

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

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS
AMENDED**

**MOTION RECORD OF FTI CONSULTING CANADA INC.
solely in its capacity as Court-appointed Receiver
(Returnable November 6, 2023)**

October 30, 2023

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solely in its capacity as Court-appointed
Receiver*

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**ONTARIO
SUPERIOR COURT OF JUSTICE
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SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS
AMENDED**

NOTICE OF MOTION

FTI Consulting Canada Inc. ("**FTI**"), in its capacity as court-appointed receiver (in such capacity, the "**Receiver**") of the undertaking, property and assets that constitute the FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**") will make a motion to a judge of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on Monday, November 6 at 11:00 (EST).

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference.

THE MOTION IS FOR:

1. An order (the "**Approval and Vesting Order**") substantially in the form attached as Tab "3" of this Motion Record, *inter alia*:

- (a) approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement (the "**Sale Agreement**") between the Receiver and THS Foods Canada, Ltd. (the "**Purchaser**") appended to the First Report of the Receiver dated October 30, 2023 (the "**First Report**") attached as Tab "2" of this Motion Record;
- (b) upon closing, vesting in the Purchaser the Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"); and
- (c) sealing the purchase price for the Purchased Assets until the Transaction has been completed;

2. An order (the "**Distribution and Ancillary Relief Order**") substantially in the form attached as Tab "5" of this Motion Record, *inter alia*:

- (a) authorizing and directing the Receiver to make one or more distributions to Farm Credit Canada ("**FCC**");
- (b) amending the style of cause in these proceedings to correct the French-language spelling of "Les Ailments Whyte's Inc." to "Les Aliments Whyte's Inc.";
- (c) approving the First Report and the activities of the Receiver described therein;
- (d) approving the fees of the Receiver and legal counsel to the Receiver up to and including October 27, 2023;

3. Such further and other relief as counsel may request and the Honorable Court deems just;

THE GROUNDS FOR THE MOTION ARE:

Background and Procedural History

4. The Debtors conducted business as a leading producer of pickled and fermented food products in Canada. They did so through the operation of two manufacturing facilities located in Wallaceburg, Ontario (the "**Wallaceburg Facility**") and Saint-Louis, Quebec (the "**St. Louis Facility**"), as well as a distribution facility located in Sainte-Thérèse, Quebec;

5. On August 23, 2023, following the delivery of demand and default letters and notices of intention to enforce security by their primary creditors FCC and Wells Fargo Capital Financing Corporation Canada ("**Wells Fargo**"), the Debtors filed a Notice of Intention to Make a Proposal ("**NOI**") pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (as amended, the "**BIA**") (such proceedings, the "**Proposal Proceedings**");

6. As further detailed below and in the First Report, a court-supervised sale process conducted within the Proposal Proceedings did not result in a comprehensive going-concern transaction for the Debtors' business and operations. Accordingly, Wells Fargo and FCC made the difficult decision to enforce against their respective security and pursue the piecemeal sale of the Debtors' assets;

7. Accordingly, FCC brought an application seeking the appointment of FTI as receiver and manager over the Non-Trade Personal Property (as defined in the FCC Receivership Order) and real property of the Debtors, including land and buildings at the Wallaceburg Facility (the "**Property**");

8. On October 6, 2023, the Court issued an order (the "**FCC Receivership Order**"), among other things, appointing FTI as Receiver of the Property (these proceedings, the "**FCC Receivership Proceedings**");

9. Separately, on October 3, 2023, Wells Fargo brought an application seeking the appointment of a receiver over the Debtors' Trade Personal Property, and, on October 6, 2023, the Court issued an order (the "**Wells Receivership Order**") appointing Ernst & Young Inc. as receiver and manager of the Trade Personal Property (as defined in the Wells Receivership Order) (in such capacity, the "**Wells Receiver**", and such proceedings, the "**Wells Receivership Proceedings**");

Sales Process

10. Prior to the commencement of the Proposal Proceedings, the Debtors engaged in a broad sales and marketing process in respect of their assets and operations (as further detailed in the First Report). Ultimately, the Debtors were unable to complete a transaction through this process;

11. Following the commencement of the Proposal Proceedings, the Debtors undertook a Court-supervised sales and solicitation process ("**NOI SISP**") which also failed to result in an actionable comprehensive going-concern transaction at the Wallaceburg Facility. However, on October 6, 2023 the Debtors' sought and obtained an approval and vesting order for the sale of the St. Louis Facility and the Non-Trade Personal Property located at that premises to 9498-8938 Québec Inc. (the "**St. Louis Transaction**");

12. The St. Louis Transaction closed on October 12, 2023. Pursuant to the FCC Receivership Order, the proceeds from the St. Louis Transaction were transferred to the Receiver at the Appointment Time (the "**St. Louis Proceeds**");

THS APA

13. The Purchaser was a participant in the NOI SISP, and had, prior to the conclusion of the Proposal Proceedings, started to negotiate the terms of an asset purchase agreement with the Proposal Trustee. Upon its appointment, the Receiver continued those discussions which culminated in the execution of the THS APA;

14. THS APA contemplates the purchase of substantially all of the Debtors' processing equipment at the Wallaceburg Facility and the St. Therese Facility in consideration for cash to be paid upon closing. These assets are defined as "Non-Trade Personal Property" in the Intercreditor Agreement between Wells Fargo and FCC to distinguish FCC's collateral from Wells Fargo's collateral under their respective secured loan facilities;

15. All of the Debtors' assets subject to the Transaction are Non-Trade Personal Property of the Debtors and therefore form part of FCC's collateral;

16. The purchaser has provided a deposit of 10% of the purchase price amount to the Receiver, which amount is being held in escrow pending closing;

17. The only material condition to closing contemplated by the THS APA is the issuance by the Court of an approval and vesting order in the form appended to this motion record, which is based substantially on the form of Ontario model approval and vesting order;

18. The Receiver is requesting that the Transaction purchase price amount be sealed pending the closing of the Transaction to preserve value for FCC in the event that the Transaction does not close for any reason;

Distribution

19. As further detailed in the First Report, Bennett Jones LLP has completed a review of FCC's security interests. Among other things, this review confirmed FCC's status as first-ranking secured creditor in-respect of the Non-Trade Personal Property as well as its entitlement to the proceeds of the Transaction and the St. Louis Proceeds. Thus, following completion of the Transaction, the Receiver intends to make a net distribution of the proceeds thereof and the net St. Louis Proceeds to FCC;

Sealing

20. The Receiver requests and recommends that the purchase price of the Transaction remain confidential until the Transaction has closed, and that a copy of the unredacted version of the Purchase Agreement be filed with the Court on a confidential basis and be sealed in accordance with the sealing provisions of the Approval and Vesting Order;

21. If this information is not sealed, it may negatively impact realizations on the Purchased Assets if the Transaction does not close;

22. The Receiver believes that the proposed sealing of the purchase price is appropriate in the circumstances and is not aware of any party that will be prejudiced if the information is sealed. The Receiver also notes that the duration of the proposed sealing is limited, having regard to the outside date contemplated in the THS APA;

General

23. The provisions of the BIA and the inherent and equitable jurisdiction of the Court;
24. Rules 1.04, 1.05, 2.03, 3.02, 37 and 39 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended and section 101 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and
25. Such further and other grounds as counsel may advise and the Court may permit;

DOCUMENTARY EVIDENCE

26. The following documentary evidence will be used at the hearing of the motion:
 - (a) the First Report of the Receiver dated October 30, 2023;
 - (b) Fee affidavit of Jeffrey Rosenberg sworn October 30, 2023;
 - (c) Fee affidavit of Sean Zweig sworn October 30, 2023; and
 - (d) such further and other material as counsel may advise and the Court may permit.

October 30, 2023

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FARM CREDIT CANADA

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WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
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Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

NOTICE OF MOTION

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*Lawyers for FTI Consulting Canada Inc. solely in
its capacity as Court-appointed Receiver*

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Court File No. CV-23-00707205-00CL

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK INC. AND MARIO SAROLI SALES INC.**

**FIRST REPORT OF FTI CONSULTING CANADA INC., AS COURT-
APPOINTED RECEIVER**

October 30, 2023

FARM CREDIT CANADA

Applicant

- and -

WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC.

Respondents

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

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A. INTRODUCTION

1. Whyte's Foods Inc./Aliments Whyte's Inc. ("**Whyte's**"), together with its affiliated and subsidiary entities, Triak Capital Inc./Capital Triak Inc. ("**Triak**"), Maison Gourmet Inc. ("**Gourmet**"), and Mario Saroli Sales Inc. ("**Saroli**", and together with Whyte's, Triak, and Gourmet, the "**Debtors**"), conducted business as a leading producer of pickled and fermented food products in Canada.¹ As described below, the Debtors' business is no longer operational.
2. The Debtors operated two manufacturing facilities located in Wallaceburg, Ontario (the "**Wallaceburg Facility**") and Saint-Louis, Quebec (the "**St. Louis Facility**"), as well as a distribution facility located in Sainte-Thérèse, Quebec (the "**St. Therese Facility**").
3. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Snider Affidavit, or the THS APA (defined below), as applicable.

Procedural History

4. The Debtors' financial difficulties began in 2020 as a result of the COVID-19 pandemic and were exacerbated by crop shortages in 2021, 2022 and 2023. In early 2023, the Debtors engaged Kroll Corporate Finance Canada ("**Kroll**") to, among other things, undertake a sale process.
 - (ii) *NOI Proceedings*
5. Following delivery of demand and default letters, and notices of intention to enforce security by both FCC and Wells Fargo, further forbearance arrangements were agreed as between the Debtors, FCC and Wells Fargo, respectively, to permit Whyte's, with the assistance of Kroll, to continue its marketing efforts under court supervision.
6. In connection therewith, on August 23, 2023, Whyte's filed a Notice of Intention to Make a Proposal ("**NOI**") pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (as amended, the "**BIA**") (such proceedings, the "**Proposal**

¹ This report should be read in conjunction with the affidavit of Dale Snider sworn October 3, 2023 (the "**Snider Affidavit**"), a copy of which is attached (without exhibits) as Appendix "F".

Proceedings"). The Proposal Proceedings were initiated by Whyte's to create a stabilized environment to permit the Debtors' business to continue to operate while a court-supervised sale process was carried out.²

7. On August 31, 2023, the Ontario Superior Court of Justice (Commercial List) (the "**Court**") issued an order, among other things, approving the Debtors' engagement of Kroll as financial advisor, and approving a sale and solicitation process (the "**NOI SISP**"), which is described in further detail below.
8. The NOI SISP did not result in the completion of a comprehensive going-concern transaction in respect of the Debtors' business, assets or operations, at the Wallaceburg Facility. However, on October 6, 2023 the Debtors' sought and obtained an approval and vesting order for the sale of the St. Louis Facility and the Non-Trade Personal Property located at that premises to 9498-8938 Québec Inc. (the "**St. Louis Transaction**").

(iii) *Receivership Proceedings*

9. On October 3, 2023, FCC brought an application seeking the appointment of FTI Consulting Canada Inc. ("**FTI**") as receiver and manager over the Non-Trade Personal Property and real property of the Debtors, including land and buildings at the Wallaceburg Facility and the St. Louis Facility (the "**Property**"), following the issuance of further demands and notices of intention to enforce security pursuant to section 244 of the BIA to Triak, Gourmet and Saroli.
10. On October 6, 2023, the Court issued an order (the "**FCC Receivership Order**"), among other things, appointing FTI as receiver and manager (FTI in such capacity, the "**Receiver**") of the Property (these proceedings, the "**FCC Receivership Proceedings**") upon the earlier of the proposal trustee in the Proposal Proceedings delivering a certificate upon the closing of the St. Louis Transaction or Thursday, October 12, 2023 at 5 pm (the "**Appointment Time**"). A copy of the FCC Receivership Order is attached hereto as Appendix "A".

² Information regarding the Proposal Proceedings is available at the following webpage (the "**Proposal Trustee's Website**"): <https://www.alvarezandmarsal.com/whytes>.

11. Separately, on October 3, 2023, Wells Fargo brought an application seeking the appointment of a receiver over the Trade Personal Property of the Debtors, and, on October 6, 2023, the Court issued an order (the "**Wells Receivership Order**") appointing Ernst & Young Inc. as receiver and manager of the Trade Personal Property upon the occurrence of the Appointment Time (in such capacity, the "**Wells Receiver**", and such proceedings, the "**Wells Receivership Proceedings**"). A copy of the Wells Receivership Order is attached hereto as Appendix "B".
12. The St. Louis Transaction closed on October 12, 2023. A copy of the Proposal Trustee's certificate is attached hereto as Appendix "C". Pursuant to the FCC Receivership Order, the proceeds from the St. Louis Transaction were transferred to the Receiver at the Appointment Time (the "**St. Louis Proceeds**").

