

NO. S-1810743
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c.57, AS AMENDED**

AND

**IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,
R.S.C. 1985, c.44, AS AMENDED**

AND

**IN THE MATTER OF A PLAN OR COMPROMISE AND ARRANGEMENT OF
PUREWAL BLUEBERRY FARMS LTD., 0726357 B.C. LTD., 0726365 B.C. LTD.
and 0726368 B.C. LTD.**

SECOND REPORT OF THE MONITOR

DECEMBER 10, 2018

INTRODUCTION

1. This report (“**Second Report**”) has been prepared by FTI Consulting Canada Inc. (“**FTI**”) in its capacity as the court-appointed Monitor (the “**Monitor**”) pursuant to an order of the Supreme Court of British Columbia (the “**Court**”) pronounced October 11, 2018 (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c.36, as amended.
2. On April 30, 2018, Purewal Blueberry Farms Ltd. (“**Purewal**”) filed a Notice of Intention to File a Proposal (“**NOI**”) with the Superintendent of Bankruptcy pursuant to Part III, Division I of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and FTI was appointed trustee under the NOI (the “**Proposal Trustee**”).
3. Purewal sought and obtained extensions of its stay of proceedings under the NOI as follows:
 - (a) by Order of the Court pronounced May 30, 2018 extending the time to file a proposal under its NOI (and corresponding stay of proceedings) to July 13, 2018;
 - (b) by Order of the Court pronounced July 5, 2018 extending the time to file a proposal under its NOI (and corresponding stay of proceedings) to August 27, 2018; and
 - (c) by Order of the Court pronounced August 24, 2018 extending the time to file a proposal under its NOI (and corresponding stay of proceedings) to October 11, 2018.
4. Additional Orders sought and obtained by Purewal in the NOI proceedings included:
 - (a) an Order of the Court pronounced May 30, 2018 approving:

- i. an interim financing facility (the “**DIP Loan**”) from Blueberry Holding (GP) Ltd. (in such capacity, the “**DIP Lender**”) in the maximum principal amount of \$500,000, secured by a charge in priority to all other encumbrances, over the assets of Purewal (including any assets of Purewal held in trust for 0726357 B.C. Ltd., 0726365 B.C. Ltd. and 0726368 B.C. Ltd.) (the “**Purewal Property**”) (the “**DIP Lender’s Charge**”); and
 - ii. an administrative charge to secure the fees and disbursements of Purewal’s legal counsel, the Proposal Trustee, and its legal counsel (the “**Administrative Charge**”) in priority to all other encumbrances (other than the DIP Lender’s Charge) against the Purewal Property for up to \$200,000.
 - (b) two Orders of the Court pronounced July 5, 2018 approving:
 - i. a claims process (the “**Claims Process**”) by the Proposal Trustee to assist in identifying and understanding the quantum and extent of creditor’s claims against all of the Petitioners (the “**Claims Process Order**”); and
 - ii. a sale process (the “**Sale Process**”) for Purewal’s processing plant in accordance with a proposed set of bidding procedures, to be administered by the Proposal Trustee (the “**Sale Process Order**”).
5. Pursuant to the Initial Order, the NOI proceedings were converted into this CCAA proceeding, and all of the Orders granted in the NOI proceedings, including but not limited to the Claims Process Order and the Sale Process Order, were continued into these CCAA proceedings.

6. Three of the Petitioners were not included in the NOI proceedings and were added to these CCAA proceedings; namely 0726357 B.C. Ltd. (“**6357**”), 0726365 B.C. Ltd. (“**6365**”) and 0726368 B.C. Ltd. (“**6368**”). 6357, 6365 and 6368 (collectively the “**Brothers’ Companies**”) are holding companies owned by Malkiat, Charan and Gurjit Purewal, respectively.
7. The Initial Order increased the amount of the approved DIP Loan from \$500,000 to \$1,000,000, increased the DIP Lender’s Charge to \$1,000,000, and extended the DIP Lender’s Charge and the Administration Charge over the property of all the Petitioners.
8. On October 11, 2018, the Court made a further Order approving an asset purchase agreement (the “**SH APA**”) submitted by 0801226 B.C. Ltd. (a party related to the Primary Secured Creditor) in the Sale Process, as the stalking horse bidder (the “**Stalking Horse Bidder**”) in the Sale Process.
9. On November 2, 2018, the Petitioners sought and obtained an order of this Court extending the stay of proceedings provided in the Initial Order to December 14, 2018.
10. The reports of the Proposal Trustee and the Monitor and other information in respect of these proceedings are posted on the Monitor’s website at <http://cfcanada.fticonsulting.com/purewal/>.

PURPOSE

11. The purpose of the Second Report of the Monitor is to provide the Court with an update on the following:
 - (a) the activities of the Petitioners subsequent to the date of the First Report;
 - (b) an update on the status of the Sale Process;
 - (c) an overview of two secured claims relating to a guaranty provided by the Petitioners in support of a lease on a property previously owned by Purewal;
 - (d) an update on the status of the Claims Process; and
 - (e) the Monitor's views and recommendations regarding the Petitioners' request for an increase in the Administrative Charge and an extension of the provisions of the Initial Order, including the stay of proceedings, to March 1, 2019.

TERMS OF REFERENCE

12. In preparing this report, the Monitor has relied upon unaudited financial information, other information available to the Monitor and, where appropriate, the Petitioners' books and records and discussions with various parties (collectively, the "**Information**").
13. The Proposal Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
14. The Proposal Trustee has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.

15. Future oriented financial information reported or relied on in preparing this report is based on assumptions regarding future events; actual results may vary from forecast and such variations may be material.
16. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

UPDATE ON THE PETITIONERS' ACTIVITIES

Funding

17. Pursuant to paragraph 24(c) of the Initial Order, the Monitor opened up a bank account to receive and administer the funding received from the DIP Lender.
18. Subsequent to the First Report, the Monitor received funding in the amount of \$265,000 from the DIP Lender. The DIP Lender's legal counsel deducted \$10,000 from one of the advances relating to its legal fees. With these additional advances, the total borrowed under the DIP Loan is \$720,000.
19. In consultation with the Company, the funds have been used to pay outstanding invoices to BC Hydro and the security company, to renew the Company's property insurance and to pay for the fees and expenses of the former accounting staff to assist with various administrative functions.
20. The Company's insurance policy had expired on August 31, 2018 and was renewed up to November 15, 2018. However, the Company's legal counsel was advised by the Company's insurance broker that due to non-payment of the premium due for the period to November 15, 2018, the coverage would be cancelled effective as of November 15.
21. The Monitor contacted the Company's insurance broker to seek a further extension but was advised that all overdue premiums would have to be paid before any further extension would be considered.

22. Accordingly, upon receipt of additional funding, the Monitor arranged for the immediate payment of the outstanding premium and requested an extension of the coverage until such time as the sale of the processing plant could be concluded.
23. The Company's insurance broker advised that the previous policy underwriter would not agree to continue its coverage and the only option was a new underwriter with a more expensive premium. In addition, the premium needed to be paid in advance for 6 months, and although the coverage could be cancelled the premium was non-refundable.
24. The Monitor advised the broker that 24 hour security was now in place for the processing plant and that a sale was likely to soon be confirmed, and asked if these facts could be taken into consideration regarding the premium.
25. With the assistance of the Company's insurance broker, the premium for extended coverage was reduced, although the premium still needed to be prepaid for six months coverage and the premium was non-refundable if cancelled prior to its expiration.
26. The Monitor discussed the insurance situation with the Company and with the Company's approval, the Monitor paid the premium on behalf of the Company in order to ensure continued insurance coverage for the processing plant.
27. The Monitor has discussed the need for additional funding with the DIP Lender and expects to receive the remaining \$280,000 previously approved under the DIP Loan prior to closing the sale of the processing plant.
28. The Monitor estimates that the exposure currently outstanding under the Administrative Charge is approximately \$325,000 as at November 30, 2018. This is expected to be substantially reduced upon receipt of the next tranche of the DIP Loan.

Lease with the Pitt Meadows Airport Authority

29. As noted in the First Report, the Monitor became aware that the leasehold interest in the land around the Pitt Meadows Airport (the “**Airport Lease**”) had been surrendered and a new lease had been entered between the Pitt Meadows Airport Society (“**PMAS**”) and a company owned by some related parties. The Monitor was concerned that this transfer removed assets belonging to the Petitioners.
30. The Airport Lease was originally held by 0740656 B.C. Ltd. (“**074**”), a company with common ownership to Purewal.
31. The Monitor contacted the PMAS and obtained a copy of a Surrender of Lease dated July 25, 2018 purportedly signed by each of the brothers on behalf of the Brothers’ Companies.
32. The Monitor also obtained a copy of a new lease between Phoenix Farms Ltd. (“**Phoenix**”) and PMAS dated August 1, 2018.
33. Phoenix is owned by two sons of Gurjit Singh Purewal.
34. Phoenix retained independent legal counsel. Phoenix’s legal counsel contacted the Monitor and requested copies of the documentation in its possession regarding the Airport Lease. Although the Monitor was puzzled by the request, it provided the documents on the basis that Phoenix had only provided its counsel with a copy of its lease with the PMAS.
35. The Company’s legal counsel requested a meeting with Phoenix’s legal counsel which was held on November 29, 2018. The Monitor attended the meeting.
36. The purpose of the meeting was to hold a preliminary discussion regarding the events surrounding the Airport Lease and to ascertain whether there was any prospect for a consensual settlement.

37. The Company's legal counsel is now in discussions with the Company to determine its next steps with respect to the Airport Lease.

UPDATE ON THE SALE PROCESS

38. In the First Report, the Monitor summarized the progress of the Sale Process and the activities performed to that date.
39. As indicated in the First Report, the Monitor advised the Other Potential Purchasers of the deadline to submit a Qualifying Bid which was set for November 9, 2018.
40. During the period leading up to November 9, 2018, the Monitor was engaged on several calls and emails with the Other Potential Purchasers regarding the auction process and the timeline for the subsequent steps in the Sale Process.
41. On November 6, 2018 the Monitor also forwarded an email to all of the Other Potential Purchasers reminding them of the November 9, 2018 deadline.
42. As of the close of business on November 9, 2018, the Monitor received four Auction Qualified Bids. The Monitor forwarded copies of the Auction Qualified Bids to the Company's legal counsel and to the Monitor's legal counsel for their review.
43. On November 13, 2018 the Monitor met with representatives of the Company and its legal counsel to review and discuss the Auction Qualified Bids.
44. Some of the Auction Qualified Bids received on November 9, 2018 did not include deposits while others included revisions to the draft form of Asset Purchase Agreement forwarded to the Other Potential Purchasers.

