

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

**NFC ACQUISITION GP INC., NFC ACQUISITION CORP.,
NFC LAND HOLDINGS CORP., NEW FOOD CLASSICS, and
NFC ACQUISITION L.P.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, and under section 101 of the
Courts of Justice Act, R.S.O. 1990, c. C.43**

**APPLICATION RECORD
(Returnable February 22, 2012)**

GOWLING LAFLEUR HENDERSON LLP
Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
TORONTO, Ontario
M5X 1G5

**Clifton P. Prophet (LSUC 34845K)
Frank Lamie (LSUC #54035S)**

Telephone: (416) 862-3509 / (416) 862-3609
Facsimile: (416) 862-7661

**Solicitors for the Applicant,
Bank of Montreal**

TO: THE SERVICE LIST

**NFC ACQUISITION GP INC., NFC ACQUISITION CORP., NFC LAND HOLDINGS CORP.,
NEW FOOD CLASSICS AND NFC ACQUISITION L.P. (THE “NFC ENTITIES”)**

SERVICE LIST

TO: TORYS LLP
79 Wellington Street West, Suite 3000
Box 270, TD Centre
Toronto, ON M5K 1N2

Attention: David Bish / Adam Slavens
Tel: 416. 865.7353 / 416.865.7333
Fax: 416. 865.7380
Email: dbish@torys.com / aslavens@torys.com

Lawyers for NFC Entities

AND TO: Fasken Martineau DuMoulin LLP
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto, ON M5H 2T6

Attention: Edmond Lamek / Caitlin Fell
Tel: 416.865.4506 / 416.868.3471
Fax: 416.364.7813
Email: elamek@fasken.com / cfell@fasken.com

Lawyers for FTI Consulting Canada Inc., Monitor in respect of the NFC Entities

AND TO: Gowling Lafleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

Attention: David Cohen / Clifton Prophet / Frank Lamie
Tel: 416.369.6667 / 416.863.3509
Fax: 416.862.7661
Email: david.cohen@gowlings.com / clifton.prophet@gowlings.com /
frank.lamie@gowlings.com

Lawyers for the Bank of Montreal

AND TO: Goodmans LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Attention: Robert Chadwick / Derek Bulas
Tel: 416.597.4285 / 416.597.5914
Fax: 416.979.1234
Email: rchadwick@goodmans.ca / dbulas@goodmans.ca

Lawyers for EdgeStone Capital Partners

AND TO: Lenczner Slaght Royce Smith Griffin LLP

Suite 2600, Box 54
130 Adelaide Street West
Toronto, ON M5H 3P5

Attention: Peter Osborne / Brendan Gray

Tel: 416.865.3094 / 416.865.2945

Fax: 416.865.9010

Email: posborne@litigate.com / bgray@litigate.com

Lawyer for certain Directors of the NFC Entities

AND TO: TD Capital Mezzanine Partners Management Ltd.

TD Bank Tower
66 Wellington Street West, 9th Floor
Toronto, ON M5K 1A2

Attention: Bill O'Connor / Can Cakim / Sandra Mundy

Tel: 416.308.1776

Fax: 416.983.6817

Email: bill.oconnor@tdsecurities.com / can.cakim@tdsecurities.com / sandra.mundy@td.com

AND TO: FTI Consulting Canada Inc.

TD Waterhouse Tower
79 Wellington Street West
Toronto-Dominion Centre
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Paul Bishop / Jamie Engen / Jodi Porepa

Tel: 416.649.8053 / 604.601.5698 / 416.649.8070

Fax: 416.649.8101

Email: paul.bishop@fticonsulting.com / Jamie.Engen@fticonsulting.com / jodi.porepa@fticonsulting.com

Monitor in respect of the NFC Entities

AND TO: Plaxton & Company Lawyers

500 - 402 21st Street East
Saskatoon, Saskatchewan S7K 0C3

Attention: Drew S. Plaxton

Tel: 306.653.1500

Fax: 306.664.6659

Email: dsplaxton@plaxtonlaw.com

Lawyers for United Food and Commercial Workers, Local 1400

AND TO: Berkow, Cohen LLP
141 Adelaide Street West, Suite 400
Toronto, ON M5H 3L5

