

Court File No. _____

**FIGR BRANDS INC.,
AND RELATED APPLICANTS**

**PRE-FILING REPORT OF FTI CONSULTING CANADA INC., AS PROPOSED
MONITOR**

January 21, 2021

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**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.
(collectively, the "**Applicants**")

**PRE-FILING REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS PROPOSED MONITOR**

A. INTRODUCTION

1. FTI Consulting Canada Inc. ("**FTI**" or the "**Proposed Monitor**") understands that FIGR Brands, Inc. ("**FIGR Brands**"), FIGR Norfolk Inc. ("**FIGR Norfolk**") and Canada's Island Garden Inc. ("**CIG**" and together with FIGR Brands and FIGR Norfolk, the "**FIGR Group**") intend to make an application (the "**Initial Application**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an initial order (the "**Proposed Initial Order**") granting certain relief, including, *inter alia*, a stay of proceedings (the "**Stay of Proceedings**") against the FIGR Group until January 31, 2021, and appointing FTI as the monitor (in such capacity, the "**Monitor**"). The proceedings to be commenced by the FIGR Group will be referred to herein as the "**CCAA Proceedings**".
2. The purpose of this pre-filing report of the Proposed Monitor (the "**Pre-Filing Report**") is to inform the Court of the following:

- (a) FTI's qualifications to act as Monitor, if appointed;
- (b) the activities of FTI and its counsel, Cassels Brock & Blackwell LLP ("**Cassels**"), to date;
- (c) an overview of the FIGR Group's business and affairs, the events leading up to the CCAA Proceedings and the FIGR Group's restructuring efforts to date;
- (d) FTI's comments regarding the FIGR Group's cash management system;
- (e) FTI's comments regarding certain intercompany funding transactions;
- (f) FTI's comments regarding the FIGR Group's proposed stakeholder communication plan (the "**Communication Plan**");
- (g) FTI's comments regarding the FIGR Group's proposed treatment of certain pre-filing payables in the Proposed Initial Order;
- (h) FTI's comments regarding the FIGR Group's consolidated cash flow projections of its receipts and disbursements to April 16, 2021 (the "**Cash Flow Projection**") and the reasonableness thereof, in accordance with section 23(1)(b) of the CCAA;
- (i) FTI's comments regarding the FIGR Group's request for the approval of a \$8 million debtor-in-possession ("**DIP**") credit facility (the "**DIP Facility**") and corresponding charge in respect thereof (the "**DIP Lender's Charge**");
- (j) FTI's comments regarding the FIGR Group's proposed administration charge (the "**Administration Charge**"), proposed directors' and officers' charge (the "**Directors' Charge**") and proposed intercompany charge (the "**Intercompany Charge**" and together with the Administration Charge, the Directors' Charge and the DIP Lender's Charge, the "**Proposed CCAA Charges**");
- (k) certain relief that the Proposed Monitor understands the FIGR Group intends to request approval for, at a proposed comeback hearing (the "**Comeback Hearing**") if the requested Proposed Initial Order is granted, including:

- (i) a sale and investment solicitation process (the “**Proposed SISP**”);
 - (ii) an increase to certain of the Proposed CCAA Charges including an increase to the DIP Lender’s Charge; and
 - (iii) an extension of the Stay of Proceedings.
- (l) a discussion of the FIGR Group’s intended next steps in the CCAA Proceedings; and
 - (m) FTI’s conclusions and recommendation with respect to the proposed CCAA Proceedings and certain of the relief sought in the Proposed Initial Order.

B. TERMS OF REFERENCE

- 3. In preparing this Pre-Filing Report, the Proposed Monitor has relied upon audited and unaudited financial information of the FIGR Group, the FIGR Group’s books and records, certain financial information and forecasts prepared by the FIGR Group, and discussions with various parties, including senior management (“**Management**”) of, and advisors to, the FIGR Group (collectively, the “**Information**”).
- 4. Except as otherwise described in this Pre-Filing Report:
 - (a) the Proposed Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
 - (b) the Proposed Monitor has not examined or reviewed the financial forecasts or projections referred to in this Pre-Filing Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
- 5. Future-oriented financial information reported in, or relied on, in preparing this Pre-Filing Report is based on Management’s assumptions regarding future events. Actual results will vary from these forecasts and such variations may be material.

6. The Proposed Monitor has prepared this Pre-Filing Report in connection with the Initial Application. The Pre-Filing Report should not be relied on for any other purpose.
7. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.
8. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the affidavit of Michael Devon, the Chief Financial Officer of FIGR Brands, filed in support of the Initial Application (the “**Devon Affidavit**”).

C. FTI’S QUALIFICATIONS TO ACT AS MONITOR

9. On December 11, 2020, FIGR Brands engaged FTI to assist it in understanding its options in respect of the FIGR Group and to prepare, on a contingency basis, for the possibility of commencing insolvency proceedings in which FTI would act as Monitor (subject to Court approval). Jeffrey Rosenberg and Paul Bishop, each a trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, lead the FTI team with carriage of this matter.
10. Since becoming engaged by FIGR Brands, FTI has acquired knowledge of the business and operations of the FIGR Group, including its personnel, stakeholders and the key issues in the proposed CCAA Proceedings. As a result, FTI is in a position to immediately act as Monitor in the CCAA Proceedings if appointed by this Court.
11. Neither FTI, nor any of its representatives or affiliates, has been at any time in the past two years:
 - (a) a director, officer or employee of any member of the FIGR Group;
 - (b) related to any member of the FIGR Group, or to any director or officer of any member of the FIGR Group; or
 - (c) the auditor, accountant or legal counsel, or a partner or an employee of the auditor, accountant or legal counsel, of any member of the FIGR Group.

12. At no time has FTI had any involvement with any member of the FIGR Group other than in its current role as Proposed Monitor. An aggregate retainer of \$100,000 has been received by the Proposed Monitor and the Proposed Monitor's counsel.
13. FTI has consented to act as Monitor should this Court grant the Proposed Initial Order. A copy of FTI's consent to act as Monitor is attached as Exhibit "U" to the Devon Affidavit.

D. FTI'S INVOLVEMENT TO DATE

Proposed Monitor's Activities

14. The Proposed Monitor has been involved in a number of activities leading up to the commencement of the CCAA Proceedings, including:
 - (a) participating in discussions with Management, counsel to the FIGR Group and certain of the Directors and Officers (as defined below). These discussions have been carried out in connection with the business and affairs of the FIGR Group generally, as well as the Initial Application;
 - (b) participating in discussions with Pyxus International, Inc. ("**Pyxus**"), the FIGR Group's ultimate parent company and related entities including Alliance One International Tabak B.V. ("**AOI Tabak**"), as intercompany unsecured lender and Alliance One Tobacco Canada, Inc. as proposed DIP Lender ("**AOTC**" or the "**DIP Lender**") to the FIGR Group;
 - (c) reviewing and commenting on the Cash Flow Projection;
 - (d) reviewing and considering various documentation and information in connection with the FIGR Group's business, operations and the CCAA Proceedings including, but not limited to:
 - (i) the FIGR Group's cash management system;
 - (ii) the DIP Facility;

- (iii) the Communication Plan;
 - (iv) the Proposed SISP and preparing marketing materials in order to launch the Proposed SISP process; and
 - (v) the quantum, nature and ranking of the Proposed CCAA Charges.
- (e) engaging with Cassels as its legal counsel to consider issues with respect to the foregoing; and
- (f) preparing this Pre-Filing Report.

E. OVERVIEW OF THE FIGR GROUP'S BUSINESS AND AFFAIRS

15. The Devon Affidavit sets out detailed information with respect to the FIGR Group's business and operations, as well as the causes of its ongoing financial distress. The information contained in this Pre-Filing Report is intended to provide context for, and to facilitate an understanding of, the issues addressed in this Pre-Filing Report and is not intended to be an exhaustive summary of all matters relating to the business of the FIGR Group. The Proposed Monitor recommends that readers carefully review all of the materials filed by the FIGR Group in connection with the Initial Application, including the Devon Affidavit.
16. 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. 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.
17. 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.).
18. The FIGR Group also has sale and supply agreements in place with a number of private third-party purchasers and retailers.

FIGR Brands

19. On December 30, 2020, FIGR Brands amalgamated with its wholly-owned subsidiary, FIGR Canada Holdings ULC (“**FIGR Canada**”), formerly FIGR Inc., as part of an earlier-established global tax and structuring plan.
20. FIGR Brands leases its head office in Toronto, Ontario at Atria III, 2225 Sheppard Avenue East (the “**Toronto Head Office**”). Its registered head office is located at the Applicants’ legal counsel’s office in Vancouver, British Columbia.
21. The lease in respect of the Toronto Head Office, with Dorsay Development Corporation and Ontario Holdings Ltd. as landlord, is guaranteed by Alliance One International GmbH (“**AOI**”), a Swiss entity related to Pyxus.
22. The FIGR Group's trademarks are currently held by FIGR Inc. (the former name of one of the amalgamated entities which now forms FIGR Brands). 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).