B. PURPOSE

13. The purpose of this First Report of the Receiver (the "**First Report**") is to report to the Court on:
 - (a) an update on the Receiver's activities since the commencement of the FCC Receivership Proceedings;
 - (b) the Receiver's views on the FCC Credit Facility and the security granted to FCC thereunder pursuant to the documents listed in Schedule 1 hereto (the "**FCC Security**");
 - (c) the Asset Purchase Agreement dated as of October 23, 2023, pursuant to which the Receiver intends to sell substantially all of the Non-Trade Personal Property to THS Foods Canada, LTD ("**THS**", and such agreement the "**THS APA**"), subject to the approval of the Court;
 - (d) the Receiver's request for an approval and vesting order, substantially in the form attached as Tab 3 to the Receiver's motion record (the "**AVO**"), among other things, approving the THS APA and, upon closing vesting the Purchased Assets (as defined

in the THS APA) in and to THS free and clear of all encumbrances except Permitted Liens; and

- (e) the Receiver's request for an order substantially in the form attached as Tab 5 to the Receiver's motion record (the "**Distribution and Ancillary Relief Order**"), among other things, (i) authorizing the net proceeds of the THS APA transaction to FCC, subject to such holdback as the Receiver deems appropriate, (ii) correcting the style of cause in these FCC Receivership Proceedings; (iii) approving the First Report and the activities described herein; and (iv) approving the fees and disbursements of the Receiver and its legal counsel in connection with these proceedings.

C. TERMS OF REFERENCE

- 14. In preparing the First Report, the Receiver has relied upon audited and unaudited financial information provided by the Debtors, including their books and records, financial information, forecasts and analysis, in addition to discussions with various parties, including senior management ("**Management**") of, and advisors to, the Debtors (collectively, the "**Information**").
- 15. Except as otherwise described in the First Report:
 - (a) the Receiver 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 Receiver has not examined or reviewed the financial forecasts or projections referred to in the First Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
- 16. Future-oriented financial information reported in or relied on in preparing the First Report is based on assumptions regarding future events. Actual results will vary from these forecasts and such variations may be material.

17. The Receiver has prepared the First Report in connection with the motion seeking the issuance of the AVO and Distribution and Ancillary Relief Order. The First Report should not be relied on for any other purpose.
18. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

D. UPDATE

19. Since the issuance of the FCC Receivership Order, the Receiver has undertaken a number of activities and initiatives, including the following:
 - (a) receiving the St. Louis Proceeds from the proposal trustee in the Proposal Proceedings;
 - (b) taking possession of and securing the Non-Trade Personal Property and Wallaceburg Facility, including hiring security personnel, pursuant to and in accordance with the FCC Receivership Order;
 - (c) liaising with the Debtors' management team and advisors regarding the status and location of Non-Trade Personal Property;
 - (d) liaising with FCC, Wells Fargo and other stakeholders regarding the proposed sale of the Non-Trade Personal Property to THS;
 - (e) together with the Receiver's legal counsel, Bennett Jones LLP ("**Bennett Jones**"), engaging with THS and its advisors in negotiating and finalizing the THS APA;
 - (f) engaging with the Wells Receiver regarding the Receiver's intention to sell the Non-Trade Personal Property, and issues relating to, among other things:
 - (i) the segregation of Trade Personal Property from Non-Trade Personal Property; and
 - (ii) operational and occupancy issues relating to the St. Therese Facility and Wallaceburg Facility;

- (g) together with Bennett Jones, reviewing the security granted by the Debtors in connection with the FCC Credit Agreement;
- (h) engaging in preliminary discussions with potential real estate brokers and potentially interested parties respecting the future sale of the Wallaceburg Facility through a widely-marketed process;
- (i) engaging with various stakeholders regarding the status of these FCC Receivership Proceedings, and the interaction of the FCC Receivership Proceedings with the Wells Fargo Receivership Proceedings; and
- (j) preparing the First Report and the materials filed in connection with the Receiver's motion seeking the Court's approval of the AVO and Distribution and Ancillary Relief Order.

E. THE DEBTORS' SECURED DEBT

Secured Creditors

(i) Farm Credit Canada Secured Loan Facility

- 20. On May 20, 2020, Whyte's, as borrower, EJJ Capital Inc., Triak, Maison, Gourmet, and Saroli, as guarantors, and Farm Credit Canada ("**FCC**"), as lender, entered into a credit agreement for two real property loans in the maximum principal amount of \$18,217,500 in the aggregate (the "**Initial FCC Credit Agreement**"). On April 11, 2023, Whyte's and FCC amended and restated the Initial FCC Credit Agreement (as amended, the "**FCC ARCA**"), which provided two further credit facilities for real property loans in the maximum principal amount of \$17,300,000. Accordingly, the maximum principal amount under the FCC ARCA was \$35,517,500.
- 21. On April 19, 2023, Whyte's, as borrower, Triak, Gourmet and Saroli, as guarantors, and FCC, as lender, entered into a forbearance agreement, and on August 23, 2023, in contemplation of the NOI Proceedings, FCC entered into an extension of the forbearance agreement (collectively, the "**FCC Forbearance Agreement**", and together with the Initial FCC Credit Agreement and the FCC ARCA, the "**FCC Credit Agreement**").

22. As of October 3, 2023, the aggregate outstanding indebtedness owed by the Debtors under the FCC Credit Agreement was \$34,695,269.77, excluding professional fees, disbursements and accruing interest (the "**FCC Indebtedness**").
23. As described in further detail below, the FCC Credit Agreement is secured by the FCC Security, principally comprised of certain of the Debtors' personal property (as defined and described in the Intercreditor Agreement and discussed below, the "**Non-Trade Personal Property**") and the Wallaceburg Facility.
- (ii) *Wells Fargo Secured Loan Facility*
24. On October 14, 2022, Whyte's and Gourmet, as borrowers, and Triak and Saroli, as guarantors, entered into a credit facility with Wells Fargo, as lender for a revolving loan with a limit of \$25,000,000 and a term loan in the maximum amount of \$1,500,000 (the "**Initial Wells Fargo Credit Agreement**"). The Initial Wells Fargo Credit Agreement was amended pursuant to a waiver and amendment agreement dated as of January 6, 2023, a forbearance and second amendment dated as of April 19, 2023, and a third amendment and forbearance dated as of August 22, 2023 (the Initial Wells Fargo Agreement as so amended, the "**Wells Fargo Credit Facility**").
25. As of October 3, 2023, a principal amount of \$8,109,221.60 remained outstanding under the Wells Fargo Credit Facility.
26. As described below, the Wells Fargo Credit Facility is secured against certain inventory and intellectual property assets of the Debtors (the "**Trade Personal Property**").
- (iii) *Intercreditor Agreement*
27. On October 14, 2022, Wells Fargo, as operational financing lender, the Business Development Bank of Canada ("**BDC**"), and FCC, as fixed-term loan lender, and the Debtors entered into an intercreditor agreement (the "**Original Intercreditor Agreement**"). In March, 2023, FCC agreed to refinance the BDC indebtedness, resulting in BDC being paid out in full. Accordingly, on April 19, 2023, the Original Intercreditor Agreement was amended and restated to reflect the removal of BDC (the Original Intercreditor Agreement, as so amended, the "**Intercreditor Agreement**").

28. The Intercreditor Agreement identifies two types of property, as follows:
- (a) **"Trade Personal Property"** means all of the present and future accounts receivables, monetary claims, cash, deposit accounts, inventory and Operational Financing Purchased Equipment of the Debtors and Guarantors, together with all claims, documents of title, chattel paper, instruments, books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records relating to the foregoing, and all accessions to, substitutions for and replacements, and products of the foregoing or relating to the foregoing, including cash and other proceeds thereof, including, without limitation, proceeds of insurance and insurance indemnities and the right to receive proceeds of insurance on account of any of the foregoing, and
 - (b) **"Non-Trade Personal Property"** means all of the present and after-acquired personal property (movable) property of the Debtors and the Guarantors including related proceeds and insurance indemnities, excluding the Trade Personal Property.
29. The Intercreditor Agreement provides for the following priorities:
- a) with respect to Trade Personal Property: (i) Wells Fargo's Operational Financing Security has a first ranking priority to the extent of the Operational Financing Debt (i.e. the outstanding indebtedness under the Wells Fargo Credit Facility), and (ii) FCC has a second ranking priority to the extent of the outstanding indebtedness under the FCC Credit Agreement; and
 - b) with respect to the Non-Trade Personal Property: (i) FCC has a first-ranking priority to the extent of the outstanding indebtedness under the FCC Credit Agreement, and (ii) Wells Fargo has a second ranking priority to the extent of the indebtedness under the Wells Fargo Credit Facility.
30. The Receiver and the Wells Receiver are in frequent contact regarding the segregation and removal of the Trade Personal Property and the Non-Trade Personal Property.

F. THS APA

(i) *Previous Marketing Efforts*

31. Prior to the commencement of these FCC Receivership Proceedings, the Debtors and their advisors, including Kroll, undertook significant marketing efforts in respect of the Debtors'

real and personal property, including Non-Trade Personal Property. These efforts are described in detail in the Second Report of Alvarez & Marsal Canada Inc., in its capacity as proposal trustee (in such capacity, the "**Proposal Trustee**") in respect of the NOI Proceedings dated as of October 4, 2023 (the "**PT Report**"), a copy of which is available on the Proposal Trustee's Website.

Pre-Filing Sale Process

32. As noted above, prior to the commencement of the NOI Proceedings, Kroll undertook a broad sales and marketing process in respect of the Debtors' assets and operations (the "**Pre-Filing Sale Process**") that did not result in a viable transaction.
33. As part of the Pre-Filing Sale Process, Kroll approached 156 potentially interested parties, and 72 parties entered into non-disclosure agreements and were granted access to a virtual data room. Six parties submitted indications of interest by the deadline of March 15, 2023, and two parties submitted letters of intent by the deadline of May 10, 2023.
34. Ultimately, the Debtors were unable to complete a transaction prior to the commencement of the NOI Proceedings.

NOI SISP

35. Following the commencement of the NOI Proceedings, the Debtors undertook a Court-supervised sale process, assisted by Kroll and the Proposal Trustee.
36. The Receiver has been advised by representatives of Kroll that, as part of the NOI SISP, Kroll approached 29 prospective buyers, and was in contact with a total of 42 interested parties. Of these 42 interested parties, 27 had taken part in the Pre-Filing Sale Process, and 14 were new to the NOI Sale Process. 37 of these interested parties executed non-disclosure agreements. Six interested parties visited the Wallaceburg Facility for site tours.
37. As set out in the Snider Affidavit, Whyte's received four offers, including two going-concern offers by the bid deadline of September 21, 2023. Subsequently, FCC worked with the Debtors, the Proposal Trustee and the bidders to determine whether acceptable terms for either of the going concern offers could be achieved, however the parties were not able to reach acceptable terms.

38. Given that the NOI SISP did not result in a comprehensive and executable going concern transaction, FCC and Wells Fargo made the difficult decisions to focus on the piecemeal sale of the Debtors' remaining assets.

(ii) *Summary of THS APA*

39. THS was a participant in the NOI SISP and had negotiated a draft asset purchase agreement with the Debtors in respect of substantially all of the Debtors' Non-Trade Personal Property prior to the termination of the NOI Proceedings. Upon the Receiver's appointment, the Receiver worked with THS to update and finalize the draft asset purchase agreement. A copy of the THS APA (redacting the Purchase Price only) is attached hereto as Appendix "D".

40. Those discussions culminated in the execution of the THS APA on October 23, 2023 subject to the Court's approval. The key terms of the THS APA are summarized as follows:³

a) Purchaser:	THS Foods Canada, Ltd. (the " Purchaser ")
b) Structure:	Asset purchase agreement pursuant to an approval and vesting order
c) Consideration:	Cash in an amount specified in the THS APA (the " Purchase Price ") to be paid by wire transfer of immediately available cash on closing, subject to application of the Deposit.
d) Deposit:	10% of Purchase Price, which has been paid to the Receiver in escrow pending closing
e) Purchased Assets:	Substantially as listed in Schedule 2.1(a), comprising substantially all Non-Trade Personal Property of the Debtors located at the Facilities
f) Outside Date:	November 23, 2023, or such later date as may be agreed

³ The information in this table is a summary only. In the case of any discrepancy between the summary provided in this table and the THS APA, the THS APA prevails. All interested parties are encouraged to read the THS APA in full.

g) Material closing conditions: Issuance by the Court of the AVO. No other material conditions to closing are noted

h) Termination rights: The THS APA is terminable:

- by Receiver or Purchaser if the AVO is not issued prior to the Outside Date; or
- by either party in the event of material breach by the other party that is not cured prior to the Outside Date.

41. The Receiver is requesting that the Purchase Price amount be sealed pending the closing of the THS APA transaction to preserve value for FCC in the event that the THS APA transaction does not close for any reason. Given the outside date of the transaction, and the limited scope of the requested sealed information, the Receiver is of the view that such sealing is appropriate in the circumstances.

(iii) Request for Approval and Vesting Order

42. The Receiver has considered the Debtors' marketing efforts through the Pre-Filing Sale Process and the NOI SISP and is of the view that the consideration provided in the THS APA transaction represents the best recovery in respect of the Non-Trade Personal Property in the circumstances.