Attention: Jack B. Berkow
Tel: 416.364.4082
Fax: 416.364.3865
Email: jberkow@berkowcohen.com

Lawyers for MWS Solutions Inc.
AND TO: Chaitons LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Attention: Harvey Chaiton / Maya Poliak
Tel: 416.218.1129 / 416.218.1161
Fax: 416.218.1849 / 416.218.1844
Email: Harvey@chaitons.com / Maya@Chaitons.com

Lawyers for Westco MultiTemp Distribution Centres Inc.

INDEX

INDEX

Tab	Document
1	Notice of Application, to be issued
A	Draft Appointment Order
2	Affidavit of L.M. Junior Del Brocco, sworn February 21, 2012
A	Exhibit “A”: Sales Process Default Letter dated February 20, 2012

TAB 1

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N :

BANK OF MONTREAL

Applicant

- and -

**NFC ACQUISITION GP INC., NFC ACQUISITION CORP.,
NFC LAND HOLDINGS CORP., NEW FOOD CLASSICS, and
NFC ACQUISITION L.P.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, and under section 101 of the
Courts of Justice Act, R.S.O. 1990, c. C.43**

NOTICE OF APPLICATION

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The claim made by the applicant is set out on the following pages.

THIS APPLICATION will come on for a hearing on February 22, 2012 at 10:00 a.m., or as soon thereafter as the application can be heard, at the Courthouse located at 330 University Avenue, Toronto.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38C prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: February 21, 2012

Issued by _____
Local Registrar

Address of Court Office:
330 University Avenue
Toronto, Ontario

TO: THE SERVICE LIST

1. **BANK OF MONTREAL (“BMO”), MAKES APPLICATION FOR** an Order substantially in the form attached hereto as **Schedule “A”**, *inter alia*:

- (a) Abridging the time for service of the Notice of Application and Application Record, if necessary, and declaring that this motion is properly returnable on February 21, 2012, and dispensing with further service thereof;
- (b) Appointing FTI Consulting Canada Inc. (“**FTI**”) as receiver of all of the property, assets, and undertaking of New Food Classics (“**NFC**” or the “**Company**”), NFC Acquisition L.P. (“**Acquisition LP**”), NFC Acquisition GP Inc., NFC Acquisition Corp., NFC Land Holdings Corp., and (collectively, the “**NFC Entities**”, or the “**Companies**”) pursuant to s. 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”) and s. 101 of the *Court of Justice Act*, R.S.O. 1990, c. C-43 (the “**CJA**”); and
- (c) such further and other relief as may be just and equitable.

2. **THE GROUNDS FOR THE APPLICATION ARE:**

- (a) The NFC Entities are engaged in the business of food processing, serving major national retail and foodservice sales channels throughout Canada. NFC’s headquarters are located in Burlington, Ontario;
- (b) On January 17, 2012, the Honourable Mr. Justice Morawetz issued an Order (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”) under Ontario Superior Court of Justice Commercial List Court File Number CV-12-95544-00CL which, *inter alia*, (i) stayed proceedings taken or that might be taken in respect of the NFC Entities and their Directors and Officers; (ii) authorized the NFC Entities to obtain and borrow debtor-in-possession financing from BMO under the DIP Credit Facility; (iii) approved the terms and provisions of the Sale Process and authorized the NFC Entities and the Monitor to Conduct the Sales Process;

