

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.**

**FOURTH REPORT OF THE PROPOSAL TRUSTEE AND
FIRST REPORT OF THE PROPOSED MONITOR**

OCTOBER 9, 2018

INTRODUCTION

1. This report (“**Fourth 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**”) by Purewal Blueberry Farms Ltd. (“**Purewal**” or the “**Company**”) executed 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 time to file a proposal under the NOI (and corresponding stay of proceedings) from May 30, 2018 to July 13, 2018.
4. On May 30, 2018, an Order of this Court was granted providing the following relief:
- (a) An extension of the time for the Company to file a proposal 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 \$1,000,000 (the "**DIP Loan**") 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 (the "**DIP Lender's Charge**").
5. On June 27, 2018 the Proposal Trustee filed its second report (the "**Second Report**") which provided 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 time to file a proposal under the NOI (and corresponding stay of proceedings) from July 13, 2018 to August 27, 2018.

6. On July 5, 2018, three orders were granted by this Court which provided the following relief:
 - (a) An extension of the time for the Company to file a proposal from July 13, 2018 to August 27, 2018;
 - (b) The approval of the Sale Process with respect to the blueberry processing plant owned by the Company; and
 - (c) The approval of the Claims Process.

7. On August 20, 2018 the Proposal Trustee filed its third report (the “**Third Report**”) which provided the Court with an update on the following:
 - (a) The activities of the Company since the filing of the Second Report;
 - (b) An update on the status of the Sale Process;
 - (c) An update on the status of the Claims Process; and
 - (d) The Company’s request for an extension of time to file a proposal under the NOI (and corresponding stay of proceedings) from August 27, 2018 to October 11, 2018.

8. On August 24, 2018 an order of this Court was granted providing an extension of the time for the Company to file a proposal from August 27, 2018 to October 11, 2018.

9. The purpose of the Fourth Report is to provide the Court with an update on the following:
 - (a) The activities of the Company since the filing of the Third Report;
 - (b) An update on the status of the Sale Process;
 - (c) An update on the status of the Claims Process;

- (d) The Company's request to convert these proceedings into proceedings pursuant to the *Companies' Creditors Arrangement Act* (the "CCAA"); and
- (e) The Company's request to increase the DIP Lender's Charge from \$500,000 to \$1,000,000.

TERMS OF REFERENCE

- 10. 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**").
- 11. 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.
- 12. 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.
- 13. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

UPDATE ON THE COMPANY'S ACTIVITIES

14. Subsequent to the Third Report of the Proposal Trustee, an additional tranche of \$245,000 was advanced to the Company by the DIP Lender, increasing the total advances under the DIP Loan to \$445,000. The funds were paid by the DIP Lender to the Company's legal counsel, which then issued payments to the Company's suppliers based on the approval of management. The funds were disbursed by the Company's legal counsel as its accounting staff were no longer employed by the Company and the accounting records and functions were in the process of being re-established (as discussed below).
15. A summary of the Company's receipts and disbursements for the period of April 30, 2018 to October 3, 2018 is as follows:

Summary of Receipts and Disbursements		
Receipts		
Advances pursuant to DIP Loan		445,000.00
Disbursements		
Debtor's legal counsel fees and disbursements		127,246.75
Proposal Trustee fees and disbursements		128,718.06
Proposal Trustee's legal counsel fees and disbursements		5,137.44
DIP Lender fee		17,500.00
Insurance		56,917.50
Inet Consulting		2,790.55
Security		3,815.89
BC Hydro		49,191.23
Contractor fees and expenses		53,682.58
Total disbursements		445,000.00
Excess of receipts over disbursements		\$ -

16. The Company has ceased its operations at its processing plant, and does not otherwise have ongoing business operations at this point. The Company has engaged contractors to provide it assistance updating its books and records and preparing outstanding tax filings (discussed below), who continue to work from the office space on site.
17. The Company's processing facility has temporary accommodations for housing farm workers which continues to be utilized for this purpose by a related company. That company has been making payments to BC Hydro for its estimated electrical consumption for housing the farm workers. Accordingly, the ongoing payments to BC Hydro are net of those expenses. The BC Hydro disbursement listed above also includes a security deposit of \$11,000, which was required by BC Hydro to continue service and which is based on the average monthly usage for the plant now that operations have ceased.
18. Given the lack of operations on the site, the Company retained the services of a security company to monitor the processing plant site during daytime hours and lock the access gate overnight.
19. Prior to the commencement of these proceedings, the Company had not paid any of its service providers for IT support or accounting software due to a lack of working capital. Accordingly, payments have since been made so that the contractors retained by the Company could access the electronic files to update the Company's books and records. None of these payments related to pre-filing obligations of the Company.

20. Further, the premiums for the Company's insurance policies had not been paid at the commencement of these proceedings. The property insurance for the processing plant and the other assets have since been paid to ensure sufficient insurance coverage for the assets. Some of the assets covered under the property coverage have since been sold, and the Company is presently reviewing the policies so that the coverage is appropriately revised.
21. As the Company's sole source of funding is from the DIP Loan, and the principal amount advanced is now nearly equal to the DIP Lender's Charge, the Company is seeking the Court's approval of an increased DIP Lender's Charge to provide the Company with the resources required to conclude the Sale Process and Claims Process as discussed in subsequent sections of this report. The DIP Lender has advised that it is not prepared to advance further funds under the DIP Loan without an increase in the DIP Lender's Charge. With the increase of the DIP Lender's Charge (and the corresponding increase in availability under the DIP Loan), the Company is expected to fund the continuation of its restructuring through to the conclusion of the Sale Process.

UPDATE ON THE COMPANY'S SALE PROCESS

22. In its Third Report, the Proposal Trustee summarized the progress of the Sale Process and the activities performed to that date.
23. As noted in the Third Report, due to delays in providing interested parties with a template form of a stalking horse asset purchase agreement, the deadline for submission of bids was extended from July 27, 2018 to August 15, 2018.

Stalking Horse Bid

24. On August 15, 2018, one stalking horse bid in a modified form of the stalking horse asset purchase agreement (the “**SH APA**”) was submitted by the DIP Lender (in that capacity, the “**Stalking Horse Bidder**”) with the purchase price to be satisfied by credit against its existing secured debt (including the DIP Loan), and the balance to be paid in cash.
25. In the subsequent weeks, negotiations with respect to the SH APA occurred among the Company, the Stalking Horse Bidder, their respective counsel, and the Proposal Trustee.
26. Despite not submitting a stalking horse asset purchase agreement, there are approximately 7 other interested parties who continue to express interest in the Company’s assets. The other interested parties were advised of the existence of the SH APA by email and telephone conversations with the Proposal Trustee and/or the Company’s legal counsel. The other interested parties were further informed that, if the SH APA was approved by the Court, the timeline for the original process would be revised to allow the other interested parties an opportunity to consider the SH APA and decide whether they wished to pursue the opportunity further and participate in an auction process.
27. The negotiations with the Stalking Horse Bidder concluded with a signed SH APA that was considered acceptable by the Company. A copy of the signed SH APA is attached as Appendix A.
28. The details of the SH APA can be summarized as follows:
 - (a) The purchase price for the processing plant, including the land, building and equipment, is \$8,000,000;

- (b) A deposit in the amount of \$207,177.63 is to be provided by the Stalking Horse Bidder (the “**Deposit**”) (discussed below);
 - (c) The debt by the Company to the Stalking Horse Bidder in its capacity as DIP Lender and as senior secured lender will be applied as a credit towards the purchase price with the balance to be paid in cash;
 - (d) In the event the Stalking Horse Bidder is not the successful purchaser, it will be entitled to a termination fee in the amount of \$275,000 (the “**Termination Fee**”); and
 - (e) The offer is subject to the terms of the bidding procedures which were outlined in the Second Report of the Proposal Trustee (with modifications due to the time delays).
29. If the relief sought by the Company is granted, an independent security review will need to be completed by the Proposal Trustee (in its continued capacity as Monitor), to confirm the validity and perfection of the Stalking Horse Bidder’s security.

Conditions Precedent

30. The SH APA is subject to two material conditions precedent:
- (a) First, the Stalking Horse Bidder must be satisfied with a survey of the real property in its sole discretion, which must have been completed by October 7, 2018 (the “**Purchaser’s Condition**”). The Purchaser’s Condition has been satisfied; and
 - (b) The Court must have granted an approval and vesting order in an acceptable form not later than November 30, 2018 (the “**Mutual Condition**”).

Deposit

31. On closing of the SH APA transaction, the Deposit is to be credited against the purchase price. If the Purchaser's Condition and the Mutual Condition are satisfied and the Stalking Horse Bidder fails to close, the Deposit is forfeited in full and final satisfaction of any claims the Company has against the Stalking Horse Bidder for failing to close. If the Purchaser's Condition and the Mutual Condition are met and the Company fails to close, or if either the Purchaser's Condition or the Mutual Condition are not satisfied, the Deposit is to be returned to the Stalking Horse Bidder
32. The Proposal Trustee was notified by the City of Pitt Meadows (the "City") that the Company was delinquent in the payment of property taxes owing on the processing plant property. The City advised that, if the delinquent taxes were not paid prior to September 24, 2018, the property would be sold at Tax Sale.
33. The Proposal Trustee advised the City of the stay of proceedings pursuant to these proceedings, however the City indicated that there was no discretion in its by-laws and without a Court Order to cease the action, they would be proceeding with the Tax Sale.
34. The Proposal Trustee and the Company's legal counsel discussed the matter with the Company and concluded that a Tax Sale would add additional complexity and uncertainty to the Sale Process and the Company determined that it did not wish to incur the legal expense to seek a Court Order to stay the City's action.

