



COURT FILE NUMBER B-180285
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF PUREWAL BLUEBERRY FARMS LTD.**

SECOND REPORT OF THE PROPOSAL TRUSTEE

JUNE 27, 2018

INTRODUCTION

1. This report (“**Second Report**”) has been prepared by FTI Consulting Canada Inc. (“**FTI**”) in its capacity as the Trustee (the “**Proposal Trustee**”) under a Notice of Intention to File a Proposal (“**NOI**”) signed by Purewal Blueberry Farms Ltd. (“**Purewal**” or the “**Company**”) as of March 28, 2018 but filed with the Superintendent of Bankruptcy on April 30, 2018 pursuant to Part III, Division I of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the “**BIA**”).
2. The reports of the Proposal Trustee and other information in respect of these proceedings are posted on the Proposal Trustee’s website at <http://cfcanada.fticonsulting.com/purewal/>.

PURPOSE

3. On May 28, 2018, the Proposal Trustee filed its first report (the “**First Report**”), which informed the Court on the following:
 - (a) The activities of the Company since the filing of its NOI;
 - (b) The Company’s efforts to secure funding for its on-going costs during this proceeding;
 - (c) An analysis of the Company’s actual cash receipts and disbursements to date, compared to the forecast filed on May 10, 2018;
 - (d) The Companies’ cash flow projection for the period from May 28, 2018 to July 13, 2018;
 - (e) The rationale for the proposed Professional Charge (as defined in the First Report) over the Company’s assets to secure the professional fees and disbursements in relation to these proceedings; and
 - (f) The Company’s request for an extension of the current stay of proceedings under the NOI from May 30, 2018 to July 13, 2018.

4. On May 30, 2018, an Order of this Honourable Court was granted providing the following relief:
 - (a) An extension of the stay of proceedings for the Company to July 13, 2018;
 - (b) An administrative charge in favour of and for the benefit of the Proposal Trustee, its counsel and counsel for the Company in an amount not exceeding \$200,000;
 - (c) Approval for the Company to enter into a loan agreement with its primary secured lender (the “**DIP Lender**”) to borrow an amount up to \$500,000 to fund the Company’s working capital needs during this proceeding; and
 - (d) A charge in favour of the DIP Lender in the amount of \$500,000.

5. The purpose of the Second Report is to provide the Court with an update on the following:
 - (a) The activities of the Company since the filing of the First Report;
 - (b) The Company’s desire to initiate a sale process (the “**Sale Process**”) as a necessary step to facilitate the Company’s restructuring;
 - (c) The rationale for the implementation of a claims process for the determination of claims against the Company (the “**Claims Process**”); and
 - (d) The Company’s request for an extension of the current stay of proceedings under the NOI from July 13, 2018 to August 27, 2018.

TERMS OF REFERENCE

6. In preparing this report, the Proposal Trustee has relied upon unaudited financial information, other information available to the Proposal Trustee and, where appropriate, the Company's books and records and discussions with various parties (collectively, the "**Information**").
7. Except as described in this report:
 - (a) The Proposal Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
 - (b) The Proposal Trustee has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
8. Future oriented financial information reported or relied on in preparing this report is based on assumptions regarding future events; actual results may vary from forecast and such variations may be material.
9. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

UPDATE ON THE COMPANY'S ACTIVITIES

10. Subsequent to the First Report, the Purewal family suffered a death of one of the owner's children. Accordingly, this has delayed the timing of seeking the approval of the sale process as originally contemplated to allow the family to mourn their loss.
11. The first tranche of the DIP funding is in progress of being delivered to the Company's legal counsel. It is expected that these funds will be used to pay the insurance premium on the Company's properties, to pay for the assistance of the former accounting staff to bring the accounts current and to pay down the professional fees accrued to date.

COMPANY'S APPLICATION FOR A SALE PROCESS ORDER

12. The Company's management believes it would be prudent to sell some of its assets in order to provide the resources to offer a proposal to its unsecured creditors.
13. The Company and the Proposal Trustee have already been approached by a few third parties enquiring about the Company's processing plant and accordingly, this appears to be the most viable asset for a sale.
14. A sale of the processing plant would likely provide sufficient proceeds to payout the secured debt with some surplus funds available to structure a proposal to its unsecured creditors.
15. The Company does not have the staff resources or experience necessary to conduct a sale process and has therefore sought the assistance of the Proposal Trustee.

