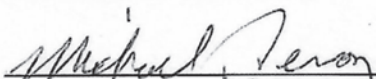
By: 
Name: MICHAEL G DEVON
Title: DIRECTOR

EXHIBIT "A"

MARCH 31, 2021 BALANCE SHEET

EXHIBIT "B"

PURCHASED ENTITY DISBURSEMENT BUDGET

FIGR EAST
EXHIBIT B - PURCHASED ENTITY DISBURSEMENT BUDGET
\$CAD 000's

Forecast Week Ending (Friday)	28-May-21	4-Jun-21	11-Jun-21	18-Jun-21	25-Jun-21	Total	Notes
Receipts	580	250	250	250	250	1,580	1
Operating Costs							
Payroll and Benefits	(258)	-	(258)	(35)	(306)	(856)	2
Utilities	(13)	(99)	(130)	(10)	(10)	(262)	
Production Costs	(470)	(617)	(100)	(287)	(120)	(1,593)	3
Excise Tax	(318)	-	-	-	(250)	(568)	
Freight & Logistics	(10)	(24)	(10)	(10)	(10)	(64)	
Insurance	(119)	-	-	-	-	(119)	
General & Administrative	(103)	(13)	(8)	(30)	(128)	(282)	
Property Tax	-	(151)	-	-	-	(151)	4
Professional Fees	-	(25)	(7)	-	-	(32)	
CAPEX	(20)	(20)	(20)	(20)	(20)	(100)	5
Total Operating Costs	(1,311)	(949)	(533)	(392)	(844)	(4,028)	

Notes:

1. Receipts net of Newfoundland commissions of \$37K. Some receipts that were budgeted for receipt in week ending May 21, were actually received in week ending May 14th.
2. Payroll and Benefits includes total KERP payment of \$80K. \$48K was pushed to week ending June 25th. This was originally included in week ending May 28th.
3. Payment to SMOK (\$291K) included in the week ending May 28th, was originally forecast to be paid in week ending May 21st.
4. Property tax payment was originally forecast for payment in week ending May 28th, but has been pushed to week ending June 4th.
5. Payment to Fitzgerald & Snow, BioAcuity and Hansen Electric will be dealt with separately as per the terms of the agreement.

Source: *Purchased Entity Disbursement Budget prepared by FIGR East management May 25, 2021*

SCHEDULE "A"

FORM OF APPROVAL AND VESTING ORDER

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

THE HONOURABLE [●]) [●], THE [●]
JUSTICE [●]) DAY OF [●], 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.**

(each an "**Applicant**" and collectively, the "**Applicants**")

APPROVAL AND VESTING ORDER

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 the Subscription and Share Purchase Agreement (the "**Sale Agreement**") among FIGR Brands, Inc. (the "**Vendor**"), Canada's Island Garden Inc. (the "**Purchased Entity**"), and 102604 P.E.I. Inc. (the "**Purchaser**") dated May 25, 2021 and attached as Exhibit "**●**" to the affidavit of Michal Devon sworn [●], 2021 (the "**Devon Affidavit**") and the Transactions as defined therein (the "**Transactions**"); (ii) adding [●] ("**Residual Co.**") as an Applicant to these CCAA proceedings; (iii) vesting in the Purchased Entity all the right, title and interest of the Vendor in and to the Transferred Assets, free and clear from any Encumbrances, except for the Permitted Encumbrances, (iv) vesting in the Purchaser all the right, title and interest of the Vendor in and to the Purchased Shares, free and clear from any Encumbrances; (v) authorizing and directing the Purchased Entity to issue the Subscribed Shares, and vesting in the Purchaser all right, title and interest in and to the Subscribed Shares, free and clear of any Encumbrances;

(vi) vesting out of the Purchased Entity all Excluded Assets, if any, Excluded Contracts and Excluded Liabilities and discharging all Encumbrances against the Purchased Entity other than Permitted Encumbrances; and (vii) directing the Vendor to pay the amounts described in Paragraph 9 hereof; and (viii) granting certain related relief, was heard this day via videoconference due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicants and the [●] Report of FTI Consulting Canada Inc. in its capacity as Monitor of the Applicants (the “**Monitor**”) and on hearing the submissions of counsel for the Applicants, the Monitor, the Purchaser, Alliance One Tobacco Canada Inc. (the “**DIP Lender**”) and for those other parties appearing as indicated by the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Aiden Nelms sworn [●], 2021:

SERVICE

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

DEFINED TERMS

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein have the meaning ascribed to them in the Sale Agreement.

APPROVAL AND VESTING

3. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement and the Transactions are hereby approved and the execution of the Sale Agreement by the Vendor and the Purchased Entity is hereby authorized and approved, with such minor amendments as the parties thereto may deem necessary, with the approval of the Monitor and the DIP Lender. The Applicants are hereby authorized and directed to perform their obligations under the Sale Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions and for the conveyance of the Purchased Shares to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that this Order shall constitute the only authorization required by the Vendor to proceed with the Transactions and that no shareholder or other approval shall be required in connection therewith.

5. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of the Monitor's certificate (the "**Monitor's Certificate**") to the Purchaser (the "**Effective Time**"), substantially in the form attached as Schedule "A" hereto, the following shall occur and shall be deemed to have occurred at the Effective Time in the following sequence:

- (a) first, in consideration of the issuance of the Transferred Asset Promissory Note,
 - (i) all of the Vendor's right, title and interest in and to the Transferred Assets shall vest absolutely and exclusively in the Purchased Entity, free and clear of and from any and all Claims and Encumbrances (each as defined below); and
 - (ii) all Assumed Liabilities which are to be assigned by the Vendor to, and assumed by the Purchased Entity pursuant to the Sale Agreement shall be and are hereby assigned to, assumed by and shall vest absolutely and exclusively in the Purchased Entity, and for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Transferred Assets are hereby expunged and discharged as against the Transferred Assets;
- (b) second, all of the Purchased Entity's right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in Residual Co., and all Claims and Encumbrances (each as defined below) shall continue to attach to the Excluded Assets with the same nature and priority as they had immediately prior to their transfer;
- (c) third, in consideration of the Excluded Liability Promissory Note and the transfer of the Excluded Assets, all Excluded Contracts and Excluded Liabilities (which, for certainty includes all debts, liabilities, obligations, indebtedness, contracts, leases, agreements, and undertakings of any kind or nature whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) of Purchased Entity other than the Assumed Liabilities) shall be transferred to, assumed by and

vest absolutely and exclusively in, Residual Co. such that the Excluded Contracts and Excluded Liabilities shall become obligations of Residual Co. and shall no longer be obligations of Purchased Entity, and Purchased Entity and all of its assets, licenses, undertakings and properties of every nature and kind whatsoever and wherever situate (including, for certainty, the Transferred Assets and the Retained Assets, (the “**Purchased Entity Property**”) shall be and are hereby forever released and discharged from such Excluded Contracts and Excluded Liabilities and all related Claims (as defined below), and all Encumbrances (as defined below) affecting or relating to the Purchased Entity Property are hereby expunged and discharged as against the Purchased Entity Property;

- (d) fourth, in consideration of the Share Purchase Price, all of the right, title and interest in and to the Purchased Shares shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order or any other Order of the Court; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act (Ontario)*, *Personal Property Security Act (Prince Edward Island)* or any other personal property registry system; and (iii) those Claims listed on Schedule “B” hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “C” hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Shares are hereby expunged and discharged as against the Purchased Shares;
- (e) fifth, all options, conversion privileges, equity-based awards, warrants, securities, debentures, loans, notes or other rights, agreements or commitments of any character whatsoever that are held by any Person (as defined below) and are

convertible or exchangeable for any securities of Purchased Entity or which require the issuance, sale or transfer by the Purchased Entity, of any shares or other securities of the Purchased Entity, or otherwise evidencing a right to acquire the Purchased Shares and/or the share capital of the Purchased Entity, or otherwise relating thereto, shall be deemed terminated and cancelled;

- (f) sixth, in consideration of the Adjusted Subscription Price, the Purchased Entity shall issue the Subscribed Shares to the Purchaser, and all of the right, title and interest in and to the Purchased Shares shall vest absolutely in the Purchaser, free and clear of and from any and all Claims, including, without limiting the generality of the foregoing all Encumbrances and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Subscribed Shares are hereby expunged and discharged as against the Subscribed Shares;
- (g) seventh, the Monitor shall cause payment to be made on behalf of the Purchased Entity from the Adjusted Subscription Price to Residual Co. in full satisfaction of the Excluded Liability Promissory Note, provided that such payment shall continue to be held by the Monitor of behalf of Residual Co.;
- (h) eighth, the Monitor shall cause payment to be made on behalf of the Purchased Entity from the Adjusted Subscription Price to the Vendor in full satisfaction of the Transferred Asset Promissory Note, provided that such payment shall continue to be held by the Monitor of behalf of the Vendor; and
- (i) ninth, the Purchased Entity shall and shall be deemed to cease to be an Applicant in these CCAA Proceedings, and the Purchased Entity shall be deemed to be released from the purview of the Initial Order and all other Orders of this Court granted in respect of these CCAA Proceedings, save and except for this Order the provisions of which (as they relate to Purchased Entity) shall continue to apply in all respects.

6. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof in connection with the Transactions.

7. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Applicants and the Purchaser regarding the fulfillment of conditions to closing under the Sale Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

8. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, subject to Paragraph 9, the net proceeds from the sale of the Purchased Shares and the proceeds of the Transferred Asset Promissory Note (the "**Sale Proceeds**") shall be allocated to the Vendor, and the net proceeds from the issuance of the Subscribed Shares (the "**Subscription Proceeds**", together with the Sale Proceeds, the "**Proceeds**") shall be allocated to Residual Co., and that from and after the delivery of the Monitor's Certificate, all Claims and Encumbrances shall attach to the Proceeds, with the same priority as they had with respect to the Purchased Shares, the Transferred Assets and the Purchased Entity Property immediately prior to the sale, as if (i) the Transferred Assets and Purchased Shares had not been sold and remained owned by and in the possession or control of the Person who owned and had possession or control immediately prior to the sale; and (ii) the Excluded Contracts and Excluded Liabilities had not been transferred to Residual Co. and remained liabilities of the Purchased Entity immediately prior to the transfer.

9. **THIS COURT DIRECTS** the Vendor to pay from the Proceeds:

- (a) \$137,230 to BioAcuity Consulting ("**BioAcuity**") in full and final satisfaction of all claims by BioAcuity against the Applicants and their current and former directors and officers as of the date hereof;
- (b) \$137,230 (the "**F&S Payment**") to Fitzgerald & Snow (2010) Ltd. ("**F&S**") in full and final satisfaction of all claims by F&S against the Applicants and their current and former directors and officers as of the date hereof; and
- (c) \$159,517.32 (the "**Hansen Payment**") to Hansen Electric Ltd. ("**Hansen**") in full and final satisfaction of all claims by Hansen against the Applicants and their current and former directors and officers as of the date hereof.

10. **THIS COURT ORDERS** that, upon the Applicants making the Hansen Payment and the F&S Payment, the Queens County Registry Officer is hereby directed to delete and expunge from title to the real property the claim identified in Schedule "D".

11. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicants or the Monitor, as the case may be, is authorized, permitted and directed to, at the Effective Time, disclose to the Purchaser all human resources and payroll information in Purchased Entity records pertaining to past and current employees of Purchased Entity. The Purchaser shall maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Purchased Entity.

12. **THIS COURT ORDERS AND DECLARES** that, at the Effective Time and without limiting the provisions of paragraph 5 hereof, the Purchaser and the Purchased Entity shall be deemed released from any and all claims, liabilities (direct, indirect, absolute or contingent) or obligations with respect to any Taxes (including penalties and interest thereon) of, or that relate to, the Applicants, including without limiting the generality of the foregoing all taxes that could be assessed against the Purchaser or the Purchased Entity (including its affiliates and any predecessor corporations) pursuant to section 160 of the *Income Tax Act* (Canada), or any provincial equivalent, in connection with the Applicants (provided, as it relates to the Purchased Entity, such release shall not apply to (i) Transaction Taxes, or (ii) Taxes in respect of the business and operations conducted by the Purchased Entity after the Effective Time).

13. **THIS COURT ORDERS** that except to the extent expressly contemplated by the Sale Agreement, all Contracts to which the Purchased Entity is a party upon delivery of the Monitor's Certificate (including, for certainty, those Contracts constituting Transferred Assets) will be and remain in full force and effect upon and following delivery of the Monitor's Certificate and no individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the delivery of the Monitor's Certificate and is not continuing that would have entitled such Person to enforce those rights or

remedies (including defaults or events of default arising as a result of the insolvency of any Applicant);

- (b) the insolvency of any Applicant or the fact that the Applicants sought or obtained relief under the CCAA;
- (c) any compromises, releases, discharges, cancellations, transactions, arrangements, reorganizations or other steps taken or effected pursuant to the Sale Agreement, the Transactions or the provisions of this Order, or any other Order of the Court in these proceedings; or
- (d) any transfer or assignment, or any change of control of the Purchased Entity arising from the implementation of the Sale Agreement, the Transactions or the provisions of this Order.

14. **THIS COURT ORDERS**, for greater certainty, that: (a) nothing in paragraph 12 hereof shall waive, compromise or discharge any obligations of the Purchased Entity in respect of any Assumed Liabilities, and (b) the designation of any Claim as an Assumed Liability is without prejudice to the Purchased Entity's right to dispute the existence, validity or quantum of any such Assumed Liability, and (c) nothing in this Order or the Sale Agreement shall affect or waive the Purchased Entity's rights and defences, both legal and equitable, with respect to any Assumed Liability, including, but not limited to, all rights with respect to entitlements to set-offs or recoupments against such Assumed Liability.

15. **THIS COURT ORDERS** that from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults of any Applicant then existing or previously committed by any Applicant, or caused by any Applicant, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any Contract, existing between such Person and Purchased Entity (including, for certainty, those Contracts constituting Transferred Assets) arising directly or indirectly from the filing by the Applicants under the CCAA and the implementation of the Transactions, including without limitation any of the matters or events listed in paragraph 12 hereof and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a

Contract shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Purchased Entity or the Vendor from performing their obligations under the Sale Agreement or be a waiver of defaults by the Purchased Entity or the Vendor under the Sale Agreement and the related documents.

16. **THIS COURT ORDERS** that from and after the Effective Time, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations and assessment, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against the Purchased Entity or the Purchased Entity Property relating in any way to or in respect of any Excluded Assets or Excluded Liabilities and any other claims, obligations and other matters which are waived, released, expunged or discharged pursuant to this Order.

17. **THIS COURT ORDERS** that, from and after the Effective Time:

- (a) the nature of the Assumed Liabilities retained by the Purchased Entity, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transactions or this Order;
- (b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to Residual Co.;
- (c) any Person that prior to the Effective Time had a valid right or claim against the Purchased Entity under or in respect of any Excluded Contract or Excluded Liability (each an “**Excluded Liability Claim**”) shall no longer have such right or claim against the Purchased Entity but will have an equivalent Excluded Liability Claim against Residual Co. in respect of the Excluded Contract and Excluded Liability from and after the Effective Time in its place and stead, and nothing in this Order limits, lessens or extinguishes the Excluded Liability Claim of any Person as against Residual Co.; and

- (d) the Excluded Liability Claim of any Person against Residual Co. following the Effective Time shall have the same rights, priority and entitlement as such Excluded Liability Claim had against the Purchased Entity prior to the Effective Time.

18. **THIS COURT ORDERS AND DECLARES** that, as of the Effective Time:

- (a) Residual Co. shall be a company to which the CCAA applies; and
- (b) Residual Co. shall be added as an Applicant in these CCAA Proceedings and all references in any Order of this Court in respect of these CCAA Proceedings to (i) an “Applicant” or the “Applicants” shall refer to and include Residual Co., *mutatis mutandis*, and (ii) “Property” shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof, of Residual Co. (the “**Residual Co. Property**”), and, for greater certainty, each of the Charges (as defined in the Initial Order) shall constitute a charge on the Residual Co. Property.

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the BIA in respect of the Applicants and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicants;

the Sale Agreement, the implementation of the Transactions (including without limitation the transfer and vesting of the Excluded Assets, Excluded Contract and Excluded Liabilities in and to Residual Co., the transfer and vesting of the Transferred Assets in and to the Purchased Entity, and the transfer and vesting of the Purchased Shares in and to the Purchaser), and any payments by the Purchaser authorized herein or pursuant to the Sale Agreement shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and/or Residual Co. and shall not be void or voidable by creditors of the Applicants or Residual Co., as applicable, nor

shall they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

GENERAL

20. **THIS COURT ORDERS** that, following the Effective Time, the Purchaser shall be authorized to take all steps as may be necessary to effect the discharge of the Claims and Encumbrances as against the Purchased Shares and the Purchased Entity Property.

21. **THIS COURT ORDERS** that, following the Effective Time, the title of these proceedings is hereby changed to:

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 [ResidualCo.].

22. **THIS COURT DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

23. **THIS COURT DECLARES** that the Applicants shall be authorized to apply as they may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Monitor shall be the foreign representative of the Applicants. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

24. **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 the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order.

25. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof, provided that the transaction steps set out in Paragraph 5 shall be deemed to have occurred sequentially, one after the other, in the order set out in Paragraph 5.

Schedule “A” – Form of Monitor’s Certificate

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 CANADA’S ISLAND GARDEN INC**

(each an “**Applicant**” and collectively, the “**Applicants**”)

MONITOR’S CERTIFICATE

RECITALS

A. The Applicants commenced these proceedings under the *Companies’ Creditors Arrangement Act* on January 21, 2021 (the “**CCAA Proceedings**”).

B. Pursuant to an Order of the Honourable Justice Haaney of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 21, 2021, FTI Consulting Canada Inc. was appointed as monitor (the “**Monitor**”) of the Applicants in the CCAA Proceedings.

B. Pursuant to an Approval and Vesting Order of the Court dated [●], 2021 (the “**Order**”), the Court approved the transactions (the “**Transactions**”) contemplated by the Share Purchase Agreement (the “**Sale Agreement**”) among FIGR Brands Inc. (the “**Vendor**”), Canada’s Island Garden Inc. (the “**Purchased Entity**”), and 102604 P.E.I. Inc. (the “**Purchaser**”) dated May 25, 2021, and ordered, *inter alia*, that: (i) all of Purchased Entity’s right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in Residual Co.; (ii) all of the Vendor’s right, title and interest in and to the Transferred Assets shall vest absolutely and exclusively in Purchased Entity; (iii) all of the Excluded Contracts and Excluded Liabilities shall be transferred

to, assumed by and vest absolutely and exclusively in, Residual Co.; and (iv) all of the right, title and interest in and to the Purchased Shares shall vest absolutely and exclusively in the Purchaser, which vesting is, in each case, to be effective upon the delivery by the Monitor to the Purchaser of a certificate confirming that the Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Purchaser and the Applicants that all conditions to closing have been satisfied or waived by the parties to the Sale Agreement.

C. Capitalized terms used but not defined herein have the meanings ascribed to them in the Order.

THE MONITOR CERTIFIES the following:

1. The Monitor has received written confirmation from the Purchaser and the Vendor, in form and substance satisfactory to the Monitor, that all conditions to closing have been satisfied or waived by the parties to the Sale Agreement.

2. This Monitor's Certificate was delivered by the Monitor at _____ on _____, 2021 (the "**Closing Time**").

**FTI Consulting Canada Inc., in its capacity as
Monitor of the Applicants, and not in its
personal capacity**

Per: _____
Name:
Title:

Schedule "B"

Schedule "C"

SCHEDULE "D"

SCHEDULE "B"
EXCLUDED ASSETS

SCHEDULE "C"

EXCLUDED CONTRACTS

- Lupos (Canada) Biotechnology Inc. - Cannabis Product Processing Agreement
- Atlantic Canada Opportunities Agency (ACOA) Contribution Agreement
- Dorsay Development Corporation - Lease of Office Space Agreement
- Dorsay Development Corporation - Guarantee Agreement with respect to the Lease of Office Space
- Cogent Communications Inc. - Network Services Terms & Conditions
- SampleSource Inc. - Quote and Service Agreement
- Callture - Quote and Service Agreement
- National Public Relations - Master Services Agreement

SCHEDULE "D"

EXCLUDED LIABILITIES

- Professional Costs.
- Any amounts owing in respect of DIP financing obtained in connection with the CCAA Proceedings.
- Any intercompany debt.

SCHEDULE "E"

ENCUMBRANCES TO BE DISCHARGED

Charged Entity	Jurisdiction	Registration Number	Date	Secured Party	Particulars
Canada's Island Garden Inc.	PEI	4272566	06/28/2017	Compaction Credit Ltd.	One 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.