35. As a result, the Company's legal counsel and the Proposal Trustee enquired if the Stalking Horse Bidder would be prepared to pay the delinquent taxes to the City as a protective disbursement secured by the Stalking Horse Bidder's security as DIP Lender and first mortgagee. In the event the SH APA is approved by the Court, the payment would be credited towards the Deposit. If the Stalking Horse Bidder is not the successful purchaser of the Company's assets, this amount would either increase the secured debt owing by the Company to the Stalking Horse Bidder or be returned to the Stalking Horse Bidder.
36. The Stalking Horse Bidder agreed to the above and paid \$157,711.63 to the City in satisfaction of the delinquent property taxes. The balance of the deposit, being an additional \$50,000, is to be remitted by the Stalking Horse Bidder to the Company's legal counsel within three days of the approval of the SH APA.

Termination Fee

37. The Termination Fee is meant to compensate the Stalking Horse Bidder for its efforts in negotiating the SH APA, performing due diligence, and tying up its capital for a prolonged period in anticipation of closing the SH APA knowing that its offer will actively be 'shopped' by the Company to achieve a better offer.
38. The Proposal Trustee as a firm has tracked the termination fees approved by Courts across Canada with respect to 23 stalking horse transactions of various deal sizes. The average percentage of the termination fee compared to the deal size was 5.7% with the median at 3.5%.

39. The Termination Fee represents approximately 3.4% of the purchase price under the SH APA, and accordingly, the Proposal Trustee believes that the Termination Fee is appropriate and consistent with other termination fees in similar stalking horse scenarios. The Proposal Trustee is aware that the Stalking Horse Bidder has conducted confirmatory due diligence in relation to the SH APA, including the requisition of a site survey.
40. The Proposal Trustee believes that the Sale Process may garner offers in excess of the purchase price set out in the SH APA, including as suggested by the appraisal obtained by the Company in 2011. While it is impossible to forecast the ultimate result of the Sale Process, the Proposal Trustee does not believe the Termination Fee is large enough to be a deterrent to interested parties wishing to participate in an auction process.
41. The Proposal Trustee is of the view that the SH APA should be approved by this Honourable Court, taking into account the following factors:
- (a) The purchase price exceeds the assessed value of \$6.3 million according to the July 31, 2017 BC Assessment records for the property;
 - (b) The property has been widely known to be for sale for over two years and was privately marketed by Gurdawar Purewal with no formal offers received during that time;
 - (c) The pool of buyers for this type of property is limited and is being canvased in the Sale Process; and
 - (d) The SH APA provides certainty for the Sale Process and provides for an opportunity for a higher purchase price to be obtained through an auction process.

42. Provided that the SH APA is approved by the Court, the Proposal Trustee would recommend revising the dates of the Bidding Procedures as follows:

Original Date	Proposed New date	
Aug 10, 2018	Oct 11, 2018	Application to Court for approval of SH APA.
Aug 15, 2018	Oct 12, 2018	Copy of SH APA provided by Proposal Trustee to all Qualified Due Diligence Bidders.
Sept 5, 2018	Nov 9, 2018	Deadline for the submission of offers in revised form of the SH APA, showing any revisions as a blackline.
Sept 10, 2018	Nov 14, 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	Nov 21, 2018	Auction among Qualified Bidders participate in an Auction to determine Winning Bid.

October 10, 2018	Dec 5, 2018	Application to Court for approval of Winning Bid.
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UPDATE ON THE CLAIMS PROCESS

43. To the date of this report, the Proposal Trustee has received 59 claims against the Company, totaling approximately \$16.3 million. This consists of:
- (a) one deemed trust claim from the Canada Revenue Agency (“**CRA**”) in the amount of \$3.5 million;
 - (b) three secured claims totaling \$1.1 million; and
 - (c) the balance of the claims being unsecured.
44. The total noted above does not include the debt due to the senior secured lender and secured against the Company’s real property in the approximate amount of \$3.8 million, as they have not submitted a claim in the Claims Process to date.
45. The Proposal Trustee continues to review the claims submitted and has identified a number of questions and potential issues that it continues to investigate.
46. One secured claim, in the amount of \$660,000, appears to have a security interest in assets not owned by the Company, which the Proposal Trustee continues to investigate.

47. In addition, with the funding provided from the DIP Loan, the Company was able to retain the services of its former accounting staff to update its accounting records, including the preparation and filing of the overdue T4 returns for 2016 and 2017. It is as a result of not filing these returns when due that the above noted CRA assessment against the Company was issued.
48. The former accounting staff prepared a reconciliation of the amounts due by Purewal to CRA for unremitted payroll deductions. According to the Company's reconciliation the amount due by Purewal is approximately \$360,000.
49. In addition, the former accounting staff advise that a Company related to Purewal, 0740656 B.C. Ltd. ("074") was used to hire the labour for the farming operations and that 074 has a debt due to CRA relating to unremitted payroll deductions in the approximate amount of \$1.8 million.
50. The T4 returns for 074 were also not filed for 2016 or 2017 but have now been prepared and filed.
51. The Proposal Trustee notes the significant variance and understands that the former accounting staff has reached out to CRA in an attempt to resolve the discrepancy. Accordingly, the amount of CRA's claim may be materially altered and requires further investigation.
52. The Proposal Trustee has provided the schedule of claims filed in the Claims Process to the former accounting staff to review and comment on. As indicated previously, the books and records were not current as at the date of filing the NOI, and the completion of those books and records and the claims review continues.

THE COMPANY'S REQUEST TO CONVERT TO CCAA PROCEEDINGS

Conversion of Proceedings

53. Pursuant to section 50.4(9) of the BIA, the Court may grant an extension to file a proposal to a maximum of six months from the filing of a notice of intention to make a proposal.
54. Given that these proceedings were commenced on April 30, 2018, the maximum extension the Court could grant would expire on October 30, 2018 and pursuant to the BIA, the Company would be deemed to have made an assignment into bankruptcy on that date.
55. As indicated above, the Sale Process will not be concluded until after this date, and as a result the Company will likely be unable to file a proposal on or before such date.
56. Therefore, in consultation with the Proposal Trustee and with the consent of the DIP Lender, the Company is seeking to continue these proceedings under the CCAA and is seeking an initial order under the CCAA in the form served (the "**Initial Order**").
57. If the Court was to grant the Initial Order it will provide the additional time necessary for the Proposal Trustee (continued as Monitor) to conclude the Sale Process.
58. Continuation of proposal proceedings under the CCAA is governed by section 11.6(a) of the CCAA, which provides:

Notwithstanding the *Bankruptcy and Insolvency Act*, proceedings commenced under Part III of the *Bankruptcy and Insolvency Act* may be taken up and continued under this Act only if a proposal within the meaning of the *Bankruptcy and Insolvency Act* has not been filed under that Part.

59. Purewal has not filed a proposal in these proceedings and is accordingly eligible to seek continuation of the proceedings under the CCAA.
60. The Proposal Trustee believes that continuation of these proceedings under the CCAA is appropriate in the circumstances because:
 - (a) It will allow the continuation of the Sale Process, which the Proposal Trustee believes will result in a proper canvassing of the market to ensure that the Company's assets are sold for fair market value, to the benefit of the Company's creditors;
 - (b) The completion of the Sale Process within a debtor-in-possession process, and a sale pursuant to the SH APA would, in the Proposal Trustee's opinion, result in a superior recovery than a liquidation in a bankruptcy proceeding, where it is uncertain if the Stalking Horse Bidder or any other party would be willing to purchase the assets for the same value; and
 - (c) The Company's primary secured creditor (and DIP Lender) supports the continuation.
61. As discussed below, should the relief sought by the Company be granted, it will have sufficient liquidity from its DIP Loan to continue with the CCAA Proceedings.

62. FTI has consented to act as Monitor in the CCAA proceedings, and transition from Proposal Trustee. FTI has been acting as the Proposal Trustee since the commencement of these proceedings. As described in the four reports filed by the Proposal Trustee to date, FTI has become very familiar with the Company's operations and has worked closely with management. As the role of Monitor is very similar to that of Proposal Trustee, it is the most efficient use of resources for FTI to be appointed as Monitor to continue in its role as the court-officer monitoring and assisting the Company in its restructuring efforts.

Notices

63. The terms of the Initial Order request that the Monitor be exempted from complying with the notice and publication requirements under section 23(1)(a) of the CCAA. Known creditors have already received notice of the Company's proceedings under the BIA, and newspaper advertisements were previously posted informing creditors of the Claims Process. The documents filed in connection with these proceedings have been posted on the Proposal Trustee's website.
64. Accordingly, it is the Proposal Trustee's view that the additional expense of delivering duplicative notices to these creditors or placing notices in local newspapers would yield little benefit to creditors and would be an unnecessary drain on the Company's resources.