16. One of the parties that has approached the Proposal Trustee regarding the processing plant had expressed a desire to enter into a stalking horse arrangement which would serve as a floor bid for the processing plant.
17. To date these discussions have not progressed substantively and accordingly, the sale process includes a provision for such an event should an offer be received that the Proposal Trustee believes is appropriate.
18. The introduction of a stalking horse offer in the process would require the approval of this Honourable Court at a subsequent Court application.
19. Attached as Appendix A is a draft Sales Process Order, which can be summarized as follows:

Anticipated timeline	Description
July 5, 2018	Order approving the sale process
July 12, 2018	Advertisement published in the Vancouver Sun and national edition of the Globe and Mail
July 5 – Aug 21, 2018	Proposal Trustee to forward teaser document to parties already known to have an interest in acquiring the processing plant, in addition to anyone responding to the advertisements or any party believed to have an interest in acquiring the processing plant.
Aug 1, 2018	Any interested party may submit a Stalking Horse offer, subject to Court approval.

August 10, 2018	Application to Court for approval of Stalking Horse Asset Purchase Agreement.
August 15, 2018	Copy of Stalking Horse Asset Purchase Agreement provided by Proposal Trustee to all Qualified Due Diligence Bidders.
July 12 – Sept 5, 2018	Upon receipt of signed Non-Disclosure Agreement, Qualified Due Diligence Bidders provided access to due diligence materials.
Sept 5, 2018	Deadline for the submission of offers in the standard form with any revisions noted by a blackline version.
Sept 10, 2018	Proposal Trustee reviews all offers and contacts each of the Qualified Due Diligence Bidders to confirm participation in an Auction (if applicable)
September 25, 2018	Auction Qualified Bidders participate in an Auction to determine Winning Bid.
October 10, 2018	Application to Court for approval of Winning Bid.

20. The Proposal Trustee is confident that the proposed timeframe can be achieved and agrees that a sale process is required to provide the resources necessary to make a proposal to the Company's unsecured creditors.

COMPANY'S APPLICATION FOR CLAIMS PROCESS ORDER

21. The Company is seeking an order authorizing the implementation of a Claims Process (the "**Claims Process Order**").

22. The Claims Process provides for:
 - (a) the Proposal Trustee to conduct the Claims Process with assistance from the Company;
 - (b) the mailing of a claims package to all known creditors of the Company and publication of a notice to creditors in the Vancouver Sun and the Globe and Mail, being the newspapers in circulation in the locations of the Company's operations;
 - (c) the submission of proofs of claims; and
 - (d) a process for the determination of creditors' claims and for the resolution of disputes relating to creditors' claims.

23. The Proposal Trustee supports the Company's application for the Claims Process Order for the following reasons:
 - (a) None of the Company's former accounting or finance staff are currently employed or providing assistance to the Company. As a result, it has been difficult for the Proposal Trustee to obtain information or documents relating to creditors' claims on a timely or efficient basis;

- (b) In order to be in a position to make a recommendation to creditors on any proposal(s) that may eventually be filed by the Company, the Proposal Trustee requires the Claims Process in order to quantify the number and amount of creditor claims, including the amount and validity of any secured claims that may be asserted against the proceeds from a proposed sale transaction; and
 - (c) In the event a proposal is unsuccessful and a bankruptcy ensues, the Trustee in Bankruptcy would require a claims process for the administration of the estate and therefore the costs would have to be incurred in any event.
24. Accordingly, the Proposal Trustee recommends the granting of the Claims Process Order by this Honourable Court.

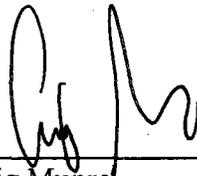
COMPANY'S REQUEST FOR AN EXTENSION

25. The Company is seeking an extension of the stay of proceedings from July 13, 2018 to August 27, 2018. The Company is seeking an extension for the following reasons:
- (a) To provide the Company with the time required to pursue a sale or investment transaction that would allow the Company to restructure its balance sheet and formulate a proposal to its unsecured creditors; and
 - (b) To provide the Company with the time required to conduct its Claims Process to determine the quantum of claims for the purpose of formulating the Company's proposal to its unsecured creditors.