23. Certain other intellectual property, such as trade names and plant genetics, are held by the other Applicants.
24. FIGR Brands currently employs approximately 20 individuals which mainly provide head office services such as strategic forecasting, sales and corporate accounting to FIGR Norfolk and CIG. Due to a recent change in transition to an outside firm for sales personnel, the employment of certain FIGR Brands employees was recently terminated. The Proposed Monitor understands that FIGR Brands has paid amounts owing to such former employees including outstanding wages.
25. The sole director of FIGR Brands is Harvey Carroll.

FIGR Norfolk

26. FIGR Norfolk's common shares are held by FIGR Brands (80%) and by the original founders of FIGR Norfolk, Larry W. Huszczo and Catherine M. Armstrong (20% in total). Mr. Huszczo and Ms. Armstrong are actively involved in the day-to-day management of the FIGR Norfolk business.
27. FIGR Norfolk's original facility is located 11 Grigg Drive 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 and has an annual production capacity of approximately 1,205 kilograms of dried cannabis and dried cannabis equivalent. FIGR Norfolk holds a Standard Cultivation, Standard Processing and Sale for Medical Purposes licence under the *Cannabis Act*, S.C. 2018, c. 16, as amended. The most recent amendment to the FIGR Norfolk Licence was granted on May 8, 2020. The FIGR Norfolk Licence expires on September 28, 2021.

28. The FIGR Norfolk Facility employs a hydroponic cultivation method to grow its premium quality cannabis. In July 2018, Goldleaf (the former name of FIGR Norfolk) purchased the 18.72 acre plot of vacant land adjacent to the FIGR Norfolk Facility to accommodate a proposed expansion. FIGR Norfolk owns the FIGR Norfolk Facility and the land on which it is situated.
29. The Proposed Monitor has been advised that a shareholders agreement exists related to FIGR Norfolk that addresses certain matters including FIGR Brand's ongoing funding obligations for FIGR Norfolk and FIGR Brand's obligation, in certain circumstances, to fund the construction of an expansion to the FIGR Norfolk Facility. Further details regarding the shareholders agreement are provided in the Devon Affidavit.
30. FIGR Norfolk currently employs approximately 25 individuals.
31. The Directors of FIGR Norfolk are Harvey Carroll, Larry W. Huszczo and Michael Devon.

CIG

32. CIG's common shares are owned by FIGR Brands (94.25%) and by third party investors (5.75%).
33. CIG operates a purpose-built indoor cannabis processing and hydroponic cultivation facility located in an industrial park at 7 Innovation Way, Charlottetown, PEI (the "**CIG Facility**"). 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. CIG owns the CIG Facility and the approximately 15 acres of land on which it is located.
34. CIG holds a Standard Cultivation, Standard Processing and Sale for Medical Purposes licence for the CIG Facility. The CIG Licence was renewed on June 12, 2020 and expires on June 12, 2023.
35. CIG also leases an office space at 23 Fourth Street, Charlottetown, with Twinprop Investments Inc. as landlord.

36. CIG currently employs approximately 144 individuals.
37. The directors of CIG are Harvey Carroll, Edwin Jewell and Michael Devon.

The FIGR Group's Debt Structure

38. The FIGR Group's debt structure consists primarily of unsecured intercompany funding owing to AOI Tabak from FIGR Brands and owing to FIGR Brands from both FIGR Norfolk and CIG. Additional material liabilities of which the Proposed Monitor is aware are also summarized below.

The AOI Note

39. FIGR Brands is currently the borrower under an unsecured promissory note originally issued by FIGR Canada to AOI (the "**AOI Note**") and now owing to AOI Tabak. 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%.
40. The AOI Note has no stated maturity and may be prepaid at any time.
41. Proceeds from the AOI Note were used by FIGR Canada to fund the obligations of CIG and FIGR Norfolk. On December 30, 2020, AOI assigned its rights under the AOI Note to its parent company, AOI Tabak (the "**AOI Assignment**").
42. As at November 30, 2020, approximately \$189,729,870 was outstanding under the AOI Note. The Proposed Monitor understands that the amount owing has increased since November 30, 2020 as a result of further advances and additional accrued interest.

The FIGR Norfolk Note

43. FIGR Norfolk is the borrower under an unsecured promissory note owing to FIGR Brands (having originally been issued by FIGR Inc. (the former name of FIGR Canada)) (the "**FIGR Norfolk Note**"). 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.

44. Proceeds from the FIGR Norfolk Note have been used to fund the operational requirements of FIGR Norfolk.
45. As noted above, 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.
46. As at November 30, 2020, approximately CAD\$40,103,454 was outstanding under the FIGR Norfolk Note. The Proposed Monitor understands that the amount owing has increased since November 30, 2020 as a result of further advances and additional accrued interest.

The CIG Note

47. CIG is the borrower under an unsecured promissory note owing to FIGR Brands (having originally been issued by FIGR Inc. (the former name of FIGR Canada)) (the “**CIG Note**”). 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%.
48. Proceeds from the CIG Note were used by CIG to fund the construction of an expansion facility at CIG (the “**CIG Expansion Facility**”) and to fund the operational requirements of CIG. The CIG Note has no stated maturity and may be prepaid at any time.
49. As at November 30, 2020, approximately CAD\$93,910,479 was outstanding under the CIG Note. The Proposed Monitor understands that the amount owing has increased since November 30, 2020 as a result of further advances and additional accrued interest.

ACOA Contribution Agreement

50. CIG also entered into a Contribution Agreement with the Atlantic Canada Opportunities Agency (“**ACOA**”) on June 10, 2019. ACOA is a Canadian Federal economic development agency responsible for creating opportunities for economic growth in Canada's Atlantic Provinces.

51. Pursuant to the Contribution Agreement, ACOA agreed to contribute up to \$800,000 for the construction 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.

FIGR Norfolk Shareholders Agreement

52. As noted above, the FIGR Norfolk shareholders are party to a shareholders agreement which the Proposed Monitor understands imposes certain obligations on FIGR Brands to fund ongoing operations and an expansion of the FIGR Norfolk Facility.

Secured Obligations

53. Based on a review of registrations under the personal property registration systems in Ontario and PEI, the following parties have filed financing statements:
 - (a) Compaction Credit Ltd., has filed a financing statement against CGI in respect of an extraction unit and all present and after acquired attachments, accessories, repair parts and other goods related thereto; and
 - (b) Jim Pattison Industries Ltd. has filed financing statements against FIGR Inc. in respect of certain leased motor vehicles.
54. Based on a review of the real property registrations in PEI in respect of the land owned by CIG, Rexel Canada Electrical Inc., registered a claim for a mechanic's lien on title to the CIG Facility in the amount of \$81,627.
55. Based on a review of the real property registrations in Ontario in respect of the land owned by FIGR Norfolk, no security interests have been registered on title to such property.
56. The parties with security registrations will not be served with the Initial Application, and are not proposed to be primed by the CCAA Charges in the Initial Order. The Applicants expect to provide notice to such parties in advance of the Comeback Hearing.

Third Party Suppliers

57. 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, logistics, lab services, utilities, and other services provided in connection with operating a business in the cannabis industry.
58. The Proposed Monitor understands that the FIGR Group's obligations to its landlords, employees and to Canada Revenue Agency in respect of excise tax are currently based on ordinary course payment schedules. As of the date of the Devon Affidavit, the FIGR Group has provided the Canada Revenue Agency with security for excise tax in accordance with the *Excise Act, 2001*, S.C. 2002, c. 22. in the form of (i) a deposit in the amount of \$5,000 provided by FIGR Norfolk and (ii) a surety bond through Intact Insurance in the amount of \$300,000 provided by CIG. The Proposed Monitor understands the surety bond is secured by an irrevocable letter of credit.