- and (iv) appointed FTI Consulting Canada Inc. as the monitor, an officer of this Court, to monitor the business and financial affairs of the NFC Entities;
- (c) BMO is the senior-secured lender and the lender under the debtor-in-possession facility (“**DIP Lender**” and “**DIP Credit Facility**”, respectively), approved by this Honourable Court in the Initial Order;
- (d) BMO, the senior secured creditor of the NFC Entities, is seeking the appointment of the Receiver because (i) a material adverse change in the NFC Entities’ business has occurred insofar as BMO has been advised of the resignation of the President and CEO of the NFC Entities and the resignation, en masse, of the Board of Directors of NFC Acquisition GP Inc., NFC Acquisition Corp., NFC Land Holdings Corp., (ii) the Sale Process approved by this Court in the Initial Order (the “**Sale Process**”) did not result in a going concern offer more favourable than the low end of projected recoveries under a liquidation scenario; (iii) as of the close of business on February 17, 2012, the only remaining going concern offer required BMO to make further significant advances and to risk incurring material additional losses under the DIP Credit Facility (as defined below) if such offer was further pursued, and (iv) the NFC Entities’ current financial circumstances seriously impair their viability and negatively impact the value of BMO’s collateral, as is set out in more detail below, in the Affidavits of Brian Cram on behalf of the NFC Entities, and in the Reports to Court of FTI in its capacity as the Monitor of the NFC Entities in Ontario Superior Court of Justice Commercial List Court File Number CV12-9554-00CL (the “**CCAA Proceeding**”);
- (e) On February 20, 2012, BMO delivered to NFP and its counsel written notice of a Sales Process Default (as defined in the DIP Credit Facility) having occurred in accordance with the DIP Agreement. A Sales Process Default is a Specified Event of Default under the DIP Facility;
- (f) On Monday, February 20, 2012, BMO and its counsel were notified that the President and CEO of the NFC Entities and the Board of Directors of NFC Acquisition GP Inc.,

NFC Acquisition Corp., and NFC Land Holdings Corp. resigned, *en masse*, effective at 7:00 p.m. on February 20, 2012;

- (g) The DIP Credit Facility provides, *inter alia*, for BMO's appointment of a receiver upon the occurrence of a Specified Event of Default (as defined in the DIP Credit Facility);
- (h) The NFC Entities are indebted and liable to BMO in an approximate amount totaling \$24,500,000.00 pursuant to, *inter alia*, a Second Amended and Restated Credit Agreement effective as of October 31, 2011, wherein Acquisition LP was the borrower and the remaining NFC Entities are guarantors, and the DIP Credit Facility;
- (i) The NFC Entities' indebtedness to BMO and on general account is secured by, *inter alia*, a properly perfected security interest in all of the property, assets and undertakings of the NFC Entities;
- (j) The NFC Entities cannot meet their liabilities as they come due and do not have sufficient cash to continue to fund their operations, and are therefore, insolvent;
- (k) The appointment of the proposed Receiver is necessary and urgently required in order to secure the property and assets of NFC, which includes perishable food goods inventory, and to proceed with an orderly realization for the benefit of stakeholders;
- (l) The appointment of a receiver is in the interests of justice and is just, convenient, and necessary for the protection of NFC, its estate, and the interests of BMO and other creditors;
- (m) FTI has consented to act as the receiver in respect of the NFC entities;
- (n) In view of the urgency of this application, it may not be possible to provide all interested parties with notice of this application;
- (o) Section 243 of the *BIA*;
- (p) Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43;

- (q) Rules 1.04, 3.02, and 16.08 of the *Rules of Civil Procedure*, R.R.O. 1990, c. C.43; and
- (r) Such further and other grounds as counsel may advise and this Honourable Court permit.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Application:

- (a) the Affidavit of L.M. Junior Del Brocco, sworn February 20, 2012;
- (b) the Third Report to Court of FTI Consulting Canada Inc., dated February 20, 2012;
- (c) the Second Report to Court of FTI Consulting Canada Inc., dated February 13, 2012;
- (d) the Pre-Filing Report of FTI Consulting Canada Inc., dated January 16, 2012;
- (e) the Affidavit of Brian Cram, sworn February 10, 2012;
- (f) the Affidavit of Brian Cram, sworn January 16, 2012;
- (g) the Consent of FTI Consulting Canada Inc. to act as Receiver; and
- (h) such further material as counsel may advise and this Honourable Court may permit.