26. The Proposal Trustee supports the Company's request for an extension of its stay of proceedings based on the following:
- (a) The Company is acting in good faith and with due diligence;
 - (b) The Secured Lender is supportive of the Company's efforts and is providing a DIP Loan to fund the post-filing costs associated with this proceeding;
 - (c) The Company's Sales Process is anticipated to take up to 75 days to conduct. Assuming the Sales Process Order and Claims Process Order are granted by this Honourable Court, the Company would be required to file materials for an application seeking an extension of its current stay of proceedings within this week. Accordingly, in order to maximize its efficiency, the Company is seeking an extension of the current stay of proceedings to eliminate the cost of an additional Court application.

All of which is respectfully submitted this 27th day of June, 2018.

FTI Consulting Canada Inc.,
in its capacity as Proposal Trustee under a NOI
filed by Purewal Blueberry Farms Ltd.



Name: Craig Munro
Title: Managing Director,
FTI Consulting Canada Inc.

APPENDIX A

3. In connection with the Bidding Procedures, pursuant to Section 7(3)(c) of the Canada *Personal information Protection and Electronic Documents Act*, Section 18(1)(i) of the British Columbia *Personal Information Protection Act* and any applicable comparable provincial legislation, the Proposal Trustee shall disclose personal information of identifiable individuals to prospective purchasers or bidders and to their advisors, but only to the extent desirable or required to seek solicitations in respect of Purewal's assets and business (each a "Transaction"). 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 a Transaction and, if it does not complete a Transaction, shall return all such information to the Proposal Trustee or, in the alternative, destroy all such information. Such purchaser or bidder, if successful shall be entitled to continue to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Purewal and shall return all other personal information to the Proposal Trustee or ensure that all other personal information is destroyed.

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

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

6. Purewal, the Proposal Trustee or any other party that is affected by this Order is at liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

7. Endorsement of this Order by counsel appearing on this application other than counsel for Purewal is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND
CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS
BEING BY CONSENT:

Signature of Katie G. Mak
Lawyer for Purewal Blueberry Farms Ltd.

BY THE COURT

Registrar

No. **B-180285**
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH
COLUMBIA**

IN THE BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF
PUREWAL BLUEBERRY FARMS LTD.

ORDER MADE AFTER APPLICATION

File No.: 47153-0001

CLARK WILSON LLP
900 – 885 West Georgia Street
Vancouver, BC V6C 3H1
604.687.5700

LAWYER: Katie G. Mak
(Direct #: 604.643.3105)

Schedule "A"

BIDDING PROCEDURES

1. Pursuant to a Notice of Intention to File a Proposal, FTI Consulting Canada Inc. was appointed as trustee under the proposal (in such capacity, the "Trustee") of the assets, undertaking and property of Purewal Blueberry Farms Ltd. ("Purewal").
2. Pursuant to an Order of the Court dated July 5, 2018 (the "**Bidding Procedures Order**"), the Court approved the bidding procedures for the sales process (the "**Sales Process**") for the Commercial Assets (as defined below) pursuant thereto (the "**Bidding Procedures**"). As a result, interested parties will have an opportunity to submit offers to purchase the Commercial Assets.
3. All references to currency in these Bidding Procedures are references to Canadian Dollars unless otherwise stated. In these Bidding Procedures, "**Business Day**" means any day other than a Saturday, Sunday or statutory holiday in the Province of British Columbia.

Assets for Sale

4. The assets comprise all land and improvements situated at 13753 Hale Road, District of Pitt Meadows, comprising 39.49 acres and a good quality industrial building utilized as a food storage, packaging and distribution warehouse specifically geared to the fruit industry (the "**Commercial Assets**"). Any final sale of the Commercial Assets shall be made pursuant to these Bidding Procedures.
5. The Commercial Assets will be sold on an "as is, where is" basis, without representations or warranties of any kind by the Trustee, Purewal or any of their respective agents or estates.

Publication of Notice

6. On or before that day (the "**Publication Date**") which is five Business Days after the granting of the Bidding Procedures Order, the Trustee will cause notices (the "**Sale Notices**") of the Sale Process to be published in the Vancouver Sun and the Globe and Mail and to be delivered to such other parties as the Trustee may reasonably believe are or would be interested in participation in the Sales Process.

Sales Process and Timelines

7. All offers to purchase the Commercial Assets must be submitted in accordance with the terms of these Bidding Procedures and in compliance with the deadlines set out in these Bidding Procedures, subject to the discretion of the Trustee in adjusting deadlines as provided in these Bidding Procedures.