SCHEDULE "F"

TRANSFERRED ASSETS

1. All intellectual property of the Vendor, including without limitation:

(a) Domains

www.figr.com

(b) Trademarks

Citation	Status	Owner Name
FIGR GO PLAY CompuMark Trademark: FIGR GO PLAY 3 5 29 30 31 32 34	Formalized (Pending) App 2045834 App 13-AUG-2020	FIGR BRANDS INC. 3400 One First Canadian Place, P.O. Box 130 TORONTO, ONTARIO CANADA M5X1A4
STASH CITY CANNABIS CompuMark Trademark: STASH CITY CANNABIS 5 22 29 31 34	Formalized (Pending) App 2054308 App 28-SEP-2020	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR GO EASY & Design CompuMark Trademark: FIGR FIGR GO EASY... 3 5 29 30 31 32 34	Formalized (Pending) App 2045827 App 13-AUG-2020	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR GO STEADY & Design CompuMark Trademark: FIGR FIGR GO STEADY... 3 5 29 30 31 32 34	Formalized (Pending) App 2045830 App 13-AUG-2020	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR GO STEADY CompuMark Trademark: FIGR GO STEADY 3 5 29 30 31 32 34	Formalized (Pending) App 2045831 App 13-AUG-2020	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR GO ELEVATE& Design CompuMark Trademark: FIGR FIGR GO ELEVATE... 3 5 29 30 31 32 34	Formalized (Pending) App 2045832 App 13-AUG-2020	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR GO CHILL CompuMark Trademark: FIGR GO CHILL 3 5 29 30 31 32 34	Formalized (Pending) App 2045833 App 13-AUG-2020	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR GO EASY CompuMark Trademark: FIGR GO EASY 3 5 29 30 31 32 34	Formalized (Pending) App 2045835 App 13-AUG-2020	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR GO ELEVATE CompuMark Trademark: FIGR GO ELEVATE	Formalized (Pending) App 2045836 App 13-AUG-2020	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO

Citation	Status	Owner Name
3 5 29 30 31 32 34		CANADA M5X1A4
FIGR GO CHILL & Design CompuMark Trademark: FIGR FIGR GO CHILL 3 5 29 30 31 32 34	Formalized (Pending) App 2045837 App 13-AUG-2020	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR GO PLAY & Design CompuMark Trademark: FIGR FIGR GO PLAY 3 5 29 30 31 32 34	Formalized (Pending) App 2045838 App 13-AUG-2020	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR CompuMark Trademark: FIGR 44	Advertised (Pending) App 1917841 App 31-AUG-2018	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR Logo CompuMark Trademark: FIGR 41 44	Searched (Pending) App 1917842 App 31-AUG-2018	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR Logo CompuMark Trademark: FIGR 3 5 9 16 18 25 29 30 31 32 34 35 41 42 44	Searched (Pending) App 1908906 App 11-JUL-2018	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR - GO FIGR Logo CompuMark Trademark: FIGR - GO FIGR Cross References: FIGR GO FIGR, FIGURE GO FIGURE 3 5 9 16 18 25 29 30 31 32 34 35 41 42 44	Searched (Pending) App 1908909 App 11-JUL-2018	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
FIGR CompuMark Trademark: FIGR 3 5 9 16 18 25 29 30 31 32 34 35 41 42 44	Searched (Pending) App 1908912 App 11-JUL-2018	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4
CREATIVITY CAN FIGR OUT ALMOST ANYTHING CompuMark Trademark: CREATIVITY CAN FIGR OUT ALMOST ANYTHING 3 5 9 16 18 25 29 30 31 32 34 35 41 42 44	Searched (Pending) App 1908913 App 11-JUL-2018	FIGR INC. Suite 3400, One First Canadian Place, P.O. Box 130 Toronto, ONTARIO CANADA M5X1A4

2. All national account selling agreements, including without limitation the following:

- (a) Fire & Flower
- (b) High Tide
- (c) Spiritleaf
- (d) Loblaws
- (e) The Joint

- (f) Delta 9
 - (g) Sessions
 - (h) Plantlife
 - (i) Canopy
 - (j) Alcanna
3. Any of the following signed by the Vendor:
- (a) Cannabis New Brunswick - Purchase Order Terms and Conditions
 - (b) British Columbia - Licensed Producer Supply Agreement
 - (c) Ontario Cannabis Retail Corporation - Master Supply Agreement
 - (d) Ontario Cannabis Retail Corporation - Data Subscription Agreement
 - (e) Newfoundland and Labrador Liquor Corp. - Cannabis Product Supply Agreement
 - (f) Alberta Gaming, Liquor and Cannabis Commission (AGLC) - Standing Offer Contract
 - (g) Société Québécoise Du Cannabis (SQDC) - Letter of Understanding
 - (h) Manitoba Liquor and Lotteries - Cannabis Purchase Order Terms and Conditions
 - (i) PEI - CIG MOU Agreement
 - (j) Nova Scotia Liquor Corporation - Terms and Conditions
 - (k) Nova Scotia Liquor Corporation - Supply Chain Requirements
4. All physical assets currently located in Toronto, including, without limitation, the following;
- (a) Office furniture
 - (b) Office supplies
 - (c) FIGR branded apparel & branded assets
 - (d) FIGR branded presentation materials

SCHEDULE "G"

ASSUMED LIABILITIES

All trade payables and liabilities incurred in the normal course of operations from the date of the Initial Order that remain outstanding as at the Closing Date (as such trade payables and liabilities are set out in the Statement of Trade Payables).

SCHEDULE "H"

PERMITTED ENCUMBRANCES

None.

SCHEDULE "I"

ADDITIONAL SYSTEMS AND SOFTWARE FOR MOU

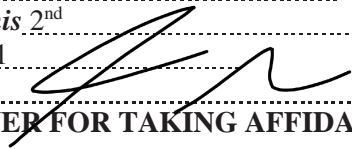
1. Senti
2. SAP

This is Exhibit “F” *referred to in the*

affidavit of Michael Devon

sworn before me, this 2nd

day of June, 2021

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned over the signature line.

.....
A COMMISSIONER FOR TAKING AFFIDAVITS

FIGR NORFOLK INC.

as Vendor

and

11897985 Canada Inc. (dba) BEROXFOOD North America

as Purchaser

ASSET PURCHASE AGREEMENT

May 10, 2021

TABLE OF CONTENTS

Page

ARTICLE 1 1

INTERPRETATION 1

1.1	Definitions	1
1.2	Interpretation Not Affected by Headings, etc.	6
1.3	General Construction	6
1.4	Extended Meanings.....	6
1.5	Currency.....	6
1.6	Statutes.....	6
1.7	Schedules	6

ARTICLE 2 SALE AND PURCHASE AND ASSIGNMENT 6

2.1	Sale and Purchase of Assets.....	6
2.2	Assignment of Contracts.....	7
2.3	"As is, Where is"	7
2.4	Assumed Obligations.....	8
2.5	Excluded Obligations.....	8

ARTICLE 3 ACTIONS PRIOR TO THE CLOSING DATE..... 9

3.1	Investigation by Purchaser.....	9
3.2	Investigation by Vendor.....	9
3.3	Confidentiality	9
3.4	Regulatory Approvals and Consents.....	10

ARTICLE 4 PURCHASE PRICE AND FINANCING 11

4.1	Satisfaction of Purchase Price.....	11
4.2	Deposit.....	11
4.3	Financing Covenant	12
4.4	Transfer Taxes	12

ARTICLE 5 REPRESENTATIONS AND WARRANTIES 13

5.1	Purchaser's Representations.....	13
5.2	Vendor's Representations.....	14
5.3	Limitations.....	15

ARTICLE 6 COVENANTS 15

6.1	Conduct of Business Until Closing Time	15
6.2	Actions to Satisfy Closing Conditions.....	15
6.3	Employees.....	16

TABLE OF CONTENTS
(continued)

	Page
6.4 Use of Business Name	16
ARTICLE 7 CONDITIONS PRECEDENT	17
7.1 Conditions Precedent in favour of the Purchaser	17
7.2 Conditions Precedent in favour of the Vendor.....	17
7.3 Conditions Precedent in favour of both the Purchaser and the Vendor	18
ARTICLE 8 CLOSING	18
8.1 Closing	18
8.2 Purchaser's Deliveries on Closing.....	18
8.3 Vendor's Deliveries on Closing	19
8.4 Possession of Assets	20
8.5 Dispute Resolution.....	20
8.6 Termination.....	20
8.7 Effects of Termination and Closing.....	21
ARTICLE 9 GENERAL.....	21
9.1 Access to Books and Records	21
9.2 Notice.....	22
9.3 Time	23
9.4 Survival	23
9.5 Personal Information.....	23
9.6 Benefit of Agreement.....	23
9.7 Entire Agreement.....	23
9.8 Paramountcy	24
9.9 Governing Law	24
9.10 Further Assurances	24
9.11 Counterparts.....	24
9.12 Severability	24
9.13 Monitor's Certificate	24
9.14 No Liability.....	25
9.15 Expenses	25
9.16 Waiver and Amendment	25

ASSET PURCHASE AGREEMENT

This asset purchase agreement is made as of May 10, 2021, between FIGR Norfolk Inc., a corporation governed by the laws of the Province of Ontario (the "**Vendor**"), and **11897985 Canada Inc.** (dba) **BEROXFOOD North America**, a corporation governed by the laws of Ontario, Canada (the "**Purchaser**").

RECITALS:

- (1) On January 21, 2021, pursuant to the Initial Order: (i) the CCAA Applicants obtained relief under the CCAA; and (ii) FTI Consulting Canada Inc. was appointed as Monitor in the CCAA Proceedings;
- (2) On January 29, 2021, pursuant to the SISP Approval Order, the Monitor, with the assistance of its affiliate, FTI Capital Advisors - Canada ULC, and the CCAA Applicants, were authorized and directed to carry out the SISP in accordance with its terms;
- (3) The Purchaser has been identified as a Successful Bidder in the SISP; and
- (4) The Vendor desires to sell the Purchased Assets, and the Purchaser has agreed to purchase the Purchased Assets, subject to the terms and conditions set forth in this Agreement, the SISP and the applicable provisions of the CCAA.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Vendor and the Purchaser agree as follows:

ARTICLE 1

INTERPRETATION

1.1 Definitions

In this Agreement and the recitals above, the following terms have the following meanings:

"**Affiliate**" has the meaning given to the term "affiliate" in the *Business Corporations Act* (Ontario).

"**Accounts Receivable**" means all accounts or notes receivable held by the Vendor, and any security, claim, remedy or other right related to any of the forgoing.

"**Agreement**" means this asset purchase agreement, as amended from time to time in accordance with the terms hereof.

"**Anticipated Transferred Employees**" means the Employees listed in Schedule "F".

"**Applicable Law**" means, in respect of any Person, property, transaction or event, any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order, in each case, having the force of law that applies in whole or in part to such Person, property, transaction or event.

"Approval and Vesting Order" means an order issued by the Court substantially in the form attached hereto as Schedule "D" and otherwise acceptable to the Purchaser, the Vendor and the Monitor authorizing the Transaction and vesting in the Purchaser (or as it may direct) all the right, title and interest of the Vendor in and to the Purchased Assets.

"Assignment Order" means an order or orders of the Court pursuant to section 11.3 of the CCAA and other applicable provisions of the CCAA, in form and substance satisfactory to the Purchaser, the Vendor and the Monitor, each acting reasonably, authorizing and approving (i) the assignment of any Consent Required Contract for which a consent, approval or waiver necessary for the assignment of such Consent Required Contract has not been obtained, (ii) the prevention of any counterparty to such Consent Required Contracts from exercising any right or remedy under such Consent Required Contracts by reason of any defaults arising from the CCAA Proceedings or the insolvency of the Vendor and (iii) the vesting in the Purchaser (or as it may direct) of all right, title and interest of the Vendor in such Consent Required Contracts.

"Assumed Obligations" has the meaning set out in Section 2.4.

"Books and Records" means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), used or intended for use by, and in the possession of the Vendor, in connection with the ownership, or operation of the Purchased Assets, including the Contracts, customer lists, customer information and account records, sales records, computer files, data processing records, employment and personnel records (but only as it relates to Transferred Employees), sales literature, advertising and marketing data and records, credit records, records relating only to suppliers and other data, in each case, relating to the Purchased Assets, and, for greater certainty, excluding the minute books and corporate records (including the financial and taxation related records) of the Vendor.

"Business Day" means a day on which banks are open for business in the Province of Ontario but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario.

"Cannabis Licences" means all authorizations and letters related to cannabis and issued by a Governmental Authority to the Vendor, including authorizations to plant, grow, cultivate, extract, produce, process, store, destroy, sell, provide, ship, deliver, transport and/or distribute cannabis under Applicable Law.

"Cash Balance" has the meaning set out in Section 4.1(b).

"CCAA" means the *Companies' Creditors Arrangement Act* (Canada).

"CCAA Applicants" means collectively FIGR Brands, Inc., Canada's Island Garden Inc., and FIGR Norfolk Inc.

"CCAA Proceedings" means the proceedings commenced by the CCAA Applicants under the CCAA.

"Claims" means any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, chose in or cause of action, action, suit, default, assessment or reassessment, litigation, third, party action, arbitral proceeding or, proceeding by or before any Person,

complaints, grievance, petition, application, charge, investigation, indictment, prosecution, judgement, debt, liability, damage, or loss, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, known or unknown, disputed or undisputed, contractual, legal or equitable.

"**Closing**" means the successful completion of the Transaction.

"**Closing Date**" means 2 Business Days after the date upon which the conditions set forth in Article 7 have been satisfied or waived, other than the conditions set forth in Article 7 that by their terms are to be satisfied or waived at the Closing (or such other date agreed to by the Parties in writing); provided that the Closing Date shall be no later than the Outside Date.

"**Closing Time**" means 10:00 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

"**Consent Required Contract**" has the meaning set out in Section 2.2(a).

"**Contracts**" means the contracts and other written agreements to which a Vendor is a party or under which a Vendor has, or shall have, any right or liability or contingent right or liability constituting part of the Purchased Assets and listed in Appendix I to Schedule "A" to this Agreement (and including as amended, restated, amended and restated or otherwise modified from time to time).

"**Court**" means the Ontario Superior Court of Justice (Commercial List).

"**Cure Costs**" means, in respect of any Consent Required Contract, all amounts required to be paid pursuant to section 11.3 of the CCAA to effect, pursuant to the CCAA, the assignment by a Vendor and assumption by the Purchaser of such Consent Required Contracts under the Assignment Order and to otherwise satisfy all requirements imposed by section 11.3 of the CCAA, but excluding for certainty, those monetary defaults arising by reason of such Vendor's insolvency, the commencement of the CCAA Proceedings, or the failure to perform a non-monetary obligation.

"**Deposit**" has the meaning set out in Section 4.2(a).

"**DIP Lender**" means Alliance One Tobacco Canada Inc.

"**Employee**" means an individual who is employed by a Vendor, whether on a full-time or a part-time basis, whether active or inactive as of the Closing Date, and includes an employee on short term or long-term disability leave.

"**Encumbrances**" means any security interest, lien, claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, adverse claim or right of a third party of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing (including any conditional sale or title retention agreement, or any capital or financing lease).

"**Excise Tax Act**" means the *Excise Tax Act* (Canada).

"**Excluded Assets**" means all of the Vendor's right, title and interest, in and to those assets that are not Purchased Assets, and for greater certainty, includes those assets set forth in Schedule "B".

"**Excluded Equipment**" means any equipment or machinery and any parts and components thereof, that are Excluded Assets.

"**Excluded Obligations**" has the meaning set out in Section 2.5.

"**Financing Covenant**" has the meaning set out in Section 4.3

"**Governmental Authority**" means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation.

"**HST**" means the goods and services tax and harmonized sales tax levied under Part IX of the *Excise Tax Act*.

"**Income Tax Act**" means the *Income Tax Act* (Canada).

"**Initial Order**" means the order of the Court dated January 21, 2021 as amended and restated pursuant to a subsequent Court order dated January 29, 2021, and as may be further amended and/or restated from time to time.

"**Key Individuals**" has the meaning set out in Section 3.4(1).

"**Material Loss Event**" has the meaning set out in Section 8.4(2).

"**Monitor**" means FTI Consulting Canada Inc. in its capacity as the monitor in the CCAA Proceedings.

"**Monitor's Certificate**" means the certificate of the Monitor contemplated by the Approval and Vesting Order certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties and that the Vendor has received the Purchase Price.

"**NDA**" means the non-disclosure agreement entered into between the CCAA Applicants and the Purchaser dated February 22, 2021

"**Non-Assignable Interests**" means any Purchased Assets, which, by their nature, cannot be legally or practically sold and assigned by the Vendor to the Purchaser hereunder, including without limitation any Consent Required Contracts and licenses for which an Assignment Order or counterparty consent has not been obtained or which by their nature are not assignable.

"**Outside Date**" means June 30, 2021 or such later date as the Vendor (with the consent of the Monitor and the DIP Lender) may designate, in its sole discretion, on not less than 5 Business Days' notice to the Purchaser, or in any event as otherwise ordered by the Court.

"**Party**" means each of the Purchaser and the Vendor, which are referred to herein collectively as the "Parties".

"**Permitted Encumbrances**" means those Encumbrances set forth in Schedule "C".

"**Person**" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted.

"**Purchase Price**" means [REDACTED]

"**Purchased Assets**" means all of the Vendor's right, title and interest in and to those assets set forth in Schedule "A", and for greater certainty shall exclude all Excluded Assets.

"**Purchaser**" has the meaning set out in the recitals hereto.

"**Purchaser Cannabis Licences**" has the meaning set out in Section 3.4(1).

"**Purchaser Cannabis Licensees**" has the meaning set out in Section 3.4(1).

"**Representative**" means, in respect of a Party, each director, officer, employee, agent, Affiliate, manager, lender, solicitor, accountant, professional advisor, consultant, contractor and other representative of such Party or such Party's Affiliates.

"**SISP**" means the Court-approved sale and investment solicitation process conducted further to and approved by the SISP Approval Order (including Schedule "A" thereto).

"**SISP Approval Order**" means the order of the Court dated January 29, 2021, among other things, approving the SISP.

"**Successful Bidder**" has the meaning given to it in the SISP.

"**Transaction**" means the transaction of purchase and sale contemplated by this Agreement.

"**Transfer Taxes**" means all present and future transfer taxes, sales taxes, excise taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including HST but excluding any taxes imposed or payable under the Income Tax Act and any other applicable income tax legislation.

"**Transferred Employee**" means any employee who receives and accepts an offer of employment from the Purchaser in accordance with Section 6.3(1).

"**Vendor**" has the meaning set out in the recitals hereto.

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3 General Construction

The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof. The expression "Section" or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement. The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

1.4 Extended Meanings

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings.

1.5 Currency

All references in this Agreement to dollars, monetary amounts or to \$ are expressed in Canadian currency unless otherwise specifically indicated.

1.6 Statutes

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules, regulations and interpretations made under it, as it or they may have been or may from time to time be modified, amended or re-enacted.

1.7 Schedules

The following Schedules are incorporated in, and form part of, this Agreement:

Schedule "A" - Purchased Assets

Schedule "B" - Excluded Assets

Schedule "C" - Permitted Encumbrances

Schedule "D" - Form of Approval and Vesting Order

Schedule "E" - Purchase Price Allocation

Schedule "F" - Transferred Employees

ARTICLE 2 SALE AND PURCHASE AND ASSIGNMENT

2.1 Sale and Purchase of Assets

Subject to the terms and conditions hereof, at the Closing Time, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser hereby agrees to purchase from the Vendor, all of the Vendor's right, title and interest in, to and under the Purchased Assets, excluding any Non-Assignable

Interests, free and clear of all Encumbrances (other than Permitted Encumbrances) pursuant to the Approval and Vesting Order.

2.2 Assignment of Contracts

- (1) In the event that there are any Contracts which are not assignable in whole or in part without the consent, approval or waiver of another party or parties to them and such consents, approvals or waivers have not yet been obtained as of the Closing Date, then:
 - (a) nothing in this Agreement will be construed as an assignment of any such Contract (each a "**Consent Required Contract**");
 - (b) until the Approval and Vesting Order is granted, the Vendor shall use its commercially reasonable efforts to obtain any such consent, approval or waiver, and the Purchaser shall provide its reasonable cooperation to assist the Vendor in obtaining any such consent, approval or waiver;
 - (c) if any consent, approval or waiver is not obtained for any Consent Required Contract prior to the service of the motion for the Approval and Vesting Order, the Purchaser may request that the Vendor bring a motion to the Court for issuance of an Assignment Order with respect to such Consent Required Contracts together with the motion for the Approval and Vesting Order; and
 - (d) once the consent, approval or waiver to the assignment of a Consent Required Contract is obtained, or the assignment of such Contract has been ordered by the Court, such Consent Required Contract shall be deemed to be assigned to the Purchaser on Closing; and
 - (e) if any consent, approval or waiver or Assignment Order required to assign a Consent Required Contract has not yet been obtained as of the Closing Date, then: (i) nothing in this Agreement will be construed as an assignment of any such Contract; (ii) the Purchaser shall have no liability or obligation whatsoever in respect of any such Consent Required Contract; (iii) all such Consent Required Contracts shall be deemed to be excluded from the Purchased Assets; and (iv) the fact that such consent, approval or waiver or Assignment Order has not been obtained shall not result in an adjustment to the Purchase Price or otherwise entitle the Purchaser to terminate this Agreement.
- (2) With respect to each Consent Required Contract, subject to Closing and to either (i) the consent of the other parties thereto to the assignment thereof, or (ii) in the absence of such consent, the obtaining of an Assignment Order, in addition to its other obligations under this Agreement, the Purchaser shall pay the applicable Cure Costs related to such Consent Required Contract on Closing.

