

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

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS
AMENDED**

**MOTION RECORD OF FTI CONSULTING CANADA INC.
solely in its capacity as Court-appointed Receiver
(Returnable March 27, 2024)**

March 20, 2024

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solely in its capacity as Court-appointed
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**ONTARIO
SUPERIOR COURT OF JUSTICE
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SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS
AMENDED**

NOTICE OF MOTION

FTI Consulting Canada Inc. ("**FTI**"), in its capacity as court-appointed receiver (in such capacity, the "**Receiver**") of the undertaking, property and assets that constitute the FCC Secured Property (as defined in the Order (Appointing Receiver) issued October 6, 2023 in the within proceedings (the "**Receivership Order**") of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**") will make a motion to a judge of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on Wednesday, March 27th, 2024 at 12:00 PM (EST).

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference.

THE MOTION IS FOR:

1. An order (the “**Approval and Vesting Order**”) substantially in the form attached as Tab “3” of this Motion Record, *inter alia*:

- (a) approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement dated February 15, 2024 (the “**Wallaceburg APA**”) between the Receiver and Select Property Holdings (Ontario) Inc. (the “**Purchaser**”) appended to the Second Report of the Receiver dated March 20, 2024 (the “**Second Report**”) attached as Tab “2” of this Motion Record;
- (b) upon closing, vesting in the Purchaser the Debtors’ right, title and interest in and to the assets described in the Wallaceburg APA (the “**Purchased Assets**”); and
- (c) sealing the purchase price for the Purchased Assets until the Transaction has been completed;

2. An order (the “**Discharge and Ancillary Relief Order**”) substantially in the form attached as Tab “5” of this Motion Record, *inter alia*:

- (a) authorizing distribution of the Putters Adjustment Amount (as defined below) to 9498-8995 Québec Inc. and 9498-8938 Québec Inc. (together, “**Putters**”);
- (b) approving the Second Report and the activities described therein;
- (c) approving the fees and disbursements of the Receiver and its legal counsel, Bennett Jones LLP, in connection with these proceedings; and

- (d) upon the filing of a certificate in the form appended to the proposed Discharge and Ancillary Relief Order, discharging the Receiver and releasing the Receiver from any and all liability in connection with carrying out its mandate as receiver;

THE GROUNDS FOR THE MOTION ARE:

Background and Procedural History

3. The Debtors conducted business as a leading producer of pickled and fermented food products in Canada. They did so through the operation of two manufacturing facilities located in Wallaceburg, Ontario (the “**Wallaceburg Facility**”) and Saint-Louis, Quebec (the “**St. Louis Facility**”), as well as a distribution facility located in Sainte-Thérèse, Quebec;

4. On August 23, 2023, following the delivery of demand and default letters and notices of intention to enforce security by their primary creditors Farm Credit Canada (“**FCC**”) and Wells Fargo Capital Financing Corporation Canada (“**Wells Fargo**”), the Debtors filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (as amended, the “**BIA**”) (such proceedings, the “**Proposal Proceedings**”);

5. As further detailed below and in the Second Report, a court-supervised sale process conducted within the Proposal Proceedings did not result in a comprehensive going-concern transaction for the Debtors’ business and operations. Accordingly, Wells Fargo and FCC made the difficult decision to enforce against their respective security and pursue the piecemeal sale of the Debtors’ assets;

6. Accordingly, FCC brought an application seeking the appointment of FTI as receiver and manager over the Non-Trade Personal Property (as defined in the FCC Receivership Order) and real property of the Debtors, including land and buildings at the Wallaceburg Facility (the **“Property”**);

7. On October 6, 2023, the Court issued the Receivership Order, among other things, appointing FTI as Receiver of the Property (these proceedings, the **“Receivership Proceedings”**);

8. Separately, on October 3, 2023, Wells Fargo brought an application seeking the appointment of a receiver over the Debtors’ Trade Personal Property, and, on October 6, 2023, the Court issued an order (the **“Wells Receivership Order”**) appointing Ernst & Young Inc. as receiver and manager of the Trade Personal Property (as defined in the Wells Receivership Order);

9. On November 6, 2023, the Court granted an order, among other things:

- (a) approving the First Report of the Receiver dated October 30, 2023;
- (b) authorizing and directing the Receiver to make one or more distributions to the Debtors’ senior secured creditor, FCC, not to exceed the total indebtedness owing to FCC;
- (c) approving the activities of the Receiver described in the First Report; and
- (d) amending the style of cause of these proceedings to correct the French-language spelling of “Les Ailments Whyte’s Inc.” to “Les Aliments Whyte’s Inc.”

10. On November 6, 2023, the Court also granted an order among other things:

- (a) approving the transaction contemplated by the THS APA; and

- (b) vesting in THS Foods Canada, Ltd. (“**THS**”) the title and interest in and to the assets described in the THS APA (the “**THS Purchased Assets**”);

Sales Process

11. Prior to the commencement of the Proposal Proceedings, the Debtors engaged in a broad sales and marketing process in respect of their assets and operations (as further detailed in the Second Report). Ultimately, the Debtors were unable to complete a transaction through this process;

12. Following the commencement of the Proposal Proceedings, the Debtors undertook a Court-supervised sales and solicitation process (“**NOI SISP**”) which also failed to result in an actionable comprehensive going-concern transaction at the Wallaceburg Facility. However, on October 6, 2023 the Debtors’ sought and obtained an approval and vesting order for the sale of the St. Louis Facility and the Non-Trade Personal Property located at that premises to Putters (the “**St. Louis Transaction**”);

13. The St. Louis Transaction closed on October 12, 2023. Pursuant to the Receivership Order, the proceeds from the St. Louis Transaction were transferred to the Receiver (the “**St. Louis Proceeds**”);

14. THS was identified as a potential purchaser of the THS Purchased Assets during the NOI SISP. As set out in further detail within the Second Report, upon the Receiver’s appointment, the Receiver worked with THS to update and finalize the THS APA;

Wallaceburg APA

15. Following the execution of the THS APA, and the establishment of a time frame for a removal of the THS Purchased Assets, the Receiver advanced efforts to pursue the sale of the Wallaceburg Facility;

16. After the receipt of formal marketing plans from several brokerages, the Receiver, in consultation with FCC, determined that the best course of action would be to complete the sale with the Purchaser without a formal marketing process, as there was little guarantee that a formal marketing process would yield a higher sale price and would entail significant carrying costs to the estate;

17. The Wallaceburg APA contemplates the purchase and sale of the Wallaceburg Facility;

18. All of the Purchased Assets subject to the Transaction form part of the FCC Secured Property and therefore comprise part of FCC's collateral;

19. The purchaser has provided a deposit of 13.79% of the purchase price amount to the Receiver, which amount is being held in escrow pending closing;

20. The only material condition to closing contemplated by the Wallaceburg APA is the issuance by the Court of an Approval and Vesting Order in the form appended to this motion record, which is based substantially on the form of Ontario model approval and vesting order;

21. The Receiver is requesting that the Transaction purchase price amount be sealed pending the closing of the Transaction to preserve value for FCC in the event that the Transaction does not close for any reason;

22. The outside date of the Transaction is April 1, 2024, and it is expected that the Transaction will close expeditiously, should the Approval and Vesting Order be granted;

Distribution

23. As further detailed in the Second Report, following the close of the St. Louis Transaction, counsel to Putters contacted counsel to the Receiver to advise that certain routine closing adjustments relating to municipal sales taxes in the aggregate amount of \$40,313.90 (the “**Putters Adjustment Amount**”) had not been effected at the time of closing;

24. The Receiver has determined that the underlying municipal tax liabilities were valid in respect of the St. Louis Facility as at the closing date and represented obligations typically adjusted for by the vendor in similar real property sale transactions;

25. The Receiver is supportive of distributing the Putters Adjustment Amount to Putters given that: (i) the sale proceeds of the St. Louis Transaction constitute a portion of the FCC Secured Property; and (ii) the Receiver is the successor to Whyte’s by virtue of its appointment as Receiver over the FCC Secured Property and its receipt of the St. Louis Proceeds following the commencement of such appointment;

26. As a result, the Receiver is now requesting relief in the form of an order authorizing the Receiver to distribute the Putters Adjustment Amount to Putters;

Discharge

27. Following the completion of the Remaining Activities (as defined and further detailed in the Second Report), the Receiver will have completed its administration of the receivership estate

in accordance with the terms of the Receivership Order, and the various Orders rendered by the Court in the course of these proceedings;

28. Accordingly, with the expectation that this motion will be the final court attendance in these proceedings, the Receiver is requesting authorization to serve and file a certificate of termination at an appropriate time when all remaining activities have been completed;

29. The proposed Discharge and Ancillary Relief Order contemplates that upon filing such certificate with the Court: (i) the Receiver will be fully and finally discharged as receiver; (ii) certain releases described therein will be in full force and effect, and (iii) these Receivership Proceedings shall be terminated;

General

30. The provisions of the BIA and the inherent and equitable jurisdiction of the Court;

31. Rules 1.04, 1.05, 2.03, 3.02, 37 and 39 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended and section 101 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and

32. Such further and other grounds as counsel may advise and the Court may permit;

DOCUMENTARY EVIDENCE

33. The following documentary evidence will be used at the hearing of the motion:

- (a) the Second Report of the Receiver dated March 20, 2024;
- (b) Fee affidavit of Jeffrey Rosenberg sworn March 20, 2024;
- (c) Fee affidavit of Sean Zweig sworn March 20, 2024; and

(d) such further and other material as counsel may advise and the Court may permit.

March 20, 2024

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its capacity as Court-appointed Receiver*

FARM CREDIT CANADA

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**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL
TRIAK INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

NOTICE OF MOTION

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Court File No. CV-23-00707205-00CL

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK INC. AND MARIO SAROLI SALES INC.**

**SECOND REPORT OF FTI CONSULTING CANADA INC., AS COURT-
APPOINTED RECEIVER**

March 20, 2024

FARM CREDIT CANADA

Applicant

- and -

WHYTE’S FOODS INC./LES ALIMENTS WHYTE’S INC., MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC.

Respondents

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

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A. INTRODUCTION AND PROCEDURAL HISTORY

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on October 6, 2023 (the “**Receivership Order**”), FTI Consulting Canada Inc. (“**FTI**”) was appointed receiver and manager (in such capacity, the “**Receiver**”) of the FCC Secured Property (as defined therein) of Whyte’s Foods Inc./ Les Aliments Whyte’s Inc. (“**Whyte’s**”), Maison Gourmet Inc. (“**Gourmet**”), Triak Capital Inc./Capital Triak Inc. (“**Triak**”) and Mario Saroli Sales Inc. (“**Saroli**” together with Whyte’s, Gourmet and Triak, the “**Debtors**”).
2. On October 30, 2023, FTI filed a report (the “**First Report**”) with the Court in support of an application for orders, among other things:
 - (a) approving a sale transaction contemplated by an asset purchase agreement (the “**THS APA**”) between the Receiver and THS Foods Canada, Ltd. (“**THS**”);
 - (b) authorizing and directing the Receiver to make one or more distributions to the Debtors’ senior secured creditor, Farm Credit Canada (“**FCC**”);
 - (c) approving the activities of the Receiver discussed therein; and
 - (d) amending the style of cause of these proceedings to correct the French-language spelling of “Les Ailments Whyte’s Inc.” to “Les Aliments Whyte’s Inc.”
3. The Receiver’s reports and other publicly available information in these proceedings (the “**Receivership Proceedings**”) are posted on the Receiver’s website at <http://cfcanada.fticonsulting.com/wfi/> (the “**Receiver’s Website**”). A copy of the First Report (without appendices) is attached hereto as **Appendix “A”**.
4. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the First Report and the Wallaceburg APA (as defined below).

Procedural History and Background

5. Condensed background information regarding the Debtors and procedural history is set out below. Additional background information relating to the Proposal Proceedings (as defined below) and the Debtor are set out in the First Report.

(i) *Debtors' Business*

6. The Debtors conducted business as a leading producer of pickled and fermented foods in Canada out of two manufacturing facilities located in Wallaceburg, Ontario (the “**Wallaceburg Facility**”) and Saint-Louis, Quebec (the “**St. Louis Facility**”), as well as a distribution facility located in Sainte- Thérèse, Quebec (the “**St. Therese Facility**”). The Debtors’ business is no longer operational

(ii) *NOI Proceedings*

7. On August 23, 2023, Whyte’s filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (as amended, the “**BIA**”) (such proceedings, the “**Proposal Proceedings**”). The Proposal Proceedings were initiated by Whyte’s to create a stabilized environment to permit the Debtors’ business to continue to operate while a court-supervised sale process was carried out.¹

8. On August 31, 2023, the Court issued an order, among other things, approving a sale and solicitation process (the “**NOI SISP**”). Despite concerted efforts, the NOI SISP did not result in a transaction in respect of the Debtors’ assets or operations at the Wallaceburg Facility.

9. On October 6, 2023 the Debtors sought and obtained an approval and vesting order for, among other things, the sale of the St. Louis Facility and the Non-Trade Personal Property located thereon to 9498-8995 Québec Inc. and 9498-8938 Québec Inc. (the “**St. Louis Transaction**”).

¹ Information regarding the Proposal Proceedings is available at the following webpage (the “**Proposal Trustee’s Website**”): <https://www.alvarezandmarsal.com/whytes>.

(iii) *Receivership Proceedings*

10. On October 3, 2023, FCC brought an application seeking the Receivership Order, following the issuance of further demands and notices of intention to enforce security pursuant to section 244 of the BIA to Triak, Saroli and Gourmet. The Receivership Order was granted on October 6, 2024.
11. Separately, on October 3, 2023, Wells Fargo brought an application seeking the appointment of a receiver over the Trade Personal Property of the Debtors, and, on October 6, 2023, the Court issued an order (the “**Wells Receivership Order**”) appointing Ernst & Young Inc. as receiver and manager of the Trade Personal Property (as defined in the Wells Receivership Order) (in such capacity, the “**Wells Receiver**”, and such proceedings, the “**Wells Receivership Proceedings**”). A copy of the Wells Receivership Order was attached as Appendix B to the First Report.
12. The St. Louis Transaction closed on October 12, 2023. Pursuant to the FCC Receivership Order, the proceeds from the St. Louis Transaction were transferred to the Receiver at the Appointment Time (the “**St. Louis Proceeds**”).
13. On November 3, 2023, the Receiver brought a motion seeking the relief requested in the First Report.
14. On November 6, 2023, the Court granted an order (the “**THS AVO**”), among other things:
 - (a) approving the transaction contemplated by the THS APA; and
 - (b) vesting in THS the title and interest in and to the assets described in the THS APA (the “**THS Purchased Assets**”).
15. In addition, on November 6, 2023, the Court granted an order (the “**Distribution and Ancillary Relief Order**”), among other things:
 - (a) approving the First Report; and
 - (b) amending the style of cause in these proceedings, as discussed above.

16. Copies of the THS AVO and Distribution and Ancillary Relief Order are attached hereto as **Appendix “B”** and **Appendix “C”** respectively.

B. PURPOSE

17. The purpose of this Second Report of the Receiver (the “**Second Report**”) is to report to the court on:
- (a) an update on the Receiver’s activities since the approval of the First Report;
 - (b) an update on progress made with regard to the disposal of the THS Purchased Assets;
 - (c) information regarding the sale of certain assets located at the St. Therese Facility and St. Louis Facility;
 - (d) the Receiver’s views on the requested distribution of certain amounts relating to closing adjustments in connection with the St. Louis Transaction to 9498-8995 Québec Inc. and 9498-8938 Québec Inc. (together, “**Putters**”);
 - (e) the Asset Purchase Agreement dated as of February 15, 2024, pursuant to which the Receiver intends to sell the Purchased Assets (as defined therein, being the real property comprising the Wallaceburg Facility) to Select Property Holdings (Ontario) Inc. (“**Select**”, and such agreement the “**Wallaceburg APA**”), subject to the approval of the Court;
 - (f) the Receiver’s request for an approval and vesting order, substantially in the form attached as Tab 3 to the Receiver’s motion record (the “**AVO**”), among other things, approving the Wallaceburg APA and, upon closing vesting the Purchased Assets (as defined in the Wallaceburg APA) in and to Select free and clear of all encumbrances except Permitted Liens (as defined therein); and
 - (g) the Receiver’s request for an order substantially in the form attached as Tab 5 to the Receiver’s motion record (the “**Discharge and Ancillary Relief Order**”), among other things, (i) authorizing distribution of the Putters Adjustment Amount

(as defined below) to Putters; (ii) approving the Second Report and the activities described herein; (iii) approving the fees and disbursements of the Receiver and its legal counsel in connection with these proceedings; and (iv) discharging the Receiver on the filing of a certificate appended thereto and releasing FTI from any and all liability as set out thereto (the “**Receiver’s Certificate**”).

C. TERMS OF REFERENCE

18. In preparing the Second Report, the Receiver has relied upon audited and unaudited financial information provided by the Debtors, including their books and records, financial information, forecasts and analysis, in addition to discussions with various parties (collectively, the “**Information**”).
19. Except as otherwise described in the Second Report:
 - (a) the Receiver 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
 - (b) the Receiver has not examined or reviewed the financial forecasts or projections referred to in the Second Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
20. Future-oriented financial information reported in or relied on in preparing the Second Report is based on assumptions regarding future events. Actual results will vary from these forecasts and such variations may be material.
21. The Receiver has prepared the Second Report in connection with the motion seeking the issuance of the AVO and Discharge and Ancillary Relief Order. The Second Report should not be relied on for any other purpose.
22. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

D. RECEIVER'S ACTIVITIES

23. Since the issuance of the Distribution and Ancillary Relief Order, the Receiver has undertaken a number of activities and initiatives, including the following:

- (a) the sale of certain miscellaneous items of personal property to employees, including but not limited to, printers and computer equipment, the value of which was approximately \$50,000;
- (b) the creation of new utilities accounts for gas and hydro at the Debtors' remaining locations;
- (c) engaging in discussions with the Wells Receiver regarding the settlement of costs due to payments made by the Receiver pertaining to the Debtors' Trade Personal Property and payments made by the Wells Receiver pertaining to the FCC Secured Property;
- (d) engaging in discussions with Revenu Québec regarding goods and services tax ("GST") and Quebec sales tax ("QST") owing pursuant to several asset sales and purchases made over the course of the Receivership. While the Receiver has received confirmation as of February 1, 2024 that Revenu Québec had opened GST and QST accounts for the remit of the foregoing amounts, the amounts have yet to be remitted owing to administrative setbacks. The Receiver is continuing to engage with Revenu Québec representatives to ascertain how these amounts may be settled;
- (e) the notification of Dell Financial Services Canada Limited ("**Dell**") that the Receiver had disclaimed and will cease performance of certain agreements for leased property (the "**Dell Leased Property**") between the Debtors and Dell. To date, the Receiver has yet to receive communication from Dell in response to such notifications and the Dell Leased Property remains in the possession of the Receiver;
- (f) executing an occupancy agreement dated November 27, 2023, governing the St. Therese Facility ("**St. Therese Occupancy Agreement**"), enabling the Receiver

and Care Real Estate Holdings ULC (“Care”) as assignee under the lease to the St. Therese Facility to continue occupancy of the St. Therese Facility until either: (i) the receipt of a Superior Court of Quebec stating otherwise; or (ii) August 31, 2024;

- (g) coordinating the removal of the THS Purchased Assets from the St. Therese Facility and Wallaceburg Facility, including granting THS unobstructed access to the Wallaceburg Facility to remove the THS Purchased Assets by March 15, 2024;
- (h) negotiating the Wallaceburg APA and facilitating due diligence requests and site tours in connection therewith; and
- (i) distributing approximately \$12,200,000 to FCC on December 13, 2023, from funds held in trust by the Receiver.

E. ASSET SALES

24. The Receiver executed certain transactions for certain miscellaneous Non-Trade Personal Property assets located at the St. Louis Facility and St. Therese Facility respectively. The Receiver believes that such transactions represented the best value available for the St. Louis Purchased Assets and St. Therese Purchased Assets (each as defined below). Both transactions are discussed in turn below.

(i) *The St. Louis Asset Sale*

25. Pursuant to a bill of sale dated February 6, 2024 (the “**St. Louis Bill of Sale**”) entered into between the Receiver and Patriot Pickle, Patriot Pickle agreed to purchase certain Non-Trade Personal Property located at the St. Louis Facility (the “**St. Louis Purchased Assets**”). The St. Louis Purchased Assets were comprised of three pieces of manufacturing equipment. A copy of the St. Louis Bill of Sale is attached hereto as **Appendix “D”**.

26. The St. Louis Purchase Bill of Sale provided for a purchase price of USD \$5,748.75, inclusive of QST and GST, which amount was paid to the Receiver on February 15, 2024.

27. Prior to the execution of the St. Louis Bill of Sale, the Receiver engaged with experienced liquidators to ascertain the approximate value of the St. Louis Purchased Assets and was

advised that these assets had minimal, if any value, in a liquidation scenario. Prior to the retention of a liquidator, Patriot Pickle reached out to the Receiver directly, offering a higher price than the estimates provided by the liquidator. Accordingly, the Receiver decided to sell the St. Louis Purchased Assets to Patriot Pickle given that such sale represented the highest available return that could be received.

(ii) *St. Therese Asset Sale*

28. Pursuant to a Bill of Sale dated February 12, 2024 (the “**St. Therese Bill of Sale**”) between the Receiver and Care (the assignee of the St. Therese Facility), Care agreed to purchase certain Non-Trade Personal Property located at the St. Therese Facility (“**St. Therese Purchased Assets**”). The St. Therese Purchased Assets included, among other things, office furniture, freezers, racking systems and refrigerators. A copy of the St. Therese Bill of Sale is attached hereto as **Appendix “E”**.
29. In aggregate, the St. Therese Purchased Assets were purchased for \$132,221.25, inclusive of GST and QST.
30. Prior to the execution of the St. Therese Bill of Sale, the Receiver solicited several interested parties and liquidators in an attempt to sell each item comprising the St. Therese Purchased Assets individually. Owing to a lack of interest and low offers received due to the significant costs of removal, the Receiver opted to sell the St. Therese Purchased Assets as a whole.
31. Given the cost and added time that a full marketing and sale process for the St. Therese Purchased Assets would entail, the Receiver opted to sell the assets to Care, the St. Therese Facility’s current occupant, thereby saving considerable time and expense for the Debtors’ estate.

F. WALLACEBURG APA

(i) Previous Marketing Efforts

32. Prior to the commencement of the FCC Receivership Proceedings, the Debtors and their advisors, including their financial advisor Kroll Corporate Finance Canada (“**Kroll**”), undertook a broad sale and marketing process (the “**Pre-Filing Sale Process**”) in respect of the Debtors’ real and personal property, including the Wallaceburg Facility and the personal property located therein. These efforts are described in detail in the Second Report of Alvarez & Marsal Canada Inc., in its capacity as proposal trustee (in such capacity, the “**Proposal Trustee**”) in respect of the NOI Proceedings dated as of October 4, 2023 a copy of which is available on the Proposal Trustee’s Website.
33. The Pre-Filing Sale Process did not result in the consummation of a transaction for any of the Debtors’ assets.

NOI SISP

34. Following the commencement of the NOI Proceedings and as set out in greater detail in the First Report, the Debtors undertook the NOI SISP.
35. Despite the efforts of Kroll, the Proposal Trustee and the Debtors, the NOI SISP did not result in a going-concern transaction for the Debtors’ business. However, it resulted in the identification of THS as a potential buyer for certain of the Debtors’ Non-Trade Personal Property.
36. Upon the Receiver’s appointment, the Receiver worked with THS to update and finalize the draft asset purchase agreement. A copy of the THS APA (redacting the Purchase Price only) was attached to the First Report as Appendix “D”.
37. Those discussions culminated in the execution of the THS APA on October 23, 2023. The THS APA was approved by the Court on November 6, 2023.
38. Pursuant to an occupancy agreement (the “**Occupancy Agreement**”) dated February 1, 2024 between THS, as licensee, and the Receiver, the Receiver granted THS a temporary right to periodically access and occupy the Wallaceburg Facility to facilitate the removal

the THS Purchased Assets from the Wallaceburg Facility, on the terms and conditions contained in the Occupancy Agreement, notwithstanding the deadline for such removal contained in Section 10.1 of the THS APA had expired on January 7, 2024. The last of the THS Purchased Assets was removed from the Wallaceburg Facility on March 15, 2024.

39. The NOI SISP resulted in the consummation of the St. Louis Transaction. The St. Louis Transaction was the result of extensive negotiations between the Wells Receiver and Putters for the St. Louis Facility and certain of the personal property located thereon, including, without other things, machinery and other equipment.

Efforts to sell Wallaceburg Facility

40. Following the execution of the THS APA, and the establishment of a time frame for a removal of the THS Purchased Assets, the Receiver advanced efforts to pursue the sale of the Wallaceburg Facility.
41. To facilitate this sale, the Receiver engaged several brokerages to provide formal marketing plans in October and November 2023. Based on the marketing plans received, the Receiver calculated the cost of running a market listing and sale process for the Wallaceburg Facility. The timelines for sale presented by the brokers ranged between approximately 12 to 18 months from the date of a brokerage's engagement.
42. In addition to the brokerages, the Receiver received unsolicited expressions of interest from third parties inquiring as to the status of the Wallaceburg Facility. More than one of these parties, engaged in discussions with the Receiver regarding a potential transaction which ultimately did not come to fruition. However, discussions with the second party progressed and culminated in the Wallaceburg APA, as described below.

(ii) Summary of Wallaceburg APA

43. Ultimately, the Receiver, in consultation with FCC, determined that the best course of action would be to complete the sale with the Purchaser as there was little guarantee that a formal marketing process would yield a higher sale price. Furthermore, the timeline for a formal brokerage-led sale process for the Wallaceburg Facility would also have taken

considerable time and therefore also would have led to considerable costs to maintain and carry the vacant premises which would have ultimately reduced recovery for FCC.

44. Due to the foregoing, the Receiver and Purchaser entered into the Wallaceburg APA, with the support of FCC (the “**Wallaceburg Transaction**”). On March 15, 2024, the Purchaser waived the due diligence condition (described below). The Wallaceburg APA transaction therefore represents a firm commitment of the Purchaser at this time, subject only to court approval. A copy of the Wallaceburg APA (redacting the Purchase Price only) is attached hereto as **Appendix “F”**.
45. Some of the key terms of the Wallaceburg APA are as follows:

a) Purchaser:	Select Property Holdings (Ontario) Inc. (the “ Purchaser ”)
b) Structure:	Asset purchase agreement pursuant to an approval and vesting order
c) Consideration:	Cash in an amount specified in the Wallaceburg APA (the “ Purchase Price ”)
d) Deposit:	13.79% of Purchase Price, which has been paid to the Receiver in escrow pending closing
e) Purchased Assets:	The lands and premises identified in Schedule “A” attached thereto together with all fixtures, buildings, structures, and improvements now or hereafter located thereon and together with all easements, rights-of-way, privileges and appurtenances attaching thereto and enuring to the benefit thereof (the “ Property ”); and The chattels identified in Schedule “B” attached thereto
f) Outside Date:	April 1, 2024, or such earlier or later date as may be agreed by the parties in writing
g) Material closing conditions:	As indicated, the Wallaceburg APA included a due diligence condition until March 15, 2024. On that date, the Purchaser provided a notice of waiver of such condition. The only remaining condition is the issuance by the Court of the AVO.

h) Termination rights:

The Wallaceburg APA is terminable:

- By Receiver or Purchaser if the AVO is not issued prior to the Outside Date; or
- by either party in the event of material breach by the other party that is not cured prior to the Outside Date.