45. As a result, the Monitor conducted follow up calls with the Other Potential Purchasers to obtain deposits in order to determine the Starting Bid.
46. On November 16, 2018 the Monitor forwarded a letter to each of the four Auction Qualified Bidders and the Stalking Horse Bidder inviting them to attend an auction at the offices of the Company's legal counsel commencing at 10:00 am on November 21, 2018 (copy of letter attached as Appendix A). The letter also provided an overview of how the auction process would be conducted.
47. On November 19, 2018, the Monitor forwarded an email to each of the Auction Qualified Bidders and the Stalking Horse Bidder providing them with a copy of the Starting Bid and reminding each that to the extent they had not already provided a deposit of \$415,000 to the Company's legal counsel, they would be prohibited from participating in the auction if a deposit wasn't provided prior to the commencement of the auction. The Starting Bid had a proposed purchase price of \$8,300,000.
48. In preparation of the auction, the Monitor prepared an attendance sheet to register the attendees as well as a bidding form to be used in the bidding rounds.
49. On November 21, 2018, the Stalking Horse Bidder and three of the Auction Qualified Bidders attended at the offices of the Company's legal counsel. Upon arrival, each party was asked to sign the attendance sheet after which they were directed to a meeting room that had been reserved for their use during the auction process.
50. The Monitor, the Company's legal counsel and the Monitor's legal counsel convened in a larger board room (the "**Meeting Room**"). Once the parties were organized, they were invited into the Meeting Room. The Monitor commenced with an introduction of all of the representatives attending the auction and provided an overview of the auction process.

51. Given the number of Auction Qualified Bidders, the Monitor announced that the Minimum Bid Increment for each round would be \$100,000 until such time as there were only two remaining Auction Qualified Bidders at which point the Minimum Bid Increment would be reduced to \$50,000.
52. One of the Auction Qualified Bidders advised the Monitor of its need to consult between bidding rounds with another party by telephone and accordingly requested more than 10 minutes between bidding rounds. As a result, the time between bidding rounds was set for 15 minutes.
53. At the start of each bidding round, the Monitor announced the new Floor Bid, the Minimum Bid Increment and the time allotment for returning an Improved Bid to the Monitor and its legal counsel. As each of the Auction Qualified Bidders left the Meeting Room, they were provided with a pre-populated bidding form so that the only information required was the Improved Bid for that round.
54. At the conclusion of the seventeenth round of bidding, only one of the Auction Qualified Bidders submitted a bidding form and as a result was announced as the Winning Bid.
55. The purchase price indicated in the Winning Bid is \$11,210,000 which was submitted by 1176094 B.C. Ltd. A copy of the Asset Purchase Agreement for the Winning Bid (the "**Winning APA**") is attached as Appendix B.
56. Pursuant to paragraph 7.1 of the Winning APA, the Purchaser's obligation to complete the purchase of the Property is subject to the issuance of a Vesting Order and the approval of this Honourable Court of the Winning APA.
57. The Monitor believes that the Sale Process, as approved by this Honourable Court, has been conducted in a fair and transparent manner and has achieved fair market value through a competitive process.

58. Accordingly, the Monitor recommends the approval of the Winning APA and is supportive of the form of Vesting Order as sought by the Company.

OVERVIEW OF RICHMOND FARM PROPERTY

59. As indicated in the First Report, the Monitor has received two secured claims from one creditor totaling \$416,000.
60. The claims relate to a complex series of transactions related to a 140 acre farm with blueberry plantings (the “**Richmond Farm**”) that was previously owned by Purewal.
61. In September 2013, Purewal sold an undivided 1/10 interest in the Richmond Farm to Harjinder Singh Berar and Karmjit Kaur Berar and an undivided 4/10 interest in the Richmond Farm to Berar Farms Ltd. (collectively “**Berar**”).
62. In conjunction with the sale, the Partnership entered into a lease with Berar (the “**Richmond Lease**”). The primary terms of the Richmond Lease are as follows:
- (a) 10 year term commencing September 2013, expiring in September 2023;
 - (b) Annual rent of \$339,900 plus applicable taxes due in advance of each lease year;
 - (c) Constructed as a net lease with the tenant assuming responsibility for all operating costs; and
 - (d) Purewal and the Brothers’ Companies each provided a guarantee for the performance of the Partnership’s obligations under the lease.

63. In support of their guaranties, Purewal and the Brother's Companies granted collateral mortgages in favour of Berar over all of the properties owned by Purewal and the Brother's Companies, including the processing plant (the "**Collateral Mortgages**").
64. In February 2016, Purewal then sold its remaining 5/10 undivided interest in the Richmond Farm to 1043806 B.C. Ltd. ("**104**"). Pursuant to the terms of the sale agreement, 104 covenanted to assume the Richmond Lease and indemnify Purewal against any liability under the Richmond Lease.
65. In addition, 104 provided a covenant to use its best commercial efforts to remove the Collateral Mortgages by replacing it with alternative security and in any event 104 was to indemnify Purewal for any claims made against the Collateral Mortgages.
66. Under the terms of the Richmond Lease, Purewal was prohibited from assigning the lease without the consent of Berar, which consent was not to be unreasonably withheld.
67. Subsequent to closing the sale with 104, Purewal forwarded a document to 104 purporting to assign the Richmond Lease to 104. The document was signed by Purewal and representatives of the Brother's Companies, however it is the Monitor's understanding that the document has not been signed by 104 or consented to by Berar.
68. The Monitor is further advised that to date 104 has not replaced the Collateral Mortgages.
69. At the time of the sale to 104, Purewal was in arrears on its 2015 rent payment due to Berar, and accordingly it was paid from the closing proceeds.

70. In 2016, the rent due to Berar pursuant to the Richmond Lease was paid by 104 directly to Berar, and 104 sublet the Richmond Farm to another party. However, in 2017 the rent payment due to Berar for the 2018 blueberry harvest was not made. As a result, Purewal purported to sublet the Richmond Farm to another farmer, Barinder Thiara (“**Thiara**”) for rent of \$250,000.
71. Thiara harvested the blueberries from the Richmond Farm during the 2018 summer, however to date the rent payment has not been made by Thiara to any of Purewal, 104 or Berar.
72. The Monitor met with Thiara regarding the overdue payment and was advised by Thiara that it was awaiting receipt of its payment from the blueberry processor. Thiara confirmed that upon receipt of payment from the blueberry processor, it was prepared to forward \$200,000 to Berar.
73. Thiara further advised that it was seeking a reduction of its rent from \$250,000 to \$200,000 on the basis that it had incurred unanticipated costs and that the crop yield was significantly reduced from the prior year.
74. The Monitor discussed its meeting with Thiara with the Company and its legal counsel and expressed its view that the Company should take steps to ensure that the \$200,000 payment is directed as soon as possible to Berar to reduce its claim against Purewal. The Monitor has asked the Company to consider its position regarding the \$50,000 rent reduction being requested by Thiara.
75. The Monitor has met twice with representatives of Berar and also had several telephone conversations with Berar representatives regarding the status of its claim and the state of the Richmond Farm.
76. To date, Berar has filed a claim for its rent arrears from 2017, however it has expressed the following additional concerns:

- (a) the 2018 rent payment in the amount of \$339,900 plus taxes is now due;
 - (b) Berar orally asserted to the Monitor that as a result of the uncertainty around the operational responsibility for the Richmond Farm since the sale of Purewal's interest to 104, the Richmond Farm has suffered damages due to neglect; and
 - (c) given that the Purewal's are no longer farming the Richmond Farm, the Berars would like to understand who would be assuming that responsibility for the remaining five years of the Richmond Lease.
77. At Berar's request, Thiara prepared a schedule of measures (the "**Thiara Report**") that it thought would need to be performed in order to re-establish the Richmond Farm back to the state it was in at the time of Purewal's sale to 104. The estimated total cost indicated in the Thiara Report was approximately \$800,000. To date, Berar has not formally submitted a claim for these alleged damages.
78. A copy of the Thiara Report was provided to the Monitor who forwarded it to the Company and the Company's legal counsel.
79. 104 has retained legal counsel and it has been in discussions with the Company's legal counsel. 104's legal counsel has indicated its position that the Richmond Lease was assigned to 104 and that 104 has identified a sub-tenant that is willing to take operational responsibility for the Richmond Farm for an annual rent of \$300,000 for the remaining five year term of the Richmond Lease.
80. Berar's legal counsel has indicated to the Company's legal counsel that it does not accept the purported assignment by Purewal to 104. Legal counsel for Berar has further indicated that it expects payment of the two years' rent arrears due to Berar to be paid out of the proceeds of sale of the processing plant.

81. The Monitor's legal counsel is currently reviewing Berar's security and would expect this to have been completed prior to any distribution from the sale proceeds.
82. The Monitor understands that a meeting has been set up for this week between the Company's legal counsel and Berar's legal counsel to discuss the extent of Berar's claim against Purewal and the status of the Richmond Lease.
83. The Monitor has been invited to attend the meeting and has requested its legal counsel to also attend.
84. The Monitor cautions all parties that there is a level of urgency regarding this issue as operational responsibility will need to be determined soon in order to prepare the blueberry plants for the 2019 growing season.
85. The Monitor will continue to keep the Court and the stakeholders apprised of any developments regarding the Richmond Farm.

AN UPDATE ON THE CLAIMS PROCESS

86. As noted in the First Report, 59 claims totaling approximately \$16.3 million have been received resulting from the Claims Process summarized as follows:
 - (a) one deemed trust claim from Canada Revenue Agency ("CRA") in the amount of \$3.5 million;
 - (b) three secured claims totaling \$1.1 million; and
 - (c) the claims of the remaining creditors being unsecured.

87. The totals indicated above do not include the mortgage debt due to the Primary Secured Creditor in the approximate amount of \$3.5 million, as it did not file a proof of claim with its updated current amount due. The Primary Secured Creditor will need to prepare a payout statement prior to any distribution from the sale of the processing plant.
88. The Monitor is advised that an auditor from CRA attended the Company's premises last week to perform an audit on the Company's payroll account and GST account as well as the payroll account of 074.
89. The CRA auditor did not provide a statement to the Company's representative, however the Monitor would expect to receive one in the next few weeks.
90. A secured claim was filed in the Claims Process, which upon review does not appear to be a secured claim and accordingly a revision notice is expected to be issued advising the creditor of the Monitor's position.
91. The Staff are continuing to update the Company's books and records and reconcile the remaining claims with unresolved differences.

PETITIONERS' REQUEST TO INCREASE THE ADMINISTRATIVE CHARGE

92. On May 30, 2018 the Company obtained an Order of the Court approving an administrative charge to secure the fees and disbursements of the Petitioners' legal counsel, the Monitor, and its legal counsel (the "**Administrative Charge**") in priority to all other encumbrances (other than the DIP Lender's Charge) against the Purewal Property for up to \$200,000.
93. As indicated previously, the Monitor estimates the approximate amount of fees and expenses unpaid as of November 30, 2018 to be \$325,000.
94. Upon receipt of the next tranche of funding from the DIP Lender, the Monitor anticipates substantially paying down the outstanding fees of the professionals covered by the Administrative Charge.
95. However, the Company and the Monitor have experienced delays in the expected timing of funding from the DIP Lender and notes that currently the outstanding fees of the professionals exceeds the Administrative Charge.
96. Accordingly, the Petitioners are seeking this Honourable Court's approval to increase the amount of the Administrative Charge by \$100,000.
97. The Monitor believes it is important to ensure that the Petitioners continue to have the support of its professional advisors to assist the Petitioners through its CCAA proceedings and therefore supports the relief being sought to increase the amount of the Administrative Charge to \$300,000.

