

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
FIGR BRANDS, INC., FIGR NORFOLK INC.  
AND CANADA'S ISLAND GARDEN INC.**

Applicants

**MOTION RECORD**

March 25, 2021

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

**Sean Zweig** (LSO# 57307I)  
**Mike Shakra** (LSO# 64604K)  
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Lawyers for the Applicants

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# TAB 1

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

Applicants

**NOTICE OF MOTION**

**(Returnable March 31, 2021)  
(DIP Amendment Order)**

The Applicants will make a motion before the Honourable Justice Hainey of the Ontario Superior Court of Justice (Commercial List) on Wednesday, March 31, 2021 at 2:00 p.m. or as soon after that time as the motion can be heard.

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

**THE MOTION IS FOR:**

1. An order (the "**DIP Amendment Order**") substantially in the form attached hereto at Tab 3 of this motion record, *inter alia*:
  - (a) abridging the time for service and filing of this notice of motion and the motion record and dispensing with service on any person other than those served;
  - (b) authorizing the execution by the Applicants of the first amendment to the DIP Commitment Letter (as defined below) (the "**DIP Amendment**"), which will, among other things, increase the maximum borrowing available under the DIP Loan (as defined below) up to \$13,000,000 (which is an increase of \$5,000,000);

- (c) authorizing an increase to the DIP Lender's Charge (as defined in the Amended and Restated Initial Order (as defined below)) up to a maximum amount of \$13,000,000 (plus interest and costs);
  - (d) approving the third report of FTI Consulting Canada Inc. ("**FTI**") in its capacity as monitor of the Applicants (in such capacity, the "**Monitor**"), to be filed (the "**Third Report**"); and
  - (e) approving the fees and disbursements of the Monitor and its counsel, Cassels Brock & Blackwell LLP ("**Cassels**"), as set out in the Affidavits of Jeffrey Rosenberg and Ryan Jacobs, respectively.
2. Such further and other relief as this Honourable Court deems just.

**THE GROUNDS FOR THIS APPLICATION ARE:**

***Background***

3. The FIGR Group operates two (2) licensed cannabis facilities – one in Simcoe, Ontario and the other in Charlottetown, Prince Edward Island. Since commencing operations, both facilities have been cash flow negative and the FIGR Group has been dependant on certain of its affiliate companies for funding.
4. Facing significant liquidity issues, potential enforcement action from certain of its creditors and the cessation of its business, the FIGR Group sought protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**") pursuant to an order (the "**Initial Order**") on January 21, 2021 (the "**CCAA Proceedings**").
5. Among other things, the Initial Order:
- (a) appointed FTI as Monitor;
  - (b) granted an initial 10-day stay of proceedings in favour of the Applicants and their Directors and Officers (the "**Stay Period**");
  - (c) approved the Applicants' ability to borrow under a debtor-in-possession credit facility (the "**DIP Loan**") pursuant to a commitment letter dated January 20, 2021 with Alliance One Tobacco Canada, Inc. (in such capacity, the "**DIP Lender**"), whereby the DIP Lender agreed to provide the DIP Loan in the maximum principal

amount of \$8,000,000 (as may be amended from time to time, the "**DIP Commitment Letter**"), although the DIP Lender's Charge was limited to \$2,500,000; and

- (d) granted the Administration Charge, the Directors' Charge, the DIP Lender's Charge and the Intercompany Charge (all as defined in the Initial Order).

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

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

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

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

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

10. Since the granting of the Claims Procedure Order and the Ancillary Order, the Applicants have acted in good faith and with due diligence to, among other things, continue stabilizing their business, communicate, with the assistance of the Monitor, with Health Canada, employees, customers (including the provincial cannabis boards), suppliers and other key stakeholders in the CCAA Proceedings and assist the Monitor with the SISP and Claims Procedure.

### ***Update on the SISP<sup>1</sup>***

11. Since the granting of the SISP Approval Order, the Monitor, together with their affiliate FTI Capital Advisors – Canada ULC, and the Applicants have taken steps to advance the SISP in accordance with the timeline set out in the SISP.

12. The Phase 1 Bid Deadline occurred on February 26, 2021 at 5:00pm (Eastern Time). Following the Phase 1 Bid Deadline, and in accordance with the SISP Approval Order, the Monitor and the Applicants, in consultation with the DIP Lender, prepared and distributed the Bid Process Letter for Phase 2. The Bid Process Letter was distributed to all Phase 2 Qualified Bidders by the Monitor and posted on the Monitor's Website.

13. Among other things, the Bid Process Letter established the Phase 2 Bid Deadline and outlined certain Phase 2 qualification criteria. The Monitor continues to advance Phase 2 of the SISP in accordance with the SISP Approval Order and the Bid Process Letter.

### ***The DIP Amendment Order***

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

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

16. As part of its ongoing support for the FIGR Group and the CCAA Proceedings, the DIP Lender has agreed to advance an additional \$5,000,000 pursuant to the DIP Amendment. Pursuant to the terms of the DIP Amendment:

---

<sup>1</sup> Terms in this section not otherwise defined herein have the meanings ascribed to them in the SISP Approval Order.

- (a) the DIP Loan will be increased by \$5,000,000 to a maximum amount of \$13,000,000; and
- (b) the negative cash-flow variance threshold allowable in any calendar week will be increased to \$1,000,000 from \$250,000.

17. As a result of the DIP Amendment and the additional funds available thereunder, the DIP Amendment Order seeks to increase the quantum of the DIP Lender's Charge to a maximum of \$13,000,000 (plus interest and costs). It is a condition of the DIP Amendment (and the availability of funds thereunder) that the DIP Lender's Charge be increased.

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

***Approval of the Third Report and Fees***

19. The proposed DIP Amendment Order also seeks approval of the Third Report and the fees and activities of the Monitor and its counsel, Cassels.

**OTHER GROUNDS:**

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

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

22. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of this motion:

- (a) the Affidavit of Michael Devon, sworn on March 25, 2021, and the exhibits attached thereto;
- (b) the Third Report of the Monitor, to be filed; and



(c) such further and other evidence as counsel may advise and this Court may permit.

March 25, 2021

**BENNETT JONES LLP**

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## Schedule "A"

### Join Zoom Meeting

<https://us02web.zoom.us/j/89743164716>

Meeting ID: 897 4316 4716

One tap mobile

+16465588656,,89743164716# US (New York)

+16699009128,,89743164716# US (San Jose)

Dial by your location

+1 646 558 8656 US (New York)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

Meeting ID: 897 4316 4716

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

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

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

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

Proceedings Commenced in Toronto

**NOTICE OF MOTION**  
**(DIP Amendment Order)**

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# TAB 2

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

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FIGR BRANDS, INC., FIGR NORFOLK INC.  
AND CANADA'S ISLAND GARDEN INC.**

Applicants

**AFFIDAVIT OF MICHAEL DEVON  
(Sworn March 25, 2021)**

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

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

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

(a) an order (the "**DIP Amendment Order**"), among other things:

(i) abridging the time for service of the motion record returnable March 31, 2021 and dispensing with service on any person other than those served;

- (ii) authorizing the execution by the Applicants of the first amendment to the DIP Commitment Letter (as defined below) (the "**DIP Amendment**"), which will, among other things, increase the maximum borrowing available under the DIP Loan (as defined below) up to \$13,000,000 (which is an increase of \$5,000,000);
- (iii) authorizing an increase to the DIP Lender's Charge (as defined in the Amended and Restated Initial Order) up to a maximum amount of \$13,000,000 (plus interest and costs);
- (iv) approving the Third Report of the Monitor, to be filed (the "**Third Report**"), and the activities described therein; and
- (v) approving the fees and disbursements of the Monitor and its counsel as set out in the Affidavits of Jeffrey Rosenberg and Ryan Jacobs, respectively (together, the "**Fee Affidavits**").

3. All terms not otherwise defined herein have the meaning ascribed to them in: (a) the DIP Amendment Order; or (b) my affidavit sworn February 16, 2021 in support of the Claims Procedure Order and the Ancillary Order (each as defined below), a copy of which is appended hereto (without exhibits) as Exhibit "A", as applicable.