Date: February 21, 2012

GOWLING LAFLEUR HENDERSON LLP
Barrister and Solicitors
Suite 1600, First Canadian Place
100 King Street West
Toronto, ON M5X 1G5

Clifton P. Prophet / Frank Lamie
LSUC No.: 34845K / 54035S
Tel: (416) 369-3509 / (416) 862-3609
Fax: (416) 862-7661

Solicitors for the Applicant, Bank of Montreal

TAB A

Schedule "A"

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)
)
JUSTICE)

WEDNESDAY, THE 22nd DAY

OF FEBRUARY, 2012

BANK OF MONTREAL

Applicant

- and -

NFC ACQUISITION GP INC., NFC ACQUISITION CORP. NFC ACQUISITION L.P.,
NEW FOOD CLASSICS AND NFC LAND HOLDINGS CORP.

Respondents

ORDER
(appointing Receiver)

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing FTI Consulting Canada Inc. ("FTI") as receiver (the "Receiver") without security, of all of the assets, undertakings and properties of NFC ACQUISITION GP INC., NFC ACQUISITION CORP. NFC ACQUISITION L.P., NEW FOOD CLASSICS AND NFC LAND HOLDINGS CORP. (collectively, the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of L.M. Junior DelBrocco sworn February 20, 2012 and the Exhibits thereto and the Third Report of FTI in its capacity as *Companies' Creditors Arrangement Act* Monitor in respect of the Debtors in Court File No. CV12-9554-00CL (the

“**CCAA Proceedings**”) on hearing the submissions of counsel for the Applicant, no one appearing for [NAME] although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of FTI to act as the Receiver,

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, FTI is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time, including former employees of the Debtors, and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (f) to settle, extend or compromise any indebtedness owing to the Debtors;
- (g) Subject to subparagraph <*> below, to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (h) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (i) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (j) to cause the Company to sell, convey, transfer its finished goods inventory (collectively, “**Finished Inventory**”), including by way of bulk transactions, to existing customers of the Debtors, in or out of the ordinary course of business, without the approval of this Court;
- (k) to cause the Company to sell, convey, transfer the entirety of its raw and frozen perishable raw materials inventory (collectively, “**Perishable Inventory**”), including by way of one or more bulk transactions, without the approval of this Court;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof (other than Finished Inventory and Perishable Inventory) out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$200,000, provided that the aggregate consideration for all such transactions does not exceed \$600,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, and the equivalent provisions of the Alberta and Saskatchewan *Personal Property Security Acts*, section 31 of the Ontario *Mortgages Act*, and the equivalent the Alberta legislation, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* or equivalent bulk sales legislation in any other Province shall not apply.

- (m) to apply to this Court or the Court in the Provinces of Alberta or Saskatchewan for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers

thereof, free and clear of any liens or encumbrances affecting such Property;

- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;
- (s) to pay amounts secured by the Administration Charge (as hereinafter defined) and outstanding as at the date of this Order, within seven days of the making of this Order; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate

access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (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 THE RECEIVER

10. THIS COURT ORDERS that 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 Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements or arrangements, including without limitation by conduct, with the Debtors 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, payroll services, insurance, transportation services, utility or food or food processing safety monitoring, food storage services, facility cleaning services or other services to the Debtors 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 Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current 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 Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. THIS COURT ORDERS AND DECLARES that the employment of all of the Debtors' employees be and is hereby terminated. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section

14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver 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*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder, and the equivalent legislation in the Provinces of Alberta and Saskatchewan (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver

from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver'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.