2.3 "As is, Where is"

The Purchaser acknowledges that the Vendor is selling the Purchased Assets on an "as is, where is" basis as they shall exist as at the Closing Time, subject to the terms of the Approval and Vesting Order, as applicable. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets. No representation, warranty or condition is

expressed or can be implied as to title, Encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendor to sell or assign same save and except as expressly represented or warranted herein. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply hereto and have been waived by the Purchaser. The description of the Purchased Assets contained in the Schedules is for purpose of identification only. Except as otherwise provided in Section 5.2, no representation, warranty or condition has or will be given by the Vendor concerning completeness or accuracy of such descriptions. Notwithstanding the generality of the foregoing, the Purchaser acknowledges that neither the Vendor, nor any other Person (including any Representative of the Vendor, whether in any individual, corporate or any other capacity or the Monitor) is making, and the Purchaser is not relying on, any representations, warranties or other statements of any kind whatsoever, whether oral or written, express or implied, statutory or otherwise, as to any matter concerning the Vendor, the business of the Vendor, the Purchased Assets, the Assumed Obligations, the Excluded Assets, the Excluded Obligations, this Agreement or the Transaction, or the accuracy or completeness of any information provided to (or otherwise acquired by) the Purchaser or any of its respective Representatives.

2.4 Assumed Obligations

The Purchaser shall assume as of the Closing Time, and shall from and after the Closing Time, perform, discharge and pay when due, as the case may be, the following obligations and liabilities of the Vendor (the "**Assumed Obligations**"):

- (a) all debts, liabilities, obligations under the Contracts (to the extent assigned or transferred to the Purchaser on Closing) for the period from and after the Closing Time;
- (b) the obligation and liability of the Vendor to pay Cure Costs in respect of any Consent Required Contract;
- (c) all debts, liabilities and obligations arising from and after the Closing Date with respect to Transferred Employees;
- (d) all debts, liabilities and obligations arising from ownership and use of the Purchased Assets for the period from and after the Closing Time; and
- (e) any other liability which the Purchaser agrees in writing to assume on or before the Closing Date.

2.5 Excluded Obligations

Other than the Assumed Obligations, the Purchaser shall not assume and shall not be liable, directly or indirectly, or otherwise responsible for any debts, liabilities or other obligations of the Vendor (collectively, the "**Excluded Obligations**"), including, without limiting the generality of the foregoing:

- (a) or Claims related to any Excluded Asset;

- (b) subject to Section 2.2 and section 2.4(b), all debts, liabilities and obligations related to any Purchased Asset or the business of the Vendor arising out of or related to the period prior to the Closing Time;
- (c) all taxes imposed on or relating to the Purchased Assets that are attributable to any pre-Closing tax period whether or not any such period ends on or before the Closing Date (other than any Transfer Taxes payable by the Purchaser in accordance with Section 4.2); and
- (d) all debts, liabilities and obligations of the Vendor arising under this Agreement.

ARTICLE 3 ACTIONS PRIOR TO THE CLOSING DATE

3.1 Investigation by Purchaser

Until the Closing Date, the Vendor shall make reasonable efforts to furnish or make available to the Purchaser such information concerning and access to the Purchased Assets as shall be reasonably requested, including information as shall be necessary to enable the Purchaser to verify that the covenants of the Vendor contained in this Agreement have been complied with. Notwithstanding anything herein to the contrary, no such investigation or examination shall be permitted to the extent that it would require the Vendor to disclose (i) due diligence questions, lists or investigations conducted by others, names, bids, letters of intent, expressions of interest, or other proposals received from others in connection with the transactions contemplated hereby or other information and analyses relating to such communications or (ii) information (A) subject to privilege, (B) which would conflict with any confidentiality obligations to which the Vendor is bound or (C) in violation of Applicable Law. The Purchaser and its agents agree to abide by any safety rules or rules of conduct reasonably imposed by the Vendor with respect to such access and any information furnished to it or its Representatives pursuant thereto.

3.2 Investigation by Vendor

Subject to the confidentiality provisions set forth in Section 3.3 until the Closing Date, the Purchaser shall furnish to the Vendor such information concerning the Purchaser as shall be reasonably requested, including all such information as shall be necessary to enable the Vendor to: (i) verify that the representations and warranties and covenants of the Purchaser contained in this Agreement have been complied with; (ii) obtain any requested Assignment Order or affect the assignment of a Consent Required Contract; and (iii) obtain information regarding the Purchaser's progress obtaining the Purchaser Cannabis Licences and the security clearance of any of the Purchaser Cannabis Licensees.

3.3 Confidentiality

Notwithstanding anything to the contrary set forth herein, in the NDA or in any other agreement to which the Parties are parties or by which they are bound, the Parties acknowledge and understand that this Agreement (together with the exhibits and schedules attached hereto) will be made available to, and disclosures relating to the transactions contemplated hereby will be made to, the Monitor and the DIP Lender, and their respective affiliates, agents, consultants, counsel and other representatives, subject to the terms of the SISP. The Parties agree that such disclosure will not be deemed to violate any confidentiality obligations owing to any Party under this Agreement, whether pursuant to this Agreement or otherwise. This Section 3.3 shall not in any way limit the disclosure of information by the Vendor in connection with

the administration of the CCAA Proceedings, pursuant to any provision of Applicable Law or any order of the Court. For greater certainty and without limitation, the Vendor shall be entitled to disclose this Agreement to the Court and in the CCAA Proceedings, and this Agreement may be posted on the Monitor's website maintained in connection with the CCAA Proceedings. The Vendor and/or the Monitor are also permitted to issue a press release or other public statement or public communication with respect to this Agreement at any time after Closing.

3.4 Regulatory Approvals and Consents

- (1) Each of the Parties shall use its commercially reasonable efforts to (i) take, or cause to be taken, all appropriate action, and do, or cause to be done, all things necessary, proper or advisable under any law or otherwise to consummate and make effective the transactions contemplated by this Agreement, (ii) obtain any consents, approvals or orders required to be obtained or made in connection with the authorization, execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, and (iii) make all filings and give any notice, and thereafter make any other submissions either required or reasonably deemed appropriate by each of the Parties, with respect to this Agreement and the transactions contemplated hereby required under any Applicable Law. Without limiting the generality of the foregoing, before the Closing Date, the Purchaser shall take all steps necessary or required by any Governmental Authority to be eligible for any consents, approvals, orders, licenses, permits, authorizations, or clearances required to effect the transactions contemplated by this Agreement, including but not limited to new cannabis licences from Health Canada (the "**Purchaser Cannabis Licences**") in the names of the eligible persons to be nominated by the Purchaser (the "**Purchaser Cannabis Licensees**"). The Purchaser shall ensure that before the Closing Date, the individuals that will assume the following roles at the Purchaser Cannabis Licensees (1) have obtained security clearance, or (2) have been identified in writing by Health Canada as not requiring security clearance in order for the Purchaser Cannabis Licences to be approved:
 - (a) All directors and officers and directors and officers of any direct or indirect parent corporation of the Purchaser Cannabis Licensees;
 - (b) Any individual who exercises, will exercise or will be in a position to exercise, control over the Purchaser Cannabis Licensees;
 - (c) the Responsible Person in Charge and any designated alternates;
 - (d) the Head of Security and any designated alternates;
 - (e) the Master Grower and any designated alternates, if the Purchaser Cannabis Licensees obtain a cultivation licence under the *Cannabis Act*; and
 - (f) the Quality Assurance Person and any designated alternates, if the Purchaser Cannabis Licensees obtain a processing licence under the *Cannabis Act*.(together, the "**Key Individuals**")
- (2) The Parties shall work closely and cooperatively and consult with each other in connection with the making of all such filings and notices, including providing copies of all such documents to the non-filing Party and its advisors within a reasonable period of time prior to filing or the giving of

notice. Each Party shall pay for its own filing fees and other charges arising out of the actions taken under this Section 3.4.

- (3) The Cannabis Licences should be maintained during and at the time of Closing.

ARTICLE 4 PURCHASE PRICE AND FINANCING

4.1 Satisfaction of Purchase Price

The Purchase Price shall be satisfied by the Purchaser as follows:

- (a) As to the Deposit, by wire transfer of immediately available funds to the Monitor concurrently with the execution and delivery of this Agreement; and
- (b) As to the amount equal to the Purchase Price less the Deposit (the "**Cash Balance**"), by wire transfer of immediately available funds on the Closing Date to such bank account to be designated by the Monitor in writing at least two (2) Business Days prior to the Closing Date.

The Purchase Price shall be allocated on Closing amongst the Purchased Assets in accordance with Schedule "E". The Purchaser and Vendor agree that they will make all relevant tax and other filings in accordance with such Purchase Price allocation. For greater certainty, the value of the Assumed Obligations has been taken into account with respect to the determination of the aggregate Purchase Price payable pursuant to this Article 4 and the assumption of such Assumed Obligations by the Purchaser does not constitute separate or additional consideration hereunder in respect of the Purchased Assets. Except as provided in Section 8.4(2), the Purchase Price shall not be subject to any claim for set off, reduction or adjustment or any similar claim or mechanism of any kind whatsoever.

4.2 Deposit

- (a) The Vendor confirms receipt by the Monitor of a deposit paid by the Purchaser in the amount of [REDACTED] (the "**Deposit**").
- (b) The Deposit, together with all interest accrued thereon, if any, will be applied on Closing in satisfaction of an equivalent amount of the Purchase Price in accordance with Section 4.1(a) and delivered to the bank account designated by the Monitor in accordance with Section 4.1(b).
- (c) If the Closing does not occur for any reason other than the Agreement having been terminated by the Vendor pursuant to Section 8.6(3), the full amount of the Deposit together with all accrued interest accrued thereon, if any, shall be forthwith returned by the Monitor to the Purchaser.
- (d) If the Agreement is terminated by the Vendor pursuant to Section 4.3 or 8.6(3), the full amount of the Deposit, together with all interest accrued thereon, if any, shall become the property of, and shall be paid to and may be retained by, the Vendor as liquidated damages

(and not as a penalty) to compensate it for the expenses incurred and opportunities foregone as a result of the failure of the Transaction to close.

4.3 Financing Covenant

The Purchaser shall provide the Vendor and the Monitor with written evidence, satisfactory to the Monitor and the Vendor acting reasonably, confirming that the Vendor has sufficient financing to pay the Cash Balance on or before the Closing Date (the "**Financing Covenant**"). If the Financing Covenant is not satisfied or performed by the Purchaser on or prior to the date that is five (5) Business Days following the execution of this Agreement or such later date as the Vendor and the Monitor may agree, the Vendor may elect to terminate this Agreement with immediate effect.

4.4 Transfer Taxes

(1) The Parties agree that:

- (a) the Purchase Price is exclusive of all Transfer Taxes and the Purchaser shall be liable for and shall pay any and all applicable Transfer Taxes pertaining to the Purchaser's acquisition of the Purchased Assets;
- (b) the Purchaser shall pay any applicable Transfer Taxes on the Purchaser's acquisition of the Purchased Assets in addition to the Purchase Price, either to the Monitor on behalf of the Vendor or directly to the appropriate Governmental Authority, as required by Applicable Law;
- (c) if applicable, the Vendor and the Purchaser shall jointly elect under section 167 of the Excise Tax Act that no HST will be payable pursuant to the Excise Tax Act with respect to the purchase and sale of the Purchased Assets under this Agreement, and the Purchaser shall file such election(s) no later than the due date for the Purchaser's HST return for the first reporting period in which HST would, in the absence of filing such election, become payable in connection with the purchase and sale of the Purchased Assets under this Agreement. Notwithstanding this election(s), in the event it is determined by a Governmental Authority that there is a liability of the Purchaser to pay, or of the Vendor to collect and remit, HST in respect of the purchase and sale of the Purchased Assets hereunder, the Purchaser shall forthwith pay such HST to the applicable Governmental Authority, or to the Vendor for remittance to the appropriate Governmental Authority, as the case may be, and shall indemnify and save harmless the Vendor from any penalties and interest which may be payable by or assessed against the Vendor (or its Representatives, agents, Employees, directors or officers) under the Excise Tax Act in respect thereof.

(2) If requested by the Purchaser, the Vendor shall make a joint election(s) to have the rules in section 22 of the Income Tax Act, and any equivalent or corresponding provision under applicable provincial or territorial tax legislation, apply in respect of the Accounts Receivable.

(3) If requested by the Purchaser, the Vendor shall make a joint election(s) to have the rules in subsection 20(24) of the Income Tax Act, and any equivalent or corresponding provision under applicable provincial or territorial tax legislation, apply to the obligations of the Vendor in respect

of undertakings which arise from the operation of the business to which the Purchased Assets related and to which paragraph 12(1)(a) of the Income Tax Act applies.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 Purchaser's Representations

The Purchaser represents and warrants to the Vendor as of the date hereof and as of the Closing Time, and acknowledges that the Vendor is relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) the Purchaser is a corporation duly incorporated, organized and subsisting under the laws of its jurisdiction of incorporation and has the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;
- (b) neither the execution of this Agreement nor the performance by the Purchaser of the Transaction will violate the Purchaser's constating documents, any agreement to which the Purchaser is bound, any judgment or order of a court of competent jurisdiction or any Governmental Authority, or any Applicable Law. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary corporate action on the part of the Purchaser. This Agreement is a valid and binding obligation of the Purchaser enforceable in accordance with its terms;
- (c) the Purchaser is not a non-resident of Canada for purposes of the Income Tax Act or the Excise Tax Act, as applicable;
- (d) the Purchaser is a registrant for purposes of the HST, and its registration number is 747208536 RT0001;
- (e) the Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property;
- (f) except for (a) the issuance of the Approval and Vesting Order, (b) any regulatory approvals required to be obtained pursuant to Section 3.4, and (c) any consent that may be required in connection with the assignment of a Purchased Asset, no authorization, consent or approval of, or filing with or notice to, any Governmental Authority, court or other Person is required in connection with the execution, delivery or performance of this Agreement by the Purchaser, and each of the agreements to be executed and delivered by the Purchaser hereunder or the purchase of any of the Purchased Assets hereunder, except for any authorizations, consents, approvals, filings or notices of any Governmental Authority, court or Person that would not have a material effect on or materially delay or impair the ability of the Purchaser to consummate the transactions hereunder;

- (g) there are no Claims, investigations or other proceedings, including appeals and applications for review, in progress or, to the actual knowledge of the Purchaser after reasonable due diligence, pending or threatened against or relating to the Purchaser which, if determined adversely to the Purchaser, would (i) prevent the Purchaser from paying the Purchase Price to the Vendor; (ii) enjoin, restrict or prohibit the transfer of all or any part of the Purchased Assets as contemplated by this Agreement; or (iii) prevent the Purchaser from or delay the Purchaser in fulfilling any of its obligations set out in this Agreement or arising from this Agreement;
- (h) there are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement;
- (i) the Key Individuals, and any other individuals who will have roles that must be fulfilled under Applicable Laws to obtain and maintain the Purchaser Cannabis Licences, either a) are among the Anticipated Transferred Employees or b) will be employed by the Purchaser on the date of this Agreement;
- (j) the Key Individuals have obtained security clearances as required to obtain and maintain the Purchaser Cannabis Licences under Applicable Law; and
- (k) the Purchaser is a "Canadian" within the meaning of the Investment Canada Act, and the regulations thereunder.

5.2 Vendor's Representations

The Vendor represents and warrants to the Purchaser as of the date hereof and as of the Closing Time as follows and acknowledge that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) the Vendor is a corporation duly incorporated, organized and subsisting under the laws of their respective jurisdiction of incorporation;
- (b) the Vendor is not a non-resident of Canada for purposes of the Income Tax Act;
- (c) the Vendor is a registrant for purposes of the HST, and its registration number is _____;
- (d) there are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement; and
- (e) subject to obtaining the Approval and Vesting Order and, if applicable, the Assignment Order, the Vendor has the requisite power and authority to enter into this Agreement and to complete the Transaction contemplated hereunder.

5.3 Limitations

With the exception of the Vendor's representations and warranties in Section 5.2 and the Purchaser's representations and warranties in Section 5.1, neither the Vendor nor the Purchaser, or their respective Representatives, nor any of their respective officers, directors or employees make, have made or shall be deemed to have made any other representation or warranty, express or implied, at law or in equity, in respect of the Vendor, the Purchaser, or the Purchased Assets or the sale and purchase of the Purchased Assets pursuant to this Agreement.

ARTICLE 6 COVENANTS

6.1 Conduct of Business Until Closing Time

- (1) During the period commencing on the date of this Agreement and ended at the Closing Time, except: (1) as contemplated or permitted by this Agreement; (2) as necessary in connection with the CCAA Proceedings; (3) as otherwise provided in the Initial Order and any other court orders, prior to the Closing Time; (4) as required by Applicable Law, to the extent reasonably practicable having regard to the CCAA Proceedings; or (5) as consented to by the Purchaser, such consent not to be unreasonably withheld, conditioned or delayed, the Vendor shall:
 - (a) Subject to subsection (c), remain in possession of the Purchased Assets until Closing, use the Purchased Assets only in the ordinary course of business and maintain, preserve and protect the Purchased Assets in the condition in which they exist on the date hereof, other than ordinary wear and tear and other than replacements, dispositions, modifications or maintenance in the ordinary course of business;
 - (b) maintain the Cannabis Licences in good standing with Health Canada and/or any other relevant government authority or work with Health Canada to replace the Health Canada Licences immediately post-closing;
 - (c) not dispose of any of the Purchased Assets, other than in the ordinary course of business;
 - (d) not disclaim any Contract that is materially applicable to the Purchased Assets; and
 - (e) not enter into any material contract or other material written agreement in respect of any of the Purchased Assets other than in the ordinary course of business. The consent of the Purchaser shall be deemed to have been given with respect to any request for such a consent to which the Purchaser fails to respond within two (2) Business Days after such request is made.

6.2 Actions to Satisfy Closing Conditions

- (1) The Vendor agrees to take all commercially reasonable actions so as to ensure compliance with all of the conditions set forth in Section 7.1 and Section 7.3; and
- (2) The Purchaser agrees to take all commercially reasonable actions so as to ensure compliance with the conditions set forth in Section 7.2 and Section 7.3.

6.3 Employees

- (1) At least five (5) days in advance of the Closing Date, the Purchaser shall make a written offer of employment, which will be conditional upon Closing, to those Employees listed on Schedule "F". The Purchaser may provide to the Vendor the names of additional Employees to whom the Purchaser shall make a written offer of employment up to five (5) days in advance of the Closing Date.
- (2) Immediately following the Closing, the Purchaser shall provide each Transferred Employee with terms and conditions of employment that are substantially the same in all material respects as the terms and conditions of employment provided by the Vendor immediately prior to the Closing. For clarity, (i) for purposes of the Purchaser's obligation pursuant to this paragraph, each Transferred Employee's status as active or inactive and compensation and benefits as of immediately following the Closing shall reflect such Transferred Employee's status as active or inactive and such Transferred Employee's compensation and benefits in effect as of immediately prior to the Closing (inclusive of any temporary reduction or cessation of such compensation and benefits); (ii) the Purchaser shall have no obligation to (A) offer to employ any Employee or (B) other than as contemplated by this Section 6.3, provide any Transferred Employee with any specific term or condition of employment, including any specific amount or type of compensation or benefits, for any period following the Closing; and (iii) each offer of employment will recognize the Transferred Employee's past service with the applicable Vendor for all purposes.
- (3) Nothing in this Section 6.3, whether express or implied, (i) is intended to or shall confer upon any Person, including any Employee, other than the Parties and their respective successors and assigns, any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement, (ii) shall establish or constitute an amendment, termination or modification of, or an undertaking to establish, amend, terminate or modify, any benefit plan, program, agreement or arrangement or (iii) shall create any obligation on the part of the Purchaser to employ any Employee for any period following the Closing Date.
- (4) Without limiting the Purchaser's obligations in respect of the Transferred Employees, the Purchaser shall be responsible for:
 - (a) All liabilities for salary, wages, bonuses, commissions, vacation pay, and other compensation relating to employment of the Transferred Employees in accordance with the offer made to such Transferred Employees by the Purchaser for the period on or after the Closing Date; and
 - (b) All statutory notices of termination or payment in lieu of notice obligations and statutory severance obligations in respect of the termination by the Purchaser of the employment of any Transferred Employee taking place on or after the Closing Date.