43. In forming this view, the Receiver had regard to the following factors:

- a) pursuant to the FCC Credit Agreement and Intercreditor Agreement, FCC is the first-ranking secured creditor in respect of the Non-Trade Personal Property;
 - (a) as noted above, as of October 3, 2023, the FCC Indebtedness is \$34,695,269.77, excluding professional fees, disbursements and accruing interest;
 - (b) FCC is anticipated to suffer a loss on its secured debt, having regard to the consideration offered in the THS APA and the likely value of FCC's remaining collateral, comprised primarily of the Wallaceburg Facility;
 - (c) accordingly, FCC is the only party with an economic interest in the Non-Trade Personal Property;

- (d) having regard to the Pre-Filing Sale Process and NOI SISP, the consideration offered in the THS APA is the highest available in the circumstances;
- (e) FCC has advised the Receiver that it is not willing to fund any additional marketing efforts in respect of the Non-Trade Personal Property;
- (f) FCC has advised the Receiver that it supports the Receiver entering into the THS APA;
- (g) Wells Fargo, which has second-ranking security on the Non-Trade Personal Property, has advised the Receiver that it does not object to the THS APA and the transaction contemplated thereby;
- (h) the requested form of AVO in respect of the THS APA is based substantially on the Ontario model form of approval and vesting order and does not contemplate any extraordinary or unusual relief in the circumstances; and
- (i) the timeline for the removal of Non-Trade Personal Property contemplated in the THS APA is reasonable and will permit the Receiver to advance efforts to monetize the Wallaceburg Facility as the next step in these FCC Receivership Proceedings. Additionally, the Non-Trade Personal Property removal timeline is consistent with the timelines contemplated under the Intercreditor Agreement and will permit the Receiver or Wells Receiver to advance the respective receivership proceedings without delay.

44. For the foregoing reasons, the Receiver therefore recommends and respectfully requests that the Court grant the AVO.

G. PROPOSED DISTRIBUTION

(i) *FCC's Security is Valid and Enforceable*

45. The security granted by the Debtors to FCC in connection with the FCC Credit Facility is described at paragraph 19 of the Snider Affidavit and has not been repeated herein.

46. Bennett Jones has reviewed the FCC Security and determined that, subject to customary assumptions and qualifications, the FCC Security is valid and enforceable with respect to the Non-Trade Personal Property of Whyte's and Gourmet in Ontario and Quebec and Saroli in Ontario.

(ii) *Request for a Distribution Order*

47. In the event that the Court issues the requested AVO and the THS APA closes in accordance with its terms, the Receiver intends to make an expeditious distribution to FCC to reduce ongoing interest costs, subject to any holdback the Receiver deems necessary or appropriate. Accordingly, the Receiver is respectfully requesting that the Court issue the Distribution and Ancillary Relief Order in the form appended at Tab 5 of the Receiver's motion record.

48. As detailed in the preceding section, Bennett Jones has completed a review of the FCC Security and has confirmed that it is valid and enforceable against the Non-Trade Personal Property of Whyte's and Gourmet in Ontario and Quebec and Saroli in Ontario, subject to typical assumptions and qualifications. The Receiver further notes that, relative to Wells Fargo, FCC is designated as the first-ranking secured creditor in respect of the Non-Trade Personal Property of Whyte's, Gourmet and Saroli pursuant to the Intercreditor Agreement.

49. As discussed above, FCC is the only party with an economic interest in the proceeds of the THS APA transaction and the proceeds of the St Louis Transaction that are held by the Receiver and is entitled to receipt thereof. The Receiver intends to withhold from distribution and amount to be agreed with FCC to be utilized to finance the Receiver's ongoing activities, but intends to distribute all remaining distributable amounts to FCC should the Distribution and Ancillary Order be issued.

(iii) *Ancillary Relief*

50. The proposed form Distribution and Ancillary Relief Order also includes a provision updating the style of cause in these proceedings. This relief is necessary because of the inadvertent misspelling of the French-language name of Whyte's that originated in the Applicant's application record and was then tracked into the Receivership Order. The

Receiver is satisfied that this is the result of a clerical error and is not aware of any party that was or could have been prejudiced by this typo. A copy of the corporate profile for Whyte's is attached at Appendix "E".

H. APPROVAL OF THE FEES AND ACTIVITIES OF THE RECEIVER

51. The proposed Distribution and Ancillary Relief Order seeks the approval of this First Report and the activities and conduct of the Receiver described herein.
52. The Receiver respectfully submits that its actions, conduct, and activities in these proceedings have been carried out in good faith and in accordance with the FCC Receivership Order and should therefore be approved.
53. Pursuant to paragraphs 18-20 of the FCC Receivership Order, the Receiver and its legal counsel shall (i) be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and (ii) pass their accounts from time to time before this Court.
54. The Receiver and Bennett Jones have maintained detailed records of their professional time and costs. The total fees and disbursements of the Receiver for the period from October 2, 2023 to October 29, 2023 total \$178,776.06, including fees in the amount of \$158,208.90, disbursements in the amount of \$3,353.03, and Harmonized Sales Tax ("**HST**") of \$20,567.16, as more particularly described in the affidavit of Jeffrey Rosenberg sworn October 30, 2023 (the "**Rosenberg Affidavit**"), a copy of which is appended hereto as Appendix "G".
55. The total fees and disbursements of Bennett Jones for the period from October 4, 2023 to October 30, 2023 total \$126,072.57, including fees in the amount of \$109,376.00, disbursements in the amount of \$2,192.65, and Harmonized Sales Tax ("**HST**") of \$14,503.92, as more particularly described in the affidavit of Sean Zweig sworn October 30, 2023 (the "**Zweig Affidavit**", and together with the Rosenberg Affidavit, the "**Fee Affidavits**"), a copy of which is appended hereto as Appendix "H".
56. The Receiver respectfully submits that the fees and disbursements incurred by the Receiver and Bennett Jones, as described in the Fee Affidavits, are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the FCC Receivership

Order. Accordingly, the Receiver respectfully requests the approval of the fees and disbursements of the Receiver and Bennett Jones.

I. CONCLUSION AND RECOMMENDATION

57. For the reasons stated in the First Report, the Receiver respectfully requests and recommends that the Court grant the following relief on the motion returnable November 6, 2023:

- (a) grant the AVO, among other things, approving the THS APA; and
- (b) grant the Distribution and Ancillary Relief Order.

The Receiver respectfully submits this, the First Report, to the Court.

Dated this 30th day of October, 2023.

FTI Consulting Canada Inc.,

solely in its capacity as Court-appointed Receiver of certain property of Whyte's Foods Inc./Aliments Whyte's Inc., Triak Capital Inc./Capital Triak Inc., Maison Gourmet Inc., and Mario Saroli Sales Inc., and not in its personal or corporate capacity



Jeffrey Rosenberg
Senior Managing Director

**SCHEDULE 1
FCC SECURITY**

- (a) Security agreement dated as of May 20, 2020, granted by Whyte's Food Inc./Les Ailments Whyte's Inc. in favour of FCC
- (b) Security agreement dated as of May 20, 2020, granted by Mario Saroli Sales Inc. in favour of the FCC
- (c) Security agreement dated as of May 20, 2020, granted by Maison Gourmet Inc. in favour of the FCC
- (d) Unlimited guarantee agreement dated as of May 20, 2020, granted by Triak Capital Inc./Capital Triak Inc. in favour of the FCC
- (e) Unlimited guarantee agreement dated as of May 20, 2020, granted by Mario Saroli Sales Inc. in favour of the FCC
- (f) Unlimited guarantee agreement dated as of May 20, 2020, granted by Maison Gourmet Inc. in favour of the FCC
- (g) Acknowledgement and Confirmation of Existing Security Agreement dated as of April 19, 2023, granted by the Whyte's Food Inc./Les Ailments Whyte's Inc., Triak Capital Inc./Capital Triak Inc., Maison Gourmet Inc., Mario Saroli Sales Inc., Elizabeth Kawaja, Paul Kawaja, and Care Real Estate Holdings ULC in favour of the FCC
- (h) FCC Charge for the Wallaceburg Property registered May 19, 2020
- (i) Universal Movable and Immovable Hypothec by Whyte's Food Inc./Les Ailments Whyte's Inc. dated as at May 14, 2020
- (j) Universal Deed of Hypothec by Whyte's Food Inc./Les Ailments Whyte's Inc. in favour of FCC dated as of April 17, 2023
- (k) Universal Movable Hypothec by Maison Gourmet Inc. in favour of FCC dated as of April 17, 2023
- (l) Assignment of rents and leases by Whyte's Food Inc./Les Ailments Whyte's Inc. in favour of FCC with respect to the Wallaceburg Property dated May 19, 2020

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ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	FRIDAY, THE 6 th
)	
JUSTICE CAVANAGH)	DAY OF OCTOBER, 2023

FARM CREDIT CANADA

Applicant

and

**WHYTE'S FOODS INC./LES AILMENTS WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC.**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O 1990, C.C.43, AS AMENDED**

ORDER
(Appointing Receiver)

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing FTI Consulting Canada Inc. (“**FTI**”) as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of those assets that constitute the FCC Secured Property (as defined below) of Whyte’s Foods Inc./Les Ailments Whyte’s Inc. (“**Whyte’s**”), Maison Gourmet Inc. (“**Gourmet**”), Triak Capital Inc./Capital Triak Inc. (“**Triak**”), and Mario Saroli Sales Inc. (“**Saroli**”) (collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Dale Snider sworn October 4, 2023 and the Exhibits thereto (the “**Snider Affidavit**”) and on hearing the submissions of counsel for the Applicant, counsel for Wells Fargo Capital Finance Corporation Canada (“**Wells Fargo**”), counsel for FTI, counsel for the Respondent, and counsel for Alvarez & Marsal Canada Inc. (“**Alvarez & Marsal**”) and those other parties listed on the counsel slip, no one else appearing although duly served as appears from the affidavit of service of Heather Fisher sworn October 5, 2023 and on reading the consent of FTI to act as the Receiver,

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, effective immediately upon the earlier (a) 5:00pm (ET) on Thursday, October 12, 2023; and (b) the filing of a certificate by Alvarez & Marsal, in its capacity as proposal trustee of Whyte’s in those court proceedings bearing Court File No. 31-2978830 (the “**NOI Proceedings**”) confirming the closing of the sale of the St-Louis Facility (as defined in the Snider Affidavit) and related assets to Ailments Putters Inc. (the “**St-Louis Sale**”), FTI is hereby appointed Receiver, without security, of all the assets, undertakings and properties of the Debtors that constitute Non-Trade Personal Property or real property, including land and buildings at the Wallaceburg Facility and the St-Louis Facility (each as defined in the Snider Affidavit, and collectively, the “**FCC Secured Property**”).

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the FCC Secured Property and any and all proceeds, receipts and disbursements arising out of or from the FCC Secured Property;
- (b) to receive, preserve, and protect the FCC Secured Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of FCC Secured Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) with respect to all FCC Secured Property, to manage, operate, rent, lease, enter into occupation agreements and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage employees, consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) with respect to all FCC Secured Property, to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors and receiving all funds relating to the St-Louis Sale or any other proceeds from the sale of FCC Secured Property in the hands of the Debtors or Proposal Trustee;
- (f) to settle, extend or compromise any indebtedness owing to the Debtors in respect of all FCC Secured Property;

- (g) to execute, assign, issue and endorse documents of whatever nature in respect of any of the FCC Secured Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (h) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors in respect of the FCC Secured Property, or with respect to the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (i) to market and sell any or all of the FCC Secured Property, including advertising and soliciting offers in respect of the FCC Secured Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (j) to sell, convey, transfer, lease or assign the FCC Secured Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required.

- (k) to apply for any vesting order or other orders necessary to convey the FCC Secured Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such FCC Secured Property;
- (l) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the FCC Secured Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (m) to register a copy of this Order and any other Orders in respect of the FCC Secured Property against title to any of the FCC Secured Property;
- (n) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors with respect to any FCC Secured Property;
- (o) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, or any purchasers of the Debtors' assets or other secured lenders of the Debtors including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any FCC Secured Property owned or leased by the Debtors;
- (p) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (q) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

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

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

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

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords of the Debtors with notice of the Receiver's intention to remove any Non-Trade Personal Property from any leased premises at least two (2) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTORS OR THE FCC SECURED PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the FCC Secured Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided

that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the FCC Secured Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts

to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the FCC Secured Property that might be environmentally contaminated,

might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the FCC Secured Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

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

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver's Charge**”) on the FCC Secured Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the FCC Secured Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, other than the Administration Charge and Director’s Charge (each as defined in the Initial Order granted August 31, 2023 in the NOI Proceedings) and subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

NOI PROCEEDINGS

21. THIS COURT ORDERS that, pending further Order of the Court, the Administration Charge and the Directors' Charge with respect to the FCC Secured Property shall continue as against the FCC Secured Property with the priority and to the maximum amount as set out below:

First – the Administration Charge to the maximum amount of \$250,000 less any amounts paid in connection with the Administration Charge granted in the proceeding styled: *Wells Fargo Capital Finance Corporation Canada v. Whyte's Foods Inc., Maison Gourmet Inc., Triak Capital Inc. and Mario Saroli Sales Inc.* bearing court file number: CV-23-00707052-00CL and after the payment of such amounts;

Second – the Director's Charge over the Non-Trade Personal Property up to the maximum amount of \$350,000;

Third – the Receiver's Charge; and

Fourth - The Receiver's Borrowing's Charge up to the maximum amount of \$1,000,000.

FUNDING OF THE RECEIVERSHIP

22. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or

rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the FCC Secured Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver's Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Administration Charge, the Director’s Charge and the Receiver’s Charge, and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

SERVICE AND NOTICE

26. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further

orders that a Case Website shall be established in accordance with the Protocol with the following <http://cfcanada.fticonsulting.com/wfi/>.

27. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

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

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

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

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

32. THIS COURT ORDERS that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

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

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

34. THIS IS TO CERTIFY that FTI Consulting Canada Inc., the receiver and manager (the "Receiver") of those assets that constitute FCC Secured Property (as defined in the Order) of Whyte's Foods Inc./Les Ailments Whyte's Inc. ("Whyte's"), Maison Gourmet Inc. ("Gourmet"), Triak Capital Inc./Capital Triak Inc. ("Triak"), and Mario Saroli Sales Inc. ("Saroli") (collectively, the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 6th day of October, 2023 (the "Order") made in an application having Court file number CV-23-00707205-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$1,000,000 which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

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

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

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

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

DATED the ____ day of _____, 20__.

FTI Consulting Canada Inc., solely in its capacity as Receiver of the FCC Secured Property of the Debtors, and not in its personal capacity

Per: _____

Name:

Title:

FARM CREDIT CANADA
Applicant

-and- WHYTE'S FOOD INC. et al.
Respondent

Court File No. CV-23-00707205-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**ORDER
(Appointing Receiver)**

GOWLING WLG (CANADA) LLP

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File Number: L150180013

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Court File No. CV-23-00707052-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 6TH
JUSTICE CAVANAGH) DAY OF OCTOBER, 2023

B E T W E E N:

WELLS FARGO CAPITAL FINANCE CORPORATION CANADA

Applicant

- and -

WHYTE'S FOODS INC., MAISON GOURMET INC., TRIAK CAPITAL INC.
AND MARIO SAROLI SALES INC.

Respondents

IN THE MATTER OF AN APPLICATION UNDER SECTION 243
(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C.
1985, C. B-3, AS AMENDED AND S. 101 OF THE COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**"), appointing Ernst & Young Inc. ("**EY**") as receiver (in such capacity, the "**Receiver**"), without security, of those assets that constitute Trade Personal Property (defined below) of Whyte's Foods Inc. ("**Whyte's**"), Maison Gourmet Inc., Triak Capital Inc. and Mario Saroli Sales Inc. (collectively, the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Carmela Massari sworn October 3, 2023 and the Exhibits thereto (the "**Massari Affidavit**"), the pre-filing report dated October 5, 2023 (the "**Pre-Filing Report**") of EY in its capacity as proposed Receiver and on hearing the submissions of counsel

for the Applicant, the Debtors, Farm Credit Canada, the Proposal Trustee (defined below) and the proposed Receiver and those other parties present, no one appearing for any other party on the Service List, although duly served as appears from the affidavit of service of Katie Parent sworn October 5, 2023 and on reading the consent of EY to act as the Receiver,

SERVICE

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

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, effective immediately upon the earlier of (a) 5:00pm (ET) on Thursday October 12, 2023; and (b) the filing of a certificate by Alvarez & Marsal Canada Inc., in its capacity as proposal trustee of Whyte's in those court proceedings bearing court file number 31-2978830 (the "**NOI Proceedings**") confirming the closing the sale of the Saint-Louis Plant (as defined in the Massari Affidavit) to Ailments Putters Inc., Ernst & Young Inc. is hereby appointed Receiver, without security, of all of property, assets and undertaking of the Debtors that constitutes Trade Personal Property (as defined in the A&R FCC Intercreditor Agreement, as defined in the Massari Affidavit).

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Trade Personal Property and any and all proceeds, receipts and disbursements arising out of or from the Trade Personal Property;
- (b) to receive, preserve, and protect the Trade Personal Property, or any part or parts thereof, including, but not limited to, securing Trade Personal Property within a facility, the relocating of Trade Personal Property to

safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage employees of the Debtors, consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to rent or pay for the cost of using such machinery, equipment, premises or other assets to preserve, protect, convert to finished goods, remove or sell any Trade Personal Property from any of the facilities of the Debtors;
- (f) to purchase such inventories or supplies as may be necessary to convert any existing work in process inventory into finished goods inventory;
- (g) with respect to the Trade Personal Property, to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (h) to settle, extend or compromise any trade indebtedness owing to the Debtors in respect of the Trade Personal Property;
- (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Trade Personal Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter

instituted with respect to the Debtors in respect of the Trade Personal Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (k) to market any or all of the Trade Personal Property, including advertising and soliciting offers in respect of the Trade Personal Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Trade Personal Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (m) to apply for any vesting order or other orders necessary to convey the Trade Personal Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Trade Personal Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Trade Personal Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors or any purchasers of the Debtors' assets or other secured lenders of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors; and
- (q) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to

and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords, purchasers or secured creditors of the Debtors with notice of the Receiver's intention to remove any Trade Personal Property from any leased premises at least two (2) days prior to the date of the intended removal. The relevant landlord, purchaser or secured lender shall be entitled to have a representative present in the subject premises to observe such removal.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTORS OR THE TRADE PERSONAL PROPERTY

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Trade Personal Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way

against or in respect of the Debtors or the Trade Personal Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Trade Personal Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors’ current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors’ behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Trade Personal Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Trade Personal Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

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

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Trade Personal Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Trade Personal Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of

any Person, other than the Administration Charge (defined below) and the Directors' Charge (to the maximum amount of \$350,000 and as such term is defined below) and sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

NOI PROCEEDINGS

21. THIS COURT ORDERS that, pending further Order of the Court, the Administration Charge, the Directors' Charge and DIP Lender's Charge (all as defined in the Initial Order granted August 31, 2023 in the NOI Proceedings) shall continue as against the Trade Personal Property with the same priority as such Charges had in the NOI Proceedings.

FUNDING OF THE RECEIVERSHIP

22. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1 million (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Trade Personal Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge, the Administration Charge, the Directors' Charge (to the maximum amount of \$350,000) and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

SERVICE AND NOTICE

26. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<www.ey.com/ca/whytes>'.

27. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

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

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

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

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

32. THIS COURT ORDERS that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

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



Digitally signed by
Mr. Justice
Cavanagh

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Trade Personal Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the ____ day of _____, 20__.

[RECEIVER'S NAME], solely in its capacity
as Receiver of the Trade Personal Property,
and not in its personal capacity

Per: _____

Name:

Title:

Court File No. CV-23-00707052-00CL

WELLS FARGO CAPITAL FINANCE CORPORATION CANADA
Applicant

-and-

WHYTE'S FOODS INC. ET. AL.
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**ORDER
(Appointing Receiver)**

NORTON ROSE FULBRIGHT CANADA LLP
222 Bay Street, Suite 3000
Toronto ON M5K 1E7

Jennifer Stam LSO#: 46735J
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jennifer.stam@nortonrosefulbright.com

Lawyers for the Applicant

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED, OF WHYTE'S FOODS INC.**

Applicant

PROPOSAL TRUSTEE'S CERTIFICATE

RECITALS

- A. On August 23, 2023, Whyte's Foods Inc. ("**Whyte's**" or the "**Vendor**") filed a Notice of Intention to Make a Proposal ("**NOI**") pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**").
- B. Alvarez & Marsal Canada Inc. ("**A&M**") was appointed as Proposal Trustee of Whyte's (the "**Proposal Trustee**").
- C. Pursuant to an Order of the Court dated October 6, 2023 (the "**Approval and Vesting Order**"), the Court approved an Agreement of Purchase and Sale dated September 29, 2023 (the "**St. Louis Purchase Agreement**") between the Vendor and 9498-8995 Québec Inc. and 9498-8938 Québec Inc., as purchasers (collectively, the "**Purchasers**"), and provided for the vesting in the Purchasers of the Vendor's right, title and interest in and to the Purchased Assets (the "**Transaction**"), which vesting is to be effective with respect to the Purchased Assets upon the Proposal Trustee's delivery to the Purchasers of a certificate confirming: (i) the payment by the Purchasers of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the St. Louis Purchase Agreement have been satisfied or waived by the Vendor and the Purchasers, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Proposal Trustee.

D. Pursuant to the Approval and Vesting Order, the Proposal Trustee may rely on written notice from the Vendor and the Purchasers regarding fulfillment of conditions to closing under the St. Louis Purchase Agreement.

E. Capitalized terms used herein and not otherwise defined have the meanings given to such terms in the St. Louis Purchase Agreement.

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. The Purchasers have paid the Purchase Price for the Purchased Assets pursuant to the St. Louis Purchase Agreement.
2. The Vendor and the Purchasers have each delivered written notice to the Proposal Trustee that the conditions to Closing under the St. Louis Purchase Agreement have been satisfied and/or waived, as applicable.
3. The Transaction has been completed to the satisfaction of the Proposal Trustee.
4. This Certificate was delivered by the Proposal Trustee at Toronto on October 12, 2023.

**ALVAREZ & MARSAL CANADA INC. in
its capacity as Proposal Trustee of Whyte's
Foods Inc. and not in its personal capacity**

Per: _____


Name: Stephen Ferguson
Title: Senior Vice President

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL UNDER THE BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, c. B-3, AS AMENDED OF WHYTE'S FOODS INC.**

Court File No. BK-23-02978830-0031
Estate File No. 31-2978830

Applicant

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

Proceeding commenced at TORONTO

PROPOSAL TRUSTEE'S CERTIFICATE

FASKEN MARTINEAU DuMOULIN LLP

Barristers and Solicitors
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Lawyers for the Proposal Trustee

**T
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THS FOODS CANADA, LTD.

and

FTI CONSULTING CANADA INC., solely in its capacity as receiver and manager of the FCC Secured Property, and not in its personal or corporate capacity

ASSET PURCHASE AGREEMENT

October 23, 2023

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ASSET PURCHASE AGREEMENT

Asset purchase agreement dated October 23, 2023 between FTI Consulting Canada Inc., solely in its capacity as the receiver and manager (in such capacity, the "**Receiver**") of the FCC Secured Property (as defined below) and not in its personal or corporate capacity (the "**Vendor**"), and THS Foods Canada, Ltd. (the "**Purchaser**").

RECITALS:

- (1) Pursuant to an Order of the Superior Court of Justice (Commercial List) (the "**Court**") made on October 6, 2023 (the "**Receivership Order**"), the Vendor was appointed receiver and manager of the Non-Trade Personal Property (as defined therein) and real property of the Whyte's Foods Companies (as defined herein) (collectively, the "**FCC Secured Property**").
- (2) The Whyte's Foods Companies are in the business of processing pickled products for the retail, food service and co-packing industries (the "**Business**").
- (3) The Vendor desires to sell, transfer and assign the Purchased Assets (as defined herein).
- (4) Concurrent with the execution of this Agreement, the Purchaser deposited \$ [REDACTED] (the "**Deposit**") in escrow with the Vendor to be applied to the Purchase Price on Closing.
- (5) Approval of the Court will be sought by the Vendor for the transactions contemplated by this Agreement in accordance with the Receivership Order.

ARTICLE 1 INTERPRETATION

1.1 Defined Terms.

As used in this Agreement, the capitalized terms listed below shall have the corresponding meanings.

"**Affiliate**" of a Person means any other Person that directly or indirectly controls, is controlled by or is under common control with such Person, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Agreement**" means this asset purchase agreement.

"**Ancillary Agreements**" means all agreements, certificates and other instruments delivered or given pursuant to this Agreement.

"**Approval and Vesting Order**" means an approval and vesting order of the Court in form and in substance satisfactory to the Vendor and the Purchaser, each acting reasonably, approving this Agreement and vesting in and to the Purchaser the Purchased Assets, free and clear of and from any and all Liens other than Permitted Liens to the extent and as provided for in such approval and vesting order.

“Authorization” means, with respect to any Person, any order, permit, approval, consent, waiver, license or other authorization of any Governmental Entity having jurisdiction over the Person.

“BIA” means the *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, c. B-3.

“Books and Records” means all information owned by the Vendor in any form relating to the Purchased Business in the Vendor's possession or located at the Facilities, including books of account, financial and accounting information and records, personnel records, tax records, sales and purchase records, customer and supplier lists, lists of potential customers, referral sources, research and development reports and records, production reports and records, equipment logs, operating guides and manuals, business reports, plans and projections, marketing and advertising materials and all other documents, files, correspondence and other information (whether in written, printed, electronic or computer printout form, or stored on computer discs or other data and software storage and media devices).

“Business Day” means any day of the year, other than a Saturday, Sunday or any day on which major Canadian chartered banks are closed for business in Toronto, Ontario.

“Business” has the meaning set out in the recitals of this Agreement.

“Cash on Close” has the meaning specified in Section 3.1(1).

“Closing” means the completion of the transaction of purchase and sale contemplated in this Agreement.

“Closing Date” has the meaning specified in Section 8.1.

“Contract” means any agreement, contract, consent (including any contractual consent or government consent), lease, license, undertaking, engagement or commitment of any nature, whether written or oral.

“Court” has the meaning set out in the recitals of this Agreement.

“Deposit” has the meaning specified in the recitals of this Agreement.

“Excluded Liabilities” has the meaning specified in Section 2.2.

“FCC Secured Property” has the meaning set out in the recitals of this Agreement.

“Facilities” means, collectively, the St-Therese Facility and the Wallaceburg Facility.

“Governmental Entity” means: (i) any governmental or public department, central bank, court, minister, governor-in-council, cabinet, commission, tribunal, board, bureau, agency, commissioner or instrumentality, whether international, multinational, national, federal, provincial, state, county, municipal, local, or other; (ii) any subdivision or authority of any of the above; (iii) any stock exchange; and (iv) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the above.

"Laws" means any principle of common law and all applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, orders, decrees, rules, regulations and by-laws, (ii) judgments, orders, writs, injunctions, decisions, awards and directives of any Governmental Entity and (iii) to the extent that they have the force of law, standards, policies, guidelines, notices and protocols of any Governmental Entity.