PETITIONERS' REQUEST TO EXTEND THE STAY OF PROCEEDINGS

98. The Petitioners are seeking an extension of the provisions of the Initial Order, including the stay of proceedings, to March 1, 2019. Absent such extension, the stay will expire on December 14, 2018. The Petitioners are seeking an extension for the following reasons:

- (a) to provide the time required to close the Winning APA between Purewal and 1176094 B.C. Ltd.;
- (b) to provide an opportunity for the Company to review the events surrounding the Airport Lease and determine the Company's options with respect to a potential realization on this asset; and
- (c) to provide the Petitioners with the time necessary for the Petitioners in conjunction with its legal counsel to formulate a plan of arrangement to its creditors.

99. The Monitor has considered the tests that the Court must be satisfied with in order to grant an extension of the stay of proceedings to the Petitioners, namely that:

- (a) the Petitioners must be acting in good faith and with due diligence; and
- (b) the Petitioners satisfy the Court that the circumstances exist that make the order appropriate.

100. The Monitor believes that the Company is acting in good faith and that the extension of the stay of proceedings is in the best interest of all stakeholders to allow Purewal to close the Winning APA, the proceeds which will provide for:

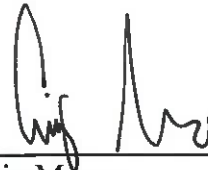
- (a) the claims of secured creditors and the deemed trust claim in favour of the CRA to be addressed;

- (b) provide an opportunity to the former employees to regain employment in an operating plant; and
- (c) allow the time necessary to evaluate the quantum of claims against the Petitioners in order to formulate a plan of arrangement(s) to their creditors.

101. Accordingly, the Monitor supports the Petitioners' request for an extension of the stay of proceedings to March 1, 2019.

All of which is respectfully submitted this 10th day of December, 2018.

FTI Consulting Canada Inc.,
in its capacity as Monitor of Purewal Blueberry
Farms Ltd., 0726365 B.C. Ltd., 0726368 B.C.
Ltd. and 0726357 B.C. Ltd.



Name: Craig Munro
Title: Managing Director,
FTI Consulting Canada Inc.

APPENDIX A



Corporate Finance

Bentall Two
555 Burrard Street
Suite 15 -131
Vancouver, BC V7X 1M7

fticonsulting.com

November 16, 2018

To: Parties with Auction Qualified Bids

Dear Sirs:

Purewal Blueberry Farms Ltd., et al. ("Purewal")

We acknowledge with thanks your submission of an Asset Purchase Agreement ("**APA**") for the processing plant asset owned by Purewal, in accordance with the Bidding Procedures. We are pleased to inform you that based on your APA, you have been accepted as an Auction Qualified Bidder and are hereby invited to attend an auction at the offices of Clark Wilson LLP on Wednesday November 21, 2018 commencing at 10:00 am.

The offices of Clark Wilson LLP are located in the HSBC Building located at:

885 West Georgia St., 9th Floor
Vancouver, BC

The auction process was described in detail in the Bidding Procedures provided previously. However they can be summarized as follows:

- Each of the Auction Qualified Bidders (including the Stalking Horse Bidder) will be allocated a meeting room at the offices of Clark Wilson LLP;
- The auction process will be conducted by the Monitor and its legal counsel;
- The auction will be conducted through a series of bidding rounds ("**Rounds**") in which each Qualified Auction Bidder will be asked to increase its purchase price in each Round;
- The minimum bid increment for each round will be \$100,000 until such time as there are only two Auction Qualified Bidders remaining at which point the minimum bid increment will be reduced to \$50,000;
- Each Qualified Auction Bidder will have 10 minutes per round to consider its new purchase price and present it to the Monitor and its legal counsel;
- The highest purchase price in each Round will become the new floor price for the subsequent Round ("**Improved Bid**");
- At the commencement of each Round, the Monitor will inform each Qualified Auction Bidder of the Improved Bid for the next Round;



- The Rounds will continue until such time as the remaining Auction Qualified Bidders do not submit an Improved Bid at which point the Improved Bid from the previous round will become the Winning Bid; and
- The Company's legal counsel will seek the Court's approval of the Winning Bid on or around December 5, 2018.

Please note, that any interested party who has not already provided a deposit to Clark Wilson, LLP is required to bring a certified cheque or bank draft with it to the auction. If the party has not provided a deposit to the Monitor (payable to Clark Wilson LLP) prior to the auction, it will be disqualified from participating.

If you have any questions, please let me know.

Yours very truly,

FTI Consulting Canada Inc.

A handwritten signature in black ink, appearing to read "Craig Munro".

Per:

Craig Munro, Managing Director

APPENDIX B

OFFER TO PURCHASE AND AGREEMENT OF PURCHASE AND SALE

THIS OFFER is made on the 21st day of November, 2018,

BY:

1176094 B.C. LTD.

(the "Purchaser")

TO:

PUREWAL BLUEBERRY FARMS LTD.

(the "Vendor")

AS REPRESENTED BY FTI CONSULTING CANADA INC., AS MONITOR UNDER THE CCAA PROCEEDINGS OF PUREWAL BLUEBERRY FARMS LTD. AND NOT IN ITS PERSONAL OR ANY OTHER CAPACITY

Suite 15-131 Burrard St.
Vancouver, British Columbia V7X 1M8

WITNESSES THAT WHEREAS:

- A. Terms utilized in these Recitals and defined in this Agreement will, for all purposes of this Agreement, have the meanings respectively ascribed thereto in Section 3.1 or as otherwise defined herein;
- B. The Vendor is the registered owner of the Property; and
- C. The Purchaser is prepared to purchase the Property from the Vendor, and the Vendor is prepared to sell the Property to the Purchaser, upon the terms and conditions set out in this Agreement;

NOW THEREFORE, in consideration of the covenants and agreements herein set forth, the Vendor and the Purchaser hereby covenant, acknowledge and agree as follows:

ARTICLE 1 – SUMMARY OF BASIC TERMS

1.1 Summary of Basic Terms

The basic terms of this Agreement are as follows:

- (a) Address of Purchaser: c/o Gehlen Dabbs
Suite 1201 – 1030 West Georgia Street
Vancouver, BC V6E 2Y3
Attention: Gregory J. Gehlen
Email: gg@gdlaw.ca
- (b) Address of Vendor: Suite 15-131
555 Burrard Street
Vancouver, BC V7X 1M8
Attention: Mr. Craig Munro
Email: craig.munro@fticonsulting.com
- (c) Municipal Address of Property: 13753 Hale Road,
Pitt Meadows, British Columbia
- (d) Legal Description of Lands:
PID: 011-105-526
Lot "A" Section 34 Township 9 New Westminster District Plan 7231
- (e) Purchase Price: \$11,210,000.00
- (f) Deposit: \$415,000.00

The foregoing basic terms are approved by the parties. Any reference in this Agreement to a basic term will be construed to include the provision set forth above as well as any additional terms and conditions of this Agreement where the basic term is more fully set forth. In the event of a conflict between any of the foregoing basic terms and the terms of the Agreement set forth below, the terms of the Agreement set forth below shall be determinative.

ARTICLE 2– OFFER AND ACCEPTANCE

2.1 Offer

The Purchaser hereby offers to purchase (the "Offer") from the Vendor the Property, free and clear of all liens, charges, encumbrances and title notations, save and except the Permitted Encumbrances, upon the terms and conditions contained herein.

2.2 Acceptance

The acceptance of this Offer by the Vendor will convert this Offer into a binding agreement (the "Agreement") for the purchase and sale of the Property on the terms and conditions contained herein.

ARTICLE 3 – INTERPRETATION**3.1 Definitions**

In this Agreement, each of following terms will have the meaning respectively set out below unless the context or subject matter is inconsistent with that meaning:

- (a) **“Agreement”** means this Offer to Purchase and Agreement of Purchase and Sale, and all schedules attached hereto, as may be amended in writing from time to time with the agreement of both parties;
- (b) **“Assumed Service Contracts”** means those Service Contracts, to the extent they are assignable without cost by the Vendor to the Purchaser, which the Purchaser has elected, by the delivery of written notice to the Vendor delivered within 5 Business Days after the acceptance of the Purchaser’s offer herein contained, to assume;
- (c) **“Auction”** means the auction held by the Proposal Trustee for the sale of the Property in accordance with the Bidding Procedures;
- (d) **“Auction Date”** has the meaning given to it in the Bidding Procedures;
- (e) **“Auction Qualified Bid”** has the meaning given to it in the Bidding Procedures;
- (f) **“Bid”** has the meaning given to it in the Bidding Procedures;
- (g) **“Bidding Procedures”** means the sale solicitation and bidding procedures attached as Schedule A;
- (h) **“Bidding Procedures Order”** means the order of the Court granted on July 5, 2018, approving the implementation without amendment of the Bidding Procedures;
- (i) **“Bid Submission Date”** has the meaning given to it in the Bidding Procedures;
- (j) **“Business Day”** means any day other than a Saturday, Sunday or statutory holiday in the Province of British Columbia;
- (k) **“CCAA Proceedings”** means the proceedings pursuant to which the Vendor has filed for and was granted protection under the *Bankruptcy and Insolvency Act* (Canada), as the same has been continued under the *Companies’ Creditors Arrangement Act* (Canada);
- (l) **“Closing”** means the closing of the purchase and sale of the Property in accordance with the provisions of this Agreement;

- (m) **"Closing Date"** means a date no later than 10 Business Days following the date of satisfaction of the Mutual Condition, or at such other date as may be agreed to in writing by the parties;
- (n) **"Court"** means the Supreme Court of British Columbia;
- (o) **"Deposit"** means the sum set forth in Subsection 1.1(f) to be paid by the Purchaser to the Vendor pursuant to Subsection 4.2(a);
- (p) **"Due Diligence Qualified Bidder"** has the meaning given to it in the Bidding Procedures;
- (q) **"Environmental Laws"** means any law, bylaw, order, ordinance, ruling, regulation or directive of any applicable federal, provincial or municipal government or governmental department, agency or regulatory authority or any court of competent jurisdiction relating to environmental matters and/or regulating the import, manufacture, storage, distribution, labelling, sale, use, handling, transport or disposal of Hazardous Materials, as are in force as of the Closing Date;
- (r) **"Environmental Condition"** means:
 - (i) the presence of any Hazardous Materials in, on, at or under the Property or any building, improvement or structure on the Property;
 - (ii) the release of any Hazardous Materials to, at or from the Property or any building, improvement or structure on the Property;
 - (iii) the presence of any Hazardous Materials in, on, at or under any land, water, groundwater, sediments or building, improvement or structure other than the Property where such Hazardous Materials originated from, or otherwise resulted from any operation or activity on, the Property; and
 - (iv) any damage, contamination, pollution, impairment, alteration, destruction of or injury to, human health or safety or to the environment resulting from any activity, operation, act or omission of any kind whatsoever on, at or relating to the Property, including damage, contamination, pollution, impairment, alteration or destruction of or injury to fish, fish habitat, wildlife, biota, crops, livestock, lands, soil, air (including indoor air), water, sediments, groundwater and drinking water supplies at, on or of the environment;
- (s) **"Execution Date"** means the date upon which the Vendor accepts the Purchaser's offer herein contained by delivering a fully executed copy of this Agreement to the Purchaser;

