

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) FRIDAY, THE 30th
JUSTICE HAINEY) DAY OF APRIL, 2021

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FIGR
BRANDS, INC., FIGR NORFOLK INC. AND CANADA'S ISLAND GARDEN INC.
(collectively, the "**Applicants**")

EMPLOYEE CLAIMS PROCEDURE ORDER



THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, *inter alia*, approving the Employee Claims Procedure (as defined below) and certain related relief, was heard this day by Zoom videoconference as a result of the COVID-19 pandemic.

ON READING the Notice of Motion of the Applicants, the affidavit of Michael Devon sworn April 23, 2021, the Fourth Report of FTI Consulting Canada Inc. dated April 27, 2021, in its capacity as monitor of the Applicants (in such capacity, the "**Monitor**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for Alliance One Tobacco Canada Inc., and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of Aiden Nelms sworn and filed;

SERVICE

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.

DEFINITIONS

2. **THIS COURT ORDERS** that, for the purposes of this Order (the "**Employee Claims Procedure Order**"), in addition to terms defined elsewhere herein, the following terms shall have the following meanings:

- (a) "**Business Day**" means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (b) "**Calendar Day**" means a day, including Saturday, Sunday or any statutory holiday in the Province of Ontario, Canada;
- (c) "**CCAA Claims Procedure**" means the claims procedure approved pursuant to the Claims Procedure Order;
- (d) "**CCAA Proceedings**" means the within proceedings in respect of the Applicants under the CCAA;
- (e) "**Charges**" has the meaning given to that term in the Initial Order;
- (f) "**Claim**" means:
 - (i) any right or claim of any Person against any of the Applicants, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever in existence at the time of the Initial Order, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive, or otherwise), and whether or not such indebtedness, liability or obligation is reduced to judgment, liquidated,

unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against the Applicants with respect to any matter, action, cause or chose in action, but subject to any counterclaim, set-off or right of compensation in favour of the Applicants which may exist, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts that existed prior to the Filing Date, (B) relates to a time period prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**") had the Applicants become bankrupt on the Filing Date, including for greater certainty any claim against the Applicants for indemnification by any Directors or Officers in respect of a D&O Pre-Filing Claim (but excluding any such claim for indemnification that is covered by the Directors' Charge (as defined in the Initial Order));

- (ii) any right or claim of any Person against the Applicants in connection with any indebtedness, liability or obligation of any kind whatsoever owed by the Applicants to such Person arising out of the restructuring, disclaimer, repudiation, resiliation, termination or breach by the Applicants on or after the Filing Date of any contract, lease, other agreement or obligation whether written or oral, including for greater certainty any claim against the Applicants for indemnification by any Directors or Officers in respect of a D&O Restructuring Claim (but excluding any such claim for indemnification that is covered by the Directors' Charge); and
- (iii) any right or claim of any Person against one or more of the Directors or Officers of the Applicants, howsoever arising whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessments (as defined in the Claims Procedure Order) and any right or ability of any Person to advance a claim for contribution, indemnity or otherwise against any of the Directors and/or Officers with respect to any matter, action, cause or chose in action, however arising and whether:
 - (1) (A) based in whole or in part on facts that existed prior to the Filing Date, (B) relating to a time period prior to the Filing Date, or (C) it is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA had the Applicants become bankrupt on the Filing Date (a "**D&O Pre-Filing Claim**"); or

- (2) based on facts that arose in connection with the restructuring disclaimer, resiliation, termination or breach by the Applicants on or after the Filing Date of any contract, lease, other agreement or obligation, whether written or oral (a "**D&O Restructuring Claim**"),

in each case for which the Directors or Officers are alleged to be, by statute or otherwise by law or equity, liable to pay in their capacity as Directors or Officers;