The FIGR Group's Financial Difficulties and Events Leading up to the CCAA Proceedings

59. As indicated in the Devon Affidavit, the FIGR Group has been cash flow negative since inception and has been reliant on funding from Pyxus and its indirect subsidiaries. As a result of the AOI Assignment, AOI Tabak, an indirect subsidiary of Pyxus, as at November 30, 2020 is now owed in excess of \$189,729,870 by the FIGR Group, which amount has only increased since that date as a result of further advances and accruing interest.
60. The specific events leading up to the commencement of the CCAA Proceedings, are explained in the Devon Affidavit. In brief, Pyxus and certain affiliates recently emerged from Chapter 11 proceedings under the U.S. Bankruptcy Code and as a result, the Proposed Monitor understands that AOI Tabak is no longer prepared to continue funding the FIGR Group without an exit strategy.
61. The CCAA proceedings and the DIP Facility (described later herein) will provide the FIGR Group with the time and additional liquidity needed to complete the Proposed SISF

and allow for a potential going concern sale of the FIGR Group’s business while maintaining ordinary course business operations and preserving the value of its current operations for the benefit of all of the FIGR Group’s stakeholders, including preserving jobs for its employees.

F. THE FIGR GROUP’S CASH MANAGEMENT SYSTEM

- 62. The Proposed Monitor has reviewed the description of the cash management system for the members of the FIGR Group set out in the Devon Affidavit and believes those descriptions to be accurate.
- 63. The FIGR Group maintains six (6) bank accounts in total, five (5) of the accounts are with Bank of Montreal (“**BMO**”) and one (1) account is with Provincial Credit Union Limited (“**Provincial**”). The chart below provides a summary of the FIGR Group’s banking service providers:

	BMO	Provincial
FIGR Brands	R&D	
FIGR Norfolk	R&D	
FIGR East	R&D	R&D

**R= Receipts; D= Disbursements*

- 64. CIG has one corporate credit card with Collabria Visa through Provincial.
- 65. The FIGR Group’s cash management system is managed out of Toronto, Ontario and Charlottetown, PEI. The cash management system allows for separate tracking of receipts and disbursements of FIGR Brands, FIGR Norfolk and CIG respectively.
- 66. Funding from AOI Tabak (and previously from AOI) is issued to FIGR Brands on a weekly basis and is subsequently disbursed by FIGR Brands to each of FIGR Norfolk and CIG through BMO respectively, based on expected operating disbursements for the upcoming week. The movement of funds within the Canadian entities gives rise to corresponding intercompany payables/receivables within the FIGR Group which are internally tracked by the FIGR Group.

67. This cash management system is critical to the ongoing management of the FIGR Group's business and affairs. Replacement of the cash management system would be costly and time consuming. Accordingly, the Proposed Monitor supports the FIGR Group's request to continue to operate its existing cash management system throughout the CCAA Proceedings.

G. CERTAIN INTERCOMPANY FUNDING TRANSACTIONS

68. The Proposed Monitor has observed that funds are transferred downstream to FIGR Norfolk and CIG from FIGR Brands on an as needed basis, and typically weekly.

69. The Proposed Monitor understands that, in the ordinary course, FIGR Brands incurs certain expenses including professional, advertising, publicity and general administration, and subsequently charges these fees out on a monthly basis to each of FIGR Norfolk and CIG, together with a management fee for the provision of certain services.

70. The Proposed Monitor also understands that historically, funds borrowed by FIGR Brands under the AOI Note were then loaned by FIGR Brands to both FIGR Norfolk and CIG under the FIGR Norfolk Note and the CIG Note to fund payroll and other operating expenses of those entities on a weekly basis.

71. As discussed below, the Applicants propose that Intercompany Charges be established in the Proposed Initial Order in order to provide priority security going forward for intercompany obligations.

H. COMMUNICATION PLAN

72. Counsel to the FIGR Group and the Proposed Monitor have prepared a detailed Communication Plan to inform stakeholder groups of the CCAA Proceedings.

73. Individual, targeted communications are proposed to be sent to employees, suppliers, and customers, which communications include frequently asked questions (the "FAQs") explaining the general nature of the Initial Application and the CCAA Proceedings, the role of the Court and the Monitor, as well as the immediate implications of the Proposed Initial Order for each particular stakeholder group.

74. Management of the FIGR Group, together with the proposed Monitor intend to reach out and work closely with Health Canada and the Provincial Cannabis Boards throughout the CCAA Proceedings.
75. The Communication Plan is comprehensive and is consistent with the scope of other communication plans employed at the outset of similar scale CCAA proceedings.
76. The Communication Plan and Proposed Initial Order contemplate that the Monitor is to post materials in connection with the proposed CCAA Proceedings on the Monitor's website at <http://cfcanada.fticonsulting.com/figr> (the "**Monitor's Website**"). If appointed, FTI as Monitor will also post the FAQs on the Monitor's Website.
77. If appointed, FTI as Monitor will also make available a dedicated email address (figr@fticonsulting.com) and hotlines (416-649-8128 or 1-844-669-8128) to stakeholders who may have additional questions in respect of the CCAA Proceedings.

I. PAYMENT OF PRE-FILING AMOUNTS

78. The Proposed Initial Order provides the FIGR Group with the authority (but not the obligation) to pay certain expenses whether incurred prior to or following the commencement of the CCAA Proceedings. Specifically, the FIGR Group would retain the authority to pay, among other things outstanding and future wages, salaries and certain other employee-related payments.
79. In addition, with the Proposed Monitor's and DIP Lender's consent, the FIGR Group would retain the authority to pay certain amounts owing whether incurred prior to or after the date of the Proposed Initial Order. These include amounts owing for goods and services actually supplied to the Applicants and amounts related to honouring customer obligations incurred in the ordinary course of business and consistent with existing policies and procedures.
80. The Proposed Monitor has reviewed the FIGR Group's accounts payable and believes that authorizing the payment of certain limited pre-filing amounts as contemplated in the Proposed Initial Order (with the oversight of the Monitor and DIP Lender) is reasonable

and necessary in the circumstances. The flexibility provided by these provisions is intended to enable the FIGR Group to help mitigate disruption to ordinary business operations during the CCAA Proceedings.

J. CASH FLOW PROJECTION

81. The Cash Flow Projection, together with Management’s report on the cash-flow statement as required by section 10(2)(b) of the CCAA, is attached as Appendix “A” to this Pre-Filing Report. The Cash Flow Projection covers the 13-week period ending April 16, 2021.

82. The Cash Flow Projection shows an operational cash outflow of approximately \$4.7 million, a net cash outflow of \$7.8 million, and professional fees of \$3.2 million for that period. The Cash Flow Projection is summarized below:

(\$CAD in thousands)

Forecast Week Ending (Friday)	13 Week
Forecast Week	Total
Receipts	
Receipts from Operation	10,653
Other Receipts	465
Total Receipts	11,118
Operating Disbursements	
Payroll and Employee Related Costs	(3,393)
Rent and Property Taxes	(514)
Taxes and Levies	(2,581)
Other Operating Expenses	(8,827)
Capital Expenditures	(457)
Total Operating Disbursements	(15,772)
Net Cash from Operations	(4,654)
Restructuring Disbursements	(3,151)
NET CASH FLOWS	(7,805)
Cash	
Beginning Balance	2,121
Net Receipts/ (Disbursements)	(7,805)
DIP Advances/ (Repayments)	7,424
Ending Balance	1,740

83. As shown in the Cash Flow Projection, the FIGR Group will require funding totalling approximately \$7.4 million during the 13-week period ending April 16, 2021. Due to the non-revolving nature of the facility, the ending balance at April 16, 2021 is expected to

be approximately \$1.7 million. It is intended that additional operating financing will be available under the DIP Facility, described in greater detail below.

84. Pursuant to section 23(1)(b) of the CCAA and in accordance with the Canadian Association of Insolvency and Restructuring Professionals Standard of Practice 09-1, the Proposed Monitor hereby reports to the Court as follows:

- (a) the Proposed Monitor has reviewed the Cash Flow Projection, which was prepared by Management for the purpose described in notes to the Cash Flow Projection (the “**Projection Notes**”), using the Probable Assumptions and Hypothetical Assumptions set out therein;
- (b) the review consisted of inquiries, analytical procedures and discussion related to information provided by certain members of Management and employees of the FIGR Group. Since Hypothetical Assumptions need not be supported, the Proposed Monitor’s procedures with respect to the Hypothetical Assumptions were limited to evaluating whether the Hypothetical Assumptions were consistent with the purpose of the Cash Flow Projection. The Proposed Monitor has also reviewed the support provided by Management for the Probable Assumptions and the preparation and presentation of the Cash Flow Projection;
- (c) based on that review, and as at the date of this Pre-Filing Report, nothing has come to the attention of the Proposed Monitor that causes it to believe that:
 - (i) the Hypothetical Assumptions are inconsistent with the purpose of the Cash Flow Projection;
 - (ii) the Probable Assumptions are not suitably supported or consistent with the plans of the FIGR Group or do not provide a reasonable basis for the Cash Flow Projection, given the Hypothetical Assumptions; or
 - (iii) the Cash Flow Projection does not reflect the Probable and Hypothetical Assumptions.