- (t) **"Goods"** means all assets, undertakings and personal property, other than the Lands and the Rights, of the Vendor, that are located at, placed or installed upon the Lands, including, to the extent owned by the Vendor, the items listed in Schedule C;
- (u) **"Governmental Authority"** means any government, regulatory authority, government department, agency, utility, commission, board, tribunal, court or other rule making entity having jurisdiction on behalf of any nation, province or state or other subdivision thereof or any municipality, district or other subdivision thereof, or having jurisdiction over the relevant circumstances, or any Person acting under the authority of any of the foregoing;
- (v) **"Hazardous Materials"** means any underground storage tanks, any explosive or radioactive materials, pollutants, contaminants, hazardous, corrosive or toxic substances, special waste or waste of any kind, including, without limitation, compounds known as chlorobiphenyls, petroleum and any other substance or material the storage, manufacture, disposal, treatment, generation, use, transportation, remediation or release into the environment of which is prohibited, controlled, regulated or licensed under Environmental Laws;
- (w) **"Land Title Office"** means the New Westminster Land Title Office;
- (x) **"Lands"** means real property located at 13753 Hale Road, Pitt Meadows, British Columbia, and legally described as set out in Schedule B;
- (y) **"Monitor"** means FTI Consulting Canada Inc., in its capacity as proposal trustee and court-appointed monitor under the CCAA Proceedings and not in its personal or any other capacity;
- (z) **"Mutual Condition"** has the meaning assigned to it in Section 7.1 of this Agreement;
- (aa) **"Notification Date"** has the meaning given to it in the Bidding Procedures;
- (bb) **"Permitted Encumbrances"** means:
 - (i) subsisting conditions, provisos, restrictions, exceptions and reservations, including royalties, contained in the original or any other Crown grant or disposition or implied by statute in respect of or affecting the Property;
 - (ii) Covenants BH218550 and BJ135402 registered against title to the Lands in favour of the Corporation of the District of Pitt Meadows; and
 - (iii) any other charges or encumbrances agreed to in writing by the Purchaser;

- (cc) **"Person"** means an individual, partnership (limited or general), corporation, trust, unincorporated organization, government or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual;
- (dd) **"PPSA"** means *Personal Property Security Act*, R.S.B.C. 1996, c. 359, as amended;
- (ee) **"Property"** means the Lands, the Rights and the Goods;
- (ff) **"Purchase Price"** means the sum set forth in Subsection 1.1(e) to be paid by the Purchaser to the Vendor in consideration of the purchase and sale of the Property in accordance with this Agreement;
- (gg) **"Purchaser's Solicitors"** means John Tome of Kaminsky & Company Law Corporation;
- (hh) **"Qualified Bid"** has the meaning given to it in the Bidding Procedures;
- (ii) **"Rights"** means all rights, obligations and/or interest of the Vendor in respect of all Service Contracts;
- (jj) **"Sale Process"** has the meaning given to it in the Bidding Procedures;
- (kk) **"Service Contracts"** means all contracts pertaining to the Lands entered into by or binding upon the Vendor, together with all modifications, extensions, renewals and assignments thereof, relating to the management, servicing, maintenance, repair, cleaning and advertising or the provision of any other goods or services in respect of the Lands or the furnishing of supplies or services thereto, including contracts for leasing equipment or chattels, including but not limited to any listed in Schedule D;
- (ll) **"Stalking Horse Purchase Agreement"** means the agreement between the Vendor and the stalking horse bidder, 0801226 B.C. Ltd., for the purchase of the Property in accordance with the Bidding Procedures;
- (mm) **"Vendor"** includes 0726357 B.C. Ltd., 0726365 B.C. Ltd. and 0726368 B.C. Ltd., to the extent they have any beneficial interest in the Lands, the Rights and the Goods;
- (nn) **"Vendor' Solicitors"** means Clark Wilson LLP of 900-885 West Georgia Street, Vancouver, British Columbia, V6C 3H1;
- (a) **"Vesting Order"** means an order (or separate orders) of the Court, substantially in the British Columbia model order form, approving the transactions contemplated herein and transferring and conveying registered and beneficial title and ownership to the Property to the Purchaser free and clear of all encumbrances except for Permitted Encumbrances; and

(oo) "Winning Bid" has the meaning given to it in the Bidding Procedures.

3.2 Interpretation

In this Agreement:

- (a) words importing the singular number include the plural and *vice versa* and words importing the neutral gender include the masculine and feminine genders;
- (b) the division of this Agreement into Articles, Sections and Subsections and the insertion of headings are for convenience only and will not affect the construction or interpretation of this Agreement;
- (c) references to any Article, Section, Subsection or Schedule will, unless the context otherwise requires, mean that Article, Section, Subsection or Schedule of this Agreement;
- (d) the captions contained in this Agreement are for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement; and
- (e) all payments to be made will be deemed to be payments in lawful currency of Canada.

ARTICLE 4 – PURCHASE PRICE

4.1 Agreement of Purchase and Sale

Subject to the terms and conditions of this Agreement:

- (a) the Vendor agrees to sell the Property to the Purchaser in consideration of payment of the Purchase Price by the Purchaser to the Vendor on the dates stipulated herein; and
- (b) the Purchaser agrees to purchase the Property from the Vendor, subject only to the Permitted Encumbrances, and to pay the Purchase Price to the Vendor on the dates stipulated herein.

4.2 Payment of Purchase Price

The Purchaser will pay the Purchase Price, subject to the adjustments provided for in this Agreement, as follows:

- (a) the Deposit will be paid by the Purchaser to the Vendor by way of certified cheque or bank draft, payable to Clark Wilson LLP, in trust, prior to the commencement of the Auction; and
- (b) the balance of the Purchase Price in accordance with Article 9.

{00246773}

CW12925063.2

4.3 Deposit

The Deposit will be held by the Vendor's Solicitors. The Deposit will be dealt with as follows:

- (a) in the event the Purchaser is not the Winning Bid, the Deposit will be immediately returned to the Purchaser; or
- (b) on the Closing Date, the Deposit will be credited on account of the Purchase Price; or
- (c) if, following satisfaction of the Mutual Condition, the Purchaser fails to complete the purchase of the Property in accordance with this Agreement or if the Purchaser repudiates this Agreement, then the Deposit will be forfeited to the Vendor as liquidated damages in full and final satisfaction of any claims, rights or remedies whatsoever of the Vendor or Proposal Trustee against the Purchaser whether at law or in equity; or
- (d) if the Mutual Condition is satisfied on or before the date specified therein and if the Purchaser is not in default of any of its obligations under this Agreement and the Vendor fails to complete the sale of the Property in accordance with this Agreement or if, following satisfaction of the Mutual Condition, the Vendor repudiates this Agreement, then the Deposit will be returned to the Purchaser upon demand by the Purchaser on or after the Closing Date; or
- (e) in the event of termination of this Agreement pursuant to Section 7.1, then the Deposit will be forthwith returned to the Purchaser, this Agreement will be terminated and each of the parties will have no further obligations to, nor rights against, the other in respect of this Agreement except for any obligations of the Purchaser under Section 5.1.

ARTICLE 5 – "AS IS, WHERE IS", INSPECTION AND INQUIRY

5.1 Acknowledgement by Purchaser

The Purchaser acknowledges and agrees that it has had the opportunity to conduct its own due diligence investigations in respect of the Property and the Purchaser expressly acknowledges and agrees that it is acquiring the Property on an "as is and where is" basis, without any representation or warranty by the Vendor with respect to the Property, except as otherwise set forth in this Agreement. In this regard, the Purchaser is relying solely on its own due diligence investigations in entering into this Agreement. The Purchaser will forthwith return to the Vendor all documentation obtained by the Purchaser from the Vendor (including, without limitation, the Vendor's agents or the Proposal Trustee) with respect to the Property and all copies thereof, together with copies of all surveys, studies and reports and the results of all inspections and tests made by or on behalf of the Purchaser with respect to the Property, if the sale of the Property by the Vendor to the Purchaser pursuant to this Agreement is not completed. The Purchaser will cause its directors, officers, consultants and agents to keep in

{00246773}

CW12925063.2

strict confidence all information with respect to the Property and the documentation obtained by the Purchaser with respect to the Property until the sale of the Property by the Vendor to the Purchaser is completed, except to the extent the Purchaser needs to release such information and documentation to its partners, investors, accountants, counsel, lenders, consultants and financial advisers in connection with the purchase of the Property or the Purchaser is required to release such information or documentation in order to comply with applicable laws or a court order. In circumstances where information and documents have been released to the Purchaser's accountants, counsel, lenders, consultants and financial advisers, the provisions of Section 12.11 shall apply. Following the Execution Date, the Purchaser will not disturb or interfere with the business or operations of the Vendor on the Property without the Vendor's prior written consent.

5.2 Authorization

The Vendor will promptly, at the Purchaser's request, execute and deliver any authorizations reasonably required by the Purchaser to permit statutory or governmental authorities to release information to the Purchaser concerning the Property and the existence of any liens against the Property, provided that such authorizations will not permit or authorize, and the Purchaser agrees not to request or cause, any inspections of the Property by any such authorities.

ARTICLE 6 – REPRESENTATIONS AND WARRANTIES

6.1 Vendor's Representations and Warranties

The Vendor hereby represents and warrants to the Purchaser as representations and warranties made as of the date hereof and as of the Closing Date, unless otherwise specified, with the intent that the Purchaser will rely on such representations and warranties in entering into this Agreement, that:

- (a) the Vendor has not sold or entered into any other agreements for the sale of the Property, except for the Stalking Horse Purchase Agreement;
- (b) provided the Vesting Order is granted, the Vendor is and will on the Closing Date be authorized and have the capacity to complete the purchase of the Property as contemplated in this Agreement; and
- (c) the Vendor is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

For greater certainty, these representations and warranties are hereby made by the Vendor and not by the Proposal Trustee.