46. The Receiver is requesting that the Purchase Price amount be sealed pending the closing of the Wallaceburg Transaction to preserve value for FCC, in the event that the Wallaceburg Transaction does not close for any reason. Given the outside date of the transaction, and the limited scope of the requested sealed information, the Receiver is of the view that such sealing is appropriate in the circumstances and consistent with other sealing requests in transactions subject to court approval, including with respect to the THS Transaction, where the purchase price and related pricing information was also sealed for the limited period until closing.

(iii) Request for Approval and Vesting Order

47. The Receiver has considered the Debtors' marketing efforts through the Pre-Filing Sale Process and the NOI SISP, as well as the timeline and expense for a brokerage-led sale process, and its knowledge of the local market based on discussions with the brokerage candidates, and is of the view that the consideration provided in the Wallaceburg Transaction represents the best recovery in respect of the Purchased Assets in the circumstances.

48. In forming this view, the Receiver had regard to the following factors:

- (a) pursuant to the FCC Credit Agreement and Intercreditor Agreement, FCC is the first-ranking secured creditor in respect of the Non-Trade Personal Property and real property;
 - (i) as of March, 18, 2024, the FCC Indebtedness is \$23,503,145.60, excluding professional fees, disbursements and accruing interest;

- (ii) FCC is anticipated to suffer a loss on its secured debt, having regard to the distributions received as a result of the THS APA and the consideration provided by the Wallaceburg Transaction;
 - (iii) even if the maximum listing price was received on the Purchased Assets and the Purchased Assets were sold immediately with no carrying costs, FCC would still suffer a loss on its secured debt;
 - (iv) accordingly, FCC is the only party with an economic interest in the Purchased Assets;
- (b) FCC has advised that it is supportive of the Wallaceburg Transaction, and it is not supportive of expending further estate resources to pursue a lengthier sale process with an uncertain outcome;
 - (c) having regard to the Pre-Filing Sale Process and NOI SISP, the consideration offered in the Wallaceburg APA is the highest available in the circumstances;
 - (d) the requested form of AVO in respect of the Wallaceburg APA is based substantially on the Ontario model form of approval and vesting order and does not contemplate any extraordinary or unusual relief in the circumstances; and
 - (e) there are no material or off-market conditions set out in the Wallaceburg APA, other than issuance of the AVO. The Receiver expects that the Wallaceburg Transaction will close prior to the Outside Date of April 1 should the AVO be issued.
49. For the foregoing reasons, the Receiver therefore recommends and respectfully requests that the Court grant the AVO.

G. PROPOSED DISTRIBUTIONS

(i) Putters Distribution

50. As discussed above, during the NOI Proceedings and prior to the appointment of the Receiver, the Debtors sold certain of their assets at the St. Louis Facility to Putters in the St. Louis Transaction. The Debtors received an approval and vesting order for the St. Louis Transaction from the Court on October 6, 2023 and the transaction closed on October 12, 2023. In accordance with the NOI Termination and Transition Order dated October 6, 2023, the proceeds of the St. Louis Transaction were transferred to the Receiver upon appointment.
51. Subsequent to the closing of the St. Louis Transaction, on or about December 20, 2023, counsel to Putters contacted counsel for the Receiver to advise that certain routine closing adjustments relating to municipal sales taxes in the aggregate amount of \$40,313.90 (the “**Putters Adjustment Amount**”) had not been effected at the time of closing, due to an omission on the part of the parties. Counsel to Putters provided particulars regarding the liabilities underlying the Putters Adjustment Amount.
52. After reviewing the materials provided, the Receiver determined that the underlying municipal tax liabilities were valid in respect of the St. Louis Facility as at the closing date and represented obligations typically adjusted for by the vendor in similar real property sale transactions. Following this review, the Receiver advised counsel to Putters that the Receiver would support a distribution of the Putters Adjustment Amount to Putters, but would require a court order to do so, which order would be sought at the next attendance in these proceedings.
53. Accordingly, the Receiver is now requesting relief in the form of an order authorizing the Receiver to distribute the Putters Adjustment Amount to Putters.
54. I have been advised by my counsel Mr. Jesse Mighton at Bennett Jones LLP, that the Putters Adjustment Amount is comprised of typical real estate tax adjustments in the province of Quebec and accords with the tax records for the subject property in the province of Quebec.

55. I have also been advised by Mr. Mighton that the Receiver is liable for these amounts as given that: (i) the sale proceeds of the St. Louis Transaction constitute a portion of the FCC Secured Property; and (ii) the Receiver is the successor to Whyte's by virtue of their appointment as Receiver over the FCC Secured Property and their receipt of the St. Louis Proceeds following the commencement of such appointment.

56. The Receiver has sufficient funds in its account to effect the distribution of the Putters Adjustment Amount should the requested relief be granted.

(ii) *Request for a Discharge and Ancillary Relief Order*

57. Due to the foregoing, the Receiver intends to make an expeditious distribution to Putters to reduce ongoing interest costs. Accordingly, the Receiver is respectfully requesting that the Court issue the Discharge and Ancillary Relief Order in the form appended at Tab 5 of the Receiver's motion record.

H. APPROVAL OF THE FEES AND ACTIVITIES OF THE RECEIVER

58. The proposed Discharge and Ancillary Relief Order seeks the approval of this Second Report and the activities and conduct of the Receiver described herein.

59. The Receiver respectfully submits that its actions, conduct, and activities in these proceedings have been carried out in good faith and in accordance with the FCC Receivership Order and should therefore be approved.

60. Pursuant to paragraphs 18-20 of the FCC Receivership Order, the Receiver and its legal counsel shall (i) be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and (ii) pass their accounts from time to time before this Court.

61. The Receiver and Bennett Jones have maintained detailed records of their professional time and costs. The total fees and disbursements of the Receiver for the period from October 30, 2023 to March 17, 2024 total \$391,509.62, including fees in the amount of \$328,191 disbursements in the amount of \$18,277.67, and Harmonized Sales Tax ("HST") of \$45,040.95, as more particularly described in the affidavit of Jeffrey Rosenberg sworn March

20, 2024 (the “**Rosenberg Affidavit**”), a copy of which is appended hereto as **Appendix “G”**.

62. The Receiver estimates that the total fees from March 18, 2024 to the effective date of the Receiver’s discharge will not exceed the amount of \$150,000.00 barring unforeseen circumstances.
63. The total fees and disbursements of Bennett Jones for the period from October 17, 2023 to February 29, 2024 total \$187,340.63, including fees in the amount of \$165,363.50, disbursements in the amount of \$490.25, and HST of \$21,505.88, as more particularly described in the affidavit of Sean Zweig sworn March 20, 2024 (the “**Zweig Affidavit**”, and together with the Rosenberg Affidavit, the “**Fee Affidavits**”), a copy of which is appended hereto as **Appendix “H”**.
64. Bennett Jones estimates that the total fees from March 1, 2024, to the effective date of the Receiver’s discharge will not exceed \$75,000 barring unforeseen circumstances.
65. The Receiver respectfully submits that the fees and disbursements incurred by the Receiver and Bennett Jones, as described in the Fee Affidavits, are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the FCC Receivership Order. Accordingly, the Receiver respectfully requests the approval of the fees and disbursements of the Receiver and Bennett Jones.

I. DISCHARGE

66. Subject to completing the below-listed activities, the Receiver has substantially concluded its administration of the Receivership. The remaining tasks to conclude the receivership are as follows, collectively the “**Remaining Activities**”):
 - (a) distributing the Putters Adjustment Amount to Putters;
 - (b) remitting GST and QST to Revenu Quebec; and
 - (c) completing the Wallaceburg Transaction.

67. To the best of the Receiver's knowledge, following the completion of the Remaining Activities, the Receiver will have completed its administration of the receivership estate in accordance with the terms of the Receivership Order, and the various Orders rendered by the Court in the course of these proceedings. The Receiver is not aware of its services being required for any further purpose other than as set out in this Discharge Report. Accordingly, the Receiver is seeking its discharge in accordance with the terms of the Discharge and Ancillary Relief Order.
68. The Discharge and Ancillary Relief Order contains certain releases in favor of FTI upon the discharge of FTI as Receiver. Such releases are customary and are included in the Court's model discharge order. As such, they are appropriate in the circumstances.
69. Accordingly, with the expectation that this will be the final court attendance in these proceedings, the Receiver is requesting authorization to serve and file a notice of termination at an appropriate time when all remaining activities have been completed, and that upon filing such notice with the Court (i) the Receiver will be fully and finally discharged as receiver; (ii) the releases described above will be in full force and effect, and (iii) these Receivership Proceedings shall be terminated.

CONCLUSION AND RECOMMENDATION

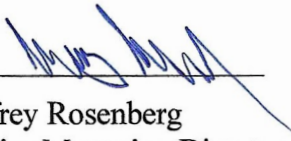
70. For the reasons stated in the Second Report, the Receiver respectfully requests and recommends that the Court grant the following relief on the motion returnable November 6, 2023:
 - (a) grant the AVO, among other things, approving the Wallaceburg APA; and
 - (b) grant the Discharge and Ancillary Relief Order.

The Receiver respectfully submits this, the Second Report, to the Court.

Dated this 20th day of March, 2024.

FTI Consulting Canada Inc.,

solely in its capacity as Court-appointed Receiver of certain property of Whyte's Foods Inc./Aliments Whyte's Inc., Triak Capital Inc./Capital Triak Inc., Maison Gourmet Inc., and Mario Saroli Sales Inc., and not in its personal or corporate capacity



Jeffrey Rosenberg
Senior Managing Director

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Court File No. CV-23-00707205-00CL

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK INC. AND MARIO SAROLI SALES INC.**

**FIRST REPORT OF FTI CONSULTING CANADA INC., AS COURT-
APPOINTED RECEIVER**

October 30, 2023

FARM CREDIT CANADA

Applicant

- and -

WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC.

Respondents

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

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A. INTRODUCTION

1. Whyte's Foods Inc./Aliments Whyte's Inc. ("**Whyte's**"), together with its affiliated and subsidiary entities, Triak Capital Inc./Capital Triak Inc. ("**Triak**"), Maison Gourmet Inc. ("**Gourmet**"), and Mario Saroli Sales Inc. ("**Saroli**", and together with Whyte's, Triak, and Gourmet, the "**Debtors**"), conducted business as a leading producer of pickled and fermented food products in Canada.¹ As described below, the Debtors' business is no longer operational.
2. The Debtors operated two manufacturing facilities located in Wallaceburg, Ontario (the "**Wallaceburg Facility**") and Saint-Louis, Quebec (the "**St. Louis Facility**"), as well as a distribution facility located in Sainte-Thérèse, Quebec (the "**St. Therese Facility**").
3. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Snider Affidavit, or the THS APA (defined below), as applicable.

Procedural History

4. The Debtors' financial difficulties began in 2020 as a result of the COVID-19 pandemic and were exacerbated by crop shortages in 2021, 2022 and 2023. In early 2023, the Debtors engaged Kroll Corporate Finance Canada ("**Kroll**") to, among other things, undertake a sale process.
 - (ii) *NOI Proceedings*
5. Following delivery of demand and default letters, and notices of intention to enforce security by both FCC and Wells Fargo, further forbearance arrangements were agreed as between the Debtors, FCC and Wells Fargo, respectively, to permit Whyte's, with the assistance of Kroll, to continue its marketing efforts under court supervision.
6. In connection therewith, on August 23, 2023, Whyte's filed a Notice of Intention to Make a Proposal ("**NOI**") pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (as amended, the "**BIA**") (such proceedings, the "**Proposal**

¹ This report should be read in conjunction with the affidavit of Dale Snider sworn October 3, 2023 (the "**Snider Affidavit**"), a copy of which is attached (without exhibits) as Appendix "F".

Proceedings"). The Proposal Proceedings were initiated by Whyte's to create a stabilized environment to permit the Debtors' business to continue to operate while a court-supervised sale process was carried out.²

7. On August 31, 2023, the Ontario Superior Court of Justice (Commercial List) (the "**Court**") issued an order, among other things, approving the Debtors' engagement of Kroll as financial advisor, and approving a sale and solicitation process (the "**NOI SISP**"), which is described in further detail below.
8. The NOI SISP did not result in the completion of a comprehensive going-concern transaction in respect of the Debtors' business, assets or operations, at the Wallaceburg Facility. However, on October 6, 2023 the Debtors' sought and obtained an approval and vesting order for the sale of the St. Louis Facility and the Non-Trade Personal Property located at that premises to 9498-8938 Québec Inc. (the "**St. Louis Transaction**").

(iii) *Receivership Proceedings*

9. On October 3, 2023, FCC brought an application seeking the appointment of FTI Consulting Canada Inc. ("**FTI**") as receiver and manager over the Non-Trade Personal Property and real property of the Debtors, including land and buildings at the Wallaceburg Facility and the St. Louis Facility (the "**Property**"), following the issuance of further demands and notices of intention to enforce security pursuant to section 244 of the BIA to Triak, Gourmet and Saroli.
10. On October 6, 2023, the Court issued an order (the "**FCC Receivership Order**"), among other things, appointing FTI as receiver and manager (FTI in such capacity, the "**Receiver**") of the Property (these proceedings, the "**FCC Receivership Proceedings**") upon the earlier of the proposal trustee in the Proposal Proceedings delivering a certificate upon the closing of the St. Louis Transaction or Thursday, October 12, 2023 at 5 pm (the "**Appointment Time**"). A copy of the FCC Receivership Order is attached hereto as Appendix "A".

² Information regarding the Proposal Proceedings is available at the following webpage (the "**Proposal Trustee's Website**"): <https://www.alvarezandmarsal.com/whytes>.

11. Separately, on October 3, 2023, Wells Fargo brought an application seeking the appointment of a receiver over the Trade Personal Property of the Debtors, and, on October 6, 2023, the Court issued an order (the "**Wells Receivership Order**") appointing Ernst & Young Inc. as receiver and manager of the Trade Personal Property upon the occurrence of the Appointment Time (in such capacity, the "**Wells Receiver**", and such proceedings, the "**Wells Receivership Proceedings**"). A copy of the Wells Receivership Order is attached hereto as Appendix "B".
12. The St. Louis Transaction closed on October 12, 2023. A copy of the Proposal Trustee's certificate is attached hereto as Appendix "C". Pursuant to the FCC Receivership Order, the proceeds from the St. Louis Transaction were transferred to the Receiver at the Appointment Time (the "**St. Louis Proceeds**").

B. PURPOSE

13. The purpose of this First Report of the Receiver (the "**First Report**") is to report to the Court on:
 - (a) an update on the Receiver's activities since the commencement of the FCC Receivership Proceedings;
 - (b) the Receiver's views on the FCC Credit Facility and the security granted to FCC thereunder pursuant to the documents listed in Schedule 1 hereto (the "**FCC Security**");
 - (c) the Asset Purchase Agreement dated as of October 23, 2023, pursuant to which the Receiver intends to sell substantially all of the Non-Trade Personal Property to THS Foods Canada, LTD ("**THS**", and such agreement the "**THS APA**"), subject to the approval of the Court;
 - (d) the Receiver's request for an approval and vesting order, substantially in the form attached as Tab 3 to the Receiver's motion record (the "**AVO**"), among other things, approving the THS APA and, upon closing vesting the Purchased Assets (as defined

in the THS APA) in and to THS free and clear of all encumbrances except Permitted Liens; and

- (e) the Receiver's request for an order substantially in the form attached as Tab 5 to the Receiver's motion record (the "**Distribution and Ancillary Relief Order**"), among other things, (i) authorizing the net proceeds of the THS APA transaction to FCC, subject to such holdback as the Receiver deems appropriate, (ii) correcting the style of cause in these FCC Receivership Proceedings; (iii) approving the First Report and the activities described herein; and (iv) approving the fees and disbursements of the Receiver and its legal counsel in connection with these proceedings.

C. TERMS OF REFERENCE

- 14. In preparing the First Report, the Receiver has relied upon audited and unaudited financial information provided by the Debtors, including their books and records, financial information, forecasts and analysis, in addition to discussions with various parties, including senior management ("**Management**") of, and advisors to, the Debtors (collectively, the "**Information**").
- 15. Except as otherwise described in the First Report:
 - (a) the Receiver 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
 - (b) the Receiver has not examined or reviewed the financial forecasts or projections referred to in the First Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
- 16. Future-oriented financial information reported in or relied on in preparing the First Report is based on assumptions regarding future events. Actual results will vary from these forecasts and such variations may be material.

17. The Receiver has prepared the First Report in connection with the motion seeking the issuance of the AVO and Distribution and Ancillary Relief Order. The First Report should not be relied on for any other purpose.
18. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

D. UPDATE

19. Since the issuance of the FCC Receivership Order, the Receiver has undertaken a number of activities and initiatives, including the following:
 - (a) receiving the St. Louis Proceeds from the proposal trustee in the Proposal Proceedings;
 - (b) taking possession of and securing the Non-Trade Personal Property and Wallaceburg Facility, including hiring security personnel, pursuant to and in accordance with the FCC Receivership Order;
 - (c) liaising with the Debtors' management team and advisors regarding the status and location of Non-Trade Personal Property;
 - (d) liaising with FCC, Wells Fargo and other stakeholders regarding the proposed sale of the Non-Trade Personal Property to THS;
 - (e) together with the Receiver's legal counsel, Bennett Jones LLP ("**Bennett Jones**"), engaging with THS and its advisors in negotiating and finalizing the THS APA;
 - (f) engaging with the Wells Receiver regarding the Receiver's intention to sell the Non-Trade Personal Property, and issues relating to, among other things:
 - (i) the segregation of Trade Personal Property from Non-Trade Personal Property; and
 - (ii) operational and occupancy issues relating to the St. Therese Facility and Wallaceburg Facility;

- (g) together with Bennett Jones, reviewing the security granted by the Debtors in connection with the FCC Credit Agreement;
- (h) engaging in preliminary discussions with potential real estate brokers and potentially interested parties respecting the future sale of the Wallaceburg Facility through a widely-marketed process;
- (i) engaging with various stakeholders regarding the status of these FCC Receivership Proceedings, and the interaction of the FCC Receivership Proceedings with the Wells Fargo Receivership Proceedings; and
- (j) preparing the First Report and the materials filed in connection with the Receiver's motion seeking the Court's approval of the AVO and Distribution and Ancillary Relief Order.

E. THE DEBTORS' SECURED DEBT

Secured Creditors

(i) Farm Credit Canada Secured Loan Facility

- 20. On May 20, 2020, Whyte's, as borrower, EJJ Capital Inc., Triak, Maison, Gourmet, and Saroli, as guarantors, and Farm Credit Canada ("**FCC**"), as lender, entered into a credit agreement for two real property loans in the maximum principal amount of \$18,217,500 in the aggregate (the "**Initial FCC Credit Agreement**"). On April 11, 2023, Whyte's and FCC amended and restated the Initial FCC Credit Agreement (as amended, the "**FCC ARCA**"), which provided two further credit facilities for real property loans in the maximum principal amount of \$17,300,000. Accordingly, the maximum principal amount under the FCC ARCA was \$35,517,500.
- 21. On April 19, 2023, Whyte's, as borrower, Triak, Gourmet and Saroli, as guarantors, and FCC, as lender, entered into a forbearance agreement, and on August 23, 2023, in contemplation of the NOI Proceedings, FCC entered into an extension of the forbearance agreement (collectively, the "**FCC Forbearance Agreement**", and together with the Initial FCC Credit Agreement and the FCC ARCA, the "**FCC Credit Agreement**").

22. As of October 3, 2023, the aggregate outstanding indebtedness owed by the Debtors under the FCC Credit Agreement was \$34,695,269.77, excluding professional fees, disbursements and accruing interest (the "**FCC Indebtedness**").
23. As described in further detail below, the FCC Credit Agreement is secured by the FCC Security, principally comprised of certain of the Debtors' personal property (as defined and described in the Intercreditor Agreement and discussed below, the "**Non-Trade Personal Property**") and the Wallaceburg Facility.
- (ii) *Wells Fargo Secured Loan Facility*
24. On October 14, 2022, Whyte's and Gourmet, as borrowers, and Triak and Saroli, as guarantors, entered into a credit facility with Wells Fargo, as lender for a revolving loan with a limit of \$25,000,000 and a term loan in the maximum amount of \$1,500,000 (the "**Initial Wells Fargo Credit Agreement**"). The Initial Wells Fargo Credit Agreement was amended pursuant to a waiver and amendment agreement dated as of January 6, 2023, a forbearance and second amendment dated as of April 19, 2023, and a third amendment and forbearance dated as of August 22, 2023 (the Initial Wells Fargo Agreement as so amended, the "**Wells Fargo Credit Facility**").
25. As of October 3, 2023, a principal amount of \$8,109,221.60 remained outstanding under the Wells Fargo Credit Facility.
26. As described below, the Wells Fargo Credit Facility is secured against certain inventory and intellectual property assets of the Debtors (the "**Trade Personal Property**").
- (iii) *Intercreditor Agreement*
27. On October 14, 2022, Wells Fargo, as operational financing lender, the Business Development Bank of Canada ("**BDC**"), and FCC, as fixed-term loan lender, and the Debtors entered into an intercreditor agreement (the "**Original Intercreditor Agreement**"). In March, 2023, FCC agreed to refinance the BDC indebtedness, resulting in BDC being paid out in full. Accordingly, on April 19, 2023, the Original Intercreditor Agreement was amended and restated to reflect the removal of BDC (the Original Intercreditor Agreement, as so amended, the "**Intercreditor Agreement**").

28. The Intercreditor Agreement identifies two types of property, as follows:
- (a) **"Trade Personal Property"** means all of the present and future accounts receivables, monetary claims, cash, deposit accounts, inventory and Operational Financing Purchased Equipment of the Debtors and Guarantors, together with all claims, documents of title, chattel paper, instruments, books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records relating to the foregoing, and all accessions to, substitutions for and replacements, and products of the foregoing or relating to the foregoing, including cash and other proceeds thereof, including, without limitation, proceeds of insurance and insurance indemnities and the right to receive proceeds of insurance on account of any of the foregoing, and
 - (b) **"Non-Trade Personal Property"** means all of the present and after-acquired personal property (movable) property of the Debtors and the Guarantors including related proceeds and insurance indemnities, excluding the Trade Personal Property.
29. The Intercreditor Agreement provides for the following priorities:
- a) with respect to Trade Personal Property: (i) Wells Fargo's Operational Financing Security has a first ranking priority to the extent of the Operational Financing Debt (i.e. the outstanding indebtedness under the Wells Fargo Credit Facility), and (ii) FCC has a second ranking priority to the extent of the outstanding indebtedness under the FCC Credit Agreement; and
 - b) with respect to the Non-Trade Personal Property: (i) FCC has a first-ranking priority to the extent of the outstanding indebtedness under the FCC Credit Agreement, and (ii) Wells Fargo has a second ranking priority to the extent of the indebtedness under the Wells Fargo Credit Facility.
30. The Receiver and the Wells Receiver are in frequent contact regarding the segregation and removal of the Trade Personal Property and the Non-Trade Personal Property.

F. THS APA

(i) Previous Marketing Efforts

31. Prior to the commencement of these FCC Receivership Proceedings, the Debtors and their advisors, including Kroll, undertook significant marketing efforts in respect of the Debtors'

real and personal property, including Non-Trade Personal Property. These efforts are described in detail in the Second Report of Alvarez & Marsal Canada Inc., in its capacity as proposal trustee (in such capacity, the "**Proposal Trustee**") in respect of the NOI Proceedings dated as of October 4, 2023 (the "**PT Report**"), a copy of which is available on the Proposal Trustee's Website.

Pre-Filing Sale Process

32. As noted above, prior to the commencement of the NOI Proceedings, Kroll undertook a broad sales and marketing process in respect of the Debtors' assets and operations (the "**Pre-Filing Sale Process**") that did not result in a viable transaction.
33. As part of the Pre-Filing Sale Process, Kroll approached 156 potentially interested parties, and 72 parties entered into non-disclosure agreements and were granted access to a virtual data room. Six parties submitted indications of interest by the deadline of March 15, 2023, and two parties submitted letters of intent by the deadline of May 10, 2023.
34. Ultimately, the Debtors were unable to complete a transaction prior to the commencement of the NOI Proceedings.

NOI SISP

35. Following the commencement of the NOI Proceedings, the Debtors undertook a Court-supervised sale process, assisted by Kroll and the Proposal Trustee.
36. The Receiver has been advised by representatives of Kroll that, as part of the NOI SISP, Kroll approached 29 prospective buyers, and was in contact with a total of 42 interested parties. Of these 42 interested parties, 27 had taken part in the Pre-Filing Sale Process, and 14 were new to the NOI Sale Process. 37 of these interested parties executed non-disclosure agreements. Six interested parties visited the Wallaceburg Facility for site tours.
37. As set out in the Snider Affidavit, Whyte's received four offers, including two going-concern offers by the bid deadline of September 21, 2023. Subsequently, FCC worked with the Debtors, the Proposal Trustee and the bidders to determine whether acceptable terms for either of the going concern offers could be achieved, however the parties were not able to reach acceptable terms.

38. Given that the NOI SISF did not result in a comprehensive and executable going concern transaction, FCC and Wells Fargo made the difficult decisions to focus on the piecemeal sale of the Debtors' remaining assets.

(ii) *Summary of THS APA*

39. THS was a participant in the NOI SISF and had negotiated a draft asset purchase agreement with the Debtors in respect of substantially all of the Debtors' Non-Trade Personal Property prior to the termination of the NOI Proceedings. Upon the Receiver's appointment, the Receiver worked with THS to update and finalize the draft asset purchase agreement. A copy of the THS APA (redacting the Purchase Price only) is attached hereto as Appendix "D".

40. Those discussions culminated in the execution of the THS APA on October 23, 2023 subject to the Court's approval. The key terms of the THS APA are summarized as follows:³

a) Purchaser:	THS Foods Canada, Ltd. (the " Purchaser ")
b) Structure:	Asset purchase agreement pursuant to an approval and vesting order
c) Consideration:	Cash in an amount specified in the THS APA (the " Purchase Price ") to be paid by wire transfer of immediately available cash on closing, subject to application of the Deposit.
d) Deposit:	10% of Purchase Price, which has been paid to the Receiver in escrow pending closing
e) Purchased Assets:	Substantially as listed in Schedule 2.1(a), comprising substantially all Non-Trade Personal Property of the Debtors located at the Facilities
f) Outside Date:	November 23, 2023, or such later date as may be agreed

³ The information in this table is a summary only. In the case of any discrepancy between the summary provided in this table and the THS APA, the THS APA prevails. All interested parties are encouraged to read the THS APA in full.

g) Material closing conditions: Issuance by the Court of the AVO. No other material conditions to closing are noted

h) Termination rights: The THS APA is terminable:

- by Receiver or Purchaser if the AVO is not issued prior to the Outside Date; or
- by either party in the event of material breach by the other party that is not cured prior to the Outside Date.