6.4 Use of Business Name.

The Purchaser agrees that immediately after the Closing Date, the Purchaser shall not use the name "FIGR" or any variation thereof in connection with the Purchased Assets, except as may be required for the purpose of the CCAA Proceedings and where legally required to advise of the historical fact that such name was previously associated with the Purchased Assets.

ARTICLE 7
CONDITIONS PRECEDENT

7.1 Conditions Precedent in favour of the Purchaser

- (1) The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed:
 - (a) all representations and warranties of the Vendor contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that time; and
 - (b) the Vendor shall maintain the Cannabis Licences up to the date of Closing and shall use commercially reasonable efforts to cooperate with the Purchaser or the Purchaser Cannabis Licensees in the process of obtaining the Purchaser Cannabis Licences from Health Canada;
 - (c) the Vendor shall have performed in all material respects each of their obligations under this Agreement to the extent required to be performed at or before the Closing Time, including the delivery of each of the items required pursuant to Section 8.3.
- (2) The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 7.1 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set out in Section 7.1 is not satisfied or performed on or prior to the Outside Date, the Purchaser may elect on written notice to the Vendor to terminate this Agreement.

7.2 Conditions Precedent in favour of the Vendor

- (1) The obligation of the Vendor to complete the Transaction is subject to the following conditions being fulfilled or performed:
 - (a) all representations and warranties of the Purchaser contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date;
 - (b) the Purchaser shall have obtained the Purchaser Cannabis Licences; and
 - (c) the Purchaser shall have performed in all material respects each of its obligations under this Agreement to the extent required to be performed at or before the Closing Time, including the delivery of each of the items required pursuant to Section 8.2.
- (2) The foregoing conditions are for the exclusive benefit of the Vendor. Any condition in this Section 7.2 may be waived by the Vendor in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Vendor only if made in writing. If any condition set forth in Section

7.2 is not satisfied or performed on or prior to the Outside Date, the Vendor may elect on written notice to the Purchaser to terminate the Agreement.

7.3 Conditions Precedent in favour of both the Purchaser and the Vendor

- (1) The obligations of the Vendor and the Purchaser to complete the Transaction are subject to the following conditions being fulfilled or performed:
 - (a) the Approval and Vesting Order shall have been obtained and shall not have been reversed, stayed, varied, or vacated;
 - (b) no provision of and Applicable Law shall be in effect and/or no order shall have been issued by a Governmental Authority, which restrains or prohibits the completion of the Transaction. For clarity, the Purchaser's failure to take the steps necessary to obtain the Purchaser Cannabis Licences shall not constitute a condition for the benefit of the Purchaser and the Purchaser shall not be entitled to terminate this Agreement on this basis; and
 - (c) no motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.
- (2) The Parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendor and the Purchaser. If the conditions set out in this Section 7.3 are not satisfied performed or mutually waived on or before the Outside Date, either Party shall have the option to terminate this Agreement upon written notice to the other Parties.

ARTICLE 8 CLOSING

8.1 Closing

Subject to the conditions set out in this Agreement, the completion of the Transaction shall take place at the Closing Time by electronic means due to the COVID-19 pandemic, or as otherwise determined by mutual agreement of the Parties in writing, and the Parties shall exercise commercially reasonable efforts to cause Closing to occur at the Closing Time, and, in any event, prior to the Outside Date.

8.2 Purchaser's Deliveries on Closing

At or before the Closing Time, the Purchaser shall execute and deliver, or arrange for the delivery, as the case may be, to the Vendor the following, each of which shall be in form and substance satisfactory to the Vendor, acting reasonably:

- (a) the Cash Balance in accordance with Section 4.1;
- (b) payment of any Transfer Taxes required by Applicable Law to be collected by the Vendor, and, if applicable, the elections referred to in Section 4.3 executed by the Purchaser;
- (c) an executed assignment and assumption agreement evidencing the assumption by the Purchaser of the Assumed Obligations;

- (d) a certificate dated as of the Closing Date and executed by an executive officer of the Purchaser confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all material respects the covenants to be performed by it prior to the Closing Time;
- (e) a copy of the Purchaser Cannabis Licences; and
- (f) such further and other documentation as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

8.3 Vendor's Deliveries on Closing

At or before the Closing Time, the Vendor shall execute and deliver, or arrange for the delivery, as the case may be, to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) the Purchased Assets, excluding any Non-Assignable Interests, which shall be delivered *in situ* wherever located as of the Closing;
- (b) the Approval and Vesting Order entered by the Court;
- (c) an executed assignment and assumption agreement evidencing the assignment by the Vendor of the Assumed Obligations to the Purchaser;
- (d) an executed bill of sale evidencing the assignment, conveyance, transfer and delivery of the Purchased Assets to the Purchaser;
- (e) all documents of title and instruments of conveyance executed by the applicable Vendor necessary to transfer registered title and/or beneficial ownership to the Purchaser of the real property included in the Purchased Assets;
- (f) all Assignment Orders, if any, entered by the Court;
- (g) a certificate dated as of the Closing Date and executed by an executive officer the Vendor confirming that all of the representations and warranties of the Vendor contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Vendor has performed in all material respects the covenants to be performed by them prior to the Closing Time;
- (h) if applicable, the elections referred to in Section 4.3 executed by the Vendor;
- (i) the executed Monitor's Certificate; and
- (j) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

8.4 Possession of Assets

- (1) On Closing, the Purchaser shall take possession of the Purchased Assets where situated at Closing. The Purchaser acknowledges that the Vendor has no obligation to deliver physical possession of the Purchased Assets to the Purchaser. In no event shall the Purchased Assets be sold, assigned, transferred or sent over to the Purchaser until the conditions set out in this Agreement have been satisfied or waived by the Purchaser or Vendor, as applicable, and the Purchaser has satisfied all delivery requirements outlined in Section 8.2. The Purchaser shall promptly notify the Vendor of any Excluded Assets which may come into the possession or control of the Purchaser, whether before or after Closing, and thereupon shall promptly release such Excluded Assets to the Vendor, or to such other Person as the Vendor may direct in writing and, for greater certainty, title shall not be deemed to vest to the Purchaser in respect of any Excluded Assets. The Vendor shall have no obligation to remove any Excluded Equipment from any premises that constitute part of the Purchased Assets.
- (2) The Purchased Assets shall be and remain until Closing at the risk of the Vendor. In the event of material damage by fire or other hazard to the Purchased Assets or any part thereof occurring before the Closing Date (a "**Material Loss Event**"), the Vendor shall immediately advise the Purchaser thereof by notice in writing. In the event of a Material Loss Event, the Parties shall consummate the Transaction in accordance with the terms and conditions of this Agreement and, at the Closing Time, the Vendor shall deliver possession of the Purchased Assets to the Purchaser in such physical condition as the same may then exist; provided that, in such event, the Vendor will assign to the Purchaser the right to receive any net insurance proceeds received for the property loss or damage to the Purchased Assets as a result of the Material Loss Event (up to a maximum of the Purchase Price) and reduce the cash portion of the Purchase Price by an amount equal to any deductible in connection therewith.

8.5 Dispute Resolution

If any dispute arises with respect to any matter related to the Transaction or the interpretation or enforcement of this Agreement such dispute will be determined by the Court, or by such other Person or in such other manner as the Court may direct.

8.6 Termination

- (1) This Agreement shall terminate at any time prior to the Closing Time by mutual written agreement of the Vendor (with the written consent of the Monitor) and the Purchaser.
- (2) This Agreement may be terminated at any time prior to the Closing Time should Closing not have occurred on or prior to 11:59 pm (Eastern Time) on the Outside Date in accordance with Section 7.3 and either of the Parties shall have delivered written notice of termination to the other Party terminating this Agreement as a result thereof (provided that the terminating Party has not failed to satisfy a closing condition under this Agreement).
- (3) This Agreement may be terminated by the Vendor, if there has been a material violation or breach by the Purchaser of any agreement, covenant, representation or warranty of the Purchaser in this Agreement which would prevent the satisfaction of, or compliance with, any condition set forth in Section 7.2 or Section 7.3, as applicable, by the Outside Date or, if any event has occurred as a

result of which any of the conditions in Sections 7.1-7.3 (inclusive) are not capable of being satisfied by the Outside Date, and such violation or breach has not been waived by the Vendor or cured within five (5) Business Days of the Vendor providing written notice to the Purchaser of such breach, unless the Vendor is in material breach of its obligations under this Agreement.

- (4) This Agreement may be terminated by the Purchaser, if there has been a material violation or breach by the Vendor of any agreement, covenant, representation or warranty which would prevent the satisfaction of, or compliance with, any condition set forth in Section 7.1 or Section 7.3, as applicable by the Outside Date and such violation or breach has not been waived by the Purchaser or cured within five (5) Business Days of the Purchaser providing notice to the Vendor of such breach, unless the Purchaser is in material breach of its obligations under this agreement.
- (5) Prior to the Vendor agreeing to or electing to any termination pursuant to this Section 8.6, the Vendor shall first obtain the written consent of the Monitor and DIP Lender.

8.7 Effects of Termination and Closing

- (1) If this Agreement is terminated pursuant to Section 8.6, all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other except for the provisions of this Section 8.7 (Effects of Termination and Closing), Section 4.2 (Deposit) and Section 8.5 (Dispute Resolution), each of which will survive termination.
- (2) Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the transactions contemplated herein.

ARTICLE 9 GENERAL

9.1 Access to Books and Records

For a period of two (2) years from the Closing Date or for such longer period as may be reasonably required for the Vendor (or any trustee in bankruptcy of the estate of the Vendor) to comply with Applicable Law, the Purchaser will retain all original Books and Records that are transferred to the Purchaser under this Agreement. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement, the Vendor (and any representative, agent, former director or officer or trustee in bankruptcy of the estate of the Vendor, including the Monitor) has the right to inspect and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser.

9.2 Notice

(1) Any notice or other communication under this Agreement shall be in writing and may be delivered by read-receipted email, addressed:

(a) in the case of the Purchaser, as follows:

Attention: Volodymyr Burko
Email: vlad@vbgroup.ca

with a copy to:

Ryan Atkinson
Atkinson Law Professional Corporation
100 King Street West,
Suite 5700
Toronto, ON M5X 1C9

Email: ryan@atkinsonlaw.ca

(b) in the case of the Vendor, as follows:

The FIGR Group
C/O Bennett Jones LLP
100 King Street West, Suite 3400
Toronto, ON M5X 1G5

Attention: Sean Zweig / Michael Shakra
Email: ZweigS@bennettjones.com / shakram@bennettjones.com

(c) with a further copy to the Monitor and its counsel, as follows:

FTI Consulting Canada Inc.
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Jeff Rosenberg / Jodi Porepa
Email: Jeffrey.Rosenberg@fticonsulting.com / Jodi.Porepa@fticonsulting.com

Cassels Brock & Blackwell LLP
Suite 2100, Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2

Attention: Ryan Jacobs / Jane Dietrich
Email: rjacobs@cassels.com / jdietrich@cassels.com

- (2) Any such notice or other communication, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.
- (3) Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party.

9.3 Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendor and the Purchaser.

9.4 Survival

The representations and warranties of the Parties contained in this Agreement shall merge on Closing and the covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

9.5 Personal Information

The Purchaser hereby acknowledges that it is aware, and that it will advise its Representatives, that privacy legislation, including the *Personal Information Protection and Electronic Documents Act* (Canada), applies to certain information that may be disclosed to the Purchaser and its Representatives pursuant to this Agreement and/or the Transaction. The Purchaser agrees to comply, and cause its Representatives to comply, with such privacy legislation in connection with any such information disclosed to it or any of them.

9.6 Benefit of Agreement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. The Purchaser cannot assign any of the rights or obligations under this Agreement without the prior written consent of the Vendor and the Monitor.

9.7 Entire Agreement

This Agreement and the Schedules attached hereto, the NDA and the agreements and other documents delivered in connection with the Transaction, constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings, and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by the Parties. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral among the Parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

9.8 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

9.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court.

9.10 Further Assurances

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

9.11 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

9.12 Severability

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

9.13 Monitor's Certificate

The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the Purchaser, and file with the Court, the executed Monitor's Certificate without independent investigation, upon receiving written confirmation from all Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Monitor shall have no liability to the Parties in connection therewith. The Parties further acknowledge and agree that (i) upon written confirmation from all Parties that all conditions of Closing in favour of such Party have been satisfied or waived (other than the payments contemplated in Section 4.1(b) and the delivery of the executed Monitor's Certificate), the Monitor may deliver the executed Monitor's Certificate to the Purchaser's counsel in escrow, with the sole condition of its release from escrow being the Monitor's written confirmation that all such funds have been received, the Monitor's Certificate will be released from escrow to the Purchaser, and the Closing shall be deemed to have occurred.

9.14 No Liability

The Vendor and the Purchaser acknowledge and agree that the Monitor, acting in its capacity as Monitor of the Vendor, and FTI Capital Advisors - Canada ULC in connection with its role in the SISP, shall have no liability in their personal capacity or otherwise, in connection with this Agreement.

9.15 Expenses

Except as otherwise specifically provided herein, the Vendor, on the one hand, and the Purchaser, on the other hand, shall be responsible for the expenses (including fees and expenses of legal advisers, accountants and other professional advisers) incurred by each of them, respectively, in connection with the negotiation and settlement of this Agreement, and the completion of the transactions contemplated hereby.

9.16 Waiver and Amendment

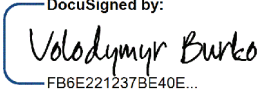
Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless: (1) executed in writing by the Vendor and Purchaser; and (2) the Monitor shall have provided its prior written consent. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

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IN WITNESS WHEREOF, the Parties have executed this Agreement.

PURCHASER

BEROXFOOD North America

By: 
Name: Volodymyr Burko
Title: President

VENDOR

FIGR NORFOLK INC.

By: _____
Name: •
Title: •

IN WITNESS WHEREOF, the Parties have executed this Agreement.

PURCHASER

BEROXFOOD North America

By:


Name: Volodymyr Burko

Title: President

VENDOR

FIGR NORFOLK INC.

By:



Name: Michael Devon

Title: SVP & Chief Financial Officer

SCHEDULE "A"
PURCHASED ASSETS

The FIGR Norfolk Facility

FIGR Norfolk's facility is located in Simcoe, Ontario and is licensed for cultivation by Health Canada (the "FIGR Norfolk Facility").

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

MUNICIPAL ADDRESS: Multiple – 11 Grigg Drive, 54, 56, 58, 60, 66 – 72 Park Road and other lands, Simcoe, Ontario

LEGAL DESCRIPTION: PT LT 4 CON 14 WINDHAM PT 1 37R7969, S/T RIGHT IN NR540051; PT LT 3-4 CON 14 WINDHAM PT 2 37R3029 EXCEPT PT 4, 6 37R9427 EXCEPT PT 1 37R11096; NORFOLK COUNTY

FIGR Norfolk Inc.

January 1/21 - December 31/21

as at February 28, 2021

ITEM DESCRIPTION	IMPLEMENTATION DATE	BEGINNING BALANCE	ADDITIONS DURING YEAR	DELETIONS DURING YEAR	ENDING BALANCE	ACCUM. AMORT. BEGIN BAL.	DEPRN. EXP. DURING PY	TV ADJUST. DEPRN. EXP.	DELETIONS DURING YEAR	ACCUM. AMORT. END BAL.	NET BOOK VALUE
72 Park Road (part)	July 23/18										
54 Park Road	March 29/19										
56 Park Road	March 29/19										
58 Park Road	March 29/19										
60 Park Road	March 29/19										
72 Park Road (part)	March 29/19										
Norfolk Parcel	August 29/19										
TOTAL PHASE II LAND - SIMCOE											
11 Gtug Drive LAND - SIMCOE	June 18/19										
Security Fencing	Nov 13/18										
Office Furniture & Equipment											
Boardroom Table	1/26/2018										
Double Pedestal Steel Desk	5/23/2018										
Racking - Document storage room	8/1/2018										
Cabinets, Countertops in staff kitchen	Jan 1/19										
TOTAL OFFICE FURNITURE & EQUIPMENT											
Equipment											
One Ton Rooftop Furnace	Nov 13/18										
Weighing Tables	Nov 13/18										
Irrigation System	Nov 13/18										
400KW Volvo Diesel Genset Generator	Nov 13/18										
Fridge & Dishwasher & microwaves	Nov 13/18										
2000kVA volttran oil-filled transformer Generator	Nov 13/18										
Desktop Telephones	Nov 13/18										
Stainless Steel sinks	Nov 13/18										
Stainless Steel Work Tables	Nov 13/18										
Vertical Lift	Nov 13/18										
Wireless Internet Tower	Nov 13/18										
Pressure Washer	Nov 13/18										
Floor Scrubber	Nov 13/18										
Sweeper	Nov 13/18										
Ductwork Thermal Insulation	Nov 13/18										
Motorola XPR3300e UHF Portable Radio	Jan 1/19										
Facility Surge Protector	July 12/19										
Canon Image Runner C3530i Printer	Jan 24/20										
3 ton LG Ductless Split System (HVAC) - Irrigation Room	July 2/20										
3 ton LG Ductless Split System (HVAC) - Packaging Room	July 3/20										
2 ton Ductless Split System (HVAC) - Vault	Nov 13/18										
3 ton Ductless Split System (HVAC) - Server Room	Nov 13/18										
3 ton LG Ductless Split System (HVAC) - Production area corridor	July 8/20										
Interstitial Furnace (100,000 BTU) - Attic area	Nov 13/18										
TOTAL EQUIPMENT											

ITEM DESCRIPTION	IMPLEMENTATION DATE	BEGINNING BALANCE	ADDITIONS DURING YEAR	DELETIONS DURING YEAR	ENDING BALANCE	ACCUM. AMORT. BEGIN BAL.	DEPRN. EXP. DURING FY.	PT. ADJUST. DEPRN. EXP.	DELETIONS DURING YEAR	ACCUM. AMORT. END BAL.	NET BOOK VALUE

ITEM DESCRIPTION	IMPLEMENTATION DATE	BEGINNING BALANCE	ADDITIONS DURING YEAR	DELETIONS DURING YEAR	ENDING BALANCE	ACCU. AMORT BEGIN BAL.	DEPRN EXP DURING FY	PY ADJUST DEPRN EXP	DELETIONS DURING YEAR	ACCU. AMORT END BAL.	NET BOOK VALUE
Manufacturing Equipment											
Below Ground Nutrient Tanks	Nov 13/18										
Environmental Control System	Nov 13/18										
Grow Lights & Cart	Nov 13/18										
Grow Benches & Rails	Nov 13/18										
Grow Room Fans & Controls	Nov 13/18										
Irrigation System	Nov 13/18										
Cannabis Destruction Cage	Nov 13/18										
Light Sensors	Nov 13/18										
Henkelman Marin 52-ETL Vacuum Sealer	Nov 13/18										
Cannabis Waste Shredder	Nov 13/18										
Möbius M108 Cannabis Trimmer	Nov 13/18										
Hot Water Heating System	Nov 13/18										
Sump Pump System - Water Room	Dec 3/18										
Grundfos Magna 3 208-230v Circulating Pumps (2)	Dec 3/18										
Moisture Content Meter	Dec 27/18										
Grow Lights	Jan 1/19										
Perforated Pans, Drying Pans & Tray Racks	Jan 31/19										
Industrial Dehumidifiers	Nov 22/18										
Drying trays, pans & racks	Nov 13/18										
Hot Water Heater #1 (w thermostatic valve)	Nov 13/18										
Hot Water Heater #2 (w thermostatic valve)	Nov 13/18										
Stainless Steel Wine Shelving Units	Feb 12/19										
Bio-Botanical Oil Extractor System	July 1/20										
Sprayer Pig 100H Gun 20 gal tank & cart	March 7/19										
Irrigation Heat Exchanger	March 31/19										
Aqua Balance Trays & Spare Parts Kits	March 31/19										
Boiler/Chilled Water Holding Tank	June 1/19										
Convergence Chromatography Analysis System (UPC2 Core 1)	July 1/20										
Grow Room #2 Grow Lights	July 1/19										
SureKap CT90 Semi-Automatic Cap Tightener	August 19/19										
Enecon Super Seal Jr. Induction Sealer	August 19/19										
Universal R310 Semi-Automatic Labeler	August 19/19										
GAW Scale Table	August 19/19										
Ohaus Cannabis Scale EX4202N	August 19/19										
High Tech Shredder	August 6/19										
ED Fume Hood 4' Wide	July 1/20										
ED Fume Hood 6' Wide	July 1/20										
Stem Stripper	Sept 1/19										
Conveyor, Infeed (5' x 72")	Sept 1/19										
Conveyor, Outfeed (16' x 72")	Sept 1/19										
Grow Rooms Pan Tilt Zoom camera system	Nov 29/19										
EC/pH Grow Rooms Monitoring system	Dec 1/19										
Heidolph HBK 5L Benchtop Rotary Evaporator	July 1/20										
Cascade CVO-5 Vacuum Oven	July 1/20										
Mäxtrap 105 -105C Vacuum Cold Trap	July 1/20										
Hoogendoorn Environmental Enhancements	March 1/20										
ECA Solution Injection System	March 1/20										
Chlorine Injection System	March 1/20										
LED lights in Propagation Room	March 1/20										
Möbius M108S Cannabis Trimmer	Sept 15/20										
Drying Room Nortec Humidifier	July 15/19										
Drying Room Agronomic IQ Dehumidifier (1)	May 24/19										
Drying Room Agronomic IQ Dehumidifier (2)	May 24/19										
						\$0.00	\$0.00	\$0.00		\$0.00	\$0.00
TOTAL MANUFACTURING EQUIPMENT											