6.2 Purchaser's Representations and Warranties

The Purchaser hereby represents and warrants to the Vendor as a representation and warranty made as of the date hereof and as of the Closing Date, with the intent that the Vendor will rely on such representation and warranty in entering into this Agreement:

- (a) that the Purchaser has the financial ability to complete the purchase of the Property and there is no action or proceeding pending before any court, arbitrator, arbitration panel, administrative tribunal or agency which, if decided adversely to the Purchaser might materially affect the Purchaser's ability to perform its obligations under this Agreement;
- (b) the Purchaser is and will on the Closing Date be authorized and have the capacity to complete the purchase of the Property as contemplated in this Agreement;
- (c) neither the Purchaser entering into this Agreement, nor the performance of its terms will result in a breach of or constitute a default under any term or provision of any indenture, mortgage, deed of trust or other agreement to which the Purchaser is bound or subject;
- (d) the Purchaser will be on Closing a GST/HST registrant under the *Excise Tax Act* (Canada) and be the sole "recipient" of a supply as defined thereunder; and
- (e) the Purchaser is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

6.3 Survival of Representations and Warranties

All of the representations and warranties set out in Section 6.1 and Section 6.2 shall not merge on, but shall survive, Closing.

6.4 Vendor Covenants

The Vendor hereby covenants and agrees with the Purchaser as follows:

- (a) to continue to operate, manage and maintain the Property until the Closing Date as it is currently being operated, managed and maintained, subject to any order of the Court and the other provisions of this Agreement and provided however, and notwithstanding the foregoing or any other provision of this Agreement, the Vendor will have no obligation to make any capital repairs or replacements to the Property whatsoever; and
- (b) to maintain the existing insurance coverage in respect of the Property in full force and effect up to and including the Closing Date.

6.5 Suitability and Environmental Condition of Property

The Purchaser hereby acknowledges and agrees that:

- (a) the Vendor has not made any representation or warranty whatsoever as to the suitability of the Property for the Purchaser's intended purposes, or the extent to which the Property complies with applicable zoning, health or safety standards or applicable laws, including, without limitation, Environmental Laws;
- (b) the Purchaser has had the opportunity to conduct an environmental review of the Property;
- (c) the Purchaser is acquiring the Property on an "as is and where is" basis, without any representation or warranty by the Vendor with respect to the Property's compliance with Environmental Laws or the Environmental Condition of or relating to the Property, and based on the Purchaser's own investigations, and in connection therewith, the Purchaser acknowledges and agrees that the Purchaser is responsible to satisfy itself, and to rely on its own investigations to verify, the existence and extent of any Hazardous Materials in, on or migrating to or from the Property and that the Environmental Condition of or relating to the Property is otherwise satisfactory;
- (d) the Purchaser hereby waives any requirement for the Vendor to provide the Purchaser with a site profile under the *Environmental Management Act* (British Columbia); and
- (e) the Purchaser accepts the Property, effective on the completion of closing of the purchase of the Property under this Agreement on the Closing Date, in its current Environmental Condition and releases the Vendor and the Proposal Trustee and their directors, officers and employees from and against any and all liabilities, obligations, duties, losses, damages, costs, expenses (including legal fees and expenses on a solicitor and own client basis), fees and disbursements of experts, consultants and contractors and costs and expenses of the Purchaser with respect to or related to or arising out of the Environmental Condition of the Property as of the completion of closing of the purchase of the Property under this Agreement on the Closing Date.

The parties acknowledge and agree that the provisions of this Section 6.5 constitute an agreement between them that is a private agreement respecting liability for Hazardous Materials on, in, at or under, or migrating to or from or released from the Property, and any contamination of other property, water or sediments resulting from such Hazardous Materials, and the remediation thereof, as contemplated in Part 4 of the *Environmental Management Act* (British Columbia) as amended or replaced from time to time.

**ARTICLE 7 – BIDDING PROCEDURES AND VESTING ORDER,
TERMINATION AND OVERBID PROCEDURES**

7.1 Bidding Procedures and Vesting Order Condition

The Purchaser's obligation to complete the purchase of the Property, and the Vendor's corresponding obligation to complete the sale of the Property, is subject to the issuance of the Vesting Order, and the approval by the Court of this Agreement without amendment on the terms and conditions herein, and all applicable appeal periods therefrom have lapsed (the "Mutual Condition"), all within 30 days of the Execution Date. The Purchaser and the Seller agree that if the application(s) for the foregoing relief is set for hearing within 30 days of the Execution Date then, whether or not that application is adjourned, the date for satisfaction of the Mutual Condition shall be extended to the date an order determining the application is made, and all applicable appeal periods therefrom have lapsed.

The Vendor covenants and agrees to use all reasonable commercial efforts to obtain the Vesting Order and the above noted approval of this Agreement to satisfy the Mutual Condition on or before the dates provided herein. The Mutual Condition is for the benefit of both the Purchaser and the Vendor and cannot be waived, in whole or in part, by either party. In the event that the Vesting Order is not issued and/or the Court does not approve this Agreement within the time herein limited to satisfy the Mutual Condition, the Deposit will be returned to the Purchaser, this Agreement will be terminated and each of the parties hereto will have no further obligations to, nor rights against, the other in respect of this Agreement, except for any obligations of the Purchaser under Section 5.1.

7.2 Bidding Procedures

The Purchaser agrees to be bound by and accepts the terms and conditions of the Bidding Procedures as authorized by the Bidding Procedures Order. The Purchaser agrees and acknowledges that the bidding procedures contained in the Bidding Procedures may be supplemented by other customary procedures not inconsistent with the matters otherwise set forth therein and the terms of this Agreement. The Vendor and the Purchaser agree that the provisions of this Agreement, including this Section 7.2, are reasonable, were a material inducement to the Vendor and the Purchaser to enter into this Agreement and are designed to achieve the highest and best price for the Property.

7.3 Agreement Subject to Bidding Procedures

The terms of this Agreement will be subject to the terms and conditions of the Bidding Procedures; provided, however, if there is any conflict between this Agreement and the Bidding Procedures the terms of this Agreement will prevail.

ARTICLE 8 – POSSESSION, ADJUSTMENT AND RISK

8.1 Possession

The Purchaser will be entitled to have possession of the Property on the Closing Date, subject only to the Permitted Encumbrances.

8.2 Adjustments

All adjustments, both incoming and outgoing, normally the subject of adjustments in transactions of this type will be made as of the Closing Date and adjusted on the Vendor's and the Purchaser's statements of adjustment. Such adjustments will include but not be limited to all realty taxes, local improvement rates and charges, operating expenses, strata fees, rent and operating cost recoveries, security deposits and other items normally adjusted in similar transactions.

8.3 Readjustment

If the final cost or amount of any item which is to be adjusted cannot be determined at the Closing Date, then an initial adjustment for such item shall be made at the Closing Date, such amount to be estimated by the Vendor, acting reasonably, as of the Closing Date on the basis of the best evidence available as to what the final cost or amount of such item will be. In each case when such cost or amount is determined, the Vendor or the Purchaser, as the case may be, shall, within 30 days of the Closing Date, provide a complete statement thereof to the other party and within 30 days thereafter the parties hereto shall make a final adjustment as of the Closing Date for the item in question. The readjustments shall be calculated by the Purchaser in consultation with the Vendor and each party shall be responsible for its own costs in calculating and finalizing such readjustments. The Vendor and the Purchaser shall exchange undertakings on the Closing Date to readjust the adjustments in accordance with the foregoing. In the absence of agreement by the parties hereto, the final cost or amount of an item shall be determined by auditors appointed jointly by the Vendor and the Purchaser with the cost of such auditors' determination being shared equally between the parties.

8.4 Risk

The Property will be and remain at the risk of the Vendor until 12:01 a.m. on the Closing Date, and thereafter at the risk of the Purchaser if the sale herein contemplated is duly completed.

ARTICLE 9 – CLOSING PROCEDURES

9.1 Vendor's Documents

On or before the Closing Date, the Vendor will deliver to the Purchaser's Solicitors, properly executed and acknowledged, all documents reasonably required and prepared by the Purchaser's Solicitors in form and substance reasonably approved by the Vendor's Solicitors, in order to complete this transaction in accordance with its terms, including, without limitation:

{00246773}

CW12925063.2

- (a) a certified copy of the Vesting Order;
- (b) the Vendor's statement of adjustments approved by the Vendor;
- (c) an assignment and assumption agreement in respect of the Assumed Service Contracts;
- (d) an undertaking to readjust in respect of the adjustments and for any errors, omissions or changes in the statements of adjustments as contemplated in Section 8.3; and
- (e) such other transfers, assignments and documents as the Purchaser's Solicitors and the Vendor's Solicitors may reasonably require to complete the transaction herein contemplated.

9.2 Purchaser's Documents

On or before the Closing Date the Purchaser will deliver to the Purchaser's Solicitors the following:

- (a) the Purchaser's statement of adjustments approved by the Purchaser;
- (b) one or more certified cheques or bank drafts payable to the Purchaser's Solicitors in trust (or bank wire to the Purchaser's Solicitors' trust account) for the balance of the adjusted Purchase Price;
- (c) an assignment and assumption agreement in respect of the Assumed Service Contracts;
- (d) an undertaking to readjust in respect of the adjustments and for any errors, omissions or changes in the statements of adjustments as contemplated in Section 8.3;
- (e) the certificate from the officer of the Purchaser regarding GST as is contemplated by Section 10.2;
- (f) the indemnity by the Purchaser of the Vendor in respect of GST as is contemplated by Section 10.2; and
- (g) such other transfers, assignments and documents as the Purchaser's Solicitors and the Vendor's Solicitors may reasonably require to complete the transaction herein contemplated.

9.3 Terms of Tender

On the Closing Date, if all documents and funds have been delivered as herein provided, all documents will be held in trust by the Purchaser's Solicitors with the exception of the Vesting

Order and any discharges of encumbrances not constituting Permitted Encumbrances that are not addressed under the terms of the Vesting Order, which documents will be tendered for registration in the Land Title Office by the Purchaser's Solicitors. Upon submission for registration of the Vesting Order and the other documents required to be submitted for registration and receipt by the Purchaser's Solicitors of a satisfactory post-index search confirming that title to the Property will be issued in the name of the Purchaser free and clear of all charges and encumbrances except Permitted Encumbrances and those encumbrances being discharged on the basis of an undertaking acceptable to the Purchaser, the Purchaser's Solicitors will forthwith pay to the Vendor's Solicitors in trust the Purchase Price, as adjusted herein, and the parties will exchange all closing documents referred to in Sections 9.1 and 9.2.

9.4 Concurrent Requirements

All of the matters of payment and delivery of documents by each party to the other will be deemed to be concurrent requirements so that nothing is complete until everything has been paid, delivered and registered.