41. The Receiver is requesting that the Purchase Price amount be sealed pending the closing of the THS APA transaction to preserve value for FCC in the event that the THS APA transaction does not close for any reason. Given the outside date of the transaction, and the limited scope of the requested sealed information, the Receiver is of the view that such sealing is appropriate in the circumstances.

(iii) Request for Approval and Vesting Order

42. The Receiver has considered the Debtors' marketing efforts through the Pre-Filing Sale Process and the NOI SISP and is of the view that the consideration provided in the THS APA transaction represents the best recovery in respect of the Non-Trade Personal Property in the circumstances.

43. In forming this view, the Receiver had regard to the following factors:

- a) pursuant to the FCC Credit Agreement and Intercreditor Agreement, FCC is the first-ranking secured creditor in respect of the Non-Trade Personal Property;
 - (a) as noted above, as of October 3, 2023, the FCC Indebtedness is \$34,695,269.77, excluding professional fees, disbursements and accruing interest;
 - (b) FCC is anticipated to suffer a loss on its secured debt, having regard to the consideration offered in the THS APA and the likely value of FCC's remaining collateral, comprised primarily of the Wallaceburg Facility;
 - (c) accordingly, FCC is the only party with an economic interest in the Non-Trade Personal Property;

- (d) having regard to the Pre-Filing Sale Process and NOI SISP, the consideration offered in the THS APA is the highest available in the circumstances;
- (e) FCC has advised the Receiver that it is not willing to fund any additional marketing efforts in respect of the Non-Trade Personal Property;
- (f) FCC has advised the Receiver that it supports the Receiver entering into the THS APA;
- (g) Wells Fargo, which has second-ranking security on the Non-Trade Personal Property, has advised the Receiver that it does not object to the THS APA and the transaction contemplated thereby;
- (h) the requested form of AVO in respect of the THS APA is based substantially on the Ontario model form of approval and vesting order and does not contemplate any extraordinary or unusual relief in the circumstances; and
- (i) the timeline for the removal of Non-Trade Personal Property contemplated in the THS APA is reasonable and will permit the Receiver to advance efforts to monetize the Wallaceburg Facility as the next step in these FCC Receivership Proceedings. Additionally, the Non-Trade Personal Property removal timeline is consistent with the timelines contemplated under the Intercreditor Agreement and will permit the Receiver or Wells Receiver to advance the respective receivership proceedings without delay.

44. For the foregoing reasons, the Receiver therefore recommends and respectfully requests that the Court grant the AVO.

G. PROPOSED DISTRIBUTION

(i) *FCC's Security is Valid and Enforceable*

45. The security granted by the Debtors to FCC in connection with the FCC Credit Facility is described at paragraph 19 of the Snider Affidavit and has not been repeated herein.

46. Bennett Jones has reviewed the FCC Security and determined that, subject to customary assumptions and qualifications, the FCC Security is valid and enforceable with respect to the Non-Trade Personal Property of Whyte's and Gourmet in Ontario and Quebec and Saroli in Ontario.

(ii) *Request for a Distribution Order*

47. In the event that the Court issues the requested AVO and the THS APA closes in accordance with its terms, the Receiver intends to make an expeditious distribution to FCC to reduce ongoing interest costs, subject to any holdback the Receiver deems necessary or appropriate. Accordingly, the Receiver is respectfully requesting that the Court issue the Distribution and Ancillary Relief Order in the form appended at Tab 5 of the Receiver's motion record.

48. As detailed in the preceding section, Bennett Jones has completed a review of the FCC Security and has confirmed that it is valid and enforceable against the Non-Trade Personal Property of Whyte's and Gourmet in Ontario and Quebec and Saroli in Ontario, subject to typical assumptions and qualifications. The Receiver further notes that, relative to Wells Fargo, FCC is designated as the first-ranking secured creditor in respect of the Non-Trade Personal Property of Whyte's, Gourmet and Saroli pursuant to the Intercreditor Agreement.

49. As discussed above, FCC is the only party with an economic interest in the proceeds of the THS APA transaction and the proceeds of the St Louis Transaction that are held by the Receiver and is entitled to receipt thereof. The Receiver intends to withhold from distribution and amount to be agreed with FCC to be utilized to finance the Receiver's ongoing activities, but intends to distribute all remaining distributable amounts to FCC should the Distribution and Ancillary Order be issued.

(iii) *Ancillary Relief*

50. The proposed form Distribution and Ancillary Relief Order also includes a provision updating the style of cause in these proceedings. This relief is necessary because of the inadvertent misspelling of the French-language name of Whyte's that originated in the Applicant's application record and was then tracked into the Receivership Order. The

Receiver is satisfied that this is the result of a clerical error and is not aware of any party that was or could have been prejudiced by this typo. A copy of the corporate profile for Whyte's is attached at Appendix "E".

H. APPROVAL OF THE FEES AND ACTIVITIES OF THE RECEIVER

51. The proposed Distribution and Ancillary Relief Order seeks the approval of this First Report and the activities and conduct of the Receiver described herein.
52. The Receiver respectfully submits that its actions, conduct, and activities in these proceedings have been carried out in good faith and in accordance with the FCC Receivership Order and should therefore be approved.
53. Pursuant to paragraphs 18-20 of the FCC Receivership Order, the Receiver and its legal counsel shall (i) be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and (ii) pass their accounts from time to time before this Court.
54. The Receiver and Bennett Jones have maintained detailed records of their professional time and costs. The total fees and disbursements of the Receiver for the period from October 2, 2023 to October 29, 2023 total \$178,776.06, including fees in the amount of \$158,208.90, disbursements in the amount of \$3,353.03, and Harmonized Sales Tax ("**HST**") of \$20,567.16, as more particularly described in the affidavit of Jeffrey Rosenberg sworn October 30, 2023 (the "**Rosenberg Affidavit**"), a copy of which is appended hereto as Appendix "G".
55. The total fees and disbursements of Bennett Jones for the period from October 4, 2023 to October 30, 2023 total \$126,072.57, including fees in the amount of \$109,376.00, disbursements in the amount of \$2,192.65, and Harmonized Sales Tax ("**HST**") of \$14,503.92, as more particularly described in the affidavit of Sean Zweig sworn October 30, 2023 (the "**Zweig Affidavit**", and together with the Rosenberg Affidavit, the "**Fee Affidavits**"), a copy of which is appended hereto as Appendix "H".
56. The Receiver respectfully submits that the fees and disbursements incurred by the Receiver and Bennett Jones, as described in the Fee Affidavits, are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the FCC Receivership

Order. Accordingly, the Receiver respectfully requests the approval of the fees and disbursements of the Receiver and Bennett Jones.

I. CONCLUSION AND RECOMMENDATION

57. For the reasons stated in the First Report, the Receiver respectfully requests and recommends that the Court grant the following relief on the motion returnable November 6, 2023:

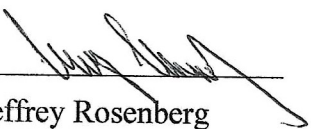
- (a) grant the AVO, among other things, approving the THS APA; and
- (b) grant the Distribution and Ancillary Relief Order.

The Receiver respectfully submits this, the First Report, to the Court.

Dated this 30th day of October, 2023.

FTI Consulting Canada Inc.,

solely in its capacity as Court-appointed Receiver of certain property of Whyte's Foods Inc./Aliments Whyte's Inc., Triak Capital Inc./Capital Triak Inc., Maison Gourmet Inc., and Mario Saroli Sales Inc., and not in its personal or corporate capacity



Jeffrey Rosenberg
Senior Managing Director

**SCHEDULE 1
FCC SECURITY**

- (a) Security agreement dated as of May 20, 2020, granted by Whyte's Food Inc./Les Ailments Whyte's Inc. in favour of FCC
- (b) Security agreement dated as of May 20, 2020, granted by Mario Saroli Sales Inc. in favour of the FCC
- (c) Security agreement dated as of May 20, 2020, granted by Maison Gourmet Inc. in favour of the FCC
- (d) Unlimited guarantee agreement dated as of May 20, 2020, granted by Triak Capital Inc./Capital Triak Inc. in favour of the FCC
- (e) Unlimited guarantee agreement dated as of May 20, 2020, granted by Mario Saroli Sales Inc. in favour of the FCC
- (f) Unlimited guarantee agreement dated as of May 20, 2020, granted by Maison Gourmet Inc. in favour of the FCC
- (g) Acknowledgement and Confirmation of Existing Security Agreement dated as of April 19, 2023, granted by the Whyte's Food Inc./Les Ailments Whyte's Inc., Triak Capital Inc./Capital Triak Inc., Maison Gourmet Inc., Mario Saroli Sales Inc., Elizabeth Kawaja, Paul Kawaja, and Care Real Estate Holdings ULC in favour of the FCC
- (h) FCC Charge for the Wallaceburg Property registered May 19, 2020
- (i) Universal Movable and Immovable Hypothec by Whyte's Food Inc./Les Ailments Whyte's Inc. dated as at May 14, 2020
- (j) Universal Deed of Hypothec by Whyte's Food Inc./Les Ailments Whyte's Inc. in favour of FCC dated as of April 17, 2023
- (k) Universal Movable Hypothec by Maison Gourmet Inc. in favour of FCC dated as of April 17, 2023
- (l) Assignment of rents and leases by Whyte's Food Inc./Les Ailments Whyte's Inc. in favour of FCC with respect to the Wallaceburg Property dated May 19, 2020

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Court File No. CV-23-00707205-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) MONDAY, THE 6th
)
JUSTICE STEELE) DAY OF NOVEMBER, 2023
)

B E T W E E N:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC.**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED****

APPROVAL AND VESTING ORDER

THIS MOTION, made by FTI Consulting Canada Inc. ("**FTI**") in its capacity as the Court-appointed receiver (FTI in such capacity, the "**Receiver**") of the undertaking, property and assets that constitute the FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement (the "**Sale Agreement**") between the Receiver and THS Foods Canada, Ltd. (the "**Purchaser**") dated October 23, 2023 and appended to the First Report of the Receiver dated October 30, 2023 (the "**First Report**"), and vesting in the Purchaser the Debtors' right, title and interest in and to the

assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day by videoconference.

ON READING the First Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Milan Singh-Cheema sworn October 31, 2023 filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, and including without limitation those registrations set out in Schedule "B" hereto (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Cavanagh dated October 6, 2023 (the "**Receivership Order**"); and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system.

3. **THIS COURT ORDERS** that the Quebec Personal and Real Movable Real Rights Registrar, upon presentation of a certified copy of this Order and filed Receiver's Certificate, be and is hereby authorized and directed to discharge and cancel the hypothecs registered at the Register of Personal and Movable Real Rights listed in Schedule "B" hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

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

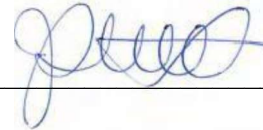
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors, or any of them, and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors, or any of them;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT ORDERS** that the purchase price contemplated by the Purchase Agreement shall be sealed and kept confidential pending further order of this Court.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



Schedule "A" – Form of Receiver's Certificate

Court File No. CV-23-00707205-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

B E T W E E N:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED****

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated October 6, 2023 (the "**Receivership Order**"), FTI Canada Consulting Inc. was appointed as the receiver (in such capacity the "**Receiver**") of the FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**").

B. Pursuant to an Order of the Court dated November [6], 2023, the Court approved the asset purchase agreement made as of October 23, 2023 (the "**Sale Agreement**") between the Receiver and THS Foods Canada, Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in article 7 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in article 7 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [●] on [●], 2023.

**FTI Canada Consulting Inc. in its capacity as
Receiver of the FCC Secured Property, and
not in its personal or corporate capacity**

Per: _____

Name: [●]

Title: [●]

Schedule "B"

Registrations pursuant to the Register of Personal and Movable Real Rights (Quebec)

- A. Conventional hypothec dated May 14, 2020 and registered on May 15, 2020 under number 20-0415557-0004 by Whyte's Foods Inc. ("**Whyte's Foods**") in favour of Farm Credit Canada ("**FCC**") on the universality of the movable and immovable property;
- B. Security Agreement dated May 20, 2020 and registered on July 20, 2020 under number 20-0690365-0002 by Whyte's Foods in favour of FCC securing notably the feed-in tariff contract bearing identification number F-001838-SPV-130-502 dated June 16, 2011 between Agracity Ltd. and Ontario Power Authority;
- C. Conventional hypothec dated April 17, 2023 registered on April 18, 2023 under number 23-0434377-0002 by Whyte's Foods in favour of FCC on the universality of the movable and immovable property;
- D. Conventional hypothec dated April 17, 2023 registered on April 18, 2023 under number 23-0434377-0001 by Maison Gourmet Inc. in favour of FCC on the universality of the movable property; and
- E. Conventional hypothec dated May 14, 2020 and registered on May 15, 2020 under number 20-0415557-0001 by Maison Gourmet Inc. in favour of FCC on the universality of the movable property.

FARM CREDIT CANADA

and

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL
TRIAK INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

APPROVAL AND VESTING ORDER

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Milan Singh-Cheema (LSO# 88258Q)
Tel: (416) 777-5527
Email: singhcheemam@bennettjones.com

Lawyers for FTI Canada Consulting Inc.

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Court File No.: CV-23-00707205-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE

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MONDAY, THE 6th

JUSTICE STEELE

)

DAY OF NOVEMBER, 2023

)

B E T W E E N:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC.**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED****

DISTRIBUTION AND ANCILLARY RELIEF ORDER

THIS MOTION, made by FTI Consulting Canada Inc. ("**FTI**") in its capacity as the Court-appointed receiver (FTI in such capacity, the "**Receiver**") of the undertaking, property and assets that constitute the FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**") for an order, among other things: (i) authorizing and directing the Receiver to make one or more distributions to Farm Credit Canada ("**FCC**"); (ii) approving the First Report of the Receiver dated October 30, 2023 (the "**First Report**") and the Receiver's conduct, activities and fees described therein; and (iii) amending the

style of cause in these proceedings to correct the French-language spelling of "Les Ailments Whyte's Inc." to "Les Aliments Whyte's Inc.", was heard this day by videoconference.

ON READING the Notice of Motion of the Receiver and the First Report, filed, and on hearing the submissions of counsel for the Receiver and counsel for those other parties appearing as indicated by the counsel sheet, no one else appearing although properly served, as appears from the affidavit of service of Milan Singh-Cheema sworn and filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the First Report.
3. **THIS COURT ORDERS** that the Receiver is hereby authorized, directed and empowered to make one or more cash distributions to FCC up to the amounts owing by the Debtors to FCC as partial payment of the FCC Indebtedness, which shall be applied by FCC to reduce such FCC Indebtedness in accordance with the FCC Credit Agreement.

CORRIGENDUM

4. **THIS COURT HEREBY AMENDS AND CORRECTS** all references to "Ailmentation Whyte's Inc." in the style of cause and materials filed and orders issued in these proceedings to "Alimentation Whyte's Inc."

APPROVAL OF RECEIVER'S REPORT, ACTIVITIES AND FEES

5. **THIS COURT ORDERS** that the First Report, and the activities of the Receiver described therein are hereby approved; provided that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

6. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and the Receiver's legal counsel, Bennett Jones LLP, as set out in the First Report, be and are hereby approved.

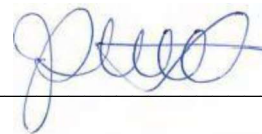
GENERAL

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

8. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Receiver and its agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.



FARM CREDIT CANADA

and

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL
TRIAK INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

**DISTRIBUTION AND ANCILLARY RELIEF
ORDER**

BENNETT JONES LLP

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

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Email: singhcheemam@bennettjones.com

Lawyers for FTI Canada Consulting Inc.

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BILL OF SALE

THIS BILL OF SALE (the "**Agreement**") is made as of February 6, 2024 between Patriot Pickle (the "**Purchaser**") and FTI Consulting Canada Inc. (the "**Receiver**"), in its capacity as court-appointed receiver of the Non-Trade Personal Property of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc. and Mario Saroli Sales Inc. (collectively, the "**Debtor**").

WHEREAS:

- A. The Receiver was appointed as receiver and manager of the Non-Trade Personal Property of the Debtor pursuant to an Order (Appointing Receiver) issued October 6, 2023 by the Ontario Superior Court of Justice (Commercial List) (the "**Court**");
- B. The Purchaser has agreed to purchase from the Receiver and the Receiver has agreed to sell to the Purchaser, certain assets located at 196 Rue Saint-Martin, Saint-Louis, Quebec (the "**St. Louis Facility**"), as described in **Error! Reference source not found.** hereto (the "**Purchased Assets**").

NOW THEREFORE:

- 1. For good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, upon receipt by the Receiver of the amount of **USD\$5,000.00 plus QST and GST** thereon (total USD\$5,748.75) (the "**Purchase Price**"), the Receiver does hereby grant, bargain, transfer, sell, assign, convey and deliver to the Purchaser, all of the Receiver's and Debtor's right, title and interest in and to the Purchased Assets pursuant to the terms of this Agreement (the "**Transaction**").
- 2. The Purchaser acknowledges and agrees that the sale of the Purchased Assets is being made on an "as is where is basis" and that the Receiver has not made any representations or warranties regarding the Purchased Assets, including without limitation with respect to the condition or fitness of the Purchased. The Purchaser further acknowledges and agrees that the Receiver shall have no liability of any kind whatsoever regarding the condition or fitness of the Purchased Assets.
- 3. The Purchaser acknowledges and agrees that it shall be responsible for all costs pertaining to the removal of the Purchased Assets, including but not limited to, customs duties, transportation costs, and any other costs as incurred in removing the Purchased Assets from the St. Louis Facility.
- 4. The Purchaser shall exercise due care in removing the Purchased Assets and will be liable for any damage caused in the removal of assets from the St. Louis Facility.
- 5. The Purchaser will notify the Receiver of the date of removal of the Purchased Assets no less than two (2) days' prior to the intended removal of the assets.
- 6. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the parties hereto hereby irrevocably submit to the jurisdiction of the Court.
- 7. This Agreement may be executed in counterpart, including execution and delivery by e-mail, each of which when so executed and sent by e-mail, or otherwise, shall be deemed to be an original, and such counterparts shall constitute one and the same agreement and shall be deemed to be and constitute a properly executed, delivered and binding document. If execution and delivery by e-mail occurs, the party executing and delivering by e-mail shall supply originally executed documents as soon as possible to the other party, but failure to do so shall in no way whatsoever

invalidate or adversely affect any of the aforesaid provisions regarding execution and the binding nature of the document.

IN WITNESS WHEREOF, the Receiver and Purchaser have duly executed this Agreement as of the date first written above.

FTI CONSULTING CANADA INC., solely in its capacity as court-appointed Receiver of the Non-Trade Personal Property of Whyte's Foods Inc. and its affiliates, and not in its personal or corporate capacity



Per:

Name: Jeffrey Rosenberg
Title: Senior Managing Director

PATRIOT PICKLE



Per:

Name: Adam Ricci
Title: COO

SCHEDULE "A"
PURCHASED ASSETS

1. The Purchased Assets shall include the below assets:

- a. One (1) Customized air bubble cucumber Washer SUS304 (Drum cover washer SUS 316);



- b. One (1) MARKEM IMAJE 2011 (Model SAFE-3002) (comprised of two (2) separate units); and

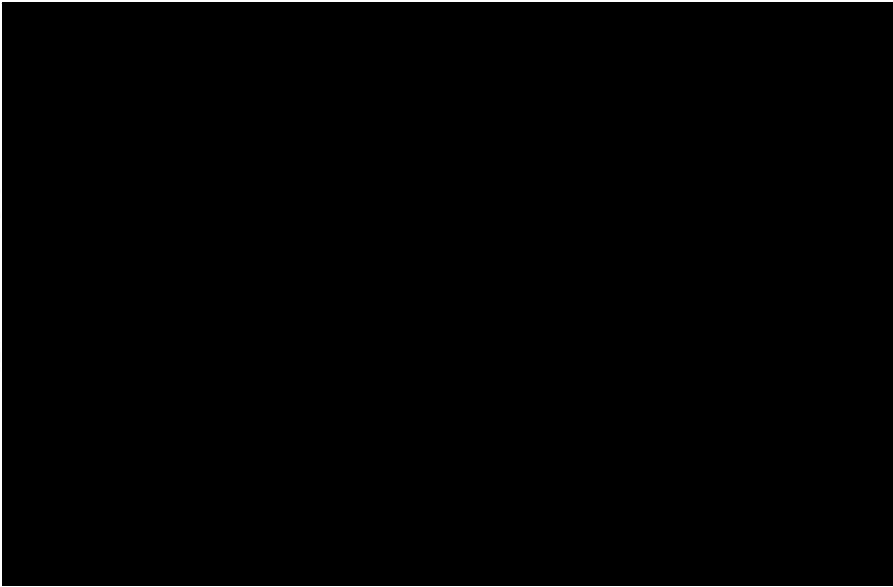


- c. One (1) LOMA Metal Detector (Model: IQ2).



SCHEDULE "B"

RECEIVER'S ACCOUNT DETAILS



T A B L E

BILL OF SALE

THIS BILL OF SALE (the "**Agreement**") is made as of February 12, 2024 between Care Real Estate Holding, ULC (the "**Purchaser**") and FTI Consulting Canada Inc. (the "**Receiver**"), in its capacity as court-appointed receiver of the Non-Trade Personal Property of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc. and Mario Saroli Sales Inc. (collectively, the "**Debtor**").

WHEREAS:

- A. The Receiver was appointed as receiver and manager of the Non-Trade Personal Property of the Debtor pursuant to an Order (Appointing Receiver) issued October 6, 2023 by the Ontario Superior Court of Justice (Commercial List) (the "**Court**");
- B. The Purchaser has agreed to purchase from the Receiver and the Receiver has agreed to sell to the Purchaser, all of the Receiver's and the Debtor's right, title and interest in and substantially all Non-Trade Personal Property located at 20 Rue Sicard, Sainte-Thérèse, Quebec (the "**Ste Therese Facility**"), as described in Schedule "A" hereto (the "**Purchased Assets**"), subject to the exceptions noted in Schedule "A", which for greater certainty, shall not be Purchased Assets.

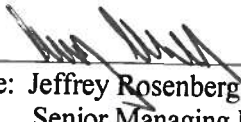
NOW THEREFORE:

1. For good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, upon receipt by the Receiver of the amount of **CAD\$132,221.25** (the "**Purchase Price**"), inclusive of QST in the amount of \$11,471.25 and GST in the amount of \$5,750.00, the Receiver does hereby grant, bargain, transfer, sell, assign, convey and deliver to the Purchaser, all of the Receiver's and Debtor's right, title and interest in and to the Purchased Assets pursuant to the terms of this Agreement (the "**Transaction**").
2. The Purchaser acknowledges and agrees that the sale of the Purchased Assets is being made on an "as is where is basis" and that the Receiver has not made any representations or warranties regarding the Purchased Assets, including without limitation with respect to the condition or fitness of the Purchased. The Purchaser further acknowledges and agrees that the Receiver shall have no liability of any kind whatsoever regarding the condition or fitness of the Purchased Assets.
3. The Purchaser acknowledges and agrees that the Transaction shall be without prejudice to the rights of MIG Holdings Inc. ("**Montrose**") to access to and use of those Purchased Assets that Montrose has been using in accordance with the asset purchase agreement dated November 20, 2023 between Montrose and Ernst & Young Inc. in its capacity as receiver of the Trade Personal Property of the Debtor.
4. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the parties hereto hereby irrevocably submit to the jurisdiction of the Court.
5. This Agreement may be executed in counterpart, including execution and delivery by e-mail, each of which when so executed and sent by e-mail, or otherwise, shall be deemed to be an original, and such counterparts shall constitute one and the same agreement and shall be deemed to be and constitute a properly executed, delivered and binding document. If execution and delivery by e-mail occurs, the party executing and delivering by e-mail shall supply originally executed documents as soon as possible to the other party, but failure to do so shall in no way whatsoever

invalidate or adversely affect any of the aforesaid provisions regarding execution and the binding nature of the document.

IN WITNESS WHEREOF, the Receiver and Purchaser have duly executed this Agreement as of the date first written above.

FTI CONSULTING CANADA INC., solely in its capacity as court-appointed Receiver of the Non-Trade Personal Property of Whyte's Foods Inc. and its affiliates, and not in its personal or corporate capacity

Per: 
Name: Jeffrey Rosenberg
Title: Senior Managing Director

CARE REAL ESTATE HOLDING, ULC

Per: 
Name: TOM PRYCHITKA
Title: CFO

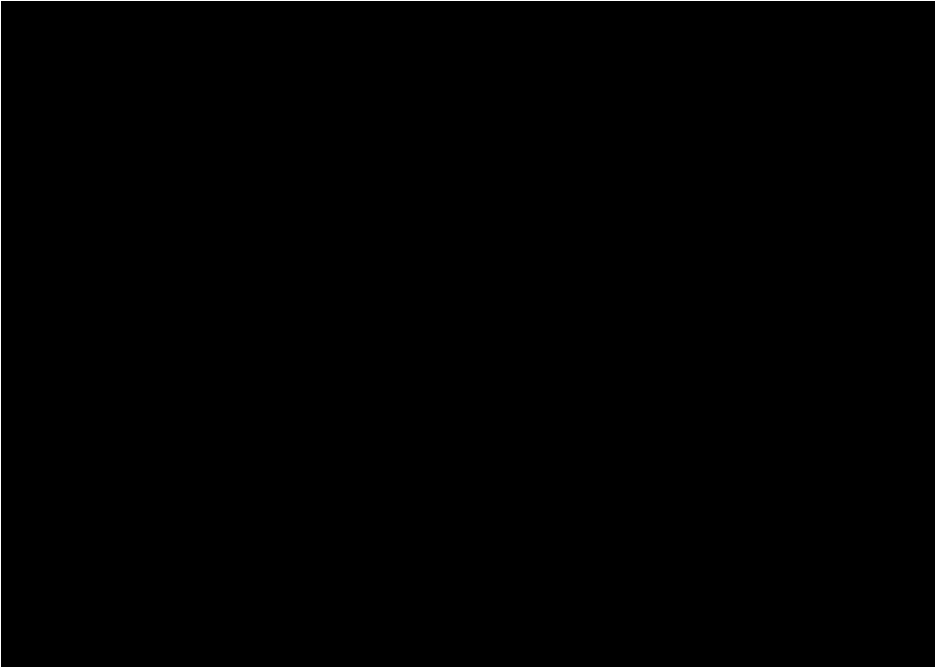
SCHEDULE "A"

PURCHASED ASSETS

1. The Purchased Assets shall include all Non-Trade Personal Property in possession of the Receiver located at the Ste Therese Facility, excluding those assets listed in section 2 (which for greater certainty shall not be Purchased Assets), but including all existing racking systems, refrigeration units HVAC equipment and leasehold improvements, and all associated accessories, notably the following:
 - a. Office furniture including all desks, chairs and drawers, located throughout the Ste Therese Facility;
 - b. Drive through racking systems located throughout the Ste Therese Facility;
 - c. Non-drive through racking systems located throughout the Ste Therese Facility;
 - d. All refrigerator systems located at the Ste Therese Facility, including:
 - i. (Fridge O) 1 rooftop air cooled compressor with 2 evaporators;
 - ii. (Fridge M) 1 rooftop air cooled compressor with 4 evaporators;
 - iii. (Fridge N) 1 rooftop air cooled compressor with 4 evaporators;
 - iv. (Fridge Q) 1 (inside) air cooled compressor with 2 evaporators;
 - v. (Fridge P) 1 (inside) air cooled compressor with 2 evaporators;
 - vi. (Freezer R) 1 roof air cooled multi-stage compressor with 2 evaporators;
 - vii. All walls of all six (6) refrigerators/freezers listed above; and
 - viii. All garage door and their motors for all six (6) refrigerators/freezers listed above.
2. The Purchased Assets shall not include any computer equipment located in the information technology (IT) room at the Ste Therese Facility or the white tote bins located in the warehouse.