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

## **I. INTRODUCTION AND BACKGROUND**

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

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

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

7. Among other things, the Initial Order:

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

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

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

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

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

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

12. On February 22, 2021, the Court also granted an Order (the "**Ancillary Order**") which, among other things, approved a key employee retention plan, extended the Stay Period until April 30, 2021 and approved the fees and expenses of the Monitor and its counsel, Cassels Brock & Blackwell LLP, for the periods from January 21, 2021 to February 7, 2021 and January 22, 2021 to February 12, 2021 respectively.

13. Since the granting of the Claims Procedure Order and the Ancillary Order, the Applicants have continued to act in good faith and with due diligence to, among other things, stabilize their business, communicate, with the assistance of the Monitor, with Health Canada, employees,



customers (including the provincial cannabis boards), suppliers and other key stakeholders in the CCAA Proceedings and assist the Monitor with the SISP and Claims Procedure.

## **II. UPDATE ON THE SISP<sup>1</sup>**

14. Since the granting of the SISP Approval Order, the Monitor, together with their affiliate FTI Capital Advisors – Canada ULC, and the Applicants have taken steps to advance the SISP in accordance with the timeline set out in the SISP.

15. The Phase 1 Bid Deadline occurred on February 26, 2021 at 5:00pm (Eastern Time). Following the Phase 1 Bid Deadline, and in accordance with the SISP Approval Order, the Monitor and the Applicants, in consultation with the DIP Lender, prepared and distributed the Bid Process Letter for Phase 2. The Bid Process Letter was distributed to all Phase 2 Qualified Bidders by the Monitor and posted on the Monitor's Website. Among other things, the Bid Process Letter established the Phase 2 Bid Deadline and outlined certain Phase 2 qualification criteria. A copy of the Bid Process Letter is attached hereto as Exhibit "D".

16. As of the date of this Affidavit, I understand that the Monitor continues to advance Phase 2 of the SISP in accordance with the SISP Approval Order and the Bid Process Letter.

## **III. THE DIP AMENDMENT ORDER**

### ***(i) The DIP Amendment***

17. As previously noted, pursuant to the Amended and Restated Initial Order, the Court authorized and empowered the FIGR Group to obtain and borrow a credit facility from the DIP

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

Lender to finance the FIGR Group's working capital requirements and other general corporate purposes and capital expenditures. The Court also:

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

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

19. As part of its ongoing support for the FIGR Group and the CCAA Proceedings, the DIP Lender has agreed to advance an additional \$5,000,000 pursuant to the DIP Amendment. A substantially final draft of the DIP Amendment is attached hereto as Exhibit "E". I understand a copy of the fully executed DIP Amendment will be attached to the Third Report.

20. Pursuant to the terms of the DIP Amendment:

- (a) the DIP Loan will be increased by \$5,000,000 to a maximum amount of \$13,000,000; and

- (b) the negative cash-flow variance threshold allowable in any calendar week will be increased to \$1,000,000 from \$250,000.

21. As a result of the DIP Amendment and the additional funds available thereunder, the DIP Amendment Order seeks to increase the quantum of the DIP Lender's Charge to a maximum of \$13,000,000 (plus interest and costs). The DIP Amendment and the corresponding increase to the DIP Lender's Charge are based on the go-forward funding needs of the Applicants and will allow them to continue to operate in the ordinary course while the SISP is completed and the Claims Procedure is administered. It is a condition of the DIP Amendment (and the availability of funds thereunder) that the DIP Lender's Charge be increased.

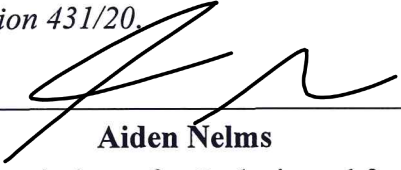
22. It is my view that the DIP Amendment is in the best interests of the FIGR Group's stakeholders as it will provide the FIGR Group with the funds necessary to continue its operations while the SISP and Claims Procedure are completed, which will provide significant benefit to the FIGR Group's stakeholders.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

***(ii) Approval of the Third Report and Fees***

23. The proposed DIP Amendment Order seeks approval of the Third Report and the fees and activities of the Monitor and its counsel described therein. I understand that the Monitor and its counsel will prepare the Fee Affidavits, which will be attached to the Third Report.

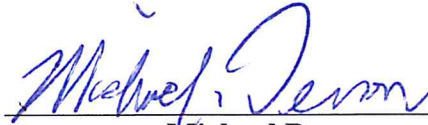
24. I swear this affidavit in support of the Applicants' motion for the DIP Amendment Order and for no other or improper purpose.

SWORN BEFORE ME over )  
videoconference on this 25<sup>th</sup> day of March )  
2021. The affiant was located in the City of )  
Toronto, in the Province of Ontario and the )  
Commissioner was located in the City of )  
Toronto, in the Province of Ontario. This )  
affidavit was commissioned remotely as a )  
result of COVID-19 and the declaration was )  
administered in accordance with Ontario )  
*Regulation 431/20.* )



**Aiden Nelms**

A Commissioner for Oaths in and for the  
Province of Ontario



**Michael Devon**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36*, AS AMENDED AND  
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Court File No.: CV-21-00655373-00CL

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

Proceedings Commenced in Toronto

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**AFFIDAVIT OF MICHAEL DEVON**  
**(Sworn March 25, 2021)**

---

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

Lawyers for the Applicants

*This is Exhibit* ..... “A” ..... *referred to in the*

*affidavit of* ..... Michael Devon .....

*sworn before me, this* ..... 25<sup>th</sup> .....

*day of* ..... March, 2021 .....



.....  
**A COMMISSIONER FOR TAKING AFFIDAVITS**

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*  
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Applicants

**AFFIDAVIT OF MICHAEL DEVON  
(Sworn February 16, 2021)**

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

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

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

- (a) an order (the "**Claims Procedure Order**") establishing a process for the solicitation, identification, determination and adjudication of claims against the

FIGR Group and their present and former Directors and Officers (as defined below) (the "**Claims Procedure**"); and

- (b) an order (the "**Ancillary Order**"), among other things:
  - (i) approving an extension of the Stay Period to and including April 30, 2021 (the "**Stay Extension**");
  - (ii) approving a key employee retention plan ("**KERP**");
  - (iii) approving the Pre-Filing Report of the Monitor dated January 21, 2021, the First Report of the Monitor dated January 27, 2021, and the Second Report of the Monitor, to be filed (the "**Second Report**"); and
  - (iv) approving the fees and disbursements of the Monitor and its counsel as set out in the Affidavits of Jeffrey Rosenberg and Ryan Jacobs, respectively.

3. All terms not otherwise defined herein have the meaning ascribed to them in: (a) the Claims Procedure Order; (b) the Ancillary Order; or (c) my affidavit sworn January 25, 2021 in support of the Amended and Restated Initial Order (as defined below) (the "**January 25 Devon Affidavit**"), a copy of which is appended hereto (without exhibits) as Exhibit "A", as applicable.

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

## **I. INTRODUCTION AND BACKGROUND**

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



6. Facing significant liquidity issues, potential enforcement action from certain of its creditors and the cessation of its business, the FIGR Group sought protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**") pursuant to an Order (the "**Initial Order**") on January 21, 2021 (the "**CCAA Proceedings**"). The facts underlying the FIGR Group's financial circumstances and need for CCAA protection are set out in my affidavit sworn January 21, 2021, in support of the commencement of the CCAA Proceedings, a copy of which is appended hereto (without exhibits) as Exhibit "B", and the January 25 Devon Affidavit and are not repeated herein.

7. Among other things, the Initial Order:

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

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

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

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

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

11. Since the granting of the Amended and Restated Initial Order and the SISP Approval Order, the Applicants have acted in good faith and with due diligence to, among other things, continue stabilizing their business, communicate, with the assistance of the Monitor, with Health Canada, employees, customers (including the provincial cannabis boards), suppliers and other key stakeholders in the CCAA Proceedings, develop the KERP, develop the Claims Procedure and assist the Monitor with the SISP.

## **II. UPDATE ON OPERATIONS**

12. Since the granting of the Amended and Restated Initial Order, the Applicants, with the oversight of the Monitor, have continued to manage their business with a view to increasing efficiency and eliminating redundancies and unnecessary costs.