- (d) since the Cash Flow Projection is based on assumptions regarding future events, actual results will vary from the projection even if the Hypothetical Assumptions occur. Those variations may be material. Accordingly, the Proposed Monitor expresses no assurance as to whether the Cash Flow Projection will be achieved. The Proposed Monitor also expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Pre-Filing Report, or relied upon by the Proposed Monitor in preparing this Pre-Filing Report; and
- (e) the Cash Flow Projection has been prepared solely for the purpose described in the Projection Notes. The Cash Flow Projection should not be relied upon for any other purpose.

K. DIP FINANCING

The DIP Facility

85. Pursuant to the Proposed Initial Order, the FIGR Group is seeking authorization from this Court to enter into the DIP Facility on the terms set forth in the term sheet attached hereto as Appendix “B” (the “**DIP Term Sheet**”):

86. The terms of the DIP Facility are summarized in the table below. Unless otherwise defined herein, terms capitalized in the table have the meaning ascribed in the DIP Term Sheet.

Borrower:	FIGR Brands
Guarantors:	FIGR Norfolk and CIG
Lender:	AOTC
Maximum Amount:	A super-priority, debtor-in-possession, non-revolving credit facility up to the maximum principal amount of \$8,000,000.
Availability:	The DIP Facility shall be available when all the conditions precedent are satisfied under the DIP Term Sheet including the receipt of the entered Initial Order in a form satisfactory to the Lender, in multiple advances pursuant to the DIP Facility's Cash Flow Projection. A maximum principal amount of \$2.5 million to be available prior to the Comeback Hearing. Expenses expected to be consistent with the Cash Flow Projection.
Maturity Date:	June 30, 2021, subject to earlier termination as a result of specified Events of Default.
Security:	All debts, liabilities, and obligations of the Borrower and the Guarantors under the DIP Facility shall be secured by the DIP Charge.
Interest Rates:	8% per annum accrued and payable on the Maturity Date.
Fees:	None. DIP Lender has agreed to forego any requirement for payment of a commitment or other standard fees.
Milestones:	Sales and Investment Solicitation Process in form and substance acceptable to DIP Lender to be approved by February 1, 2021. Following the commencement of a sale and investment solicitation process, if no Phase 1 or Phase 2 bids are acceptable, then a Revised Cash Flow Projection will be agreed upon.
Reporting	Weekly cash flow reporting including variances against projections. If the Cash Flow Projection shows weekly variance of more than \$250,000, or a cumulative variance of more than \$1,000,000, it will constitute an Event of Default.
Condition Precedent to Effectiveness of DIP Facility	Standard conditions precedent to the effectiveness.

A more detailed description of the DIP Term Sheet is provided in the Devon Affidavit.

87. The Proposed Monitor and Cassels have reviewed the terms of the DIP Term Sheet and participated in a number of discussions with the DIP Lender and its counsel. The DIP Term Sheet is the result of negotiations between the DIP Lender, the FIGR Group and their respective counsel, with input from the Proposed Monitor.
88. The Proposed Monitor makes the following observations in respect of certain of the terms of the DIP Term Sheet:
- (a) **Advances:** The DIP Facility shall be available in Advances consistent with the Cash Flow Projection or such greater amounts as otherwise agreed to by the DIP Lender in writing. If no LOIs, acceptable to the DIP Lender, are received from qualified bidders, as described in the SISP once approved, the Cash Flow Projection will be revised by the Lender, the Applicants and the Monitor and all future Advances will be made in amounts consistent with the Revised Cash Flow Projection or such greater amounts otherwise agreed to by the Lender in writing.
 - (b) **Timing of Advances:** The DIP Facility provides (i) for weekly advances provided that the Lender can agree to advances more frequently on request and (ii) that the maximum amount permitted to be advanced and secured by the DIP Charge is \$2.5 million before the Comeback Hearing.
 - (c) **Interest Rates and Fees:** Based on its experience and on information available to it, the Proposed Monitor is of the view that the interest rate provided in the DIP Term Sheet is not outside the ranges for similarly situated DIP facilities. The DIP Lender has also agreed to forego a market standard commitment fee and other related standby availability fees. The DIP Facility rate of interest is in fact slightly below average market rates and considering the depressed state of the Cannabis industry and recent launch of the FIGR Group's operations, it is unlikely that a DIP loan facility on more favourable terms can be found in the immediate future given the FIGR Group's financial situation and the rate of necessary consumption of existing cash on hand; and

- (d) **Conditions to Advances:** The DIP Term Sheet requires weekly cash flow reporting. An Event of Default will occur if the FIGR Group incurs (i) a negative cashflow variance in excess of \$250,000 of Net Cash Flow (as set out in the Cash Flow Projection) in any calendar week or (ii) a cumulative negative cashflow variance in excess of \$1,000,000 of Net Cash Flow (as set out in the Cash Flow Projection).
- (e) **Mandatory and Voluntary Repayments:** The DIP Term Sheet provides for the mandatory repayment of the DIP Facility upon a sale of any of the assets of the FIGR Group out of the ordinary course of business in an amount equal to the net cash proceeds of such sale (net solely of transaction fees and applicable taxes). The FIGR Group may also make voluntary prepayments of the DIP Facility at any time without penalty.
- (f) **Milestones:** The DIP Term Sheet requires that a SISP acceptable to the DIP Lender be approved by the Court on or prior to February 1, 2021. As noted below, it is the Proposed Monitor's understanding that the FIGR Group intends to seek approval of the Proposed SISP at the Comeback Hearing.

DIP Lender's Charge

- 89. The Proposed Initial Order seeks the granting of the DIP Lender's Charge with respect to the obligations under the DIP Facility including the other definitive documents in respect of the DIP Facility once they are entered into.
- 90. The Proposed Initial Order contemplates that the DIP Lender's Charge will not have priority over the valid interests and liens of existing secured creditors before the Comeback Hearing. However, the Proposed Monitor understands that it is the intention of the FIGR Group and the DIP Lender that after the Comeback Hearing the DIP Lender's Charge (and all the Proposed CCAA Charges) be granted priority over all existing security interests, charges and claims, including deemed trusts, in the assets of the FIGR Group but not in priority to holders of valid purchase money security interests and statutory super-priority deemed trusts and liens for unpaid employee source deductions.

91. The Proposed Monitor understands that counsel to the FIGR Group will be providing notice of the Comeback Hearing, upon issuance of the Proposed Initial Order (if issued), to those parties with lien filings against the assets of the FIGR Group with a view to giving those parties as much notice as reasonably possible of the Comeback Hearing.
92. The Proposed Monitor supports the FIGR Group's request for authority to enter into the DIP Term Sheet and the granting of the DIP Lender's Charge. The FIGR Group has been cash flow negative since inception and has been reliant on funding from Pyxus and its indirect subsidiaries. The FIGR Group does not have any secured funded debt. All of the intercompany advances have been made on an unsecured basis. The Proposed Monitor is of the view that the terms of the DIP Facility are reasonable and in line with or more favourable than market terms in the circumstances and that the DIP Facility will provide the FIGR Group with access to financing within the necessary timeframe. The Proposed Monitor is of the view that there is likely no other viable alternative source of financing available to FIGR Group at this time.
93. The FIGR Group's financial forecasts have identified a need for continued financing to maintain minimum cash balances and preserve ongoing business operations within the FIGR Group. The DIP Facility will, subject to the terms thereof, provide sufficient liquidity to the FIGR Group. The provision of the DIP financing will provide assurance to the FIGR Group's employees, suppliers and customers that there is sufficient liquidity to maintain ordinary course business operations until a going concern sale, if identified, is completed.
94. The Proposed Monitor has also considered the facts and circumstances giving rise to the CCAA Proceedings and section 11.2(4) of the CCAA. In particular:
 - (a) the term of the DIP Facility is sufficient to be available for the duration of the FIGR Group's intended restructuring process at this time;
 - (b) the financing to be provided is consistent with the forecast liquidity needs of the FIGR Group during that period;

- (c) the DIP Facility is to be provided by a related party and the largest creditor of the FIGR Group, which is supportive of the proposed restructuring process and the CCAA Proceedings at this time. The Proposed Monitor understands the support of Pyxus and its indirect subsidiaries is critical to the operation of the FIGR Group as those entities provide certain head office services which the FIGR Group does not have the necessary resources to provide independently;
- (d) the proposed restructuring process cannot move forward without the DIP Facility and, as a result, the DIP Facility enhances the prospects of a viable restructuring in the Proposed Monitor's view; and
- (e) any creditor of the FIGR Group that believes it may be prejudiced by the DIP Facility will have an opportunity to raise any objections at the Comeback Hearing to be scheduled by the Court.