SCHEDULE "B"

RECEIVER'S ACCOUNT DETAILS



SCHEDULE "C"

RECEIVER'S GST/QST NUMBERS

QST Number: 1231354219 TQ0001

GST Number: 10306 7336 RT0002

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AGREEMENT OF PURCHASE AND SALE

This Agreement of Purchase and Sale (this "**Agreement**") dated as of the 15th day of February, 2024 (the "**Effective Date**").

BETWEEN:

FTI CONSULTING CANADA INC., solely in its capacity as receiver and manager of the Non-Trade Property of Whyte's Foods Inc. and its subsidiaries, and not in its personal or corporate capacity, as vendor (in such capacity, hereinafter called the "**Vendor**"),

- and-

SELECT PROPERTY HOLDINGS (ONTARIO) INC. as purchaser (hereinafter called the "**Purchaser**"),

WHEREAS, pursuant to an Order of the Superior Court of Justice (Commercial List) (the "**Court**") made on October 6, 2023 (the "**Receivership Order**"), the Vendor was appointed receiver and manager (in such capacity, the "**Receiver**") of the Non-Trade Personal Property (as defined in the Receivership Order) and real property of the Debtors (as defined in the Receivership Order) (together with the Non-Trade Personal Property, the "**FCC Secured Property**");

WHEREAS, the Purchased Assets (as hereinafter defined) constitute part of the FCC Secured Property;

WHEREAS, the Vendor desires to sell, transfer and assign the Purchased Assets;

WHEREAS, approval of the Court will be sought by the Vendor for the transactions contemplated by this Agreement in accordance with the Receivership Order;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Purchase and Sale. The Vendor agrees to sell, and the Purchaser agrees to purchase, all of the Vendor's right, title, estate and interest in and to:

(a) the lands and premises identified in Schedule "A" attached, together with all fixtures, buildings, structures and improvements now or hereafter located thereon and together with all easements, rights-of-way, privileges and appurtenances attaching thereto and enuring to the benefit thereof (the "**Property**"); and

(b) the chattels listed in Schedule "B" attached (the "**Chattels**");

(collectively, the "**Purchased Assets**"), from the Vendor, for the purchase price in Section 2 of this Agreement, and on the terms and conditions contained in this Agreement.

2. Purchase Price. The purchase price for the Purchased Assets shall be [REDACTED] (the "**Purchase Price**") in lawful money of Canada.

3. Closing and Closing Date. The transaction contemplated in this Agreement shall be completed (the "**Closing**") remotely at no later than 5:00 PM (Eastern Time) on the later to occur of (a) the date that is no later than three Business Days (as hereinafter defined) following the satisfaction or waiver of all of the conditions in Section 8, Section 10, Section 12 and Section 22 except for those conditions that by their nature can only be satisfied on the Closing Date, (b) April 1, 2024, or (c) such earlier or later date as agreed to by the Parties in writing (the "**Closing Date**"), subject to any acceleration or postponement permitted by this Agreement. In this Agreement, "**Business Day**" means any day of the week excluding Saturday, Sunday and statutory holidays in the province or territory in which the Property is situate. If the Closing Date falls on a day that is not a Business Day, then the Closing Date shall be deemed to be the first Business Day thereafter.

4. Vacant Possession on Closing. On Closing, the Vendor shall give the Purchaser vacant possession of the Property.

5. Deposit. The Purchaser shall pay, by certified cheque, bank draft or wire using the "Lynx" high-value payment system, the amount of [REDACTED] within four Business Days following the Effective Date, to the Vendor, in trust, as a deposit to be held in accordance with Section 6 of this Agreement.

6. Holding of Deposit. The Deposit shall be held by the Vendor in trust on behalf of the parties, as their respective interests may appear, pending completion or termination of this Agreement and to be credited on account of the Purchase Price on Closing. If the transaction contemplated in this Agreement is terminated as a result of a default by the Vendor, the Deposit paid shall be returned to the Purchaser forthwith, without deduction. If this transaction is terminated as a result of a default by the Purchaser, the Deposit shall be forfeited to the Vendor forthwith, without deduction. The Parties hereby irrevocably authorize and direct the Vendor to make such payments in the manner and at the times hereinbefore directed or as otherwise provided in this Agreement. The Vendor shall be a mere stakeholder with respect to the Deposit, together with all interest accrued thereon, and if a dispute arises between the Vendor and the Purchaser regarding the manner in which the Deposit and/or the interest accrued thereon are to be disbursed, the Vendor shall be entitled to bring an application to court to pay the Deposit and/or the interest accrued thereon into court and following such payment into court, the Vendor and its legal counsel, Bennett Jones LLP, shall be fully, finally and absolutely relieved of and released from, all liability with respect thereto.

7. Payment of Purchase Price. The Purchase Price shall be paid or satisfied on the completion of this transaction as follows:

- (a) the release of the Deposit to the Vendor; and
- (b) the balance due on closing, paid, subject to adjustments contained in this Agreement, to the Vendor's lawyers, in trust, by (i) a negotiable certified cheque or bank draft of a Canadian chartered bank drawn from the Purchaser's lawyer's trust account; or

(ii) a wire of immediately available funds using the "Lynx" high-value payment system if sent from the Purchaser's lawyer's trust account.

8. Vendor's Conditions. The obligation of the Vendor to complete the transaction contemplated herein is subject and conditional to the satisfaction of the following conditions on or before the Closing Date:

(a) all the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects on the Closing Date;

(b) all the covenants of the Purchaser contained in this Agreement to be performed on or before the Closing Date shall have been duly performed by the Purchaser;

(c) there shall be no order issued by a governmental authority against either of the Parties, or involving any of the Purchased Assets enjoining, preventing or restraining the completion of this transaction.

9. Conditions in Favour of the Vendor Not Fulfilled. If any of the conditions contained in Section 8 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Vendor, then the Vendor may, at its sole discretion and without limiting any rights or remedies available to it at law or in equity:

(a) terminate this Agreement by notice to the Purchaser, in which event the Vendor shall be released from its obligations under this Agreement to complete the transaction contemplated herein, provided that if this Agreement is so terminated because of the conditions set out in Section 8(a) or Section 8(b) not being satisfied or waived the Purchaser shall forfeit the Deposit to the Vendor; or

(b) waive compliance with any such condition without prejudice to the right of termination in respect of non-fulfillment of any other condition.

10. Purchaser's Conditions. The obligation of the Purchaser to complete the transaction contemplated herein is subject and conditional to the satisfaction of the following conditions on or before the Closing Date:

(a) all the representations and warranties of the Vendor contained in this Agreement shall be true and correct in all material respects on the Closing Date;

(b) all the covenants of the Vendor contained in Section 24 to be performed on or before the Closing Date shall have been duly performed by the Vendor;

(c) there shall be no order issued by a governmental authority against either of the Parties, or involving any of the Purchased Assets enjoining, preventing or restraining the completion of this transaction;

11. Conditions in Favour of the Purchaser Not Fulfilled. If any of the conditions contained in Section 10 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not

directly or indirectly as a result of any action or omission of the Purchaser, then the Purchaser may, at its sole discretion and without limiting any rights or remedies available to it at law or in equity:

- (a) terminate this Agreement by notice to the Vendor, in which event the Purchaser and the Vendor shall be released from their obligations under this Agreement to complete the transaction contemplated herein and the Deposit and all interest accrued thereon shall immediately be returned to the Purchaser without deduction;
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of non-fulfillment of any other condition.

12. Condition for the Benefit of the Purchaser and the Vendor. The purchase and sale will be subject to the following conditions being satisfied prior to the Closing Date, which condition is for the benefit of the Vendor and the Purchaser:

- (a) an approval and vesting order of the Court substantially in the form of the Ontario Model Order vesting in and to the Purchaser the Purchased Assets, free and clear of and from any and all Encumbrances other than Permitted Encumbrances (the "**Approval and Vesting Order**") shall have been obtained and shall not have been appealed, set aside, varied or stayed or, if appealed or stayed, all appeals shall have been dismissed and all stays shall have been lifted, respectively; and
- (b) the Receiver shall have provided an executed copy of the receiver's certificate contemplated by and substantially in the form appended to the Approval and Vesting Order (the "**Receiver's Certificate**") confirming that all conditions to Closing have been satisfied or waived by the Purchaser and Vendor, and that the Vendor has received the Purchase Price

13. Due Diligence and Financing Conditions

- (a) The Vendor shall provide to the Purchaser the Due Diligence Materials that are in the possession and control of the Vendor as contemplated by Section 13 herein.
- (b) The Purchaser shall have until March 15th, 2024 (the "**Conditional Period**") to examine and test the Property, including, without limitation, conducting land, engineering, building, environmental, survey, feasibility studies, and inspections (the "**Due Diligence**"), and the Vendor herewith grants permission to the Purchaser, its agents and any independent contractor(s) selected by the Purchaser to enter upon the Property for the purposes thereof (subject to the access provisions herein). All such Due Diligence shall be subject to Section 14 herein and shall be at the sole cost and expense of the Purchaser.
- (c) In the event the Purchaser determines, in the Purchaser's sole discretion, that the Property is not suitable for Purchaser or that there are physical conditions or government restrictions affecting the Property that the Purchaser deems adverse, or for any other reason the Purchaser determines not to proceed with the purchase hereunder, then, no later than 5:00 P.M., Eastern Time, on the last day of the Conditional Period, the Purchaser may

provide to the Vendor written notice of Purchaser's termination of this Agreement, whereupon the Deposit shall be returned to the Purchaser without interest or deduction.

(d) The Purchaser shall have until March 15th, 2024, to obtain a commitment for financing (the 'Financing Period') on terms and conditions satisfactory to the Purchaser, at its sole and absolute discretion. This commitment must be sufficient to complete the purchase of the Property as contemplated by this Agreement. If the Purchaser, despite using its commercially reasonable efforts, is unable to obtain such a commitment within the Financing Period, the Purchaser may, at its sole option, terminate this Agreement by written notice to the Vendor. Upon such termination, any deposits made by the Purchaser shall be promptly returned in full, and neither party shall have any further obligations to the other under this Agreement, except for those obligations that expressly survive the termination of this Agreement.

14. Due Diligence Deliveries. The Vendor shall deliver to the Purchaser within 10 days of the Effective Date all existing documents, records, and information (the "**Due Diligence Materials**") relating to the Property and within the Vendor's possession and control. This includes, but is not limited to, to the extent within the Vendor's possession and control, environmental reports, surveys, title documents, zoning compliance certificates, leases, service contracts, warranties, and any other material pertaining to the operation and condition of the Property and its manufacturing facility. The Purchaser shall not call for a survey or the production of any other evidence of title other than such as may be in the Vendor's possession or under its control or as may be expressly provided in this Agreement.

15. Access. The Vendor agrees to allow the Purchaser and the Purchaser's authorized representatives access to the Property from time to time, from and after the Effective Date, during typical business hours, on at least two (2) Business Days' prior notice to the Vendor, subject to the rights of any tenants or licensees of the Property, and hereby authorizes the Purchaser and the Purchaser's authorized representatives to carry out, at the Purchaser's sole risk and expense, such non-destructive and non-invasive appraisals, measurements and other inspections as the Purchaser, its authorized representatives or lenders may deem necessary, provided that the Purchaser shall minimize interference with the Vendor's or any tenant's or licensee's operations at the Property during such access and provided the Purchaser, at its expense, shall promptly repair any resulting property damage. The Purchaser's obligation to repair damage under this Section 15 shall survive termination of this Agreement. Any such access shall, if required by the Vendor, be in the company of a representative of the Vendor provided that the Vendor makes such representative available. The Purchaser hereby fully, finally and absolutely indemnifies the Vendor with respect to all claims sustained or incurred by the Vendor as a result of the Purchaser undertaking or having undertaken such inspections to or with respect to the Property or exercising the rights of access granted under this Section 15 and this indemnity shall not merge and shall survive the Closing or any termination of this Agreement.

16. Court Approval. The Vendor shall seek the approval of the Court to the transactions contemplated by this Agreement in accordance with the following:

(a) The Vendor and the Purchaser shall reasonably cooperate with filing and prosecuting the motion for issuance and entry of the Approval and Vesting Order, and the

Vendor shall deliver to the Purchaser prior to filing, and as early in advance as is practicable to permit adequate and reasonable time, for the Purchaser and its counsel to review and comment, copies of all of the Vendor's proposed pleadings, motions and other material papers to be filed by the Vendor in connection with such motions and proposed orders and relief requested therein and any challenges thereto.

(b) The Vendor, in consultation with the Purchaser, shall determine all Persons required to receive notice of the motions for the Approval and Vesting Order under applicable Laws and any other Person determined necessary by the Vendor or the Purchaser.

17. Off-Title Authorization. For purposes of the Vendor's off-title searches under Section 17 of this Agreement, the Vendor agrees to execute and deliver to the Purchaser, within three (3) Business Days of being requested to, the Vendor's written authorization, in a form satisfactory to the Vendor acting reasonably, to governmental authorities to release all information in their files about the Property to the Purchaser's lawyers, provided that no physical inspections of the Property shall be requested, authorized or permitted by this Agreement or such authorization.

18. Title Condition. The Purchaser's obligation to complete the transaction in this Agreement shall be conditional upon the Vendor delivering on Closing title in fee simple to the Property free from all charges, liens, security interests, easements, encroachments, restrictive covenants, registrations, leases, options, clouds or defects in title and any other thing or matter affecting the Property that would be considered at common law or by statute as an encumbrance (collectively, "**Encumbrances**"), other than the Encumbrances listed in Schedule "D" attached provided the provisions thereof have been complied with (collectively, the "**Permitted Encumbrances**"). Notwithstanding the foregoing, the Purchaser shall not be entitled to submit any letters of requisitions or objections to the Debtor's title to the Property and shall be deemed, as of the end of the Conditional Period, to have accepted the Debtors' title to the Property as it existed on such date.

19. Planning Act Condition. This Agreement shall be effective to create an interest in the Property for the Purchaser only if section 50 of the *Planning Act*, R.S.O. 1990 c. P.13, as may be amended, is complied with by the Vendor, at the Vendor's expense, on or prior to Closing.

20. Vendor's Representations and Warranties. The Vendor represents and warrants to the Purchaser that:

(a) subject to the issuance by the Court of the Approval and Vesting Order, (i) the Vendor has all necessary power and authority to enter into this Agreement and to carry out its obligations hereunder; (ii) the execution and delivery of this Agreement and the consummation of the transaction contemplated herein have been duly authorized by all necessary action on the part of the Vendor, subject to the Approval and Vesting Order; (iii) this Agreement is a valid and binding obligation of the Vendor enforceable in accordance with its terms;

(b) the Receiver has been duly appointed by the Court pursuant to the Receivership Order as receiver and manager of the FCC Secured Property and such appointment is valid

and subsisting, with the full right, power and authority to enter into this Agreement, perform its obligations hereunder and convey the Purchased Assets, subject to the issuance of the Approval and Vesting Order by the Court; and

(c) the Vendor is not a non-resident of Canada for the purposes of the ITA.

21. Purchaser's Representations and Warranties. The Purchaser represents and warrants to the Vendor that:

(a) the Purchaser is a corporation duly formed and validly subsisting under the laws of the Province of Ontario;

(b) the Purchaser has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. Neither the execution of this Agreement nor the performance by the Purchaser of the transaction contemplated herein will violate the Purchaser's constating documents, any agreement to which the Purchaser is bound, any judgment or order of a court of competent jurisdiction or any governmental authority, or any applicable law. The execution and delivery of this Agreement and the consummation of the transaction contemplated herein have been duly authorized by all necessary corporate action on the part of the Purchaser. This Agreement is a valid and binding obligation of the Purchaser enforceable in accordance with its terms;

(c) the Purchaser is or will be a registrant under Part IX of the ETA on the Closing Date; and

(d) the Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property.

22. Bring Down and Survival. The Parties agree that each Party may rely upon the representations and warranties set out in Sections 21 and 22, as applicable, notwithstanding any due diligence (or absence thereof). Each of the Purchaser and the Vendor shall deliver a "bring-down" certificate on Closing confirming the continuing truth and completeness of such representations and warranties as of the Closing Date

23. Vendor's Covenants. The Vendor covenants and agrees with the Purchaser that the Vendor shall not mortgage or otherwise encumber the Property pending Closing.

24. As Is. The Purchaser acknowledges that the Vendor is selling and the Purchaser is purchasing the Purchased Assets on an "as is, where is" and "without recourse" basis as the Purchased Assets shall exist on the Closing Date, including, without limitation, whatever defects, conditions, impediments, hazardous materials or deficiencies exist on the Closing Date, whether patent or latent. The Purchaser further acknowledges and agrees that it has entered into this Agreement on the basis that neither the Vendor nor the Debtors have guaranteed or will guarantee

title to or marketability, use or quality of the Purchased Assets, that the Purchaser will conduct such inspections of the condition and title to the Purchased Assets as it deems appropriate and will satisfy itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Vendor to sell, assign, convey or transfer same, save and except as expressly provided in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act*, R.S.O. 1990, c. S.1, do not apply hereto and/or have been waived by the Purchaser. The description of the Chattels contained in this Agreement is for the purpose of identification only and no representation, warranty or condition has or will be given by the Vendor concerning the accuracy of such description.

25. Adjustments. The balance due on closing shall be adjusted, as of the Closing Date, for realty taxes, local improvement rates, unmetered utilities, adjustments provided for in the other sections of this Agreement and any other items which are usually adjusted for according to the usual practice for transactions for similar commercial property in the vicinity, except there shall be no adjustment for insurance. If the amount of any adjustments required to be made pursuant to this Agreement cannot be reasonably determined as of the Closing Date, an estimate shall be agreed upon by the Parties as of the Closing Date based upon the best information available to the Parties at such time, each Party acting reasonably, and such estimate shall serve as a final determination. Except as otherwise provided in this Agreement, the Vendor shall be entitled to all income and responsible for all expenses for the Property up to 11:59 p.m. on the day immediately before the Closing Date, and the Purchaser shall be entitled to all income and responsible for all expenses from and after the Closing Date. The Vendor shall prepare and deliver to the Purchaser a draft statement of adjustments at least 10 days prior to the Closing Date.

26. Vendor's Closing Deliveries. The Vendor agrees to deliver to the Purchaser on or before the Closing Date:

- (a) wire transfer particulars for the Vendor's trust account and a direction re: funds permitting payment of the balance of the Purchase Price thereto;
- (b) a copy of the issued and entered Approval and Vesting Order
- (c) a statement of adjustments as contemplated in Section 23 ;
- (d) the "bring-down" certificate contemplated in Section 22 and Section 34;
- (e) all keys, combination to locks and security passes for the Property; and
- (f) such other documents as may reasonably be required by the Purchaser and are customarily utilized for sale transactions involving similar commercial property in the vicinity.

27. Purchaser's Closing Deliveries. The Purchaser agrees to deliver to the Vendor on or before the Closing Date:

- (a) balance of the Purchase Price in accordance with Section 7 of this Agreement;
- (b) direction re title or assignment documents contemplated in Section 33 of this Agreement;
- (c) to the extent applicable, an assignment and assumption agreement with respect with all permits and contracts and to the extent not assignable, an agreement that the Vendor will hold same in trust for the Purchaser;
- (d) the HST statutory declaration and indemnity contemplated in Section 28 of this Agreement;
- (e) the "bring-down" certificate contemplated in Section 22; and
- (f) such other documents as may reasonably be required by the Vendor and are customarily utilized for sale transactions involving similar commercial property in the vicinity.

28. Harmonized Sales Tax ("HST"). HST, if applicable to this transaction, shall be in addition to the Purchase Price. If the Purchaser, or any person or entity approved under and complying with Section 33 of this Agreement to assume the obligations of the Purchaser under this Agreement (an "**Assignee**"), and any person or entity that will be a beneficial owner of the Property upon Closing for whom the Purchaser, or Assignee, acts as nominee or agent ("**Beneficial Owner**"), delivers to the Vendor on the Closing:

- (a) a statutory declaration that it is registered for the purposes of Part IX of the *Excise Tax Act*, R.S.C. 1985, c. E-15 (Canada) in accordance with the requirements of Subdivision D of Division V and including the registration number assigned to it; and
- (b) an indemnity pursuant to which the Purchaser or such Assignee, and any Beneficial Owner, agree to indemnify the Vendor for any amounts for which the Vendor may become liable as a result of any failure by any or all of them to pay the HST payable in respect of the sale of the Property under Part IX of the *Excise Tax Act* (Canada), or otherwise;

then the Purchaser or such Assignee, and any Beneficial Owner, shall not be required to pay to the Vendor, nor shall the Vendor be required to collect from any or all of them, HST with respect to the purchase of the Property. If the Purchaser or such Assignee, and any Beneficial Owner, shall fail to deliver such statutory declaration and indemnity, then the Purchaser, or such Assignee, and any Beneficial Owner shall pay to the Vendor, in addition to the Purchase Price, in pursuance of its or any Beneficial Owner's obligation to pay and the Vendor's obligation to collect the HST under the provisions of the *Excise Tax Act* (Canada), an amount equal to the HST payable on the Purchase Price.

If this transaction is not subject to HST, the Vendor shall confirm this in a statutory declaration delivered to the Purchaser on or before Closing. Such statutory declaration shall be in a form and content acceptable to the Purchaser, acting reasonably, and in accordance with any prescribed requirements in the *Excise Tax Act* (Canada).

29. Fees and Taxes. The cost of registering the conveyance of title to the Property shall be at the Purchaser's expense. Each party shall pay the fees of its own lawyers. The Purchaser shall pay all land transfer taxes payable on the conveyance of the Property from the Vendor to the Purchaser and any retail sales taxes payable on the transfer of the Chattels from the Vendor to the Purchaser.

30. Electronic Registration. This transaction shall be completed on the Closing Date by electronic registration at the Vendor's lawyer's offices and the Purchaser's lawyer's offices, or at such other place as may be agreed to in writing by the parties or their respective lawyers. The Vendor and Purchaser acknowledge and agree that documents may be exchanged on Closing at the agreed upon place of Closing or delivered to the other party in properly executed form by email PDF transmission or other similar system reproducing the original. The Vendor and Purchaser acknowledge and agree that the delivery and exchange of documents, monies and possession of the Purchased Assets and the release thereof to the Vendor and the Purchaser, as the case may be, shall not occur contemporaneously with the registration of the transfer and other registrable documentation and may be governed by a document registration agreement (the "**DRA**") pursuant to which the Vendor's lawyers and the Purchaser's lawyers will hold in escrow all documents and monies received by them and will not release same to their respective clients except in strict accordance with the DRA. The parties hereby instruct their respective lawyers to enter into the DRA establishing the procedures for completion of this transaction in escrow and by means of electronic registration.

31. Tender. Any tender of documents or money pursuant to this Agreement may be made upon the lawyer acting for the party on whom tender is desired. Any tender of money may be made by certified cheque, bank draft or wire transfer of immediately available funds using the Lynx high-value payment system. It is expressly understood and agreed by the parties hereto that an effective tender shall be deemed to have been made by either party (the "**Tendering Party**") upon the other party (the "**Receiving Party**") when the Tendering Party's lawyer has completed, in addition to all other requirements to effect a valid tender in accordance with the provisions of this Agreement, all of the requirements to effect a valid tender in accordance with the provisions of the DRA in order to complete this transaction that can be performed or undertaken by the Tendering Party's lawyer without the cooperation or participation of the Receiving Party's lawyer, and specifically when the Tendering Party's lawyer has electronically "signed" the transfer and all other instruments to be registered against title to the Property at the time of the Closing for completeness and granted "access" to the Receiving Party's lawyer.

32. Damage Before Closing. The Purchased Assets shall be and remain at the risk of the Vendor until Closing. Pending Closing, the Vendor shall maintain all existing insurance for the Purchased Assets and hold all such insurance policies and the proceeds thereof in trust for the Vendor and the Purchaser as their interests may appear. In the event of substantial damage to the Purchased Assets prior to Closing, the Vendor shall notify the Purchaser in writing of such damage with details of the insurance coverage in place, and the Purchaser may elect, by notice in writing to the Vendor to terminate this transaction and Agreement and have the Deposit returned to it without deduction.

33. Assignment. The Purchaser may not assign this Agreement at any time, without the prior written consent of the Vendor, in its sole and absolute discretion, provided that the Purchaser may assign this Agreement to a entity affiliated with the Purchaser on prior notice to the Vendor, such

notice to include evidence of ownership of the proposed assignee. If the Vendor consents to an assignment, it shall always be a condition of any consent given that the Purchaser deliver to the Vendor, before or on the effective date of such assignment, a binding assumption agreement satisfactory in form and substance to the Vendor, acting reasonably, duly executed by such assignee and the Purchaser wherein the assignee agrees with the Vendor to be bound by the Purchaser's obligations under this Agreement. The original Purchaser shall not be released from liability under this Agreement until immediately after Closing.

34. Real Estate Commissions. The Vendor and Purchaser each represent and warrant to the other that neither has engaged any real estate agent or broker in connection with this purchase and sale transaction and accordingly no commissions are payable to any real estate brokers or agents. The Vendor and Purchaser shall deliver to each other a "bring-down" certificate on the Closing Date confirming the continuing truth and completeness of this representation and warranty on the Closing Date. This representation and warranty shall survive closing of this transaction for the survival period in Section 15(d) of this Agreement.

35. Receiver's Certificate The Parties acknowledge and agree that the Receiver shall be entitled to deliver to the Purchaser, and file with the Court, the executed Receiver's Certificate without independent investigation, upon receiving written confirmation from both Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Receiver shall have no Liability to the Parties in connection therewith. The Parties further acknowledge and agree that upon written confirmation from both Parties that all conditions of Closing in favour of such Party have been satisfied or waived, the Receiver may deliver the executed Receiver's Certificate to the Purchaser's counsel, and the Closing shall be deemed to have occurred.

