

**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 PLAN OF COMPROMISE OR ARRANGEMENT OF FIRE &  
FLOWER HOLDINGS CORP., FIRE & FLOWER INC., 13318184 CANADA INC., 11180703  
CANADA INC., 10926671 CANADA LTD., FRIENDLY STRANGER HOLDINGS CORP.,  
PINEAPPLE EXPRESS DELIVERY INC., and HIFYRE INC.

Applicants

**AFFIDAVIT OF PHILIP YANG  
(SWORN JUNE 18, 2023)**

I, Philip Yang, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

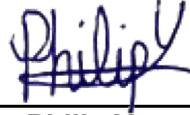
1. I am an Associate with Stikeman Elliott LLP ("**Stikeman Elliott**"), lawyers for Fire & Flower Holdings Corp., Fire & Flower Inc., 13318184 Canada Inc., 11180703 Canada Inc., 10926671 Canada Ltd., Friendly Stranger Holdings Corp., Pineapple Express Delivery Inc., and Hifyre Inc. (collectively, the "**Applicants**").
2. On June 16, 2023, Stikeman Elliott received a letter from counsel for 2707031 Ontario Inc. ("**ACT Investor**"). Pursuant to this letter, among other things:
  - (a) ACT Investor confirmed its agreement to waive the event of default under the debtor-in-possession facility term sheet between the Applicants and ACT Investor dated February 5, 2023, which resulted from an adjournment of the motion to approve a sales and investment solicitation process ("**SISP**"); and
  - (b) ACT Investor agreed to amend the Subscription Agreement between the Applicants and ACT Investor (the "**Stalking Horse Agreement**"), such that the Break Fee (as defined in the Stalking Horse Agreement) would be reduced from \$750,000 to \$550,000 (inclusive of expense reimbursements).
3. A copy of the letter from ACT Investor to Stikeman Elliott dated June 16, 2023 is attached as **Exhibit "A"**.

SWORN remotely via videoconference,  
by Philip Yang, stated as being located  
in the City of Toronto, in the Province of  
Ontario, before me at the City of  
Toronto, in Province of Ontario, this  
day of June 18, 2023, in accordance  
with O. Reg 431/20, Administering  
Oath or Declaration Remotely



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Commissioner for taking affidavits  
Maria Konyukhova



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Philip Yang

**EXHIBIT "A"**

referred to in the Affidavit of

**PHILIP YANG**

Sworn June 18, 2023



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A Commissioner for Taking Affidavits

June 16, 2023

Stikeman Elliott LLP  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON M5L 1B9

**Attention: Maria Konyukhova**

Dear Ms. Konyukhova:

**Re: In the Matter of a Plan of Compromise or Arrangement of Fire and Flower Holdings Corp. ("F&F") et al.**

We write further to our attendance before Justice Osborne on Thursday, June 15, 2023 wherein his Honour adjourned F&F's motion seeking approval of F&F's sale and investment solicitation process ("**SISP**").

As you are aware, the SISP was scheduled to commence on June 15, 2023. We refer you to the attached Debtor-in-Possession ("**DIP**") Facility Term Sheet between 2707031 Ontario Inc. ("**ACT Investor**") and F&F dated February 5, 2023. The DIP Facility Term Sheet provides that F&F is required to comply with the SISP and the SISP Milestones (defined therein), and the failure to comply constitutes an event of default. In addition, one of the condition precedents to advances under the DIP includes the requirement that F&F and ACT Investor agree on the milestones of the SISP. Finally, it is a condition to the effectiveness of the Subscription Agreement between F&F and ACT Investor (the "**Stalking Horse Agreement**") that the SISP order shall have been issued and entered.

We write to formally advise you that ACT Investor has agreed to waive the event of default that has resulted from an adjournment of the SISP approval motion and resulting deferral of the commencement of the SISP. If however, there are further delays to the commencement of the SISP, ACT Investor will not be advancing any further amounts to F&F, unless otherwise agreed, and will need to re-evaluate whether it can proceed with the Stalking Horse Agreement.

Given F&F's current financial situation, we believe it is of critical importance that the SISP is initiated expeditiously using a stalking horse bid in order to preserve value and provide certainty to F&F's employees, suppliers and regulators that the F&F business will continue. We are receptive to the concerns expressed by Justice Osborne during the hearing regarding the Break Fee (as defined in the Stalking Horse Agreement). ACT Investor does not want the Break Fee to be an unnecessary impediment to approval of the SISP and Stalking Horse Agreement in light of the stability the Stalking Horse Agreement provides to the sale process and F&F's stakeholders.