LIMITATION ON THE RECEIVER'S LIABILITY

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property in an amount of up to \$350,000, less the outstanding amounts secured by the Administration Charge (as hereinafter defined) from time to time, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a charge on the Property in the priority set out in paragraph 24 of this Order, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates

and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowing Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, with the priority set out in paragraph 24 of this Order, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

COURT ORDERED CHARGES

24. THIS COURT ORDERS that subject to paragraphs 25 and 26 below, the Administration Charge, the Directors' Charge and the DIP Lender's Charge provided for in the Initial Order in

the CCAA Proceedings made January 17, 2012 (the “**Initial Order**”), and the Westco Lien Charge provided for in the order of this Court made February 16, 2012 (the “**Extension Order**”) in the CCAA Proceedings be and are hereby recognized and preserved, and shall rank, as among themselves, and *vis a vis* the Encumbrances referred to in Paragraph 40 of the Initial Order, in accordance with the priorities set out in the Initial Order and the Extension Order.

25. THIS COURT ORDERS that the Receiver’s Charge shall rank immediately behind the Administration Charge, and immediately ahead of the Directors’ Charge.

26. THIS COURT ORDERS that the Receiver’s Borrowing Charge shall rank immediately behind the Westco Lien Charge and immediately ahead of the DIP Lender’s Charge.

SERVICE AND NOTICE

27. THIS COURT ORDERS that the Receiver be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Debtors's creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

28. THIS COURT ORDERS that the Plaintiff, the Receiver, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Receiver may post a copy of any or all such materials on its website at <http://cfcanada.fticonsulting.com/nfc>.

GENERAL

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

30. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

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

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

33. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

34. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that FTI CONSULTING CANADA INC. the receiver (the "Receiver") of the assets, undertakings and properties NFC ACQUISITION GP INC., NFC ACQUISITION CORP. NFC ACQUISITION L.P., NEW FOOD CLASSICS AND NFC LAND HOLDINGS CORP acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the _____ day of February, 2012 (the "Order") made in an action having Court file number ___-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$1,000,000 which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of Montreal from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in the priority of the Charges and Encumbrances set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 2012.

FTI CONSULTING CANADA INC. solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____

Name:

Title:

BANK OF MONTREAL

- and -

Court File No.

NFC ACQUISITION GP INC. et al.

ONTARIO
SUPERIOR COURT OF JUSTICE
(PROCEEDING COMMENCED AT TORONTO)

NOTICE OF APPLICATION

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
TORONTO, Ontario
M5X 1G5

Clifton P. Prophet / Frank Lamie
LSUC No.: 34845K / 54035S

Telephone: (416) 862-3509 / (416) 862-3609
Facsimile: (416) 862-7661

Solicitors for the Applicant,
Bank of Montreal

TAB 2

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

**NFC ACQUISITION GP INC., NFC ACQUISITION CORP.,
NFC LAND HOLDINGS CORP., NEW FOOD CLASSICS, and
NFC ACQUISITION L.P.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, and under section 101 of the
Courts of Justice Act, R.S.O. 1990, c. C.43**

**AFFIDAVIT OF L.M. JUNIOR DEL BROCCO
(Sworn February 21, 2012)**

I, L.M. JUNIOR DEL BROCCO, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Senior Manager, Special Accounts Management Unit, Bank of Montreal (“**BMO**” or the “**Applicant**”). I have day-to-day responsibility for the New Food Classics (“**NFC**” or the “**Company**”), NFC Acquisition L.P., NFC Acquisition GP Inc., NFC Acquisition Corp., NFC Land Holdings Corp. (collectively, the “**NFC Entities**”) accounts on behalf of BMO and as such I have personal knowledge of the matters herein deposed, save and except where I refer to

matters based on information and belief, in which case I verily believe that information to be true.

I. PURPOSE

2. I am swearing this affidavit in support of an application by BMO for an Order pursuant to s. 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “*BLA*”) and s. 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43 (the “*CJA*”), *inter alia*, appointing FTI Consulting Canada Inc. (“*FTI*”) as receiver (in such capacities, the “*Receiver*”), without security, of all of the assets, property and undertaking (collectively, the “*Property*”) of the NFC Entities.