ARTICLE 10 – COSTS AND TAXES

10.1 Responsibility for Transaction Costs

The Vendor will be responsible for the cost of discharging any liens, charges and encumbrances from the Property which are not Permitted Encumbrances and for the cost of registering any instruments, the registration of which by the Vendor is required or permitted hereby (save and except the Vesting Order). The Purchaser will be responsible for the cost of registering the Vesting Order, including all relevant property transfer taxes and Land Title Office fees, necessary to convey the Property to the Purchaser. Each party will pay its own legal fees with respect to the transactions contemplated in this Agreement.

10.2 Provincial Sales Tax

The Purchaser is responsible for all provincial sales tax ("PST") in respect of this purchase and sale transaction and all PST applicable to this transaction is in addition to, and not included in, the Purchase Price. The Purchaser will pay all applicable PST to the Vendor on the Closing Date. The Vendor covenants and agrees to remit all applicable PST directly to the B.C. Ministry of Finance in accordance with the *Provincial Sales Tax Act* (B.C.) (the "PSTA"). If the Purchaser believes that the sale of any of the Goods is not subject to PST, the Purchaser will, on or before the Closing Date, provide the Vendor such evidence as the Vendor may require to reasonably satisfy themselves that the sale of such Goods is not subject to PST, and such evidence may include: proof that the Purchaser is registered for the purpose of the PSTA; such prescribed forms as purchasers may be required to provide to vendors pursuant to the PSTA; and any sworn statement or declaration that the Vendor may reasonably request to ensure that a PST exemption is applicable.

10.3 Goods and Services Tax

The Purchaser is responsible for any goods and services tax ("GST") in respect of this purchase and sale transaction and will be responsible to account for GST in respect of this purchase and sale transaction in accordance with the *Excise Tax Act* (Canada). The Purchaser covenants that it will pay, on the Closing Date, to the Vendor all GST applicable to the Goods. The Purchaser covenants that it will account directly to Canada Revenue Agency with respect to any GST payable by the Purchaser in connection with the purchase of the Property and will provide to the Vendor sufficient evidence that it is registered for the purpose of the GST on the Closing Date by providing a signed certificate from an officer of the Purchaser in the customary form and in such circumstances the Purchaser will indemnify and hold harmless the Vendor and each of them from any liability under the *Excise Tax Act* (Canada) arising from either the non-application of subsection 221(2) of the *Excise Tax Act* (Canada) or the failure of the Purchaser to properly account for and remit the GST payable in connection with this transaction together with all loss, costs and expense incurred by the Vendor resulting from such failure. In the event the Purchaser fails to provide such signed certificate, the Purchaser will pay to the Vendor the GST applicable to the purchase of the Property on the Closing Date and the Vendor shall remit such GST for payment in accordance with the *Excise Tax Act* (Canada). The obligations of the Vendor and the Purchaser under this Section 10.2 shall survive the Closing.

ARTICLE 11 – NOTICES AND TENDER

11.1 Delivery of Notices

Any demand, notice, approval, consent or other communication to be given under the provisions of this Agreement by any party will be validly given if delivered personally or sent by email addressed to the respective parties as follows:

- (a) to the Purchaser at the address set forth in Subsection 1.1(a),

c/o Gehlen Dabbs
Suite 1201 – 1030 West Georgia Street
Vancouver, BC V6E 2Y3

Attention: Gregory J. Gehlen
Email: gg@gdlaw.ca

with a copy of the Purchaser's Solicitors at:

Kaminsky & Company Law Corporation
Suite 205 – 15240 56th Avenue Surrey BC, V3S 5K7
Attention: John Tome

Email: jbt@kaminskyco.com

(b) to the Vendor at the address set forth in Subsection 1.1(b),

c/o FTI Consulting Canada Inc.
Suite 15-131
555 Burrard Street
Vancouver, BC V7X 1M8

Attention: Craig Munro
Email: Craig.Munro@fticonsulting.com

with a copy to the Vendor's Solicitors at:

Clark Wilson LLP
900-885 West Georgia St.
Vancouver, BC V6C 3H1

Attention: Christopher J. Ramsay / Katie G. Mak
Email: CRamsay@cwilson.com / KMak@cwilson.com

11.2 Deemed Date of Receipt

The date of receipt of any such notice or communication will be deemed to be the date of delivery or transmittal by email if delivered by 5:00 p.m. (Vancouver time) on a Business Day, and if otherwise delivered or transmitted by email, on the next Business Day following the date of such delivery or transmittal.

11.3 Change of Address

Either party may at any time give notice in writing to the other of any change of address of the party giving such notice to be given in the manner aforesaid, and from and after giving such notice, the address therein specified will be deemed to be the address of such party for the giving of such notice.

11.4 Tender

Tender of any money to be paid hereunder may be made by certified cheque (including a certified solicitor's trust cheque), bank draft or wire transfer payable to the party to whom tender is made, and drawn on a Canadian chartered bank or trust company, and tender may be made on an officer or director of the party or a solicitor known to the tendering party to be acting for the other in this matter.

ARTICLE 12 – MISCELLANEOUS

12.1 Assignment

The Purchaser will have the right to assign its rights under this Agreement to any entity which remains, at all times up to and including the Closing Date, an Affiliate (which has the meaning ascribed to it in the *Business Corporations Act* (British Columbia)) without the consent of the Vendor, provided that:

- (a) the Purchaser will deliver written notice to the Vendor of any such assignment at least 5 Business Days prior to the Vendor's application for the Vesting Order;
- (b) the Purchaser will remain fully liable to the Vendor for the performance by any such Affiliate of the obligations of the Purchaser under the Agreement and will not be released from the performance hereof; and
- (c) the Affiliate enters into an agreement with the Vendor assuming the rights and obligations of the Purchaser under this Agreement.

Otherwise, the Purchaser may only assign this Agreement with the prior written consent of the Vendor, which consent may be withheld in the Vendor's sole and absolute discretion.

12.2 Agency and Commission

The Purchaser will be responsible for any and all fees, commission or compensation payable to any real estate agent or salesperson engaged by the Purchaser in connection with the purchase of the Property. The Vendor reserve the right to retain the services of any real estate agent or salesperson in connection with the sale of the Property, but will not be responsible for any fees, commission or compensation payable to any real estate agent or salesperson engaged by the Purchaser in connection with the purchase of the Property.

12.3 Further Assurances

The Vendor and the Purchaser will each deliver to or cause to be delivered to the other all such further documents and assurances as may be reasonably required to give full effect to the intent and meaning of this Agreement and registration of all the requisite documents in all appropriate offices of public record.

12.4 Entire Agreement

This Agreement contains the whole of the agreement between the parties and there are no agreements, representations or warranties save as herein set out or incorporated by reference.

12.5 Time of the Essence

Time will be of the essence of this Agreement.

12.6 Business Days

If the time limited for the performance or completion of any matter under this Agreement expires or falls on a day that is not a Business Day, the time so limited will extend to the next following Business Day.

12.7 Counterparts

This Agreement may be executed in one or more counterparts, each of which is deemed to be an original, and all of which constitute one Agreement. This Agreement will be considered executed and delivered when either:

- (a) an originally executed copy has been delivered to each party; or
- (b) a facsimile or electronic copy of this Agreement, evidencing the signatures of both of the parties, has been transmitted by facsimile or e-mail to each party.

12.8 Execution by Facsimile or E-Mail

If execution and delivery of this Agreement has been completed in whole or in part by facsimile or by e-mail (by delivery of PDF copies of this Agreement), then the parties will ensure that originally executed copies of the Agreement are delivered to each party as soon as reasonably practicable.

12.9 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada having application in the Province of British Columbia.

12.10 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

12.11 Confidentiality

The Purchaser expressly agrees to keep the terms of this Agreement and the transaction contemplated hereby strictly confidential, except that the foregoing information may be disclosed by either the Purchaser to:

- (a) its directors, officers, employees, agents or advisors, including accountants, counsel, lenders, consultants and financial advisors; and
- (b) such other persons as the Vendor may approve in writing,

and such individuals will be made aware of the provisions of this Section 12.11 and will agree to be bound hereby. The provisions of this Section 12.11 will terminate as to a particular portion of such confidential information in the circumstances where such confidential information:

- (c) is or becomes generally available to the public (other than as a result of disclosure directly or indirectly by the Purchaser);
- (d) is or becomes available to the Purchaser on a non-confidential basis from a source other than the Vendor provided such source does not owe a duty of confidentiality to the Vendor or to any other person; or
- (e) is or was independently acquired or developed by the Purchaser without use of any information disclosed by the Vendor.

ARTICLE 13 – ACCEPTANCE

This Offer is open for acceptance by the Vendor by the delivery or transmission by facsimile by the Vendor of a copy of this Offer with the Vendor’s Acceptance executed by the Vendor to the Purchaser no later than 5:00 p.m. (Vancouver time) within 2 Business Days following the Auction, failing which this Offer will be null and void.

IN WITNESS WHEREOF the Purchaser has executed this Offer this ___ day of November, 2018.

1176094 B.C. LTD.

Per: Amrik S. Gill
Authorized Signatory


Per: _____
Authorized Signatory

VENDORS' ACCEPTANCE OF OFFER

For and in consideration of the covenants and agreements of the Purchaser contained in the within Offer, the Vendor hereby irrevocably accepts the Offer and agrees to perform its obligations thereunder this 21st day of November, 2018.

FTI Consulting Canada Inc. in its capacity as monitor under the CCAA Proceedings of Purewal Blueberry Farms Ltd., and not in its personal or any other capacity

Per: _____



Craig Munro
Managing Director

SCHEDULE A

BIDDING PROCEDURES

1. Pursuant to a Notice of Intention to File a Proposal, FTI Consulting Canada Inc. was appointed as trustee under the proposal (in such capacity, the "Trustee") of the assets, undertaking and property of Purewal Blueberry Farms Ltd. ("Purewal").

2. Pursuant to an Order of the Court dated July 5, 2018 (the "**Bidding Procedures Order**"), the Court approved the bidding procedures for the sales process (the "**Sales Process**") for the Commercial Assets (as defined below) pursuant thereto (the "**Bidding Procedures**"). As a result, interested parties will have an opportunity to submit offers to purchase the Commercial Assets.

3. All references to currency in these Bidding Procedures are references to Canadian Dollars unless otherwise stated. In these Bidding Procedures, "**Business Day**" means any day other than a Saturday, Sunday or statutory holiday in the Province of British Columbia.

Assets for Sale

4. The assets comprise all land and improvements situated at 13753 Hale Road, District of Pitt Meadows, comprising 39.49 acres and a good quality industrial building utilized as a food storage, packaging and distribution warehouse specifically geared to the fruit industry (the "**Commercial Assets**"). Any final sale of the Commercial Assets shall be made pursuant to these Bidding Procedures.

5. The Commercial Assets will be sold on an "as is, where is" basis, without representations or warranties of any kind by the Trustee, Purewal or any of their respective agents or estates.

Publication of Notice

6. On or before that day (the "**Publication Date**") which is five Business Days after the granting of the Bidding Procedures Order, the Trustee will cause notices (the "**Sale Notices**") of the Sale Process to be published in the Vancouver Sun and the Globe and Mail and to be delivered to such other parties as the Trustee may reasonably believe are or would be interested in participation in the Sales Process.