- (g) "**Claims Procedure Order**" means the Claims Procedure Order granted by the Honourable Justice Hainey on February 22, 2021 in these CCAA Proceedings, as may be amended from time to time;
- (h) "**Claims Officer**" means one or more individuals selected or appointed in accordance with this Employee Claims Procedure Order to act as a claims officer for the purposes of this Employee Claims Procedure Order;
- (i) "**Court**" means the Ontario Superior Court of Justice (Commercial List);
- (j) "**D&O Indemnity Claim**" means any existing or future right of any Director or Officer against the Applicants which arose or arises as a result of any Employee Claim against such Director or Officer for which such Director or Officer is entitled to be indemnified by the Applicants;
- (k) "**Directors**" means the directors and former directors of any Applicant or any Person who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or de facto director of any Applicant, in such capacity, and "Director" means any one of them;
- (l) "**Employee**" means anyone who is or was a current or former employee of any of the Applicants, whether on a full-time, part-time or temporary basis, including any individuals on disability leave, parental leave or other absence;
- (m) "**Employee Claim**" means the Claim of any Employee for vacation pay, termination pay, severance pay, wages, expenses, commissions, or other remuneration, arising as

result of the termination of employment or a layoff of such Employee by any Applicant prior to the Filing Date or during the CCAA Proceedings;

- (n) **"Employee Claimant"** means any Person asserting or holding an Employee Claim and includes the transferee or assignee of an Employee Claim recognized in accordance with paragraphs 20 and 21 herein or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;
- (o) **"Employee Claims Bar Date"** means 5:00 p.m. (Eastern Time) on the day which is thirty (30) Calendar Days after the Monitor sends an Employee Claims Package with respect to an Employee Claim in accordance with paragraph 14 of this Employee Claims Procedure Order;
- (p) **"Employee Claims Package"** means the document package which shall be disseminated by the Monitor to any Employee with a potential Employee Claim in accordance with the terms of this Order and shall consist of a copy of this Employee Claims Procedure Order (without schedules), the Employee Claim Statement, the Notice of Dispute of Employee Claim Statement and such other materials as the Monitor, in consultation with the Applicants, may consider appropriate;
- (q) **"Employee Claims Procedure"** means the procedures outlined in this Employee Claims Procedure Order in connection with the identification, quantification, adjudication and resolution of Employee Claims, as may be amended or supplemented by further order of the Court;
- (r) **"Employee Claim Statement"** means the notice prepared by the FIGR Group, in consultation with the Monitor, to be disseminated by the Monitor to all Employees advising as to certain of their rights and obligations which notice shall include an assessment of the quantum of such Employee's Claim based on the books and records of the FIGR Group and shall be substantially in the form attached as Schedule "A";
- (s) **"Filing Date"** means January 21, 2021;

- (t) **"Initial Order"** means the Initial Order of Honourable Justice Hainey as amended and restated on January 29, 2021 in these CCAA Proceedings, as may be further amended, restated or varied from time to time;
- (u) **"Meeting"** means a meeting of the creditors of any Applicant called for the purpose of considering and voting in respect of a Plan, if any;
- (v) **"Monitor"** has the meaning set out in the recital hereto;
- (w) **"Monitor's Website"** means: <http://cfcanada.fticonsulting.com/figr/>;
- (x) **"Notice of Dispute of Employee Claim Statement"** means the form substantially in the form attached as Schedule "B";
- (y) **"Officers"** means the officers and former officers of any Applicant or any Person who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or de facto officer of any Applicant, in such capacity, and "Officer" means any one of them;
- (z) **"Orders"** means any and all orders issued by the Court within the CCAA Proceedings, including the Initial Order;
- (aa) **"Person"** means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on its own or in a representative capacity;
- (bb) **"Plan"** means a plan of compromise or arrangement contemplated by the Initial Order;
and
- (cc) **"Service List"** means the service list maintained by the Monitor in respect of these CCAA Proceedings at the applicable time.

INTERPRETATION

3. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. (Eastern Time) on such Business Day unless otherwise indicated herein.
4. **THIS COURT ORDERS** that all references to the word "including" shall mean "including without limitation".
5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