Additional Petitioners

65. The Proposal Trustee has also been recently advised by the Company that it holds legal title to the land on which the processing plant is situate, as a bare trustee for three numbered companies, each owned by one of the founding brothers.
66. The details of the three numbered companies are as follows:

- (a) 0726365 B.C. Ltd. (“**6365**”) which is 100% owned by Charan Singh Purewal;
 - (b) 0726368 B.C. Ltd. (“**6368**”) which is 100% owned by Gurjit Singh Purewal;
and
 - (c) 0726357 B.C. Ltd. (“**6357**”) which is 100% owned by Malkiat Singh Purewal.
67. Each of 6365, 6368 and 6357 (collectively the “**Guarantors**”) have guaranteed the secured debt held by the Stalking Horse Bidder.
68. Accordingly, each of the Guarantors is seeking to be brought into the CCAA proceedings as discussed previously.
69. The Proposal Trustee has not yet reviewed the details of these bare trust claims, and its impact on these proceedings. However, given the ownership structure of the Company’s assets as described, the Proposal Trustee believes it is appropriate to include the Guarantors in the CCAA proceeding to ensure that that entire economic group is subject to court supervision. If continued as Monitor, the Proposal Trustee will investigate these claims and report further on them, and their implication to stakeholders, to the Court.
70. The Proposal Trustee has also been recently advised that the leasehold interest in 165 acres of land in Pitt Meadows is held by 074, which is related to Purewal.
71. 074 is the tenant under the lease. 074 is wholly owned by the Guarantors. As noted above, 074 was used to hire the labour for the farming operations and 074 has a debt due to CRA relating to unremitted payroll deductions in the approximate amount of \$1.8 million.

72. The Proposal Trustee and the Company's legal counsel are currently reviewing the documentation provided by the Company regarding its group structure.
73. The Proposal Trustee wishes to bring this to the Court's attention and advises that it may be necessary for additional companies to seek the assistance of this Court at a subsequent hearing to be included in the CCAA proceedings.

THE COMPANY'S REQUEST TO INCREASE THE DIP LENDER'S CHARGE

74. On May 30, 2018, the Company obtained an order authorizing it to enter into an agreement with the DIP Lender for a loan of up to \$1 million and provided the DIP Lender with a super-priority charge of up to \$500,000 in principal against the Company's assets.
75. As noted previously, the Company has now drawn \$445,000 pursuant to the DIP Loan. Given that the Company is seeking an extension of the current stay of proceedings to finalize the Sale Process (discussed in the subsequent section of this report), the Company is seeking the Court's approval to increase the DIP Lender's charge to \$1 million.
76. The increased funding is necessary to allow the Company the time to conclude the Sale Process, which all parties believe will provide a recovery to the secured creditors and provide the Company with an opportunity to formulate a plan to its unsecured creditors.
77. If the SH APA is approved by the Court, the funds available after payment of the outstanding property taxes would be approximately \$7.7 million.
78. The secured debt held by the Stalking Horse Bidder plus the advances provided pursuant to the DIP Loan approximate \$5.0 million (assuming the DIP Lender's Charge is increased and the DIP Loan is fully advanced).

79. As noted previously, one secured claim appears to hold security over assets not owned by Purewal and the other secured claims total approximately \$416,000.
80. The secured claims of CRA are for a mortgage registered on the processing plant property for approximately \$765,000 and a deemed trust balance claim between the Company's calculation of \$360,000 and CRA's assessment of \$3.4 million.
81. If the actual CRA debt is closer to the Company's calculation, then there would appear to be approximately \$1.2 million of residual funds to fund a plan after payment of the secured and priority claims.
82. The Proposal Trustee believes it is critical to conclude the Sale Process so that:
- (a) The assets of the Company can be monetised, and the expenses of maintaining them ended; and
 - (b) funds can be used to pay the DIP Loan and proven secured debts, which is continuing to accrue interest at reasonably high rates.
83. The costs to preserve the assets and monetise them in a manner that maximizes the return to stakeholders would likely be similar in any similar realisation or restructuring proceeding. Additionally, the SH APA establishes a floor value for the asset which may increase if other interested parties pursue the opportunity through the auction process.
84. Accordingly, the Proposal Trustee supports the Company's request to increase the DIP Lender's charge from \$500,000 to \$1 million so that the Sale Process can be completed and the claims determined.

All of which is respectfully submitted this 9th day of October, 2018.

FTI Consulting Canada Inc.,
in its capacity as Proposal Trustee under a
notice of intention to make a proposal filed by
Purewal Blueberry Farms Ltd.

Name: _____
Title: Managing Director,
FTI Consulting Canada Inc.

APPENDIX A

OFFER TO PURCHASE AND AGREEMENT OF PURCHASE AND SALE

THIS OFFER is made on the 4 day of October, 2018,

BY:

0801226 B.C. LTD.
2233 West 35th Avenue
Vancouver, British Columbia, V6M 1J4

(the "Purchaser")

TO:

PUREWAL BLUEBERRY FARMS LTD.

(the "Vendor")

AS REPRESENTED BY FTI CONSULTING CANADA INC., AS TRUSTEE
UNDER THE PROPOSAL PROCEEDINGS OF PUREWAL BLUEBERRY
FARMS LTD. AND NOT IN ITS PERSONAL OR ANY OTHER CAPACITY

Suite 1502-701 West Georgia St.
Vancouver, British Columbia V7Y 1C6

WITNESSES THAT WHEREAS:

- A. Terms utilized in these Recitals and defined in this Agreement will, for all purposes of this Agreement, have the meanings respectively ascribed thereto in Section 3.1 or as otherwise defined herein;
- B. The Vendor is the registered owner of the Property; and
- C. The Purchaser is prepared to purchase the Property from the Vendor, and the Vendor is prepared to sell the Property to the Purchaser, upon the terms and conditions set out in this Agreement,

NOW THEREFORE, in consideration of the covenants and agreements herein set forth, the Vendor and the Purchaser hereby covenant, acknowledge and agree as follows:

ARTICLE 1 – SUMMARY OF BASIC TERMS

1.1 Summary of Basic Terms

The basic terms of this Agreement are as follows:

- | | | |
|-----|--------------------------------|---|
| (a) | Address of Purchaser: | 2233 West 35 th , Vancouver, British Columbia, V6M 1J4
Attention: Kulwant Chauhan
Facsimile: n/a |
| (b) | Address of Vendor: | Suite 15-131, 555 Burrard Street
Vancouver, British Columbia V7X 1M8
Attention: Mr. Craig Munro
Facsimile: n/a |
| (c) | Municipal Address of Property: | 13753 Hale Road,
Pitt Meadows, British Columbia |
| (d) | Legal Description of Lands: | PID: 011-105-526
Lot "A" Section 34 Township 9 New Westminster District Plan 7231 |
| (e) | Purchase Price: | \$ 8,000,000.00 |
| (f) | Deposit: | \$ 207,177.63 |

The foregoing basic terms are approved by the parties. Any reference in this Agreement to a basic term will be construed to include the provision set forth above as well as any additional terms and conditions of this Agreement where the basic term is more fully set forth. In the event of a conflict between any of the foregoing basic terms and the terms of the Agreement set forth below, the terms of the Agreement set forth below shall be determinative.

ARTICLE 2– OFFER AND ACCEPTANCE

2.1 Offer

The Purchaser hereby offers to purchase (the "Offer") from the Vendor the Property, free and clear of all liens, charges, encumbrances and title notations, save and except the Permitted Encumbrances, upon the terms and conditions contained herein.

2.2 Acceptance

The acceptance of this Offer by the Vendor will convert this Offer into a binding agreement (the "Agreement") for the purchase and sale of the Property on the terms and conditions contained herein.

ARTICLE 3 – INTERPRETATION

3.1 Definitions

In this Agreement, each of following terms will have the meaning respectively set out below unless the context or subject matter is inconsistent with that meaning:

- (a) **“Agreement”** means this Offer to Purchase and Agreement of Purchase and Sale, and all schedules attached hereto, as may be amended in writing from time to time with the agreement of both parties;
- (b) **“Alternative Transaction”** means a transaction pursuant to a Winning Bid with a party other than the Purchaser in accordance with the Bidding Procedures;
- (c) **“Assumed Service Contracts”** means those Service Contracts, to the extent they are assignable without cost by the Vendor to the Purchaser, which the Purchaser has elected, by the delivery of written notice to the Vendor delivered within 2 Business Days after the acceptance of the Purchaser’s offer herein contained, to assume;
- (d) **“Auction”** has the meaning set forth in Section 7.4;
- (e) **“Auction Date”** has the meaning given to it in the Bidding Procedures;
- (f) **“Auction Qualified Bid”** has the meaning given to it in the Bidding Procedures;
- (g) **“BIA Proceedings”** means the proceedings pursuant to which the Vendor has filed for and was granted protection under the *Bankruptcy and Insolvency Act* (Canada).
- (h) **“Bid”** has the meaning given to it in the Bidding Procedures;
- (i) **“Bidding Procedures”** means the sale solicitation and bidding procedures attached as Schedule A;
- (j) **“Bidding Procedures Order”** means the order of the Court granted on July 5, 2018, approving the implementation without amendment of the Bidding Procedures;
- (k) **“Bid Submission Date”** has the meaning given to it in the Bidding Procedures;
- (l) **“Business Day”** means any day other than a Saturday, Sunday or statutory holiday in the Province of British Columbia;
- (m) **“Closing”** means the closing of the purchase and sale of the Property in accordance with the provisions of this Agreement;