36. Notices. Any notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third Business Day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section):

If to Vendor: FTI Consulting Canada Inc.
79 Wellington Street West
Toronto Dominion Centre, Suite 2010
P.O. Box 104
Toronto, ON M5K 1G8

Email: jeffrey.rosenberg@fticonsulting.com
Attention: Senior Managing Director

with a copy to: Bennett Jones, LLP

100 King Street West, Suite 400
Toronto ON M5X 1A4

Email: mightonj@bennettjones.com and
singhcheemam@bennettjones.com
Attention: Jesse Mighton and Milan Singh-Cheema

If to Purchaser: 6950 Base Line E, Wallaceburg, ON N8A 1A1
Facsimile: 519-627-6475
Email: jordan@selectfinishing.ca
Attention: Director

with a copy to: George Murray Shipley Bell, LLP
Facsimile: 519-336-1811
Email: pnorris@sarnialaw.com
Attention: Peter Norris

37. Time of the Essence. Time shall in all respects be of the essence of this Agreement. Where any date contemplated by this Agreement would otherwise fall on a day that is not a Business Day then such date shall be deemed to be the first Business Day thereafter. Deadline dates under this Agreement may be moved forward or back by an agreement in writing between the parties or their respective lawyers.

38. Captions, Table of Contents and Schedules. All schedules annexed or to be annexed to this Agreement shall have the same force and effect as if the information contained therein was included in the body of this Agreement.

39. Headings. Any heading, subheading or marginal note contained in this Agreement and the table of contents, if any, preceding this Agreement are inserted for convenience and for reference only and in no way define, limit or describe the scope or intent of this Agreement or form part of this Agreement.

40. Governing Law. This Agreement is governed by and construed in accordance with the laws of the Province of Ontario, and the federal laws of Canada applicable therein. The Parties hereby attorn to the exclusive jurisdiction of the Court for all matters in connection with this Agreement.

41. Entire Agreement and Amendments. This Agreement and all related schedules, constitutes the entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. Neither this Agreement nor any provision hereof may be amended or modified except pursuant to an agreement or agreements in writing entered into by the Purchaser and the Vendor.

42. Gender and Number. This Agreement shall be read with all changes of gender and number required by the context.

43. Successors and Assigns. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective permitted successors and permitted assigns.

44. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement by sending a scanned copy ("PDF" or "TIF") by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set out above.

**SELECT PROPERTY HOLDINGS
(ONTARIO) INC.**

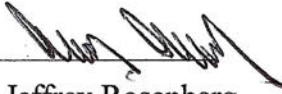
By  George Bogaert
STM4VKZ26AYD17T7

Name: George Bogaert

Title: President

I have authority to bind the Corporation

FTI CONSULTING CANADA INC., solely
in its capacity as receiver and manager of the
Non-Trade Personal Property, and not in its
personal or corporate capacity

By 

Name: Jeffrey Rosenberg

Title: Senior Managing Director

SCHEDULE A

The Property

PIN 00760-0121 (LT):

**PT LT 1 CON 19 CHATHAM PT 1-4 24R3832, S/T 450420 PARTIALLY RELEASED BY
484111, T/W 212024, 212025, 212026, 212206, 450420; S/T CH39033; CHATHAM-KENT**

SCHEDULE B

List of Chattels

[LIST CHATTELS INCLUDED IN THE PURCHASE PRICE UNDER SECTION 1(b) OF THIS AGREEMENT.]

SCHEDULE C

Due Diligence Materials

[LIST DUE DILIGENCE MATERIALS WHICH WERE SENT AND RECEIVED UNDER SECTION 7(b) OF THIS AGREEMENT.]

SCHEDULE D

Permitted Encumbrances

General Permitted Encumbrances

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates to the extent adjusted for under this Agreement;
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes;
3. Registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including without limitation, subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements; provided same have been complied with or security has been posted to ensure compliance and completion as evidenced by a letter from the relevant Authority or regulated utility;
4. Any unregistered easement, right-of-way, agreements or other unregistered interest of claims not disclosed by registered title provided same does not materially impact the Purchaser's intended use of the Property;
5. Any encroachments or other discrepancies that might be revealed by an up-to-date plan of survey of the Property;
6. Such other minor encumbrances or defects in title which do not, individually or in the aggregate, materially affect the use, enjoyment or value of the Property or any part thereof, or materially impair the value thereof;
7. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute; and
8. The following exceptions and qualifications contained in Section 44(1) of the Land Titles Act: paragraphs 7, 8, 9, 10, 12 and 14.

Specific Permitted Encumbrances

1. Instrument No. CH39033 registered November 18, 1947, being a Transfer Easement from H. J. Heinz Co. of Canada Ltd. To The Hydro-Electric Power Commission of Ontario.
2. Reference Plan 24R3832 deposited September 14, 1987.
3. Instrument No. 450420 registered September 28, 1987, being a Transfer from Nestle Enterprises Limited to Continental Can Canada Inc.

**T
A
B
G**

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

BETWEEN:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS
AMENDED**

**FEE AFFIDAVIT
(Sworn March 20, 2024)**

I, Jeffrey Rosenberg, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY AS FOLLOWS:**

1. I am a Senior Managing Director at FTI Consulting Canada Inc. ("**FTI**") who has had primary carriage of this file and, as such, have knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters discussed in this Affidavit, I have stated the source of my information and, in all cases, believe it to be true.
2. FTI is the Court-appointed Receiver in the above-captioned proceedings (in such capacity, the "**Receiver**").

3. Attached hereto as **Exhibits "A"- "E"** are copies of the Statements of Account rendered by FTI in connection with its role as Receiver for the period between October 30, 2023 and March 17, 2024. These Statements of Account have been redacted to address matters of confidentiality or privilege.

4. Attached hereto as **Exhibit "F"** is a table summarizing the aforementioned Statements of Account for the fees and disbursements incurred by FTI in connection with these proceedings for the period of October 30, 2023 to March 17, 2024.

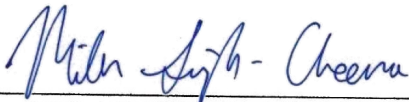
5. Attached hereto as **Exhibit "G"** is a table detailing, among other things, the hourly rates and the time expended by the various professionals at FTI who have worked on this matter for the period between October 30, 2023 to March 17, 2024.

6. The total fees (exclusive of disbursements and general and harmonized sales taxes) billed by FTI for the aforementioned accounts to March 17, 2024, in connection with its role the Receiver, are \$328,191. Barring unforeseen circumstances, the fees and disbursements of the Bennett Jones for the period from March 17, 2024 up to the effective date of the Receiver's discharge are estimated not to exceed \$150,000.00.

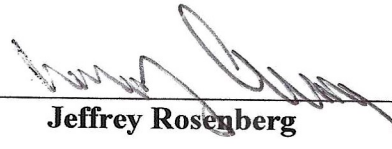
7. To the best of my knowledge, the rates charged FTI are comparable to the rates charged for the provision of services of a similar nature and complexity by other large consulting firms in the Toronto market.

8. This Affidavit is made in support of approval of the fees and disbursements of FTI as the Receiver, and for no other or improper purpose.

SWORN REMOTELY by Jeffrey Rosenberg stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on March 20, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



MILAN SINGH-CHEEMA
Commissioner for Taking Affidavits
(or as may be)



Jeffrey Rosenberg

THIS IS **EXHIBIT "A"** REFERRED TO IN
THE AFFIDAVIT OF JEFFREY ROSENBERG,
SWORN BEFORE ME THIS 20th DAY OF MARCH, 2024.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line through the middle of the letters.

MILAN SINGH-CHEEMA
A Commissioner for taking Affidavits
(or as may be)



Corporate Finance

November 30, 2023

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

RE: Financial Advisory
FTI Job No. 500000.3749
Invoice No. 102900000745

Enclosed is our invoice for professional services rendered in connection with the above referenced matter. This invoice covers professional fees through November 30, 2023.

Please do not hesitate to call me to discuss this invoice or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey Rosenberg", with a long horizontal stroke extending to the right.

Jeffrey Rosenberg
Senior Managing Director

FTI Consulting Canada, Inc.
TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Remittance

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

Invoice No. November 30, 2023
Job No. 102900000745
Terms 500000.3749
Currency Due Upon Receipt
Tax Registration: CAD

RE: Financial Advisory

Amount Due Current Invoice

\$174,137.12

Bank Information

Please indicate our invoice number with your remittance

[Redacted bank information]

Please remit cheque payments to:

FTI Consulting Canada Inc.
C/O T10073
P.O. Box 10073
Postal Station A
Toronto, ON M5W 2B1
Canada



Invoice Summary

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

Invoice No. **November 30, 2023**
Job No. **102900000745**
Terms **50000.3749**
Currency **Due Upon Receipt**
Tax Registration: **CAD**

RE: Financial Advisory

Name	Title	Rate	Hours	Total
Jeffrey Rosenberg	Senior Managing Director	\$1,230.00	74.00	\$91,020.00
Martin Franco	Senior Managing Director	\$1,050.00	0.80	\$840.00
Adsaran Vithiyananthan	Senior Consultant	\$590.00	85.00	\$50,150.00
Carter Wood	Senior Consultant	\$590.00	3.90	\$2,301.00
Caitlin Moreland	Receptionist	\$155.00	1.80	\$279.00
Total Professional Services			165.50	\$144,590.00

Expenses	Total
Air Travel	\$1,084.86
Business Meals	\$964.03
Hotel & Lodging	\$1,971.34
Mileage	\$967.58
Parking	\$14.78
Taxi	\$173.35
Total Expenses	\$5,175.94

Administrative Fee \$4,337.70

Invoice Total	CAD Amount
	\$154,103.64
HST (13%)	\$20,033.48
Total Due	\$174,137.12

FTI Consulting Canada, Inc.
TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com

Invoice Detail

November 30, 2023
Invoice No.
10290000745
Job No.
500000.3749

Total Professional Services
Jeffrey Rosenberg

10/24/2023	Work on sale of equipment; talk to prospective purchasers.	2.50
10/30/2023	Follow up on proposals; sign fee affidavit; finalize report for serving.	3.20
10/31/2023	Work on transferring funds; tracking down payment for purchases; insurance matters.	1.50
11/01/2023	Review bankruptcy forms; review correspondence from FCC; review deposit letter; review of court documents.	3.10
11/02/2023	Work on deal closing matters.	2.50
11/03/2023	Review comments from Goodmans with respect to the Landlord; review of IT matters; arrange for deposit sale of equipment; calls with Bennett Jones regarding hearing on Monday.	3.00
11/06/2023	Prepare for and attend court.	3.50
11/07/2023	Review of closing documents.	3.50
11/08/2023	Work on real estate matters; call with legal counsel; work on closing of the transaction.	3.50
11/09/2023	Work on court matters; work on landlord issues; work on supplier issues; review of payments.	2.60
11/10/2023	Work on alarm matters; work on disclaimers; work on return of equipment; correspondence from Lassonde; sale of equipment; review of order.	3.50
11/13/2023	Talk with potential purchaser of facility; work on assets sales; call with regarding landlord.	3.10
11/14/2023	Review of equipment sales; discussions regarding sale of property.	3.00
11/15/2023	Work on security matters; call with equipment supplier; call with EY regarding sorting out matters.	3.30
11/16/2023	Review of complaints from Tribunal; work on equipment sales.	2.00
11/20/2023	Call regarding sale of assets; make arrangements to show property.	3.00
11/21/2023	Work on asset sale; call with EY; call with potential purchasers.	2.50
11/22/2023	Work on calls with prospective purchasers; sales of miscellaneous assets.	3.00
11/23/2023	Review of Receiver motion materials; call with legal counsel; work on sale of equipment; bank analysis.	3.20
11/24/2023	Sign security agreement; work on reconciliation with EY; work on court documents; call with FCC; call with EY and legal counsel; review of legal documents.	3.50
11/27/2023	Sale of assets; work on selling building.	2.00
11/28/2023	Sales of miscellaneous equipment; work on analysis.	3.00

FTI Consulting Canada, Inc.
 TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
 Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Detail

November 30, 2023
Invoice No.
10290000745
Job No.
500000.3749

11/29/2023	Travel to facility to show prospective purchasers; review of agreement with landlord.	4.00	
11/30/2023	Attend meetings at company for sale of building.	6.00	
	\$1,230.00	per hour x total hrs	74.00
			\$91,020.00

Martin Franco

11/13/2023	Review agreement; changes to agreement; work on sale of assets.	0.80	
	\$1,050.00	per hour x total hrs	0.80
			\$840.00

Adsaran Vithiyanthan

10/30/2023	Whyte's Wallaceburg, ON site visit; discussions with employees on pending items and next steps; discussions with EY Parthenon; internal discussions; reviewing Receiver's hotline; updating internal trackers; phone calls to vendors; taking inventory of IT equipment on premises.	8.00	
10/31/2023	Whyte's Wallaceburg, ON site visit; discussions with employees on pending items and next steps; discussions with EY Parthenon; internal discussions; reviewing Receiver's hotline; updating internal trackers; phone calls to vendors.	8.00	
11/01/2023	Whyte's Wallaceburg, ON site visit; discussions with employees on pending items and next steps; discussions with EY Parthenon; internal discussions; reviewing Receiver's hotline; updating internal trackers; phone calls to vendors; site walk through with Wallaceburg asset purchaser.	9.00	
11/02/2023	Whyte's Wallaceburg, ON site visit; discussions with employees on pending items and next steps; discussions with EY Parthenon; internal discussions; reviewing Receiver's hotline; updating internal trackers; phone calls to vendors; site walk through with Wallaceburg asset purchaser; travel back to Toronto.	10.00	
11/03/2023	Internal discussions; brokerage proposal summary deck; discussions with management and employees; website updates.	2.50	
11/06/2023	Whyte's Sainte Therese site visit; walk around facility with Whyte's staff and asset purchaser; discussions with staff; internal discussions; website updates; calls with vendors; payment of invoices.	8.50	

FTI Consulting Canada, Inc.
 TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
 Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Detail

November 30, 2023
10290000745
500000.3749

Invoice No.
Job No.

11/07/2023	Site visit to Sainte Therese Whyte's facility; Internal discussions; discussions with staff at Sainte Therese; discussion with counsel on lease disclaimers; discussions with purchaser of equipment; updating internal trackers; travel back to Toronto.	8.00		
11/08/2023	Internal discussions; reviewing machinery and equipment listing; discussions with staff at Wallaceburg; discussions regarding sale of equipment to employees; discussions with counsel on lease disclaimers.	4.00		
11/09/2023	Internal discussions; discussions with employees on matters at Wallaceburg and Sainte Therese; discussions with counsel on lease disclaimers; payment of invoices pertaining to the Wallaceburg facility; email correspondence with vendors regarding payments, deposits, and outstanding items.	7.00		
11/10/2023	Internal discussions; discussions with counsel on disclaiming leases; reviewing disclaimer notices; reviewing lease tracker; discussions with employees on matters at Wallaceburg Facility; discussions with IT employees on ongoing IT support and next steps.	5.00		
11/13/2023	Discussions with employees on matters at Wallaceburg and Saint Therese; internal discussions; lease disclaimer discussions.	1.00		
11/14/2023	Correspondence with employees on matters at Wallaceburg and Saint Therese; discussions with vendors; internal discussions; updating internal trackers; sales of equipment to employees and third parties.	2.00		
11/15/2023	Correspondence with employees on matters at Wallaceburg and Saint Therese; discussions with vendors; internal discussions; updating internal trackers; sales of equipment to employees and third parties.	2.50		
11/16/2023	Internal discussions; discussions with employees on matters at Wallaceburg and St. Therese; determining monthly run-rates for Wallaceburg facility; discussions with vendors; updating internal trackers.	4.50		
11/17/2023	Internal discussions; call with IT department at Whyte's sister company regarding severing resources, terminating IT related contracts, and ensuring appropriate IT resources remain in place for Receivership; discussions with vendors; discussions with staff at Wallaceburg and St. Therese; discussions with counsel on lease disclaimers.	5.00		
	\$590.00	per hour x total hrs	85.00	\$50,150.00

Carter Wood

FTI Consulting Canada, Inc.
 TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
 Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Detail

Invoice No. November 30, 2023
Job No. 10290000745
 500000.3749


11/28/2023	Reconciling cash received to invoices; TR forms; discussions with Jeff.	3.30	
11/29/2023	TR forms.	0.60	
	\$590.00	per hour x total hrs	3.90
			\$2,301.00

Caitlin Moreland

10/31/2023	Website update.	0.40	
11/03/2023	Website update.	0.30	
11/07/2023	Website update.	0.50	
11/10/2023	Website update.	0.30	
11/24/2023	Website update.	0.30	
	\$155.00	per hour x total hrs	1.80
			\$279.00

	Total Professional Services	CAD	\$144,590.00
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THIS IS **EXHIBIT "B"** REFERRED TO IN
THE AFFIDAVIT OF JEFFREY ROSENBERG,
SWORN BEFORE ME THIS 20th DAY OF MARCH, 2024.

A handwritten signature in blue ink, reading "Milan Singh-Cheema".

MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)



Corporate Finance

January 08, 2024

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

RE: Financial Advisory
Job No. 500000.3749
Invoice No. 102900000851

Enclosed is our invoice for professional services rendered in connection with the above referenced matter. This invoice covers professional fees through December 31, 2023.

Please do not hesitate to call me to discuss this invoice or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey Rosenberg", written over a light blue horizontal line.

Jeffrey Rosenberg
Senior Managing Director

FTI Consulting Canada, Inc.
TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Remittance

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

Invoice No. January 08, 2024
Job No. 102900000851
Terms 500000.3749
Currency Due Upon Receipt
Tax Registration: CAD

RE: Financial Advisory

Current Invoice Period: Charges posted through December 31, 2023

Amount Due Current Invoice \$80,845.65

Bank Information

Please indicate our invoice number with your remittance

[Redacted bank information]

Please remit cheque payments to:

FTI Consulting Canada Inc.
C/O T10073
P.O. Box 10073
Postal Station A
Toronto, ON M5W 2B1
Canada



Invoice Summary

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

Invoice No. **January 08, 2024**
Job No. **102900000851**
Terms **50000.3749**
Currency **Due Upon Receipt**
Tax Registration: **CAD**

RE: Financial Advisory

Current Invoice Period: Charges posted through December 31, 2023

Name	Title	Rate	Hours	Total
Jeffrey Rosenberg	Senior Managing Director	\$1,230.00	29.60	\$36,408.00
Martin Franco	Senior Managing Director	\$1,050.00	0.70	\$735.00
Adsaran Vithiyananthan	Senior Consultant	\$590.00	50.80	\$29,972.00
Caitlin Moreland	Receptionist	\$155.00	0.40	\$62.00
Total Professional Services			81.50	\$67,177.00
Expenses				Total
Business Meals				\$767.91
Hotel & Lodging				\$502.32
Mileage				\$1,043.28
Parking				\$39.00
Total Expenses				\$2,352.51
Administrative Fee				\$2,015.31
Invoice Total				CAD Amount
HST (13%)				\$71,544.82
Total Due				\$9,300.83
				\$80,845.65



Invoice Detail

Invoice No. January 08, 2024
Job No. 10290000851
50000.3749

Total Professional Services
Jeffrey Rosenberg

12/01/2023	Work on sale of assets; work on selling building; work on occupancy agreements.	2.00	
12/04/2023	Review of documentation; review and approve payments.	2.50	
12/05/2023	Review of Receiver's reports; call with EY.	2.00	
12/06/2023	Work on removal of equipment.	2.00	
12/08/2023	Work on sale of assets and real estate.	2.00	
12/11/2023	Review of correspondence; work on report to creditor.	2.50	
12/12/2023	Work on sale of assets.	2.00	
12/13/2023	Work on report to creditor and distribution.	3.00	
12/14/2023	Work on sale of business.	2.00	
12/15/2023	Work on sale with prospective purchase; work on matters with Treehouse; call with Treehouse.	3.00	
12/19/2023	Call with purchaser; call with Treehouse; call with FCC; work on closing sale.	2.30	
12/20/2023	Work on closing real estate sale.	2.00	
12/21/2023	Work on sale of assets.	2.30	
		29.60	\$36,408.00
	\$1,230.00	per hour x total hrs	

Martin Franco

12/21/2023	Pickup keys and discussion Dany Plouffe.	0.70	
		0.70	\$735.00
	\$1,050.00	per hour x total hrs	

Adsaran Vithiyanthan

12/04/2023	Internal discussions; updating internal trackers; discussions with employees on matters at Wallaceburg and St. Therese; set up of payments for utilities; calls with vendors; drafting TR forms for payments received and payments made.	4.50	
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Invoice Detail

Invoice No. January 08, 2024
Job No. 10290000851
 500000.3749

12/05/2023	Internal discussions; summarizing employee equipment sale collections; calculating cost charge back to EY for use of Wallaceburg facility; discussions with employees at Wallaceburg and St. Therese; discussions with vendors; set up of payments to vendors; discussion with IT team on cameras at Wallaceburg.	6.00
12/06/2023	Internal discussions; reviewing equipment sale listing; discussions with employees at Wallaceburg and St. Therese on operational matters; updating internal trackers; communications with asset purchaser on asset removal.	2.00
12/07/2023	Internal discussions; discussions with Wells' Receiver on matters at Wallaceburg and St. Therese; discussions with staff at Wallaceburg and St. Therese.	1.80
12/08/2023	Call with asset purchaser on logistics of asset removal at St. Therese and Wallaceburg; discussions with employees at St. Therese and Wallaceburg; internal discussions.	2.20
12/11/2023	Drafting report to the Secured Creditor on Receiver's activities, summary of receipts and disbursements, and planned items; discussions with vendors; discussions with employees at Wallaceburg and St. Therese; discussions with APA purchaser on asset removal; set up of payments to vendors.	5.50
12/12/2023	Drafting and revising report to Farm Credit Canada; reviewing summary of receipts and disbursements; set up of payments for professional fees; discussions with employees at Wallaceburg and St. Therese; discussions with Wells' Receiver on pending items and separation of contracts.	4.00
12/13/2023	Discussions with employees at Wallaceburg and St. Therese; internal discussions; discussions with vendors.	2.20
12/14/2023	Inquiries with potential purchasers for remaining equipment in St. Therese; discussions with employees at St. Therese and Wallaceburg; internal discussions; updating internal trackers.	3.20
12/15/2023	Internal discussions; updating internal trackers; discussions with employees at Wallaceburg and St. Therese; review of equipment listing for additional sales.	2.00
12/19/2023	Call with Revenue Quebec on set up of new GST/QST account; discussions with employees in Wallaceburg and St. Therese on matters at each facility; internal discussions; vendor discussions on outstanding payments; updating receipts and disbursements summary for new transactions; updating internal trackers; calculating cost recovery from Wells' Receiver.	8.40
12/20/2023	Discussions with employees at Wallaceburg and St. Therese on matters at each site; discussions with Wells' Receiver on pending items and contracts; internal discussions; updating internal trackers.	3.80

FTI Consulting Canada, Inc.
 TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
 Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Detail

Invoice No. January 08, 2024
Job No. 10290000851
 500000.3749

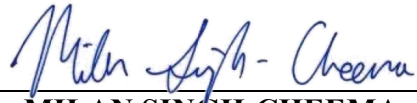
12/21/2023	Discussions with employees at Wallaceburg and St. Therese; internal discussions; updating internal trackers; discussions with potential liquidators on excess assets in St. Louis and St. Therese.	2.00		
12/22/2023	Discussions with employees at Wallaceburg and St. Therese; updating internal trackers.	1.20		
12/27/2023	Discussions with employees at Wallaceburg and St. Therese; follow-up with liquidator on excess machinery; follow-up on pending items.	1.00		
12/28/2023	Discussions with employees at Wallaceburg and St. Therese; follow-up with liquidator on excess machinery; follow-up on pending items.	1.00		
			\$590.00	per hour x total hrs
			50.80	\$29,972.00

Caitlin Moreland

12/01/2023	Website update.	0.20		
12/20/2023	Website update.	0.20		
			\$155.00	per hour x total hrs
			0.40	\$62.00

			Total Professional Services	CAD	\$67,177.00
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THIS IS **EXHIBIT "C"** REFERRED TO IN
THE AFFIDAVIT OF JEFFREY ROSENBERG,
SWORN BEFORE ME THIS 20th DAY OF MARCH, 2024.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line underneath it.

MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)



Corporate Finance

February 08, 2024

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

RE: Financial Advisory
Job No. 500000.3749
Invoice No. 102900000933

Enclosed is our invoice for professional services rendered in connection with the above referenced matter. This invoice covers professional fees through January 31, 2024.

Please do not hesitate to call me to discuss this invoice or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey Rosenberg", written over a light blue horizontal line.