3. BMO, the senior secured creditor of the NFC Entities, is seeking the appointment of the Receiver because (a) a material adverse change in the NFC Entities’ business has occurred insofar as BMO has been advised of the resignation of the President and CEO of the NFC Entities and the resignation, *en masse*, of the Board of Directors of NFC Acquisition GP Inc., NFC Acquisition Corp., NFC Land Holdings Corp., (b) the Sale Process approved by this Court in the Initial Order (the “*Sale Process*”) did not result in a going concern offer more favourable than the low end of projected recoveries under a liquidation scenario; (c) as of the close of business on February 17, 2012, the only remaining going concern offer required BMO to make further significant advances and to risk incurring material additional losses under the DIP Credit Facility (as defined below) if such offer was further pursued, and (d) the NFC Entities’ current financial circumstances seriously impair their viability and negatively impact the value of BMO’s collateral, as is set out in more detail below, in the Affidavits of Brian Cram on behalf of the NFC Entities, and in the Reports to Court of FTI in its capacity as the Monitor of the NFC Entities in Ontario Superior Court of Justice Commercial List Court File Number CV12-9554-00CL (the “*CCAA Proceeding*”).

4. As at February 20, 2012, the NFC Entities are indebted to BMO in the approximate amount of \$24,500,000.

II. BACKGROUND

5. The NFC Entities are engaged in the business of food processing, serving major national retail and foodservice sales channels throughout Canada. NFC's headquarters are located in Burlington, Ontario. A detailed description of the corporate history of the NFC Entities is set out in the Affidavit of Brian Cram, sworn January 16, 2012, in the CCAA Proceeding.

6. On January 17, 2012, the Honourable Mr. Justice Morawetz issued an Order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA**") in the CCAA Proceeding which, *inter alia*, (a) stayed proceedings taken or that might be taken in respect of the NFC Entities and their Directors and Officers; (b) authorized the NFC Entities to obtain and borrow debtor-in-possession financing from BMO under the DIP Credit Facility (as defined below); (c) approved the terms and provisions of a Sale Process and authorized the NFC Entities and the Monitor to Conduct the Sale Process (the "**Sale Process**"); and (d) appointed FTI as the monitor, an Officer of this Court, to monitor the business and financial affairs of the NFC Entities. A copy of the Initial Order is contained in Tab 1 of the NFC Compendium of Orders filed with the Court in the CCAA Proceeding.

7. BMO is the senior-secured lender and the lender under the debtor-in-possession facility ("**DIP Lender**" and "**DIP Credit Facility**", respectively), approved by this Honourable Court in the Initial Order.

8. The NFC Entities are indebted and liable to BMO in an approximate amount totaling \$24,500,000 pursuant to, *inter alia*, a Second Amended and Restated Credit Agreement effective as of October 31, 2011 (the "**Term Facility**"), wherein Acquisition LP was the borrower and the remaining NFC Entities are guarantors, and the DIP Credit Facility. The NFC Entities' indebtedness to BMO and on general account is secured by, *inter alia*, a properly perfected security interest in all of the property, assets and undertakings of the NFC Entities.

9. BMO's security interests pursuant to the Term Facility were perfected in the Province of Ontario by registrations under the *Personal Property Security Act* (the "**PPSA**"). Summaries of the registrations made against the NFC Entities pursuant to the PPSA (or equivalent provincial

legislation) of Ontario, Alberta, Manitoba, and Saskatchewan are attached as Exhibit "D" to the Affidavit of Brian Cram sworn January 16, 2012, in the CCAA Proceeding.

III. SALE PROCESS & SALE PROCESS DEFAULT

10. As detailed in the Third Report to Court of FTI in the CCAA Proceedings, none of the offers received during the Sale Process for the purchase of the business and assets of the NFC Entities as a going concern would be likely to yield better recoveries than the low end of FTI's projected recoveries in a liquidation scenario. Further, in order to proceed with the most favourable offer presented, BMO would be required to risk incurring material additional losses on further advances under the DIP Credit Facility. As I understand it, a thorough discussion of the Sale Process and offers submitted therein is set out in the Monitor's Third Report to Court in the CCAA Proceeding.