L. ADMINISTRATION CHARGE

95. The Proposed Initial Order provides for a \$600,000 Administration Charge on the FIGR Group's assets to secure the fees and disbursements incurred in connection with services provided to the FIGR Group both before and after the commencement of the CCAA Proceedings. The Administration Charge will secure services provided to the FIGR Group by:
- (a) counsel to the FIGR Group; and
 - (b) the Monitor and its counsel.
96. The Proposed Monitor has worked with these groups to estimate their fees and costs, and the quantum of the proposed Administration Charge.
97. Given the anticipated amount of time it will take to complete the CCAA Proceedings, the Proposed Monitor is of the view that the size and scope of the Administration Charge is reasonable in the circumstances. The Proposed Monitor therefore supports the FIGR Group's request that the Court approve the Administration Charge.

M. DIRECTORS' CHARGE

98. As described in the Devon Affidavit, Pyxus maintains a number of directors and officers liability insurance policies (the “**D&O Insurance Policies**”) for the benefit of itself and its direct and indirect subsidiaries including the FIGR Group’s directors and officers (the “**Directors and Officers**”).
99. The Proposed Monitor has worked with the FIGR Group to estimate the potential liabilities that the Directors and Officers may be exposed to in their capacities as directors and officers during the CCAA Proceedings.
100. The Proposed Initial Order provides for a \$2 million charge over the assets of the FIGR Group to secure the indemnity provided to the Directors and Officers in respect of liabilities that may be incurred after the filing date with respect to any failure to pay wages and source deductions, vacation pay, other employee-related obligations and Sales Taxes (as defined in the Proposed Initial Order). 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.
101. The continued support and service of the Directors and Officers will be critical during the CCAA Proceedings and will enable the FIGR Group to preserve value and maximize recoveries for stakeholders.
102. In arriving at the quantum for the Directors’ Charge, the Proposed Monitor, the FIGR Group and counsel to the FIGR Group, have taken into account (i) the scope and quantum of coverage provided by the D&O Insurance Policies; (ii) the Directors and Officers’ potential statutory liabilities for wages, vacation pay, unremitted source deductions, excise tax, and sales and services taxes, in light of the jurisdictions in which the FIGR Group carries on business and the number of its employees in each jurisdiction; and (iii) the terms of the DIP Facility.
103. The Proposed Monitor understands that the Directors and Officers will not continue to serve unless the Directors’ Charge is granted. Accordingly, the Proposed Monitor is of the view that the granting of the Directors’ Charge is necessary in the circumstances and

that the quantum and scope of the charge is both fair and reasonable. The Proposed Monitor is also of the view that the Directors' Charge is consistent with this Court's practice and the potential foreseeable scope of director and officer liabilities for unremitted or unpaid employee and tax amounts in this case.

N. INTERCOMPANY CHARGES

104. As described in the Devon Affidavit and above, FIGR Brands is the borrower under the DIP Facility and it is expected that FIGR Brands will then lend money on to FIGR Norfolk and CIG as needed. FIGR Brands also provides certain services including sales, marketing and other head office services for the benefit of FIG Norfolk and CIG. To ensure that such post-filing funds and services, to the extent not paid, are secured on a priority basis so as not to prejudice the creditor group at any one entity, the Applicants have proposed the Intercompany Charges be granted in the Initial Order.
105. The Intercompany Charges will not secure any intercompany advances made before the date of the Proposed Initial Order.
106. The Proposed Monitor is of the view that the Intercompany Charges are necessary to provide priority security for the repayment of such intercompany obligations and if appointed as Monitor, FTI intends to monitor all such payments, obligations or transfers as between the Applicants for the purposes of determining the amounts subject to the Intercompany Charges.

O. ANTICIPATED NEXT STEPS IN THE CCAA PROCEEDINGS

i) Comeback Hearing

107. The Proposed Monitor understands that the FIGR Group will be requesting the Comeback Hearing to be scheduled on or before the date on which the Stay of Proceedings expire. At the Comeback Hearing, it is expected that the FIGR Group will request amendments to the Proposed CCAA Charges, including an increase to the DIP Lender's Charge, the approval of the Proposed SISF, and an extension of the Stay of Proceedings. If appointed, FTI as Monitor intends to file a further report prior to the Comeback Hearing providing recommendations in respect of such relief.

108. The Proposed Monitor understands that the FIGR Group intends at the Comeback Hearing to seek this Court's approval of the Proposed SISP to be conducted by the Proposed Monitor (if appointed), with the assistance of the FIGR Group.
109. The Monitor understands the Proposed SISP is to be flexible in order to maximize opportunities for sale of, or investment in, all or part of the Applicant's assets and business. A potential transaction may include one or more of a restructuring, recapitalization or other form of reorganization of the business and affairs of the Applicants as a going concern, or a sale of all, of substantially all or one or more components of the Property and the Business as a going concern or otherwise. The Proposed SISP is anticipated to include a requirement for Phase 1 delivery of non-binding letters of interest within approximately four weeks of the approval of the Proposed SISP, followed by a Phase 2 with definitive binding bids.
110. However, in order to provide as much time as possible for interested parties to evaluate the FIGR Group's business, the Proposed Monitor (if appointed) intends, prior to the Comeback Hearing, to assist the Applicants in commencing solicitation of interest in preparation for the approval of a sale and investment solicitation process. The Proposed Monitor anticipates this will include preparation of a non-disclosure agreement, teaser letter, confidential information package, data room, and a list of potential bidders, sending the teaser letter to potential bidders and facilitating access to confidential information for interested parties.

P. RECOMMENDATIONS

111. For the reasons stated in this Pre-Filing Report, the Proposed Monitor believes that it is appropriate for the FIGR Group to be granted protection under the CCAA and respectfully recommends that the Court grant the Proposed Initial Order on the terms requested.

The Proposed Monitor respectfully submits to the Court this, its Pre-Filing Report.

Dated this 21st day of January, 2021.

FTI Consulting Canada Inc.
In its capacity as Proposed Monitor of
FIGR Brands, Inc. and the other corporations in the FIGR Group

A handwritten signature in black ink, appearing to read 'Jeffrey Rosenberg', written over a horizontal line.

Jeffrey Rosenberg
Senior Managing Director

A handwritten signature in black ink, appearing to read 'J. Porepa', written over a horizontal line.

Jodi Porepa
Managing Director

APPENDIX “A”

[ATTACHED]

FIGR Brands, Inc., Canada's Island Garden Inc., & FIGR Norfolk Inc.

Consolidated Cash Flow Projections

(\$CAD in thousands)

Forecast Week Ending	22-Jan-21	29-Jan-21	05-Feb-21	12-Feb-21	19-Feb-21	26-Feb-21	05-Mar-21	12-Mar-21	19-Mar-21	26-Mar-21	02-Apr-21	09-Apr-21	16-Apr-21	13 Week	
Forecast Week	[1]	1	2	3	4	5	6	7	8	9	10	11	12	13	Total
Receipts															
Receipts from Operation	[2]	427	346	101	135	826	576	1,117	1,117	1,117	1,117	1,258	1,258	1,258	10,653
Other Receipts	[3]	-	-	-	465	-	-	-	-	-	-	-	-	-	465
Total Receipts		427	346	101	600	826	576	1,117	1,117	1,117	1,117	1,258	1,258	1,258	11,118
Operating Disbursements															
Payroll and Employee Related Costs	[4]	(253)	(427)	(583)	(132)	(253)	(132)	(253)	(132)	(253)	(367)	(253)	-	(355)	(3,393)
Rent and Property Taxes	[5]	(430)	(14)	-	(14)	-	(14)	-	(14)	-	(14)	-	(14)	-	(514)
Taxes and Levies	[6]	-	(830)	-	-	-	(780)	-	-	-	(971)	-	-	-	(2,581)
Other Operating Expenses	[7]	(882)	(802)	(1,722)	(732)	(486)	(793)	(338)	(442)	(366)	(661)	(480)	(693)	(430)	(8,827)
Capital Expenditures	[8]	(61)	(45)	(3)	(3)	(3)	(216)	(21)	(21)	(21)	(21)	(14)	(14)	(14)	(457)
Total Operating Disbursements		(1,626)	(2,118)	(2,308)	(881)	(742)	(1,935)	(612)	(609)	(640)	(2,034)	(747)	(721)	(799)	(15,772)
Net Cash from Operations		(1,199)	(1,772)	(2,207)	(281)	84	(1,359)	505	508	477	(917)	511	537	459	(4,654)
Restructuring Disbursements	[9]	(500)	(490)	(490)	(380)	(220)	(220)	(146)	(146)	(146)	(146)	(89)	(89)	(89)	(3,151)
NET CASH FLOWS		(1,699)	(2,262)	(2,697)	(661)	(136)	(1,579)	359	362	331	(1,063)	422	448	370	(7,805)
Cash															
Beginning Balance		2,121	500	500	500	500	500	500	859	1,221	1,552	500	922	1,370	2,121
Net Receipts/ (Disbursements)		(1,699)	(2,262)	(2,697)	(661)	(136)	(1,579)	359	362	331	(1,063)	422	448	370	(7,805)
DIP Advances/ (Repayments)	[10]	78	2,262	2,697	661	136	1,579	-	-	-	11	-	-	-	7,424
Ending Balance		500	500	500	500	500	500	859	1,221	1,552	500	922	1,370	1,740	1,740
DIP Facility															
Opening Balance		-	78	2,340	5,037	5,698	5,834	7,413	7,413	7,413	7,413	7,424	7,424	7,424	-
DIP Advances		78	2,262	2,697	661	136	1,579	-	-	-	11	-	-	-	7,424
Ending Balance DIP		78	2,340	5,037	5,698	5,834	7,413	7,413	7,413	7,413	7,424	7,424	7,424	7,424	7,424
DIP Accrued Interest	[11]	-	4	11	20	29	41	52	63	75	86	98	109	120	120
Closing Balance (DIP & Interest)		78	2,344	5,048	5,718	5,863	7,454	7,465	7,476	7,488	7,510	7,522	7,533	7,544	7,544
Undrawn DIP Facility															
Total DIP Facility		8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000
(-) DIP Advances		(78)	(2,340)	(5,037)	(5,698)	(5,834)	(7,413)	(7,413)	(7,413)	(7,413)	(7,424)	(7,424)	(7,424)	(7,424)	(7,424)
Total Undrawn DIP		7,922	5,660	2,963	2,302	2,166	587	587	587	587	576	576	576	576	576