- (n) **"Closing Certificate"** means a certificate to be filed by the Proposal Trustee with the Court, if appropriate, confirming that the Sale Process has concluded and the Vesting Order is effective as of that date;
- (o) **"Closing Date"** means a date no later than 10 Business Days following the filing date of the Closing Certificate, or at such other date as may be agreed to in writing by the parties;
- (p) **"Credit Bid"** means the amounts owing by the Vendor to Blueberry Holdings GP Ltd. under the First Mortgage which amounts may be applied against the Purchase Price at the sole option of the Purchaser subject to the agreement of Blueberry Holdings GP Ltd.
- (q) **"Court"** means the Supreme Court of British Columbia;
- (r) **"Deposit"** means the sum equal to \$207,177.63 as set forth in Subsection 1.1(f) to be paid by the Purchaser to the Vendor pursuant to Subsection 4.2(a);
- (s) **"Due Diligence Qualified Bidder"** has the meaning given to it in the Bidding Procedures;
- (t) **"Encumbrances"** means all mortgages, pledges, charges, liens, construction liens, debentures, hypothecs, trust deeds, assignments by way of security, security interests, options, equitable interests or beneficial interests, conditional sales contracts or other title retention agreements or similar interests or instruments charging, or creating a security interest in, or against title to, the Property or any part thereof or interest therein, including leases, easements, servitudes, rights of way, restrictions, any subdivision, site plan, development or other agreements with a Governmental Authority affecting the Lands, executions or other charges or encumbrances (including notices or other registrations in respect of any of the foregoing) which encumber title to the Property or any part thereof or interest therein.
- (u) **"Environmental Laws"** means any law, bylaw, order, ordinance, ruling, regulation or directive of any applicable federal, provincial or municipal government or governmental department, agency or regulatory authority or any court of competent jurisdiction relating to environmental matters and/or regulating the import, manufacture, storage, distribution, labelling, sale, use, handling, transport or disposal of Hazardous Materials, as are in force as of the Closing Date;
- (v) **"Environmental Condition"** means:
 - (i) the presence of any Hazardous Materials in, on, at or under the Property or any building, improvement or structure on the Property;

- (ii) the release of any Hazardous Materials to, at or from the Property or any building, improvement or structure on the Property;
 - (iii) the presence of any Hazardous Materials in, on, at or under any land, water, groundwater, sediments or building, improvement or structure other than the Property where such Hazardous Materials originated from, or otherwise resulted from any operation or activity on, the Property; and
 - (iv) any damage, contamination, pollution, impairment, alteration, destruction of or injury to, human health or safety or to the environment resulting from any activity, operation, act or omission of any kind whatsoever on, at or relating to the Property, including damage, contamination, pollution, impairment, alteration or destruction of or injury to fish, fish habitat, wildlife, biota, crops, livestock, lands, soil, air (including indoor air), water, sediments, groundwater and drinking water supplies at, on or of the environment;
- (w) **“Execution Date”** means the date upon which the Vendor accepts the Purchaser’s offer herein contained by delivering a fully executed copy of this Agreement to the Purchaser;
- (x) **“First Mortgage”** means the mortgage held by Blueberry Holdings (GP) Ltd. registered against the following properties:
- (i) PID:008-546-568
Lot 13, Except Part in Plan LMP17457, Section 8 Township 40 NWD Plan 75440
 - (ii) PID:004-654-161
Lot 6, Section 27 Township 9 New Westminster District Plan 3710
 - (iii) PID:011-105-526
Lot “A” Section 34 Township 9 New Westminster District Plan 7231
- (collectively, the **“First Mortgage Lands”**)
- (y) **“Goods”** means all assets, undertakings and personal property, other than the Lands and the Rights, of the Vendor, that are located at, placed or installed upon the Lands, including, to the extent owned by the Vendor, the items listed in Part 1 of Schedule C, but excluding any assets, undertakings or personal property that are subject to a valid purchase money security interest, as defined by the PPSA.
- (z) **“Governmental Authority”** means any government, regulatory authority, government department, agency, utility, commission, board, tribunal, court or other rule making entity having jurisdiction on behalf of any nation, province or state or other subdivision thereof or any municipality, district or other

subdivision thereof, or having jurisdiction over the relevant circumstances, or any Person acting under the authority of any of the foregoing.

- (aa) **"Hazardous Materials"** means any underground storage tanks, any explosive or radioactive materials, pollutants, contaminants, hazardous, corrosive or toxic substances, special waste or waste of any kind, including, without limitation, compounds known as chlorobiphenyls, petroleum and any other substance or material the storage, manufacture, disposal, treatment, generation, use, transportation, remediation or release into the environment of which is prohibited, controlled, regulated or licensed under Environmental Laws;
- (bb) **"Land Title Office"** means the New Westminster Land Title Office;
- (cc) **"Lands"** means real property located at 13753 Hale Road, Pitt Meadows, British Columbia, and legally described as set out in Part 1 of Schedule B;
- (dd) **"Mutual Condition"** has the meaning assigned to it in Section 7.1 of this Agreement;
- (ee) **"Notification Date"** has the meaning given to it in the Bidding Procedures;
- (ff) **"Permitted Encumbrances"** means:
 - (i) subsisting conditions, provisos, restrictions, exceptions and reservations, including royalties, contained in the original or any other Crown grant or disposition or implied by statute in respect of or affecting the Property;

the legal notations, charges and encumbrances registered against the title to the Lands as of the Execution Date, save and except those legal notations, charges and encumbrances set out in Part 2 of Schedule B and save and except any leases or tenancies in respect of the Property in existence as of the Closing Date; and
 - (ii) any other charges or encumbrances agreed to by the Purchaser;
- (gg) **"Person"** means an individual, partnership (limited or general), corporation, trust, unincorporated organization, government or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.
- (hh) **"PPSA"** means *Personal Property Security Act*, R.S.B.C. 1996, c. 359, as amended;
- (ii) **"Property"** means the Lands, the Rights and the Goods;
- (jj) **"Proposal Trustee"** means FTI Consulting Canada Inc., in its capacity as proposal trustee under the BIA Proceedings.

- (kk) **"Purchase Price"** means the sum set forth in Subsection 1.1(e) to be paid by the Purchaser to the Vendor in consideration of the purchase and sale of the Property in accordance with this Agreement;
- (ll) **"Purchaser's Condition"** has the meaning assigned to it in Section 7.1 of this Agreement;
- (mm) **"Purchaser's Condition Removal Date"** has the meaning assigned to it in Section 7.1 of this Agreement;
- (nn) **"Purchaser's Solicitors"** means Gowling WLG (Canada) LLP of 550-2300 Burrard Street, Vancouver, British Columbia, V6C 2B5;
- (oo) **"Qualified Bid"** has the meaning given to it in the Bidding Procedures;
- (pp) **"Rights"** means all rights, obligations and/or interest of the Vendor in respect of all Service Contracts., as listed in Schedule D;
- (qq) **"Sale Process"** has the meaning given to it in the Bidding Procedures;
- (rr) **"Service Contracts"** means all contracts pertaining to the Lands entered into by or binding upon the Vendor, together with all modifications, extensions, renewals and assignments thereof, relating to the management, servicing, maintenance, repair, cleaning and advertising or the provision of any other goods or services in respect of the Lands or the furnishing of supplies or services thereto, including contracts for leasing equipment or chattels;
- (ss) **"Termination Fee"** means an amount in cash equal to \$275,000 plus all applicable GST or PST;
- (tt) **"Transfer"** means the Form 17 in the form prescribed by the *Land Title Act* (British Columbia), attaching the Vesting Order, with respect to the transfer of the Property from the Vendor to the Purchaser;
- (uu) **"Vesting Order"** means an order (or separate orders) of the Court, substantially in the British Columbia model order form, conditional on the filing of the Closing Certificate upon the Sale Process terminating in accordance with the Bidding Procedures, transferring and conveying registered and beneficial title and ownership to the Property to the Purchaser, or another party under the Alternative Transaction, if applicable, free and clear of all encumbrances except for Permitted Encumbrances;
- (vv) **"Vendor"** includes any party owning beneficial interest in the Lands, the Rights and the Goods.
- (ww) **"Vendor' Solicitors"** means Clark Wilson LLP of 900-885 West Georgia Street, Vancouver, British Columbia, V6C 3H1; and

(xx) "Winning Bid" has the meaning given to it in the Bidding Procedures.

3.2 Interpretation

In this Agreement:

- (a) words importing the singular number include the plural and *vice versa* and words importing the neutral gender include the masculine and feminine genders;
- (b) the division of this Agreement into Articles, Sections and Subsections and the insertion of headings are for convenience only and will not affect the construction or interpretation of this Agreement;
- (c) references to any Article, Section, Subsection or Schedule will, unless the context otherwise requires, mean that Article, Section, Subsection or Schedule of this Agreement;
- (d) the captions contained in this Agreement are for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement; and
- (e) all payments to be made will be deemed to be payments in lawful currency of Canada.