GENERAL PROVISIONS

6. **THIS COURT ORDERS** that the Employee Claims Procedure and the forms attached as schedules to this Employee Claims Procedure Order are hereby approved. Notwithstanding the foregoing, the Monitor, in consultation with the Applicants, may, from time to time, make non-substantive changes to the forms as the Monitor may consider necessary or desirable, including the Employee Claim Statement and the Notice of Dispute of Employee Claim Statement.
7. **THIS COURT ORDERS** that the Applicants and the Monitor are hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may waive strict compliance with the requirements of this Employee Claims Procedure Order as to completion, execution and submission of such forms and to request any further documentation from an Employee Claimant that the Applicants or the Monitor may require.
8. **THIS COURT ORDERS** that all Employee Claims shall be denominated in Canadian dollars. Any Employee Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada daily average exchange rate on the Filing Date, which for United States dollars is USD 1: CAD 1.2627.
9. **THIS COURT ORDERS** that, notwithstanding any other provisions of this Order, the issuance of an Employee Claim Statement and the filing of a Notice of Dispute of Employee Claim Statement shall not, for that reason only, grant any Employee Claimant any rights, including

without limitation, in respect of their Employee Claim or their standing in the CCAA Proceedings, except as specifically set out in this Employee Claims Procedure Order.

10. **THIS COURT ORDERS** that copies of all forms delivered hereunder, as applicable, shall be maintained by the Monitor. The Monitor shall promptly provide copies of all Employee Claim Statements and all Notice of Dispute of Employee Claim Statement received by them to the Applicants and their counsel in connection with the Employee Claims Procedure.

ROLE OF THE MONITOR

11. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and any other Orders of the Court in the CCAA Proceedings, is hereby authorized, directed and empowered to implement the Employee Claims Procedure provided for herein and to take such other actions and fulfill such other roles as are contemplated by the Employee Claims Procedure Order or incidental thereto.

12. **THIS COURT ORDERS** that the Monitor shall: (i) have all protections afforded to it by the CCAA, this Employee Claims Procedure Order, the Initial Order, any other Orders of the Court in the CCAA Proceedings and other applicable law in connection with its activities in respect of this Employee Claims Procedure Order, including the stay of proceedings in its favour provided pursuant to the Initial Order; (ii) incur no liability or obligation as a result of carrying out the provisions of this Employee Claims Procedure Order, including in respect of its exercise of discretion as to the completion, execution or time of delivery of any documents to be delivered hereunder, other than in respect of gross negligence or wilful misconduct; (iii) shall be entitled to rely on the books and records of the Applicants and any information provided by the Applicants, all without independent investigation; and (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information or in any information provided by any Employee, except to the extent that the Monitor has acted with gross negligence or wilful misconduct.

13. **THIS COURT ORDERS** that the Applicants, the Officers, the Directors and their respective employees, agents and representatives and any other Person given notice of this Employee Claims Procedure Order shall fully cooperate with the Monitor in the exercise of its

powers and the discharge of its duties and obligations under this Employee Claims Procedure Order.

NOTICE TO EMPLOYEES

14. **THIS COURT ORDERS** that the Monitor shall send an Employee Claims Package to each former Employee, by ordinary mail or electronic mail to the last known address or email address of the Employee, as applicable, within: (i) ten (10) Business Days following the date of this Employee Claims Procedure Order if such Employee's employment with the Applicants was terminated prior to or on the date of this Employee Claims Procedure Order; or (ii) ten (10) Business Days following the date on which an Employee's employment with the Applicants is terminated or an Employee's temporary layoff ceases to be temporary under the *Employment Standards Act, 2000*, S.O. 2000, c. 41, as amended (or similar applicable provincial statute), if this occurs following the date of this Employee Claims Procedure Order.

15. **THIS COURT ORDERS** that the Monitor shall cause a template form of Employee Claims Package and the Employee Claims Procedure Order to be posted to the Monitor's Website as soon as reasonably possible and cause it to remain posted thereon until its discharge as Monitor of the Applicants.

16. **THIS COURT ORDERS** that upon request by an Employee Claimant to the Monitor or the Applicants for an Employee Claims Package or documents or information relating to the Employee Claims Procedure, the Monitor shall forthwith send an Employee Claims Package, direct such Employee to the documents posted on the Monitor's Website, or otherwise respond to the request for information or documents as the Monitor considers appropriate in the circumstances.