FIGR Brands, Inc., Canada's Island Garden Inc., & FIGR Norfolk Inc.

Consolidated Cash Flow Projections

Notes to the Consolidated Cash Flow Projections:

- [1] The purpose of the Cashflow Projections is to estimate the liquidity requirements of FIGR Brands, Inc., Canada's Island Garden Inc. and FIGR Norfolk Inc. ("FIGR" or the "Company") during the forecast period.
- [2] Forecast Receipts from Operations include collections from the sale of products across multiple product categories, including: dried flower, pre-roll, oil and vape cartages.
The sales forecast is based on management's current expectations regarding the FIGR GO relaunch and seasonality.
- [3] Forecast Other Receipts include expected tax refunds.
- [4] Forecast Payroll and Employee Related Costs are based on recent payroll amounts and future forecast amounts.
- [5] Forecast Rent and Property Taxes include payments to landlord for Toronto head office space and property taxes on properties.
- [6] Forecast Taxes and Levies include payments related to Excise and Sales Tax.
- [7] Forecast Other Operating Expenses include production, maintenance, utilities and other general and administrative costs.
- [8] Forecast Capital Expenditures reflect estimated capital spending required to maintain normal course of business and comply with existing license requirements.
- [9] Forecast Restructuring Disbursements include legal and financial advisor fees associated with the CCAA proceedings and are based on estimates provided by the advisors.
- [10] Forecast DIP Advances/Repayments are based on funding requirements and maintaining a minimum of \$500k cash balance for FIGR.
- [11] Forecast DIP Accrued Interest reflects the interest accrued on the DIP Advances under the DIP facility during the forecast period.



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., CANADA'S ISLAND
GARDEN INC., AND FIGR NORFOLK INC. (the "Applicants")

January 21, 2021

REPORT ON CASH FLOW STATEMENT

(Paragraph 10.2(b) of the CCAA)

The management of the Applicants has developed the assumptions and prepared the attached statement of projected cash flow as of January 21, 2021, consisting of a 13-week cash flow forecast for the period January 16, 2021 to April 16, 2021 (the "January 21 Cash Flow Projections").

The hypothetical assumptions are reasonable and consistent with the purpose of the projections as described in Note 1 to the cash flow projections, and the probable assumptions are suitably supported and consistent with the plans of the Applicants and provide a reasonable basis for the January 21 Cash Flow Projections. All such assumptions are disclosed in Notes 1 to 11.

Since the January 21 Cash Flow Projections is based on future events, actual results will vary from the information presented and the variations may be material.

The January 21 Cash Flow Projections has been prepared solely for the purpose outlined in Note 1, using the probable and hypothetical assumptions set out in Notes 1 to 11. Consequently, readers are cautioned that the January 21 Cash Flow Projections may not be suitable for other purposes.

Dated at Toronto, Ontario, this 21st day of January, 2021.

Mike Devon
SVP/Chief Financial Officer
FIGR Brands Inc.

APPENDIX “B”

[ATTACHED]

January 20, 2021

FIGR Brands, Inc.
2225 Sheppard Ave E., Suite 903
Toronto, ON M2J 5C2

Attention: Harvey Carroll

Dear Sir,

Re: Alliance One Tobacco Canada, Inc. (the "Lender") interim financing credit facility (the "DIP Facility") in favour of FIGR Brands, Inc. ("FIGR Brands")

We understand that FIGR Brands, FIGR Norfolk Inc. and Canada's Island Garden Inc. (collectively, the "**FIGR Group**") intend to make an application to the Ontario Superior Court of Justice (Commercial List) (the "**Court**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Initial Order (the "**Initial Order**") which, among other things, appoints FTI Consulting Canada Inc. as the monitor of the FIGR Group (in such capacity, the "**Monitor**").

In connection with the proposed CCAA proceedings (the "**CCAA Proceedings**"), the FIGR Group requires interim financing ("**DIP Financing**"). The Lender is pleased to offer DIP Financing by way of the DIP Facility described in this term sheet (the "**Term Sheet**"), subject to the terms and conditions set forth herein. Unless otherwise indicated, all amounts are expressed in Canadian currency. All capitalized terms not otherwise defined in the body of this Term Sheet shall have the meanings ascribed thereto in **Schedule "A"**.

Borrower: FIGR Brands, Inc.

Guarantors: FIGR Norfolk Inc. and Canada's Island Garden Inc.

Lender: Alliance One Tobacco Canada, Inc.

DIP Facility: A super-priority, debtor-in-possession, non-revolving credit facility up to the maximum principal amount of \$8,000,000.

Purpose: The purpose of the DIP Facility is to fund: (i) working capital needs of the Borrower and Guarantors in accordance with the cash flow projections approved by the Monitor and the Lender from time to time (the "**Cash Flow Projections**"); (ii) the Lender's Fees and Expenses (as defined below); (iii) professional fees and expenses incurred by the FIGR Group and the Monitor in respect of the CCAA Proceedings; and (iv) such other costs and expenses of the FIGR Group as may be agreed to by the Lender, in writing.

Repayment:

Unless otherwise agreed in writing by the Lender, the Borrower and the Guarantors shall repay all obligations owing under the DIP Facility on the earlier of (the "**Maturity Date**"): (i) the occurrence of an Event of Default (as defined below); and (ii) June 30, 2021.

Unless otherwise agreed to in writing by the Lender, the DIP Facility shall be repaid and the maximum amount of the DIP Facility shall be permanently reduced upon a sale, realization or other disposition of any property, assets or undertakings of the Borrower or a Guarantor out of the ordinary course of business in an amount equal to the net cash proceeds of such sale, realization or other disposition (solely net of transaction fees and applicable taxes). Any amount repaid pursuant to the preceding sentence may not be reborrowed without the prior written consent of the Lender.

The Borrower shall be permitted to voluntarily prepay or repay any of the DIP Facility before the Maturity Date without notice or penalty. Any such prepayment or repayment shall permanently reduce the DIP Facility.

**Facility
Advances:**

The DIP Facility shall be available by multiple advances (each, an "**Advance**" and collectively, the "**Advances**"), to be issued not more frequently than once each calendar week unless agreed to by the Lender, in amounts consistent with the Cash Flow Projections or such greater amounts as otherwise agreed to by the Lender in writing, and each such Advance shall be wire transferred to FIGR Brands existing operating account at Bank of Montreal.

If no LOIs, acceptable to the Lender, are received from a Phase 1 Qualified Bidder by the Phase 1 Bid Deadline (as such terms are defined in the SISP) or no Phase 2 Bids, acceptable to the Lender, have been received from Phase 2 Qualified Bidders by the Phase 2 Bid Deadline (as such terms are defined in the SISP), the Cash Flow Projections will be revised by the Lender, the Applicants and the Monitor (the "**Revised Cash Flow Projections**"), each acting reasonably, and all future Advances will be made in amounts consistent with the Revised Cash Flow Projections or such greater amounts otherwise agreed to by the Lender in writing.