"Lien" means any mortgage, charge, pledge, hypothec, security interest, assignment, lien (statutory or otherwise), adverse claim, right of first option, right of first refusal, easement, title retention agreement or arrangement, conditional sale, deemed or statutory trust, restrictive covenant or other encumbrance of any nature which, in substance, secures payment or performance of an obligation.

"Notice" has the meaning specified in Section 10.1.

"Outside Date" means November 23, 2023, or such later date as may be agreed to between the Parties.

"Parties" means each of the Vendor and the Purchaser and any other Person who may become a party to this Agreement.

"Permitted Liens" means (i) Liens, encroachments and other minor imperfections of title which do not, individually or in the aggregate, materially detract from the value of or impair the use or marketability of the Purchased Assets, and (ii) Liens listed and described in Schedule 2.1 but only to the extent such Liens conform to their description in Schedule 2.1.

"Person" means an individual, partnership, limited partnership, limited liability partnership, corporation, limited liability company, unlimited liability company, joint stock company, trust, unincorporated association, joint venture or other entity or Governmental Entity, and pronouns have a similarly extended meaning.

"Purchase Price" has the meaning specified in Section 3.1.

"Purchased Assets" has the meaning specified in Section 2.1.

"Purchaser" has the meaning specified in the preamble above.

"Receiver" has the meaning specified in the preamble above.

"Receivership Order" has the meaning specified in the preamble above.

"St-Therese Facility" means the facility located at 20 Rue Sicard, Sainte-Thérèse, QC J7E 3W7.

"Taxes" means (i) any and all taxes, duties, fees, excises, premiums, assessments, imposts, levies, rates, withholdings, dues, contributions and other charges, collections or assessments of any kind whatsoever, imposed by any Governmental Entity; (ii) all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Entity on or in respect of amounts of the type described in clause (i) above or this clause (ii); and (iii) any liability for the payment of any amounts of the type described

in clauses (i) or (ii) as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any party.

"Tax Returns" means any and all returns, reports, declarations, elections, notices, forms, designations, filings, and other documents filed or required to be filed in respect of Taxes.

"Transfer Taxes" means all applicable transfer, documentary, sales, use, stamp, registration and other such Taxes, including where applicable, GST/HST (and any similar Tax under applicable provincial or territorial statute) payable upon or in connection with the transactions contemplated by this Agreement and any filing, registration, recording or transfer fees payable in connection with the instruments of transfer provided for in this Agreement.

"Vendor" has the meaning specified in the preamble above.

"Wallaceburg Facility" means the facility located at 6800 Base Line, Wallaceburg, ON N8A 2K6.

"Whyte's Foods Companies" means Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc.

1.2 References and Usage.

Unless expressly stated otherwise, in this Agreement:

- (a) reference to a gender includes all genders;
- (b) the singular includes the plural and vice versa;
- (c) "or" is used in the inclusive sense of "and/or";
- (d) "any" means "any and all";
- (e) the words "including", "includes" and "include" mean "including (or includes or include) without limitation";
- (f) the phrase "the aggregate of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of";
- (g) \$ or dollars refers to the Canadian currency unless otherwise specifically indicated;
- (h) a statute includes all rules and regulations made under it, if and as amended, re-enacted or replaced from time to time;
- (i) a Person includes its predecessors, successors and permitted assigns;
- (j) the term "notice" refers to oral or written notices except as otherwise specified;
- (k) the term "Agreement" and any reference in this Agreement to this Agreement or any other agreement or document includes, and is a reference to, this Agreement or such other agreement or document as it may have been, or may from time to

time be amended, restated, replaced, supplemented or novated and all schedules to it, except as otherwise provided in this Agreement; and

- (l) whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be required to be made or such action will be required to be taken on or not later than the next succeeding Business Day and in the computation of periods of time, unless otherwise stated, the word "from" means "from and excluding" and the words "to" and "until" each mean "to and including".

1.3 Headings, etc.

The use of headings (e.g. Article, Section, etc.) in this Agreement is for reference only and is not to affect the interpretation of this Agreement. References in the Agreement to Article, Section etc., unless otherwise specified, shall mean the applicable Article, Section, etc. of this Agreement.

1.4 Schedules.

The schedules attached to this Agreement form an integral part of this Agreement for all purposes of it.

ARTICLE 2 PURCHASE AND SALE

2.1 Purchased Assets.

Subject to the terms and conditions of this Agreement and subject to the approval of the Court, the Vendor agrees to sell, assign and transfer to the Purchaser and the Purchaser agrees to purchase from the Vendor and effective as at 12:01 a.m. on the Closing Date, on an "as is, where is" basis, all of the Vendor's right, title and interest in the following property, assets and undertakings (collectively, the "**Purchased Assets**"), free and clear of all Liens other than Permitted Liens:

- (a) **Machinery, Equipment and Supplies.** The machinery, equipment, technology, furnishings, and communications hardware and infrastructure, furniture, and accessories, parts and supplies located at the Facilities and substantially as set forth in Schedule 2.1(a) (the "**Equipment**");
- (b) **Warranties.** All of the rights of Vendor in, to and under third party warranties, representations, indemnities, guarantees, and similar rights extended by suppliers, vendors, contractors, manufacturers and licensors that are part of or related to any of the Equipment; and
- (c) **Books and Records.** The Books and Records of the Vendor relating to the Equipment.

2.2 Excluded Liabilities.

The Purchaser shall not assume and shall have no obligation to discharge, perform or fulfil any and all Excluded Liabilities. "**Excluded Liabilities**" means any and all liabilities and

obligations of the Vendor or with respect to the Business or the Purchased Assets, whether known, unknown, direct, indirect, absolute, contingent or otherwise or arising out of facts, circumstances or events.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price.

- (1) The purchase price payable by the Purchaser to the Vendor for the Purchased Assets (the “Purchase Price”) is \$ [REDACTED] in cash (the “Cash on Close”).
- (2) In addition to the Purchase Price, the Purchaser shall be liable for and shall, at Closing, pay all applicable Transfer Taxes to the Vendor. Such amounts paid to the Vendor for Transfer Taxes shall be remitted to the applicable taxing authority pursuant to Section 4.1.

3.2 Allocation.

The Vendor and the Purchaser shall use commercially reasonable efforts to agree prior to Closing upon the allocation the Purchase Price among the Purchased Assets. If the Parties agree upon an allocation of the Purchase Price, they shall execute and file all of their own Tax Returns and prepare all of their own financial statements and other instruments on the basis of that allocation. Failure of the Parties to agree upon the allocation of the Purchase Price among the Purchased Assets will not affect the Parties’ obligations under this Agreement including the obligation to complete the transaction contemplated in this Agreement.

3.3 Payments on Closing.

At the Closing, the Purchaser shall pay, by delivery of a wire transfer of immediately available funds to the Receiver, an amount equal to the Cash on Close (after application of the Deposit thereto). The Purchaser acknowledges and agrees that the Cash on Close shall not be subject to any holdbacks, reserves or other claims by the Purchaser and will be freely distributable immediately after Closing.

ARTICLE 4 TAX MATTERS

4.1 Transfer Taxes.

The Purchaser shall be liable for all Transfer Taxes properly payable upon and in connection with the sale, assignment and transfer of the Purchased Assets from the Vendor to the Purchaser, other than any taxes payable on the Vendor’s net income, profits or gains. The Vendor shall remit payment for any Transfer Taxes and duly and timely file any related tax returns; provided, however, that the Purchaser and the Vendor shall cooperate in the preparation and filing of all tax returns or other applicable documents for or with respect to Transfer Taxes, including timely signing and delivering such tax returns, documents, and certificates as may be necessary or appropriate to file such tax returns or establish an exemption from (or otherwise reduce) Transfer Taxes. The Vendor shall provide any assistance requested by the Purchaser relating to any claim or request filed by the Purchaser with any taxing authority for the adjustment, refund or credit of any Transfer Taxes paid in connection with this Agreement. Notwithstanding the foregoing, nothing herein shall prevent the Receiver from seeking a discharge from the Court in respect of the Receivership Order.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of the Vendor.

The Vendor represents and warrants as follows to the Purchaser as of the date hereof and as of the Closing Date and acknowledges and confirms that the Purchaser is relying upon the following representations and warranties in completing its purchase of the Purchased Assets:

- (a) Receiver has been appointed by the Court as receiver and manager of the FCC Secured Property and such appointment is valid and subsisting;
- (b) subject to obtaining the Approval and Vesting Order, Vendor has the right to enter into this Agreement and to complete the Transaction;
- (c) Vendor is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

5.2 Representations and Warranties of the Purchaser.

The Purchaser represents and warrants as follows to the Vendor as of the date hereof and as of the Closing Date and acknowledges and agrees that the Vendor is relying on such representations and warranties in connection with its sale of the Purchased Assets:

(1) Corporate Power.

- (a) The Purchaser is duly organized and validly existing under the laws of its jurisdiction of organization; and
- (b) The Purchaser has the power, authority and capacity to enter into and perform its obligations under this Agreement and each Ancillary Agreement to which the Purchaser is a party and to own and lease real property and carry on its business as currently conducted.

(2) Residence of the Purchaser. The Purchaser is not a non-resident of Canada for purposes of the Tax Act.

(3) Absence of Conflicts. The Purchaser is not a party to, bound or affected by or subject to any charter or by-law provision or Applicable Laws or Authorizations that would be violated, breached, or under which any default would occur or with notice or the passage of time would be created, as a result of the execution and delivery of, or the performance of obligations under, this Agreement or any Ancillary Agreement to which the Purchaser is a party.

(4) Due Authorization and Enforceability of Obligations. The execution and delivery of this Agreement and each Ancillary Agreement to which the Purchaser is a party and the purchase of the Purchased Assets have been duly authorized by all necessary corporate action of the Purchaser, if applicable or required. This Agreement and each Ancillary Agreement to which the Purchaser is a party have been duly and validly executed by the Purchaser, and constitutes a valid and binding obligation of the Purchaser enforceable against it in accordance with their terms, except as such enforceability may be limited by

bankruptcy, insolvency, moratorium, reorganization and similar laws affecting creditors generally and by general principles of equity, regardless of whether asserted in a proceeding in equity or law.

- (5) **Transfer Tax Registrant.** The Purchaser is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act* (Canada) and its registration numbers are (i) 101580660 RT0001 for GST and (ii) 1003871092TQ0002 for QST.
- (6) **Financing and Solvency.** The Purchaser has and will at Closing have available in immediately-available funds on hand, from its working capital and/or currently available unrestricted credit facilities or committed capital contributions, all the cash that the Purchaser shall need at the Closing to consummate the purchase of the Purchased Assets.
- (7) **Informed and Sophisticated Purchaser.** The Purchaser is an informed and sophisticated Purchaser, and has engaged advisors and is experienced in the evaluation and purchase of property and assets such as the Purchased Assets, as contemplated hereunder. The Purchaser has undertaken such investigations and has been provided with and has evaluated such documents and information as it has deemed necessary to enable it to make an informed and intelligent decision with respect to the execution, delivery and performance of this Agreement.
- (8) **No Brokers.** No agent, broker, person or firm acting on behalf of the Purchaser is, or will be, entitled to any commission or brokers' or finders' fees from the Purchaser or from any Affiliate of the Purchaser, in connection with any of the transactions contemplated hereby.

5.3 No Other Representation or Warranty. The representations and warranties given by the Vendor in Section 5.1 are the only representations and warranties of the Vendor in connection with this Agreement and the transactions contemplated by it.

5.4 As is, Where is.

THE PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE PURCHASED ASSETS ARE PURCHASED BY THE PURCHASER "AS IS, WHERE IS" AS THEY SHALL EXIST AT THE CLOSING DATE WITH ALL FAULTS AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR BY LAW WITH RESPECT TO THE PURCHASED ASSETS, AND WITHOUT ANY RECOURSE TO THE VENDOR OR ANY OF ITS DIRECTORS, OFFICERS, SHAREHOLDERS, REPRESENTATIVES OR ADVISORS, OTHER THAN FOR FRAUD. THE PURCHASER AGREES TO ACCEPT THE PURCHASED ASSETS IN THE CONDITION, STATE AND LOCATION THEY ARE IN ON THE CLOSING DATE BASED ON THE PURCHASER'S OWN INSPECTION, EXAMINATION AND DETERMINATION WITH RESPECT TO ALL MATTERS AND WITHOUT RELIANCE UPON ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY NATURE MADE BY OR ON BEHALF OF OR IMPUTED TO THE VENDOR, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT. Unless specifically stated in this Agreement, the Purchaser acknowledges and agrees that no representation, warranty, term or condition, understanding or collateral agreement, whether statutory, express or implied, oral or written, legal, equitable, conventional, collateral or otherwise, is being given by the Vendor in this Agreement or in any instrument furnished in connection with this Agreement, as to description, fitness for purpose, sufficiency to carry on any business, merchantability, quantity, condition, ownership, quality, value, suitability, durability, environmental condition,

assignability or marketability thereof, or in respect of any other matter or thing whatsoever, and all of the same are expressly excluded.