Sales Process and Timelines

7. All offers to purchase the Commercial Assets must be submitted in accordance with the terms of these Bidding Procedures and in compliance with the deadlines set out in these Bidding Procedures, subject to the discretion of the Trustee

in adjusting deadlines as provided in these Bidding Procedures.

8. As part of the Sales Process, the Trustee may seek a bidder to serve as a "stalking horse bidder" in the Sales Process (the "**Stalking Horse Bidder**"), in accordance with these Bidding Procedures. However, if no stalking Horse Bidder is selected, the Sales Process will continue in accordance with these Bidding Procedures.

9. As described in greater detail below (with all defined terms having the meanings ascribed to them in these Bidding Procedures) the Sales Process will consist of the following steps:

<u>Step</u>	<u>Activity</u>	<u>Deadline</u>
1.	Potential Bidders submit signed Non-Disclosure Agreements ("NDA").	No later than 40 days following the Publication Date (the " Initial Submission Date ")
2.	Due Diligence Qualified Bidders notified and commence due diligence.	No later than 43 days following the Publication Date (the " Notification Date ")
3.	Interested Due Diligence Qualified Bidders submit Stalking Horse Bids.	No later than 20 days following the Publication Date (the " SH Submission Date ")
4.	Trustee reviews and analyzes Stalking Horse Bids as they are received and, if the Trustee locates a suitable Stalking Horse Bidder, the Trustee or Purewal will apply to Court for an Order approving the SH APA (the " SH Approval and Vesting Order ").	No later than 30 days from the Publication Date (the " SH Approval Date ")
5.	If SH Approval and Vesting Order is sought and obtained, then Trustee will notify all Qualified Due Diligence Bidders.	Within 3 days of the SH Approval Date
6.	Due Diligence Qualified Bidders complete due diligence and submit Qualified Bids.	No later than 55 days following the Publication Date (the " Bid Submission Date ")
7.	Trustee reviews and analyzes Qualified Bids and contacts each of the Due Diligence Qualified Bidders to confirm participation in an Auction (if applicable).	No later than 60 days following the Publication Date (the " Auction Notice Date ")

<u>Step</u>	<u>Activity</u>	<u>Deadline</u>
8.	Auction Qualified Bidders participate in an Auction (if applicable).	No later than 75 days following the Publication Date (the "Auction Date")
9.	The Trustee or Purewal applies to Court for an Order approving the Winning Bid (the "Winning Bid Approval and Vesting Order") (if applicable).	No later than 90 days following the Publication Date (the "Winning Bid Approval Date")
10.	Notwithstanding the foregoing, the Trustee may extend any one or more of the Initial Submission Date, Notification Date, SH Submission Date, SH Approval Date, Bid Submission Date, Auction Notice Date, Auction Date or the Winning Bid Approval Date to a later date if, in its reasonable business judgment, it determines it is appropriate to do so.	
11.	If a deadline set out in the above timeline falls on a day that is not a Business Day, the deadline is deemed to be on the following Business Day.	

Step 1: Letter of Interest and Non-Disclosure Agreement

12. In order to participate in the Sale Process, an interested party (a "Potential Bidder") must deliver the following documents to the Trustee so that they are actually received by the Trustee by no later than the Initial Submission Date:

- (a) a letter setting out: (i) the identity of the Potential Bidder, (ii) the contact information of the Potential Bidder and its legal counsel, if any, and (iii) full disclosure of the principals and ultimate parent of the Potential Bidder;
- (b) an executed NDA in form and substance satisfactory to the Trustee, which will enure to the benefit of any purchaser of the Commercial Assets;
- (c) written evidence upon which the Trustee may reasonably conclude that the Potential Bidder has the necessary financial ability to close the contemplated transaction. Such information may include, among other things, the following:
 - (i) the Potential Bidder's current financial statements (audited if they exist);
 - (ii) contact names and numbers for verification of financing sources;

- (iii) evidence of the Potential Bidder's resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction; and
- (iv) any such other form of financial disclosure or credit-quality support information demonstrating that the Potential Bidder has the ability to close the contemplated transaction;

(collectively, the "Funding Availability").

13. The Trustee will consider each Potential Bidder that has executed and delivered an NDA, and provided the "Funding Availability" by the Initial Submission Date with a view to determining whether each such Potential Bidder is qualified to participate in due diligence during the Sales Process. Notwithstanding the foregoing, strict compliance with the Funding Availability requirement may be waived by the Trustee in its reasonable business judgment. A Potential Bidder will be qualified (each a "Due Diligence Qualified Bidder") by the Trustee taking into account such factors as:

- (a) the Potential Bidder's Funding Availability;
- (b) closing risk; and
- (c) whether the Potential Bidder will likely be able to consummate a transaction for the Commercial Assets by no later than the deadline above set out in these Bidding Procedures on substantially the terms of a Qualified Bid (as defined below).

14. All Potential Bidders who are determined to be Due Diligence Qualified Bidders will be notified promptly in writing by the Trustee.

Step 2: Due Diligence

15. The Trustee will provide each Due Diligence Qualified Bidder a confidential information memorandum (the "CIM") describing the opportunity to acquire the Commercial Assets, and access to an electronic data room with information about the Commercial Assets. Additional information and due diligence opportunities may be made available to Due Diligence Qualified Bidders upon request and at the sole discretion of the Trustee, including but not limited to:

- (a) presentations by the Trustee;
- (b) access to physical files and electronic data rooms with additional information about the Commercial Assets; and
- (c) scheduled on-site inspections of the Commercial Assets.

16. Any on-site inspections of the Commercial Assets must be in accordance with all health, safety, environmental and bio-security rules, regulations and protocols as the Trustee may prescribe.

17. The Trustee makes no representation or warranty as to the information contained in: (i) the CIM, (ii) the physical files or (iii) the electronic data room(s).

18. Each Due Diligence Qualified Bidder must complete its due diligence by no later than 5:00 p.m. P.S.T on the Bid Submission Date, subject to any extension as contemplated herein.

Step 3-4: Submissions of Stalking Horse Bids

19. At any time following the commencement of due diligence by the Due Diligence Qualified Bidders, any of the Due Diligence Qualified Bidders may submit an executed offer to purchase the Commercial Assets to the Trustee as the Stalking Horse Bidder (each a "SH Bid"), to be received by the Trustee by no later than 5:00 p.m. P.S.T. on the SH Submission Date, subject to any extension as contemplated here. The Trustee will provide a template stalking horse asset purchase agreement (the "SH Template") in the data room.

20. The Trustee will review all SH Bids submitted by the SH Submission Date with a view to determining whether a SH Bid is qualified to be the Stalking Horse Bidder in the Sales Process. A SH Bid will only be considered and put before the Court for approval if it meets all of the following criteria:

- (a) it is actually received by the Trustee by no later than 5:00 p.m. P.S.T. on the SH Submission Date, subject to any extension as contemplated herein;
- (b) it includes an executed purchase agreement (the "SH APA") by the Due Diligence Qualified Bidder to irrevocably purchase all of the Commercial Assets on substantially the same terms and conditions as are set forth in the SH Template;
- (c) it includes:
 - (i) a copy of the SH APA marked to show the differences between it and the SH Template;
 - (ii) a deposit equal to 10% of the Purchase Price (the "Bid Deposit"), which shall be paid by certified cheque or by wire transfer within three Business Days of the Trustee contacting the SH Bidder that its SH APA will be brought before the Court for approval;

- (iii) written evidence of (i) a firm, irrevocable commitment for financing from a creditworthy bank or financial institution that is prepared to provide such financing without any delay or alteration of conditions and that is not contingent on the outcome of the Auction, or (ii) such other evidence of the Due Diligence Qualified Bidder's financial ability to complete the transaction described in the SH Bid as may be acceptable to the Trustee in its reasonable business judgment (notwithstanding the foregoing, this requirement of written evidence may be waived by the Trustee in its reasonable business judgment); and
 - (iv) evidence in form and substance satisfactory to the Trustee that the SH Bid and the SH APA has received all necessary authorization and approval from the Due Diligence Qualified Bidder's board of directors or any other parties to comply with the Due Diligence Qualified Bidder's corporate governance procedures (notwithstanding the foregoing, this requirement may be waived by the Trustee in its reasonable business judgment);
- (d) it is irrevocable until 45 days after the Auction Date or such later date as the Court may order;
- (e) it is not conditioned on the outcome of any unperformed due diligence and includes an acknowledgement and representation that the Due Diligence Qualified Bidder has had an opportunity to conduct any and all required due diligence prior to making its SH Bid, that it has relied solely on its own independent review, investigation and/or inspection of any documents and/or the Commercial Assets in making the SH Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Commercial Assets or the accuracy or completeness of any information provided in connection therewith;
- (f) it fully discloses the identity of each entity that will sponsor or participate in the SH Bid and the complete terms of any such sponsorship or participation, including all of the Due Diligence Qualified Bidder's principal advisors, subject, however, to the Due Diligence Qualified Bidder's right to assign the SH APA (further and notwithstanding the foregoing, this requirement may be waived by the Trustee in its reasonable business judgment); and
- (g) it contains any other information that may be reasonably requested by the Trustee in advance of that day which is no later than the SH Submission Date, subject to any extension as contemplated herein.

21. A SH Bid will be valued based upon several factors including, without limitation, the purchase price, the proposed revisions to the SH Template, the effect of the proposed sale on Purewal and its stakeholders, other factors affecting the speed, certainty and value of the proposed sale, any assets excluded from the bid, the likelihood and timing of consummating such sale, each as determined by the Trustee in consultation with its advisors and Purewal. The Trustee reserves the right, taking into account all other factors set forth herein (including execution risk), to choose a successful Stalking Horse Bidder that did not offer the highest purchase price for the Commercial Assets.

22. The Trustee may, but is not obligated to, select a Stalking Horse Bidder.

23. If the Trustee selects a Stalking Horse Bidder, the Trustee will advise the Stalking Horse Bidder promptly and the Trustee or Purewal will return an application before the Court to approve the SH APA by no later than 4:00 p.m. PST on the SH Approval Date.

Step 5-7: Submissions of Qualified Bids

24. Due Diligence Qualified Bidders who submit SH Bids which are not selected to be the Stalking Horse Bid may continue to participate in the Sales Process, subject to the Bidding Procedures.

25. In order to continue to participate in the Sale Process after the completion of the due diligence, all Due Diligence Qualified Bidders must submit an executed offer to purchase the Commercial Assets to the Trustee (each a "Bid") so that it is actually received by the Trustee by no later than 5:00 p.m. P.S.T. on the Bid Submission Date, subject to any extension as contemplated herein. The Trustee will provide to each of the Due Diligence Qualified Bidders a template asset purchase agreement (the "APA").