11. Following discussions with the NFC Entities and their Directors on February 20, 2012, which included a request by the NFC Entities for further time and further funding from BMO, and a request by BMO that the Directors remain in place to supervise an orderly wind-down process, no agreement could be reached for the continuation of the NFC Entities as debtors in possession and BMO was compelled to give notice in accordance with the DIP Credit Facility that it was terminating its funding thereunder.

12. On February 20, 2012, BMO delivered to the NFP Entities and their counsel written notice of a Sales Process Default (as defined in the DIP Credit Facility) having occurred in accordance with the DIP Credit Facility. A Sales Process Default is a Specified Event of Default under the DIP Credit Facility. Accordingly, a Specified Event of Default has occurred under the DIP Credit Facility. A copy of the Letter dated February 20, 2012, notifying the NFP Entities of the Sales Process Default is attached hereto and marked as **Exhibit "A"**.

13. In the circumstances, BMO, in its capacity as DIP Lender, will not support a continuation of the CCAA Proceeding and the Sale Process and will not provide further funding to the NFC Entities.

IV. RESIGNATION OF BOARD OF DIRECTORS, PRESIDENT, & CEO

14. On Monday, February 20, 2012, BMO and its counsel were notified that the President and CEO of the NFC Entities and the Board of Directors of NFC Acquisition GP Inc., NFC Acquisition Corp., NFC Land Holdings Corp. would resign, *en masse*, effective at 7:00 p.m. EST on February 20, 2012.

15. In view of the foregoing, BMO is concerned that there will be no effective ongoing management of the NFC Entities following the resignation of the Board of Directors and the President and CEO of the NFC Entities.

V. NEED FOR A RECEIVER

16. As a result of the problems described above, the appointment of the proposed Receiver is necessary and urgently required in order to secure the property and assets of the NFC Entities, which includes perishable food inventory, and to proceed with an orderly realization and maximization of the value of the NFC Entities' assets for the benefit of stakeholders.

17. The DIP Credit Facility provides, *inter alia*, for BMO's appointment of a receiver upon the occurrence of a Specified Event of Default (as defined in the DIP Credit Facility). A copy of the DIP Credit Facility is attached as Exhibit "F" to the Affidavit of Brian Cram, sworn January 16, 2012, in the CCAA Proceeding.

18. As set out in the Affidavit of Brian Cram, sworn January 16, 2012, in the CCAA Proceeding, the company is not able to meet its liabilities as they come due. In particular, the NFC Entities cannot repay the Term Facility and are therefore insolvent.

19. The appointment of a receiver is in the interests of justice and is just, convenient, and necessary for the protection of NFC, its estate, and the interests of BMO and other creditors.

20. FTI has consented to act as the receiver in respect of the NFC entities, if so appointed by this Honourable Court. FTI's Consent to Act as receiver will be filed with this Honourable Court on the morning of February 22, 2012.

21. FTI has acted as the Monitor of the NFC Entities in the CCAA Proceeding and has reviewed the financial position of the NFC Entities. In support of BMO's application to appoint a receiver, I understand that FTI will be delivering a Court Report setting out certain of the details of the NFC Entities' current financial and operational situation.

22. The NFC Entities' representatives have advised me that they will not oppose the appointment of the Receiver.

VI. CONCLUSION

23. BMO is concerned that immediate steps must be taken in order to preserve the value of the Property. Failure to appoint a Receiver will likely result in a significant decrease in the value of the NFC Entities business and a reduction in recoveries for its stakeholders.

24. As a result of the prejudice to BMO of the continued operation of the stay of proceedings in the CCAA Proceeding in circumstances where there are no Directors or upper management of the NFC Entities, I believe that it is just and equitable that the CCAA stays be lifted to permit the Receiver to be appointed in order to effect an orderly wind down of the business of the NFC Entities.

25. For the reasons set out above, I believe that it is just and equitable and in the interests of BMO, the NFC Entities, and its stakeholders that FTI is appointed Receiver of the NFC Entities.

26. I swear this affidavit in support of BMO's application for the appointment of FTI as the Receiver of the NFC Entities and for no other or improper purpose.