8. As part of the Sales Process, the Trustee may seek a bidder to serve as a "stalking horse bidder" in the Sales Process (the "**Stalking Horse Bidder**"), in accordance with these Bidding Procedures. However, if no stalking Horse Bidder is selected, the Sales Process will continue in accordance with these Bidding Procedures.

9. As described in greater detail below (with all defined terms having the meanings ascribed to them in these Bidding Procedures) the Sales Process will consist of the following steps:

<u>Step</u>	<u>Activity</u>	<u>Deadline</u>
1.	Potential Bidders submit signed Non-Disclosure Agreements (" NDA ").	No later than 40 days following the Publication Date (the " Initial Submission Date ")
2.	Due Diligence Qualified Bidders notified and commence due diligence.	No later than 43 days following the Publication Date (the " Notification Date ")
3.	Interested Due Diligence Qualified Bidders submit Stalking Horse Bids.	No later than 20 days following the Publication Date (the " SH Submission Date ")
4.	Trustee reviews and analyzes Stalking Horse Bids as they are received and, if the Trustee locates a suitable Stalking Horse Bidder, the Trustee or Purewal will apply to Court for an Order approving the SH APA (the " SH Approval and Vesting Order ").	No later than 30 days from the Publication Date (the " SH Approval Date ")
5.	If SH Approval and Vesting Order is sought and obtained, then Trustee will notify all Qualified Due Diligence Bidders.	Within 3 days of the SH Approval Date
6.	Due Diligence Qualified Bidders complete due diligence and submit Qualified Bids.	No later than 55 days following the Publication Date (the " Bid Submission Date ")
7.	Trustee reviews and analyzes Qualified Bids and contacts each of the Due Diligence Qualified Bidders to confirm participation in an Auction (if applicable).	No later than 60 days following the Publication Date (the " Auction Notice Date ")

<u>Step</u>	<u>Activity</u>	<u>Deadline</u>
8.	Auction Qualified Bidders participate in an Auction (if applicable).	No later than 75 days following the Publication Date (the " Auction Date ")
9.	The Trustee or Purewal applies to Court for an Order approving the Winning Bid (the " Winning Bid Approval and Vesting Order ") (if applicable).	No later than 90 days following the Publication Date (the " Winning Bid Approval Date ")
10.	Notwithstanding the foregoing, the Trustee may extend any one or more of the Initial Submission Date, Notification Date, SH Submission Date, SH Approval Date, Bid Submission Date, Auction Notice Date, Auction Date or the Winning Bid Approval Date to a later date if, in its reasonable business judgment, it determines it is appropriate to do so.	

11. If a deadline set out in the above timeline falls on a day that is not a Business Day, the deadline is deemed to be on the following Business Day.

Step 1: Letter of Interest and Non-Disclosure Agreement

12. In order to participate in the Sale Process, an interested party (a "**Potential Bidder**") must deliver the following documents to the Trustee so that they are actually received by the Trustee by no later than the Initial Submission Date:

- (a) a letter setting out: (i) the identity of the Potential Bidder, (ii) the contact information of the Potential Bidder and its legal counsel, if any, and (iii) full disclosure of the principals and ultimate parent of the Potential Bidder;
- (b) an executed NDA in form and substance satisfactory to the Trustee, which will enure to the benefit of any purchaser of the Commercial Assets;
- (c) written evidence upon which the Trustee may reasonably conclude that the Potential Bidder has the necessary financial ability to close the contemplated transaction. Such information may include, among other things, the following:
 - (i) the Potential Bidder's current financial statements (audited if they exist);
 - (ii) contact names and numbers for verification of financing sources;

- (iii) evidence of the Potential Bidder's resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction; and
- (iv) any such other form of financial disclosure or credit-quality support information demonstrating that the Potential Bidder has the ability to close the contemplated transaction;

(collectively, the "**Funding Availability**").