The obligations of the Lender to advance amounts under the DIP Facility are subject to the terms of this Term Sheet including the conditions precedent to advances.

Notwithstanding anything contained herein, the maximum that may be advanced by the Lender prior to the "comeback hearing" is \$2.5 million.

**Interest Rate
and Expenses:**

Interest: Interest on the principal amount of each Advance outstanding from time to time shall be calculated monthly at a rate of eight per cent (8%) per annum, which interest shall be calculated on the daily outstanding balance owing under the DIP Facility, not in advance, and shall accrue and be paid on the Maturity Date.

Expenses: The Borrower and the Guarantors shall pay all fees and expenses (collectively, the "**Lender's Fees and Expenses**") incurred by the Lender in connection with the preparation, negotiation and administration of this Term Sheet, and the enforcement of the DIP Charge (as defined below) and the Lender's rights and remedies thereunder or at law or in equity, including, without limitation all reasonable legal fees and disbursements incurred by the Lender, on a full indemnity basis. For greater certainty, "Lender's Fees and Expenses" shall include all reasonable fees and expenses incurred by the Lender in connection with the CCAA Proceedings and all Court attendances in respect thereof. All such fees and expenses and interest thereon shall be secured by the DIP Charge whether or not any funds under the DIP Facility are advanced hereof.

Security:

All debts, liabilities, and obligations of the Borrower and the Guarantors under the DIP Facility shall be secured by the DIP Charge and such security agreements charging all of the properties, assets and undertakings of the Borrower and the Guarantors, as may be reasonably requested by the Lender.

**Conditions
Precedent:**

The availability of the DIP Facility is subject to and conditional upon the following conditions precedent unless waived in writing by the Lender in its sole discretion:

1. receipt of the entered Initial Order in substantially the form attached hereto as **Schedule "B"**.
2. the Initial Order, including the DIP Charge, shall not have been amended or varied in a manner adverse to the Lender, or stayed, without the consent of the Lender, and shall continue to be in full force and effect
3. receipt of a duly executed copy of this Term Sheet; and
4. delivery by the Borrower and Guarantors to the Lender of such further security or documentation as the Lender and its lawyers may reasonably require to give effect to the foregoing, including guarantees for the DIP Facility from the Guarantors.

Each of the following is a condition precedent to any Advance to be made hereunder, in each case unless waived in writing by the Lender in its sole discretion:

1. all of the conditions contained in this Term Sheet shall have been satisfied and shall as at the time of the making of the Advance in question continue to be satisfied; and
2. no Event of Default shall have occurred and be continuing.

The making of an Advance hereunder without the fulfillment of one or more conditions set forth in this Term Sheet shall not constitute a waiver of any such condition, unless expressly so waived in writing by the Lender, and the Lender reserves the right to require fulfillment of such condition in connection with any Advance.

Covenants:

The Borrower and the Guarantors covenant and agree with the Lender, so long as any amounts are outstanding to the Lender hereunder, to:

1. pay all sums of money when due hereunder;
2. not request, obtain or consent to a variation of the Initial Order or other Court order if such variation may be prejudicial to the Lender, without the prior written consent of the Lender, such consent not to be unreasonably withheld or delayed;
3. make all reasonable efforts to provide the Lender with at least three 3 Business Days' notice of all Court filings to be made by it, together with copies of, and an opportunity to comment on, all related Court materials;
4. provide the Lender with prompt written notice of any event which constitutes, or which, with notice, lapse of time, or both, would constitute an Event of Default, a breach of any covenant or other term or condition of this Term Sheet, or of any document given in connection therewith;
5. use the proceeds of the DIP Facility solely for the purposes provided for herein;
6. keep and maintain books of account and other accounting records in accordance with generally accepted accounting principles;
7. upon reasonable notice, permit the Lender or its representatives, at any time and from time to time with such frequency as the Lender, in its sole discretion, may require, but in all cases in a manner which (i) will not interfere with the FIGR Group's business activities or the ability of management and employees to carry out their respective responsibilities and (ii) is in compliance with all Applicable Laws and Covid-19 protocols, to visit and inspect the FIGR Group's premises, properties and assets and to examine and obtain copies of the FIGR Group's records or other information and discuss the FIGR Group's affairs with the auditors, counsel and

other professional advisors of the FIGR Group, all at the reasonable expense of the FIGR Group;

8. except as reflected in the Cash Flow Projections or otherwise with the consent of the Lender, carry on the business of the FIGR Group in the normal course, consistent with past practice and orders of the Court made in the CCAA Proceedings;
9. not incur any material expense other than as included in the Cash Flow Projections, without the prior written consent of the Lender not to be unreasonably withheld;
10. to pay or make provision for payment of all Priority Claims due and payable from and after the commencement of the CCAA Proceedings;
11. keep the FIGR Group's assets fully insured against such perils and in such manner as would be customarily insured by companies owning similar assets naming the Lender as first loss payee and to ensure all assets secured by the DIP Charge are in existence and in the possession and control of the FIGR Group;
12. unless otherwise agreed by the Lender, maintain all material contracts and licenses required to operate their businesses.
13. provide the Lender weekly on or before Thursday of each calendar week for the calendar week ending on the immediately preceding Sunday, or as otherwise agreed by the Lender, updated cash flow projections, which shall compare actual and forecasted results for the previous week; and
14. provide the Lender (either directly or through the Monitor) any additional financial and other information as the Lender may reasonably request.

**Events
of Default:**

Each of the following events constitutes an event of default (each an "Event of Default"):

1. the Borrower or Guarantors fail to pay when due any principal, interest, fees or other amounts payable under this Term Sheet;
2. the Borrower or a Guarantor breaches any covenant (other than a payment default), term, condition or other provision of this Term Sheet, or any other document delivered to the Lender in respect thereof and such default continues unremedied for a period of three (3) days;
3. if the Initial Order or any other Court order is stayed, set aside or varied in a manner adverse to the Lender's interests, without the

consent of the Lender, in its sole discretion, or any other order of the Court in the CCAA Proceedings is made, which is prejudicial to the Lender's interests;

4. the stay of proceedings granted pursuant to the Initial Order is terminated or lifted in whole or in part without the consent of the Lender, such consent not to be unreasonably withheld or delayed;
5. a sale and investment solicitation process in the CCAA Proceedings (the "SISP"), in form and substance satisfactory to the Lender has not been approved by the Court by February 1, 2021;
6. the Borrower or a Guarantor fails to observe the terms of the Initial Order or any subsequent Court orders;
7. the CCAA Proceedings are terminated or converted to a proposal proceeding under the BIA without the consent of the Lender;
8. substantially all of the business or assets of the Borrower or a Guarantor are sold except in accordance with the SISP;
9. any default or failure by the Borrower or a Guarantor to make any payment of any Priority Claims due and payable from and after the commencement of the CCAA Proceedings;
10. the Borrower or a Guarantor becomes bankrupt or a receiver, receiver and manager, or other officer of the Court is appointed for all or any significant part of the assets of such entity;
11. failure to comply with the milestones set out in the SISP; and
12. without the consent of the Lender, the FIGR Group incurs (i) a negative cashflow variance in excess of \$250,000 of Net Cash Flow (as set out in the Cash Flow Projections) in any calendar week or (ii) a cumulative negative cashflow variance in excess of \$1,000,000 of Net Cash Flow (as set out in the Cash Flow Projections);

then, in such event, the Lender may, by written notice to the Borrower and the Monitor, declare all monies outstanding under the DIP Facility to be immediately due and payable, terminate the DIP Facility and, subject to Court approval, upon seeking an Order of the Court on not less than five (5) days notice, enforce, without further notice, demand or delay, all of its rights and remedies against the Borrower and the Guarantors and their properties, assets and undertakings including, without limitation, the enforcement of the DIP Charge, including apply to the Court for the appointment of a receiver, an interim receiver or a receiver and manager over the properties, assets and undertakings of the FIGR Group or for the appointment of a trustee in bankruptcy of all or any member of the FIGR

Group.

Notwithstanding anything herein to the contrary, on and after the occurrence of an Event of Default, at the discretion of the Lender, the Borrower shall not be entitled to any further Advances under this Facility. Any Advance made by the Lender after the occurrence of an Event of Default shall not oblige the Lender to make further Advances thereafter.

**Evidence of
Indebtedness:**

The Lender shall maintain records evidencing the DIP Facility. The Lender's accounts and records constitute, in the absence of manifest error, conclusive evidence of the indebtedness of the Borrower and the Guarantors to the Lender pursuant to this Term Sheet.