## DAVIES

In this context, we further write to amend section 8.1 of the Stalking Horse Agreement to reflect a reduction in the Break Fee (as defined therein) from \$750,000 to \$550,000 (inclusive of expense reimbursements). The revised Break Fee represents a more than 25% reduction from the original Break Fee. Our revised Break Fee represents 2.56% of only the credit-bid value of the transaction (excluding the assumed liabilities). In arriving at the revised number, we took guidance from the break-fees identified by FTI Consulting Canada Inc. in its first report dated June 14, 2023 ("**Report**"). Indeed, the new Break Fee is lower than all the break-fees identified in the Report for transactions involving a credit bid.

To provide additional comfort, we have also researched break fees involving credit bids in the cannabis industry specifically. Our research shows that the revised Break Fee is considerably lower than the break-fees granted in other cannabis matters in similar circumstances. For instance, in the Cura-Can Health matter, the break-fee was 4.8% on a transaction value of \$6,750,000. We would be pleased to share our research with you if it would be useful.

Please confirm in writing if you are in agreement with the changes to Section 8.1 of the Stalking Horse Agreement proposed herein. We are happy to discuss at your convenience.

Best regards,



Natalie Renner  
NR/cm

cc. Leanne Williams and Rebecca Kennedy, *Thornton Grout Finnigan LLP*  
Christian Lachance, *Davies Ward Phillips & Vineberg LLP*

**DIP FACILITY TERM SHEET****Dated: June 5, 2023**

**WHEREAS** Fire & Flower Holdings Corp. has requested that the DIP Lender (as defined below) provide funding in order to assist with restructuring proceedings under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") (the "**CCAA Proceedings**");

**WHEREAS**, subject to the terms and conditions contained herein (this "**Agreement**"), the DIP Lender is prepared to establish the DIP Facility (as defined below) in favour of the Borrower on the terms and conditions set out below;

**NOW THEREFORE**, the parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

<b>DEFINITIONS</b>	Capitalized terms not otherwise defined herein shall have the meanings given to them on Schedule "A" hereto.
<b>BORROWER</b>	Fire & Flower Holdings Corp. (the " <b>Borrower</b> ").
<b>GUARANTORS</b>	All of the Canadian subsidiaries of the Borrower namely Fire & Flower Inc., 13318184 Canada Inc., 11180703 Canada Inc., 10926671 Canada Ltd., Friendly Stranger Holdings Corp., Pineapple Express Delivery Inc. and Hifyre Inc. (collectively, the " <b>Guarantors</b> ").
<b>DIP LENDER</b>	2707031 Ontario Inc. (the " <b>DIP Lender</b> ").
<b>DIP FACILITY</b>	A non-revolving loan (the " <b>DIP Facility</b> ") up to the maximum principal amount of \$9,800,000 (" <b>Maximum Amount</b> ") including an initial advance in an amount of \$2,700,000 (the " <b>Initial Advance</b> ").
<b>MATURITY DATE</b>	The earlier of (such earlier date, the " <b>Maturity Date</b> "): <ol style="list-style-type: none"> <li>1. the date on which the stay of proceedings under the CCAA Proceedings is lifted or terminated;</li> <li>2. September 15, 2023 (or such later date as may be agreed to in writing by the DIP Lender, in its sole discretion); and</li> <li>3. the date on which the DIP Lender elects to terminate the DIP Facility as a result of an Event of Default that is continuing.</li> </ol>

The DIP Lender's commitment in respect of the DIP Facility shall expire on the Maturity Date and all

amounts outstanding under the DIP Facility including accrued Interest and Legal Fees (collectively, the “**Obligations**”) shall be repaid in full on the Maturity Date without the DIP Lender being required to make demand upon the Borrower or to give notice that the DIP Facility has expired and the Obligations are due and payable, subject to the order of the Ontario Superior Court of Justice (Commercial Division) (the “**Court**”).

#### **ACCOUNT**

All DIP Advances (as defined below) shall be deposited into an account acceptable to the Borrower, the Monitor and the DIP Lender (the “**Account**”) and withdrawn to pay contemplated expenses under the Cash Flow Projections (as defined below) and otherwise in accordance with the terms hereof.

#### **USE OF PROCEEDS AND PROJECTED CASH FLOWS**

The Initial Advance under the DIP Facility shall be used in accordance with the cash flow projections attached herewith as Schedule “B” (the “**Initial Cash Flow Projections**”). Any other advance under the DIP Facility (the “**Additional Advances**” and collectively with the Initial Advance, the “**DIP Advances**”) shall be used in accordance with the Amended Cash Flow Projections (as defined below and collectively with the Initial Cash Flow Projections, the “**Cash Flow Projections**”).

No proceeds of the DIP Advances may be used for any purpose other than in accordance with the Cash Flow Projections except with the prior written consent of the DIP Lender, which consent shall not be unreasonably withheld.