13. The Trustee will consider each Potential Bidder that has executed and delivered an NDA, and provided the "Funding Availability" by the Initial Submission Date with a view to determining whether each such Potential Bidder is qualified to participate in due diligence during the Sales Process. Notwithstanding the foregoing, strict compliance with the Funding Availability requirement may be waived by the Trustee in its reasonable business judgment. A Potential Bidder will be qualified (each a "**Due Diligence Qualified Bidder**") by the Trustee taking into account such factors as:

- (a) the Potential Bidder's Funding Availability;
- (b) closing risk; and
- (c) whether the Potential Bidder will likely be able to consummate a transaction for the Commercial Assets by no later than the deadline above set out in these Bidding Procedures on substantially the terms of a Qualified Bid (as defined below).

14. All Potential Bidders who are determined to be Due Diligence Qualified Bidders will be notified promptly in writing by the Trustee.

Step 2: Due Diligence

15. The Trustee will provide each Due Diligence Qualified Bidder a confidential information memorandum (the "**CIM**") describing the opportunity to acquire the Commercial Assets, and access to an electronic data room with information about the Commercial Assets. Additional information and due diligence opportunities may be made available to Due Diligence Qualified Bidders upon request and at the sole discretion of the Trustee, including but not limited to:

- (a) presentations by the Trustee;
- (b) access to physical files and electronic data rooms with additional information about the Commercial Assets; and
- (c) scheduled on-site inspections of the Commercial Assets.

16. Any on-site inspections of the Commercial Assets must be in accordance with all health, safety, environmental and bio-security rules, regulations and protocols as the Trustee may prescribe.

17. The Trustee makes no representation or warranty as to the information contained in: (i) the CIM, (ii) the physical files or (iii) the electronic data room(s).

18. Each Due Diligence Qualified Bidder must complete its due diligence by no later than 5:00 p.m. P.S.T on the Bid Submission Date, subject to any extension as contemplated herein.

Step 3-4: Submissions of Stalking Horse Bids

19. At any time following the commencement of due diligence by the Due Diligence Qualified Bidders, any of the Due Diligence Qualified Bidders may submit an executed offer to purchase the Commercial Assets to the Trustee as the Stalking Horse Bidder (each a "**SH Bid**"), to be received by the Trustee by no later than 5:00 p.m. P.S.T. on the SH Submission Date, subject to any extension as contemplated here. The Trustee will provide a template stalking horse asset purchase agreement (the "**SH Template**") in the data room.

20. The Trustee will review all SH Bids submitted by the SH Submission Date with a view to determining whether a SH Bid is qualified to be the Stalking Horse Bidder in the Sales Process. A SH Bid will only be considered and put before the Court for approval if it meets all of the following criteria:

- (a) it is actually received by the Trustee by no later than 5:00 p.m. P.S.T. on the SH Submission Date, subject to any extension as contemplated herein;
- (b) it includes an executed purchase agreement (the "**SH APA**") by the Due Diligence Qualified Bidder to irrevocably purchase all of the Commercial Assets on substantially the same terms and conditions as are set forth in the SH Template;
- (c) it includes:
 - (i) a copy of the SH APA marked to show the differences between it and the SH Template;
 - (ii) a deposit equal to 10% of the Purchase Price (the "**Bid Deposit**"), which shall be paid by certified cheque or by wire transfer within three Business Days of the Trustee contacting the SH Bidder that its SH APA will be brought before the Court for approval;

- (iii) written evidence of (i) a firm, irrevocable commitment for financing from a creditworthy bank or financial institution that is prepared to provide such financing without any delay or alteration of conditions and that is not contingent on the outcome of the Auction, or (ii) such other evidence of the Due Diligence Qualified Bidder's financial ability to complete the transaction described in the SH Bid as may be acceptable to the Trustee in its reasonable business judgment (notwithstanding the foregoing, this requirement of written evidence may be waived by the Trustee in its reasonable business judgment); and
- (iv) evidence in form and substance satisfactory to the Trustee that the SH Bid and the SH APA has received all necessary authorization and approval from the Due Diligence Qualified Bidder's board of directors or any other parties to comply with the Due Diligence Qualified Bidder's corporate governance procedures (notwithstanding the foregoing, this requirement may be waived by the Trustee in its reasonable business judgment);
- (d) it is irrevocable until 45 days after the Auction Date or such later date as the Court may order;
- (e) it is not conditioned on the outcome of any unperformed due diligence and includes an acknowledgement and representation that the Due Diligence Qualified Bidder has had an opportunity to conduct any and all required due diligence prior to making its SH Bid, that it has relied solely on its own independent review, investigation and/or inspection of any documents and/or the Commercial Assets in making the SH Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Commercial Assets or the accuracy or completeness of any information provided in connection therewith;
- (f) it fully discloses the identity of each entity that will sponsor or participate in the SH Bid and the complete terms of any such sponsorship or participation, including all of the Due Diligence Qualified Bidder's principal advisors, subject, however, to the Due Diligence Qualified Bidder's right to assign the SH APA (further and notwithstanding the foregoing, this requirement may be waived by the Trustee in its reasonable business judgment); and
- (g) it contains any other information that may be reasonably requested by the Trustee in advance of that day which is no later than the SH Submission Date, subject to any extension as contemplated herein.