CLAIMS PROCEDURE FOR EMPLOYEE CLAIMS

17. **THIS COURT ORDERS** that in the event that an Employee receives an Employee Claim Statement and the Employee:

- (a) wishes to dispute the quantum of his or her Employee Claim as set-out in his or her Employee Claim Statement, such Employee shall file a Notice of Dispute of Employee Claim Statement with the Monitor on or before the Employee Claims Bar Date; or
- (b) agrees with the assessment of the quantum of his or her Employee Claim as set out therein, such Employee need not take any further action and such Employee Claim shall be deemed to be as set out in such Employee's Employee Claim Statement.

18. **THIS COURT ORDERS** that the Monitor shall review all Notices of Dispute of Employee Claim Statement received on or before the Employee Claims Bar Date, in consultation with the Applicants, and if the Monitor disagrees with the amount of the Claim as set out in the Notice of Dispute of Employee Claim Statement, shall, in consultation with the Applicants, attempt to resolve such dispute and settle the purported Employee Claim, and in the event that a dispute is not settled within a time period or in a manner that is satisfactory to the Monitor, the Monitor shall, in consultation with the Applicants, refer such dispute raised to a Claims Officer or the Court for adjudication at its election and shall forthwith send written notice to the Employee notifying the Employee of the Monitor's election.

19. **THIS COURT ORDERS** that if an Employee Claimant does not file a Notice of Dispute of Employee Claim Statement, in accordance with paragraph 17, as applicable, so that such Notice of Dispute of Employee Claim Statement is actually received by the Monitor on or before the Employee Claims Bar Date, or such later date as the Court may otherwise direct:

- (a) such Employee Claimant's Employee Claim shall be deemed to be as set out in the applicable Employee Claim Statement; and
- (b) such Employee Claimant shall be and is hereby forever barred, estopped and enjoined from challenging, disputing, objecting to or appealing its Employee Claim as set out in the applicable Employee Claim Statement.

TRANSFER OF EMPLOYEE CLAIMS

20. **THIS COURT ORDERS** that if an Employee transfers an Employee Claim or assigns the whole of such Employee Claim to another Person, neither the Applicants nor the Monitor shall be

obligated to give notice or otherwise deal with the transferee or assignee of such Employee Claim in respect thereof unless and until written notice of such transfer or assignment, together with evidence satisfactory to the Applicants and the Monitor, in their sole discretion, of such transfer or assignment, has been received by the Monitor and the Monitor has provided written confirmation acknowledging the transfer or assignment of such Employee Claim, and thereafter such transferee or assignee shall for the purposes hereof constitute the claimant in respect of such Employee Claim. Any such transferee or assignee of an Employee Claim shall be bound by any notices given or steps taken in respect of such Employee Claim in accordance with this Employee Claims Procedure Order prior to receiving written confirmation by the Monitor acknowledging such assignment or transfer. After the Monitor has delivered a written confirmation acknowledging the notice of the transfer or assignment of an Employee Claim, the Applicants and the Monitor shall thereafter be required only to deal with the transferee or assignee and not the original holder of the Employee Claim. A transferee or assignee of an Employee Claim takes the Employee Claim subject to any defences and rights of set-off to which the Applicants, Directors or Officers may be entitled with respect to such Employee Claim. For greater certainty, a transferee or assignee of an Employee Claim is not entitled to set-off, apply, merge, consolidate or combine any Employee Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to the Applicants. Reference to transfer in this Employee Claims Procedure Order includes a transfer or assignment whether absolute or intended as security.

21. **THIS COURT ORDERS** that if an Employee or any subsequent holder of an Employee Claim, who in any such case has previously been acknowledged by the Applicants and the Monitor as the holder of the Employee Claim, transfers or assigns the whole of such Employee Claim to more than one Person or part of such Employee Claim to another Person, such transfers or assignments shall not create separate Employee Claims and such Employee Claims shall continue to constitute and be dealt with as a single Employee Claim notwithstanding such transfers or assignments. The Applicants and the Monitor shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Employee Claim only as a whole and then only to and with the Person last holding such Employee Claim, provided such holder of an Employee Claim may, by notice in writing delivered to the Applicants and the Monitor, direct that subsequent dealings in respect of such Employee Claim, but only as a whole, shall be dealt with by a specified Person and in such

event, such Person shall be bound by any notices given or steps taken in respect of such Employee Claim with such holder of the Employee Claim or in accordance with the provisions of this Employee Claims Procedure Order.