13. In connection with such efforts, the employment of four (4) employees of FIGR Brands was terminated and 17 employees of FIGR Norfolk were placed on temporary layoff. The Applicants have made significant efforts to preserve the jobs of their employees where possible, including by temporarily laying off certain employees instead of terminating them until there is greater clarity regarding the outcome of the SISP and the future of the Applicants' operations.

14. The Applicants have also issued disclaimer notices in respect of motor vehicle leases for vehicles which were provided to sales employees who are no longer employed by the Applicants.

15. On January 31, 2021, the FIGR Group's insurance policies with Royal & Sun Alliance Insurance Company of Canada and Wynward Insurance Group Next Wave Insurance Canada (collectively, the "**Insurers**") came up for renewal. In order to reduce the upfront costs of paying for the entire yearly premiums at the commencement of the policy period and after reviewing several proposed options, the FIGR Group entered into a premium financing arrangement (the "**CAFO Financing Arrangement**") with CAFO Insurance Premium Finance ("**CAFO**").

16. In connection with the CAFO Financing Arrangement, the FIGR Group has agreed to provide the Insurers with an irrevocable direction to pay any and all unearned premiums which become payable to the FIGR Group to CAFO (the "**Direction**"). The Direction was required by CAFO in order to provide premium financing to the FIGR Group. In the absence of the Direction, the FIGR Group would have had to provide first-ranking security or a charge on its assets to CAFO (or another premium financier) in order to secure premium financing.

17. I understand that the terms of the CAFO Financing Arrangement were considered and approved by the DIP Lender and the Monitor prior to being finalized.

### III. THE CLAIMS PROCEDURE ORDER

18. Given that the Applicants do not have any funded secured debt (with the exception of the DIP Loan), the Applicants currently expect that there will be distributions available to unsecured creditors following the SISP, through a plan of arrangement or otherwise.

19. Accordingly, the FIGR Group is seeking authorization to undertake the Claims Procedure to solicit, identify, determine and adjudicate Claims against the FIGR Group and their present and former directors and officers (collectively, the "**Directors and Officers**" and each a "**Director**" or "**Officer**", as applicable).

20. The proposed Claims Procedure Order establishes a comprehensive process for the solicitation, identification, determination and adjudication of Claims against any of the Applicants and the Directors and Officers. The Claims Procedure has been developed in consultation with the Monitor and its counsel and the FIGR Group believes that the Claims Procedure Order prescribes an appropriate and effective process to solicit, identify, determine and adjudicate potential Claims against the FIGR Group.

21. As noted below, the Claims Procedure excludes Employee Claims (as defined below). Depending upon the results of the SISP, the Applicants may return to Court to seek a further order to address the Employee Claims.

22. The Claims Procedure proposes that any notice or communication required to be provided or delivered by a Claimant to the Applicants or the Monitor will be sufficient given only if delivered by email, or if a Claimant is unable to do so, by prepaid registered mail, courier, or personal delivery after notifying the Monitor of the method of delivery via the telephone hotline (416.649.8128 or 1.844.669.6345).

**(a) Filing a Proof of Claim**

23. The Claims Procedure Order provides that any Claimant who wishes to assert a Claim (including, for greater certainty Pre-Filing Intercompany Claims) against the FIGR Group or the Directors or Officers must deliver to the Monitor, on or before the applicable Bar Date (as defined below), a Proof of Claim in the form attached as Schedule "C" to the Claims Procedure Order, together with all supporting documentation in respect of such Claim.

24. The Claims Procedure does not apply to: (a) any claim secured by any of the Charges granted pursuant to the Initial Order (as amended by the Amended and Restated Initial Order) or (b) any Employee Claim<sup>1</sup> (collectively, the "**Excluded Claims**").

25. To the extent that any D&O Claim is filed in accordance with the Claims Procedure, a corresponding D&O Indemnity Claim shall be deemed to have been timely filed in respect of each D&O Claim. For the avoidance of doubt, Directors and Officers shall not be required take any action or to file a Proof of Claim in respect of such D&O Indemnity Claim.

**(b) Notice to Claimants**

26. The Claims Procedure Order provides for the delivery by the Monitor to each Known Claimant, within five (5) Business Days following receipt of the complete list of Known Claimants (which is to be delivered by the Applicants to the Monitor within two (2) Business Days following the issuance of the Claims Procedure Order), a Claims Package containing:

(a) the Instruction Letter in substantially the form attached as Schedule "A" to the Claims Procedure Order;

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<sup>1</sup> "**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.

- (b) the Notice to Claimants in substantially the form attached as Schedule "B" to the Claims Procedure Order;
- (c) a Proof of Claim in substantially the form attached as Schedule "C" to the Claims Procedure Order; and
- (d) such other materials that the FIGR Group and the Monitor consider appropriate or desirable.

27. The Claims Procedure Order also provides that the Monitor shall take the following actions to provide notice of the Claims Procedure to persons who may have Claims against any of the Applicants:

- (a) cause the Notice to Claimants to be published as soon as practicable and without delay following the issuance of the Claims Procedure Order in The Globe and Mail (National Edition) for at least one (1) Business Day;
- (b) post a copy of the Notice to Claimants, the Claims Package and the Claims Procedure Order on the Monitor's Website as soon as reasonably possible;
- (c) deliver a Claims Package to any person claiming to be a Claimant and requesting such material in writing; and
- (d) provide a Claims Package to any person upon becoming aware of any circumstance giving rise to a Restructuring Claim.

**(c) Claims Bar Date**

28. The proposed Claims Procedure Order specifies the following bar dates:

- (a) in respect of Pre-Filing Claims, D&O Pre-Filing Claims and Pre-Filing Intercompany Claims, 5:00 p.m. (Eastern Time) on April 6, 2021 (the "**Pre-Filing Claims Bar Date**"); and
- (b) in respect of Restructuring Claims and D&O Restructuring Claims, 5:00 p.m. (Eastern Time) on the later of: (i) the Pre-Filing Claims Bar Date, and (ii) the date that is thirty (30) Calendar Days after the date on which the Monitor sends such person a Claims Package (the later of such dates being the "**Restructuring Claims Bar Date**" and together with the Pre-Filing Claims Bar Date, the "**Bar Dates**").

29. Any person who does not deliver a Proof of Claim (except in respect of Excluded Claims) to the Monitor on or before the Pre-Filing Claims Bar Date or the Restructuring Claims Bar Date, as applicable, shall: (i) not be entitled to attend or vote at a meeting to vote on any CCAA plan in respect of such Claim; (ii) not be entitled to participate in any distribution in respect of such Claim pursuant to a plan or otherwise; (iii) not be entitled to any further notice in the CCAA Proceedings (unless such person is otherwise on the Service List); and (iv) be forever barred from making or enforcing such Claim against the FIGR Group or the Directors or Officers, and such Claim shall be extinguished.

**(d) Excluded Claims**

30. The Claims Procedure Order does not affect Excluded Claims. Accordingly, Persons holding an Excluded Claim are not required to file a Proof of Claim in respect of such Excluded Claim.

**(e) Review and Resolution of Disputed Claims**

31. The Claims Procedure Order sets out the processes for: (i) reviewing Proofs of Claims filed in respect of Pre-Filing Claims, D&O Pre-Filing Claims, Restructuring Claims, D&O Restructuring Claims, and Pre-Filing Intercompany Claims and (ii) resolving Disputed Claims.

*(i) Claims Against the Applicants*

32. The Claims Procedure Order provides that the Monitor, with the assistance of the FIGR Group, shall review all Proofs of Claim received by the applicable Bar Date, and accept, revise or disallow the classification, nature and/or amount of such Claims. Where a Claimant's Claim is revised or disallowed in whole or in part, the Monitor will send a Notice of Revision or Disallowance describing the basis for the revision or disallowance.

33. Any Claimant who wishes to dispute a Notice of Revision or Disallowance must deliver a Notice of Dispute of Revision or Disallowance by no later than 5:00 p.m. (Eastern Time) on the date that is fourteen (14) Calendar Days after the date the Monitor sends such notice. Where no such Notice of Dispute of Revision or Disallowance is received by the Monitor by the deadline, the classification, nature and amount of applicable Claim shall be deemed to be as set out in the Notice of Revision or Disallowance and any and all of the Claimant's rights to dispute the classification, amount and/or nature of the applicable Claim shall be forever extinguished and barred without further act or notification.