21. A SH Bid will be valued based upon several factors including, without limitation, the purchase price, the proposed revisions to the SH Template, the effect of the proposed sale on Purewal and its stakeholders, other factors affecting the speed, certainty and value of the proposed sale, any assets excluded from the bid, the likelihood and timing of consummating such sale, each as determined by the Trustee in consultation with its advisors and Purewal. The Trustee reserves the right, taking into account all other factors set forth herein (including execution risk), to choose a successful Stalking Horse Bidder that did not offer the highest purchase price for the Commercial Assets.

22. The Trustee may, but is not obligated to, select a Stalking Horse Bidder.

23. If the Trustee selects a Stalking Horse Bidder, the Trustee will advise the Stalking Horse Bidder promptly and the Trustee or Purewal will return an application before the Court to approve the SH APA by no later than 4:00 p.m. PST on the SH Approval Date.

Step 5-7: Submissions of Qualified Bids

24. Due Diligence Qualified Bidders who submit SH Bids which are not selected to be the Stalking Horse Bid may continue to participate in the Sales Process, subject to the Bidding Procedures.

25. In order to continue to participate in the Sale Process after the completion of the due diligence, all Due Diligence Qualified Bidders must submit an executed offer to purchase the Commercial Assets to the Trustee (each a "**Bid**") so that it is actually received by the Trustee by no later than 5:00 p.m. P.S.T. on the Bid Submission Date, subject to any extension as contemplated herein. The Trustee will provide to each of the Due Diligence Qualified Bidders a template asset purchase agreement (the "**APA**").

26. The Trustee will review all Bids submitted by Due Diligence Qualified Bidders with a view to determining whether the Bid is qualified for use in the Sales Process. A Bid will be qualified (each a "**Qualified Bid**") only if it meets all of the following criteria:

- (a) it is actually received by the Trustee by no later than 5:00 p.m. P.S.T. on the Bid Submission Date, subject to any extension as contemplated herein;
- (b) it includes an executed offer (the "**Offer**") by the Due Diligence Qualified Bidder to irrevocably purchase all of the Commercial Assets on substantially the same terms and conditions as are set forth in the APA;

- (c) it includes:
- (i) a copy of the APA marked to show the differences between it and the executed Offer;
 - (ii) a deposit equal to 10% of the Purchase Price (the "**Bid Deposit**"), which shall be paid by certified cheque or by wire transfer within three Business Days of the Trustee contacting each of the short listed Due Diligence Qualified Bidders to confirm participation in an Auction;
 - (iii) written evidence of (i) a firm, irrevocable commitment for financing from a creditworthy bank or financial institution that is prepared to provide such financing without any delay or alteration of conditions and that is not contingent on the outcome of the Auction, or (ii) such other evidence of the Due Diligence Qualified Bidder's financial ability to complete the transaction described in the Bid as may be acceptable to the Trustee in its reasonable business judgment (notwithstanding the foregoing, this requirement of written evidence may be waived by the Trustee in its reasonable business judgment); and
 - (iv) evidence in form and substance satisfactory to the Trustee that the Bid and the APA has received all necessary authorization and approval from the Due Diligence Qualified Bidder's board of directors or any other parties to comply with the Due Diligence Qualified Bidder's corporate governance procedures (notwithstanding the foregoing, this requirement may be waived by the Trustee in its reasonable business judgment);
- (d) it is irrevocable until 45 days after the date of the Auction Date, or such later date as the Court may order;
- (e) it is not conditioned on the outcome of any unperformed due diligence and includes an acknowledgement and representation that the Due Diligence Qualified Bidder has had an opportunity to conduct any and all required due diligence prior to making its Bid, that it has relied solely on its own independent review, investigation and/or inspection of any documents and/or the Commercial Assets in making the Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Commercial Assets or the accuracy or completeness of any information provided in connection therewith;