ARTICLE 6 PRE-CLOSING COVENANTS OF THE PARTIES

6.1 Access by Purchaser.

Subject to applicable Law, from the date hereof until the Closing, the Vendor shall (i) upon reasonable notice, permit the Purchaser and its partners and Affiliates, its and their respective employees, agents, counsel, accountants or other representatives to have reasonable access during normal business hours to (A) the premises of the Vendor, and (B) the Purchased Assets, including all Books and Records of the Vendor; and (ii) furnish to the Purchaser or its partners, employees, agents, counsel, accountants or other representatives such financial and operating data and other information with respect to the Purchased Assets and the Vendor (to the extent such data or information is in the Vendor's possession or, using commercially reasonable efforts, can be obtained by the Vendor) as the Purchaser from time to time reasonably requests.

6.2 Actions to Satisfy Closing Conditions.

- (1) The Vendor shall use commercially reasonable efforts to take or cause to be taken all such actions so as to ensure compliance with all of the conditions set forth in Section 7.1.
- (2) The Purchaser shall use its commercially reasonable efforts to take or cause to be taken all such actions so as to ensure compliance with all of the conditions set forth in Section 7.2.

6.3 Transfer of the Purchased Assets.

The Vendor shall take all necessary steps and proceedings to permit good title to the Purchased Assets to be duly and validly transferred and assigned to the Purchaser at the Closing pursuant to the Approval and Vesting Order and this Agreement, free from all liens other than Permitted Liens.

6.4 Notices and Requests for Consents

The Vendor shall provide any notices (in form and substance acceptable to the Purchaser, acting reasonably) that are required in connection with the transaction contemplated pursuant to the Approval and Vesting Order and this Agreement.

6.5 Filings and Authorizations.

Each of the Purchaser and the Vendor, as promptly as practicable after the execution of this Agreement, shall (i) make, or cause to be made, all filings and submissions under all Laws applicable to it, that are required for it to consummate the purchase and sale of the Purchased Assets in accordance with the terms of this Agreement, and (ii) use its commercially reasonable efforts to obtain, or cause to be obtained, all Authorizations necessary or advisable to be obtained by it in order to consummate such transfer, and (iii) use its commercially reasonable efforts to take, or cause to be taken, all other actions necessary, proper or advisable in order for it to fulfil its obligations under this Agreement.

6.6 Court Approval.

- (1) The Vendor shall seek the approval of the Court to the transactions contemplated by this Agreement in accordance with the following:
 - (a) The Vendor and the Purchaser shall reasonably cooperate with filing and prosecuting the motion for issuance and entry of the Approval and Vesting Order, and the Vendor shall deliver to the Purchaser prior to filing, and as early in advance as is practicable to permit adequate and reasonable time, for the Purchaser and its counsel to review and comment, copies of all of the Vendor's proposed pleadings, motions and other material papers to be filed by the Vendor in connection with such motions and proposed orders and relief requested therein and any challenges thereto.
 - (b) The Vendor, in consultation with the Purchaser, shall determine all Persons required to receive notice of the motions for the Approval and Vesting Order under applicable Laws and any other Person determined necessary by the Vendor or the Purchaser.
 - (c) The Vendor shall provide the Purchaser with draft copies of all court materials to be filed in connection with the transactions contemplated hereunder and shall provide the Purchaser with a reasonable opportunity to provide comments on such materials.

ARTICLE 7 CONDITIONS OF CLOSING

7.1 Conditions for the Benefit of the Purchaser.

The purchase and sale of the Purchased Assets is subject to the following conditions being satisfied on or prior to the Closing Date, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser in its sole discretion:

- (a) **Truth of Representations and Warranties.** The representations and warranties of the Vendor contained in this Agreement were true and correct as of the date of this Agreement and are true and correct as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date and the Vendor shall have executed and delivered a certificate of an officer to that effect. Upon the delivery of such certificate, the representations and warranties of the Vendor in Section 5.1 will be deemed to have been made on and as of the Closing Date with the same force and effect as if made on and as of such date.
- (b) **Performance of Covenants.** The Vendor shall have fulfilled or complied in all material respects with all covenants contained in this Agreement required to be fulfilled or complied with by it at or prior to the Closing, and the Vendor shall have executed and delivered a certificate of an officer to that effect.
- (c) **No Legal Action.** No action or proceeding will be pending or threatened by any Person (other than the Purchaser), and there shall be no order or notice from any Governmental Entity, to (or seeking to) enjoin, restrict or prohibit, on a temporary

or permanent basis any of the transactions contemplated by this Agreement or imposing any terms or conditions on the transactions contemplated by this Agreement or the business of the Purchaser.

7.2 Conditions for the Benefit of the Vendor.

The purchase and sale of the Purchased Assets is subject to the following conditions being satisfied on or prior to the Closing Date, which conditions are for the exclusive benefit of the Vendor and may be waived, in whole or in part, by the Vendor in its sole discretion.

- (a) **Truth of Representations and Warranties.** The representations and warranties of the Purchaser contained in this Agreement were true and correct as of the date of this Agreement and are true and correct as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date and the Purchaser shall have executed and delivered a certificate of an officer to that effect. Upon delivery of such certificate, the representations and warranties of the Purchaser in Section 5.2 will be deemed to have been made on and as of the Closing Date with the same force and effect as if made on and as of such date.
- (b) **Performance of Covenants.** The Purchaser shall have fulfilled or complied in all material respects with all covenants contained in this Agreement required to be fulfilled or complied with by it at or prior to Closing and the Purchaser shall have executed and delivered a certificate of an officer to that effect.
- (c) **No Legal Action.** No action or proceeding will be pending or threatened by any Person (other than the Vendor or the Purchaser) and there shall be no order or notice from any Governmental Entity, to (or seeks to) enjoin, restrict or prohibit, on a temporary or permanent basis any of the transactions contemplated by this Agreement or imposing any terms or conditions on the transactions contemplated by this Agreement.

7.3 Conditions for the Benefit of the Purchaser and the Vendor.

The purchase and sale of the Purchased Assets is subject to the following conditions being satisfied on or prior to the Closing Date, which conditions are for the benefit of the Vendor and the Purchaser and may be jointly waived, in whole or in part, by the Vendor and the Purchaser.

- (a) **Approval and Vesting Order.** The Approval and Vesting Order shall have been obtained and shall not have been appealed, set aside, varied or stayed or, if appealed or stayed, all appeals shall have been dismissed and all stays shall have been lifted, respectively.
- (b) **Authorizations.** All Authorizations will have been obtained on terms acceptable to the Purchaser and Vendor, acting reasonably, and such Authorizations will be in force and will not have been modified or rescinded.

ARTICLE 8 CLOSING

8.1 Date, Time and Place of Closing.

- (1) The Closing will take place remotely at 10:00 a.m. (Eastern Time) on the date that is no later than three Business Days following the satisfaction or waiver of all of the conditions in Section 7.1, Section 7.2 and Section 7.3, except for those conditions that by their nature can only be satisfied on the Closing Date, or such earlier or later date as agreed to by the Parties. The date on which the Closing actually occurs is referred to herein as the "**Closing Date**". The closing documentation will be delivered by electronic mail exchange of signature pages in PDF or functionally equivalent electronic format, which delivery will be effective without any further physical exchange of the originals or copies of the originals. All proceedings to be taken and all documents to be executed and delivered by all Parties at the Closing shall be deemed to have been taken and executed simultaneously and no proceedings shall be deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

8.2 Closing Deliverables.

- (1) **Vendor's Deliverables at Closing.** The Vendor shall have delivered or caused to be delivered to the Purchaser the following in form and substance satisfactory to the Purchaser acting reasonably:
 - (a) the certificates referred to in Section 7.1(a) and Section 7.1(b); and
 - (b) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.
- (2) **Purchaser's Deliverables at Closing.** The Purchaser shall deliver or caused to be delivered to the Vendor the following in form and substance satisfactory to the Vendor, acting reasonably:
 - (a) certified copies of (i) the charter documents and extracts from the by-laws of the Purchaser relating to the execution of documents, (ii) resolutions of the board of directors of the Purchaser approving the entering into and completion of the transactions contemplated by this Agreement and the Ancillary Agreements, and (iii) a list of its officers and directors authorized to sign agreements together with the specimen signatures for such directors and officers signing this Agreement or any Ancillary Agreement;
 - (b) the payment of all Transfer Taxes (if any) required to be paid on Closing, to the Receiver;
 - (c) a certificate of status, compliance, good standing or like certificate with respect to the Purchaser issued by appropriate government official of the jurisdiction of its incorporation;
 - (d) the certificates referred to in Section 7.2(a) and Section 7.2(b);

- (e) a certificate of an officer of the Purchaser addressed to Receiver in form and substance satisfactory to the Receiver, acting reasonably, confirming that all conditions for the benefit of the Purchaser hereunder have been satisfied or waived by the Purchaser; and
- (f) the Purchaser shall have paid to the Receiver for the Vendor (A) the balance of the Purchase Price (after application of the Deposit thereto), and (B) the payment of all Transfer Taxes (if any) required to be paid on Closing.

ARTICLE 9 TERMINATION

9.1 Termination Rights.

- (1) This Agreement may, by Notice in writing given prior to the Closing, be terminated:
 - (a) by mutual consent of the Vendor and the Purchaser;
 - (b) by Purchaser or the Vendor, if:
 - (i) Closing has not occurred on or before the Outside Date, provided that the terminating Party is not in breach of any representation, warranty, covenant or other agreement in this Agreement which would prevent the satisfaction of the conditions in Article 7 by the Outside Date;
 - (ii) the Approval and Vesting Order shall not have been granted by the Outside Date; or
 - (iii) the Approval and Vesting Order shall fail, once granted, to be in full force and effect or shall have been amended, modified, reversed or dismissed without the prior written consent of the Purchaser;
 - (c) by the Purchaser, if:
 - (i) there has been a material breach of this Agreement by the Vendor and where such breach is capable of being cured, such breach has not been waived by the Purchaser in writing or cured by the earlier of (A) the Outside Date and (B) the date that is 15 days following written Notice of such breach by the Purchaser.
 - (d) by the Vendor, if:
 - (i) there has been a material breach of this Agreement by the Purchaser and where such breach is capable of being cured, such breach has not been waived by the Vendor in writing or cured by the earlier of (A) the Outside Date and (B) the date that is 15 days following written Notice of such breach by the Vendor.

9.2 Effect of Termination.

The rights of termination under this Article 9 are in addition to any other rights the respective Party may have under this Agreement or otherwise, and the exercise of a right of termination by a Party will not constitute an election of remedies. If this Agreement is terminated pursuant to Section 9.1, this Agreement will be of no further force or effect; provided, however, this Section 9.2 (*Effect of Termination*), Section 9.3 (*Deposit*), and Article 10 (*Miscellaneous*) and provisions that by their nature should survive, will survive the termination of this Agreement, and (ii) the termination of this Agreement will not relieve any Party from any liability for any breach of this Agreement occurring prior to termination.

9.3 Deposit

Without limiting the generality of Section 9.2, in the event this Agreement is terminated pursuant to:

- (a) Section 9.1(1)(a), the Deposit shall be treated in accordance with the terms of the written agreement among the Parties;
- (b) Section 9.1(1)(b) and such termination:
 - (i) is attributable to any failure or omission of the Purchaser to fulfil its obligations under the terms of this Agreement, the Deposit shall be forfeited by the Purchaser and the Vendor's right of termination under Section 9.1(1)(b) shall be the Vendor's sole and exclusive remedy for such termination of this Agreement;
 - (ii) is not attributable to any failure or omission of the Purchaser to fulfil its obligations under the terms of this Agreement, the Deposit shall be returned to the Purchaser and the return of the Deposit shall be the Purchaser's sole and exclusive remedy for such termination of this Agreement;
- (c) Section 9.1(1)(c), the Deposit shall be returned to the Purchaser and the return of the Deposit shall be the Purchaser's sole and exclusive remedy for such termination of this Agreement; and
- (d) Section 9.1(1)(d), the Deposit shall be forfeited by the Purchaser and the Vendor's right of termination under Section 9.1(1)(d) shall be the Vendor's sole and exclusive remedy for such termination of this Agreement.

ARTICLE 10 MISCELLANEOUS

10.1 Removal of the Equipment

- (a) Purchaser agrees, at its sole expense, to remove the Equipment from the Facilities within sixty (60) days after the Closing Date.
- (b) Purchaser agrees to act in a prudent manner and take commercially reasonable care while at the Facilities and removing the Equipment. The Purchaser shall be

liable for and repair any damages (ordinary wear and tear excepted) to the Facilities to the extent caused by the Purchaser, its invitees or anyone for whom it is in law responsible in connection with the removal of the Equipment from the Facilities or the attendance of Purchaser, its invitees or anyone for whom it is in law responsible at the Facilities.

- (c) Notwithstanding the forgoing, all floor reconstruction, and other floor repairs that are required as a result of Purchaser removing the Equipment from the Facilities in a commercially reasonable manner (the "Repairs"), and all costs and expenses associated therewith, shall be the sole responsibility of Vendor. The Parties acknowledge and agree that with respect to the Purchaser's obligations set forth in Section 10.1(b) above, Purchaser shall (i) not be responsible for removal of any mechanical floor fasteners, and that pounding down such fasteners is acceptable, (ii) only be responsible for spooling and tying any electrical wiring; and (iii) complete all cleaning (on a broom swept basis) and waste disposal related to the removal of the Equipment from the Facilities.