34. The Claims Procedure Order contemplates a consensual resolution process for any Notice of Dispute of Revision or Disallowance delivered to the Monitor. However, where such Claim cannot be resolved consensually within a period or in a manner satisfactory to the Monitor, in consultation with FIGR Group, it will constitute a Disputed Claim. Each Disputed Claim will be referred to (i) the Court or (ii) a Claims Officer or such alternative dispute resolution as may be



ordered by the Court or agreed to by the Monitor, the Applicants and the applicable Claimant. Thereafter, the Court, the Claims Officer or the Person or Persons conducting the alternative dispute resolution proceeding, as the case may be, shall resolve the dispute.

(ii) *Claims Against Directors and Officers of the Applicants*

35. The Claims Procedure Order provides that the Monitor shall forthwith provide the relevant Director or Officer (and his or her counsel, if known to the Applicants) with a copy of any Proof of Claim received in respect of D&O Claims. The Monitor, with the assistance of the FIGR Group and the consent of the relevant Director or Officer, shall review all Proofs of Claims received by the applicable Bar Date, and accept, revise or disallow the classification, nature and/or amount of such D&O Claim set out therein in whole or in part. Where a Claimant's D&O Claim is revised or disallowed in whole or in part, the Monitor will send a Notice of Revision or Disallowance describing the basis for the revision or disallowance. The Monitor shall provide a copy of such Notice of Revision or Disallowance to the Director or Officer (and his or her counsel, if known to the Monitor).

36. Any Claimant who, in respect of a D&O Claim, wishes to dispute a Notice of Revision or Disallowance, must deliver a Notice of Dispute of Revision or Disallowance by no later than 5:00 p.m. (Eastern Time) on the date that is fourteen (14) Calendar Days after the date the Monitor sends such notice. The Monitor shall provide a copy of such Notice of Dispute of Revision or Disallowance to the Director or Officer (and his or her counsel, if known to the Monitor). Where no such Notice of Dispute of Revision or Disallowance is delivered to the Monitor by the deadline, the classification, nature and amount of applicable Claim shall be deemed to be as set out in the Notice of Revision or Disallowance and any and all of the Claimant's rights to dispute the

classification, amount and/or nature of the applicable Claim shall be forever extinguished and barred without further act or notification.

37. The Claims Procedure Order contemplates a consensual resolution process for any Notice of Dispute of Revision or Disallowance delivered to the Monitor. However, where such Claim cannot be resolved consensually within a period or in a manner satisfactory to the Monitor, in consultation with FIGR Group and with the consent of the applicable Directors and Officers, it will constitute a Disputed Claim. Similar to the process outlined in paragraph 34 above, each Disputed Claim will be referred to (i) the Court or (ii) a Claims Officer or such alternative dispute resolution as may be ordered by the Court or agreed to by the Monitor, the Applicants, the relevant Director(s) and/or Officer(s) and the Claimant. Thereafter, the Court, the Claims Officer or the Person or Persons conducting the alternative dispute resolution proceeding, as the case may be, shall resolve the dispute.

*(iii) Pre-Filing Intercompany Claims*

38. The Claims Procedure Order contemplates that the adjudication process in respect of Pre-Filing Claims and D&O Pre-Filing Claims shall not apply to Pre-Filing Intercompany Claims.

39. Pursuant to the proposed Claims Procedure Order, the Monitor, with the assistance of the FIGR Group, shall review all Proofs of Claims received by the Pre-Filing Claims Bar Date in respect of Pre-Filing Intercompany Claims and shall thereafter serve on the Service List and file with the Court the Pre-Filing Intercompany Claims Report, which will set out the Proposed Pre-Filing Intercompany Claims Resolution Process. Should any interested party wish to object to the Proposed Pre-Filing Intercompany Claims Resolution Process, it must serve on the Service List a notice of objection ("**Notice of Objection**") within seven (7) days of the date upon which the Pre-

Filing Intercompany Claims Report is served by the Monitor. In the event that a Notice of Objection is served in accordance with the terms of the Claims Procedures Order, such objection may be resolved consensually between the Monitor and the objecting party, in consultation with the FIGR Group, or by further Order of the Court upon a Motion brought by the Monitor, in consultation with the Applicants. If no Notice of Objection is received, the Proposed Pre-Filing Intercompany Claims Resolution Process shall be implemented without further Order of the Court.

#### **IV. THE ANCILLARY ORDER**

##### **(a) Stay Extension**

40. Under the Amended and Restated Initial Order, the Court extended the Stay Period until and including March 31, 2021. Pursuant to the Ancillary Order, the Applicants are seeking an extension of the Stay Period until and including April 30, 2021.

41. It is necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended until and including April 30, 2021, as it will allow the Monitor, with the assistance of the Applicants, to advance the SISP and the Claims Procedure, which will ultimately preserve and maximize the value of the Applicants' business for their stakeholders.

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

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

**(b) KERP**

44. The Applicants developed the KERP with the assistance of the Monitor and in consultation with the DIP Lender.

45. Under the terms of the KERP, the Applicants propose to make retention payments to certain individuals employed by CIG (collectively, the "**Key Employees**"). The Key Employees are at various levels throughout CIG's organization including, among others, operations.

46. The Key Employees are entitled to two (2) payments under the proposed KERP, each of which is subject to the attainment of a milestone. The first milestone (the "**First Milestone**") is the earliest of: (i) April 30, 2021; (ii) the date upon which the Court grants an order terminating the CCAA proceedings (the "**CCAA Termination Date**"); and (iii) the date on which the relevant Key Employee is terminated without cause. The second milestone (the "**Second Milestone**") is the earliest of: (i) the date upon which any transaction or transactions that together result in the sale of all or substantially all of the business and/or assets of CIG closes; (ii) July 31, 2021; (iii) the date on which the relevant Key Employee is terminated without cause; and (iv) the CCAA Termination Date.

47. Other significant terms and conditions of the proposed KERP include that:

- (a) the maximum aggregate amount payable under the KERP is \$80,000; and
- (b) a Key Employee must remain an employee at the time of the relevant milestone in order to receive the payment unless terminated without cause.

48. The retention of Key Employees and their ongoing commitment to the FIGR Group is essential to current operations, the successful restructuring efforts of the FIGR Group, and the opportunity to maximize value for their stakeholders. In particular, the FIGR Group believes:

- (a) the Key Employees provide the critical leadership and execution required to maintain operations and other work necessary to maintain the FIGR Group's cannabis licences;
- (b) none of the Key Employees could be readily or easily replaced internally and the process to find appropriately qualified replacements for the Key Employees externally would be lengthy, difficult and costly;
- (c) the Key Employees have historical knowledge of, and familiarity with, CIG's business and operations, and significant experience and expertise;
- (d) without the benefit of the KERP, the Key Employees would likely consider other employment options;
- (e) the First Milestone and Second Milestone will facilitate the continued participation of the Key Employees through to the end of the FIGR Group's restructuring; and
- (f) any replacements for the Key Employees would face a steep learning curve given the nascency of the industry and may require additional security clearance screening by Health Canada.

49. The FIGR Group believes the KERP will provide the necessary incentive to the Key Employees to remain as committed key members of CIG's management and operational teams during the CCAA Proceedings.

50. I understand that the summary of the KERP (the "**KERP Summary**") and the proposed letter to employees with respect to the KERP (the "**KERP Letters**") will be attached as a confidential appendix to the Second Report. This information contains confidential and sensitive

information regarding the identity and compensation of the Key Employees and as such, the FIGR Group is seeking a sealing order with respect to the KERP Summary and the KERP Letters. Such information is not normally made available to the public and disclosure by the FIGR Group could cause significant harm or prejudice to the Key Employees and/or the FIGR Group. Accordingly, the FIGR Group requests that the KERP Summary and the sample KERP Letters remain sealed subject to further order of the Court.