CLAIMS OFFICER

22. **THIS COURT ORDERS** that Applicants shall pay the reasonable professional fees and disbursements of any Claims Officer appointed to adjudicate a disputed Employee Claim on presentation and acceptance of invoices from time to time. Any Claims Officer shall be entitled to a reasonable retainer against his or her fees and disbursements which shall be paid upon request by the Applicants, with the consent of the Monitor.

23. **THIS COURT ORDERS** that, subject to further order of the Court, the Claims Officer shall determine the status and/or amount of each Employee Claim in respect of which a dispute has been referred to such Claims Officer.

24. **THIS COURT ORDERS** that, in consultation with the Monitor and the Applicants, the Claims Officer shall be empowered to determine the process in which evidence may be brought before him or her as well as any other procedural matters which may arise in respect of the determination of any disputed Employee Claim. In addition, the Claims Officer shall have the discretion to determine by whom and to what extent the costs of any hearing before the Claims Officer shall be paid.

25. **THIS COURT ORDERS** that the Monitor or any Employee Claimant with an Employee Claim that has been referred to the Claims Officer may appeal the Claims Officer's determination to the Court by serving upon the other (with a copy to the Applicants) and filing with the Court, within ten (10) Calendar Days of notification of the Claims Officer's determination of such Employee Claim, a notice of motion returnable on a date to be fixed by the Court. If a notice of motion is not filed within such period, then the Claims Officer's determination shall be deemed to be final and binding with respect to such Employee Claim.

D&O INDEMNITY CLAIMS

26. **THIS COURT ORDERS** that to the extent that any Employee Claim is made against a Director or Officer in accordance with this Employee Claims Procedure, a corresponding D&O Indemnity Claim shall be deemed to have been timely filed in the CCAA Claims Procedure in respect of such Employee Claim. For the avoidance of doubt, Directors and Officers shall not be required to take any action or to file a Proof of Claim (as defined in Claims Procedure Order) in respect of such D&O Indemnity Claim.

SERVICE AND NOTICE

27. **THIS COURT ORDERS** that the Monitor may, unless otherwise specified by this Employee Claims Procedure Order, serve and deliver or cause to be served and delivered the Employee Claims Package, any letters, notices or other documents to Employees or any other interested Person by forwarding true copies thereof by email, prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Employees or any other interested Persons or their counsel (including counsel of record in any ongoing litigation) at the physical or electronic address, as applicable, last shown on the books and records of the Applicants or set out in an Employee's Notice of Dispute of Employee Claim Statement if one has been filed. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Canada, and the fifth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or email by 5:00 p.m. (Eastern Time) on a Business Day, on such Business Day and if delivered after 5:00 p.m. (Eastern Time) or other than on a Business Day, on the following Business Day.

28. **THIS COURT ORDERS** that any notice or communication required to be provided or delivered to the Applicants or the Monitor under this Employee Claims Procedure Order shall be in writing in substantially the form, if any, provided for in this Employee Claims Procedure Order and will be sufficiently given only if delivered by email, or if an Employee is unable to do so, and after notifying the Monitor of the method of delivery via the telephone hotline available on the Monitor's Website, by prepaid registered mail, courier, or personal delivery, addressed to:

If to the Applicants:

Bennett Jones LLP
100 King St, W Suite 3400
Toronto, ON M5X 1A4

Attention: Mike Shakra / Aiden Nelms

Email: shakram@bennettjones.com / nelmsa@bennettjones.com

If to the Monitor:

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

Attention: Jeff Rosenberg / Jodi Porepa

Email: figr@fticonsulting.com

with copies to:

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

Attention: Kieran May

Email: kmay@cassels.com

Any such notice or communication shall be deemed to be received upon actual receipt thereof before 5:00 p.m. (Eastern Time) on a Business Day or if delivered outside of normal business hours, the next Business Day.

29. **THIS COURT ORDERS** that the posting of materials on the Monitor's Website pursuant to paragraph 15 herein and the mailing of Employee Claims Packages as set out in this Employee Claims Procedure Order shall constitute good and sufficient notice to Employee of the Employee Claims Bar Date and the other deadlines and procedures set forth herein, and that no other form of

notice or service need be given or made on any Person, and no other document or material need be served on any Person in respect of the Employee Claims Procedure described herein.