ARTICLE 4 – PURCHASE PRICE

4.1 Agreement of Purchase and Sale

Subject to the terms and conditions of this Agreement:

- (a) the Vendor agrees to sell the Property to the Purchaser in consideration of payment of the Purchase Price by the Purchaser to the Vendor on the dates stipulated herein; and
- (b) the Purchaser agrees to purchase the Property from the Vendor, subject only to the Permitted Encumbrances, and to pay the Purchase Price to the Vendor on the dates stipulated herein.

4.2 Payment of Purchase Price

The Purchaser will pay the Purchase Price, subject to the adjustments provided for in this Agreement, as follows:

- (a) the Deposit will be paid by the Purchaser to the Vendor by way of certified cheque or bank draft, payable to Clark Wilson LLP, in trust, at least 3 Business Days prior to the hearing date of the Trustee's court application to bring this Agreement to Court for approval as the SH APA;

- (b) if applicable, the amount owing to the Blueberry Holdings GP Ltd. under the First Mortgage as of the Closing Date (the "Credit Bid");
- (c) the balance of the Purchase Price in accordance with Article 9.

4.3 Deposit

The Deposit will be held by the Vendor's Solicitors. The Deposit will be dealt with as follows:

- (a) on the Closing Date, the Deposit will be credited on account of the Purchase Price; or
- (b) if, following satisfaction of both the Purchaser's Condition and the Mutual Condition set forth in Section 7.1, the Purchaser fails to complete the purchase of the Property in accordance with this Agreement or if the Purchaser repudiates this Agreement, then the Deposit will be forfeited to the Vendor as liquidated damages in full and final satisfaction of any claims, rights or remedies whatsoever of the Vendor against the Purchaser whether at law or in equity; or
- (c) if both the Purchaser's Condition and the Mutual Condition set forth in Section 7.1 are satisfied on or before the date specified therein and if the Purchaser is not in default of any of its obligations under this Agreement and the Vendor fails to complete the sale of the Property in accordance with this Agreement or if, following satisfaction of both the Purchaser's Condition and Mutual Condition set forth in Section 7.1, the Vendor repudiates this Agreement, then the Deposit will be returned to the Purchaser upon demand by the Purchaser on or after the Closing Date; or
- (d) in the event of termination of this Agreement pursuant to Section 7.1, then the Deposit will be forthwith returned to the Purchaser, this Agreement will be terminated and each of the parties will have no further obligations to, nor rights against, the other in respect of this Agreement except for any obligations of the Purchaser under Section 5.1; or
- (e) in the event of termination of this Agreement pursuant to Section 7.2, then the Deposit will be forthwith returned to the Purchaser and the transactions contemplated hereby will be abandoned, without further action by any of the parties; provided, however, that Section 7.3, Section 7.5 and Section 5.1 will remain in full force and effect and survive any such termination of this Agreement.

ARTICLE 5 – “AS IS, WHERE IS”, INSPECTION AND INQUIRY

5.1 Acknowledgement by Purchaser

The Purchaser acknowledges and agrees that it has had the opportunity to conduct its own due diligence investigations in respect of the Property and the Purchaser expressly acknowledges and agrees that it is acquiring the Property on an “as is and where is” basis, without any representation or warranty by the Vendor with respect to the Property, except as otherwise set forth in this Agreement. In this regard, the Purchaser is relying solely on its own due diligence investigations in entering into this Agreement. The Purchaser will forthwith return to the Vendor all documentation obtained by the Purchaser from the Vendor with respect to the Property and all copies thereof, together with copies of all surveys, studies and reports and the results of all inspections and tests made by or on behalf of the Purchaser with respect to the Property, if the sale of the Property by the Vendor to the Purchaser pursuant to this Agreement is not completed. The Purchaser will cause its directors, officers, consultants and agents to keep in strict confidence all information with respect to the Property and the documentation obtained by the Purchaser with respect to the Property until the sale of the Property by the Vendor to the Purchaser is completed, except to the extent the Purchaser needs to release such information and documentation to its partners, investors accountants, counsel, lenders, consultants and financial advisers in connection with the purchase of the Property or the Purchaser is required to release such information or documentation in order to comply with applicable laws or a court order. In circumstances where information and documents have been released to the Purchaser’s accountants, counsel, lenders, consultants and financial advisers, the provisions of Section 12.11 shall apply. Following the Execution Date, the Purchaser will not disturb or interfere with the business or operations of the Vendor on the Property without the Vendor’s prior written consent.

5.2 Authorization

The Vendor will promptly, at the Purchaser’s request, execute and deliver any authorizations reasonably required by the Purchaser to permit statutory or governmental authorities to release information to the Purchaser concerning the Property and the existence of any liens against the Property, provided that such authorizations will not permit or authorize, and the Purchaser agrees not to request or cause, any inspections of the Property by any such authorities.

ARTICLE 6 – REPRESENTATIONS AND WARRANTIES

6.1 Vendor’ Representations and Warranties

The Vendor hereby represents and warrants to the Purchaser as representations and warranties made as of the date hereof and as of the Closing Date, unless otherwise specified, with the intent that the Purchaser will rely on such representations and warranties in entering into this Agreement, that:

- (a) the Vendor is/are bodies corporate duly incorporated, validly existing and in good standing under the laws of the Province of British Columbia and have made all necessary filings required by the applicable legislation of the province of British Columbia;
- (b) Purewal Blueberry Farms Ltd., as represented by the Trustee, has the power and capacity to dispose of the Property on behalf of the registered and all beneficial owners of the Property, and to enter into this Agreement on behalf of the registered and all beneficial owners of the Property, and to carry out the terms of this Agreement to its fullest extent;
- (c) as at the date of this Agreement and at closing of the transaction contemplated by this Agreement the Vendor, both registered beneficial, own and possess and have a good and marketable legal and beneficial title to the Property;
- (d) the Vendor has not sold or entered into any other agreements for the sale of the Property; and
- (e) the Vendor is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

6.2 Purchaser's Representation and Warranty

The Purchaser hereby represents and warrants to the Vendor as a representation and warranty made as of the date hereof and as of the Closing Date, with the intent that the Vendor will rely on such representation and warranty in entering into this Agreement:

- (a) that the Purchaser has the financial ability to complete the purchase of the Property and there is no action or proceeding pending before any court, arbitrator, arbitration panel, administrative tribunal or agency which, if decided adversely to the Purchaser might materially affect the Purchaser's ability to perform its obligations under this Agreement;
- (b) the Purchaser is and will on the Closing Date be authorized and have the capacity to complete the purchase of the Property as contemplated in this Agreement;
- (c) neither the Purchaser entering into this Agreement, nor the performance of its terms will result in a breach of or constitute a default under any term or provision of any indenture, mortgage, deed of trust or other agreement to which the Purchaser is bound or subject;
- (d) the Purchaser will be on Closing a GST/HST registrant under the *Excise Tax Act* (Canada) and be the sole "recipient" of a supply as defined thereunder; and
- (e) the Purchaser is not a non resident of Canada for the purposes of the *Income Tax Act* (Canada).

6.3 Survival of Representations and Warranties

All of the representations and warranties set out in Section 6.1 and Section 6.2 shall not merge on, but shall survive, Closing.

6.4 Vendor Covenants

The Vendor hereby covenants and agrees with the Purchaser as follows:

- (a) to continue to operate, manage and maintain the Property until the Closing Date as it is currently being operated, managed and maintained, subject to any order of the Court and the other provisions of this Agreement and provided however, and notwithstanding the foregoing or any other provision of this Agreement, the Vendor will have no obligation to make any capital repairs or replacements to the Property whatsoever; and
- (b) to maintain the existing insurance coverage in respect of the Property in full force and effect up to and including the Closing Date.

6.5 Suitability and Environmental Condition of Property

The Purchaser hereby acknowledges and agrees that:

- (a) the Vendor has not made any representation or warranty whatsoever as to the suitability of the Property for the Purchaser's intended purposes, or the extent to which the Property complies with applicable zoning, health or safety standards or applicable laws, including, without limitation, Environmental Laws;
- (b) the Purchaser has had the opportunity to conduct an environmental review of the Property;
- (c) the Purchaser is acquiring the Property on an "as is and where is" basis, without any representation or warranty by the Vendor with respect to the Property's compliance with Environmental Laws or the Environmental Condition of or relating to the Property, and based on the Purchaser's own investigations, and in connection therewith, the Purchaser acknowledges and agrees that the Purchaser is responsible to satisfy itself, and to rely on its own investigations to verify, the existence and extent of any Hazardous Materials in, on or migrating to or from the Property and that the Environmental Condition of or relating to the Property is otherwise satisfactory;
- (d) the Purchaser hereby waives any requirement for the Vendor to provide the Purchaser with a site profile under the *Environmental Management Act* (British Columbia); and
- (e) the Purchaser accepts the Property, effective on the completion of closing of the purchase of the Property under this Agreement on the Closing Date, in its

current Environmental Condition and releases the Vendor and the Proposal Trustee and their directors, officers and employees from and against any and all liabilities, obligations, duties, losses, damages, costs, expenses (including legal fees and expenses on a solicitor and own client basis), fees and disbursements of experts, consultants and contractors and costs and expenses of the Purchaser with respect to or related to or arising out of the Environmental Condition of the Property as of the completion of closing of the purchase of the Property under this Agreement on the Closing Date.