Notwithstanding anything to the contrary herein, none of the proceeds of the DIP Advances may be used in connection with (a) any investigation (including discovery proceedings), initiation or prosecution of any claims, causes of action, motions, applications, actions, or other litigation against or involving the DIP Lender, or (b) the initiation or prosecution of any claims, causes of action, motions, applications, actions, or other litigation against or involving the DIP Lender in such capacity in respect of this Agreement, except in each case of (a) and (b), to the extent relating to the CCAA Proceedings.

#### **INTEREST RATE**

Interest (“**Interest**”) on the principal outstanding amount of the DIP Advances (including the compounded interest referenced below) from the date each such DIP Advance is made (or, in the case of the compounded interest referenced below, the date that such interest is compounded), both before and

after maturity, demand, default, or judgment until payment in full at a rate of 12% per annum, compounded and calculated weekly shall accrue and be added to the principal amount of the DIP Advances on the first day of each month.

All interest shall be calculated on the basis of a 365-day (or 366 day, as applicable) year, in each case for the actual number of days elapsed in the period during which it accrues.

All payments under or in respect of the DIP Facility shall be made free and clear of any withholding, set-off or other deduction.

#### **FEES**

On the earlier of the Maturity Date and the repayment in full of the DIP Advances, the Borrower shall pay to the DIP Lender an exit fee of \$400,000.

#### **COSTS AND EXPENSES**

The Borrower shall pay all reasonable and documented costs and expenses of the DIP Lender for all out-of-pocket due diligence and travel costs and all reasonable and documented fees, expenses and disbursements of outside counsel, appraisers, field auditors, and any financial consultant in connection with the implementation and administration of the DIP Facility, including any reasonable and documented costs and expenses incurred by the DIP Lender in connection with the enforcement of any of the rights and remedies available hereunder.

#### **DIP SECURITY**

The Guarantors hereby guarantees in favour of the DIP Lender the payment and performance of all Obligations of the Borrower under or in connection with the DIP Facility. All Obligations of the Obligors under or in connection with the DIP Facility and any of the DIP Credit Documentation shall be secured by a Court Ordered Charge on all present and after-acquired personal and real property of the Obligors, in each case of any kind or nature whatsoever and wheresoever situated (the "**DIP Lender's Charge**") without the need for any further loan or security documentation or any filings or registrations in any public register or system.

#### **CONDITIONS PRECEDENT TO THE DISBURSEMENT OF THE INITIAL ADVANCE**

The DIP Lender's obligation to make the Initial Advance hereunder is subject to, and conditional upon, the satisfaction of all of the following conditions precedent:

1. The Borrower' application materials in connection with its application for the issuance of an initial order under the CCAA (the "**Initial Order**") shall be satisfactory to the DIP Lender and such

application shall be brought before the Court no later than June 5, 2023, on notice to such parties as are acceptable to the DIP Lender, acting reasonably;

2. The Initial Order, in form and substance, and on notice to such parties acceptable to the DIP Lender, acting reasonably, shall have been executed by the Court authorizing and approving the Initial Advance under the DIP Facility and granting the DIP Lender's Charge shall be in full force and effect and shall have not been stayed, reversed, vacated, rescinded, modified or amended in any respect materially adversely affecting the DIP Lender, solely in its capacity as lender under the DIP Facility and not in any other capacity, unless otherwise agreed by the DIP Lender, acting reasonably;
3. As permitted by the CCAA, the DIP Lender's Charge shall have priority over all Liens granted by the Obligors against any of the undertaking, property or assets of the Obligors subject in priority only to an administrative charge on the collateral of the Borrower in an aggregate amount not to exceed \$2.7 million.

**CONDITIONS  
PRECEDENT TO THE  
DISBURSEMENT OF  
DIP ADVANCES  
(OTHER THEN THE  
INITIAL ADVANCE)**

The DIP Lender's obligation to make any Additional Advance hereunder is subject to, and conditional upon, the satisfaction of all of the following conditions precedent:

1. The Borrower' application materials in connection with its application for the extension of the Initial Order shall be satisfactory to the DIP Lender, acting reasonably, and such application shall be brought before the Court no later than June 5, 2023, on notice to such parties as are acceptable to the DIP Lender, acting reasonably;
2. An order amending and restating the Initial Order, in form and substance acceptable to the DIP Lender, acting reasonably, shall have been executed by the Court authorizing and approving the DIP Facility and granting the DIP Lender's Charge (the "**Restated Initial Order**") shall be in full force and effect and shall have not been stayed, reversed, vacated, rescinded, modified or amended in any respect materially adversely affecting the DIP Lender, solely in its capacity as lender under the DIP Facility and not in any other capacity, unless otherwise agreed by the DIP

Lender, acting reasonably;