51. The FIGR Group is not seeking approval of a charge with respect to the KERP at this time.

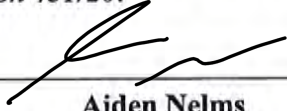
## **V. CONCLUSION**

52. Since the granting of the Amended and Restated Initial Order, the Applicants have acted in good faith and with due diligence to, among other things, stabilize their business, apprise their stakeholders of the CCAA Proceedings, liaise with their third party vendors, assist the Monitor in connection with the SISF, develop the KERP and develop the Claims Procedure, all with the assistance and oversight of the Monitor.

53. The Applicants have maintained their ordinary course operations and will continue to do so with the oversight and assistance of the Monitor. I believe that the relief sought and described herein is in the best interests of the Applicants and their stakeholders. Further, I understand that the Monitor and the DIP Lender are supportive of the relief described herein and the Monitor does not believe that any creditor will be materially prejudiced by the granting of the Claims Procedure Order or the Ancillary Order.

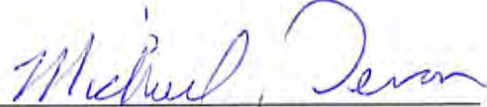
54. I swear this affidavit in support of the Applicants' motion for the Claims Procedure Order and the Ancillary Order and for no other or improper purpose.

SWORN BEFORE ME over )  
videoconference on this 16<sup>th</sup> day of February )  
2021. The affiant was located in the City of )  
Toronto, in the Province of Ontario and the )  
Commissioner was located in the Town of )  
Kimberley, in the Province of Ontario. This )  
affidavit was commissioned remotely as a )  
result of COVID-19 and the declaration was )  
administered in accordance with Ontario )  
*Regulation 431/20.* )



**Aiden Nelms**

A Commissioner for Oaths in and for the  
Province of Ontario



**Michael Devon**

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

*affidavit of* ..... Michael Devon .....

*sworn before me, this* ..... 25<sup>th</sup> .....

*day of* ..... March, 2021 .....

.....  .....

**A COMMISSIONER FOR TAKING AFFIDAVITS**



Court File No.: \_\_\_\_\_

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
FIGR BRANDS, INC., FIGR NORFOLK INC.  
AND CANADA'S ISLAND GARDEN INC.**

Applicants

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

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

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

## I. RELIEF REQUESTED

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

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

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

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

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

## **II. OVERVIEW**

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

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

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

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

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

### III. CORPORATE STRUCTURE OF THE FIGR GROUP

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

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

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

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

**A. FIGR Brands**

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

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

**B. FIGR Norfolk**

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

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

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

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

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

### C. CIG

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

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

#### **IV. BUSINESS OF THE APPLICANTS**

##### **A. The Cannabis Industry in Canada**

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

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

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

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

##### **B. Business**

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



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

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

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

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

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

**1. *The Facilities and Production***

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

**(i) *The CIG Facility***

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

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

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

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

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

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

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

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

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

**C. Cannabis Licenses**

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

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

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

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

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

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

## **D. Employees**

### **1. General Overview**

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

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

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

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

**(b) Retention and Severance Entitlements**

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

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

**(c) Agency Agreement**

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

**E. Owned and Leased Real Property**

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

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

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

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

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

#### **F. Suppliers**

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

#### **G. Excise Duty**

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

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



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

52. As of the date of this affidavit:

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

#### **H. Intellectual Property**

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

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

#### **I. Cash Management and Credit Cards**

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

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

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

**V. FINANCIAL POSITION OF THE FIGR GROUP**

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

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

**A. Assets**

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

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

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

**B. Liabilities**

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

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

**C. Secured Obligations**

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

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

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

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

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

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

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

**D. Unsecured Intercompany Obligations**

**1. *The AOI Note***

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

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

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

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

**2. **The CIG Note****

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

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

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

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

### **3. The FIGR Norfolk Note**

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

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

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

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

#### **4. Other Unsecured Obligations and Claims**

##### **(a) ACOA Contribution Agreement**

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

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

##### **(b) Third Party Suppliers**

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

**(c) Shareholder Obligations:**

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

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

**5. Employee Liabilities**

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

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



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

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

## **VI. THE PROPOSED DIP LOAN**

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

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

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

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

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

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

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

## **VII. RELIEF SOUGHT**

### **A. Stay of Proceedings**

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

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

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

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

**B. Proposed Monitor**

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

**C. Ability to Pay Certain Pre-Filing Amounts**

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

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

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

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

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

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

#### **D. Administration Charge**

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

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

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

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

#### **E. Directors' Charge**

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

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

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

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

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

**F. DIP Lender's Charge**

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

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

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

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

**G. Intercompany Charge**

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

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

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

## **H. Cash Flow Forecast**

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

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

## **VIII. CONCLUSION**

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

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



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



**Aiden Nelms**

A Commissioner for Oaths in and for the  
Province of Ontario

  
**Michael Devon**

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

*affidavit of* ..... Michael Devon .....

*sworn before me, this* ..... 25<sup>th</sup> .....

*day of* ..... March, 2021 .....

A handwritten signature in black ink, appearing to be 'A. R.', written over a horizontal dashed line.

.....  
**A COMMISSIONER FOR TAKING AFFIDAVITS**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	FRIDAY, THE 29 <sup>th</sup>
	)	
JUSTICE HAINEY	)	DAY OF JANUARY, 2021

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

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

**AMENDED AND RESTATED INITIAL ORDER**

(amending Initial Order dated January 21, 2021)

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

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

## SERVICE

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

## APPLICATION

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

## PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that each of the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

## POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the Devon Affidavit or, with the consent of the Monitor and the DIP Lender, replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire

into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

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

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

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



- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

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

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance; (ii) Canada Pension Plan; and (iii) income taxes.
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real

property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein and pursuant to the Definitive Documents, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

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

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

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

12. **THIS COURT ORDERS** that the applicable Applicant shall provide each relevant landlord with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes such Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the applicable Applicant, or by further Order of this Court upon application by the applicable Applicant on at least two (2) days notice to such landlord and any such secured creditors. If any Applicant disclaims a lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to such Applicant's claim to the fixtures in dispute.

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

#### **NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

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



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

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicants or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, security services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply

of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

18. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

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



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

21. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$2,700,000, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 40 and 42 herein.

22. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any director's and officer's insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

#### **APPOINTMENT OF MONITOR**

23. **THIS COURT ORDERS** that FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

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

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

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

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



*Act* S.C. 2018, c.16, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, the *Excise Tax Act*, R.S.C., 1985, c. E-15, the *Ontario Cannabis Licence Act*, S.O. 2018, c. 12, Sched. 2, the *Ontario Cannabis Control Act*, S.O. 2017, c. 26, Sched. 1, the *Prince Edward Island Cannabis Management Corporation Act*, R.S.P.E.I. 1988, c C-1.3, the *Prince Edward Island Cannabis Control Act*, R.S.P.E.I. 1988, c C-1.2, the *British Columbia Cannabis Control and Licensing Act*, S.B.C. 2018, c. 29, the *British Columbia Cannabis Distribution Act*, S.B.C. 2018, c. 28, or other such applicable federal or provincial legislation or regulations (collectively, the "**Cannabis Legislation**"), and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof within the meaning of any Cannabis Legislation or otherwise, and nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity for any purpose whatsoever.

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Prince Edward Island Environmental Protection Act*, R.S.P.E.I. 1988, c E-9, the *Prince Edward Island Occupational Health and Safety Act*, R.S.P.E.I. 1988, c O-1.01, the *British Columbia Environmental Management Act*, S.B.C. 2003, c 53, the *British Columbia Water Protection Act*, RSBC 1996, c 484, the *British Columbia Occupational Health and Safety Regulation*, B.C. Reg. 296/97, and all regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

28. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants, including without limitation, the DIP Lender, with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

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

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



31. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$600,000 as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 40 and 42 hereof.

#### **DIP FINANCING**

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

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

35. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

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

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

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

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

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



## INTERCOMPANY LENDING

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

## VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

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

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

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

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

Fourth - Intercompany Charge.