10.2 Notices.

Any notice, direction or other communication given regarding the matters contemplated by this Agreement (each a "**Notice**") must be in writing, sent by personal delivery, courier or facsimile (but not by electronic mail) and addressed:

- (a) to the Purchaser at:

THS Foods Canada, Ltd.
c/o TreeHouse Foods, Inc.
2021 Spring Road, Suite 600
Oak Brook, IL 60523

Attention: Amit Philip and Chirag Vyas
Email: Amit.Philip@treehousefoods.com;
Chirag.Vyas@treehousefoods.com

with a copy to:
TreeHouse Foods, Inc.
2021 Spring Road, Suite 600
Oak Brook, IL 60523

Attention: Kristy Waterman, General Counsel
Email: Kristy.Waterman@treehousefoods.com

- (b) to the Vendor at:

FTI Consulting Canada Inc.
79 Wellington Street West
Toronto Dominion Centre, Suite 2010
P.O. Box 104
Toronto, ON M5K 1G8

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

With a copy to:
Bennett Jones LLP
Suite 3400, One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Attention: Sean Zweig, Jesse Mighton and Milan Singh-Cheema
Email: zweigs@bennettjones.com, mightonj@bennettjones.com,
and singhcheemam@bennettjones.com

A Notice is deemed to be given and received (i) if sent by personal delivery or courier, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day, or (ii) if sent by facsimile or email, on the Business Day following the date of confirmation of transmission by the originating facsimile or email. A Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a Notice will be assumed not to be changed. Sending a copy of a Notice to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that Party.

10.3 Time of the Essence.

Time shall be of the essence in respect of the obligations of the Parties arising prior to Closing under this Agreement.

10.4 Announcements.

The Vendor shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith to the Court and parties in interest in the receivership proceeding. Other than as provided in the preceding sentence or statements made in Court (or in pleadings filed therein), the Vendor and the Purchaser shall not issue (prior to the Closing) any press release or make any public statement or public communication with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, provided, however, that a Party may, without the prior consent of the other Party, issue such press release or make such public statement as may, upon the advice of counsel, be required by applicable Law, by any Governmental Authority with competent jurisdiction including any applicable securities Laws, the rules of any stock exchange or trading system, or as reasonably necessary to enforce any rights under this Agreement. Notwithstanding any other provision of this Agreement, the Purchaser shall not disclose the Purchase Price or the value of the Deposit to any Person prior to the Closing without the prior written consent of the Vendor, except as required by applicable Laws.

10.5 Third Party Beneficiaries.

Except as otherwise provided in this Agreement, (i) the Vendor and the Purchaser intend that this Agreement will not benefit or create any right or cause of action in favour of any Person,

other than the Parties and (ii) no Person, other than the Parties, is entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum. The Parties reserve their right to vary or rescind the rights at any time and in any way whatsoever, if any, granted by or under this Agreement to any Person who is not a Party, without notice to or consent of that Person.

10.6 Expenses.

Except as otherwise expressly provided in this Agreement, each Party will pay for its own costs and expenses (including the fees and expenses of legal counsel, accountants and other advisors) incurred in connection with this Agreement or any Ancillary Agreements and the transactions contemplated by them.

10.7 Amendments.

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by the Vendor and the Purchaser.

10.8 Waiver.

No waiver of any of the provisions of this Agreement or any Ancillary Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the Party to be bound by the waiver. A Party's acceptance of any certificate delivered on Closing or failure or delay in exercising any right under this Agreement will not operate as a waiver of that. A single or partial exercise of any right will not preclude a Party from any other or further exercise of that right or the exercise of any other right.

10.9 Entire Agreement.

This Agreement together with the Ancillary Agreements, (i) constitutes the entire agreement between the Parties; (ii) supersedes all prior agreements or discussions of the Parties; and (iii) sets forth the complete and exclusive agreement between the Parties, in all cases, with respect to the subject matter herein.

10.10 Successors and Assigns.

- (1) Upon execution of the Agreement by the Parties, it will be binding upon and enure to the benefit of the Vendor, the Purchaser and their respective successors and permitted assigns.
- (2) Neither this Agreement nor any of the rights or obligations under this Agreement may be assigned or transferred, in whole or in part, by any Party without the prior written consent of the other Party; provided, that (a) the Purchaser may assign any of its rights or delegate any of its duties under this Agreement to any controlled Affiliate of the Purchaser; provided, further, that no such assignment shall relieve the Purchaser of its obligations hereunder; (b) the Purchaser may assign its rights, but not its obligations, under this Agreement to any of its financing sources; and (c) the Purchaser may assign any of its rights or delegate any of its duties under this Agreement to any acquirer of all or substantially all of the business of the Purchaser, in each case, whether effectuated pursuant to a merger or other business combination or a sale of equity or assets.

10.11 Severability.

If any provision of this Agreement is determined to be illegal, invalid or unenforceable by an arbitrator or any court of competent jurisdiction, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.

10.12 Further Assurances.

Each Party shall, from time to time, and at all times hereafter, at the request of any other Party, but without further consideration, do all such further acts and execute and deliver all such further documents and instruments as shall be reasonably required in order to fully perform and carry out the terms and intent of this Agreement and the Ancillary Agreements.

10.13 Governing Law.

- (1) This Agreement is governed by and will be interpreted and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- (2) Each Party irrevocably attorns and submits to the exclusive jurisdiction of the Ontario courts situated in the City of Toronto (and appellate courts therefrom) and waives objection to the venue of any proceeding in such court or that such court provides an inappropriate forum.

10.14 Counterparts.

This Agreement may be executed (including by electronic means) in any number of counterparts, each of which (including any electronic transmission of an executed signature page), is deemed to be an original, and such counterparts together constitute one and the same instrument.

[Remainder of page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF the Parties have executed this Asset Purchase Agreement.

THS FOODS CANADA, LTD.
By: Keith N. Waterman
Authorized Signing Officer

FTI CONSULTING CANADA INC., solely in its capacity as receiver and manager of the FCC Secured Property, and not in its personal or corporate capacity

By: _____
Authorized Signing Officer

IN WITNESS WHEREOF the Parties have executed this Asset Purchase Agreement.

THS FOODS CANADA, LD.

By: _____
Authorized Signing Officer

FTI CONSULTING CANADA INC., solely in its capacity as receiver and manager of the FCC Secured Property, and not in its personal or corporate capacity

By:  _____
Authorized Signing Officer

Schedule 2.1(a)
Equipment

See attached.

Exclusions:

Packing material relating to products from Smucker Foods of Canada Corp.

No.	Equipment Description	Identifier	Location
Food Processing Equipment			
Preservation & Brining			
Pre-Wash & Receiving			
1	Pre-treatment filter system	TEN BRINK HELLAS GMBH	Wallaceburg
2	Filtration system/wash		Wallaceburg
3	Stainless steel filtration tank	TEN BRINK HELLAS GMBH FILT TANKKON 19-702	Wallaceburg
4	Stainless steel static filter (PHRSF1)	TEN BRINK HELLAS GMBH STAT FILKON 19-071	Wallaceburg
5	Stainless steel auger	TEN BRINK HELLAS GMBH	Wallaceburg
6	Stainless steel tank	TEN BRINK HELLAS GMBH	Wallaceburg
7	Electric motor, direct cooling, close coupled pump, cast iron	WEQ W22	Wallaceburg
8	Temperature leads		Wallaceburg
9	High volume bulk storage tank, above ground, non-metallic, polyurethane closed cell insulation (Tank 1)	CROWN	Wallaceburg
10	Self-priming solids handling pump	CRANE P03LA-8D T1917093	Wallaceburg
11	Connecting hoses		Wallaceburg
12	Electronic meter		Wallaceburg
13	High volume bulk storage tank, above ground, non-metallic, polyurethane closed cell insulation (Tank 2)	CROWN	Wallaceburg
14	Self-priming solids handling pump	CRANE P03LA-8D	Wallaceburg
15	Connecting hoses		Wallaceburg
16	Electronic meter		Wallaceburg
17	High volume bulk storage tank, above ground, non-metallic, polyurethane closed cell insulation (Tank 3)	CROWN	Wallaceburg
18	Self-priming solids handling pump	CRANE P03LA-8D	Wallaceburg
19	Connecting hoses		Wallaceburg
20	Electronic meter		Wallaceburg
21	Control system	SAINT-LAURENT TEW	Wallaceburg
22	NEMA electric enclosure		Wallaceburg
Sugar & Vinegar Receiving (BIRSP1)			
Sugar			
23	Vertical stainless steel sugar storage silo/tank, mounted and fixed on a reinforced base		Wallaceburg
24	Rotary lobe pump	ZHEJIANG L&B BLS-78	Wallaceburg
25	Electric motor, direct cooling, close coupled pump, cast iron	WEQ W22	Wallaceburg
26	Connecting hoses		Wallaceburg
27	Electronic meter		Wallaceburg
28	Vertical stainless steel sugar storage silo/tank, mounted and fixed on a reinforced base		Wallaceburg
29	Rotary lobe pump	ZHEJIANG L&B BLS-78	Wallaceburg
30	Electric motor, direct cooling, close coupled pump, cast iron	WEQ W22	Wallaceburg
31	Connecting hoses		Wallaceburg
32	Electronic meter		Wallaceburg

No.	Equipment Description	Identifier	Location
33	Vinegar High volume bulk storage tank, above ground, non-metallic, polyurethane closed cell insulation		Wallaceburg Wallaceburg
34	Electric motor, direct cooling, close coupled pump, cast iron		Wallaceburg
35	Connecting hoses		Wallaceburg
36	Electronic meter		Wallaceburg
37	High volume bulk storage tank, above ground, non-metallic, polyurethane closed cell insulation		Wallaceburg
38	Electric motor, direct cooling, close coupled pump, cast iron		Wallaceburg
39	Connecting hoses		Wallaceburg
40	Electronic meter		Wallaceburg
41	Control system	INSTRUMENTATION SAINTLAURENT KW-4	Wallaceburg
42	NEMA electric enclosure		Wallaceburg
	Brine Batching & Production		Wallaceburg
	Salt Dispensing Line		Wallaceburg
43	Salt dispensing machine, includes:		Wallaceburg
44	Stainless steel auger, screw elevator	TEN BRINK HELLAS GMBH SALT DISPENCER DOUBLE 19-275	Wallaceburg
45	Stainless steel frame heavy gauge, reinforced		Wallaceburg
46	Jib crane		Wallaceburg
47	Chain hoist	VULCAN	Wallaceburg
48	Stainless steel auger, screw elevator	TEN BRINK HELLAS GMBH SALT DISPENCER 19-302	Wallaceburg
49	Stainless steel frame heavy gauge, reinforced		Wallaceburg
50	Jib crane		Wallaceburg
51	Chain hoist	VULCAN	Wallaceburg
	Platform I (BPBK1)		Wallaceburg
52	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg
	Process & Buffer Tanks (Kettle 1 & 2)		Wallaceburg
53	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH DEXKON 18-547	Wallaceburg
54	Pole motor		Wallaceburg
55	Positioning rotator, valve actuator		Wallaceburg
56	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH 18-546	Wallaceburg
57	Pole motor		Wallaceburg
58	Positioning rotator, valve actuator		Wallaceburg
59	Heat exchanger		Wallaceburg
60	Control system	SAINT-LAURENT KW-1	Wallaceburg
61	NEMA electric enclosure		Wallaceburg
	Platform II (BPBK2)		Wallaceburg
62	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg

No.	Equipment Description	Identifier	Location
	Process & Buffer Tanks (Kettle 3 & 4)		Wallaceburg
63	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
64	Pole motor		Wallaceburg
65	Positioning rotator, valve actuator		Wallaceburg
66	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
67	Pole motor		Wallaceburg
68	Positioning rotator, valve actuator		Wallaceburg
69	Heat exchanger		Wallaceburg
70	Control system	SAINT-LAURENT KW-2	Wallaceburg
71	NEMA electric enclosure		Wallaceburg
	Platform III (BPBK3)		Wallaceburg
72	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg
	Process & Buffer Tanks (Kettle 5 & 6)		Wallaceburg
73	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
74	Pole motor		Wallaceburg
75	Positioning rotator, valve actuator		Wallaceburg
76	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
77	Pole motor		Wallaceburg
78	Positioning rotator, valve actuator		Wallaceburg
79	Heat exchanger		Wallaceburg
80	Control system	SAINT-LAURENT KW-3	Wallaceburg
81	NEMA electric enclosure		Wallaceburg
	Fresh & Relish Pickle Washing/Inspection Station		Wallaceburg
	Pre-washing & Inspection		Wallaceburg
82	Washer elevator	TEN BRINK HELLAS GMBH	Wallaceburg
83	Washer elevator	TEN BRINK HELLAS GMBH	Wallaceburg
84	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg
85	Pre-washing and inspection station	TEN BRINK HELLAS GMBH	Wallaceburg
86	Storage and dump totes	LES ATELIERS INGENIUS INC	Wallaceburg
87	Holding/wash tank		Wallaceburg
88	Incline conveyor		Wallaceburg
89	Brush washer	TRI PAK OSBORN, 8 Brush	Wallaceburg
90	Brush		Wallaceburg
91	Overhead spray bar		Wallaceburg
92	Lower drain pan		Wallaceburg
93	Motor		Wallaceburg
94	Inverter drive		Wallaceburg
95	Control system	MPOWER ELECTRIC 04-05791	Wallaceburg
96	NEMA electric enclosure		Wallaceburg