The parties acknowledge and agree that the provisions of this Section 6.5 constitute an agreement between them that is a private agreement respecting liability for Hazardous Materials on, in, at or under, or migrating to or from or released from the Property, and any contamination of other property, water or sediments resulting from such Hazardous Materials, and the remediation thereof, as contemplated in Part 4 of the *Environmental Management Act* (British Columbia) as amended or replaced from time to time.

ARTICLE 7 – BIDDING PROCEDURES AND VESTING ORDER, TERMINATION AND OVERBID PROCEDURES

7.1 Bidding Procedures and Vesting Order Condition

This Agreement and the Purchaser's obligation to complete the purchase of the Property is subject to the Purchaser in its sole and absolute discretion being satisfied (which discretion may, for clarity, be arbitrary on the part of the Purchaser) with a survey of the Lands (the "**Purchaser's Condition**") to be completed at the cost of the Purchaser on or before October 7, 2018 (the "**Purchaser's Condition Removal Date**"). The Purchaser's Condition may only be satisfied or waived by the Purchaser in writing by notice to the Vendor delivered on or before the Purchaser's Condition Removal Date.

In the event that the Purchaser's Condition is not satisfied or waived within the time and manner herein limited to satisfy the Purchaser's Condition, the Deposit will be returned to the Purchaser, this Agreement will be terminated and each of the parties hereto will have no further obligations to, nor rights against, the other in respect of this Agreement, except for any obligations of the Purchaser under Section 5.1.

The Purchaser's obligation to complete the purchase of the Property, and the Vendor's corresponding obligation to complete the sale of the Property, is subject to the issuance of the Vesting Order, and the approval by the Court of this Agreement without amendment on the terms and conditions herein, and all applicable appeal periods therefrom have lapsed, all on or before October 31, 2018, or such other date or dates as provided herein (the "**Mutual Condition**"). The Purchaser and the Seller agree that if an application for the foregoing relief is set for hearing on or before October 31, 2018, then, whether or not that application is adjourned, the date for satisfaction of the Mutual Condition shall be extended to the date an order determining the application is made, and all applicable appeal periods therefrom have lapsed, provided such date is not more than 120 days from the Publication Date, in which event

the Purchaser may, at its sole option, terminate this Agreement by notice in writing to the Vendor.

The Vendor covenants and agrees to use all reasonable commercial efforts to obtain the Vesting Order and the above noted approval of this Agreement to satisfy the Mutual Condition on or before the dates provided herein. The Mutual Condition is for the benefit of both the Purchaser and the Vendor and cannot be waived, in whole or in part, by either party. In the event that the Vesting Order is not issued and/or the Court does not approve this Agreement within the time herein limited to satisfy the Mutual Condition, the Deposit will be returned to the Purchaser, this Agreement will be terminated and each of the parties hereto will have no further obligations to, nor rights against, the other in respect of this Agreement, except for any obligations of the Purchaser under Section 5.1.

7.2 Termination

This Agreement will automatically terminate if the Vendor completes a transaction pursuant to an Alternative Transaction.

7.3 Procedure and Effect of Termination

In the event of termination of this Agreement pursuant to Section 7.2, notice thereof will forthwith be given by the Vendor to the Purchaser and this Agreement will terminate, the Deposit will forthwith be returned to the Purchaser and the transactions contemplated hereby will be abandoned, without further action by any of the parties; provided, however, that this Section 7.3, and Sections 7.5 and 5.1 will remain in full force and effect and survive any termination of this Agreement.

7.4 Overbid Procedures

Notwithstanding any other provision of this Agreement, the Vendor and the Purchaser acknowledge that this Agreement and the sale of the Property are subject to the Vendor's right to seek one or more Qualified Bids from Due Diligence Qualified Bidders in accordance with the Bidding Procedures. The Vendor and the Purchaser acknowledge that the Vendor, with the assistance of the Proposal Trustee, must take reasonable steps to demonstrate that they have sought to obtain the highest or otherwise best price for the Property, by entertaining higher and better Qualified Bids from Due Diligence Qualified Bidders, and, in the event that additional Due Diligence Qualified Bidders desire to submit Qualified Bids for the Property, conducting an auction in accordance with the Bidding Procedures (the "Auction").

The bidding procedures to be employed with respect to this Agreement and any Auction will be those reflected in the Bidding Procedures as authorized by the Bidding Procedures Order. The Purchaser agrees to be bound by and accepts the terms and conditions of the Bidding Procedures as authorized by the Bidding Procedures Order. The Purchaser agrees and acknowledges that the Vendor, with the assistance of the Proposal Trustee, are and may continue soliciting Qualified Bids for the Property in connection with any potential Alternative Transaction pursuant to the terms of the Bidding Procedures and agrees and acknowledges that

the bidding procedures contained in the Bidding Procedures may be supplemented by other customary procedures not inconsistent with the matters otherwise set forth therein and the terms of this Agreement.

The Vendor and the Purchaser agree that the provisions of this Agreement, including this Section 7.4 and Section 7.5, are reasonable, were a material inducement to the Vendor and the Purchaser to enter into this Agreement and are designed to achieve the highest and best price for the Property.

7.5 Termination Fee

If this Agreement is terminated pursuant to Section 7.2, the Vendor will pay to the Purchaser from the sale proceeds in priority to the claim or claims of any other party, the Termination Fee on the day the Alternative Transaction giving rise to the termination is completed. The Termination Fee will be made by wire transfer of immediately available funds to an account designated by the Purchaser. Each of the parties hereto acknowledges that the agreements contained in this Section 7.5 are an integral part of the transactions contemplated by this Agreement and that the Termination Fee is not a penalty, but rather is liquidated damages in a reasonable amount that will compensate the Purchaser in the circumstances in which such Termination Fee is payable for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the transactions contemplated hereby, which amount would otherwise be impossible to calculate with precision.

7.6 Agreement Subject to Bidding Procedures

The terms of this Agreement will be subject to the terms and conditions of the Bidding Procedures; provided, however, if there is any conflict between this Agreement and the Bidding Procedures the terms of this Agreement will prevail.

ARTICLE 8 – POSSESSION, ADJUSTMENT AND RISK

8.1 Possession

The Purchaser will be entitled to have possession of the Property on the Closing Date, subject only to the Permitted Encumbrances.

8.2 Adjustments

All adjustments, both incoming and outgoing, normally the subject of adjustments in transactions of this type will be made as of the Closing Date and adjusted on the Vendor's and the Purchaser's statements of adjustment. Such adjustments will include but not be limited to all realty taxes, local improvement rates and charges, operating expenses, strata fees, rent and operating cost recoveries, security deposits and other items normally adjusted in similar transactions.

8.3 Readjustment

If the final cost or amount of any item which is to be adjusted cannot be determined at the Closing Date, then an initial adjustment for such item shall be made at the Closing Date, such amount to be estimated by the Vendor, acting reasonably, as of the Closing Date on the basis of the best evidence available as to what the final cost or amount of such item will be. In each case when such cost or amount is determined, the Vendor or the Purchaser, as the case may be, shall, within 30 days of determination, provide a complete statement thereof to the other party and within 30 days thereafter the parties hereto shall make a final adjustment as of the Closing Date for the item in question. The readjustments shall be calculated by the Purchaser in consultation with the Vendor and each party shall be responsible for its own costs in calculating and finalizing such readjustments. The Vendor and the Purchaser shall exchange undertakings on the Closing Date to readjust the adjustments in accordance with the foregoing. In the absence of agreement by the parties hereto, the final cost or amount of an item shall be determined by auditors appointed jointly by the Vendor and the Purchaser with the cost of such auditors' determination being shared equally between the parties.

8.4 Risk

The Property will be and remain at the risk of the Vendor until 12:01 a.m. on the Closing Date, and thereafter at the risk of the Purchaser if the sale herein contemplated is duly completed.

ARTICLE 9 – CLOSING PROCEDURES

9.1 Vendor's Documents

On or before the Closing Date, the Vendor will deliver to the Purchaser's Solicitors, properly executed and acknowledged, all documents reasonably required and prepared by the Purchaser's Solicitors in form and substance reasonably approved by the Vendor's Solicitors, in order to complete this transaction in accordance with its terms, including, without limitation:

- (a) a filed Closing Certificate;
- (b) a Transfer in registrable form conveying the Property from the Vendor to the Purchaser free and clear of all legal notations, charges, liens and interests, save and except the Permitted Encumbrances;
- (c) the Vendor's statement of adjustments approved by the Vendor;
- (d) an assignment and assumption agreement in respect of the Assumed Service Contracts;
- (e) an undertaking to readjust in respect of the adjustments and for any errors, omissions or changes in the statements of adjustments as contemplated in Section 8.3; and

- (f) such other transfers, assignments and documents as the Purchaser's Solicitors and the Vendor's Solicitors may reasonably require to complete the transaction herein contemplated.