- (f) it is not conditioned on any break-up fee, termination fee, expense reimbursement or other Bid protection provision ("**Termination Fee**");
- (g) it fully discloses the identity of each entity that will sponsor or participate in the Bid and the complete terms of any such sponsorship or participation, including all of the Due Diligence Qualified Bidder's principal advisors, subject, however, to the Due Diligence Qualified Bidder's right to assign the APA (further and notwithstanding the foregoing, this requirement may be waived by the Trustee in its reasonable business judgment); and
- (h) it contains any other information that may be reasonably requested by the Trustee in advance of that day which is no later than the Bid Submission Date, subject to any extension as contemplated herein.

27. All Due Diligence Qualified Bidders who submit Bids that are determined to be Qualified Bids (the "**Auction Qualified Bids**") will be notified in writing by the Trustee by no later than the Auction Notice Date. Such parties will be the "Auction Qualified Bidders". For greater certainty, the Stalking Horse Bidder (if any) is and is deemed to be an Auction Qualified Bidder for all purposes of these Bidding Procedures, and the SH Bid (if any) shall constitute an Auction Qualified Bid.

Step 8: The Auction

28. If there is a SH Bid and the Trustee concludes that there are no Qualified Bids, the Sales Process will terminate and the Commercial Assets will be sold to the SH Bidder pursuant to the SH APA and the SH Approval and Vesting Order.

29. Only if at least two Auction Qualified Bids are submitted in the Sale Process shall the Trustee conduct an auction for the Commercial Assets (the "**Auction**") at the offices of Clark Wilson LLP at 900, 885 W. Georgia Street, Vancouver, BC beginning at 10:00 a.m. on the Auction Date or at such later time or other place as the Trustee may advise (the "**Auction Location**").

30. The Auction shall be conducted in accordance with the following procedures:

- (a) At least two days' prior to the Auction Date, the Trustee will inform the Auction Qualified Bidders which Auction Qualified Bid the Trustee considers to be the highest offer for the Commercial Assets (the "**Starting Bid**"). Other than the purchase price, no changes to the APA selected by the Trustee as the best offer from the Auction Qualified Bids will be permitted.
- (b) Only the Trustee, the Auction Qualified Bidders and the advisors of each of the foregoing shall be entitled to attend the Auction, and each Auction

Qualified Bidder must have at least one individual representative with authority to bind such Auction Qualified Bidder present in person at the Auction.

- (c) The Auction Qualified Bidders will be placed in separate meeting rooms at the Auction Location.
- (d) All proceedings at the Auction shall be overseen and documented by the Trustee and its legal counsel.
- (e) The Auction will be conducted through a series of "rounds of bidding" (each a "**Round**"). In each Round:
 - (i) the Trustee will present the highest Auction Qualified Bid from the preceding Round (the "**Floor Bid**") to the Auction Qualified Bidders. In the first Round, the Starting Bid will be the Floor Bid;
 - (ii) the Auction Qualified Bidders will be given an opportunity within a set period of time to improve their Auction Qualified Bid such that the total consideration offered for the Commercial Assets exceeds the sum of (A) the total consideration offered in the Floor Bid, plus (B) \$50,000.00, plus (C) the amount of the Termination Fee in the SH Bid, if any (the "**Auction Minimum Bid Increment**") (each an "**Improved Bid**");
 - (iii) the Trustee will consider the Floor Bid and each Improved Bid to determine, in its reasonable business judgment, which is the highest offer for the Commercial Assets; and
- (f) The Rounds will continue until such time as no Improved Bids are received within the time limit set by the Trustee in its sole discretion, or until the Trustee determines, in its reasonable business judgment, that no Improved Bid is higher than the Floor Bid. The Floor Bid in the last Round of the Auction will be the "**Winning Bid**".
- (g) Improved Bids in each Round will be presented to the Trustee and will be fully disclosed to the other Auction Qualified Bidders so that they may submit an Improved Bid if they choose, within the time limit set by the Trustee in its sole discretion.
- (h) The Trustee may, in its sole discretion, amend the Auction Minimum Bid Increment for each Round and will disclose the new Auction Minimum Bid Increment to the Auction Qualified Bidders at the commencement of the Round.