Jeffrey Rosenberg
Senior Managing Director

FTI Consulting Canada, Inc.
TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Remittance

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

Invoice No.
Job No.
Terms
Currency
Tax Registration:

February 08, 2024
10290000933
500000.3749
Due Upon Receipt
CAD

RE: Financial Advisory

Current Invoice Period: Charges posted through January 31, 2024

Amount Due Current Invoice **\$53,816.65**

Bank Information

Please indicate our invoice number with your remittance

[Redacted bank information]

Please remit cheque payments to:

FTI Consulting Canada Inc.
C/O T10073
P.O. Box 10073
Postal Station A
Toronto, ON M5W 2B1
Canada



Invoice Summary

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

February 08, 2024
Invoice No. 102900000933
Job No. 50000.3749
Terms Due Upon Receipt
Currency CAD
Tax Registration:

RE: Financial Advisory

Current Invoice Period: Charges posted through January 31, 2024

Name	Title	Rate	Hours	Total
Jeffrey Rosenberg	Senior Managing Director	\$1,230.00	21.20	\$26,076.00
Adsaran Vithiyananthan	Senior Consultant	\$590.00	33.50	\$19,765.00
Total Professional Services			54.70	\$45,841.00
Expenses				Total
Mileage				\$409.12
Total Expenses				\$409.12
Administrative Fee				\$1,375.23
Invoice Total				CAD Amount
				\$47,625.35
HST (13%)				\$6,191.30
Total Due				\$53,816.65



Invoice Detail

February 08, 2024
Invoice No. 10290000933
Job No. 50000.3749

Total Professional Services
Jeffrey Rosenberg

01/05/2024	Work on sale of assets; review of emails; call with FCC; call with purchaser's legal counsel.	2.00	
01/08/2024	Work on offer.	2.00	
01/11/2024	Review of lease agreement; call with Treehouse; work on landlord notice matters.	2.00	
01/12/2024	Review of purchase agreement for Wallaceberg facility and provide comments thereon; attend call with Treehouse; discussions with Cushman.	3.00	
01/15/2024	Review of agreements; call to prospective purchaser.	2.00	
01/16/2024	Work on lease agreement.	2.00	
01/17/2024	Work on sale of land; calls with Treehouse.	1.00	
01/18/2024	Work on removal of equipment from St. Terese.	1.00	
01/19/2024	Work on sales matters.	0.50	
01/23/2024	Speak with prospective purchaser; speak with FCC.	1.00	
01/24/2024	Work on sale of miscellaneous goods; review of Kroll matter.	1.00	
01/25/2024	Call regarding tour of facility; call with prospective purchaser.	1.00	
01/26/2024	Review of lease agreement and correspondence with Treehouse; review of settlement agreement.	1.00	
01/29/2024	Work on landlord matters.	0.20	
01/30/2024	Settlement with Kroll; call with potential purchaser; negotiating with purchaser.	1.50	
	\$1,230.00	per hour x total hrs	21.20
			\$26,076.00

Adsaran Vithiyananthan

01/02/2024	Updating internal trackers; reviewing Receiver's hotline.	0.50
01/03/2024	Updating internal trackers; issuing wire payments to vendors for invoices; discussions with employees at Wallaceburg; discussions with vendors on outstanding items.	1.50
01/08/2024	Discussions with employees; discussion with purchaser on sale of IT equipment in Wallaceburg; updating internal trackers.	1.20
01/09/2024	Discussions with staff at Wallaceburg; discussions with purchaser on computer equipment sale.	0.60

FTI Consulting Canada, Inc.
 TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
 Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com

Invoice Detail

February 08, 2024
Invoice No. 10290000933
Job No. 500000.3749

01/10/2024	Discussions with employees on matters at Wallaceburg and St. Therese; discussion with purchasers of equipment; follow-up with THS on St. Therese auction; internal discussions; updating internal trackers; issuance of payments for vendors.	2.40
01/11/2024	Discussions with employees on matters at Wallaceburg; discussions with liquidators on potential sale of excess equipment; calculations with respect to License Agreement at Wallaceburg; internal discussions; updating internal trackers.	2.60
01/15/2024	Discussions with employees at Wallaceburg and St. Therese; updating calculations for License Agreement; internal discussions; follow-up on outstanding items; discussions with new occupant in St. Therese regarding equipment sale.	2.20
01/16/2024	Discussions with employees at Wallaceburg and St. Therese; updating calculations for and reviewing License Agreement ; internal discussions; follow-up on outstanding items; issuing payments to vendors; follow-up with potential liquidator of excess equipment in QC; updating internal trackers.	2.50
01/17/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; follow-up on outstanding items; issuing payments to vendors; follow-up with vendors on equipment sales; updating internal trackers; discussions with purchaser's auctioneer.	2.10
01/18/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; follow-up on outstanding items; follow-up with vendors on equipment sales; updating internal trackers; discussions with purchaser's auctioneer.	1.10
01/19/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; follow-up on outstanding items; follow-up with vendors on equipment sales; updating internal trackers.	1.50
01/22/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; follow-up on outstanding items; follow-up with vendors on equipment sales; updating internal trackers; issuing payments to vendors.	1.50
01/23/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; issuing payment to vendors; updating internal trackers; set up of QST/GST return items; follow-up on outstanding items; correspondence with Revenue Quebec regarding Receiver's QST/GST account.	1.80
01/24/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; updating internal trackers; set up of QST/GST return items; follow-up on outstanding items; follow-up with interested parties on equipment and asset sales.	2.50

FTI Consulting Canada, Inc.
 TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
 Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Detail

February 08, 2024
Invoice No. 10290000933
Job No. 500000.3749

01/25/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; updating internal trackers; follow-up on outstanding items; follow-up with interested parties on equipment and asset sales; discussions with brokerage on facility tour.	1.50	
01/26/2024	Updating internal trackers; issuing payments to vendors; discussions with brokerage; internal discussions.	1.00	
01/29/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; follow-up on outstanding items; follow-up with vendors on equipment sales; updating internal trackers; issuing payments to vendors; discussions regarding sale of assets in St. Therese; discussions with Wells' Receiver on asset sales; updating License Fee for Occupational Agreement; submitting forms to Revenue Quebec for new QST/GST account.	3.10	
01/30/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; follow-up on outstanding items; follow-up with vendors on equipment sales; updating internal trackers; receiving funds from vendors for equipment sales; discussions regarding sale of assets in St. Therese; discussions with asset purchaser on future site access; discussion with Revenue Quebec for new QST/GST account; discussions with vendors.	1.80	
01/31/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; follow-up on outstanding items; follow-up with vendors on equipment sales; updating internal trackers; discussions regarding sale of assets in St. Therese; discussions with counsel on asset sales; issue payments to vendors.	2.10	
	\$590.00	per hour x total hrs	33.50
			\$19,765.00

Total Professional Services	CAD	\$45,841.00
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THIS IS **EXHIBIT "D"** REFERRED TO IN
THE AFFIDAVIT OF JEFFREY ROSENBERG,
SWORN BEFORE ME THIS 20th DAY OF MARCH, 2024.

A handwritten signature in blue ink, reading "Milan Singh-Cheema".

MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)



Corporate Finance

March 12, 2024

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

RE: Financial Advisory
Job No. 500000.3749
Invoice No. 102900001028

Enclosed is our invoice for professional services rendered in connection with the above referenced matter. This invoice covers professional fees through February 29, 2024.

Please do not hesitate to call me to discuss this invoice or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey Rosenberg", written over a light blue horizontal line.

Jeffrey Rosenberg
Senior Managing Director

FTI Consulting Canada, Inc.
TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Remittance

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

Invoice No. **March 12, 2024**
Job No. **102900001028**
Terms **500000.3749**
Currency **Due Upon Receipt**
Tax Registration: **CAD**

RE: Financial Advisory

Current Invoice Period: Charges posted through February 29, 2024

Amount Due Current Invoice \$44,513.72

Bank Information

Please indicate our invoice number with your remittance

[Redacted bank information]

Please remit cheque payments to:

**FTI Consulting Canada Inc.
C/O T10073
P.O. Box 10073
Postal Station A
Toronto, ON M5W 2B1
Canada**



Invoice Summary

Farm Credit Canada
 100 - 120 Research Lane
 Guelph, ON N1G 0B5
 Canada

Invoice No. **March 12, 2024**
 Job No. **102900001028**
 Terms **50000.3749**
 Currency **Due Upon Receipt**
 Tax Registration: **CAD**

RE: Financial Advisory

Current Invoice Period: Charges posted through February 29, 2024

Name	Title	Rate	Hours	Total
Jeffrey Rosenberg	Senior Managing Director	\$1,230.00	12.40	\$15,252.00
Adsaran Vithiyananthan	Senior Consultant	\$590.00	38.90	\$22,951.00
Total Professional Services			51.30	\$38,203.00
Expenses				Total
Business Meals				\$12.50
Purchased Services				\$31.08
Total Expenses				\$43.58
Administrative Fee				\$1,146.09
Invoice Total				CAD Amount
				\$39,392.67
HST (13%)				\$5,121.05
Total Due				\$44,513.72



Invoice Detail

Invoice No. March 12, 2024
Job No. 102900001028
500000.3749

Total Professional Services
Jeffrey Rosenberg

02/01/2024	Call with Bennett Jones regarding various matters relating to the sale of equipment and Treehouse; call with Care regarding assets sale; send package regarding assets for sale; sign the occupancy agreement.	1.50	
02/02/2024	Work on collecting receipts and asset sales; landlord notices.	1.00	
02/05/2024	Removal of equipment; work on sale matters.	1.50	
02/06/2024	Work on IT matters; call with prospective purchaser; sale of assets.	1.00	
02/07/2024	Working on removal of wall issues.	1.00	
02/09/2024	Working on removal of equipment from; review of revised agreement.	2.10	
02/12/2024	Work with respect to judgement with judgment; work on closing transaction.	0.90	
02/13/2024	Work on final documents for preparation of sale; call with Whyte's.	1.00	
02/15/2024	Work on closing transaction.	0.90	
02/22/2024	Call with Treehouse and purchasers; review of files.	1.00	
02/29/2024	Calls regarding request of information from purchasers.	0.50	
\$1,230.00		per hour x total hrs	12.40
			\$15,252.00

Adsaran Vithiyananthan

02/01/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; follow-up on outstanding items; follow-up with vendors on equipment sales; updating internal trackers; discussions regarding sale of assets in St. Therese; discussions with asset purchaser on future site access; discussions regarding sale of remaining assets in St. Therese to landlord; communications with counsel on the same.	3.10	
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FTI Consulting Canada, Inc.
TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com

Invoice Detail

Invoice No.
Job No.

March 12, 2024
102900001028
500000.3749

02/02/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; follow-up on outstanding items; follow-up with vendors on equipment sales; updating internal trackers; discussions regarding sale of assets in St. Therese and Wallaceburg; discussions regarding sale of remaining assets in St. Therese to landlord; communications with counsel on the same; follow-up with IESO on FIT contract; reviewing Occupancy License Agreement; landlord notice of equipment removal.	3.40
02/05/2024	Discussions with employees at Wallaceburg and St. Therese; internal discussions; follow-up on outstanding items; follow-up with vendors on equipment sales; updating internal trackers; issuing payments to vendors; reviewing bill of sales; various calls with interested parties on remaining assets; correspondence with asset purchaser; internal discussions.	4.20
02/06/2024	Internal discussions; discussions with St. Therese asset purchaser on Bill of Sale and multiple emails regarding the same; discussions with St. Louis asset purchaser on Bill of Sale and multiple emails regarding the same; discussion with Wells' Receiver on outstanding matters in St. Therese; discussions with employee in Wallaceburg; discussion with interested party on building; discussion with Wallaceburg asset purchaser; discussion with St. Therese occupants on ongoing items; correspondence with counsel on outstanding items.	3.60
02/07/2024	Internal discussions; discussions with St. Therese asset purchaser on Bill of Sale and multiple emails regarding the same; discussions with St. Louis asset purchaser on Bill of Sale and multiple emails regarding the same; discussions with St. Therese occupant on damaged gate and several follow-ups regarding the same; discussion with Wallaceburg asset purchaser; correspondence with counsel on outstanding items; issuance of payment to Kroll.	3.20
02/08/2024	Discussions with St. Therese landlord on asset sale; discussions with St. Louis asset purchaser on payment and shipment; issuance of payments for invoices received; updating internal trackers; discussions with employee in Wallaceburg.	2.60
02/09/2024	Internal discussions; discussions with employee at Wallaceburg; discussions with St. Therese asset purchaser on Bill of Sale; discussions with counsel on Bill of Sale; discussions with Wallaceburg asset purchaser on outstanding items; issuance of payments to vendors.	2.00

FTI Consulting Canada, Inc.
 TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
 Toronto, ON M5K1G8 Canada

Invoice Detail
Invoice No.
Job No.
March 12, 2024
102900001028
500000.3749

02/12/2024	Finalizing Bill of Sale for St. Therese assets; follow-up on Bill of Sale with purchaser; follow-up with third party; reviewing asset listing for discrepancies; reviewing Wallaceburg asset purchasers' auction listing for consistency; follow-up with Wallaceburg asset purchaser; reviewing materials from counsel.	2.40
02/13/2024	Follow-ups with purchasers of assets in St. Louis; receiving funds from asset purchasers; internal discussions regarding asset sales, outstanding items, and Wallaceburg property; call with telecommunications provider on severing connections between St. Therese and Wallaceburg and ensuring no continued dependence on other facilities; email correspondence between counsel; updating internal trackers; calls and discussions with employees in Wallaceburg and St. Therese.	2.30
02/14/2024	Discussions with asset purchase in St. Louis on equipment removal; discussions with employees in St. Louis and Wallaceburg; follow-up on changeover of accounts for telecommunications; updating internal trackers.	1.30
02/15/2024	Discussions with workers at St. Therese and Wallaceburg; tracing funds from sale of assets in St. Louis; coordinating pick up of asset sales in St. Louis and multiple follow-ups with purchaser; updating internal trackers; drafting letter requested by contractor in Wallaceburg.	1.60
02/20/2024	Discussion with Entegrus on receiving payment for the solar generation; discussion with Chubb on invoicing and account transfer; phone call with Chubb regarding monitoring alarm alert; discussion with contractor in Wallaceburg regarding site visit, outstanding items, and return of leased items; follow-up on other outstanding items; updating internal trackers; receiving cheque for sale of equipment to employee.	2.10
02/21/2024	Call with interested party on building in Wallaceburg for sale; call with Quebec vendor on asset held for Whyte's; follow-up call with Putters to confirm asset held by third party vendor in QC; discussions with contractor in Wallaceburg on site access for building purchaser.	1.60
02/22/2024	Discussions with contractor in Wallaceburg; call with Chubb on outstanding invoices.	0.70
02/23/2024	Call with contractor in Wallaceburg on building purchaser site access; follow-up with Converge on transfer of ownership of account for Wallaceburg.	0.80
02/26/2024	Correspondence with contractor in Wallaceburg and set up of payments for vendors.	0.60

FTI Consulting Canada, Inc.
 TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
 Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Detail

Invoice No. March 12, 2024
Job No. 102900001028
 500000.3749

02/27/2024	Discussions with contractor in Wallaceburg on plumbing issue; discussion with Wallaceburg asset purchaser on auction and asset removal; set up of wire payments; discussion on filing QST and registering for clicSEQUR portal to file GST and QST returns.	1.10
02/28/2024	Discussions with contractor in Wallaceburg on plumbing issue; sending due diligence documents to building purchaser; discussions with Wallaceburg asset purchaser on final walk through on handover of premises.	0.70
02/29/2024	Discussions on plumbing issue in Wallaceburg; issuing payment to plumbers; several calls and discussions with contractor in Wallaceburg; correspondence with insurance broker on policy documents and sending the same for due diligence purposes to the building purchaser.	1.60
	\$590.00	per hour x total hrs
		38.90
		\$22,951.00

Total Professional Services CAD \$38,203.00

THIS IS **EXHIBIT "E"** REFERRED TO IN
THE AFFIDAVIT OF JEFFREY ROSENBERG,
SWORN BEFORE ME THIS 20th DAY OF MARCH, 2024.



MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)



Corporate Finance

March 19, 2024

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

RE: Financial Advisory
Job No. 500000.3749
Invoice No. 102900001037

Enclosed is our invoice for professional services rendered in connection with the above referenced matter. This invoice covers professional fees through March 17, 2024.

Please do not hesitate to call me to discuss this invoice or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey Rosenberg", written over a light blue horizontal line.

Jeffrey Rosenberg
Senior Managing Director

FTI Consulting Canada, Inc.
TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Remittance

**Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada**

**Invoice No.
Job No.
Terms
Currency
Tax Registration:**

**March 19, 2024
102900001037
500000.3749
Due Upon Receipt
CAD**

RE: Financial Advisory

Current Invoice Period: Charges posted through March 17, 2024

Amount Due Current Invoice \$38,196.48

Bank Information

Please indicate our invoice number with your remittance

[REDACTED]

Please remit cheque payments to:

**FTI Consulting Canada Inc.
C/O T10073
P.O. Box 10073
Postal Station A
Toronto, ON M5W 2B1
Canada**



Invoice Summary

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

Invoice No. **March 19, 2024**
Job No. **102900001037**
Terms **500000.3749**
Currency **Due Upon Receipt**
Tax Registration: **CAD**

RE: Financial Advisory

Current Invoice Period: Charges posted through March 17, 2024

Name	Title	Rate	Hours	Total
Jeffrey Rosenberg	Senior Managing Director	\$1,230.00	6.30	\$7,749.00
Jodi Porepa	Senior Managing Director	\$1,050.00	1.60	\$1,680.00
Adsaran Vithiyananthan	Senior Consultant	\$590.00	38.90	\$22,951.00
Total Professional Services			46.80	\$32,380.00

Expenses	Total
Business Meals	\$47.39
Mileage	\$403.40
Total Expenses	\$450.79

Administrative Fee	\$971.40
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Invoice Total	CAD Amount
	\$33,802.19
HST (13%)	\$4,394.29
Total Due	\$38,196.48



Invoice Detail

Invoice No. March 19, 2024
Job No. 102900001037
 500000.3749

Total Professional Services
Jeffrey Rosenberg

03/01/2024	Work with respect to removal of equipment and various emails regarding the same; correspondence from prospective purchaser.	1.10		
03/04/2024	Call with staff; correspondence with Treehouse; call with Bennett Jones.	1.10		
03/05/2024	Work with respect to demolition matters.	0.30		
03/07/2024	Review of correspondence regarding closing matters; removal of assets.	1.00		
03/09/2024	Provide information for sale close.	0.40		
03/11/2024	Work on final information for purchaser.	0.30		
03/12/2024	Work on closing matters.	0.30		
03/15/2024	Work on Municipality matters; discussions with purchaser.	1.80		
	\$1,230.00	per hour x total hrs	6.30	\$7,749.00

Jodi Porepa

03/06/2024	Internal status update; call with Bennett Jones to discuss court report; call with counsel to discuss upcoming report and next steps; internal status update discussion.	1.10		
03/08/2024	Internal status update; call with Bennett Jones to discuss court report; call with counsel to discuss upcoming report and next steps; internal status update discussion.	0.50		
	\$1,050.00	per hour x total hrs	1.60	\$1,680.00

Adsaran Vithiyananthan

03/01/2024	Discussions with contractor in Wallaceburg; discussions with Wallaceburg asset purchaser on waste removal.	0.60		
03/04/2024	Discussion with Wallaceburg asset purchaser on boiler removal; discussion with Receiver's counsel regarding Wallaceburg matters.	1.70		

Invoice Detail

March 19, 2024
Invoice No. 102900001037
Job No. 500000.3749

03/05/2024	Travel to Wallaceburg; meet with Wallaceburg building purchaser and their lenders to do a walk through of entire premises, discuss transition and closing, and determine next steps to finalize close of sale; discussion with machinery and equipment purchaser and their auction team to discuss logistics, expected condition of premises on exit, and any items of concern; call with IT in St. Therese on sale of IT equipment; discussion with Receiver's counsel on language to Wallaceburg asset purchaser; travel back to Toronto.	10.20
03/06/2024	Internal discussions on Wallaceburg and outstanding matters; discussion with Receiver's counsel on next court date and required materials; set up of payments.	1.20
03/07/2024	Call with Receiver's counsel on reporting obligations in advance of next court hearing, closing steps on building sale; and other ancillary matters with respect to Receivership; email correspondence on outstanding property taxes in Wallaceburg and next steps; discussions on Statement of Adjustments for closing and outstanding utilities.	1.80
03/08/2024	Discussion with contractor in Wallaceburg on status of asset removal; internal discussion on upcoming Court date and Receiver's outstanding obligations; follow-up with telecommunications provider on Internet; correspondence with St. Therese occupant on outstanding items.	1.30
03/11/2024	Call with Revenue Quebec on filing QST and GST returns; follow-up with agents from Revenue Quebec on clicSEQUR and authorizing representatives; discussion with Receiver's counsel on property taxes and utilities; email correspondence with new tenant in St. Therese on Receiver's assets; review of updated cost allocation workbook from Wells' Receiver.	3.60
03/12/2024	Review revised cost allocation spreadsheet from Wells' Receiver and update as necessary; internal discussions on cost allocation; correspondence with Wells' Receiver on cost allocation; review comments from Receiver's Counsel on Court Report; call with Receiver's counsel on upcoming Court date and Report.	2.10
03/13/2024	Review Statement of Adjustments; discussions with contractor in Wallaceburg on draining tanks; review Receiver's hotline and respond to inquiries; travel to Wallaceburg to meet Wallaceburg asset purchaser.	3.70
03/14/2024	Wallaceburg site visit to meet and walk through with Wallaceburg asset purchaser for handover of property; perform independent walk through to identify areas to be cleaned before occupants leave premises; internal discussions on building sale; follow-up with former employee on permits; correspondence with Revenue Quebec on QST and GST filings.	3.90

FTI Consulting Canada, Inc.
 TD South Tower, 79 Wellington Street West, Suite 2010, P.O. Box 104
 Toronto, ON M5K1G8 Canada

GST/HST Registration Number: 835718024RT0001, QST Registration Number: 1230160542TQ0001 | fticonsulting.com



Invoice Detail

Invoice No. March 19, 2024
Job No. 102900001037
 500000.3749

03/15/2024	Site visit to Wallaceburg; walk around with Wallaceburg Asset Purchaser to determine final clean up items before handover of keys; walk around premises with Building Purchaser for final walk through to identify items to be cleaned and general expectations for close; multiple correspondences with the Municipality of Chatham-Kent on outstanding permits and final inspections; calls with former employee on permits and building inspections; internal discussions on next steps; correspondence with Receiver's counsel on building closing; travel back to Toronto.	8.00
03/16/2024	Set of payment to contractor and professionals; update summary of receipts and disbursements; review fee affidavit materials; complete transaction record forms.	0.80

\$590.00	per hour x total hrs	38.90	\$22,951.00
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Total Professional Services	CAD	\$32,380.00
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THIS IS **EXHIBIT "F"** REFERRED TO IN
THE AFFIDAVIT OF JEFFREY ROSENBERG
SWORN BEFORE ME THIS 20th DAY OF MARCH, 2024.

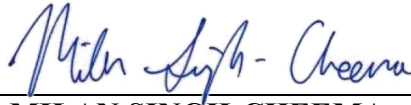


MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)

Invoice #	Period Ended	Fees	Expenses	Administration Fee	GST/HST	Total
1	November 30, 2023	144,590.00	\$5,175.94	\$4,337.70	\$20,033.48	\$174,137.12
2	December 31, 2023	\$67,177.00	\$2,352.51	\$2,015.31	\$9,300.83	\$80,845.65
3	January 31, 2024	\$45,841.00	\$409.12	\$1,375.23	\$6,191.30	\$53,816.65
4	February 29, 2024	\$38,203.00	\$43.58	\$1,146.09	\$5,121.05	\$44,513.72
5	March 17, 2024	\$32,380.00	\$450.79	\$971.40	\$4,394.29	\$38,196.48
Total		\$328,191	\$8,431.94	\$9,845.73	\$45 040.95	\$391 509.62

THIS IS **EXHIBIT "G"** REFERRED TO IN
THE AFFIDAVIT OF JEFFREY ROSENBERG,
SWORN BEFORE ME THIS 20th DAY OF MARCH, 2024.



MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)

Timekeeper	Title	Hourly Rate	Total Hours	Total Fees
Jeffrey Rosenberg	Senior Managing Director	\$1,230.00	143.5	\$176,505.00
Martin Franco	Senior Managing Director	\$1,050.00	1.50	\$1,575.00
Jodi Porepa	Senior Managing Director	\$1,050.00	1.60	\$1,680.00
Adsaran Vithiyananthan	Senior Consultant	\$590.00	247.1	\$145,789.00
Carter Wood	Senior Consultant	\$590.00	3.90	\$2,301.00
Caitlin Moreland	Receptionist	\$155.00	2.20	\$341.00
Total			399.80	\$328,191.00

Average hourly rate = \$820.89 ¹

¹ Exclusive of applicable general and harmonized sales taxes.

FARM CREDIT CANADA

and **WHYTE'S FOODS INC./LES ALIMENTS
WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK
INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

FEE AFFIDAVIT

BENNETT JONES LLP

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

Sean Zweig (LSO# 57307I)

Tel: (416) 777-6254

Email: zweigs@bennettjones.com

Jesse Mighton (LSO# 62291J)

Tel: (416) 777-6255

Email: mightonj@bennettjones.com

Milan Singh-Cheema (LSO# 88258Q)

Tel: (416) 777-5527

Email: singhcheemam@bennettjones.com

Lawyers for FTI Canada Consulting Inc.

T

A

B

H

Court File No. CV-23-00707205-00CL

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

BETWEEN:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS
AMENDED**

**FEE AFFIDAVIT
(Sworn March 20, 2024)**

I, Sean Zweig, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND
SAY AS FOLLOWS:**

1. I am a partner at Bennett Jones LLP ("**Bennett Jones**") who has had primary carriage of this file and, as such, have knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters discussed in this Affidavit, I have stated the source of my information and, in all cases, believe it to be true.

2. Bennett Jones is counsel to FTI Consulting Canada Inc. ("**FTI**"), in its capacity as the Court-appointed Receiver in the above-captioned proceedings (in such capacity, the "**Receiver**").

3. Attached hereto as **Exhibit “A”- “D”** are copies of the Statement of Account rendered by Bennett Jones in connection with its role as counsel to the Receiver for the period between October 17, 2023 and February 29, 2024. These Statement of Account have been redacted to address matters of confidentiality or privilege.

4. Attached hereto as **Exhibit “E”** is a table summarizing the aforementioned Statement of Account for the fees and disbursements incurred by Bennett Jones in connection with these proceedings for the period between

5. Attached hereto as **Exhibit “F”** is a table detailing, among other things, the hourly rates and the time expended by the various professionals at Bennett Jones who have worked on this matter for the period between October 17, 2023 and December 31, 2023.

6. Attached hereto as **Exhibit “G”** is a table detailing, among other things, the hourly rates and the time expended by the various professionals at Bennett Jones who have worked on this matter for the period between January 1, 2024 and February 29, 2024.

7. The total legal fees (exclusive of disbursements and general and harmonized sales taxes) billed by Bennett Jones for the aforementioned accounts to February 29, 2024 in connection with its role as counsel to the Receiver, are \$187,340.63. Barring unforeseen circumstances, the fees and disbursements of the Bennett Jones for the period from March 1, 2024 up to the effective date of the Receiver’s discharge are estimated not to exceed \$75,000.00.

8. To the best of my knowledge, the rates charged by Bennett Jones are comparable to the rates charged for the provision of services of a similar nature and complexity by other large legal firms in the Toronto market.

9. This Affidavit is made in support of approval of the fees and disbursements of Bennett Jones as counsel to the Receiver, and for no other or improper purpose.

SWORN REMOTELY by Sean Zweig stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on March 20, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



MILAN SINGH-CHEEMA

Commissioner for Taking Affidavits
(or as may be)

DocuSigned by:



65B6BE2E814144E...

SEAN ZWEIG

THIS IS **EXHIBIT "A"** REFERRED TO IN
THE AFFIDAVIT OF SEAN ZWEIG,
SWORN BEFORE ME THIS 20TH DAY OF MARCH, 2024.

A handwritten signature in blue ink, reading "Milan Singh-Cheema".

MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)

**Bennett Jones**

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

FTI CONSULTING CANADA INC.
SUITE 2010, 79 WELLINGTON STREET WEST
TORONTO, ON M5K 1G8

**Attention: JEFFREY ROSENBERG
SENIOR MANAGING DIRECTOR**

Re: Whyte's Canada Inc.
Our File Number: 076142.00016

Date: December 11, 2023
Invoice: 1546713

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	\$	108,898.00
Disbursements	\$	(19.00)
Disbursements Incurred As Your Agent (Non Taxable)	\$	405.00
Total Due before Tax	\$	109,284.00
GST/HST	\$	14,154.27
Total Due in CAD	\$	123,438.27

Due upon receipt. Bennett Jones reserves the right to charge interest at a rate not greater than 12% per annum on outstanding invoices over 30 days. We collect, use and disclose information pursuant to our Privacy Policies. For further information visit our website at www.bennettjones.com. GST/HST number: 119346757 QST number: 1230818653



Bennett Jones

December 11, 2023
Page 2

Client:
Invoice No.:

076142.00016
1546713

Date	Name	Description	Hours
17/10/23	David Rotchtin	Responding to emails regarding security review and coordinating associate involvement	0.70
18/10/23	David Rotchtin	Emails regarding security review; Initial review of FCC receivership application record to prepare for security review; Meeting with F. Wu to discuss security review and coordination with Montreal office for review of Quebec security documents	1.90
19/10/23	Jane Sergievskaya	Ordering, reviewing and summarizing PPSA search results; Email correspondence	1.60
19/10/23	David Rotchtin	Calls and emails to coordinate security review; Continuing to conduct high-level review of FCC security	1.50
20/10/23	David Rotchtin	Discussions with F. Wu on preparation of security review memorandum	0.80
24/10/23	David Rotchtin	Reviewing and discussing draft Ontario security review memorandum with F. Wu; Reviewing emails regarding Quebec security review	3.80
25/10/23	David Rotchtin	Various emails regarding diligence questions arising from security review; Coordinating with R. Burgos on language for Receiver's report	2.70
26/10/23	David Rotchtin	Reviewing and commenting on security review provisions of the Receiver's reports; Coordinating Quebec comments with R. Burgos regarding same; Responding to emails	2.50
27/10/23	Frances Wu	Revising and finalizing draft opinion	4.40
27/10/23	David Rotchtin	Responding to various questions regarding security review in connection with Receiver's report	0.80
28/10/23	Jesse Mighton	Reviewing motion record	1.20
28/10/23	Sean Zweig	Reviewing revised draft of Monitor's Report; Reviewing J. Rosenberg's comments on same	0.40
29/10/23	Mike O'Grady	Reviewing updated security opinion; Various email correspondence regarding same	0.10
29/10/23	Frances Wu	Revising real property security opinion	0.50
29/10/23	Milan Singh-Cheema	Revising motion record and related documents	1.10
29/10/23	Jesse Mighton	Considering issues relating to sale approval	0.80



Bennett Jones

December 11, 2023
Page 3

Client:
Invoice No.:

076142.00016
1546713

Date	Name	Description	Hours
		motion; Dealing with security review	
29/10/23	Sean Zweig	Reviewing draft security opinion; Correspondence regarding same	0.50
29/10/23	David Rotchtin	Responding to email regarding security review opinion	0.40
30/10/23	Milan Singh-Cheema	Drafting Fee Affidavits of J. Rosenberg and S. Zweig; Call with J. Mighton; Finalizing motion record; Finalizing First Report; Drafting factum; General correspondence; Call with J. Rosenberg; Serving documents on Service List; Various correspondence	7.50
30/10/23	Chloe Deschenes	Meeting with R. Burgos; Calls with the Register of Personal and Movable Real Rights; Conducting searches with respect to the Vesting Order and the Register of Personal and Movable Real Rights; Drafting a list of the security existing at the Register of Personal and Movable Real Rights	2.20
30/10/23	Jesse Mighton	Finalizing motion record; Extensive internal correspondence regarding same	4.50
30/10/23	Sean Zweig	Reviewing revised drafts of First Report; Reviewing revised draft of Approval and Vesting Order	0.30
30/10/23	Richard Burgos	Reviewing Order and discharge of Quebec security; Internal discussion and correspondence as to Order and related matters as to Quebec security	2.00
31/10/23	Milan Singh-Cheema	Drafting and researching for factum; Various correspondence; Filing documents with the Court	3.70
31/10/23	Jesse Mighton	Various correspondence in connection with upcoming hearing	0.50
01/11/23	Milan Singh-Cheema	Drafting factum for November 6 hearing; Various correspondence	6.10
01/11/23	Chloe Deschenes	Drafting security opinion related to Quebec security	3.40
01/11/23	Jesse Mighton	Working on court materials	0.80
02/11/23	Milan Singh-Cheema	Revising factum; Call with R. Walker and J. Mighton; Various correspondence; [REDACTED]	4.30



Bennett Jones

December 11, 2023
Page 4

Client:
Invoice No.:

076142.00016
1546713

Date	Name	Description	Hours
02/11/23	Jesse Mighton	Reviewing Putters amendment; Call with J. Rosenberg regarding THS closing; Reviewing draft factum; Video conference regarding THS closing logistics; Call with L. Pillon; Email correspondence regarding landlord issues; Reviewing closing agenda	4.50
02/11/23	Sean Zweig	Emails and discussions regarding Putters amendment, holdbacks for distributions, factum and St-Therese lease	0.60
02/11/23	Rebecca Walker	Call with J. Mighton and M. Singh-Cheema; Reviewing relevant documents and draft closing agenda	2.80
03/11/23	Mike O'Grady	Various email correspondence regarding leasehold improvements	0.20
03/11/23	Milan Singh-Cheema	Serving factum on Service List; Various correspondence with J. Mighton and FTI; Reviewing closing documents from purchaser	1.80
03/11/23	Frances Wu	Reviewing security package	0.40
03/11/23	Chloe Deschenes	Call with F. Wu with respect to the movable property located in the Ste-Therese plant; Call with R. Burgos with respect to the leased property	0.40
03/11/23	Jesse Mighton	Reviewing and finalizing factum for service; Multiple calls with J. Rosenberg regarding various work streams; Call with F. Wu regarding FCC security and internal correspondence regarding same; Dealing with THS closing	4.50
03/11/23	Sean Zweig	Various correspondence regarding Ste-Therese lease issues; Emails with J. Rosenberg regarding equipment question; Reviewing final factum; Reviewing draft closing documents	0.80
03/11/23	Rebecca Walker	Reviewing closing documents, updates to closing agenda and related correspondence	2.60
03/11/23	Richard Burgos	Discussion and correspondence regarding encumbrance upon equipment and refrigeration units; Reviewing security	0.50
04/11/23	Jesse Mighton	Preparing for court hearing	2.50
04/11/23	Sean Zweig	Reviewing email from H. Sibre	0.10



Bennett Jones

December 11, 2023
Page 5Client:
Invoice No.:076142.00016
1546713

Date	Name	Description	Hours
05/11/23	Jesse Mighton	Preparing for hearing; Internal correspondence regarding same; Attention to THS closing	1.80
05/11/23	Milan Singh-Cheema	Updating CaseLines; Updating citations and speaking notes for J. Mighton	1.10
06/11/23	Milan Singh-Cheema	Creating execution versions of documents; Updating participant information form; Various correspondence; Preparing for and attending at hearing; Dealing with post-hearing matters	2.00
06/11/23	Jesse Mighton	Preparing for and attending at court hearing; Dealing with post-hearing administration; Dealing with THS closing	3.00
06/11/23	Rebecca Walker	Dealing with closing matters	0.30
06/11/23	Richard Burgos	Reviewing security, lease and released forms and report as to security on equipment within lease premises	1.20
06/11/23	Sean Zweig	Discussions with J. Mighton regarding sale approval hearing; Correspondence regarding closing timing and documents	0.40
07/11/23	Milan Singh-Cheema	Reviewing certain equipment leases; Researching [REDACTED] Corresponding with FTI and J. Mighton regarding the disclaimer of leases	1.80
07/11/23	Jesse Mighton	Dealing with FCC security issues and THS closing	2.50
07/11/23	Rebecca Walker	Discussions regarding closing matters	0.10
07/11/23	Richard Burgos	Discussion and correspondence regarding refrigeration equipment lease and related terms, and review thereof	0.50
07/11/23	Sean Zweig	Emails regarding closing; Reviewing email from H. Sibire; Correspondence regarding same	0.30
08/11/23	Milan Singh-Cheema	Working on transaction closing matters [REDACTED] Other correspondence	1.40
08/11/23	Jesse Mighton	Dealing with THS closing matters; Attention to FCC security issues; Multiple phone conferences with J. Rosenberg regarding various issues; Attention to Putters sale amendment issues; Attention to CARE court motion and related lease issues	5.50



Bennett Jones

December 11, 2023
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Client:
Invoice No.:

076142.00016
1546713

Date	Name	Description	Hours
08/11/23	Richard Burgos	Correspondence regarding further developments; Reviewing Deed of Sale regarding Ste. Thérèse	0.80
08/11/23	Sean Zweig	Emails and discussions regarding closing matters; Call with J. Rosenberg regarding Quebec sale issue	0.50
09/11/23	Milan Singh-Cheema	Call with J. Mighton; Review of Saint Therese lease and relevant documents to Quebec Hearing; Summarizing lease and documents for J. Mighton; Drafting disclaimer for equipment lease; Call with A. Vithiyanthan regarding disclaimer of equipment contracts	5.30
09/11/23	Jesse Mighton	Reviewing St Louis sale amendment; Attending virtual court in Quebec regarding Ste Therese landlord issues; Extensive email correspondence and numerous phone calls regarding various work streams; Dealing with Putters sale; Multiple calls with J. Rosenberg regarding various work streams	5.50
09/11/23	Sean Zweig	Various correspondence regarding Quebec lease issue	0.20
09/11/23	Richard Burgos	Discussion and correspondence with Osler and internally regarding amended Deed of Sale; Reviewing amended Deed of Sale	1.30
10/11/23	Milan Singh-Cheema	Call with A. Vithiyanthan; Reviewing Quebec lease issue outcome; Reviewing and creating tracker for equipment leases	3.80
10/11/23	Jesse Mighton	Preparing for and attending Quebec court regarding Ste Therese landlord notices of termination; Extensive email and phone correspondence regarding same; Attention to various work streams	4.00
10/11/23	Sean Zweig	Further discussions regarding Quebec lease issue	0.30
10/11/23	Pascale Dionne-Bourassa	Email exchanges with J. Mighton	0.10
12/11/23	Milan Singh-Cheema	Reviewing equipment lease tracker; Reviewing Dell lease and considering related issues; Email correspondence with A. Vithiyanthan	1.20
13/11/23	Milan Singh-Cheema	Various correspondence; Dealing with disclaimer letter	0.40
13/11/23	Jesse Mighton	Video conference with P. Bourassa regarding	0.50



Bennett Jones

December 11, 2023
Page 7

Client:
Invoice No.:

076142.00016
1546713

Date	Name	Description	Hours
		Quebec issues	
13/11/23	Pascale Dionne-Bourassa	Call with J. Mighton	0.80
14/11/23	Milan Singh-Cheema	Drafting and revising communication letters; Drafting sale guidelines; Various correspondence and call with contract counterparty regarding disclaimer of equipment leases	4.70
14/11/23	Pascale Dionne-Bourassa	Reviewing proceedings filed in Quebec; Correspondence regarding Ontario Court Orders and Quebec Court Orders; Email exchanges with J. Mighton	2.00
15/11/23	Jesse Mighton	Dealing with Quebec security review; Call with J. Latham	0.80
15/11/23	Pascale Dionne-Bourassa	Reviewing email from J. Mighton; Reviewing email from Goodmans; Drafting email to J. Mighton	0.20
16/11/23	Jesse Mighton	Call with J. Rosenberg regarding status update and next steps	0.50
16/11/23	Richard Burgos	Internal discussion and correspondence regarding developments	0.30
16/11/23	Pascale Dionne-Bourassa	Receiving email from J. Mighton	0.10
17/11/23	Milan Singh-Cheema	Call with A. Vithiyanthan; Reviewing leases that require disclaiming and their current status	0.90
17/11/23	Sean Zweig	Discussion with J. Mighton regarding current work streams and next steps	0.20
21/11/23	Milan Singh-Cheema	Reviewing motion record of the EY receiver	0.60
21/11/23	Jesse Mighton	Reviewing Wells Fargo motion record	0.50
21/11/23	Sean Zweig	Reviewing motion record in EY receivership	0.40
23/11/23	Jesse Mighton	Reviewing Wells Fargo receiver motion record; Call with J. Rosenberg; Discussion with J. Latham	2.00
23/11/23	Milan Singh-Cheema	Reviewing and responding to file related emails; Call with T. Barrett at Goodmans regarding Service List; Reviewing motion record of Saint Therese landlord in connection with issues that may impact the FCC receivership; Preparing analysis regarding	2.10



Bennett Jones

December 11, 2023
Page 8Client:
Invoice No.:076142.00016
1546713

Date	Name	Description	Hours
		same	
23/11/23	Sean Zweig	Reviewing responding motion record served	0.30
24/11/23	Milan Singh-Cheema	[REDACTED] Reviewing and responding to file related correspondence; Reviewing report of EY receiver	1.10
24/11/23	Jesse Mighton	Multiple calls regarding Quebec landlord issues; Call with J. Rosenberg regarding various process and strategic issues	2.20
24/11/23	Sean Zweig	Reviewing Supplement to EY's First Report; Reviewing EY's factum	0.50
26/11/23	Jesse Mighton	Reviewing draft occupancy agreement and considering issues regarding same; Correspondence with J. Latham and J. Rosenberg regarding same; Call with J. Latham; Email correspondence with N. Brochu	2.80
26/11/23	Milan Singh-Cheema	Call with J. Mighton; Reviewing and responding to file related emails; Corresponding with J. Rosenberg regarding Saint Therese occupancy agreement	0.50
26/11/23	Sean Zweig	Correspondence regarding St-Therese settlement, and reviewing proposed settlement agreement	0.30
27/11/23	Jesse Mighton	Email correspondence regarding St Therese occupancy agreement; Preparing for and attending hearing regarding Wells Fargo receiver sale approval motion	2.80
27/11/23	Milan Singh-Cheema	Call with J. Mighton; Reviewing and responding to file related emails; [REDACTED]; Attending hearing of EY Receiver regarding the approval of Putters and Montrose transactions	1.20
28/11/23	Milan Singh-Cheema	Reviewing and responding to file related emails	0.10
28/11/23	Jesse Mighton	Dealing with Ste Therese occupancy agreement	0.50
29/11/23	Jesse Mighton	Correspondence regarding Ste Therese occupancy agreement	0.50
Total Hours			157.40



Bennett Jones

December 11, 2023
Page 9Client: 076142.00016
Invoice No.: 1546713

Date	Name	Description	Hours
Total Professional Services			\$ 108,898.00

Name	Hours
Sean Zweig	6.10
David Rotchtin	15.10
Jesse Mighton	54.70
Pascale Dionne-Bourassa	3.20
Richard Burgos	6.60
Mike O'Grady	0.30
Frances Wu	5.30
Rebecca Walker	5.80
Milan Singh-Cheema	52.70
Jane Sergievskaya	1.60
Chloe Deschenes	6.00

Disbursements	Amount
Search and Service	\$ 6.00
Online Government Service	\$ (25.00)
Total Disbursements	\$ (19.00)

Disbursements Incurred As Your Agent (Non Taxable)	Amount
Government Filing	\$ 66.00
Courthouse	\$ 339.00
Total Disbursements Incurred as Your Agent	\$ 405.00

GST/HST \$ 14,154.27
TOTAL DUE \$ 123,438.27



Bennett Jones

FTI CONSULTING CANADA INC.
SUITE 2010, 79 WELLINGTON STREET WEST
TORONTO, ON M5K 1G8

**Attention: JEFFREY ROSENBERG
SENIOR MANAGING DIRECTOR**

Re: Whyte's Canada Inc.
Our File Number: 076142.00016

Date: December 11, 2023
Invoice: 1546713

Remittance Statement

Professional Services	\$	108,898.00
Disbursements	\$	(19.00)
Disbursements Incurred As Your Agent (Non Taxable)	\$	405.00
Total Due before Tax	\$	<u>109,284.00</u>
GST/HST	\$	14,154.27
Total Due in CAD	\$	<u>123,438.27</u>

THIS IS **EXHIBIT "B"** REFERRED TO IN
THE AFFIDAVIT OF SEAN ZWEIG,
SWORN BEFORE ME THIS 20TH DAY OF MARCH, 2024.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line underneath it.

MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)



Bennett Jones

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

FTI CONSULTING CANADA INC.
SUITE 2010, 79 WELLINGTON STREET WEST
TORONTO, ON M5K 1G8

**Attention: JEFFREY ROSENBERG
SENIOR MANAGING DIRECTOR**

Re: Whyte's Canada Inc.
Our File Number: 076142.00016

Date: January 9, 2024
Invoice: 1556109

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	\$	9,024.50
Disbursements	\$	5.00
Total Due before Tax	\$	9,029.50
GST/HST	\$	1,173.84
Total Due in CAD	\$	10,203.34

Due upon receipt. Bennett Jones reserves the right to charge interest at a rate not greater than 12% per annum on outstanding invoices over 30 days. We collect, use and disclose information pursuant to our Privacy Policies. For further information visit our website at www.bennettjones.com. GST/HST number: 119346757 QST number: 1230818653



Bennett Jones

January 9, 2024
Page 2Client:
Invoice No.:076142.00016
1556109

Date	Name	Description	Hours
01/12/23	Jesse Mighton	Working on Ste Therese occupancy agreement; Email correspondence with J. Latham regarding coordination issues	0.50
06/12/23	Jesse Mighton	Dealing with various work streams; Email correspondence regarding Ste Therese facility matters; Reviewing draft notice of equipment removal	1.00
06/12/23	Milan Singh-Cheema	Drafting notice of equipment removal; Reviewing and responding to file related emails	0.80
10/12/23	Jesse Mighton	Reviewing and considering Kroll engagement letter and success fee invoice	0.80
11/12/23	Milan Singh-Cheema	Reviewing Kroll engagement letter and summarizing same; Discussion with J. Mighton; Further reviewing Kroll engagement letter; Revising summary	1.80
14/12/23	Jesse Mighton	Phone conference with J. Latham; Phone conference with J. Rosenberg; Email correspondence regarding various issues	1.20
18/12/23	Jesse Mighton	Reviewing email correspondence from Putters' counsel regarding post-closing adjustments; Email correspondence with J. Rosenberg regarding same	0.50
19/12/23	Milan Singh-Cheema	Reviewing and responding to file related emails; Updating Service List	0.20
19/12/23	Jesse Mighton	Reviewing notice from Justice Quebec; Email correspondence regarding same	0.30
19/12/23	Pascale Dionne-Bourassa	Emails with J. Mighton; Reviewing notice of judgment; Reviewing court record	0.20
20/12/23	Chloe Deschenes	Obtaining the municipal and school tax accounts for the properties located in the city of St-Louis	0.50
20/12/23	Milan Singh-Cheema	Reviewing and responding to file related emails; [REDACTED]	1.40
20/12/23	Jesse Mighton	Email correspondence regarding Putters' purchase price reimbursement request; Considering Putters' reimbursement request; Calls regarding Quebec notice of judgment and email correspondence regarding same	1.70



Bennett Jones

January 9, 2024
Page 3Client: 076142.00016
Invoice No.: 1556109

Date	Name	Description	Hours
20/12/23	Pascale Dionne-Bourassa	Emails with J. Mighton; Emails with C. Deschênes regarding school and municipal taxes owed on Saint-Louis property	0.60
21/12/23	Chloe Deschenes	Reviewing the municipal and school tax accounts; Email to R. Burgos regarding same	1.20
21/12/23	Milan Singh-Cheema	Reviewing and responding to file related emails	0.20
21/12/23	Richard Burgos	Reviewing tax adjustment claimed; Correspondence regarding same	0.70
Total Hours			13.60
Total Professional Services			\$ 9,024.50

Name	Hours
Jesse Mighton	6.00
Pascale Dionne-Bourassa	0.80
Richard Burgos	0.70
Milan Singh-Cheema	4.40
Chloe Deschenes	1.70

Disbursements	Amount
Search and Service	\$ 5.00
Total Disbursements	\$ 5.00
GST/HST	\$ 1,173.84
TOTAL DUE	\$ 10,203.34



Bennett Jones

FTI CONSULTING CANADA INC.
SUITE 2010, 79 WELLINGTON STREET WEST
TORONTO, ON M5K 1G8

**Attention: JEFFREY ROSENBERG
SENIOR MANAGING DIRECTOR**

Re: Whyte's Canada Inc.
Our File Number: 076142.00016

Date: January 9, 2024
Invoice: 1556109

Remittance Statement

Professional Services	\$	9,024.50
Disbursements	\$	5.00
Total Due before Tax	\$	9,029.50
GST/HST	\$	1,173.84
Total Due in CAD	\$	10,203.34

THIS IS **EXHIBIT "C"** REFERRED TO IN
THE AFFIDAVIT OF SEAN ZWEIG,
SWORN BEFORE ME THIS 20TH DAY OF MARCH, 2024.

A handwritten signature in blue ink, reading "Milan Singh-Cheema".

MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)



Bennett Jones

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

FTI CONSULTING CANADA INC.
SUITE 2010, 79 WELLINGTON STREET WEST
TORONTO, ON M5K 1G8

**Attention: JEFFREY ROSENBERG
SENIOR MANAGING DIRECTOR**

Re: Whyte's Canada Inc.
Our File Number: 076142.00016

Date: February 7, 2024
Invoice: 1557681

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	\$	30,252.50
Disbursements	\$	80.25
Total Due before Tax	\$	30,332.75
GST/HST	\$	3,943.26
Total Due in CAD	\$	34,276.01

Due upon receipt. Bennett Jones reserves the right to charge interest at a rate not greater than 12% per annum on outstanding invoices over 30 days. We collect, use and disclose information pursuant to our Privacy Policies. For further information visit our website at www.bennettjones.com. GST/HST number: 119346757 QST number: 1230818653



Bennett Jones

February 7, 2024
Page 2

Client:
Invoice No.:

076142.00016
1557681

Date	Name	Description	Hours
02/01/24	Jesse Mighton	Considering and discussing Putter's purchase price adjustment; Reviewing and drafting correspondence regarding same	1.20
08/01/24	Milan Singh-Cheema	Reviewing and responding to file related correspondence; Reviewing draft APS and similar APAs that can serve as precedents	1.00
08/01/24	Jesse Mighton	Reviewing draft purchase agreement regarding Wallaceburg facility; Reviewing records regarding open items; Video conference with J. Rosenberg	2.00
09/01/24	Milan Singh-Cheema	Meeting with J. Mighton to discuss APS for Wallaceburg facility	0.30
09/01/24	Meg Tweedlie	Call with J. Mighton; Reviewing draft purchase agreement and revising and providing comments on same; Discussing lease versus license agreement with J. Helmstadter; Preparing initial draft of license agreement	5.70
09/01/24	Jesse Mighton	Internal discussions regarding Wallaceburg arrangements; Considering issues regarding same; Correspondence with EY receiver regarding open items; Dealing with various stakeholder issues; Call with J. Latham regarding same; Email correspondence with stakeholder counsel regarding same	4.50
09/01/24	Jing Zhang	Obtaining parcel register and instrument; Drafting permitted encumbrances; Emailing same to M. Williams	0.60
09/01/24	Jane Helmstadter	Discussion with M. Tweedlie regarding issues related to short-term licence	0.20
10/01/24	Meg Tweedlie	Emails to J. Mighton regarding draft license agreement; Finalizing draft of license agreement and circulating same to J. Mighton; Revising draft agreement pursuant to comments received from J. Mighton; Finalizing and emailing revisions to purchase agreement to J. Mighton and M. Singh-Cheema	0.90
10/01/24	Milan Singh-Cheema	Reviewing and responding to correspondence; Drafting notice for removal of equipment; Reviewing M. Tweedlie's comments on APS	1.00
10/01/24	Jesse Mighton	Video conference with Goodmans and stakeholder	1.50



Bennett Jones

February 7, 2024
Page 3

Client:
Invoice No.:

076142.00016
1557681

Date	Name	Description	Hours
		counsel; Dealing with Wallaceburg lease	
11/01/24	Jesse Mighton	Call with J. Rosenberg; Internal correspondence regarding Wallaceburg arrangements; Reviewing draft Wallaceburg agreements	2.00
11/01/24	Milan Singh-Cheema	Reviewing and responding to file related correspondence; Drafting landlord notice for St Therese facility; Reviewing and revising APS for sale of Wallaceburg facility	5.50
11/01/24	Meg Tweedlie	Call with J. Mighton regarding draft license agreement; Revising draft license agreement to include adjustment language	0.60
12/01/24	Milan Singh-Cheema	Revising Agreement of Purchase and Sale based on comments received; Reviewing and responding to file related correspondence; Reissuing landlord notice	2.20
12/01/24	Jesse Mighton	Dealing with Wallaceburg arrangements; Dealing with equipment removal notice; Internal correspondence and calls regarding same; Email correspondence with J. Rosenberg regarding same	1.50
12/01/24	Meg Tweedlie	Call with J. Mighton regarding draft purchase agreement and permitted encumbrances; Reviewing revised purchase agreement and providing comments on same	0.80
13/01/24	Jesse Mighton	Email correspondence regarding Wallaceburg arrangements	0.20
15/01/24	Meg Tweedlie	Reviewing emails regarding purchase agreement and occupancy agreement; Reviewing occupancy agreement in preparation of call	0.20
16/01/24	Meg Tweedlie	Emails with J. Mighton regarding revisions to license agreement and revising same	0.30
16/01/24	Jesse Mighton	Reviewing updated occupancy agreement; Email correspondence regarding same	0.50
19/01/24	Jesse Mighton	Multiple calls regarding financial advisor fee request	1.00
22/01/24	Jesse Mighton	Email correspondence regarding various work streams	0.30
23/01/24	Jesse Mighton	Dealing with various stakeholder matters;	1.00



Bennett Jones

February 7, 2024
Page 4Client: 076142.00016
Invoice No.: 1557681

Date	Name	Description	Hours
		Discussions with J. Rosenberg regarding same; Call with J. Latham	
26/01/24	Meg Tweedlie	Reviewing revisions to occupancy agreement and discussing same with J. Mighton; Preparing notice to vacate	0.60
26/01/24	Jesse Mighton	Reviewing comments on occupancy agreement; Call with J. Rosenberg regarding same; Internal correspondence regarding strategic matters	0.70
29/01/24	Milan Singh-Cheema	Reviewing and responding to correspondence; Issuing notice of removal of property to landlords	0.20
29/01/24	Meg Tweedlie	Discussing revisions to occupancy agreement with J. Mighton and revising same	0.30
29/01/24	Jesse Mighton	Call with J. Rosenberg regarding occupancy agreement; Reviewing revisions to same	0.50
30/01/24	Jesse Mighton	Dealing with stakeholder matters and email correspondence regarding same	0.50
30/01/24	Meg Tweedlie	Reviewing revised occupancy agreement	0.30
31/01/24	Milan Singh-Cheema	Reviewing and responding to file related emails; [REDACTED]; Drafting Approval and Vesting Order	0.70
31/01/24	Jesse Mighton	Responding to stakeholder requests; Email correspondence regarding stakeholder issues; Email correspondence with FTI regarding potential equipment sale	1.80

Total Hours	40.60
Total Professional Services	\$ 30,252.50

Name	Hours
Jane Helmstadter	0.20
Jesse Mighton	19.20
Meg Tweedlie	9.70
Milan Singh-Cheema	10.90
Jing Zhang	0.60

Disbursements	Amount
Search and Service	\$ 40.00
Land Title - Search	\$ 40.25
Total Disbursements	\$ 80.25



Bennett Jones

February 7, 2024
Page 5

Client: 076142.00016
Invoice No.: 1557681

GST/HST	\$	3,943.26
TOTAL DUE	\$	<u>34,276.01</u>



Bennett Jones

FTI CONSULTING CANADA INC.
SUITE 2010, 79 WELLINGTON STREET WEST
TORONTO, ON M5K 1G8

**Attention: JEFFREY ROSENBERG
SENIOR MANAGING DIRECTOR**

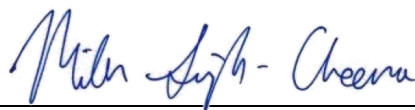
Re: Whyte's Canada Inc.
Our File Number: 076142.00016

Date: February 7, 2024
Invoice: 1557681

Remittance Statement

Professional Services	\$	30,252.50
Disbursements	\$	80.25
Total Due before Tax	\$	<u>30,332.75</u>
GST/HST	\$	3,943.26
Total Due in CAD	\$	<u>34,276.01</u>

THIS IS **EXHIBIT “D”** REFERRED TO IN
THE AFFIDAVIT OF SEAN ZWEIG,
SWORN BEFORE ME THIS 20TH DAY OF MARCH, 2024.



MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)



Bennett Jones

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

FTI CONSULTING CANADA INC.
SUITE 2010, 79 WELLINGTON STREET WEST
TORONTO, ON M5K 1G8

**Attention: JEFFREY ROSENBERG
SENIOR MANAGING DIRECTOR**

Re: Whyte's Canada Inc.
Our File Number: 076142.00016

Date: March 11, 2024
Invoice: 1562383

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	\$	17,188.50
Total Due before Tax	\$	17,188.50
GST/HST	\$	2,234.51
Total Due in CAD	\$	19,423.01

Due upon receipt. Bennett Jones reserves the right to charge interest at a rate not greater than 12% per annum on outstanding invoices over 30 days. We collect, use and disclose information pursuant to our Privacy Policies. For further information visit our website at www.bennettjones.com. GST/HST number: 119346757 QST number: 1230818653



Bennett Jones

March 11, 2024
Page 2Client: 076142.00016
Invoice No.: 1562383

Date	Name	Description	Hours
01/02/24	Jesse Mighton	Call with J. Rosenberg regarding various work streams; Finalizing occupancy agreement; Email correspondence regarding same; Drafting bill of sale regarding miscellaneous assets	2.50
01/02/24	Meg Tweedlie	Finalizing occupancy agreement	0.20
02/02/24	Jesse Mighton	Email correspondence regarding landlord notice	0.30
05/02/24	Jesse Mighton	Revising bill of sale regarding Ste Therese assets; Reviewing and revising bill of sale regarding St Louis assets; Email correspondence regarding same	0.80
06/02/24	Jesse Mighton	Email correspondence regarding occupancy issues and pending asset sale terms; Call with J. Latham regarding receivership matters; Finalizing Ste Therese bill of sale	1.00
08/02/24	Milan Singh-Cheema	Reviewing and responding to correspondence; [REDACTED]	1.20
09/02/24	Jesse Mighton	Email correspondence regarding CARE bill of sale; Reviewing Quebec notice of claim and internal email correspondence regarding same	0.50
09/02/24	Melina Cardinal-Bradette	Corresponding with J. Mighton regarding the judgment by default received against Whyte's; Call with J. Mighton regarding same; Coordinating with a court runner to get a copy of the proceedings; Discussion with P. Dionne-Bourassa regarding next steps	0.70
12/02/24	Milan Singh-Cheema	Call with M. Cardinal-Brassette regarding letter responding to judgment; Reviewing and responding to correspondence; Drafting letter	1.40
12/02/24	Meg Tweedlie	Reviewing revised purchase agreement; Call with J. Mighton regarding same and revising same	0.40
12/02/24	Jesse Mighton	Discussions regarding Wallaceburg real property sale; Reviewing revisions to purchase agreement; Call with J. Rosenberg regarding same; Dealing with Quebec litigation; Call with M. Cardinal regarding same; Reviewing correspondence regarding same; Email correspondence regarding same	3.00
12/02/24	Melina Cardinal-Bradette	Reviewing the proceedings and judgment rendered by default by the Superior Court of Quebec; Researching the process of renunciation and	5.40



Bennett Jones

March 11, 2024
Page 3Client: 076142.00016
Invoice No.: 1562383

Date	Name	Description	Hours
		revocation of a judgment pursuant to Quebec civil procedure; Drafting an email to J. Mighton with a preliminary analysis; Working with M. Singh-Cheema to prepare a letter to counsel to Zafir SA; Reviewing and revising the draft letter; Call with J. Mighton to discuss the letter and next steps; Finalizing the letter	
12/02/24	Pascale Dionne-Bourassa	Discussions with M. Cardinal-Bradette regarding the judgment by default rendered against Whytes; [REDACTED]	0.40
13/02/24	Meg Tweedlie	Preparing execution copy of purchase agreement	0.20
13/02/24	Melina Cardinal-Bradette	[REDACTED]; Corresponding with J. Mighton regarding same and to discuss next steps; Call with J. Mighton regarding same	0.50
13/02/24	Jesse Mighton	Dealing with Quebec default judgment and email correspondence regarding same; Discussion with M. Cardinal regarding same; Call with J. Rosenberg regarding Wallaceburg sale; Internal correspondence regarding same	1.50
14/02/24	Meg Tweedlie	Updating execution version of purchase agreement and circulating same; Preparing critical dates list	0.40
14/02/24	Jesse Mighton	Working on Wallaceburg purchase agreement	0.50
15/02/24	Jesse Mighton	Reviewing contract worker letter	0.50
16/02/24	Jesse Mighton	Email correspondence regarding Quebec litigation	0.30
16/02/24	Talia Bregman	Reviewing letter to contract worker and J. Mighton's email regarding same	0.20
19/02/24	Jesse Mighton	Email correspondence regarding status updates	0.20
20/02/24	Talia Bregman	Reviewing and revising letter regarding contract worker	0.30
20/02/24	Jesse Mighton	Call with T. Bregman regarding contract worker letter; Email correspondence regarding same	0.50
Total Hours			22.90
Total Professional Services			\$ 17,188.50

Name	Hours
Talia Bregman	0.50
Jesse Mighton	11.60



March 11, 2024
Page 4

Client: 076142.00016
Invoice No.: 1562383

Name	Hours
Pascale Dionne-Bourassa	0.40
Meg Tweedlie	1.20
Milan Singh-Cheema	2.60
Melina Cardinal-Bradette	6.60
GST/HST	\$ 2,234.51
Total Due	\$ <u>19,423.01</u>



Bennett Jones

FTI CONSULTING CANADA INC.
SUITE 2010, 79 WELLINGTON STREET WEST
TORONTO, ON M5K 1G8

**Attention: JEFFREY ROSENBERG
SENIOR MANAGING DIRECTOR**


Re: Whyte's Canada Inc.
Our File Number: 076142.00016

Date: March 11, 2024
Invoice: 1562383

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter

Professional Services	\$	17,188.50
Total Due before Tax	\$	<u>17,188.50</u>
GST/HST	\$	2,234.51
Total Due in CAD	\$	<u>19,423.01</u>

THIS IS **EXHIBIT “E”** REFERRED TO IN
THE AFFIDAVIT OF SEAN ZWEIG,
SWORN BEFORE ME THIS 20TH DAY OF MARCH, 2024.


A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line underneath it.

MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)

Invoice #	Period Ended	Fees	Disbursements	GST/HST	Total
1	November 30, 2023	\$108,898.00	\$405.00	\$14,154.27	\$123,438.27
2	December 31, 2023	\$9,024.50	\$5.00	\$1,173.84	\$10,203.34
3	January 31, 2024	\$30,252.50	\$80.25	\$3,943.26	\$34,276.01
4	February 29, 2024	\$17,188.50		\$2,234.51	\$19,423.01
Total		\$165,363.50	\$490.25	\$21,505.88	\$187,340.63

THIS IS **EXHIBIT "F"** REFERRED TO IN
THE AFFIDAVIT OF SEAN ZWEIG,
SWORN BEFORE ME THIS 20TH DAY OF MARCH, 2024.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line extending from the end of the name.

MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)

Timekeeper	Year of Call (if applicable)	Hourly Rate	Total Hours	Total Fees
R. Burgos	Quebec (1986)	\$780.00	7.30	\$5,694.00
P. Dionne- Bourassa	Quebec (1998)	\$900.00	4.00	\$3,600.00
J. Mighton	Ontario (2012)	\$860.00	60.70	\$52,202.00
D. Rotchtin	Ontario (2012)	\$860.00	15.10	\$12,986.00
S. Zweig	Ontario (2009)	\$1,035.00	6.10	\$6,313.50
M. O' Grady	Ontario (2018);	\$745.00	0.3	\$223.5
M. Singh-Cheema	Ontario (2023);	\$465.00	57.10	\$26,551.50
R. Walker	Ontario (2018);	\$770.00	5.80	\$4,466.00
F. Wu	Ontario (2022);	\$495.00	5.30	\$2,623.50
C. Deschenes		\$325.00	7.70	\$2,502.50
J. Sergievskaya		\$475.00	1.60	\$760.00
Total			171	\$117,922.50

Average hourly rate = \$680.60¹

¹ Exclusive of applicable general and harmonized sales taxes.

THIS IS **EXHIBIT "G"** REFERRED TO IN
THE AFFIDAVIT OF SEAN ZWEIG,
SWORN BEFORE ME THIS 20TH DAY OF MARCH, 2024.



MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)

Timekeeper	Year of Call (if applicable)	Hourly Rate	Total Hours	Total Fees
T. Bregman	Ontario (2013)	\$915.00	0.50	\$457.50
P. Dionne- Bourassa	Quebec (1998)	\$960.00	0.40	\$384.00
J. Helmstadter	Ontario (1987)	\$1,325.00	0.20	\$265.00
J. Mighton	Ontario (2012)	\$915.00	30.80	\$28,182.00
M. Cardinal- Bradette	Quebec (2020)	\$540.00	6.60	\$3,564.00
M. Singh-Cheema	Ontario (2023)	\$525.00	13.50	\$7,087.50
M. Tweedlie	Ontario (2021)	\$670.00	10.90	\$7,303.00
J. Zhang		\$330.00	0.60	\$198.00
Total			63.50	\$47,441.00

Average hourly rate = \$747.10²

² Exclusive of applicable general and harmonized sales taxes.

FARM CREDIT CANADA

and **WHYTE'S FOODS INC./LES ALIMENTS
WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK
INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

FEE AFFIDAVIT

BENNETT JONES LLP

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

Sean Zweig (LSO# 57307I)

Tel: (416) 777-6254

Email: zweigs@bennettjones.com

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Tel: (416) 777-6255

Email: mightonj@bennettjones.com

Milan Singh-Cheema (LSO# 88258Q)

Tel: (416) 777-5527

Email: singhcheemam@bennettjones.com

Lawyers for FTI Canada Consulting Inc.

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ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	WEDNESDAY, THE 27 th
)	
JUSTICE WILTON-SIEGAL)	DAY OF MARCH, 2024

B E T W E E N:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC.**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED****

APPROVAL AND VESTING ORDER

THIS MOTION, made by FTI Consulting Canada Inc. ("**FTI**") in its capacity as the Court-appointed receiver (FTI in such capacity, the "**Receiver**") of the undertaking, property and assets that constitute the FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and Select Property Holdings (Ontario) Inc. (the "**Purchaser**") dated February 15, 2024 and appended to the Second Report of the Receiver dated March 20, 2024 (the "**Second Report**"), and vesting in the Purchaser the Debtors' right, title and

interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day by videoconference.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Milan Singh-Cheema sworn March 20, 2024 filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary to effect the completion of the Transaction. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, and (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Cavanagh dated October 6, 2023 appointing the Receiver (the "**Receivership Order**"); (ii) by the Order of the Honourable Justice Cavanagh dated October 6, 2023 appointing Ernst and Young as receiver over the assets that constitute the Trade Personal Property (as defined therein, the "**Wells Receivership Order**"); (iii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iv) those Claims listed on Schedule "B" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "C") and, for greater certainty, this Court

orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors, or any of them, and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors, or any of them;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. **THIS COURT ORDERS** that the purchase price contemplated by the Purchase Agreement shall be sealed and kept confidential until the completion of the Transaction.

7. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-23-00707205-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

B E T W E E N:

FARM CREDIT CANADA

Applicant

- and –

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED****

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated October 6, 2023 (the "**Receivership Order**"), FTI Consulting Canada Inc. was appointed as the receiver (in such capacity the "**Receiver**") of the FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**").

B. Pursuant to an Order of the Court dated March 27, 2024, the Court approved the asset purchase agreement made as of February 15, 2024 (the "**Sale Agreement**") between the Receiver and Select Property Holdings (Ontario) Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Section 8, Section 10 and Section 12 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Section 8, Section 10 and Section 12 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [●] on [●], 2024.

**FTI Canada Consulting Inc. in its capacity as
Receiver of the FCC Secured Property, and
not in its personal or corporate capacity**

Per: _____

Name: Jeffrey Rosenberg

Title: Senior Managing Director

Schedule "B" - Encumbrances

PIN 00760-0121 (LT): 6800 Base Line, Wallaceburg

1. Instrument No. CK143391 registered April 6, 2018, being a Transfer from Agracity Crop & Nutrition Ltd. to Whyte's Foods Inc. ("**Whyte's Food**")
2. Instrument No. CK173090 registered May 19, 2020, being a Charge from Whyte's Foods in favour of Farm Credit Canada ("**Farm Credit**") in the original principal amount of \$18,217,500.
3. Instrument No. CK173091 registered on May 19, 2020, being a Notice of Assignment of Rents General from Whyte's Food in favour of Farm Credit.
4. Instrument No. CK173098 registered on May 19, 2020, being a Notice from Whyte's Food in favour of Farm Credit.
5. Instrument No. CK220637 registered on April 19, 2023, being a Notice from Whyte's Food in favour of Farm Credit.
6. Instrument No. CK221330 registered May 8, 2023, being a Charge from Whyte's Foods in favour of EJJ Capital Inc. in the original principal amount of \$4,400,000.

Schedule "C" – Permitted Encumbrances

PIN 00760-0121 (LT): 6800 Base Line, Wallaceburg

1. Instrument No. CH39033 registered November 8, 1947, being a Transfer Easement from H. J. Heinz Co. of Canada Ltd. To The Hydro-Electric Power Commission of Ontario.
2. Reference Plan 24R3832 deposited September 14, 1987.
3. Instrument No. 450420 registered September 28, 1987, being a Transfer from Nestle Enterprises Limited to Continental Can Canada Inc.

FARM CREDIT CANADA

and

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL
TRIAK INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

APPROVAL AND VESTING ORDER

BENNETT JONES LLP

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Milan Singh-Cheema (LSO# 88258Q)

Tel: (416) 777-5527

Email: singhcheemam@bennettjones.com

Lawyers for FTI Canada Consulting Inc.

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Court File No. — CV-23-00707205-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) ~~WEEKDAY~~WEDNESDAY, THE #27th
)
JUSTICE — WILTON-SIEGAL) DAY OF ~~MONTH~~MARCH,
) 20YR2024

B E T W E E N:

PLAINTIFF

Plaintiff

FARM CREDIT CANADA

Applicant

- and -

DEFENDANT

Defendant

WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC.

Respondents

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~FTI Consulting Canada Inc.
("FTI") in its capacity as the Court-appointed receiver (FTI in such capacity, the "Receiver")
of the undertaking, property and assets ~~of [DEBTOR]~~ (that constitute the FCC Secured

Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "Debtors") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and ~~[NAME OF PURCHASER]~~ Select Property Holdings (Ontario) Inc. (the "Purchaser") dated ~~[DATE]~~ February 15, 2024 and appended to the Second Report of the Receiver dated ~~[DATE]~~ March 20, 2024 (the "Second Report"), and vesting in the Purchaser the ~~Debtor's~~ Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by videoconference.

ON READING the Second Report and on hearing the submissions of counsel for the Receiver, ~~[NAMES OF OTHER PARTIES APPEARING]~~, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ Milan Singh-Cheema sworn ~~[DATE]~~ March 20, 2024 filed¹:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved,² and the execution of the Sale Agreement by the Receiver³ is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary to effect the completion of the Transaction. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver²'s certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the

¹~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

²~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

³~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

"Receiver's Certificate"), all of the Debtors's right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~⁴ shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, and (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~Cavanagh dated ~~[DATE]~~; (ii) October 6, 2023 appointing the Receiver (the "Receivership Order"); (ii) by the Order of the Honourable Justice Cavanagh dated October 6, 2023 appointing Ernst and Young as receiver over the assets that constitute the Trade Personal Property (as defined therein, the "Wells Receivership Order"); (iii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and ~~(iiiiv)~~ those Claims listed on Schedule ~~C~~"B" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule ~~D~~"C") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

~~3. — THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act~~

~~⁴To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

~~⁵The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

~~and/or the *Land Registration Reform Act*⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

3. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims ~~and Encumbrances~~ shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. ~~5.~~ **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

~~6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

5. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

⁶ Elect the language appropriate to the land registry system (Registry vs. Land Titles).

⁷ The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

⁸ This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

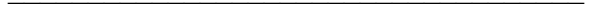
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the ~~Debtor~~Debtors, or any of them, and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the ~~Debtor~~Debtors, or any of them;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtorss and shall not be void or voidable by creditors of the Debtorss, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. THIS COURT ORDERS that the purchase price contemplated by the Purchase Agreement shall be sealed and kept confidential until the completion of the Transaction.

7. ~~8.~~ THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. ~~9.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



Schedule "A" – Form of Receiver's Certificate

Court File No. CV-23-00707205-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

BETWEEN:

PLAINTIFF

Plaintiff

FARM CREDIT CANADA

Applicant

- and -

DEFENDANT

Defendant

WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC

Respondents

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ October 6, 2023 (the "Receivership Order"), FTI Consulting

Canada Inc. was appointed as the receiver (in such capacity the "Receiver") of the ~~undertaking, property and assets of [DEBTOR]~~ (FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "Debtors").

B. Pursuant to an Order of the Court dated ~~[DATE]~~ March 27, 2024, the Court approved the asset purchase agreement ~~of purchase and sale~~ made as of ~~[DATE OF AGREEMENT]~~ February 15, 2024 (the "Sale Agreement") between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~ Select Property Holdings (Ontario) Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the ~~Debtor's~~ Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section~~ Section 8, Section 10 and Section 12 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in ~~section~~ Section 8, Section 10 and Section 12 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE], 2024.

~~{NAME OF RECEIVER}~~, FTI Canada Consulting Inc. in its capacity as Receiver of the ~~undertaking, property and assets of~~ ~~{DEBTOR}~~ FCC Secured Property, and not in its personal or corporate capacity

Per: _____

Name: Jeffrey Rosenberg

Title: Senior Managing Director

Schedule "~~B—Purchased Assets~~" - Encumbrances

PIN 00760-0121 (LT): 6800 Base Line, Wallaceburg

1. Instrument No. CK143391 registered April 6, 2018, being a Transfer from Agracity Crop & Nutrition Ltd. to Whyte's Foods Inc. ("Whyte's Food")
2. Instrument No. CK173090 registered May 19, 2020, being a Charge from Whyte's Foods in favour of Farm Credit Canada ("Farm Credit") in the original principal amount of \$18,217,500.
3. Instrument No. CK173091 registered on May 19, 2020, being a Notice of Assignment of Rents General from Whyte's Food in favour of Farm Credit.
4. Instrument No. CK173098 registered on May 19, 2020, being a Notice from Whyte's Food in favour of Farm Credit.
5. Instrument No. CK220637 registered on April 19, 2023, being a Notice from Whyte's Food in favour of Farm Credit.
6. Instrument No. CK221330 registered May 8, 2023, being a Charge from Whyte's Foods in favour of EJJ Capital Inc. in the original principal amount of \$4,400,000.

Revised: January 21, 2014

Schedule C ~~Claims to be deleted and expunged from title to Real Property~~

Schedule D – Permitted Encumbrances, ~~Easements and Restrictive Covenants~~
~~related to the Real Property~~

~~(unaffected by the Vesting Order)~~

PIN 00760-0121 (LT): 6800 Base Line, Wallaceburg

1. Instrument No. CH39033 registered November 8, 1947, being a Transfer Easement from H. J. Heinz Co. of Canada Ltd. To The Hydro-Electric Power Commission of Ontario.

2. Reference Plan 24R3832 deposited September 14, 1987.

3. Instrument No. 450420 registered September 28, 1987, being a Transfer from Nestle Enterprises Limited to Continental Can Canada Inc.

FARM CREDIT CANADA

and

WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL
TRIAK INC., AND MARIO SAROLI SALES INC.

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced in Toronto

APPROVAL AND VESTING ORDER

BENNETT JONES LLP
One First Canadian Place, Suite 3400
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Toronto, ON M5X 1A4

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Lawyers for FTI Canada Consulting Inc.

Document comparison by Workshare 10.0 on Tuesday, March 19, 2024 9:08:37 PM

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ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	WEDNESDAY, THE 27 th
)	
JUSTICE WILTON-SIEGAL)	DAY OF MARCH, 2024

B E T W E E N:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC.**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED****

DISCHARGE AND ANCILLARY RELIEF ORDER

THIS MOTION, made by FTI Consulting Canada Inc. ("**FTI**") in its capacity as the Court-appointed receiver (FTI in such capacity, the "**Receiver**") of the undertaking, property and assets that constitute the FCC Secured Property (as defined in the Order (Appointing Receiver), issued October 6, 2023 in the within proceedings (the "**Receivership Order**")) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**") for an order, among other things: (i) authorizing and directing the Receiver to make one or more distributions to 9498-8995 Québec Inc. and 9498-8938 Québec Inc. (together, "**Putters**"); (ii) approving the Second Report of the Receiver dated March 20, 2024 (the "**Second Report**") and the Receiver's conduct and activities described therein;

(iii) discharging FTI as the Receiver of the undertaking property and assets that constitute the FCC Secured Property of the Debtors and releasing FTI and its legal counsel, Bennett Jones LLP ("**Bennett Jones**") from any and all liability, as set out in paragraph 7 of this Order; (iv) approving the fees and disbursements of the Receiver through to March 17, 2024 and the Receiver's estimated fees and disbursements to the completion of these proceedings; and (v) approving the fees and disbursements of Bennett Jones through to February 29, 2024 and Bennett Jones' estimated fees and disbursements to the completion of these proceedings.

ON READING the Notice of Motion of the Receiver and the Second Report, filed, and on hearing the submissions of counsel for the Receiver and counsel for those other parties appearing as indicated by the counsel sheet, no one else appearing although properly served, as appears from the affidavit of service of Milan Singh-Cheema sworn and filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the Second Report.

DISTRIBUTIONS

3. **THIS COURT ORDERS** that the Receiver is hereby authorized, directed and empowered to make one or more cash distributions in an amount equal to the Putters Adjustment Amount (as defined in the Second Report and in the amount stipulated therein) to Putters.

APPROVAL OF RECEIVER'S REPORT, ACTIVITIES

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

APPROVAL OF FEES

5. **THIS COURT ORDERS** that (i) the fees and disbursements of the Receiver from October 30, 2023 to March 17, 2024 totaling \$391,509.62 (inclusive of HST), and its estimate of fees and disbursements from March 17, 2024 to the completion of these receivership proceedings of \$150,000 (inclusive of HST), and (ii) the fees and disbursements of Bennett Jones in its capacity as legal counsel to the Receiver from October 17, 2023 to February 29, 2024 totaling \$187,340.63 (inclusive of HST) and its estimate of fees and disbursements to the completion of these receivership proceedings of \$75,000.00 (inclusive of HST) be and are hereby approved and that no further approval of the fees and disbursements is required.

DISCHARGE AND TERMINATION

6. **THIS COURT ORDERS** that upon the Receiver filing a certificate in the form of Schedule "A" attached hereto (the "**Receiver's Discharge Certificate**"), certifying that it has completed the other activities described in the Second Report, the Receiver shall be unconditionally and absolutely discharged as Receiver of the undertaking, property and assets that constitute the FCC Secured Property of the Debtors and all duties, obligations and responsibilities in connection therewith, provided however that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as Receiver.

7. **THIS COURT ORDERS** that upon discharge, the Receiver shall not be liable for any act or omission on its part, or any reliance thereon, including without limitation, any act or omission pertaining to the discharge of its duties in these proceedings or with respect to any other duties or obligations, except in cases of gross negligence or wilful misconduct on its part, or with leave of the Court a. Subject to the foregoing, any claims against the Receiver and its legal counsel, Bennett Jones in connection with the performance of their respective duties are hereby stayed, extinguished, and forever barred.

8. **THIS COURT ORDERS** that upon the filing of the Receiver's Discharge Certificate, these proceedings shall be terminated without the need for any further authorization or approval.

GENERAL

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

10. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Receiver and its agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

13. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Order and are enforceable without the need for entry and filing.

Schedule "A" - Form of Receiver's Discharge Certificate

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC.**

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

- A. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made on October 6, 2023 (the "**Receivership Order**"), FTI Consulting Canada Inc. ("**FTI**") was appointed receiver and manager (in such capacity, the "**Receiver**") of the FCC Secured Property (as defined therein) of Whyte's Foods Inc./ Les Aliments Whyte's Inc, Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc. and Mario Saroli Sales Inc (collectively, the "**Debtors**").
- B. Pursuant to an Order of the Court dated March [●], 2024 (the "**Distribution and Discharge Order**"), FTI was discharged as Receiver of the Debtors, effective upon the filing by the Receiver with the Court of a certificate confirming that it has completed the remaining activities described in the Second Report of the Receiver dated March [●], 2024 (the "**Second Report**"), provided, however, that notwithstanding its discharge: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of this receivership proceeding; and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this

proceeding, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as Receiver.

- C. Unless otherwise indicated herein, capitalized terms shall have the meanings set out in the Distribution and Discharge Order.

THE RECEIVER CERTIFIES the following:

1. All matters to be completed by the Receiver in connection with this receivership proceeding described in the Second Report have been completed to the satisfaction of the Receiver; and
2. This Certificate was filed by the Receiver on the ___ day of _____, 20__.

FTI Consulting Canada Inc.,

solely in its capacity as Court-appointed Receiver of certain property of Whyte's Foods Inc./Aliments Whyte's Inc., Triak Capital Inc./Capital Triak Inc., Maison Gourmet Inc., and Mario Saroli Sales Inc., and not in its personal or corporate capacity

Jeffrey Rosenberg
Senior Managing Director

FARM CREDIT CANADA

and

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL
TRIAK INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

**DISCHARGE AND ANCILLARY RELIEF
ORDER**

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Lawyers for FTI Canada Consulting Inc.

FARM CREDIT CANADA

and

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL
TRIAK INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

**MOTION RECORD OF FTI CONSULTING
CANADA INC. solely in its capacity as Court-
appointed Receiver
(Returnable March 27, 2024)**

BENNETT JONES LLP

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Toronto, ON M5X 1A4

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*Lawyers for FTI Consulting Canada Inc. solely in its
capacity as Court-appointed Receiver*