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

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

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

44. **THIS COURT ORDERS** that the Charges, the Commitment Letter and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

### **SERVICE AND NOTICE**

46. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the Globe and Mail, National Edition, a notice containing the information prescribed under the CCAA; and (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000 (excluding individual employees, former employees with retirement savings plan entitlements, and retirees and other beneficiaries who have entitlements under any retirement savings plans), and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

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

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



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

## **GENERAL**

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

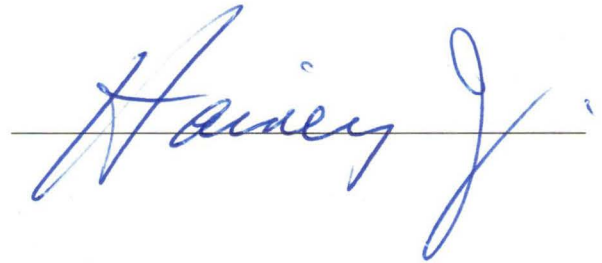
50. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

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

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

53. **THIS COURT ORDERS** that any interested party (including each of the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

54. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

A handwritten signature in blue ink, appearing to read "Hainey J.", is written over a horizontal line. The signature is cursive and includes a period at the end.

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

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

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

Proceedings Commenced in Toronto

**AMENDED AND RESTATED INITIAL  
ORDER**

**BENNETT JONES LLP**

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

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

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

Lawyers for the Applicants

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

*affidavit of* ..... Michael Devon .....

*sworn before me, this* ..... 25<sup>th</sup> .....

*day of* ..... March, 2021 .....

A handwritten signature in black ink, appearing to be 'M. Devon', written over a horizontal dashed line.

.....  
**A COMMISSIONER FOR TAKING AFFIDAVITS**



***Strictly Private and Confidential***

March 5, 2021

Dear Sirs and Mesdames:

**Re: FIGR Brands, Inc. et al - Submission of Final Bid**

We appreciate your continued interest in exploring a potential transaction with FIGR Brands, Inc., Canada's Island Garden Inc. (d/b/a FIGR East) and FIGR Norfolk Inc. (collectively, "**FIGR**", or the "**Applicants**").

In accordance with the terms of SISP Approval Order of the Ontario Superior Court of Justice (the "**Court**") granted on January 29, 2021 (the "**SISP Approval Order**") and the Sale and Investment Solicitation Process (the "**SISP**") attached as Schedule A thereto, the Monitor, in consultation with the Applicants and the DIP Lender, have determined that you are a Phase 2 Qualified Bidder entitled to participate in Phase 2 of the SISP. The purpose of Phase 2 is to allow Qualified Phase 2 Bidders to finalize and submit binding bids for a sale of all or part of the Property and/or an investment in the Business (each, a "**Transaction**"). Capitalized terms used herein not otherwise defined are as defined in the Amended and Restated Initial Order granted January 29, 2021, the SISP Approval Order or the SISP as applicable.

You are reminded that your receipt of this letter, as well as the additional non-public information you may receive during Phase 2 and/or have already received during the SISP, is covered by the terms of the non-disclosure agreement which you have entered into with FIGR (the "**NDA**"). Nothing in this letter amends or otherwise changes any term in the NDA executed by you.

**Phase 2 Key Dates and Bid Qualification Criteria**

In accordance with the SISP, you are required to deliver to the Monitor your final irrevocable binding proposal to purchase all or part of the Property and/or to make an investment in the Business (the "**Final Bid**"), including a duly authorized and executed transaction agreement (the "**Definitive Agreement**") based on the form of transaction agreements posted to the electronic dataroom and accompanied by a mark-up of the applicable form of transaction agreement showing amendments and modifications made thereto, together with all exhibits and schedules thereto, and such ancillary agreements as may be required by you, so as to be received by the Monitor in electronic format no later than **5:00 p.m. Eastern Time on Thursday, April 1, 2021** ("**Final Bid Deadline**") at the following addresses:

**To the Monitor:**

**Jeff Rosenberg**  
Senior Managing Director  
FTI Consulting Canada Inc.  
Tel: (416) 649-8073  
jeffrey.rosenberg@fticonsulting.com

**Jamie Belcher**  
Senior Managing Director  
FTI Capital Advisors  
Tel: (416) 649-8081  
jamie.belcher@fticonsulting.com

**Patrick Kennedy**  
Senior Associate  
FTI Capital Advisors  
Tel: (416) 649-8080  
patrick.kennedy@fticonsulting.com



Your Definitive Agreement should state the terms upon which you are prepared to enter into a binding Transaction to purchase all or part of the Property and/or an investment in the Business, subject to only those conditions stated therein, and shall constitute an irrevocable offer.

A complete list of your remaining due diligence requests should be submitted to the Monitor at the addresses listed above in electronic format no later than **5:00 p.m. Eastern Time on Thursday, March 25, 2021**. If you or your counsel wish to address any questions or issues regarding the SISP or form of transaction agreements in advance of the Final Bid Deadline, please advise the Monitor at the addresses listed above and the Monitor will advise if your request can be accommodated prior to the Final Bid Deadline.

Your Final Bid should reflect your best and final offer and be accompanied by a letter to the Monitor (the "**Final Bid Letter**") confirming compliance with the Qualified Bid Criteria (as defined below). The Monitor and the Applicants, in accordance with the SISP, reserve the right to negotiate and request that Phase 2 Qualified Bidders submit a revised Final Bid reflecting improved terms or other amendments requested by the Monitor and the Applicants. In such a case, you should assume that you will not be given an opportunity to rebid, renegotiate or improve any terms of your Final Bid. In order to be a "**Qualified Bid**", your Final Bid must comply with the criteria set forth in the SISP for Phase 2 Bids (collectively, the "**Qualified Bid Criteria**") and we ask that, where indicated below, you confirm compliance with the Qualified Bid Criteria in your Final Bid Letter.

### **Qualified Bid Criteria**

Your Final Bid should be submitted in conformity with the following guidelines:

- (a) your Final Bid must comply with all of the requirements set forth in the SISP in respect of Phase 1 Qualified LOIs and in respect of the terms set forth in this letter;
- (b) your Final Bid Letter and/or Definitive Agreement must confirm that your Final Bid is irrevocable until the selection of the Successful Bidder(s), provided that if you are selected as the Successful Bidder, your offer must remain irrevocable until the closing of the Transaction with the Successful Bidder;
- (c) your Final Bid must fully disclose the identity of each person or entity that will be (directly or indirectly) entering into the Transaction or providing financing in connection with the Transaction (including through the issuance of debt in connection with such bid) as contemplated by the Final Bid, including, but not limited to, the name(s) of the Phase 2 Qualified Bidder and any advisors or consultants that you have retained to assist you in the evaluation of a Transaction and the names and contact numbers of the person(s) to be contacted by the Monitor in connection with your Final Bid. Such disclosure shall include, without limitation: (i) in the case of a Phase 2 Qualified Bidder formed for the purposes of entering into the proposed Transaction, the identity of each of the actual or proposed direct or indirect equity holders of such Phase 2 Qualified Bidder and the terms and participation percentage of such equity holder's interest in such bid; and (ii) the identity of each entity that has or will receive a benefit from such bid from or through the Phase 2 Qualified Bidder or any of its equity holders and the terms of such benefit. We ask that

you and your representatives be available between **April 3 and April 6, 2021** to discuss any aspect of your Final Bid as may be required;

- (d) your Final Bid must include a duly authorized and executed Definitive Agreement, including the purchase price (in an exact figure and not expressed as a range), investment amount and any other key economic terms expressed in Canadian dollars (the “**Purchase Price**”), together with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such agreements), and proposed order to approve the Transaction by the Court;
- (e) your Final Bid must include a blackline comparison between the Definitive Agreement submitted and the applicable form of transaction agreement provided to Phase 2 Qualified Bidders in the electronic dataroom;
- (f) your Final Bid must not be conditional upon obtaining financing and must include written evidence of a firm irrevocable commitment(s) for financing or other evidence of ability to consummate the Transaction, that will allow the Applicants and the Monitor to make a determination as to the Phase 2 Qualified Bidder’s financial and other capabilities to consummate the Transaction. If you will be relying on internally generated funds, please provide evidence of sufficiency of such funds to complete the Transaction. If you intend to access external financing (debt and/or equity), your Final Bid must be accompanied by fully executed and unredacted copies of commitment letters from parties evidencing their irrevocable commitment to invest or lend sufficient funds to the Phase 2 Qualified Bidder to complete the Transaction and satisfy the Purchase Price under the Definitive Agreement;
- (g) your Final Bid shall not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment, unless otherwise agreed to by the Applicants and the Monitor;
- (h) your Final Bid must not be conditional on: (i) the outcome of unperformed due diligence by the Phase 2 Qualified Bidder, apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which was withheld in Phase 1 or Phase 2 from the Phase 2 Qualified Bidder; or (ii) obtaining financing, but may be conditional upon the Applicants receiving the required approvals or amendments relating to the licenses required to operate the Business, if necessary;
- (i) your Final Bid shall include acknowledgements and representations of the Phase 2 Qualified Bidder that the Phase 2 Qualified Bidder: (i) confirms that the Transaction is on an “as is, where is” basis; (ii) has had an opportunity to conduct any and all due diligence regarding the Property, the Business and the Applicants prior to making its offer (apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which were withheld in Phase 1 or Phase 2 from the Phase 2 Qualified Bidder); (iii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property in making its bid; and (iv) did not rely upon any written or oral statements, representations,

warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Business, the Property, or the Applicants or the completeness of any information provided in connection therewith, except as expressly stated in the Definitive Agreement signed by the applicable Applicants;