ITEM DESCRIPTION	IMPLEMENTATION DATE	BEGINNING BALANCE	ADDITIONS DURING YEAR	DELETIONS DURING YEAR	ENDING BALANCE	ACCU. AMORT. BEGIN BAL.	DEPRN EXP. DURING FY	FY ADJUST. DEPRN EXP.	DELETIONS DURING YEAR	ACCU. AMORT. END BAL.	NET BOOK VALUE
Security Equipment											
Security System	Nov 13/18										
PRM Network Video Recorder, 15778	Jan 1/19										
Additional Security Cameras (3)	Jan 1/19										
Additional Security Camera & Camera Channel License	Mar 1/19										
TOTAL SECURITY EQUIPMENT											
Computer Equipment											
HP ProBook & MS Office 2016 (2)	Oct 31/17										
Ample Computer Equipment	Nov 13/18										
Desktop Computers (4)	March 7/18										
Lenovo ThinkSystem SR550 Network Server	March 7/18										
Laptops (3)	March 7/18										
Monitors (8)	March 14/18										
HP Laser Jet Pro colour printer (3)	March 16/18										
HP Laser Jet Pro colour printer & paper tray (2)	March 16/18										
HP DesignJet T120 24" Large Format Printer	March 22/18										
Asus Core i5 Desktop & Acer 23.6" LED Monitor (2)	June 15/18										
Lenovo ThinkPad E580 Notebook, MS Office 2016 (2)	June 27/18										
Computer Network Data Cables	July 9/18										
Rack Infrastructure	July 9/18										
Oil Extractor Computer Workstation	July 1/20										
Meraki MX100 Firewall (SAP System)	Feb 7/20										
Meraki MS120 Ethernet Switches (SAP System)	Feb 7/20										
Zebra MC9300 Data Collectors (6) (SAP System)	Feb 17/20										
SAP Data Lines	March 1/20										
HP DL360 Gen10 Rackmount Server	April 16/20										
TOTAL COMPUTER EQUIPMENT											
Computer Software											
Ampleorganics Inventory Software	Nov 13/18										
Microsoft Project 2016 standard (2)	March 5/18										
MS Office 2016 Home Business (4)	March 7/18										
MS Office 2016 Home Business (3)	March 7/18										
MS Windows Server	March 7/18										
Oil Extractor Empower 3 Program Software	July 1/20										
TOTAL COMPUTER SOFTWARE											
ROA Leased Assets											
ATCO Trailer	August 27/19										
TOTAL ROA LEASED ASSETS											
Building											
Building Modifications	Nov 13/18										
11 Grigg Drive (Wal Tec Facility)	June 18/19										

Appendix I to Schedule "A"
Assumed Contracts

Material Contracts Subject to further review

All contracts listed below are included in the corresponding sub-folders within the Material Contracts section of the dataroom.

FIGR NORFOLK - LIST OF MATERIAL CONTRACTS	
VDR File Ref. No.	DOCUMENT
COMMERCIAL AGREEMENTS	
D.1.4	Daikin Care Maintenance Agreement with Daikin Applied dated August 22, 2018
D.1.5	Daikin Care Maintenance Agreement with Daikin Applied dated August 27, 2018
D.1.6	ADP Canada - Amendment to Services Agreement dated September 21, 2018
D.1.7	ADP Canada - Amendment to Services Agreement dated December 11, 2018
D.1.8	ADP Canada - Services Form Summary
D.1.9	Praxair Canada Inc. - Product Supply and Service Agreement
D.1.30	Silo Wireless Inc. - Internet Provider Contract dated February 28, 2020
D.1.31	Silo Wireless Inc. - Business Continuity Internet Provider Contract dated June 2, 2020
D.1.32	C1-5 (Cannabis OneFive Inc.) - Master Subscription Agreement
D.1.33	C1-5 (Cannabis OneFive Inc.) - Order Form

SCHEDULE "B"
EXCLUDED ASSETS

- 1. All Vendor assets that are not Purchased Assets, including all Cannabis Licences.**

SCHEDULE "C"
PERMITTED ENCUMBRANCES

SPECIFIC PERMITTED ENCUMBRANCES

PIN 50190-0069 (LT):

1. Instrument No. 37R1811 registered March 18, 1980 being a Reference Plan;
2. Instrument No. 37R3901 registered February 5, 1988 being a Reference Plan;
3. Instrument No. 37R3933 registered March 1, 1988 being a Reference Plan;

PIN 50190-0090 (LT):

4. NIL;

PIN 50190-0092 (LT):

5. NIL;

PIN 50190-0093 (LT):

6. Instrument No. 37R951 registered May 4, 1977 being a Reference Plan;

PIN 50190-0142 (LT):

7. Instrument No. 37R11219 registered July 3, 2019 being a Reference Plan;
8. Instrument No. NK122931 registered August 29, 2019 being a Transfer of land from The Corporation of Norfolk County to FIGR Norfolk Inc. wherein the Corporation reserves a right/easement in gross over parts 4 & 6, 37R11219;
9. Instrument No. NK122932 registered August 29, 2019 being a Notice of a Development Agreement between FIGR Norfolk Inc. and The Corporation of Norfolk County;

PIN 50190-0155 (LT):

10. Instrument No. 37R1811 registered March 18, 1980 being a Reference Plan;
11. Instrument No. 37R3029 registered October 18, 1985 being a Reference Plan;
12. Instrument No. 37R6250 registered July 13, 1992 being a Reference Plan;
13. Instrument No. 37R7969 registered May 14, 1999 being a Reference Plan;
14. Instrument No. NR540051Z registered June 21, 1999 being Restrictive Covenants;
15. Instrument No. 37R11175 registered March 5, 2019 being a Reference Plan;

16. Instrument No. NK124881 registered October 25, 2019 being an Application to Change Name – Owner;

17. Instrument No. NK124882 registered October 25, 2019 being an Application to Consolidate;

50190-0157 (LT):

18. Instrument No. 37R11096 registered June 8, 2018 being a Reference Plan.

SCHEDULE "D"
FORM OF APPROVAL AND VESTING ORDER

[See attached]

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

THE HONOURABLE [●]) [●], THE [●]
JUSTICE [●]) DAY OF [●], 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.**

(each an "**Applicant**" and collectively, the "**Applicants**")

APPROVAL AND VESTING ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an Order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between FIGR Norfolk Inc. (the "**Vendor**") and 11897985 Canada Inc. (dba) BEROXFOOD North America (the "**Purchaser**") May 10, 2021, attached as Exhibit "●" to the Affidavit of Michael Devon sworn May [●], 2021 (the "**Devon Affidavit**"), and vesting in the Purchaser, all of the Vendor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day via videoconference due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicants and the [●] Report of FTI Consulting Canada Inc. in its capacity as Monitor of the Applicants (the "**Monitor**") and on hearing the submissions of counsel for the Applicants, the Monitor, the Purchaser, Alliance One Tobacco Canada Inc. (the "**DIP Lender**") and for those other parties appearing as indicated by the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Aiden Nelms sworn May [●], 2021:

SERVICE

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

DEFINED TERMS

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein have the meaning ascribed to them in the Devon Affidavit or the Sale Agreement, as applicable.

APPROVAL AND VESTING

3. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement and the Transaction are hereby approved, and the execution of the Sale Agreement by the Vendor is hereby authorized and approved, with such minor amendments as the Vendor, with the approval of the Monitor and the DIP Lender, may deem necessary. The Vendor is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**"), all of the Vendor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Hainey dated January 21, 2021, as amended and restated by the Order of the Honourable Justice Hainey dated January 29, 2021; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii)

those Claims listed on Schedule "B" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "C" hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that upon the registration in the Land Registry Office #37 for the Land Titles Division of Norfolk of an application for Vesting Order in the form prescribed by the *Land Titles Act* (Ontario) or the *Land Registration Reform Act* (Ontario) the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule "D.1" hereto (the "**Norfolk Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Norfolk Real Property all of the Claims listed in Schedule "B" hereto.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

8. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Vendor and the Purchaser regarding the fulfillment of conditions to closing under the Sale Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Monitor is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Vendor's records pertaining to the Vendor's past and current employees. The Purchaser shall

maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Vendor.

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

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

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

GENERAL

11. **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 Vendor and 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 Vendor and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Vendor and the Monitor and their respective agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof.

Schedule "A" – Form of Monitor's Certificate

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 CANADA'S ISLAND GARDEN INC.**

(each an "**Applicant**" and collectively, the "**Applicants**")

MONITOR'S CERTIFICATE

RECITALS

- A. The Applicants commenced these proceedings under the *Companies' Creditors Arrangement Act* on January 21, 2021 (the "**CCAA Proceedings**").
- B. Pursuant to an Order of the Honourable Justice Hailey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 21, 2020, FTI Consulting Canada Inc. was appointed as monitor (the "**Monitor**") of the Applicants in the CCAA Proceedings.
- C. Pursuant to an Approval and Vesting Order of the Court dated [●], 2021, the Court approved the Asset Purchase Agreement made as of May 10, 2021 (the "**Sale Agreement**") between FIGR Norfolk Inc. (the "**Vendor**") and 11897985 Canada Inc. (dba) BEROXFOOD North America (the "**Purchaser**") and provided for the vesting in the Purchaser of the Vendor's right, title and interest in and to the Purchased Assets, which vesting is to be effective upon the delivery by the Monitor to the Purchaser of a certificate confirming that the Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Purchaser and the Vendor that all conditions to closing have been satisfied or waived by the parties to the Sale Agreement.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Monitor has received written confirmation from the Vendor and the Purchaser, in form and substance satisfactory to the Monitor, that all conditions to closing have been satisfied or waived by the parties to the Sale Agreement.

2. The Monitor has received written confirmation from the Vendor that it has received the Purchase Price.

3. This Monitor's Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**FTI Consulting Canada Inc., in its capacity as
Monitor of FIGR Brands, Inc. FIGR Norfolk
Inc. and Canada's Island Garden Inc., and
not in its personal capacity**

Per: _____

Name:

Title:

Schedule "B" – Claims to be deleted and expunged from title to Real Property

1. Instrument No. NK137786 registered on February 1, 2021 is a Construction Lien in favour of the Ventin Group Ltd.
 - Certificate of Action registered as Instrument No. NK139917 registered on April 8, 2021 by The Ventin Group Ltd.

**Schedule "C" – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

IN 50190-0069 (LT):

1. Instrument No. 37R1811 registered March 18, 1980 being a Reference Plan;
2. Instrument No. 37R3901 registered February 5, 1988 being a Reference Plan;
3. Instrument No. 37R3933 registered March 1, 1988 being a Reference Plan;

PIN 50190-0090 (LT):

4. NIL;

PIN 50190-0092 (LT):

5. NIL;

PIN 50190-0093 (LT):

6. Instrument No. 37R951 registered May 4, 1977 being a Reference Plan;

PIN 50190-0142 (LT):

7. Instrument No. 37R11219 registered July 3, 2019 being a Reference Plan;
8. Instrument No. NK122931 registered August 29, 2019 being a Transfer of land from The Corporation of Norfolk County to FIGR Norfolk Inc. wherein the Corporation reserves a right/easement in gross over parts 4 & 6, 37R11219;
9. Instrument No. NK122932 registered August 29, 2019 being a Notice of a Development Agreement between FIGR Norfolk Inc. and The Corporation of Norfolk County;

PIN 50190-0155 (LT):

10. Instrument No. 37R1811 registered March 18, 1980 being a Reference Plan;
11. Instrument No. 37R3029 registered October 18, 1985 being a Reference Plan;
12. Instrument No. 37R6250 registered July 13, 1992 being a Reference Plan;
13. Instrument No. 37R7969 registered May 14, 1999 being a Reference Plan;
14. Instrument No. NR540051Z registered June 21, 1999 being Restrictive Covenants;

15. Instrument No. 37R11175 registered March 5, 2019 being a Reference Plan;
16. Instrument No. NK124881 registered October 25, 2019 being an Application to Change Name – Owner;
17. Instrument No. NK124882 registered October 25, 2019 being an Application to Consolidate;

50190-0157 (LT):

18. Instrument No. 37R11096 registered June 8, 2018 being a Reference Plan.

Schedule "D" – Legal Description of the Real Property

PROPERTY DESCRIPTION:

PIN 50190-0155 (LT): PT LT 4 CON 14 WINDHAM PT 1 37R7969, S/T RIGHT IN NR540051; PT LT 3-4 CON 14 WINDHAM PT 2 37R3029 EXCEPT PT 4, 6 37R9427 EXCEPT PT 1, 37R11096; NORFOLK COUNTY

PIN 50190-0157 (LT): PART LOTS 3-4 CONCESSION 14 WINDHAM PART 1, PLAN 37R11096, SAVE AND EXCEPT PART 1, PLAN 37R11258; NORFOLK COUNTY

PIN 50190-0090 (LT): PT LT 3 CON 14 WINDHAM AS IN NR398041; NORFOLK COUNTY

PIN 50190-0069(LT): PT LT 3-4 CON 14 WINDHAM PT 2, 3 37R3933, AS IN NR263351, EXCEPT NR354886, NR398041; NORFOLK COUNTY

PIN 50190-0092(LT): PT LT 3 CON 14 WINDHAM AS IN NR354886; NORFOLK COUNTY

PIN 50190-0093(LT): PT LT 3 CON 14 WINDHAM PT 1, 2 37R951; NORFOLK COUNTY

PIN 50190-0142 (LT): PART OF LOT 4 CON 14 WINDHAM, BEING PARTS 3, 4 & 6 ON 37R-11219; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 4 & 6 ON 37R-11219 AS IN NK122931; NORFOLK COUNTY

SCHEDULE "E"
PURCHASE PRICE ALLOCATION

- (a) [REDACTED] in respect of the real property municipally known as multiple-11 Grigg Drive, 54,56,58,60,66-72 Park Road and other lands, Simcoe, ON; and
- (b) [REDACTED] in respect of the remainder of the Purchased Assets not comprising (a) above.

SCHEDULE "F"
TRANSFERRED EMPLOYEES

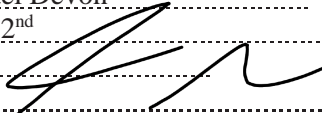
SCHEDULE F - TRANSFERRED EMPLOYEES	
First Name	Last Name
Larry	Huszczo
Cathy	Armstrong
Andrew	Graham
George	Schmidt
Shaun	Purcell
Abigail	Fess
Trina	Lammens
Elana	Baxter
Catherine	Glynn
Shanna	Macpherson
Brian	Pynaert
Ashleigh	Knoll
Mary Jane	Armstrong
Stephanie	Bowen
Nate	Geiser
Carmen	Bodner
Denise	Carter

This is Exhibit **“G”** *referred to in the*

affidavit of Michael Devon

sworn before me, this 2nd

day of June, 2021



.....
A COMMISSIONER FOR TAKING AFFIDAVITS

SECOND AMENDMENT TO THE TERM SHEET

This SECOND AMENDMENT TO THE TERM SHEET (this "**Second Amendment**") is made as of May [x], 2021 between FIGR Brands, Inc., as borrower (the "**Borrower**"), and FIGR Norfolk Inc. and Canada's Island Garden Inc., as guarantors (collectively, the "**Guarantors**", and together with the Borrower, the "**Obligors**"), and Alliance One Tobacco Canada, Inc., as lender (the "**Lender**", and together with the Obligors, the "**Parties**").

RECITALS:

A. Reference is made to the Term Sheet dated as of January 20, 2021 among the Borrower, the Guarantors and the Lender (as amended pursuant to the First Amendment to the Term Sheet dated March 25, 2021, and as may be further amended, restated, modified, replaced, or superseded from time to time, the "**Term Sheet**").

ARTICLE 1 INTERPRETATION

Section 1.1 Definitions. Capitalized terms not defined in this Amendment have the meanings given to them in the Term Sheet.

Section 1.2 Headings, etc. The inclusion of headings in this Amendment is for convenience of reference only and does not affect the construction or interpretation hereof.

ARTICLE 2 AMENDMENTS TO THE TERM SHEET

Section 2.1 Amendment. Subject to the satisfaction of each of the conditions to effectiveness set forth in this Amendment, the Parties agree that the Term Sheet is hereby amended as follows:

- 2.1.1 The reference to "\$13,000,000" in the "DIP Facility" section on page 1 of the Term Sheet is hereby deleted and replaced with "\$16,000,000".
- 2.1.2 The reference to "June 30, 2021" in the "Repayment" section on page 2 of the Term Sheet is hereby deleted and replaced with "September 3, 2021".

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations. Each Obligor represents and warrants to the Lender that, as of the date hereof (after giving effect to this Amendment):

- (a) this Amendment has been duly authorized, executed and delivered by each Obligor;
- (b) this Amendment constitutes a legal, valid and binding obligation of each Obligor, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other applicable laws affecting creditors' rights generally and to general principles of equity, regardless of whether considered in a proceeding in equity or at law;

- (c) the representations and warranties set forth in the Term Sheet are true and correct in all respects on and as of the date hereof as though made on and as of such date, unless stated to be made as of a specified date; and
- (d) no Event of Default has occurred and is continuing.

ARTICLE 4 CONDITIONS

Section 4.1 Conditions Precedent. This Amendment shall become effective on the date upon which there has been receipt by the Lender of the following (which conditions precedent are for the sole and exclusive benefit of the Lender):

- 4.1.1 a counterpart of this Amendment executed by each party hereto; and
- 4.1.2 the Court shall have issued an order, in a form acceptable to the Lender and the Obligors, approving this Amendment and an increase to the DIP Charge in the aggregate amount of \$16,000,000 (plus interest and costs).

ARTICLE 5 MISCELLANEOUS

Section 5.1 Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Section 5.2 Benefits. This Amendment is binding upon and will inure to the benefit of the Parties and their respective permitted successors and assigns.

Section 5.3 Conflicts. If, after the date of this Amendment, any provision of this Amendment is inconsistent with any provision of the Term Sheet, the relevant provision of this Amendment shall prevail.

Section 5.4 Further Assurances and Documentation. This Amendment forms part of the Further Assurances and Documentation for all purposes under the Term Sheet.

Section 5.5 Counterparts. This Amendment may be executed in any number of counterparts and delivered by PDF via email, each of which will be deemed to be an original, and all such separate counterparts shall together constitute one and the same instrument.

- signature page follows -

BORROWER:

FIGR BRANDS, INC.

By: _____

Name: Harvey Carroll
Title: President and Chief Executive
Officer

By: _____

Name: Mike Devon
Title: Senior Vice President and Chief
Financial Officer

GUARANTORS:

FIGR NORFOLK, INC.

By: _____

Name: Harvey Carroll
Title: President and Chief Executive
Officer

By: _____

Name: Mike Devon
Title: Senior Vice President and Chief
Financial Officer

CANADA'S ISLAND GARDEN INC.