- (i) The Trustee may introduce such other procedural rules as the Trustee considers to be fair and reasonable in the circumstances, provided that such rules as disclosed to the Auction Qualified Bidders are not inconsistent with the Bidding Procedures or the Bidding Procedures Order; and that no such rules may change the requirement that all Improved Bids shall be made and received in one room, within a defined period, on an open basis, and all other Auction Qualified Bidders (that have not failed to make an Improved Bid in a prior Round of bidding) shall be entitled to be present for all bidding with the understanding that the true identity of each Auction Qualified Bidder shall be fully disclosed to all other Auction Qualified Bidders and that all material terms of the then highest and/or best Improved Bid at the end of each Round of bidding will be fully disclosed to all other Auction Qualified Bidders.

31. If the Winning Bid is not the SH Bid, the Trustee or Purewal will return an application before the Court to for the Winning Bid Approval and Vesting Order by no later than 4:00 p.m. PST on the Winning Bid Approval Date.

Treatment of the Termination Fee

32. If a transaction is completed pursuant to the Winning Bid with a party other than the Stalking Horse Bidder, the termination fee in the SH APA (if any) shall be payable to the Stalking Horse Bidder in accordance with the terms of the SH APA. No other expense reimbursement will be payable to the Stalking Horse Bidder.

Failure to Complete a Transaction

33. If the transaction contemplated by the Winning Bid fails to close as a result of a breach by the prospective purchaser, its Deposit shall be absolutely forfeited to the Trustee as liquidated damages, without prejudice to the Trustee's additional rights and remedies against such prospective purchaser whether at law or in equity. In particular, the Trustee specifically reserves the right to seek all available damages from such party in addition to the retention of the Deposit.

Return of Deposits

34. The Deposit provided in connection with the Winning Bid will be retained by the Trustee until a transaction is completed pursuant to the Winning Bid. The Deposit provided in connection with all other Qualified Bids will be promptly returned after the Auction has concluded provided that they are not retained under the paragraph entitled "Failure to Complete a Transaction", above.

35. Notwithstanding anything contained in these Bidding Procedures, the Trustee may in its sole discretion declare that any one or more Due Diligence Qualified Bidder is not entitled to participate any further in the Sales Process and in such case the applicable Deposit will be returned by the Trustee.

Notice

36. All documents and correspondence to be delivered to a party in connection with these Bidding Procedures and the Sales Process shall be delivered by courier, fax or email:

To the Trustee at:

FTI Consulting Canada Inc., in its capacity as
Trustee under the proposal
Pacific Centre, 700 West Georgia Street
P.O. Box 10101
Vancouver, British Columbia
V7Y 1C7

Attention: Mr. Craig Munro
Email: craig.munro@fticonsulting.com

Modifications

37. The Trustee may (a) determine, in its reasonable business judgment, which Qualified Bid, if any, is the highest or otherwise best offer, or (b) reject any Qualified Bid, that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of these Bidding Procedures or (iii) contrary to the best interests of Purewal, their creditors and other parties in interest.

Other

38. In the event that the Trustee and any party disagree as to the interpretation or application of these Bidding Procedures, the Court will have jurisdiction to hear and resolve such dispute. At any time during these Bidding Procedures, the Trustee or Purewal may apply to the Court for advice and directions with respect to the discharge of its powers and duties hereunder.

39. These Bidding Procedures do not and will not be interpreted to create any contractual or other legal relationship between the Trustee and any other participant in the Sales Process, except as specifically set forth in a definitive agreement that may be signed with the Trustee.

40. Without limiting the provisions of the first paragraph of this section entitled "Other", in the event any Due Diligence Qualified Bidder objects or takes issue with any act or decision of the Trustee under or pursuant to these Bidding Procedures then (i) such person may serve upon the Trustee and the Trustee's legal counsel, within three Business Days following such act or decision a written notice detailing the

objection or issue (the "**Objection Notice**"), and (ii) the Trustee shall then promptly apply to the Court for directions in respect of (A) whether such person has the standing to have given the Objection Notice and (B) as to the merits of the objection set out in the Objection Notice and the Court shall then grant any relief that it determines to be appropriate to confirm, reverse or modify the act or decision of the Trustee. For further certainty, in the event such an application occurs, the time limits and deadlines set out in these Bidding Procedures shall be extended as may be ordered by this Court upon request of the Trustee.