**Representations
and Warranties:**

The Borrower and the Guarantors each represent and warrant to the Lender that:

1. it is a corporation duly incorporated under the jurisdiction of its corporation, validly existing and duly registered or qualified to carry on business in the Provinces in which it carries on business;
2. subject to the issuance of the Initial Order, the execution, delivery and performance by it of this Term Sheet has been duly authorized by all necessary actions and does not violate the constating documents or any Applicable Laws or agreements to which it is subject or by which it is bound;
3. no event has occurred which constitutes, or which, with notice, lapse of time, or both, would constitute, an Event of Default, a breach of any covenant or other term or condition of this Term Sheet or any document given in connection therewith; and
4. it has good and marketable title to all of its properties, assets and undertakings.

General:

Non-Merger: The provisions of this Term Sheet shall not merge on the first Advance hereunder but shall continue in full force and effect for the benefit of the parties hereto.

Further Assurances and Documentation: The Borrower and the Guarantors shall do all things and execute all documents deemed necessary or appropriate by the Lender for the purposes of giving full force and effect to the terms, conditions, undertakings hereof and the DIP Charge to be granted pursuant to the Initial Order.

Severability: If any provision of this Term Sheet is or becomes prohibited or unenforceable in any jurisdiction, such prohibition or unenforceability shall not invalidate or render unenforceable the provision concerned in any

other jurisdiction nor shall it invalidate, affect or impair any of the remaining provisions of this Term Sheet.

Governing Law: This Term Sheet shall be construed in accordance with and be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Counterparts: This Term Sheet may be executed in any number of separate counterparts by any one or more of the parties thereto, and all of said counterparts taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Term Sheet by email, PDF or by other electronic means shall be as effective as delivery of a manually executed counterpart.

Assignment: The Lender may assign all or part of its rights and obligations under this Term Sheet to any affiliate of the Lender without notice to and without the FIGR Group's consent. The FIGR Group may not assign or transfer all or any part of their rights or obligations under this Term Sheet, without the Lender's prior written consent, in its sole discretion, any such transfer or assignment being null and void and of no force or effect.

This Term Sheet shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

Time: Time is and shall be of the essence in all provisions of this Term Sheet.

Termination by Borrower: At any time following the indefeasible payment in full in immediately available funds of all of the amounts owing under the DIP Facility, including, without limitation, principal, interest, costs and expenses contemplated hereunder, the Borrower shall be entitled to terminate this Term Sheet upon written notice to the Lender, and the Lender shall promptly, on request, execute any lien releases and documents reasonably required to discharge any lien filings made in favour of the Lender in connection with the DIP Facility.

Whole Agreement, Amendments and Waiver: This Term Sheet and any other written agreement delivered pursuant to or referred to in this Term Sheet constitute the whole and entire agreement between the parties in respect of the DIP Facility. There are no verbal agreements, undertakings or representations in connection with the DIP Facility. No amendment or waiver of any provision of this Term Sheet will be effective unless it is in writing signed by the Borrower, Guarantors and the Lender. No failure or delay on the part of the Lender in exercising any right or power hereunder or under the DIP Charge shall operate as a waiver thereon. No course of conduct by the Lender will give rise to any reasonable expectation which is in any way inconsistent with the terms and conditions of this Term Sheet and the DIP Charge or the Lender's rights thereunder.

Expiration: This Term Sheet must be accepted by the Borrower and the Guarantors by no later than 8:00 p.m. on Wednesday, January 20, 2021, after which this Term Sheet will expire.

If the terms and conditions of this Term Sheet are acceptable to you, please sign in the space indicated below and return the signed copy of this Term Sheet to us. Acceptance may also be effected by electronic transmission and in counterpart.

We thank you for allowing us the opportunity to provide you with this Term Sheet.

[The remainder of this page was left intentionally blank]

Yours truly,

ALLIANCE ONE TOBACCO CANADA, INC.

Per: 
Name:
Title: Director

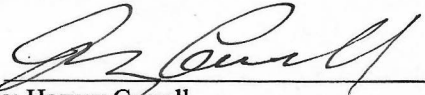
Per: _____
Name:
Title:

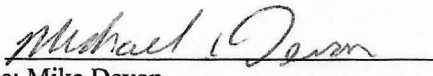
We have authority to bind the corporation.

ACCEPTANCE

The undersigned hereby accepts this Term Sheet this ^{20th} day of January, 2021.


FIGR BRANDS, INC.

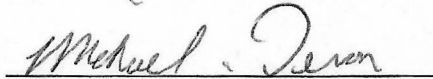
Per: 
Name: Harvey Carroll
Title: President and Chief Executive Officer

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

We have authority to bind the corporation.

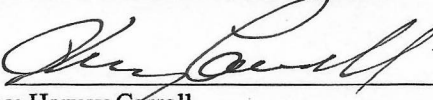
FIGR NORFOLK INC.

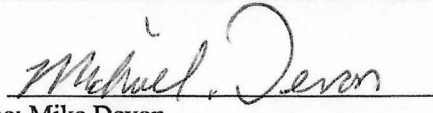
Per: 
Name: Harvey Carroll
Title: President and Chief Executive Officer

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

We have authority to bind the corporation.

CANADA'S ISLAND GARDEN INC.

Per: 
Name: Harvey Carroll
Title: President and Chief Executive Officer

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

We have authority to bind the corporation.

SCHEDULE "A"

In addition to terms defined elsewhere in this Term Sheet, the following terms shall have the following meanings:

- (a) **"Applicable Laws"** means, with respect to any person, property, transaction or event, all present or future statutes, regulations, rules, orders, codes, treaties, conventions, judgments, awards, determinations and decrees of any governmental, regulatory, fiscal or monetary body or court of competent jurisdiction, in each case, having the force of law in any applicable jurisdiction.
- (b) **"Business Day"** means any day except Saturday, Sunday or statutory holidays in the Province of Ontario.
- (c) **"Priority Claims"** means the aggregate of any amounts accrued or payable by the Borrower or the Guarantors which under any law rank prior to or *pari passu* with the DIP Charge or otherwise in priority to any claim by the Lender for payment of any amounts owing under this Term Sheet, including: (i) wages, salaries, commissions or other remuneration; (ii) vacation pay; (iii) pension plan contributions; (iv) amounts required to be withheld from payments to employees or other persons for federal and provincial income taxes, employee Canadian Pension Plan contributions and employee Employment Insurance premiums, additional amounts payable on account of employer Canada Pension Plan contributions and employer Employment Insurance premiums; (v) harmonized sales tax; (vi) provincial sales or other consumption taxes; (vii) Workers' Compensation Board and Workplace Safety and Insurance Board premiums or similar premiums; (viii) real property taxes; (ix) rent and other amounts payable in respect of the use of real property; (x) amounts payable for repair, storage, transportation or construction or other services which may give rise to a possessory or registerable lien; (xi) claims which suppliers could assert pursuant to Section 81.1 or Section 81.2 of the BIA; and (xii) WEPPA Claims; and (xiii) amounts under the Administration Charge and the Directors' Charge.
- (d) **"WEPPA Claims"** means any claims made against the Borrower or the Guarantors pursuant to the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s.1, as the same may be amended, restated or replaced from time to time.

Words importing the singular include the plural thereof and vice versa and words importing gender include the masculine, feminine and neuter genders.

SCHEDULE "B"

[attached]

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) THURSDAY, THE 21ST
)
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**")

INITIAL ORDER

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**") and the Pre-Filing Report of FTI Consulting Canada Inc. ("**FTI**") dated January [21], 2021, and on hearing the submissions of counsel for the Applicants, counsel for FTI, 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 [21], 2021 and on reading the consent of FTI to act as Monitor (the "**Monitor**"),

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

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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;

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- (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.

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NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including [January 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.

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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

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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 [\$2,000,000], 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

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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.

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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 [●], 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 \$[2,500,000] 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:

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

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

Third - DIP Lender's Charge (to the maximum amount of \$[2,500,000]; 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; provided that the Charges shall rank behind Encumbrances in favor of any Persons that have not been served with notice of this application. The Applicants and the beneficiaries of the Charges shall be entitled to seek priority ahead of such Encumbrances on notice to those parties.

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

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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.

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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.

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.,
et al.

Court File No:

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**PRE-FILING REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS PROPOSED MONITOR**

Cassels Brock & Blackwell LLP

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

Ryan Jacobs LSO #: 59510J

Tel: 416.860.6465
Fax: 416.640.3189
Email: rjacobs@cassels.com

Jane O. Dietrich LSO #: 49302U

Tel: 416.860.5223
Fax: 416.640.3144
Email: jdietrich@cassels.com

Lawyers for FTI Consulting Canada Inc., in its capacity as
Proposed Monitor