By: _____

Name: Harvey Carroll
Title: President and Chief Executive
Officer

By: _____

Name: Mike Devon
Title: Senior Vice President and Chief
Financial Officer

LENDER:

**ALLIANCE ONE TOBACCO CANADA,
INC.**

By: _____
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 A PLAN OF COMPROMISE OR ARRANGEMENT 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

**AFFIDAVIT OF MICHAEL DEVON
(Sworn June 2, 2021)**

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.) WEDNESDAY, THE 9th
)
JUSTICE HAINEY) DAY OF JUNE, 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.**

(each an “**Applicant**” and collectively, the “**Applicants**”)

APPROVAL AND VESTING ORDER

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 the Subscription and Share Purchase Agreement (the “**Sale Agreement**”) among FIGR Brands, Inc. (the “**Vendor**”), Canada's Island Garden Inc. (the “**Purchased Entity**”), and 102604 P.E.I. Inc. (the “**Purchaser**”) dated May 25, 2021 and attached as Exhibit “E” to the affidavit of Michal Devon sworn June 2, 2021 (the “**Devon Affidavit**”) and the Transactions as defined therein (the “**Transactions**”); (ii) adding 1307849 B.C. Ltd. (“**Residual Co.**”) as an Applicant to these CCAA proceedings; (iii) vesting in the Purchased Entity all the right, title and interest of the Vendor in and to the Transferred Assets, free and clear from any Encumbrances, except for the Permitted Encumbrances, (iv) vesting in the Purchaser all the right, title and interest of the Vendor in and to the Purchased Shares, free and clear from any Encumbrances; (v) authorizing and directing the Purchased Entity to issue the Subscribed Shares, and vesting in the Purchaser all right, title and interest in and to the Subscribed Shares, free and clear of any

Encumbrances; (vi) vesting out of the Purchased Entity all Excluded Assets, if any, Excluded Contracts and Excluded Liabilities and discharging all Encumbrances against the Purchased Entity other than Permitted Encumbrances; and (vii) directing the Vendor to pay the amounts described in Paragraph 9 hereof; and (viii) granting certain related relief, was heard this day via videoconference due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicants and the Fifth Report of FTI Consulting Canada Inc. in its capacity as Monitor of the Applicants (the “**Monitor**”) and on hearing the submissions of counsel for the Applicants, the Monitor, the Purchaser, Alliance One Tobacco Canada Inc. (the “**DIP Lender**”) and for those other parties appearing as indicated by the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Aiden Nelms sworn:

SERVICE

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

DEFINED TERMS

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein have the meaning ascribed to them in the Sale Agreement.

APPROVAL AND VESTING

3. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement and the Transactions are hereby approved and the execution of the Sale Agreement by the Vendor and the Purchased Entity is hereby authorized and approved, with such minor amendments as the parties thereto may deem necessary, with the approval of the Monitor and the DIP Lender. The Applicants are hereby authorized and directed to perform their obligations under the Sale Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions and for the conveyance of the Purchased Shares to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that this Order shall constitute the only authorization required by the Vendor to proceed with the Transactions and that no shareholder or other approval shall be required in connection therewith.

5. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of the Monitor's certificate (the "**Monitor's Certificate**") to the Purchaser (the "**Effective Time**"), substantially in the form attached as Schedule "A" hereto, the following shall occur and shall be deemed to have occurred at the Effective Time in the following sequence:

- (a) first, in consideration of the issuance of the Transferred Asset Promissory Note,
 - (i) all of the Vendor's right, title and interest in and to the Transferred Assets shall vest absolutely and exclusively in the Purchased Entity, free and clear of and from any and all Claims and Encumbrances (each as defined below); and
 - (ii) all Assumed Liabilities which are to be assigned by the Vendor to, and assumed by the Purchased Entity pursuant to the Sale Agreement shall be and are hereby assigned to, assumed by and shall vest absolutely and exclusively in the Purchased Entity, and for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Transferred Assets are hereby expunged and discharged as against the Transferred Assets;
- (b) second, all of the Purchased Entity's right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in Residual Co., and all Claims and Encumbrances (each as defined below) shall continue to attach to the Excluded Assets with the same nature and priority as they had immediately prior to their transfer;
- (c) third, in consideration of the Excluded Liability Promissory Note and the transfer of the Excluded Assets, all Excluded Contracts and Excluded Liabilities (which, for certainty includes all debts, liabilities, obligations, indebtedness, contracts, leases, agreements, and undertakings of any kind or nature whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) of Purchased Entity other than the Assumed Liabilities) shall be transferred to, assumed by and

vest absolutely and exclusively in, Residual Co. such that the Excluded Contracts and Excluded Liabilities shall become obligations of Residual Co. and shall no longer be obligations of Purchased Entity, and Purchased Entity and all of its assets, licenses, undertakings and properties of every nature and kind whatsoever and wherever situate (including, for certainty, the Transferred Assets and the Retained Assets, (the “**Purchased Entity Property**”) shall be and are hereby forever released and discharged from such Excluded Contracts and Excluded Liabilities and all related Claims (as defined below), and all Encumbrances (as defined below) affecting or relating to the Purchased Entity Property are hereby expunged and discharged as against the Purchased Entity Property;

- (d) fourth, in consideration of the Share Purchase Price, all of the right, title and interest in and to the Purchased Shares shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order or any other Order of the Court; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (Prince Edward Island) or any other personal property registry system; and (iii) those Claims listed on Schedule “B” hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “C” hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Shares are hereby expunged and discharged as against the Purchased Shares;
- (e) fifth, all options, conversion privileges, equity-based awards, warrants, securities, debentures, loans, notes or other rights, agreements or commitments of any character whatsoever that are held by any Person (as defined below) and are

convertible or exchangeable for any securities of Purchased Entity or which require the issuance, sale or transfer by the Purchased Entity, of any shares or other securities of the Purchased Entity, or otherwise evidencing a right to acquire the Purchased Shares and/or the share capital of the Purchased Entity, or otherwise relating thereto, shall be deemed terminated and cancelled;

- (f) sixth, in consideration of the Adjusted Subscription Price, the Purchased Entity shall issue the Subscribed Shares to the Purchaser, and all of the right, title and interest in and to the Purchased Shares shall vest absolutely in the Purchaser, free and clear of and from any and all Claims, including, without limiting the generality of the foregoing all Encumbrances and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Subscribed Shares are hereby expunged and discharged as against the Subscribed Shares;
- (g) seventh, the Monitor shall cause payment to be made on behalf of the Purchased Entity from the Adjusted Subscription Price to Residual Co. in full satisfaction of the Excluded Liability Promissory Note, provided that such payment shall continue to be held by the Monitor of behalf of Residual Co.;
- (h) eighth, the Monitor shall cause payment to be made on behalf of the Purchased Entity from the Adjusted Subscription Price to the Vendor in full satisfaction of the Transferred Asset Promissory Note, provided that such payment shall continue to be held by the Monitor of behalf of the Vendor; and
- (i) ninth, the Purchased Entity shall and shall be deemed to cease to be an Applicant in these CCAA Proceedings, and the Purchased Entity shall be deemed to be released from the purview of the Initial Order and all other Orders of this Court granted in respect of these CCAA Proceedings, save and except for this Order the provisions of which (as they relate to Purchased Entity) shall continue to apply in all respects.

6. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof in connection with the Transactions.

7. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Applicants and the Purchaser regarding the fulfillment of conditions to closing under the Sale Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

8. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, subject to Paragraph 9, the net proceeds from the sale of the Purchased Shares and the proceeds of the Transferred Asset Promissory Note (the "**Sale Proceeds**") shall be allocated to the Vendor, and the net proceeds from the issuance of the Subscribed Shares (the "**Subscription Proceeds**", together with the Sale Proceeds, the "**Proceeds**") shall be allocated to Residual Co., and that from and after the delivery of the Monitor's Certificate, all Claims and Encumbrances shall attach to the Proceeds, with the same priority as they had with respect to the Purchased Shares, the Transferred Assets and the Purchased Entity Property immediately prior to the sale, as if (i) the Transferred Assets and Purchased Shares had not been sold and remained owned by and in the possession or control of the Person who owned and had possession or control immediately prior to the sale; and (ii) the Excluded Contracts and Excluded Liabilities had not been transferred to Residual Co. and remained liabilities of the Purchased Entity immediately prior to the transfer.

9. **THIS COURT DIRECTS** the Vendor to pay from the Proceeds:

- (a) \$137,230 to BioAcuity Consulting ("**BioAcuity**") in full and final satisfaction of all claims by BioAcuity against the Applicants and their current and former directors and officers as of the date hereof;
- (b) \$137,230 (the "**F&S Payment**") to Fitzgerald & Snow (2010) Ltd. ("**F&S**") in full and final satisfaction of all claims by F&S against the Applicants and their current and former directors and officers as of the date hereof; and
- (c) \$159,517.32 (the "**Hansen Payment**") to Hansen Electric Ltd. ("**Hansen**") in full and final satisfaction of all claims by Hansen against the Applicants and their current and former directors and officers as of the date hereof.

10. **THIS COURT ORDERS** that, upon the Applicants making the Hansen Payment and the F&S Payment, the Queens County Registry Officer is hereby directed to delete and expunge from title to the real property the claim identified in Schedule "D".

11. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicants or the Monitor, as the case may be, is authorized, permitted and directed to, at the Effective Time, disclose to the Purchaser all human resources and payroll information in Purchased Entity records pertaining to past and current employees of Purchased Entity. The Purchaser shall maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Purchased Entity.

12. **THIS COURT ORDERS AND DECLARES** that, at the Effective Time and without limiting the provisions of paragraph 5 hereof, the Purchaser and the Purchased Entity shall be deemed released from any and all claims, liabilities (direct, indirect, absolute or contingent) or obligations with respect to any Taxes (including penalties and interest thereon) of, or that relate to, the Applicants, including without limiting the generality of the foregoing all taxes that could be assessed against the Purchaser or the Purchased Entity (including its affiliates and any predecessor corporations) pursuant to section 160 of the *Income Tax Act* (Canada), or any provincial equivalent, in connection with the Applicants (provided, as it relates to the Purchased Entity, such release shall not apply to (i) Transaction Taxes, or (ii) Taxes in respect of the business and operations conducted by the Purchased Entity after the Effective Time).

13. **THIS COURT ORDERS** that except to the extent expressly contemplated by the Sale Agreement, all Contracts to which the Purchased Entity is a party upon delivery of the Monitor's Certificate (including, for certainty, those Contracts constituting Transferred Assets) will be and remain in full force and effect upon and following delivery of the Monitor's Certificate and no individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the delivery of the Monitor's Certificate and is not continuing that would have entitled such Person to enforce those rights or

remedies (including defaults or events of default arising as a result of the insolvency of any Applicant);

- (b) the insolvency of any Applicant or the fact that the Applicants sought or obtained relief under the CCAA;
- (c) any compromises, releases, discharges, cancellations, transactions, arrangements, reorganizations or other steps taken or effected pursuant to the Sale Agreement, the Transactions or the provisions of this Order, or any other Order of the Court in these proceedings; or
- (d) any transfer or assignment, or any change of control of the Purchased Entity arising from the implementation of the Sale Agreement, the Transactions or the provisions of this Order.

14. **THIS COURT ORDERS**, for greater certainty, that: (a) nothing in paragraphs 13 hereof shall waive, compromise or discharge any obligations of the Purchased Entity in respect of any Assumed Liabilities, and (b) the designation of any Claim as an Assumed Liability is without prejudice to the Purchased Entity's right to dispute the existence, validity or quantum of any such Assumed Liability, and (c) nothing in this Order or the Sale Agreement shall affect or waive the Purchased Entity's rights and defences, both legal and equitable, with respect to any Assumed Liability, including, but not limited to, all rights with respect to entitlements to set-offs or recoupments against such Assumed Liability.

15. **THIS COURT ORDERS** that from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults of any Applicant then existing or previously committed by any Applicant, or caused by any Applicant, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any Contract, existing between such Person and Purchased Entity (including, for certainty, those Contracts constituting Transferred Assets) arising directly or indirectly from the filing by the Applicants under the CCAA and the implementation of the Transactions, including without limitation any of the matters or events listed in paragraph 13 hereof and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a

Contract shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Purchased Entity or the Vendor from performing their obligations under the Sale Agreement or be a waiver of defaults by the Purchased Entity or the Vendor under the Sale Agreement and the related documents.

16. **THIS COURT ORDERS** that from and after the Effective Time, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations and assessment, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against the Purchased Entity or the Purchased Entity Property relating in any way to or in respect of any Excluded Assets or Excluded Liabilities and any other claims, obligations and other matters which are waived, released, expunged or discharged pursuant to this Order.

17. **THIS COURT ORDERS** that, from and after the Effective Time:

- (a) the nature of the Assumed Liabilities retained by the Purchased Entity, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transactions or this Order;
- (b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to Residual Co.;
- (c) any Person that prior to the Effective Time had a valid right or claim against the Purchased Entity under or in respect of any Excluded Contract or Excluded Liability (each an “**Excluded Liability Claim**”) shall no longer have such right or claim against the Purchased Entity but will have an equivalent Excluded Liability Claim against Residual Co. in respect of the Excluded Contract and Excluded Liability from and after the Effective Time in its place and stead, and nothing in this Order limits, lessens or extinguishes the Excluded Liability Claim of any Person as against Residual Co.; and

- (d) the Excluded Liability Claim of any Person against Residual Co. following the Effective Time shall have the same rights, priority and entitlement as such Excluded Liability Claim had against the Purchased Entity prior to the Effective Time.

18. **THIS COURT ORDERS AND DECLARES** that, as of the Effective Time:

- (a) Residual Co. shall be a company to which the CCAA applies; and
- (b) Residual Co. shall be added as an Applicant in these CCAA Proceedings and all references in any Order of this Court in respect of these CCAA Proceedings to (i) an “Applicant” or the “Applicants” shall refer to and include Residual Co., *mutatis mutandis*, and (ii) “Property” shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof, of Residual Co. (the “**Residual Co. Property**”), and, for greater certainty, each of the Charges (as defined in the Initial Order) shall constitute a charge on the Residual Co. Property.

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the BIA in respect of the Applicants and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicants;

the Sale Agreement, the implementation of the Transactions (including without limitation the transfer and vesting of the Excluded Assets, Excluded Contract and Excluded Liabilities in and to Residual Co., the transfer and vesting of the Transferred Assets in and to the Purchased Entity, and the transfer and vesting of the Purchased Shares in and to the Purchaser), and any payments by the Purchaser authorized herein or pursuant to the Sale Agreement shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and/or Residual Co. and shall not be void or voidable by creditors of the Applicants or Residual Co., as applicable, nor

shall they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

GENERAL

20. **THIS COURT ORDERS** that, following the Effective Time, the Purchaser shall be authorized to take all steps as may be necessary to effect the discharge of the Claims and Encumbrances as against the Purchased Shares and the Purchased Entity Property.

21. **THIS COURT ORDERS** that, following the Effective Time, the title of these proceedings is hereby changed to:

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.

22. **THIS COURT DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

23. **THIS COURT DECLARES** that the Applicants shall be authorized to apply as they may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Monitor shall be the foreign representative of the Applicants. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

24. **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 the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order.

25. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof, provided that the transaction steps set out in Paragraph 5 shall be deemed to have occurred sequentially, one after the other, in the order set out in Paragraph 5.

Schedule “A” – Form of Monitor’s Certificate

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 CANADA’S ISLAND GARDEN INC**

(each an “**Applicant**” and collectively, the “**Applicants**”)

MONITOR’S CERTIFICATE

RECITALS

A. The Applicants commenced these proceedings under the *Companies’ Creditors Arrangement Act* on January 21, 2021 (the “**CCAA Proceedings**”).

B. Pursuant to an Order of the Honourable Justice Haaney of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 21, 2021, FTI Consulting Canada Inc. was appointed as monitor (the “**Monitor**”) of the Applicants in the CCAA Proceedings.

B. Pursuant to an Approval and Vesting Order of the Court dated June 9, 2021 (the “**Order**”), the Court approved the transactions (the “**Transactions**”) contemplated by the Share Purchase Agreement (the “**Sale Agreement**”) among FIGR Brands Inc. (the “**Vendor**”), Canada’s Island Garden Inc. (the “**Purchased Entity**”), and 102604 P.E.I. Inc. (the “**Purchaser**”) dated May 25, 2021, and ordered, *inter alia*, that: (i) all of Purchased Entity’s right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in Residual Co.; (ii) all of the Vendor’s right, title and interest in and to the Transferred Assets shall vest absolutely and exclusively in Purchased Entity; (iii) all of the Excluded Contracts and

Excluded Liabilities shall be transferred to, assumed by and vest absolutely and exclusively in, Residual Co.; and (iv) all of the right, title and interest in and to the Purchased Shares shall vest absolutely and exclusively in the Purchaser, which vesting is, in each case, to be effective upon the delivery by the Monitor to the Purchaser of a certificate confirming that the Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Purchaser and the Applicants that all conditions to closing have been satisfied or waived by the parties to the Sale Agreement.

C. Capitalized terms used but not defined herein have the meanings ascribed to them in the Order.

THE MONITOR CERTIFIES the following:

1. The Monitor has received written confirmation from the Purchaser and the Vendor, in form and substance satisfactory to the Monitor, that all conditions to closing have been satisfied or waived by the parties to the Sale Agreement.

2. This Monitor's Certificate was delivered by the Monitor at _____ on _____, 2021 (the "**Closing Time**").

**FTI Consulting Canada Inc., in its capacity as
Monitor of the Applicants, and not in its
personal capacity**

Per: _____
Name:
Title:

Schedule "B"

Schedule "C"

SCHEDULE "D"

Document No. 2254 registered on March 18, 2021 is a Mechanic's Lien in favour of Hansen Electric Ltd.

- Statement of Claim with Court File No. S1-GS-29369 filed by Hansen Electric Ltd. on May 25, 2021.

**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

APPROVAL AND VESTING ORDER

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TAB 4

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

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

THE HONOURABLE ~~_____~~ MR.) ~~WEEKDAY~~ WEDNESDAY, THE # 9th
JUSTICE ~~_____~~ HAINES)
DAY OF ~~MONTH~~ JUNE, ~~20YR~~ 2021

~~BETWEEN:~~

PLAINTIFF

Plaintiff

~~—and—~~

DEFENDANT

Defendant

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.

(each an "Applicant" and collectively, the "Applicants")

APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ in its capacity as the Court appointed receiver the Applicants, pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~ (the "Debtor") "CCAA", for an order, inter alia, (i) approving the ~~sale transaction~~ (the "Transaction")

contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and ~~[NAME OF PURCHASER]~~ Subscription and Share Purchase Agreement (the "Sale Agreement") among FIGR Brands, Inc. (the "Vendor"), Canada's Island Garden Inc. (the "Purchased Entity"), and 102604 P.E.I. Inc. (the "Purchaser") dated ~~[DATE]~~ May 25, 2021 and ~~appended~~ attached as Exhibit "E" to the ~~Report~~ affidavit of ~~the Receiver dated [DATE]~~ (the "~~Report~~"); Michal Devon sworn June 2, 2021 (the "Devon Affidavit") and the Transactions as defined therein (the "Transactions"); (ii) adding 1307849 B.C. Ltd. ("Residual Co.") as an Applicant to these CCAA proceedings; (iii) vesting in the Purchased Entity all the right, title and interest of the Vendor in and to the Transferred Assets, free and clear from any Encumbrances, except for the Permitted Encumbrances, (iv) vesting in the Purchaser all the Debtor's right, title and interest of the Vendor in and to the assets described in the Sale Agreement (the "Purchased Shares, free and clear from any Encumbrances; (v) authorizing and directing the Purchased Entity to issue the Subscribed Shares, and vesting in the Purchaser all right, title and interest in and to the Subscribed Shares, free and clear of any Encumbrances; (vi) vesting out of the Purchased Entity all Excluded Assets"), if any, Excluded Contracts and Excluded Liabilities and discharging all Encumbrances against the Purchased Entity other than Permitted Encumbrances; and (vii) directing the Vendor to pay the amounts described in Paragraph 9 hereof; and (viii) granting certain related relief, was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ via videoconference due to the COVID-19 pandemic.

ON READING the ~~Report~~ Motion Record of the Applicants and the Fifth Report of FTI Consulting Canada Inc. in its capacity as Monitor of the Applicants (the "Monitor") and on hearing the submissions of counsel for the ~~Receiver, [NAMES OF OTHER PARTIES APPEARING]~~ Applicants, the Monitor, the Purchaser, Alliance One Tobacco Canada Inc. (the "DIP Lender") and for those other parties appearing as indicated by the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ Aiden Nelms sworn ~~[DATE]~~ filed¹:

SERVICE

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

DEFINED TERMS

2. THIS COURT ORDERS that capitalized terms used in this Order and not otherwise defined herein have the meaning ascribed to them in the Sale Agreement.

APPROVAL AND VESTING

3. ~~1.~~ THIS COURT ORDERS AND DECLARES that the ~~Transaction is~~ Sale Agreement and the Transactions are hereby approved;² and the execution of the Sale Agreement by the ~~Receiver~~³ Vendor and the Purchased Entity is hereby authorized and approved, with such minor amendments as the ~~Receiver~~ parties thereto may deem necessary, with the approval of the Monitor and the DIP Lender. The ~~Receiver is~~ Applicants are hereby authorized and directed to perform their obligations under the Sale Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions~~s~~ and for the conveyance of the Purchased ~~Assets~~ Shares to the Purchaser.

4. ~~2.~~ THIS COURT ORDERS AND DECLARES that this Order shall constitute the only authorization required by the Vendor to proceed with the Transactions and that no shareholder or other approval shall be required in connection therewith.