- (j) your Final Bid shall include a description of your operational plans for the Applicants, including the proposed treatment of any obligations or liabilities of FIGR, including, without limitation, material contracts and employees, to be assumed by the Phase 2 Qualified Bidder;
- (k) your Final Bid shall contain other information required by the Monitor, in consultation with the Applicants, including, without limitation, such additional information as may be required in the event Phase 2 is supplemented in accordance with paragraph 16 of the SISP to contemplate that an auction of certain Property be conducted; and
- (l) the Final Bid must be received by the Final Bid Deadline (**5:00 p.m. Eastern Time on Thursday, April 1, 2021**).

***In addition, the Final Bid must include:***

**1. In the Case of a Sale Proposal:**

- (a) a clear indication and description of the Property that is expected to be subject to the Transaction and any of the Property expected to be excluded; and
- (b) a commitment by the Phase 2 Qualified Bidder to provide a deposit in the amount of not less than 10% of the Purchase Price offered upon the Phase 2 Qualified Bidder being selected as the Successful Bidder on the terms agreed to in the Definitive Agreement.

**2. In the Case of an Investment Proposal:**

- (a) a detailed description of how the Phase 2 Qualified Bidder will structure the proposed investment, restructuring, recapitalization, refinancing or reorganization; and
- (b) a commitment by the Phase 2 Qualified Bidder to provide a deposit in the amount of not less than 10% of the total new investment contemplated in the Final Bid upon the Phase 2 Qualified Bidder being selected as the Successful Bidder on the terms agreed to in the Definitive Agreement.

The description of certain aspects of the SISP contained herein, including the overview of criteria to qualify as a Qualified Bid, is a summary only and is not intended to replace or supersede the terms of the SISP or its requirements. The terms of the SISP will govern in all respects.

Final Bids that, among other factors, maximize value for the Applicants' stakeholders, are submitted in accordance with this letter and the SISP, provide for execution certainty and speed (including any regulatory approvals required to close the Transaction), have minimal conditionality

and demonstrate an ability and willingness to complete a Transaction in an expeditious manner will be preferred.

Following the Final Bid Deadline, the Monitor and the Applicants will assess the Final Bids received. The Monitor, in consultation with the Applicants and the DIP Lender, will designate the most competitive bids that comply with the Qualified Bid Criteria to be a Qualified Bid. Only Phase 2 Qualified Bidders whose bids have been designated as Qualified Bids are eligible to become Successful Bidder(s). The Monitor and the Applicants may, in consultation with the DIP Lender, aggregate separate Final Bids received from unaffiliated Phase 2 Qualified Bidders to create one Qualified Bid.

The Monitor will notify each Phase 2 Qualified Bidder in writing as to whether its Final Bid constituted a Qualified Bid within ten (10) business days of the Final Bid Deadline, or at such later time as the Monitor deems appropriate.

In accordance with the SISP, the Monitor and the Applicants, in conjunction with the DIP Lender, reserve the right to negotiate with any Phase 2 Qualified Bidder any provision of its Final Bid or to request or agree to any changes in any such Final Bid. The Applicants shall have no obligation to enter into a Successful Bid, and they reserve the right, in consultation with the Monitor and the DIP Lender, to reject any or all Phase 2 Qualified Bids.

The Monitor, with the consent of the Applicants, and in consultation with the DIP Lender, may waive strict compliance with any one or more of the qualification requirements specified in the SISP and deem such non-compliant Final Bids to be a Qualified Bid. If the Applicants, in consultation with the Monitor and the DIP Lender, are not satisfied with the number or terms of the Qualified Bids, the Applicants may, in consultation with the DIP Lender and with the approval of the Monitor, extend the Final Bid Deadline, or the Applicants may amend the SISP or the SISP Procedures in accordance with the terms set out within the SISP.

### **Evaluation of Qualified Bids**

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

### **Selection of Successful Bid**

The Monitor and the Applicants, in consultation with the DIP Lender, will: (a) review and evaluate each Qualified Bid, provided that each Qualified Bid may be negotiated between the Applicants, the Monitor and the applicable Phase 2 Qualified Bidder, and may be amended, modified or varied to improve such Phase 2 Qualified Bid as a result of such negotiations; and (b) identify the Successful Bid for any particular Property or the Business in whole or part. The determination of any Successful Bid by the Applicants, with the assistance and approval of the Monitor, and in consultation with the DIP Lender, shall be subject to approval by the Court.

At the hearing of any motion to approve any transaction with a Successful Bidder, the Applicants shall seek, among other things, approval from the Court to consummate such Successful Bid. To the extent other Phase 2 Qualified Bids other than the Successful Bid are in respect of the same Property as such Successful Bid, such other Phase 2 Qualified Bids shall be deemed to be rejected on and as of the date of approval of the Successful Bid by the Court.

The Monitor, the Applicants and the DIP Lender expressly disclaim any and all liability for representations, warranties or statements contained in this letter or in any other written material furnished or information orally transmitted to a potential purchaser, except, in the case of the Applicants, only those particular representations and warranties of the Applicants made to a Successful Bidder(s) in its Definitive Agreement when, as and if such Definitive Agreement is ultimately executed by the Applicants and approved by the Court and subject to such limitations and restrictions as may be contained therein.

The terms and content of this letter are subject to the terms of the NDA executed by you. The Monitor and the Applicants, including their respective affiliates, employees, officers, directors, agents and advisors, assume no liability or obligation whatsoever to any Phase 2 Qualified Bidder in connection with the SISP, including, but not limited to, as a result of decisions with respect to any Final Bid or the termination of the SISP. Unless otherwise agreed, no party will be entitled for any reason (including, without limitation, any modification of the SISP) to reimbursement for any costs or expenses incurred in reliance upon the SISP, as such may be modified from time to time. Unless otherwise agreed, no finder's fees, commissions, expenses, or other compensation will be paid by the Applicants, the Monitor or their respective affiliates, employees, officers, directors, agents and advisors to any interested party including to any agents, consultants, advisors, or other intermediaries of any such party. The Applicants, the Monitor and their respective affiliates, employees, officers, directors, agents and advisors reserve the right to amend any information which has been made available to interested parties whether by way of addition, deletion, amendment or otherwise.

Pursuant to your NDA and participation in the SISP, under no circumstances are you permitted to contact any of the Applicants' officers, directors, employees, agents, representatives, creditors, shareholders, affiliates, wholesalers, customers, distributors, suppliers, vendors or service providers with respect to any Transaction unless you receive prior written consent from the Applicants and the Monitor. All communications or inquiries regarding the Transaction process, including Phase 2, or any other matters relating to this letter or the Applicants should be directed to the Monitor by contacting either **Jeff Rosenberg at: (416) 649-8073 / [jeffrey.rosenberg@fticonsulting.com](mailto:jeffrey.rosenberg@fticonsulting.com)** or **Jamie Belcher at: (416) 649-8081 / [jamie.belcher@fticonsulting.com](mailto:jamie.belcher@fticonsulting.com)**.



Once again, we appreciate your interest and look forward to receiving your Final Bid.