3. The DIP Lender's Charge shall have priority over all Liens granted by the Obligors against any of the undertaking, property or assets of the Obligors subject in priority only to an administrative charge on the collateral of the Obligors in an aggregate amount not to exceed \$9.8 million;
4. The Borrower and the DIP Lender, each acting reasonably, shall have agreed on the terms and conditions of a mutually acceptable Sale and Investment Solicitation Process (the "**SISP** ") including the various relevant milestones of such SISP and an outside date for the completion of the SISP (the "**SISP Milestones**");
5. The Borrower and the DIP Lender, each acting reasonably, shall have agreed on the length of the stay period provided to the Obligors in the Restated Initial Order;
6. The Borrower and the DIP Lender, each acting reasonably, shall have agreed on new cash flow projections for the length of the stay period provided for in the Restated Initial Order (the "**Amended Cash Flow Projections**");
7. The Borrower shall have delivered a request for such Additional Advance at least two (2) Business Days before such Additional Advance is requested;
8. The amount of such Additional Advance shall be made no earlier than every four (4) weeks in accordance with Schedule "B", in the line titled "Dip Advances/(Repayments)" line;
9. The representations and warranties contained herein shall be true and correct; and
10. No Default or Event of Default shall have occurred and be continuing.

Each of the Obligors agrees to indemnify and hold harmless the DIP Lender, solely in its capacity as lender under the DIP Facility and not in any other capacity, and its Affiliates and officers, directors, employees, representatives, advisors, solicitors and agents (collectively, the "**Indemnified Persons**") from and against any and all actions, lawsuits, proceedings

(including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever which may be incurred by or suited against or involve any of the Indemnified Persons as a result of, in connection with or in any way related to the DIP Facility, this Agreement, or the DIP Credit Documentation, except to the extent that such actions, lawsuits, proceedings, claims, losses, damages, liabilities or expenses result from the gross negligence or willful misconduct of such Indemnified Persons.

## **REPRESENTATIONS AND WARRANTIES**

Each of the Obligors represents and warrants to the DIP Lender, upon which the DIP Lender relies in entering into this Agreement and the other DIP Credit Documentation, that:

1. The transactions contemplated by this Agreement and the other DIP Credit Documentation:
  - a. upon the granting of either the Initial Order or the Restated Initial Order, are within the powers of the Obligors;
  - b. have been duly authorized, executed and delivered by or on behalf of the Obligors;
  - c. upon the granting of either the Initial Order or the Restated Initial Order, constitute legal, valid and binding obligations of the Obligors;
  - d. upon the granting of either the Initial Order or the Restated Initial Order, do not require the consent or approval of, registration or filing with, or any other action by, any governmental authority, other than filings which may be made to register or otherwise record the DIP Lender's Charge or any DIP Security granted pursuant to the DIP Credit Documentation;
2. The business operations of the Obligors have been and will continue to be conducted in material compliance with all Applicable Laws of each jurisdiction in which each such business has been or is being carried on;
3. The Obligors obtained all material licenses and permits required for the operation of its business, which licenses and permits remain, and after the date of the Initial Advance will remain in full force and effect and in good standing unless such licenses and permits are abandoned or terminated in connection with a Permitted Restructuring (as defined below).

No proceedings have been commenced to revoke or amend any of such licenses or permits and no notices advising of a breach or potential breach of the conditions of such licenses has been received;

4. Except as reflected in the Cash Flow Projections, the Obligors have paid where due their obligations for payroll, employee source deductions, sales taxes, value added taxes and are not in arrears in respect of these obligations;
5. The Obligors do not have any defined benefit pension plans or similar plans; and
6. All factual information provided by or on behalf of the Borrower to the DIP Lender for the purposes of or in connection with this Agreement or any transaction contemplated herein is, to the best of the Borrower' knowledge, true and accurate in all material respects on the date as of which such information is dated or certified and is not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not materially misleading at such time in light of the circumstances under which such information was provided. In particular, and without limiting the generality of the foregoing, to the best of the Borrower' knowledge, all information regarding the Borrower' corporate structure is true and complete, all public filings and financial reports are complete and true in all material respects as of the date thereof. As used in this section "to the best of the Borrower' knowledge" refers to the actual knowledge of the Stéphane Trudel and John Chou after reasonable inquiry;

#### **AFFIRMATIVE COVENANTS**

Each of the Obligors covenants and agrees to do the following:

1. Subject to the variance permitted in #3 of the "Events of Default" section below, comply with the Cash Flow Projections;
2. Subject to any Court ordered limitations relating to the SISF, allow the DIP Lender, its designated representatives and financial advisors full access to the books and records of the Obligors on one (1) Business Day's notice and during normal business hours and cause management thereof to fully cooperate with any advisors to the DIP Lender;
3. Use the proceeds of the DIP Facility only for the

purposes set out herein;