SWORN before me at the Regional
Municipality of Waterloo, in the Province of
Ontario, on February 21, 2012.



Commissioner for Taking Oaths

)
)
)
)
)
)



L.M. JUNIOR DEL BROCCO

This is **Exhibit "A"** to the
Affidavit of L.M. Junior Del Brocco
sworn before me, this 21st day of
February, 2012.

A handwritten signature in black ink, consisting of a stylized 'C' followed by a large, sweeping flourish that extends to the right and loops back under the signature line.

A Commissioner for ~~taking~~ Affidavits, etc.

cc: TORYS LLP
Suite 3000
79 Wellington Street West
T.D. Centre
Toronto, Ontario, Canada
M5K 1N2

Attention: Mr. David Bish (Via Facsimile (416) 865-7380 & Email)
Counsel to the Borrower



First Canadian Place
100 King St. West, 7th Floor
Toronto, ON M5X 1A

L. M. Junior Del Brocco
Senior Manager, SAMB National Account
Cell: 416-867-403
Cell: 416-346-392
Fax: 416-643-165
E-mail: Junior.DelBrocco@bmo.com

Delivered & Via Facsimile -- (289) 636-3027

February 20, 2012

NFC Acquisition L.P.
NFC Acquisition GP Inc.
New Food Classics
NFC Acquisition Corp.
1122 International Blvd.
Suite 601
Burlington, Ontario, Canada
L7L 6Z8

Attention: Mr. Brian Cram

Dear Mr. Cram:

Re: Super-Priority Senior Secured Debtor-In-Possession Credit Facility between Bank of Montreal, as Lender, and NFC Acquisition L.P. et al. (together, the "Borrower")

We refer to a Letter Loan Agreement entitled "Super-Priority Senior Secured Debtor-In-Possession Credit Facility" dated January 16, 2012 issued by Bank of Montreal to NFC Acquisition L.P., as amended by First Amendment to Letter Loan Agreement dated January 17, 2012 (together, the "Letter Loan Agreement"). This letter constitutes notice of a "Sales Process Default" having occurred within the meaning of the Letter Loan Agreement.

Bank of Montreal hereby advises and gives the Borrower notice that no acceptable offer(s) were received under the Sales Process and that Bank of Montreal is not satisfied with the Sales Process to the date hereof, including, without limitation, that it is not satisfied with any of the agreements of purchase and sale.

As a consequence, the Bank of Montreal hereby declares and gives the Borrower notice that a "Sales Process Default" has occurred. Accordingly, the availability under the Letter Loan Agreement is hereby terminated effective immediately.

All capitalized terms not defined herein shall have the respective meanings ascribed thereto in the Letter Loan Agreement.

Yours truly,

BMO BANK OF MONTREAL

L. M. Junior Del Brocco
Senior Manager

BANK OF MONTREAL

– Applicants –

v.

Court File No.:

NFC ACQUISITION GP INC. et al.

– Respondents –

ONTARIO

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

(PROCEEDING COMMENCED AT TORONTO)

AFFIDAVIT OF L.M. JUNIOR DEL BROCCO
(Sworn February 21, 2012)

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Clifton P. Prophet (LSUC #34345K)

Tel: (416) 862-3509

Fax: (416) 863-3509

Frank Lamie (LSUC# 54035S)

Tel: (416) 862-3609

Fax: (416) 862-7661

Solicitors for the Applicant,
Bank of Montreal

BANK OF MONTREAL

- Applicant -

v.

NFC ACQUISITION GP INC. et al.

- Respondents -

Court File No.

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

(PROCEEDING COMMENCED AT TORONTO)

**APPLICATION RECORD
(Returnable February 22, 2012)**

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Clifton P. Prophet (LSUC# 34845K)

Frank Lamie (LSUC #54035S)

Tel: (416) 862-3509 / (416) 862-3609

Fax: (416) 863-3509

**Solicitors for the Applicant,
Bank of Montreal**