9.2 Purchaser's Documents

On or before the Closing Date the Purchaser will deliver to the Purchaser's Solicitors the following:

- (a) the Purchaser's statement of adjustments approved by the Purchaser;
- (b) one or more certified cheques or bank drafts payable to the Purchaser's Solicitors in trust (or bank wire to the Purchaser's Solicitors' trust account) for the balance of the adjusted Purchase Price;
- (c) an assignment and assumption agreement in respect of the Assumed Service Contracts;
- (d) an undertaking to readjust in respect of the adjustments and for any errors, omissions or changes in the statements of adjustments as contemplated in Section 8.3;
- (e) the certificate from the officer of the Purchaser regarding GST as is contemplated by Section 10.2;
- (f) the indemnity by the Purchaser of the Vendor in respect of GST as is contemplated by Section 10.2; and
- (g) such other transfers, assignments and documents as the Purchaser's Solicitors and the Vendor's Solicitors may reasonably require to complete the transaction herein contemplated.

9.3 Terms of Tender

On the Closing Date, if all documents and funds have been delivered as herein provided, all documents will be held in trust by the Purchaser's Solicitors with the exception of the Transfer and any discharges of encumbrances not constituting Permitted Encumbrances that are not addressed under the terms of the Vesting Order, which documents will be tendered for registration in the Land Title Office by the Purchaser's Solicitors. Upon submission for registration of the Transfer and the other documents required to be submitted for registration and receipt by the Purchaser's Solicitors of a satisfactory post-index search confirming that title to the Property will be issued in the name of the Purchaser free and clear of all charges and encumbrances except Permitted Encumbrances and those encumbrances being discharged on the basis of an undertaking acceptable to the Purchaser, the Purchaser's Solicitors will forthwith pay to the Vendor the Purchase Price, as adjusted herein, and the parties will exchange all closing documents referred to in Sections 9.1 and 9.2.

9.4 Concurrent Requirements

All of the matters of payment and delivery of documents by each party to the other will be deemed to be concurrent requirements so that nothing is complete until everything has been paid, delivered and registered.

9.5 Purchaser's Financing.

Notwithstanding any other term or condition of this Agreement, if the Purchaser is relying upon a new mortgage to finance the Purchase Price, the Purchaser, while still required to pay the Purchase Price on the Closing Date, may wait to pay the Purchase Price to the Vendor until after the new mortgage documents have been lodged for registration in the appropriate Land Title Office, but only if, before such lodging, the Purchaser has:

- (a) made available to the Purchaser's Solicitors for tender to the Vendor that portion of the Purchase Price not secured by the new mortgage and, if applicable, the Credit Bid;
- (b) fulfilled all the new mortgagee's conditions for funding except lodging the mortgage for registration, and
- (c) made available to the Vendor, the Purchaser's Solicitors undertaking to pay the balance of the Purchase Price upon the lodging of the new mortgage documents and the advance by the mortgagee of the mortgage proceeds to the Purchaser's Solicitors and the Purchaser's Solicitors further undertaking if it cannot pay the balance of the Purchase Price on the Closing Date:
 - (i) forthwith to return the Transfer(s) on demand; and
 - (ii) forthwith to apply, or cause the Purchaser's mortgage lender to apply, to withdraw the mortgage from the Land Title Office on demand if it has been filed.
- (d) The closing procedures will be amended to accommodate the purchaser's financing as aforesaid.

Notwithstanding the provisions in this paragraph, the Purchaser acknowledges that the balance of the Purchase Price is to be paid on the Closing Date.

The Purchaser and the Vendor acknowledge that the Purchaser is not obligated by this Agreement to apply the amounts owing under the First Mortgage against the Purchase Price as the Credit Bid, the decision to do so being in the sole discretion of the Purchaser and subject to the agreement of Blueberry Holdings GP Ltd.

ARTICLE 10 – COSTS AND TAXES

10.1 Responsibility for Transaction Costs

The Vendor will be responsible for the cost of discharging any liens, charges and encumbrances from the Property which are not Permitted Encumbrances and for the cost of registering any instruments, the registration of which by the Vendor is required or permitted hereby (save and except the Transfer). The Purchaser will be responsible for the cost of registering the Transfer, including all relevant property transfer taxes and Land Title Office fees, necessary to convey the Property to the Purchaser. Each party will pay its own legal fees with respect to the transactions contemplated in this Agreement.

10.2 Provincial Sales Tax

The Purchaser is responsible for all provincial sales tax (“PST”) in respect of this purchase and sale transaction and all PST applicable to this transaction is in addition to, and not included in, the Purchase Price. The Purchaser will pay all applicable PST to the Vendor on the Closing Date. The Vendor covenants and agrees to remit all applicable PST directly to the B.C. Ministry of Finance in accordance with the *Provincial Sales Tax Act* (B.C.) (the “PSTA”). If the Purchaser believes that the sale of any of the Goods is not subject to PST, the Purchaser will, on or before the Closing Date, provide the Vendor such evidence as the Vendor may require to reasonably satisfy themselves that the sale of such Goods is not subject to PST, and such evidence may include: proof that the Purchaser is registered for the purpose of the PSTA; such prescribed forms as purchasers may be required to provide to vendors pursuant to the PSTA; and any sworn statement or declaration that the Vendor may reasonably request to ensure that a PST exemption is applicable.

10.3 Goods and Services Tax

The Purchaser is responsible for any goods and services tax (“GST”) in respect of this purchase and sale transaction and will be responsible to account for GST in respect of this purchase and sale transaction in accordance with the *Excise Tax Act* (Canada). The Purchaser covenants that it will pay, on the Closing Date, to the Vendor all GST applicable to the Goods. The Purchaser covenants that it will account directly to Canada Revenue Agency with respect to any GST payable by the Purchaser in connection with the purchase of the Property and will provide to the Vendor sufficient evidence that it is registered for the purpose of the GST on the Closing Date by providing a signed certificate from an officer of the Purchaser in the customary form and in such circumstances the Purchaser will indemnify and hold harmless the Vendor and each of them from any liability under the *Excise Tax Act* (Canada) arising from either the non-application of subsection 221(2) of the *Excise Tax Act* (Canada) or the failure of the Purchaser to properly account for and remit the GST payable in connection with this transaction together with all loss, costs and expense incurred by the Vendor resulting from such failure. In the event the Purchaser fails to provide such signed certificate, the Purchaser will pay to the Vendor the GST applicable to the purchase of the Property on the Closing Date and the Vendor

shall remit such GST for payment in accordance with the *Excise Tax Act* (Canada). The obligations of the Vendor and the Purchaser under this Section 10.2 shall survive the Closing.

ARTICLE 11 – NOTICES AND TENDER

11.1 Delivery of Notices

Any demand, notice, approval, consent or other communication to be given under the provisions of this Agreement by any party will be validly given if delivered personally or sent by email addressed to the respective parties as follows:

- (a) to the Purchaser at the address set forth in Subsection 1.1(a),

with a copy of the Purchaser's Solicitors at the address set out in section 3.1(nn); and
- (b) to the Proposal Trustee at the address set forth in Subsection 1.1(b),

FTI Consulting Canada Inc.
Suite 15-131
555 Burrard Street
Vancouver, BC V7Y 1C6

Attention: Craig Munro
Email: Craig.Munro@fticonsulting.com

with a copy to the Vendor' Solicitors at:

Clark Wilson LLP
900-885 West Georgia St.
Vancouver, BC V6C 3H1

Attention: Christopher J. Ramsay / Katie G. Mak
Email: CRamsay@cwilson.com / KMak@cwilson.com

11.2 Deemed Date of Receipt

The date of receipt of any such notice or communication will be deemed to be the date of delivery or transmittal by email if delivered by 5:00 p.m. (Vancouver time) on a Business Day, and if otherwise delivered or transmitted by email, on the next Business Day following the date of such delivery or transmittal.

11.3 Change of Address

Either party may at any time give notice in writing to the other of any change of address of the party giving such notice to be given in the manner aforesaid, and from and after giving such notice, the address therein specified will be deemed to be the address of such party for the giving of such notice.

11.4 Tender

Tender of any money to be paid hereunder may be made by certified cheque (including a certified solicitor's trust cheque), bank draft or wire transfer payable to the party to whom tender is made, and drawn on a Canadian chartered bank or trust company, and tender may be made on an officer or director of the party or a solicitor known to the tendering party to be acting for the other in this matter.

ARTICLE 12 – MISCELLANEOUS

12.1 Assignment

The Purchaser will have the right to assign its rights under this Agreement provided that:

- (a) the Purchaser will deliver written notice to the Vendor of any such assignment at least 5 Business Days prior to the Vendor's application for the Vesting Order;
- (b) the Purchaser will remain fully liable to the Vendor for the performance by any such Assignee of the obligations of the Purchaser under the Agreement and will not be released from the performance hereof; and
- (c) the Assignee enters into an agreement with the Vendor assuming the rights and obligations of the Purchaser under this Agreement.

12.2 Agency and Commission

The Purchaser will be responsible for any and all fees, commission or compensation payable to any real estate agent or salesperson engaged by the Purchaser in connection with the purchase of the Property. The Vendor reserve the right to retain the services of any real estate agent or salesperson in connection with the sale of the Property, but will not be responsible for any fees, commission or compensation payable to any real estate agent or salesperson engaged by the Purchaser in connection with the purchase of the Property.