4. Comply with the provisions of the Court orders made in the CCAA Proceedings;
5. Comply with the SISP and the SISP Milestones;
6. Provide the DIP Lender with draft copies of all motions, applications, proposed orders or other material or documents that any of them intends to file within the CCAA Proceedings at least three (3) days prior to any service of such materials or, where it is not practically possible to do so at least three days prior to any such service, as soon as possible;
7. Maintain all licenses required for the operation of their business in good standing, other than any licenses abandoned or terminated in connection with a Permitted Restructuring;
8. Provide the DIP Lender with all material correspondence between the Obligors and any governmental authority in respect of their cannabis licenses from and after the date of the Initial Order;
9. The Initial Order, the Restated Initial Order and any other Court orders which are being sought by the Borrower shall be submitted to the Court in a form confirmed in advance to be satisfactory to the DIP Lender, acting reasonably, subject to any amendments that are required by the Court or otherwise acceptable to the DIP Lender, acting reasonably;
10. Subject to any Court ordered limitations, use all reasonable efforts to keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Obligors and with respect to the SISP;
11. Deliver on the following Thursday of the week due to the DIP Lender any Updated Bi-Weekly Budgets and Bi-Weekly Budget Variance Reports and such other reporting and information from time to time as is reasonably requested by the DIP Lender in form and substance satisfactory to the DIP Lender;
12. Maintain all insurance with respect to the

Collateral in existence as of the date hereof;

13. Forthwith notify the DIP Lender of any event or circumstance that, with the passage of time, may constitute an Event of Default;
14. Forthwith notify the DIP Lender of the occurrence of any Event of Default, or of any event or circumstance that may constitute a material adverse change from the Cash Flow Projections;
15. Duly and punctually pay or cause to be paid to the DIP Lender all principal and interest payable by it under this Agreement and under any other DIP Credit Documentation on the dates, at the places and in the amounts and manner set forth herein;
16. Comply in all material respects with all Applicable Laws; and
17. Comply in all material respects with all of their obligations under all other agreements with the DIP Lender and its Affiliates.

**NEGATIVE  
COVENANTS**

Each of the Obligors covenants and agrees not to do the following, other than with the prior written consent of the DIP Lender, which consent shall not be unreasonably withheld:

1. Other than pursuant to a Permitted Restructuring, sell, assign, transfer, lease or otherwise dispose of all or any part of its assets outside the ordinary course of business, except for the disposition of any obsolete equipment or other assets;
2. Make any payment of principal or interest in respect of existing (pre-filing date) indebtedness or declare or pay any dividends except as contemplated by the Cash Flow Projections;
3. Create or permit to exist indebtedness for borrowed money other than existing (pre-filing date) debt and debt contemplated by this DIP Facility;
4. Create or permit to exist any Liens on any of its properties or assets other than Permitted Liens;
5. Enter into or agree to enter into any investments other than cash equivalents or acquisitions of any

kind, direct or indirect, in any business;

6. Incur, assume or otherwise agree to be bound by any contingent liabilities or provide any guarantee or financial assistance to any Person;
7. Enter into any amalgamation, reorganization, liquidation, dissolution, winding-up, merger or other transaction or series of transactions whereby, directly or indirectly, all or any significant portion of the undertaking, property or assets of any Obligor would become the property of any other Person or Persons;
8. Seek or support a motion by another party to provide to a third party a charge upon any of the Borrower' assets (including, without limitation, a critical supplier's charge) without the prior consent of the DIP Lender, except to the extent such motion or charge will result in a repayment in full of all Obligations owing to the DIP Lender under the DIP Facility;
9. Amend or seek to amend the Initial Order, Restated Initial Order, the SISF or the SISF Milestones;
10. Other than (i) for cause or (ii) in connection with a Permitted Restructuring, terminate the employment of any personnel required to maintain its cannabis licenses in good standing unless replaced in due course;
11. Terminate or repudiate any agreement with the DIP Lender, solely in its capacity as lender under the DIP Facility and not in any other capacity, or any of its Affiliates;
12. Seek or obtain any order from the Court that materially adversely affects the DIP Lender, except with the prior written consent of the DIP Lender; and
13. Deliver any lease disclaimer notice pursuant to section 32 CCAA, except with the prior written consent of the DIP Lender, which consent shall not be unreasonably withheld, and provided that upon the Borrower providing a copy of any such proposed lease disclaimer notice, the DIP Lender promptly (and in any event within two (2) Business Days) advises the Borrower if it has any objections

to the proposed disclaimer.