26. The Trustee will review all Bids submitted by Due Diligence Qualified Bidders with a view to determining whether the Bid is qualified for use in the Sales Process. A Bid will be qualified (each a "Qualified Bid") only if it meets all of the following criteria:

- (a) it is actually received by the Trustee by no later than 5:00 p.m. P.S.T. on the Bid Submission Date, subject to any extension as contemplated herein;
- (b) it includes an executed offer (the "Offer") by the Due Diligence Qualified Bidder to irrevocably purchase all of the Commercial Assets on substantially the same terms and conditions as are set forth in the APA;

- (c) it includes:
- (i) a copy of the APA marked to show the differences between it and the executed Offer;
 - (ii) a deposit equal to 10% of the Purchase Price (the "Bid Deposit"), which shall be paid by certified cheque or by wire transfer within three Business Days of the Trustee contacting each of the short listed Due Diligence Qualified Bidders to confirm participation in an Auction;
 - (iii) written evidence of (i) a firm, irrevocable commitment for financing from a creditworthy bank or financial institution that is prepared to provide such financing without any delay or alteration of conditions and that is not contingent on the outcome of the Auction, or (ii) such other evidence of the Due Diligence Qualified Bidder's financial ability to complete the transaction described in the Bid as may be acceptable to the Trustee in its reasonable business judgment (notwithstanding the foregoing, this requirement of written evidence may be waived by the Trustee in its reasonable business judgment); and
 - (iv) evidence in form and substance satisfactory to the Trustee that the Bid and the APA has received all necessary authorization and approval from the Due Diligence Qualified Bidder's board of directors or any other parties to comply with the Due Diligence Qualified Bidder's corporate governance procedures (notwithstanding the foregoing, this requirement may be waived by the Trustee in its reasonable business judgment);
- (d) it is irrevocable until 45 days after the date of the Auction Date, or such later date as the Court may order;
- (e) it is not conditioned on the outcome of any unperformed due diligence and includes an acknowledgement and representation that the Due Diligence Qualified Bidder has had an opportunity to conduct any and all required due diligence prior to making its Bid, that it has relied solely on its own independent review, investigation and/or inspection of any documents and/or the Commercial Assets in making the Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Commercial Assets or the accuracy or completeness of any information provided in connection therewith;

- (f) it is not conditioned on any break-up fee, termination fee, expense reimbursement or other Bid protection provision ("**Termination Fee**");
- (g) it fully discloses the identity of each entity that will sponsor or participate in the Bid and the complete terms of any such sponsorship or participation, including all of the Due Diligence Qualified Bidder's principal advisors, subject, however, to the Due Diligence Qualified Bidder's right to assign the APA (further and notwithstanding the foregoing, this requirement may be waived by the Trustee in its reasonable business judgment); and
- (h) it contains any other information that may be reasonably requested by the Trustee in advance of that day which is no later than the Bid Submission Date, subject to any extension as contemplated herein.

27. All Due Diligence Qualified Bidders who submit Bids that are determined to be Qualified Bids (the "**Auction Qualified Bids**") will be notified in writing by the Trustee by no later than the Auction Notice Date. Such parties will be the "Auction Qualified Bidders". For greater certainty, the Stalking Horse Bidder (if any) is and is deemed to be an Auction Qualified Bidder for all purposes of these Bidding Procedures, and the SH Bid (if any) shall constitute an Auction Qualified Bid.

Step 8: The Auction

28. If there is a SH Bid and the Trustee concludes that there are no Qualified Bids, the Sales Process will terminate and the Commercial Assets will be sold to the SH Bidder pursuant to the SH APA and the SH Approval and Vesting Order.

29. Only if at least two Auction Qualified Bids are submitted in the Sale Process shall the Trustee conduct an auction for the Commercial Assets (the "**Auction**") at the offices of Clark Wilson LLP at 900, 885 W. Georgia Street, Vancouver, BC beginning at 10:00 a.m. on the Auction Date or at such later time or other place as the Trustee may advise (the "**Auction Location**").

30. The Auction shall be conducted in accordance with the following procedures:

- (a) At least two days' prior to the Auction Date, the Trustee will inform the Auction Qualified Bidders which Auction Qualified Bid the Trustee considers to be the highest offer for the Commercial Assets (the "**Starting Bid**"). Other than the purchase price, no changes to the APA selected by the Trustee as the best offer from the Auction Qualified Bids will be permitted.
- (b) Only the Trustee, the Auction Qualified Bidders and the advisors of each of the foregoing shall be entitled to attend the Auction, and each Auction

Qualified Bidder must have at least one individual representative with authority to bind such Auction Qualified Bidder present in person at the Auction.

- (c) The Auction Qualified Bidders will be placed in separate meeting rooms at the Auction Location.
- (d) All proceedings at the Auction shall be overseen and documented by the Trustee and its legal counsel.
- (e) The Auction will be conducted through a series of "rounds of bidding" (each a "Round"). In each Round:
 - (i) the Trustee will present the highest Auction Qualified Bid from the preceding Round (the "Floor Bid") to the Auction Qualified Bidders. In the first Round, the Starting Bid will be the Floor Bid;
 - (ii) the Auction Qualified Bidders will be given an opportunity within a set period of time to improve their Auction Qualified Bid such that the total consideration offered for the Commercial Assets exceeds the sum of (A) the total consideration offered in the Floor Bid, plus (B) \$50,000.00, plus (C) the amount of the Termination Fee in the SH Bid, if any (the "Auction Minimum Bid Increment") (each an "Improved Bid");
 - (iii) the Trustee will consider the Floor Bid and each Improved Bid to determine, in its reasonable business judgment, which is the highest offer for the Commercial Assets; and
- (f) The Rounds will continue until such time as no Improved Bids are received within the time limit set by the Trustee in its sole discretion, or until the Trustee determines, in its reasonable business judgment, that no Improved Bid is higher than the Floor Bid. The Floor Bid in the last Round of the Auction will be the "Winning Bid".
- (g) Improved Bids in each Round will be presented to the Trustee and will be fully disclosed to the other Auction Qualified Bidders so that they may submit an Improved Bid if they choose, within the time limit set by the Trustee in its sole discretion.
- (h) The Trustee may, in its sole discretion, amend the Auction Minimum Bid Increment for each Round and will disclose the new Auction Minimum Bid Increment to the Auction Qualified Bidders at the commencement of the Round.

- (i) The Trustee may introduce such other procedural rules as the Trustee considers to be fair and reasonable in the circumstances, provided that such rules as disclosed to the Auction Qualified Bidders are not inconsistent with the Bidding Procedures or the Bidding Procedures Order; and that no such rules may change the requirement that all Improved Bids shall be made and received in one room, within a defined period, on an open basis, and all other Auction Qualified Bidders (that have not failed to make an Improved Bid in a prior Round of bidding) shall be entitled to be present for all bidding with the understanding that the true identity of each Auction Qualified Bidder shall be fully disclosed to all other Auction Qualified Bidders and that all material terms of the then highest and/or best Improved Bid at the end of each Round of bidding will be fully disclosed to all other Auction Qualified Bidders.

31. If the Winning Bid is not the SH Bid, the Trustee or Purewal will return an application before the Court to for the Winning Bid Approval and Vesting Order by no later than 4:00 p.m. PST on the Winning Bid Approval Date.

Treatment of the Termination Fee

32. If a transaction is completed pursuant to the Winning Bid with a party other than the Stalking Horse Bidder, the termination fee in the SH APA (if any) shall be payable to the Stalking Horse Bidder in accordance with the terms of the SH APA. No other expense reimbursement will be payable to the Stalking Horse Bidder.

Failure to Complete a Transaction

33. If the transaction contemplated by the Winning Bid fails to close as a result of a breach by the prospective purchaser, its Deposit shall be absolutely forfeited to the Trustee as liquidated damages, without prejudice to the Trustee's additional rights and remedies against such prospective purchaser whether at law or in equity. In particular, the Trustee specifically reserves the right to seek all available damages from such party in addition to the retention of the Deposit.

Return of Deposits

34. The Deposit provided in connection with the Winning Bid will be retained by the Trustee until a transaction is completed pursuant to the Winning Bid. The Deposit provided in connection with all other Qualified Bids will be promptly returned after the Auction has concluded provided that they are not retained under the paragraph entitled "Failure to Complete a Transaction", above.

35. Notwithstanding anything contained in these Bidding Procedures, the Trustee may in its sole discretion declare that any one or more Due Diligence Qualified Bidder is not entitled to participate any further in the Sales Process and in such case the applicable Deposit will be returned by the Trustee.

Notice

36. All documents and correspondence to be delivered to a party in connection with these Bidding Procedures and the Sales Process shall be delivered by courier, fax or email:

To the Trustee at:

FTI Consulting Canada Inc., in its capacity as
Trustee under the proposal
Pacific Centre, 700 West Georgia Street
P.O. Box 10101
Vancouver, British Columbia
V7Y 1C7

Attention: Mr. Craig Munro
Email: craig.munro@fticonsulting.com

Modifications

37. The Trustee may (a) determine, in its reasonable business judgment, which Qualified Bid, if any, is the highest or otherwise best offer, or (b) reject any Qualified Bid, that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of these Bidding Procedures or (iii) contrary to the best interests of Purewal, their creditors and other parties in interest.

Other

38. In the event that the Trustee and any party disagree as to the interpretation or application of these Bidding Procedures, the Court will have jurisdiction to hear and resolve such dispute. At any time during these Bidding Procedures, the Trustee or Purewal may apply to the Court for advice and directions with respect to the discharge of its powers and duties hereunder.

39. These Bidding Procedures do not and will not be interpreted to create any contractual or other legal relationship between the Trustee and any other participant in the Sales Process, except as specifically set forth in a definitive agreement that may be signed with the Trustee.

40. Without limiting the provisions of the first paragraph of this section entitled "Other", in the event any Due Diligence Qualified Bidder objects or takes issue with any act or decision of the Trustee under or pursuant to these Bidding Procedures then (i) such person may serve upon the Trustee and the Trustee's legal counsel, within three Business Days following such act or decision a written notice detailing the

objection or issue (the "**Objection Notice**"), and (ii) the Trustee shall then promptly apply to the Court for directions in respect of (A) whether such person has the standing to have given the Objection Notice and (B) as to the merits of the objection set out in the Objection Notice and the Court shall then grant any relief that it determines to be appropriate to confirm, reverse or modify the act or decision of the Trustee. For further certainty, in the event such an application occurs, the time limits and deadlines set out in these Bidding Procedures shall be extended as may be ordered by this Court upon request of the Trustee.

SCHEDULE B

LEGAL DESCRIPTION OF LANDS

PID: 011-105-526

Lot "A" Section 34 Township 9 New Westminster District Plan 7231

SCHEDULE C

GOODS

All Goods owned by the Vendor in respect of the Lands

{00246773}

CW12925063.2

SCHEDULE D

RIGHTS

{00246773}

CW12925063.2