Yours truly,

FTI Capital Advisors – Canada ULC  
On behalf of FTI Consulting Canada Inc.  
in its capacity as Monitor of FIGR

A handwritten signature in blue ink, appearing to read 'J. Belcher', written in a cursive style.

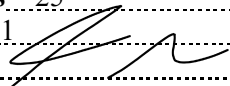
Name: Jamie Belcher  
Title: Senior Managing Director

*This is Exhibit* ..... “E” ..... *referred to in the*

*affidavit of* ..... Michael Devon .....

*sworn before me, this* ..... 25<sup>th</sup> .....

*day of* ..... March, 2021 .....

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

.....  
**A COMMISSIONER FOR TAKING AFFIDAVITS**

## FIRST AMENDMENT TO THE TERM SHEET

This FIRST AMENDMENT TO THE TERM SHEET (this "**Amendment**") is made as of March 9, 2021 between FIGR Brands, Inc., as borrower (the "**Borrower**"), and FIGR Norfolk Inc. and Canada's Island Garden Inc., as guarantors (collectively, the "**Guarantors**", and together with the Borrower, the "**Obligors**"), and Alliance One Tobacco Canada, Inc., as lender (the "**Lender**", and together with the Obligors, the "**Parties**").

### RECITALS:

A. Reference is made to the Term Sheet dated as of January 20, 2021 among the Borrower, the Guarantors and the Lender (as may be further amended, restated, modified, replaced or superseded from time to time, the "**Term Sheet**").

### ARTICLE 1 INTERPRETATION

**Section 1.1 Definitions.** Capitalized terms not defined in this Amendment have the meanings given to them in the Term Sheet.

**Section 1.2 Headings, etc.** The inclusion of headings in this Amendment is for convenience of reference only and does not affect the construction or interpretation hereof.

### ARTICLE 2 AMENDMENTS TO THE TERM SHEET

**Section 2.1 Amendment.** Subject to the satisfaction of each of the conditions to effectiveness set forth in this Amendment, the Parties agree that the Term Sheet is hereby amended as follows:

- 2.1.1 The reference to "\$8,000,000" in the "DIP Facility" section on page 1 of the Term Sheet is hereby deleted and replaced with "\$13,000,000".
- 2.1.2 The reference to "\$250,000" in paragraph 12 of the "Events of Default" section on page 6 of the Term Sheet is hereby deleted and replaced with "\$1,000,000".

### ARTICLE 3 REPRESENTATIONS AND WARRANTIES

**Section 3.1 Representations.** Each Obligor represents and warrants to the Lender that, as of the date hereof (after giving effect to this Amendment):

- (a) this Amendment has been duly authorized, executed and delivered by each Obligor;
- (b) this Amendment constitutes a legal, valid and binding obligation of each Obligor, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other applicable laws affecting creditors' rights generally and to general principles of equity, regardless of whether considered in a proceeding in equity or at law;



- (c) the representations and warranties set forth in the Term Sheet are true and correct in all respects on and as of the date hereof as though made on and as of such date, unless stated to be made as of a specified date; and
- (d) no Event of Default has occurred and is continuing.

#### **ARTICLE 4 CONDITIONS**

**Section 4.1 Conditions Precedent.** This Amendment shall become effective on the date upon which there has been receipt by the Lender of the following (which conditions precedent are for the sole and exclusive benefit of the Lender):

- 4.1.1 a counterpart of this Amendment executed by each party hereto; and
- 4.1.2 the Court shall have issued an order, in a form acceptable to the Lender and the Obligors, approving this Amendment and an increase to the DIP Charge in the aggregate amount of \$13,000,000 (plus interest and costs).

#### **ARTICLE 5 MISCELLANEOUS**

**Section 5.1 Governing Law.** This Amendment shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**Section 5.2 Benefits.** This Amendment is binding upon and will inure to the benefit of the Parties and their respective permitted successors and assigns.

**Section 5.3 Conflicts.** If, after the date of this Amendment, any provision of this Amendment is inconsistent with any provision of the Term Sheet, the relevant provision of this Amendment shall prevail.

**Section 5.4 Further Assurances and Documentation.** This Amendment forms part of the Further Assurances and Documentation for all purposes under the Term Sheet.

**Section 5.5 Counterparts.** This Amendment may be executed in any number of counterparts and delivered by facsimile or PDF via email, each of which will be deemed to be an original, and all such separate counterparts shall together constitute one and the same instrument.

*- signature page follows -*

**BORROWER:**

**FIGR BRANDS, INC.**

By: \_\_\_\_\_

Name: Harvey Carroll  
Title: President and Chief Executive  
Officer

By: \_\_\_\_\_

Name: Mike Devon  
Title: Senior Vice President and Chief  
Financial Officer

**GUARANTORS:**

**FIGR NORFOLK, INC.**

By: \_\_\_\_\_

Name: Harvey Carroll  
Title: President and Chief Executive  
Officer

By: \_\_\_\_\_

Name: Mike Devon  
Title: Senior Vice President and Chief  
Financial Officer

**CANADA'S ISLAND GARDEN INC.**

By: \_\_\_\_\_

Name: Harvey Carroll  
Title: President and Chief Executive  
Officer

By: \_\_\_\_\_

Name: Mike Devon  
Title: Senior Vice President and Chief  
Financial Officer

**LENDER:**

**ALLIANCE ONE TOBACCO CANADA,  
INC.**

By: \_\_\_\_\_  
Name:  
Title:

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

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

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

Proceedings Commenced in Toronto

**AFFIDAVIT OF MICHAEL DEVON**  
**(Sworn March 25, 2021)**

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

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

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

Lawyers for the Applicants

# TAB 3

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	WEDNESDAY, THE 31 <sup>st</sup>
	)	
JUSTICE HAINEY	)	DAY OF MARCH, 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**")

**ORDER**

**(Approving DIP Amendment and Monitor's Activities and Fees)**

**THIS MOTION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*, approving: (i) the DIP Amendment (as defined below); and (ii) the Third Report (as defined below), and the Monitor's activities and fees described therein, and certain related relief, was heard this day by Zoom videoconference as a result of the COVID-19 pandemic.

**ON READING** the Notice of Motion of the Applicants, the affidavit of Michael Devon sworn March 25, 2021 (the "**March 25 Devon Affidavit**"), the Third Report of FTI Consulting Canada Inc. (the "**Third Report**"), in its capacity as Monitor of the Applicants (the "**Monitor**"), filed, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for Alliance One Tobacco Canada, Inc. (the "**DIP Lender**"), and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of Aiden Nelms sworn and filed;

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS AND DECLARES** that all terms not otherwise defined herein shall have the meaning ascribed to them in the Amended and Restated Initial Order dated January 29, 2021 (the "**Amended and Restated Initial Order**") or the March 25 Devon Affidavit, as applicable.

## **DIP AMENDMENT**

3. **THIS COURT ORDERS** that the execution by the Applicants of the DIP Amendment, a copy of which is attached as Appendix "●" to the Third Report, is hereby authorized and approved, and the Applicants are hereby authorized and empowered to borrow up to an additional \$5,000,000 (\$13,000,000 in the aggregate) (plus costs and interest) pursuant to the Commitment Letter as amended by the DIP Amendment.
4. **THIS COURT ORDERS** that:
  - (a) paragraphs 33 to 38 of the Amended and Restated Initial Order shall apply to the Commitment Letter as amended by the DIP Amendment and all references to the Commitment Letter contained in the Amended and Restated Initial Order shall be deemed to be references to the Commitment Letter as amended by the DIP Amendment;
  - (b) the DIP Lender's Charge shall secure all amounts owing by the Applicants to the DIP Lender under the Commitment Letter and the Definitive Documents as amended by the DIP Amendment; and
  - (c) for greater certainty, paragraphs 36 and 40 of the Amended and Restated Initial Order are hereby amended to replace the references to "\$8,000,000" with "\$13,000,000".

**APPROVAL OF THE THIRD REPORT AND THE MONITOR'S ACTIVITIES  
AND FEES**

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

6. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Third Report, be and are hereby approved.

**GENERAL**

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

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

9. **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.

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

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

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

Proceedings Commenced in Toronto

**ORDER**  
**(Approving DIP Amendment and Monitor's**  
**Activities and Fees)**

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**MOTION RECORD**

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