## **EVENTS OF DEFAULT**

The occurrence of any one or more of the following events shall constitute an event of default ("**Event of Default**") under this Agreement:

1. failure of the Borrower to pay principal or interest when due under this Agreement or any other DIP Credit Documentation;
2. any other breach by any Obligor in the observance or performance of any provision, covenant (affirmative or negative) or agreement contained in this Agreement, provided, that, in the case of a breach of any affirmative covenant, such breach remains unremedied for longer than three (3) Business Days;
3. A negative variance of the net cash flows calculated in accordance with the methodology set out in Schedule "B" of more than 10% compared to the Cash Flow Projections on a cumulative basis since the beginning of the period covered thereby, provided that the payment of the DIP Lender's fees and expenses pursuant to this Agreement (if paid prior to Maturity Date) shall be excluded from such calculation. This test starts in week 5 and does not apply to weeks 1-4;
4. (i) any order shall be entered reversing, amending, varying, supplementing, staying, vacating or otherwise modifying in any respect in a manner materially affecting the DIP Lender without the prior written consent of the DIP Lender, which consent shall not be unreasonably withheld, (ii) either the Initial Order or the Restate Initial Order shall cease to be in full force and effect in a manner that has a material adverse effect on the interests of the DIP Lender, or (iii) Borrower shall fail to comply in any material respect that has an adverse effect on the interests of the DIP Lender with any Order granted by the Court in the CCAA Proceedings;
5. this Agreement or any other DIP Credit Documentation shall cease to be effective or shall be contested by a Borrower;
6. any order is issued by the Court (or any other court of competent jurisdiction) that materially adversely affects the DIP Lender, in its capacity as DIP Lender, without the prior written consent of

the DIP Lender, which consent shall not be unreasonably withheld;

7. the CCAA Proceedings are terminated or converted to bankruptcy proceeding or any order is granted by the Court (or any court of competent jurisdiction) granting relief from the stay of proceedings during the CCAA Proceedings (as extended from time to time until the Maturity Date), unless agreed by the DIP Lender, acting reasonably;
8. any Plan is filed or sanctioned by the Court in a form and in substance that is not acceptable to the DIP Lender if such Plan does not either provide for the repayment of the obligations under the DIP Facility in full by the Maturity Date or designate the DIP Lender as unaffected by such Plan;
9. if any of the Borrower's cannabis licenses are revoked or the Borrower fails to comply with a material condition required to keep such licenses in good standing, other than as a result of a Permitted Restructuring, and such license is not reinstated or the Borrower's failure to comply with such material condition continues for a period of five (5) Business Days;
10. any of the Borrower makes any material payments of any kind not permitted by this Agreement, the Cash Flow Projections or any order of the Court;
11. if the Monitor, counsel to the Monitor, or counsel to the Borrower withdraws its services on behalf of the Borrower and/or terminates its engagement with the Borrower and a replacement professional acceptable to the DIP Lender is not appointed or engaged, as applicable, or if alternative arrangements acceptable to the DIP Lender are not made within 5 Business Days;
12. borrowings under the DIP Facility exceed the Maximum Amount.

## REMEDIES

Upon the occurrence and continuance of an Event of Default, the DIP Lender may, upon written notice to the Borrower and the Monitor:

1. terminate the DIP Facility;
2. on prior notice to the Borrower and the service list of no less than three (3) Business Days, apply to

the Court for the appointment of an interim receiver or a receiver and manager of the undertaking, property and assets of the Borrower or for the appointment of a trustee in bankruptcy of the Borrower;

3. exercise the powers and rights of a secured party under any legislation; and
4. exercise all such other rights and remedies under the DIP Credit Documentation and Orders of the Court in the CCAA Proceedings.

**DIP LENDER APPROVALS**

All consents of the DIP Lender hereunder shall be in writing. Any consent, approval, instruction or other expression of the DIP Lender to be delivered in writing may be delivered by any written instrument, including by way of electronic mail.

**FURTHER ASSURANCES**

The Obligors shall at their expense, from time to time do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including, without limitation, certificates, declarations, affidavits, reports and opinions) and things as the DIP Lender may reasonably request for the purpose of giving effect to this Agreement and the DIP Lender's Charge, perfecting, protecting and maintaining the Liens created by the DIP Lender's Charge or establishing compliance with the representations, warranties and conditions of this Agreement or any other DIP Credit Documentation.

**ENTIRE AGREEMENT**

This Agreement, including the Schedules hereto and the DIP Credit Documentation, constitutes the entire agreement between the parties relating to the subject matter hereof. To the extent that there is any inconsistency between this Agreement and any of the other DIP Credit Documentation, this Agreement shall govern.

**AMENDMENTS, WAIVERS, ETC.**

No waiver or delay on the part of the DIP Lender in exercising any right or privilege hereunder or under any other DIP Credit Documentation will operate as a waiver hereof or thereof unless made in writing and signed by an authorized officer of the DIP Lender. Any consent to be provided by the DIP Lender shall be granted or withheld solely in its capacity as and having regard to its interests as DIP Lender.

**ASSIGNMENT**

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. The Borrower may not assign its rights and obligations under this Agreement

without the written consent of the DIP Lender. The DIP Lender's rights and obligations under this Agreement are fully assignable, to an affiliate of the DIP Lender or with the consent of the Borrower, acting reasonably, before an Event of Default to any other entity and are freely assignable after an Event of Default has occurred and is continuing. Each of the Obligors hereby consents to the disclosure of any confidential information in respect of the Borrower to any potential assignee provided such potential assignee agrees in writing to keep such information confidential.