12.3 Further Assurances

The Vendor and the Purchaser will each deliver to or cause to be delivered to the other all such further documents and assurances as may be reasonably required to give full effect to the intent and meaning of this Agreement and registration of all the requisite documents in all appropriate offices of public record.

12.4 Entire Agreement

This Agreement contains the whole of the agreement between the parties and there are no agreements, representations or warranties save as herein set out or incorporated by reference.

12.5 Time of the Essence

Time will be of the essence of this Agreement.

12.6 Business Days

If the time limited for the performance or completion of any matter under this Agreement expires or falls on a day that is not a Business Day, the time so limited will extend to the next following Business Day.

12.7 Counterparts

This Agreement may be executed in one or more counterparts, each of which is deemed to be an original, and all of which constitute one Agreement. This Agreement will be considered executed and delivered when either:

- (a) an originally executed copy has been delivered to each party; or
- (b) a facsimile or electronic copy of this Agreement, evidencing the signatures of both of the parties, has been transmitted by facsimile or e-mail to each party.

12.8 Execution by Facsimile or E-Mail

If execution and delivery of this Agreement has been completed in whole or in part by facsimile or by e-mail (by delivery of PDF copies of this Agreement), then the parties will ensure that originally executed copies of the Agreement are delivered to each party as soon as reasonably practicable.

12.9 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada having application in the Province of British Columbia.

12.10 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

12.11 Confidentiality

The Purchaser expressly agrees to keep the terms of this Agreement and the transaction contemplated hereby strictly confidential, except that the foregoing information may be disclosed by either the Purchaser to:

- (a) its directors, officers, employees, agents or advisors, including, accountants, counsel, lenders, consultants and financial advisors; and
- (b) such other persons as the Vendor may approve in writing,

and such individuals will be made aware of the provisions of this Section 12.11 and will agree to be bound hereby. The provisions of this Section 12.11 will terminate as to a particular portion of such confidential information in the circumstances where such confidential information:

- (c) is or becomes generally available to the public (other than as a result of disclosure directly or indirectly by the Purchaser);
- (d) is or becomes available to the Purchaser on a non-confidential basis from a source other than the Vendor provided such source does not owe a duty of confidentiality to the Vendor or to any other person; or
- (e) is or was independently acquired or developed by the Purchaser without use of any information disclosed by the Vendor.

ARTICLE 13 – ACCEPTANCE


This Offer is open for acceptance by the Vendor by the delivery or transmission by facsimile by the Vendor of a copy of this Offer with the Vendor’s Acceptance executed by the Vendor to the Purchaser no later than October 5, 2018, failing which this Offer will be null and void.

IN WITNESS WHEREOF the Purchaser has executed this Offer effective the ___ day of October, 2018.

0801226 B.C. LTD.

Per: 

Authorized Signatory

Per: 

Authorized Signatory

VENDORS' ACCEPTANCE OF OFFER

For and in consideration of the covenants and agreements of the Purchaser contained in the within Offer, the Vendor hereby irrevocably accepts the Offer and agrees to perform its obligations thereunder effective the 4th day of October, 2018.

**FTI Consulting Canada Inc. in its capacity as
proposal trustee of Purewal Blueberry Farms Ltd.,
and not in its personal or any other capacity**

Per: 

Craig Munro

Managing Director

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>
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|----|---|---|
| 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.

SCHEDULE B

PART 1: LEGAL DESCRIPTION OF LANDS

PID: 011-105-526

Lot "A" Section 34 Township 9 New Westminster District Plan 7231

PART 2: LEGAL NOTATIONS, CHARGES AND ENCUMBRANCES TO BE DISCHARGED

PERSONAL PROPERTY SECURITY ACT NOTICE SEE --CA6124114-- EXPIRES
2019/07/10

Nature: MORTGAGE

Registration Number: CA3019222

Registration Date and Time: 2013-03-05 12:16

Registered Owner: BLUEBERRY HOLDINGS (GP) LTD.

INCORPORATION NO. BC1067532

Transfer Number: CA5085982

Remarks: INTER ALIA

Nature: ASSIGNMENT OF RENTS

Registration Number: CA3019223

Registration Date and Time: 2013-03-05 12:16

Registered Owner: BLUEBERRY HOLDINGS (GP) LTD.

INCORPORATION NO. BC1067532

Transfer Number: CA5085983

Remarks: INTER ALIA

Nature: MORTGAGE

Registration Number: CA3273706

Registration Date and Time: 2013-08-02 10:54

Registered Owner: HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Nature: MORTGAGE

Registration Number: CA3427562

Registration Date and Time: 2013-10-29 12:18

Registered Owner: HARJINDER SINGH BERAR

KARMJIT KAUR BERAR

AS TO AN UNDIVIDED 1/10 INTEREST AS JOINT TENANTS

Registered Owner: BERAR FARMS LTD.

INCORPORATION NO. 0979883

AS TO AN UNDIVIDED 9/10 INTEREST

Remarks: INTER ALIA

Nature: JUDGMENT

Registration Number: CA4091946

Registration Date and Time: 2014-11-20 16:17

Registered Owner: BUNZL CANADA INC.

INCORPORATION NO. A92249

Remarks: INTER ALIA

RENEWED BY CA5644097

Nature: JUDGMENT
Registration Number: CA5405401
Registration Date and Time: 2016-08-05 16:28
Registered Owner: B.C. BLUEBERRY COUNCIL
Remarks: RENEWED BY CA6804007

Nature: JUDGMENT
Registration Number: CA5412734
Registration Date and Time: 2016-08-10 10:57
Registered Owner: B.C. BLUEBERRY COUNCIL
Remarks: RENEWED BY CA6804008

Nature: JUDGMENT
Registration Number: CA5644097
Registration Date and Time: 2016-11-14 09:52
Registered Owner: BUNZL CANADA INC.
INCORPORATION NO. A0092249
Remarks: INTER ALIA
RENEWAL OF CA4091946

Nature: JUDGMENT
Registration Number: CA5987656
Registration Date and Time: 2017-05-11 10:31
Registered Owner: HER MAJESTY THE QUEEN IN RIGHT OF CANADA
Remarks: INTER ALIA

Nature: JUDGMENT
Registration Number: CA6303931
Registration Date and Time: 2017-09-18 06:58
Registered Owner: NU-GRO LTD.

Nature: JUDGMENT
Registration Number: CA6307689
Registration Date and Time: 2017-09-19 10:24
Registered Owner: 4REFUEL GP CORPORATION
INCORPORATION NO. A80600
Remarks: INTER ALIA

Nature: CERTIFICATE OF PENDING LITIGATION
Registration Number: CA6326407
Registration Date and Time: 2017-09-27 11:10
Registered Owner: BLUEBERRY HOLDINGS (GP) LTD.
Remarks: INTER ALIA

Nature: JUDGMENT
Registration Number: CA6412293
Registration Date and Time: 2017-10-31 13:25
Registered Owner: SUPER SAVE DISPOSAL INC.
INCORPORATION NO. BC0508268
Remarks: INTER ALIA

Nature: JUDGMENT
Registration Number: CA6560200
Registration Date and Time: 2018-01-11 10:48
Registered Owner: DIRECTOR OF EMPLOYMENT STANDARDS
Remarks: INTER ALIA

Nature: JUDGMENT
Registration Number: CA6612736
Registration Date and Time: 2018-02-06 11:27
Registered Owner: KINDER SIDHU & ASSOCIATES INC.
INCORPORATION NO. BC0813442
Remarks: INTER ALIA

Nature: CERTIFICATE OF PENDING LITIGATION
Registration Number: CA6659131
Registration Date and Time: 2018-03-02 12:00
Registered Owner: FRASER VALLEY PACKERS INC.
INCORPORATION NO. BC0682962
Remarks: INTER ALIA

Nature: JUDGMENT
Registration Number: CA6718015
Registration Date and Time: 2018-04-05 12:19
Registered Owner: FRASER VALLEY PACKERS INC.
INCORPORATION NO. BC0682962
Remarks: INTER ALIA

Nature: JUDGMENT
Registration Number: CA6733563
Registration Date and Time: 2018-04-12 15:36
Registered Owner: HER MAJESTY THE QUEEN IN RIGHT OF CANADA
Remarks: INTER ALIA

Nature: CERTIFICATE OF PENDING LITIGATION
Registration Number: CA6791617
Registration Date and Time: 2018-05-10 12:53
Registered Owner: JOGINDER SINGH GHAG
JOGINDER KAUR GHAG
Remarks: INTER ALIA

Nature: JUDGMENT
Registration Number: CA6804007
Registration Date and Time: 2018-05-16 14:19
Registered Owner: B.C. BLUEBERRY COUNCIL
Remarks: RENEWAL OF CA5405401

Nature: JUDGMENT
Registration Number: CA6804008
Registration Date and Time: 2018-05-16 14:19
Registered Owner: B.C. BLUEBERRY COUNCIL
Remarks: RENEWAL OF CA5412734

Any other financial charge not consented to in writing by Purchaser

SCHEDULE C

GOODS

All Goods owned by the Vendor in respect of the Lands

SCHEDULE D

RIGHTS

All Rights owned by the Vendor in respect of the Lands