5. THIS COURT ORDERS AND DECLARES that, upon the delivery of a ~~Receiver~~ the Monitor's certificate (the "Monitor's Certificate") to the Purchaser (the "Effective Time"), substantially in the form attached as Schedule "A" hereto ~~(the "Receiver's Certificate", the~~

¹ ~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

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

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

following shall occur and shall be deemed to have occurred at the Effective Time in the following sequence:

- (a) first, in consideration of the issuance of the Transferred Asset Promissory Note, (i); all of the ~~Vendor's~~ right, title and interest in and to the ~~Purchased~~ Transferred Assets ~~described in~~ shall vest absolutely and exclusively in the Purchased Entity, free and clear of and from any and all Claims and Encumbrances (each as defined below); and (ii) all Assumed Liabilities which are to be assigned by the Vendor to, and assumed by the Purchased Entity pursuant to the Sale Agreement [shall be and listed on Schedule B hereto]⁴ are hereby assigned to, assumed by and shall vest absolutely and exclusively in the Purchased Entity, and for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Transferred Assets are hereby expunged and discharged as against the Transferred Assets;
- (b) second, all of the Purchased Entity's right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in Residual Co., and all Claims and Encumbrances (each as defined below) shall continue to attach to the Excluded Assets with the same nature and priority as they had immediately prior to their transfer;
- (c) third, in consideration of the Excluded Liability Promissory Note and the transfer of the Excluded Assets, all Excluded Contracts and Excluded Liabilities (which, for certainty includes all debts, liabilities, obligations, indebtedness, contracts, leases, agreements, and undertakings of any kind or nature whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) of Purchased Entity other than the Assumed Liabilities) shall be transferred to, assumed by and vest absolutely and exclusively in, Residual Co. such that the Excluded Contracts and Excluded Liabilities shall

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

become obligations of Residual Co. and shall no longer be obligations of Purchased Entity, and Purchased Entity and all of its assets, licenses, undertakings and properties of every nature and kind whatsoever and wherever situate (including, for certainty, the Transferred Assets and the Retained Assets, (the "Purchased Entity Property") shall be and are hereby forever released and discharged from such Excluded Contracts and Excluded Liabilities and all related Claims (as defined below), and all Encumbrances (as defined below) affecting or relating to the Purchased Entity Property are hereby expunged and discharged as against the Purchased Entity Property;

(d) fourth, in consideration of the Share Purchase Price, all of the right, title and interest in and to the Purchased Shares shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order or any other Order of the ~~Honourable Justice [NAME] dated [DATE]~~Court; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act (Prince Edward Island)* or any other personal property registry system; and (iii) those Claims listed on Schedule ~~€~~"B" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule ~~Đ~~"C" hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or

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

relating to the Purchased ~~Assets~~Shares are hereby expunged and discharged as against the Purchased ~~Assets~~Shares;

~~3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the “Real Property”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

(e) fifth, all options, conversion privileges, equity-based awards, warrants, securities, debentures, loans, notes or other rights, agreements or commitments of any character whatsoever that are held by any Person (as defined below) and are convertible or exchangeable for any securities of Purchased Entity or which require the issuance, sale or transfer by the Purchased Entity, of any shares or other securities of the Purchased Entity, or otherwise evidencing a right to acquire the Purchased Shares and/or the share capital of the Purchased Entity, or otherwise relating thereto, shall be deemed terminated and cancelled;

(f) sixth, in consideration of the Adjusted Subscription Price, the Purchased Entity shall issue the Subscribed Shares to the Purchaser, and all of the right, title and interest in and to the Purchased Shares shall vest absolutely in the Purchaser, free and clear of and from any and all Claims, including, without limiting the generality of the foregoing all Encumbrances and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Subscribed Shares are hereby expunged and discharged as against the Subscribed Shares;

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

- (g) seventh, the Monitor shall cause payment to be made on behalf of the Purchased Entity from the Adjusted Subscription Price to Residual Co. in full satisfaction of the Excluded Liability Promissory Note, provided that such payment shall continue to be held by the Monitor of behalf of Residual Co.;
- (h) eighth, the Monitor shall cause payment to be made on behalf of the Purchased Entity from the Adjusted Subscription Price to the Vendor in full satisfaction of the Transferred Asset Promissory Note, provided that such payment shall continue to be held by the Monitor of behalf of the Vendor; and
- (i) ninth, the Purchased Entity shall and shall be deemed to cease to be an Applicant in these CCAA Proceedings, and the Purchased Entity shall be deemed to be released from the purview of the Initial Order and all other Orders of this Court granted in respect of these CCAA Proceedings, save and except for this Order the provisions of which (as they relate to Purchased Entity) shall continue to apply in all respects.

6. THIS COURT ORDERS AND DIRECTS the Monitor to file with the Court a copy of the ~~Receiver~~ Monitor's Certificate, forthwith after delivery thereof, in connection with the Transactions.

7. THIS COURT ORDERS that the Monitor may rely on written notice from the Applicants and the Purchaser regarding the fulfillment of conditions to closing under the Sale Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

8. ~~4.~~ THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, subject to Paragraph 9, the net proceeds⁷ from the sale of the Purchased ~~Assets~~ Shares and the proceeds of the Transferred Asset Promissory Note (the "Sale Proceeds") shall stand ~~in~~ be allocated to the ~~place~~ Vendor, and ~~stead~~ the net proceeds from the issuance of the ~~Purchased Assets~~ Subscribed Shares (the "Subscription Proceeds", together with the Sale Proceeds, the "Proceeds") shall be allocated to Residual Co., and that from and after the

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

delivery of the ~~Receiver'~~Monitor's Certificate, all Claims and Encumbrances shall attach to the ~~net proceeds from the sale of the Purchased Assets~~Proceeds, with the same priority as they had with respect to the Purchased Shares, the Transferred Assets and the Purchased Entity Property immediately prior to the sale⁸, as if (i) the Transferred Assets and Purchased AssetsShares had not been sold and remained owned by and in the possession or control of the ~~person having that~~Person who owned and had possession or control immediately prior to the sale; and (ii) the Excluded Contracts and Excluded Liabilities had not been transferred to Residual Co. and remained liabilities of the Purchased Entity immediately prior to the transfer.

9. THIS COURT DIRECTS the Vendor to pay from the Proceeds:

- (a) \$137,230 to BioAcuity Consulting ("BioAcuity") in full and final satisfaction of all claims by BioAcuity against the Applicants and their current and former directors and officers as of the date hereof;
- (b) \$137,230 (the "F&S Payment") to Fitzgerald & Snow (2010) Ltd. ("F&S") in full and final satisfaction of all claims by F&S against the Applicants and their current and former directors and officers as of the date hereof; and
- (c) \$159,517.32 (the "Hansen Payment") to Hansen Electric Ltd. ("Hansen") in full and final satisfaction of all claims by Hansen against the Applicants and their current and former directors and officers as of the date hereof.

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

10. THIS COURT ORDERS that, upon the Applicants making the Hansen Payment and the F&S Payment, the Queens County Registry Officer is hereby directed to delete and expunge from title to the real property the claim identified in Schedule "D".

11. ~~6.~~ THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the ~~Receiver~~Applicants or the Monitor, as the case may be, is authorized ~~and~~, permitted ~~to~~and directed to, at the Effective Time,

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

disclose ~~and transfer~~ to the Purchaser all human resources and payroll information in ~~the Company's~~ Purchased Entity records pertaining to ~~the Debtor's~~ past and current employees, ~~including personal information of those employees listed on Schedule "•"~~ to the Sale Agreement of Purchased Entity. The Purchaser shall maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by ~~the Debtor.~~ Purchased Entity.

12. THIS COURT ORDERS AND DECLARES that, at the Effective Time and without limiting the provisions of paragraph 5 hereof, the Purchaser and the Purchased Entity shall be deemed released from any and all claims, liabilities (direct, indirect, absolute or contingent) or obligations with respect to any Taxes (including penalties and interest thereon) of, or that relate to, the Applicants, including without limiting the generality of the foregoing all taxes that could be assessed against the Purchaser or the Purchased Entity (including its affiliates and any predecessor corporations) pursuant to section 160 of the Income Tax Act (Canada), or any provincial equivalent, in connection with the Applicants (provided, as it relates to the Purchased Entity, such release shall not apply to (i) Transaction Taxes, or (ii) Taxes in respect of the business and operations conducted by the Purchased Entity after the Effective Time).

13. THIS COURT ORDERS that except to the extent expressly contemplated by the Sale Agreement, all Contracts to which the Purchased Entity is a party upon delivery of the Monitor's Certificate (including, for certainty, those Contracts constituting Transferred Assets) will be and remain in full force and effect upon and following delivery of the Monitor's Certificate and no individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "Persons" and each being a "Person") who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the delivery of the Monitor's Certificate and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of any Applicant);
- (b) the insolvency of any Applicant or the fact that the Applicants sought or obtained relief under the CCAA;
- (c) any compromises, releases, discharges, cancellations, transactions, arrangements, reorganizations or other steps taken or effected pursuant to the Sale Agreement, the Transactions or the provisions of this Order, or any other Order of the Court in these proceedings; or
- (d) any transfer or assignment, or any change of control of the Purchased Entity arising from the implementation of the Sale Agreement, the Transactions or the provisions of this Order.

14. THIS COURT ORDERS, for greater certainty, that: (a) nothing in paragraphs 13 hereof shall waive, compromise or discharge any obligations of the Purchased Entity in respect of any Assumed Liabilities, and (b) the designation of any Claim as an Assumed Liability is without prejudice to the Purchased Entity's right to dispute the existence, validity or quantum of any such Assumed Liability, and (c) nothing in this Order or the Sale Agreement shall affect or waive the Purchased Entity's rights and defences, both legal and equitable, with respect to any Assumed Liability, including, but not limited to, all rights with respect to entitlements to set-offs or recoupments against such Assumed Liability.

15. THIS COURT ORDERS that from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults of any Applicant then existing or previously committed by any Applicant, or caused by any Applicant, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any Contract, existing between such Person and Purchased Entity (including, for certainty, those Contracts constituting Transferred Assets) arising directly or indirectly from the filing by the Applicants under the CCAA and the implementation of the Transactions,

including without limitation any of the matters or events listed in paragraph 13 hereof and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a Contract shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Purchased Entity or the Vendor from performing their obligations under the Sale Agreement or be a waiver of defaults by the Purchased Entity or the Vendor under the Sale Agreement and the related documents.

16. THIS COURT ORDERS that from and after the Effective Time, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations and assessment, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against the Purchased Entity or the Purchased Entity Property relating in any way to or in respect of any Excluded Assets or Excluded Liabilities and any other claims, obligations and other matters which are waived, released, expunged or discharged pursuant to this Order.

17. THIS COURT ORDERS that, from and after the Effective Time:

- (a) the nature of the Assumed Liabilities retained by the Purchased Entity, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transactions or this Order;
- (b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to Residual Co.;
- (c) any Person that prior to the Effective Time had a valid right or claim against the Purchased Entity under or in respect of any Excluded Contract or Excluded Liability (each an “Excluded Liability Claim”) shall no longer have such right or claim against the Purchased Entity but will have an equivalent Excluded Liability Claim against Residual Co. in respect of the Excluded

Contract and Excluded Liability from and after the Effective Time in its place and stead, and nothing in this Order limits, lessens or extinguishes the Excluded Liability Claim of any Person as against Residual Co.; and

(d) the Excluded Liability Claim of any Person against Residual Co. following the Effective Time shall have the same rights, priority and entitlement as such Excluded Liability Claim had against the Purchased Entity prior to the Effective Time.

18. THIS COURT ORDERS AND DECLARES that, as of the Effective Time:

(a) Residual Co. shall be a company to which the CCAA applies; and

(b) Residual Co. shall be added as an Applicant in these CCAA Proceedings and all references in any Order of this Court in respect of these CCAA Proceedings to (i) an “Applicant” or the “Applicants” shall refer to and include Residual Co., *mutatis mutandis*, and (ii) “Property” shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof, of Residual Co. (the “Residual Co. Property”), and, for greater certainty, each of the Charges (as defined in the Initial Order) shall constitute a charge on the Residual Co. Property.

19. ~~7.~~ THIS COURT ORDERS that, notwithstanding:

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

the ~~vesting of the Purchased Assets in~~ Sale Agreement, the implementation of the Transactions (including without limitation the transfer and vesting of the Excluded Assets, Excluded Contract and Excluded Liabilities in and to Residual Co., the transfer and vesting of the

Transferred Assets in and to the Purchased Entity, and the transfer and vesting of the Purchased Shares in and to the Purchaser), and any payments by the Purchaser authorized herein or pursuant to ~~this Order~~ the Sale Agreement shall be binding on any trustee in bankruptcy that may be appointed in respect of the ~~Debtor~~ Applicants and/or Residual Co. and shall not be void or voidable by creditors of the ~~Debtor~~ Applicants or Residual Co., as applicable, nor shall ~~it~~ they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the ~~Bankruptcy and Insolvency Act (Canada)~~ CCAA, the BIA or any other applicable federal or provincial legislation, nor shall ~~it~~ they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

GENERAL

20. THIS COURT ORDERS that, following the Effective Time, the Purchaser shall be authorized to take all steps as may be necessary to effect the discharge of the Claims and Encumbrances as against the Purchased Shares and the Purchased Entity Property.

21. THIS COURT ORDERS that, following the Effective Time, the title of these proceedings is hereby changed to:

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.

22. THIS COURT DECLARES that this Order shall have full force and effect in all provinces and territories in Canada.

23. THIS COURT DECLARES that the Applicants shall be authorized to apply as they may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Monitor shall be the

foreign representative of the Applicants. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

24. ~~9.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the ~~Receiver~~Applicants, the Monitor and ~~its~~their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Receiver~~Applicants and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver~~Applicants, the Monitor and ~~its~~their respective agents in carrying out the terms of this Order.

25. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof, provided that the transaction steps set out in Paragraph 5 shall be deemed to have occurred sequentially, one after the other, in the order set out in Paragraph 5.

Schedule “A” – Form of ~~Receiver~~ Monitor’s Certificate

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

~~BETWEEN:~~

PLAINTIFF

~~Plaintiff~~

~~—and—~~

DEFENDANT

~~Defendant~~

RECEIVER

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

(each an “Applicant” and collectively, the “Applicants”)

MONITOR’S CERTIFICATE

RECITALS

A. The Applicants commenced these proceedings under the Companies’ Creditors Arrangement Act on January 21, 2021 (the “CCAA Proceedings”).

B. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~January 21, 2021, FTI Consulting Canada Inc. was appointed as ~~the receiver~~monitor (the "Receiver" "Monitor") of the ~~undertaking, property and assets of [DEBTOR] (the "Debtor")~~Applicants in the CCAA Proceedings.

B. Pursuant to an Approval and Vesting Order of the Court dated ~~[DATE]~~June 9, 2021 (the "Order"), the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "transactions (the "Transactions") contemplated by the Share Purchase Agreement (the "Sale Agreement")~~) between the Receiver [Debtor] and [NAME OF PURCHASER] among FIGR Brands Inc. (the "Vendor"), Canada's Island Garden Inc. (the "Purchased Entity"), and 102604 P.E.I. Inc. (the "Purchaser") and ~~provided for the vesting~~dated May 25, 2021, and ordered, inter alia, that: (i) all of Purchased Entity's right, title and interest in and to the Purchaser Excluded Assets shall vest absolutely and exclusively in Residual Co.; (ii) all of the Debtor's right, title and interest in and to the Purchased Assets Transferred Assets shall vest absolutely and exclusively in Purchased Entity; (iii) all of the Excluded Contracts and Excluded Liabilities shall be transferred to, assumed by and vest absolutely and exclusively in, Residual Co.; and (iv) all of the right, title and interest in and to the Purchased Shares shall vest absolutely and exclusively in the Purchaser, which vesting is, in each case, to be effective ~~with respect to the Purchased Assets~~ upon the delivery by the ~~Receiver~~Monitor to the Purchaser of a certificate confirming ~~(i) that the payment by Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Purchaser of and the Purchase Price for the Purchased Assets;~~ (i) Applicants that the all conditions to Closing as set out in section 1 of the Sale Agreement closing have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver parties to the Sale Agreement.

C. ~~Unless otherwise indicated herein, terms with initial capitals~~ Capitalized terms used but not defined herein have the meanings ~~set out~~ascribed to them in the ~~Sale Agreement~~Order.

THE RECEIVERMONITOR CERTIFIES the following:

1. The Monitor has received written confirmation from the Purchaser ~~has paid~~ and the Receiver ~~has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant~~ Vendor, in form and substance satisfactory to the ~~Sale Agreement~~;

~~2. The~~ Monitor, that all conditions to ~~Closing as set out in section 1 of the Sale Agreement~~ closing have been satisfied or waived by the ~~Receiver and the Purchaser~~; and

~~3. The Transaction has been completed to the satisfaction of the Receiver~~ parties to the Sale Agreement.

~~4.2.~~ This Monitor's Certificate was delivered by the ~~Receiver~~ Monitor at _____ ~~[TIME]~~ on _____ ~~[DATE]~~ _____, 2021 (the "Closing Time").

~~[NAME OF RECEIVER]~~ FTI Consulting Canada Inc., in its capacity as ~~Receiver~~ Monitor of the ~~undertaking, property and assets of [DEBTOR]~~ Applicants, and not in its personal capacity

Per: _____
Name:
Title:

Schedule B ~~Purchased Assets~~

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

**Schedule ~~D~~—Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property C**

(~~unaffected by the Vesting Order~~)

SCHEDULE "D"

Document No. 2254 registered on March 18, 2021 is a Mechanic's Lien in favour of Hansen Electric Ltd.

- **Statement of Claim with Court File No. S1-GS-29369 filed by Hansen Electric Ltd. on May 25, 2021.**

TAB 5

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

THE HONOURABLE MR.) WEDNESDAY, THE 9th
)
JUSTICE HAINEY) DAY OF JUNE, 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.**

(each an "**Applicant**" and collectively, the "**Applicants**")

APPROVAL AND VESTING ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an Order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between FIGR Norfolk Inc. (the "**Vendor**") and 11897985 Canada Inc. (dba) BEROXFOOD North America (the "**Purchaser**") May 10, 2021, attached as Exhibit "F" to the Affidavit of Michael Devon sworn June 2, 2021 (the "**Devon Affidavit**"), and vesting in the Purchaser, all of the Vendor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day via videoconference due to the COVID-19 pandemic.

ON READING the Motion Record of the Applicants and the Fifth Report of FTI Consulting Canada Inc. in its capacity as Monitor of the Applicants (the "**Monitor**") and on hearing the submissions of counsel for the Applicants, the Monitor, the Purchaser, Alliance One Tobacco Canada Inc. (the "**DIP Lender**") and for those other parties appearing as indicated by the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Aiden Nelms sworn June 2, 2021:

SERVICE

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

DEFINED TERMS

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein have the meaning ascribed to them in the Devon Affidavit or the Sale Agreement, as applicable.

APPROVAL AND VESTING

3. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement and the Transaction are hereby approved, and the execution of the Sale Agreement by the Vendor is hereby authorized and approved, with such minor amendments as the Vendor, with the approval of the Monitor and the DIP Lender, may deem necessary. The Vendor is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**"), all of the Vendor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Hainey dated January 21, 2021, as amended and restated by the Order of the Honourable Justice Hainey dated January 29, 2021; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii)

those Claims listed on Schedule "B" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "C" hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that upon the registration in the Land Registry Office #37 for the Land Titles Division of Norfolk of an application for Vesting Order in the form prescribed by the *Land Titles Act* (Ontario) or the *Land Registration Reform Act* (Ontario) the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule "D.1" hereto (the "**Norfolk Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Norfolk Real Property all of the Claims listed in Schedule "B" hereto.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

8. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Vendor and the Purchaser regarding the fulfillment of conditions to closing under the Sale Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Monitor is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Vendor's records pertaining to the Vendor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal

information provided to it in a manner which is in all material respects identical to the prior use of such information by the Vendor.

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

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

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

GENERAL

11. **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 Vendor and 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 Vendor and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Vendor and the Monitor and their respective agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof.

Schedule "A" – Form of Monitor's Certificate

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 CANADA'S ISLAND GARDEN INC.**

(each an "**Applicant**" and collectively, the "**Applicants**")

MONITOR'S CERTIFICATE

RECITALS

- A. The Applicants commenced these proceedings under the *Companies' Creditors Arrangement Act* on January 21, 2021 (the "**CCAA Proceedings**").
- B. Pursuant to an Order of the Honourable Justice Haaney of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 21, 2020, FTI Consulting Canada Inc. was appointed as monitor (the "**Monitor**") of the Applicants in the CCAA Proceedings.
- C. Pursuant to an Approval and Vesting Order of the Court dated June 9, 2021, the Court approved the Asset Purchase Agreement made as of May 10, 2021 (the "**Sale Agreement**") between FIGR Norfolk Inc. (the "**Vendor**") and 11897985 Canada Inc. (dba) BEROXFOOD North America (the "**Purchaser**") and provided for the vesting in the Purchaser of the Vendor's right, title and interest in and to the Purchased Assets, which vesting is to be effective upon the delivery by the Monitor to the Purchaser of a certificate confirming that the Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Purchaser and the Vendor that all conditions to closing have been satisfied or waived by the parties to the Sale Agreement.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Monitor has received written confirmation from the Vendor and the Purchaser, in form and substance satisfactory to the Monitor, that all conditions to closing have been satisfied or waived by the parties to the Sale Agreement.