**SEVERABILITY**

Any provision in any DIP Credit Documentation which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**PRESS RELEASES**

The Borrower shall not issue any press releases or other public disclosure, other than Court documents approved in the manner set out herein, naming the DIP Lender without its prior approval, acting reasonably unless the Borrower is required to do so by applicable securities laws or other applicable law.

**COUNTERPARTS AND  
FACSIMILE  
SIGNATURES**

This Agreement may be executed in any number of counterparts and by facsimile or e-mail transmission, each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument. Any party may execute this Agreement by signing any counterpart of it.

**NOTICES**

Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or sent by electronic mail to the attention of the person as set forth below:

In the case of the DIP Lender:

With a copy to:

Davies Ward Philips & Vineberg LLP  
155 Wellington Street West  
Toronto, ON M5V 3J7

Attention: Sébastien Thériault, Christian Lachance and  
Natalie Renner  
Email: stheriault@dwpv.com, clachance@dwpv.com and  
nrenner@dwpv.com

In the case of the Borrower:

With a copy to:

Stikeman Elliott LLP  
5300 Commerce Court West  
Toronto, Ontario M5L 1B9

Attention: Maria Konyukhova  
Email: mkonyukhova@stikeman.com

In either case, with a copy to the Monitor:

FTI Consulting Inc.  
Toronto Dominion Centre, Suite 2010, P.O. Box 104  
Toronto, ON M5K 1G8

Attention: Jeffrey Rosenberg  
Email: jeffrey.rosenberg@fticonsulting.com

In either case, with a copy to the Monitor's counsel:

Thornton Grout Finnigan LLP  
Suite 3200, TD West Tower  
100 Wellington Street West  
Toronto, Ontario M5K 1K7

Attention: Leanne Williams  
Email: lwilliams@tgf.ca

**ENGLISH LANGUAGE**

The parties hereto confirm that this Agreement and all related documents have been drawn up in the English language at their request. *Les parties aux présentes confirment que le présent acte et tous les documents y relatifs furent rédigés en anglais à leur demande.*

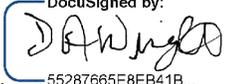
**GOVERNING LAW  
AND JURISDICTION**

This Agreement shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each of the Obligors irrevocably submits to the non-exclusive courts of the Province of Ontario, waives any objections on the ground of venue or *forum non conveniens* or any similar grounds, and consents to service of process by mail or in any other manner permitted by relevant law.

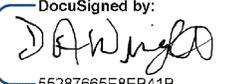
**[REMAINDER OF PAGE INTENTIONALLY BLANK]**

**IN WITNESS HEREOF**, the parties hereby execute this Agreement as of the date first written above.

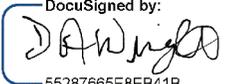
**FIRE & FLOWER HOLDINGS CORP.**

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

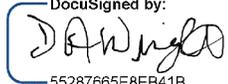
**FIRE & FLOWER INC.**

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

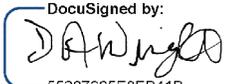
**13318184 CANADA INC.**

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

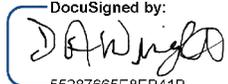
**11180703 CANADA INC.**

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

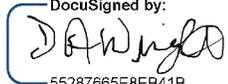
**10926671 CANADA LTD.**

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

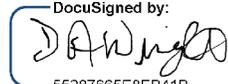
**FRIENDLY STRANGER HOLDINGS CORP.**

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

**PINEAPPLE EXPRESS DELIVERY INC.**

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

**HIFYRE INC.**

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

**2707031 ONTARIO INC.**

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

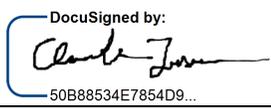
**PINEAPPLE EXPRESS DELIVERY INC.**

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

**HIFYRE INC.**

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

**2707031 ONTARIO INC.**

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

## SCHEDULE "A"

### Additional Definitions

**"Affiliate"** means, in respect of any Person at any date, (a) any corporation, company, limited liability company, association, joint venture or other business entity of which securities, membership interests or other ownership interests representing fifty percent (50%) or more of the voting power of all equity interests are owned or held, directly or indirectly, by such Person, (b) any partnership, limited liability company or joint venture wherein the general partner, managing partner or operator is, directly or indirectly, such Person, or (c) any other Person that is otherwise directly or indirectly controlled by such Person.

**"Applicable Laws"** means all federal, provincial, municipal and local laws, statutes, regulations, codes, acts, permits, licenses, ordinances, orders, by-laws, guidelines, notices, protocols, policies, directions and rules and regulations, including those of any governmental or other public authority, which may now, or at any time hereafter, govern, be applicable to or enforceable against or in respect of the Obligors, the operation of their business or their property, as the case maybe, including Cannabis Laws.