30. **THIS COURT ORDERS** that in the event that this Employee Claims Procedure Order is subsequently amended by further Order of the Court, the Applicants shall serve notice of such amendment on the Service List in these proceedings and the Monitor shall post such further Order on the Monitor's Website and such posting shall constitute adequate notice to all Employees of such amendment.

31. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this Employee Claims Procedure Order, a postal strike or postal work stoppage of general application should occur, such notices, notifications or other communications sent by ordinary or registered mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Employee Claims Procedure Order.

DIRECTIONS

32. **THIS COURT ORDERS** that notwithstanding the terms of this Employee Claims Procedure Order, the Applicants or the Monitor may apply to this Court from time to time for directions from this Court with respect to this Employee Claims Procedure Order, or for such further Order or Orders as any of them may consider necessary or desirable to amend, supplement or clarify the terms of this Employee Claims Procedure Order.

GENERAL

33. **THIS COURT ORDERS** that nothing in this Employee Claims Procedure Order shall prejudice the rights and remedies of any Directors or Officers to the Charges or any applicable insurance policy or prevent or bar any Person from seeking recourse against or payment from the Applicants' insurance or any Director's or Officer's liability insurance policy or policies that exist to protect or indemnify the Directors or Officers whether such recourse or payment is sought directly by an Employee Claimant asserting an Employee Claim from the insurer or derivatively

through the Directors or Officers or the Applicants; provided, however, that nothing in this Employee Claims Procedure Order shall create any rights in favour of such Employee under any policies of insurance nor shall anything in this Claims Procedure Order limit, remove, modify or alter any defence to such Employee Claim available to the insurer pursuant to the provisions of any insurance policy or at law; and further provided that any Employee Claim or portion thereof for which the Employee receives payment directly from, or confirmation that he or she is covered by, the Applicants' insurance or any Directors' or Officers' liability insurance or other liability insurance policy or policies that exist to protect or indemnify the Directors or Officers shall not be recoverable as against the Applicants or the Directors or Officers, as applicable.

34. **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 Employee Claims Procedure Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Employee Claims Procedure Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Employee Claims Procedure Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Employee Claims Procedure Order.

35. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Employee Claims Procedure Order and for assistance in carrying out the terms of this Employee Claims Procedure Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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



SCHEDULE "A"
EMPLOYEE CLAIM STATEMENT

(Letterhead of the Monitor)

[DATE], 2021

[●]

Dear:

Re: Employee Claims in the CCAA Proceedings of FIGR Brands, Inc. et al (Court File: CV-21-00655373-00CL)

As you know, FIGR Brands, Inc., FIGR Norfolk Inc. and Canada's Island Garden Inc. (together, the "**Applicants**") filed for and were granted creditor protection under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**"), pursuant to an order (as amended, the "**Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") (the "**CCAA Proceedings**"). Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as monitor of the Applicants (in such capacity, the "**Monitor**") to, among other things, oversee the CCAA Proceedings. Terms not otherwise defined herein have the meaning ascribed to them in the Employee Claims Procedure Order dated April 30, 2021 (the "**Employee Claims Procedure Order**"). Copies of the Initial Order, the Employee Claims Procedure Order and other information

relating to the CCAA Proceedings has been posted to:

<http://cfcanada.fticonsulting.com/figr/> (the "**Monitor's Website**").

The purpose of this notice is to inform you about the employee claims process (the "**Employee Claims Process**") that was approved by the Court pursuant to the Employee Claims Procedure Order. The Employee Claims Process governs employee claims to be asserted against the Applicants and their Directors and Officers in the CCAA Proceedings (collectively, the "**Employees**" and each an "**Employee**"). The Employee Claims Process, as it relates to Employee claims (each an "**Employee Claim**"), is described below.

Employee Claims Process

- Under the Employee Claims Process, the Monitor is required to send a notice prepared by the Applicants, in consultation with the Monitor, to each Employee outlining the quantum of their Employee Claim against the Applicants and the Directors and Officers that the Monitor is prepared to allow (each a "**Employee Claim Statement**").
- This notice is your Employee Claim Statement, and your total Employee Claim has been assessed by the Monitor, in consultation with the Applicants. Please refer to Appendix [●] for a copy of your Employee Claim Statement as of [●], 2021.