2. The Monitor has received written confirmation from the Vendor that it has received the Purchase Price.

3. This Monitor's Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**FTI Consulting Canada Inc., in its capacity as
Monitor of FIGR Brands, Inc. FIGR Norfolk
Inc. and Canada's Island Garden Inc., and
not in its personal capacity**

Per: _____

Name:

Title:

Schedule "B" – Claims to be deleted and expunged from title to Real Property

1. Instrument No. NK137786 registered on February 1, 2021 is a Construction Lien in favour of the Ventin Group Ltd.
 - Certificate of Action registered as Instrument No. NK139917 registered on April 8, 2021 by The Ventin Group Ltd.

**Schedule "C" – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

IN 50190-0069 (LT):

1. Instrument No. 37R1811 registered March 18, 1980 being a Reference Plan;
2. Instrument No. 37R3901 registered February 5, 1988 being a Reference Plan;
3. Instrument No. 37R3933 registered March 1, 1988 being a Reference Plan;

PIN 50190-0090 (LT):

4. NIL;

PIN 50190-0092 (LT):

5. NIL;

PIN 50190-0093 (LT):

6. Instrument No. 37R951 registered May 4, 1977 being a Reference Plan;

PIN 50190-0142 (LT):

7. Instrument No. 37R11219 registered July 3, 2019 being a Reference Plan;
8. Instrument No. NK122931 registered August 29, 2019 being a Transfer of land from The Corporation of Norfolk County to FIGR Norfolk Inc. wherein the Corporation reserves a right/easement in gross over parts 4 & 6, 37R11219;
9. Instrument No. NK122932 registered August 29, 2019 being a Notice of a Development Agreement between FIGR Norfolk Inc. and The Corporation of Norfolk County;

PIN 50190-0155 (LT):

10. Instrument No. 37R1811 registered March 18, 1980 being a Reference Plan;
11. Instrument No. 37R3029 registered October 18, 1985 being a Reference Plan;
12. Instrument No. 37R6250 registered July 13, 1992 being a Reference Plan;
13. Instrument No. 37R7969 registered May 14, 1999 being a Reference Plan;
14. Instrument No. NR540051Z registered June 21, 1999 being Restrictive Covenants;

15. Instrument No. 37R11175 registered March 5, 2019 being a Reference Plan;
16. Instrument No. NK124881 registered October 25, 2019 being an Application to Change Name – Owner;
17. Instrument No. NK124882 registered October 25, 2019 being an Application to Consolidate;

50190-0157 (LT):

18. Instrument No. 37R11096 registered June 8, 2018 being a Reference Plan.

Schedule "D" – Legal Description of the Real Property

PROPERTY DESCRIPTION:

PIN 50190-0155 (LT): PT LT 4 CON 14 WINDHAM PT 1 37R7969, S/T RIGHT IN NR540051; PT LT 3-4 CON 14 WINDHAM PT 2 37R3029 EXCEPT PT 4, 6 37R9427 EXCEPT PT 1, 37R11096; NORFOLK COUNTY

PIN 50190-0157 (LT): PART LOTS 3-4 CONCESSION 14 WINDHAM PART 1, PLAN 37R11096, SAVE AND EXCEPT PART 1, PLAN 37R11258; NORFOLK COUNTY

PIN 50190-0090 (LT): PT LT 3 CON 14 WINDHAM AS IN NR398041; NORFOLK COUNTY

PIN 50190-0069(LT): PT LT 3-4 CON 14 WINDHAM PT 2, 3 37R3933, AS IN NR263351, EXCEPT NR354886, NR398041; NORFOLK COUNTY

PIN 50190-0092(LT): PT LT 3 CON 14 WINDHAM AS IN NR354886; NORFOLK COUNTY

PIN 50190-0093(LT): PT LT 3 CON 14 WINDHAM PT 1, 2 37R951; NORFOLK COUNTY

PIN 50190-0142 (LT): PART OF LOT 4 CON 14 WINDHAM, BEING PARTS 3, 4 & 6 ON 37R-11219; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 4 & 6 ON 37R-11219 AS IN NK122931; NORFOLK COUNTY

**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

APPROVAL AND VESTING ORDER

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 6

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

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

THE HONOURABLE ~~_____~~ MR.) ~~WEEKDAY~~ WEDNESDAY, THE # 9th
JUSTICE ~~_____~~ HAINES)
DAY OF ~~MONTH~~ JUNE, ~~20~~ YR 2021

~~BETWEEN:~~

PLAINTIFF

~~Plaintiff~~

-

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.

(each an "Applicant" and ~~collectively, the "Applicants"~~)

DEFENDANT

~~Defendant~~

APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~ in its capacity as the Court appointed receiver (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~ (the "Debtor") the Applicants, pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended, for an eOrder approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between FIGR Norfolk Inc. (the Receiver "Vendor") and ~~[NAME OF PURCHASER]~~ 11897985 Canada Inc. (dba)

BEROXFOOD North America (the "Purchaser") ~~dated [DATE] and appended~~ May 10, 2021, attached as Exhibit "F" to the ~~Report~~ Affidavit of ~~the Receiver dated [DATE]~~ Michael Devon sworn June 2, 2021 (the "~~Report~~ Devon Affidavit"), and vesting in the Purchaser, all of the ~~Debtor's~~ right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ via videoconference due to the COVID-19 pandemic.

ON READING the ~~Report~~ Motion Record of the Applicants and the Fifth Report of FTI Consulting Canada Inc. in its capacity as Monitor of the Applicants (the "Monitor") and on hearing the submissions of counsel for the ~~Receiver, [NAMES OF OTHER PARTIES APPEARING]~~ Applicants, the Monitor, the Purchaser, Alliance One Tobacco Canada Inc. (the "DIP Lender") and for those other parties appearing as indicated by the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ Aiden Nelms sworn ~~[DATE]~~ filed[†] June 2, 2021:

SERVICE

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

DEFINED TERMS

2. THIS COURT ORDERS that capitalized terms used in this Order and not otherwise defined herein have the meaning ascribed to them in the Devon Affidavit or the Sale Agreement, as applicable.

APPROVAL AND VESTING

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

3. ~~1.~~ **THIS COURT ORDERS AND DECLARES** that the Sale Agreement and the Transaction ~~is~~are hereby approved,² and the execution of the Sale Agreement by the ~~Receiver~~³Vendor is hereby authorized and approved, with such minor amendments as the ~~Receiver~~Vendor, with the approval of the Monitor and the DIP Lender, may deem necessary. The ~~Receiver~~Vendor is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

4. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that upon the delivery of a ~~Receiver~~²Monitor's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "~~Receiver~~Monitor's Certificate"), all of the ~~Debtor~~Vendor's right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~⁴ shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~Haaney dated ~~[DATE]~~January 21, 2021, as amended and restated by the Order of the Honourable Justice Haaney dated January 29, 2021; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on

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

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

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

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

Schedule ~~C~~B hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule ~~D~~C hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. ~~3.~~ **THIS COURT ORDERS** that upon the registration in the Land Registry Office ~~#37~~ for the ~~[Registry~~Land Titles Division of ~~{LOCATION}~~Norfolk of a ~~Transfer/Deed of Land~~an application for Vesting Order in the form prescribed by the Land Titles Act (Ontario) or the Land Registration Reform Act ~~duly executed by the Receiver][Land Titles Division of {LOCATION} of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]~~⁶, (Ontario) the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule ~~B~~D.1 hereto (the ~~"Norfolk Real Property"~~"Norfolk Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Norfolk Real Property all of the Claims listed in Schedule ~~C~~B hereto.

6. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the ~~Receiver~~Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

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

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

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

8. THIS COURT ORDERS that the Monitor may rely on written notice from the Vendor and the Purchaser regarding the fulfillment of conditions to closing under the Sale Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

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

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

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

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

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act (Ontario)*.~~

GENERAL

11. ~~9.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the ~~Receiver~~**Vendor** and ~~its~~**the Monitor and their respective** agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Receiver~~**Vendor and the Monitor**, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver~~**Vendor** and ~~its~~**the Monitor and their respective** agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof.**

Schedule "A" – Form of ~~Receiver'~~Monitor's Certificate

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

~~BETWEEN:~~

~~PLAINTIFF~~

~~Plaintiff~~

-

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.

(each an "Applicant" and ~~collectively, the "Applicants"~~)

~~DEFENDANT~~

~~Defendant~~

~~RECEIVER'~~

MONITOR'S CERTIFICATE

RECITALS

A. The Applicants commenced these proceedings under the Companies' Creditors Arrangement Act on January 21, 2021 (the "CCAA Proceedings").

B. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated ~~[DATE OF ORDER],~~

~~[NAME OF RECEIVER]~~ January 21, 2020, FTI Consulting Canada Inc. was appointed as ~~the~~ receiver monitor (the "~~Receiver~~ Monitor") of the ~~undertaking, property and assets of [DEBTOR]~~ (the "~~Debtor~~").

B Applicants in the CCAA Proceedings.

C. Pursuant to an Approval and Vesting Order of the Court dated ~~[DATE]~~ June 9, 2021, the Court approved the ~~agreement of purchase and sale~~ Asset Purchase Agreement made as of ~~[DATE OF AGREEMENT]~~ May 10, 2021 (the "Sale Agreement") between FIGR Norfolk Inc. (the ~~Receiver [Debtor] and [NAME OF PURCHASER]~~ "Vendor") and 11897985 Canada Inc. (dba) BEROXFOOD North America (the "Purchaser") and provided for the vesting in the Purchaser of the ~~Debtor's~~ right, title and interest in and to the Purchased Assets, which vesting is to be effective ~~with respect to the Purchased Assets~~ upon the delivery by the ~~Receiver~~ Monitor to the Purchaser of a certificate confirming ~~(i) that the payment by Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Purchaser of and the Purchase Price for the Purchased Assets;~~ ~~(ii) Vendor that the all~~ conditions to ~~Closing as set out in section 1 of the Sale Agreement~~ closing have been satisfied or waived by the ~~Receiver and the Purchaser;~~ and ~~(iii) the Transaction has been completed to the satisfaction of the Receiver~~ parties to the Sale Agreement.

CD. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE ~~RECEIVER~~ MONITOR CERTIFIES the following:

1. The ~~Purchaser has paid and the Receiver~~ Monitor has received ~~the Purchase Price for the Purchased Assets payable on the Closing Date pursuant~~ written confirmation from the Vendor and the Purchaser, in form and substance satisfactory to the ~~Sale Agreement;~~
2. ~~The~~ Monitor, that all conditions to ~~Closing as set out in section 1 of the Sale Agreement~~ closing have been satisfied or waived by the ~~Receiver and~~ parties to the ~~Purchaser;~~ and Sale Agreement.

2. The Monitor has received written confirmation from the Vendor that it has received the Purchase Price.

~~3. The Transaction has been completed to the satisfaction of the Receiver.~~

4. This Monitor's Certificate was delivered by the ~~Receiver~~Monitor at _____ [TIME] on _____ [DATE].

~~[NAME OF RECEIVER]~~FTI Consulting Canada Inc., in its capacity as ~~Receiver~~Monitor of ~~the undertaking, property and assets of [DEBTOR]~~FIGR Brands, Inc. FIGR Norfolk Inc. and Canada's Island Garden Inc., and not in its personal capacity

Per: _____
Name:
Title:

~~Schedule B—Purchased Assets~~

Schedule E"B" – Claims to be deleted and expunged from title to Real Property

1. Instrument No. NK137786 registered on February 1, 2021 is a Construction Lien in favour of the Ventin Group Ltd.

- **Certificate of Action registered as Instrument No. NK139917 registered on April 8, 2021 by The Ventin Group Ltd.**

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

(unaffected by the Vesting Order)

IN 50190-0069 (LT):

- 1. Instrument No. 37R1811 registered March 18, 1980 being a Reference Plan;**
- 2. Instrument No. 37R3901 registered February 5, 1988 being a Reference Plan;**
- 3. Instrument No. 37R3933 registered March 1, 1988 being a Reference Plan;**

PIN 50190-0090 (LT):

- 4. NIL;**

PIN 50190-0092 (LT):

- 5. NIL;**

PIN 50190-0093 (LT):

- 6. Instrument No. 37R951 registered May 4, 1977 being a Reference Plan;**

PIN 50190-0142 (LT):

- 7. Instrument No. 37R11219 registered July 3, 2019 being a Reference Plan;**
- 8. Instrument No. NK122931 registered August 29, 2019 being a Transfer of land from The Corporation of Norfolk County to FIGR Norfolk Inc. wherein the Corporation reserves a right/easement in gross over parts 4 & 6, 37R11219;**
- 9. Instrument No. NK122932 registered August 29, 2019 being a Notice of a Development Agreement between FIGR Norfolk Inc. and The Corporation of Norfolk County;**

PIN 50190-0155 (LT):

- 10. Instrument No. 37R1811 registered March 18, 1980 being a Reference Plan;**
- 11. Instrument No. 37R3029 registered October 18, 1985 being a Reference Plan;**
- 12. Instrument No. 37R6250 registered July 13, 1992 being a Reference Plan;**
- 13. Instrument No. 37R7969 registered May 14, 1999 being a Reference Plan;**
- 14. Instrument No. NR540051Z registered June 21, 1999 being Restrictive Covenants;**

15. Instrument No. 37R11175 registered March 5, 2019 being a Reference Plan;

16. Instrument No. NK124881 registered October 25, 2019 being an Application to Change Name – Owner;

17. Instrument No. NK124882 registered October 25, 2019 being an Application to Consolidate;

50190-0157 (LT):

18. Instrument No. 37R11096 registered June 8, 2018 being a Reference Plan.

Schedule "D" – Legal Description of the Real Property

PROPERTY DESCRIPTION:

PIN 50190-0155 (LT): PT LT 4 CON 14 WINDHAM PT 1 37R7969, S/T RIGHT IN NR540051; PT LT 3-4 CON 14 WINDHAM PT 2 37R3029 EXCEPT PT 4, 6 37R9427 EXCEPT PT 1, 37R11096; NORFOLK COUNTY

PIN 50190-0157 (LT): PART LOTS 3-4 CONCESSION 14 WINDHAM PART 1, PLAN 37R11096, SAVE AND EXCEPT PART 1, PLAN 37R11258; NORFOLK COUNTY

PIN 50190-0090 (LT): PT LT 3 CON 14 WINDHAM AS IN NR398041; NORFOLK COUNTY

PIN 50190-0069(LT): PT LT 3-4 CON 14 WINDHAM PT 2, 3 37R3933, AS IN NR263351, EXCEPT NR354886, NR398041; NORFOLK COUNTY

PIN 50190-0092(LT): PT LT 3 CON 14 WINDHAM AS IN NR354886; NORFOLK COUNTY

PIN 50190-0093(LT): PT LT 3 CON 14 WINDHAM PT 1, 2 37R951; NORFOLK COUNTY

PIN 50190-0142 (LT): PART OF LOT 4 CON 14 WINDHAM, BEING PARTS 3, 4 & 6 ON 37R-11219; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 4 & 6 ON 37R-11219 AS IN NK122931; NORFOLK COUNTY

TAB 7

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	WEDNESDAY, THE 9 th
)	
JUSTICE HAINEY)	DAY OF JUNE, 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**")

ANCILLARY ORDER
**(Second DIP Amendment, Stay Extension, DIP Distribution, Sealing, Pre-Filing
Intercompany Claims & Monitor Fee Approval)**

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*: (i) approving the Second DIP Amendment and distributions to the DIP Lender as repayment of amounts owing thereunder; (ii) approving an extension of the Stay Period; (iii) approving the Pre-Filing Intercompany Claims Resolution Process; (iv) sealing the Confidential Exhibits and the Confidential Appendix; and (v) approving the Fifth Report (as defined below) and the Monitor's activities and fees described therein, and certain related relief, was heard this day by Zoom videoconference as a result of the COVID-19 pandemic.

ON READING the Notice of Motion of the Applicants, the affidavit of Michael Devon sworn June 2, 2021 (the "**June 2 Devon Affidavit**"), the Fifth Report of FTI Consulting Canada Inc. (the "**Fifth Report**"), in its capacity as Monitor of the Applicants (the "**Monitor**"), filed, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for Alliance One Tobacco Canada Inc. (the "**DIP Lender**"), 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;

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 Claims Procedure Order dated February 22, 2021, the Employee Claims Procedure Order dated April 30, 2021, or the June 2 Devon Affidavit, as applicable.

SECOND DIP AMENDMENT

3. **THIS COURT ORDERS** that the execution by the Applicants of the Second DIP Amendment, a copy of which is attached as Appendix [●] to the Fifth Report, is hereby authorized and approved, and the Applicants are hereby authorized and empowered to borrow up to an additional \$3,000,000 (\$16,000,000 in the aggregate) (plus costs and interest) pursuant to the Commitment Letter as amended by the Second DIP Amendment.

4. **THIS COURT ORDERS** that:

- (a) paragraphs 33 to 38 of the Amended and Restated Initial Order shall apply to the Commitment Letter as amended by the Second DIP Amendment and all references to the Commitment Letter contained in the Amended and Restated Initial Order shall be deemed to be references to the Commitment Letter as amended by the Second DIP Amendment;
- (b) the DIP Lender's Charge shall secure all amounts owing by the Applicants to the DIP Lender under the Commitment Letter and the Definitive Documents as amended by the Second DIP Amendment; and

- (c) for greater certainty, paragraphs 36 and 40 of the Amended and Restated Initial Order are hereby amended to replace the references to "\$13,000,000" with "\$16,000,000".

DISTRIBUTION IN RESPECT OF DIP CHARGE

5. **THIS COURT ORDERS** that, following the Closing Time (as defined in the CIG Sale Agreement), the Applicants with the consent of the Monitor (or the Monitor on behalf of the Applicants) are authorized and empowered to make or to cause to be made distributions from time to time from available funds or proceeds at that time held or received by the Applicants or in the future held or received by the Applicants (or the Monitor on behalf of the Applicants) to the DIP Lender in repayment of the obligations secured by the DIP Lender's Charge.

EXTENSION OF THE STAY PERIOD

6. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including September 3, 2021.

SEALING

7. **THIS COURT ORDERS** that the Confidential Exhibits to the June 2 Devon Affidavit and the Confidential Appendix to the Fifth Report are hereby sealed and shall not form part of the public record until further order of the Court.

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

8. **THIS COURT ORDERS** that the Fifth 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.

9. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Fifth Report, be and are hereby approved.

PRE-FILING INTERCOMPANY CLAIMS RESOLUTION PROCESS

10. **THIS COURT ORDERS** that any Person wishing to object to the validity or quantum of any of the Pre-Filing Intercompany Claims summarized in the Fifth Report must serve an objection (a "**Pre-Filing Intercompany Claims Objection**") sufficiently describing the grounds for such objection in writing to the Monitor, with a copy to all Persons on the Service List, 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 (the "**Pre-Filing Intercompany Claims Objection Date**") as provided for in paragraph 11 below.

11. **THIS COURT ORDERS** that the Monitor shall send a notice (the "**Pre-Filing Intercompany Claims Notice**") by email to the Service List, as well as to each Claimant that has submitted a Proof of Claim or Employee Claimant who has received an Employee Claim Statement, by email to the email address indicated on such Proof of Claim or Employee Claim Statement, (i) providing an electronic link to the Fifth Report and indicating that the Monitor's review and summary of the Pre-Filing Intercompany Claims is set out therein; (ii) providing an electronic link to this Order; and (iii) referencing the Pre-Filing Intercompany Claims Objection Date contained in paragraph 10 hereof.

12. **THIS COURT ORDERS** that, in the event that a Pre-Filing Intercompany Claims Objection cannot be resolved or settled, the Monitor may 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 such motion, the Monitor shall prepare a further report (the "**Objections and Recommendations 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.

13. **THIS COURT ORDERS** that in the event that no Persons served a Pre-Filing Intercompany Claims Objection by the Pre-Filing Intercompany Claims Objection Date, the Monitor shall advise the Service List in writing that no Pre-Filing Intercompany Claims Objections were received, and the Pre-Filing Intercompany Claims as set out in the Fifth Report are and shall be deemed to be accepted as valid claims.

GENERAL

14. **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.

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

16. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Toronto time on the date of this Order.

**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

ANCILLARY ORDER

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**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.***

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

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SUPERIOR COURT OF JUSTICE
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MOTION RECORD

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