**"Bi-Weekly Budget Variance Report"** means a variance report showing on a line-by-line basis actual receipts and disbursements and the total available liquidity for the last day of the prior week for the cumulative period since the commencement of the CCAA Proceedings and for a cumulative period once the CCAA Proceedings have been pending for four weeks and noting therein all variances on a line-by-line basis from the amounts in the Updated Bi-Weekly Budget and shall include explanations for all material variances and shall be certified by the Chief Financial Officer of the Borrower.

**"Business Day"** means a day on which banks in Toronto, Ontario and Montréal, Québec are open for business.

**"Cannabis Laws"** means the Cannabis Licence Act, 2018, S.O. 2018, c.12, Sched. 2, the Cannabis Act, S.C. 2018, c. 16 (Canada), the Cannabis Control Act, 2017, S.O. 2017, c. 26, Schedule 1 (Ontario), and any other applicable governing legislation and the regulations thereunder, all as may be amended, supplemented or replaced from time to time and those which regulate the sale or distribution of Cannabis (in various forms), cannabinoid product or paraphernalia commonly associated with Cannabis and/or related cannabinoid products.

**"Court Ordered Charges"** means the charges granted by the Court over the assets, properties and undertakings of the Obligors in the CCAA Proceedings, which shall include, without limitation, an administration charge and the DIP Lender's Charge.

**"Default"** means any Event of Default or any condition or event which, after notice or lapse of time or both, would constitute an Event of Default.

**"DIP Credit Documentation"** means this Agreement, the Order of the Court approving it and any other definitive documentation in respect of the DIP Facility that are in form and substance satisfactory to the DIP Lender.

**"DIP Security"** means the contractual security and contractual hypothecary documents granted by the Borrower providing for a security interest/hypothec in and lien on all now-owned and hereafter-acquired assets and property of the Borrower, real and personal, tangible or intangible and all proceeds therefrom (the **"Collateral"**), but excluding (i)

such assets, if any, as the DIP lender in its discretion determines to be immaterial or to be assets for which the cost and other burdens of establishing and perfecting a security interest outweigh the benefits of establishing and perfecting a security interest, and (ii) other exceptions to be mutually agreed.

**“Legal Fees”** means all reasonable and documented legal fees that the DIP Lender will have to pay to its legal counsel in connection with any and all tasks related to this Agreement, the Order, the DIP Facility or the DIP Credit.

**“Liens”** means all mortgages, pledges, charges, encumbrances, hypothecs, liens and security interests of any kind or nature whatsoever.

**“Monitor”** means FTI Consulting Inc.

**“Obligors”** means the Borrower and the Guarantors.

**“Permitted Restructuring”** shall mean any restructuring and/or closure of stores or other premises used by any Obligor approved by the DIP Lender, acting reasonably.

**“Permitted Liens”** means (i) Court Ordered Charges; (ii) the liens registered against the Obligors in the Provinces of Ontario, British Columbia, Saskatchewan, Manitoba, Alberta, and Yukon Territory, as more particularly described in the search summaries attached to Exhibit “L” of the Affidavit of Stephane Trudel sworn on June 5, 2023 in connection with the CCAA Proceedings, and (iii) liens in respect of amounts payable by an Obligor for wages, vacation pay, deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada), income tax and workers compensation claims.

**“Person”** means an individual, partnership, corporation (including a business trust), joint venture, limited liability company or other entity, or governmental authority.

**“Plan”** means the implementation of a plan of compromise or arrangement within the CCAA proceedings which has been approved by the requisite majorities of the Borrower’s creditors and by order entered by the Court and by the DIP Lender.

**“Updated Bi-Weekly Budget”** means a revised 13-week period detailed budget which is in form and substance satisfactory to the DIP Lender, which revised budget shall be reviewed by the Monitor.

**SCHEDULE "B"**

**Initial Cash Flow Projections**

(see attached)

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

AND IN THE MATTER OF PLAN OF COMPROMISE OR ARRANGEMENT OF FIRE & FLOWER HOLDINGS  
CORP., FIRE & FLOWER INC., 13318184 CANADA INC., 11180703 CANADA INC., 10926671 CANADA LTD.,  
FRIENDLY STRANGER HOLDINGS CORP., PINEAPPLE EXPRESS DELIVERY INC., and HIFYRE INC.

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF PHILIP YANG  
(SWORN JUNE 18, 2023)**

**STIKEMAN ELLIOTT LLP**

Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9

**Maria Konyukhova LSO#: 52880V**

Tel: (416) 869-5230

E-mail: [mkonyukhova@stikeman.com](mailto:mkonyukhova@stikeman.com)

**Philip Yang (LSO #820840)**

Tel: (416) 869-5593

Email: [pyang@stikeman.com](mailto:pyang@stikeman.com)

**Lawyers for the Applicants**