If you agree with the Employee Claim Statement, you need take no further action.

IF YOU WISH TO DISPUTE THE ASSESSMENT OF YOUR EMPLOYEE CLAIM, YOU MUST TAKE THE STEPS OUTLINED BELOW.

Disagreement with Assessment:

If you disagree with the assessment of your Employee Claim set out in this Employee Claim Statement, you must complete and return to the Monitor a completed Notice of Dispute of Employee Claim Statement asserting a claim in a different amount supported by the appropriate documentation. A blank Notice of Dispute of Employee Claim Statement form is enclosed. The Notice of Dispute of Employee Claim Statement with supporting documentation disputing the within assessment of your claim **must be received by the Monitor no later than 5:00 p.m. (Toronto Time) on the day which is thirty (30) Calendar Days after the Monitor sends the Employee Claims Package (the "Employee Claims Bar Date")**.

If no such Notice of Dispute of Employee Claim Statement is received by the Monitor by that date, the amount of your claim will be, subject to further order of the Court, conclusively deemed to be as shown in this Employee Claim Statement.

The Notice of Dispute of Employee Claim Statement ***will be sufficiently received only if delivered by email***, or if an Employee is unable to do so, and after notifying the Monitor of the method of delivery via the telephone hotline (416.649.8128 or 1.844.669.6345), by prepaid registered mail, courier, or personal delivery addressed to:

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

Attention: Jeff Rosenberg / Jodi Porepa

Email: figr@fticonsulting.com

with copies to:
Cassels Brock & Blackwell LLP
Suite 2100, Scotia Plaza
40 King Street West
Toronto, ON M5H 3C2
Attention: Kieran May

Email: kmay@cassels.com

Important Deadline:

If you do not file a Notice of Dispute of Employee Claim Statement by the Employee Claims Bar Date, you will have no further right to dispute your Employee Claim against any of the Applicants or the Directors and Officers, as assessed by Monitor, in consultation with the Applicants, and you will be barred from filing any such dispute in the future.

More Information:

If you have questions regarding the foregoing, you may contact the Monitor at figr@fticonsulting.com or via the telephone hotline (416.649.8128 or 1.844.669.6345).

Yours truly,

SCHEDULE "B"

NOTICE OF DISPUTE OF EMPLOYEE CLAIM STATEMENT

With respect to the Applicants¹ and their Directors and Officers

Claims Reference Number: _____

1. Particulars of Claimant:

Full Legal Name of Employee Claimant (include trade name, if applicable)

(the "Employee Claimant")

Full Mailing Address of the Employee Claimant:

Other Contact Information of the Claimant:

Telephone Number: _____

Email Address: _____

Facsimile Number: _____

Attention (Contact Person): _____

2. Particulars of original Employee from whom you acquired the Employee Claim (if applicable):

Have you acquired this purported Employee Claim from an Employee by assignment?

Yes: No:

If yes and if not already provided, attach documents evidencing assignment.

¹ FIGR Brands, Inc., FIGR Norfolk Inc. and Canada's Island Garden Inc. (collectively, the "Applicants").

Full Legal Name of original Employee Claimant: _____

3. Dispute of Employee Claim Statement:

The Employee Claimant hereby disagrees with the value of its Employee Claim as set out in the Employee Claim Statement and asserts a Claim as follows:²

	Amount in Employee Claim Statement	Amounts Claimed by Employee Claimant	Entity or Director(s) and/or Officers Against which Employee Claim is Asserted
Total Claim	\$	\$	

4. Reasons for Dispute:

Please describe the reasons and basis for your dispute of the amount set out in your Employee Claim Statement. You may attach a separate schedule if more space is required.

² All Employee Claims shall be denominated in Canadian dollars. Any Employee Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada daily average exchange rate on the Filing Date, which for United States dollars is USD 1: CAD 1.2627.

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

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings Commenced in Toronto

EMPLOYEE CLAIMS
PROCEDURE ORDER

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Lawyers for the Applicants