No.	Equipment Description	Identifier	Location
	Visual Inspection		Wallaceburg
97	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg
98	Control system	MPOWER ELECTRIC W0002	Wallaceburg
99	NEMA electric enclosure		Wallaceburg
	Pickle Packaging Line		Wallaceburg
100	Incline conveyor	TEN BRINK HELLAS GMBH	Wallaceburg
101	Stainless steel strip slicer platform & staircase, heavy gauge, reinforced	TEN BRINK HELLAS GMBH 18-569	Wallaceburg
102	By pass conveyor	TEN BRINK HELLAS GMBH 15-570	Wallaceburg
103	Selection/process lines		Wallaceburg
104	Incline feeder with cleats	FILTER FEEDERS	Wallaceburg
105	Transfer conveyor	THROUGH BELT TB62L	Wallaceburg
106	Hopper funnels		Wallaceburg
107	Inspection conveyor	TEN BRINK HELLAS GMBH	Wallaceburg
	Produce Cutting		Wallaceburg
	Relish Dicing		Wallaceburg
108	Incline conveyor	TEN BRINK HELLAS GMBH	Wallaceburg
109	Strip Cut & Dicer machine	URSCHEL RA-A	Wallaceburg
110	Impeller		Wallaceburg
111	Knife, straight slicing		Wallaceburg
112	Circular cut assemblies		Wallaceburg
113	Circular knives		Wallaceburg
114	Shear plate		Wallaceburg
115	Feed drum		Wallaceburg
116	Cross cut knife		Wallaceburg
117	Mechanical pump		Wallaceburg
118	Drive		Wallaceburg
	Pail Filling Station		Wallaceburg
	Pre Fill		Wallaceburg
119	Washer elevator	TEN BRINK HELLAS GMBH 18-538	Wallaceburg
120	Inspection table	TEN BRINK HELLAS GMBH 18-539	Wallaceburg
121	Reject conveyor	TEN BRINK HELLAS GMBH 18-540	Wallaceburg
122	Cutting machine in feed elevator	TEN BRINK HELLAS GMBH 18-541	Wallaceburg
123	Inspection table	TEN BRINK HELLAS GMBH 18-542	Wallaceburg
124	Reject conveyor	18-543	Wallaceburg

No.	Equipment Description	Identifier	Location
	Automatic Filling Line		
125	Pail filling line, includes:	TEN BRINK HELLAS GMBH 18-544	Wallaceburg
126	Load cell	TEN BRINK HELLAS GMBH	Wallaceburg
127	Transfer conveyor feed		Wallaceburg
128	Pail filling line, includes:	TEN BRINK HELLAS GMBH	Wallaceburg
129	Load cell		Wallaceburg
130	Transfer conveyor feed		Wallaceburg
131	Pail filling line, includes:	TEN BRINK HELLAS GMBH	Wallaceburg
132	Load cell		Wallaceburg
133	Transfer conveyor feed		Wallaceburg
	Brine Fill		
134	Stainless steel brine filling station	TEN BRINK HELLAS GMBH 18-545	Wallaceburg
135	Brine filling tank	TEN BRINK HELLAS GMBH	Wallaceburg
	Metal Detection		
136	Transfer conveyor		Wallaceburg
137	Metal detector	THS METAL DETECTOR PLMD1 21049-PLMD1	Wallaceburg
	Pail Capping		Wallaceburg
138	Upper pail capping line, semi-automatic	LES ATELIERS INGENIUS INC	Wallaceburg
	Pail washing/drying line		Wallaceburg
139	Pail washing/drying line		Wallaceburg
140	Inline washer		Wallaceburg
141	Inline blower	TWIN CITY FAN & BLOWER 15W6 19-7491-2	Wallaceburg
142	Drive	PENTA DRIVE	Wallaceburg
143	Conveyor		Wallaceburg
	Pail Labelling		Wallaceburg
144	Pail labelling line	PROCEPACK INC	Wallaceburg
145	Control system	ELECTRA-TECH W0007	Wallaceburg
146	PLC control	SIEMENS	Wallaceburg
147	NEMA electric enclosure		Wallaceburg
	Glass Bottling Line		Wallaceburg
148	Fresh & Relish Pickle Washing/Inspection Station		Wallaceburg

No.	Equipment Description	Identifier	Location
	Pre-washing & Inspection		Wallaceburg
149	Elevator slice inspection conveyor	TEN BRINK HELLAS GMBH	Wallaceburg
150	Motor control box	ELECTRA TOUCH W0007	Wallaceburg
151	Washing elevator	TEN BRINK HELLAS GMBH PLV GLASSKON 19-028.1	Wallaceburg
152	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg
153	Pre-washing and inspection station	TEN BRINK HELLAS GMBH	Wallaceburg
154	Storage and dump totes	LES ATELIERS INGENIUS INC	Wallaceburg
155	Holding/wash tank		Wallaceburg
156	Inline conveyor		Wallaceburg
157	Brush washer	TRI PAK OSBORN, 8 Brush	Wallaceburg
158	Brush		Wallaceburg
159	Overhead spray bar		Wallaceburg
160	Lower drain pan		Wallaceburg
161	Motor		Wallaceburg
162	Inverter drive		Wallaceburg
163	Control system		Wallaceburg
164	NEMA electric enclosure		Wallaceburg
	Blanching Line		Wallaceburg
165	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg
166	Conveyor elevator	HELLENIC FOOD MACHINERY	Wallaceburg
167	Accumulation tank	HELLENIC FOOD MACHINERY	Wallaceburg
168	Drum blancher	HELLENIC FOOD MACHINERY 22057-2022	Wallaceburg
169	Blancher, clean in place	HELLENIC FOOD MACHINERY	Wallaceburg
170	Blancher	THERMOTECH COMBUSTION F.D.C.	Wallaceburg
171	Screw blender		Wallaceburg
172	Heat exchanger	METAUX ABSOLUS INC	Wallaceburg
173	Transfer Elevator conveyor with buffer trough	TEN BRINK HELLAS GMBH ANBUFKON 19.338	Wallaceburg
174	PLC control	HELLENIC FOOD MACHINERY	Wallaceburg

No.	Equipment Description	Identifier	Location
	Hamburger Cutting Line		Wallaceburg
	Cutting Line 1		Wallaceburg
	Cutting line, includes:		Wallaceburg
175	Transfer conveyor	TEN BRINK HELLAS GMBH 19-012	Wallaceburg
176	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg
177	Transslicer feed shaker	KEY ISO-FLO SH01-068481 W1103803002 8771	Wallaceburg
178	Stainless steel bed		Wallaceburg
179	Alignment bed section		Wallaceburg
180	Alignment bed section		Wallaceburg
181	E-transfer slicer	URSCHEL E-TRANSLICER	Wallaceburg
182	Stainless steel frame		Wallaceburg
183	Discharge chute		Wallaceburg
184	Discharge chute baffle		Wallaceburg
185	Feed belt, brushed		Wallaceburg
186	Shear edge, crinkle slice		Wallaceburg
187	Shear edge holder		Wallaceburg
188	Slicing knife	55573	Wallaceburg
	Cutting Line 2		
	Cutting line, includes:		Wallaceburg
189	Transfer conveyor	TEN BRINK HELLAS GMBH 19-013	Wallaceburg
190	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg
191	Transslicer feed shaker	KEY ISO-FLO SH01-068481	Wallaceburg
192	Stainless steel bed		Wallaceburg
193	Alignment bed section		Wallaceburg
194	Alignment bed section		Wallaceburg
195	E-transfer slicer	URSCHEL E-TRANSLICER	Wallaceburg
196	Stainless steel frame		Wallaceburg
197	Discharge chute		Wallaceburg
198	Discharge chute baffle		Wallaceburg
199	Feed belt, brushed		Wallaceburg
200	Shear edge, crinkle slice		Wallaceburg
201	Shear edge holder		Wallaceburg
202	Slicing knife	55573	Wallaceburg

No.	Equipment Description	Identifier	Location
203	Hamburger Line Exit Conveyor Exit elevator	TEN BRINK HELLAS GMBH 19-012	Wallaceburg Wallaceburg
204	Hydraulic Box Tipper Hydraulic box tipper	TEN BRINK HELLAS GMBH	Wallaceburg Wallaceburg
205	Stainless steel frame, fixed		Wallaceburg
206	Outlet hopper		Wallaceburg
	Sorter System		Wallaceburg
	Optical laser sorting system		Wallaceburg
207	Acceleration in feed belt	KEY VERYX 1366	Wallaceburg
208	Stainless steel shaft		Wallaceburg
209	Lagged drive pullet		Wallaceburg
210	Lot: Motor, gear, stand, etc.,		Wallaceburg
	Camera laser sorting system	KEY VERYX VERYX B140 1366	Wallaceburg
211	Decline belt		Wallaceburg
212	Lasers canner, high resolution		Wallaceburg
213	Digital receiver		Wallaceburg
214	Digital camera, high resolution		Wallaceburg
215	Digital camera, high resolution		Wallaceburg
216	Two way sort stream		Wallaceburg
217	Cooling unit		Wallaceburg
218	Control system	ELECTRA-TECH W0008	Wallaceburg
219	NEMA electric enclosure		Wallaceburg
220	Incline conveyor	TEN BRINK HELLAS GMBH ANBUTKON	Wallaceburg
	Relish Production		Wallaceburg
221	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg
	Process Tanks		Wallaceburg
222	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
223	Heat jacket and cladding		Wallaceburg
224	Positioning rotator, valve actuator		Wallaceburg
225	Applimotion pole motor	LAFERT AMPH 100L BA4	Wallaceburg
226	Load cell	RICE LAKE	Wallaceburg
227	Transfer pump		Wallaceburg
228	Stainless steel over flow tank, castors, stainless steel jacketed kettle, double motion	GROEN TA-250 SP 59933	Wallaceburg
229	Load cell		Wallaceburg
230	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
231	Heat jacket and cladding		Wallaceburg
232	Positioning rotator, valve actuator		Wallaceburg
233	Applimotion pole motor	LAFERT AMPH 100L BA4	Wallaceburg
234	Load cell	RICE LAKE	Wallaceburg
235	Transfer pump		Wallaceburg

No.	Equipment Description	Identifier	Location
236	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
237	Heat jacket and cladding		Wallaceburg
238	Positioning rotator, valve actuator		Wallaceburg
239	Applimotion pole motor	LAFERT AMPH 100L BA4	Wallaceburg
240	Load cell	RICE LAKE	Wallaceburg
241	Transfer pump		Wallaceburg
242	Transfer screw conveyor		Wallaceburg
	Dewatering process		Wallaceburg
243	Vertical stainless steel holding tank		Wallaceburg
244	Steam exhaust system		Wallaceburg
245	Transfer pump		Wallaceburg
246	Air motor	GRACO 624250 AP00377	Wallaceburg
247	Stainless steel platform & staircase, heavy gauge, reinforced		Wallaceburg
248	Stationary metering system		Wallaceburg
249	Stationary metering system		Wallaceburg
250	Control system	SAINT-LAURENT	Wallaceburg
251	Temperature chart recorder	HONEYWELL	Wallaceburg
252	NEMA electric enclosure		Wallaceburg
	Relish Desalting System		Wallaceburg
253	High volume bulk storage tank, above ground, non-metallic, polyurethane closed cell insulation		Wallaceburg
254	Self-priming solids handling pump		Wallaceburg
255	Applimotion pole motor		Wallaceburg
256	Connecting hoses		Wallaceburg
257	Electronic meter		Wallaceburg
258	High volume bulk storage tank, above ground, non-metallic, polyurethane closed cell insulation		Wallaceburg
259	Self-priming solids handling pump		Wallaceburg
260	Applimotion pole motor		Wallaceburg
261	Connecting hoses		Wallaceburg
262	Electronic meter		Wallaceburg
263	High volume bulk storage tank, above ground, non-metallic, polyurethane closed cell insulation		Wallaceburg
264	Self-priming solids handling pump		Wallaceburg
265	Applimotion pole motor		Wallaceburg
266	Connecting hoses		Wallaceburg
267	Electronic meter		Wallaceburg
	Brine Holding Tank		Wallaceburg
268	Vertical stainless steel blending tank, mounted and fixed on a reinforced base		Wallaceburg

No.	Equipment Description	Identifier	Location
	Starch Tank		Wallaceburg
269	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH STARCH MIXING TANK 19-194	Wallaceburg
270	Heat jacket and cladding		Wallaceburg
271	Positioning rotator, valve actuator		Wallaceburg
272	Applimotion pole motor	LAFERT AMPH 100L BA4	Wallaceburg
273	Load cell	RICE LAKE	Wallaceburg
274	Stationary metering system (water)		Wallaceburg
275	Stationary metering system (ingredient)		Wallaceburg
	Commercial Depalletizing Line		Wallaceburg
	Line Depalletizer	EMERITO S.L. 15528EX	Wallaceburg
276	High level semi-automatic depalletizing		Wallaceburg
277	Pallet entry, offload and unload		Wallaceburg
278	Frame and lift system		Wallaceburg
279	Steel frame, anti-corrosion		Wallaceburg
280	Catch bin		Wallaceburg
281	Control system		Wallaceburg
282	Discharge feed to conveying line		Wallaceburg
283	In line speed and reverse		Wallaceburg
284	Cardboard cover remover		Wallaceburg
285	Control system	SAINT LAURENT TPW-1	Wallaceburg
286	NEMA electric enclosure		Wallaceburg
	Bottled Line		Wallaceburg
	Glass Washing Line		Wallaceburg
287	Line transfer system		Wallaceburg
288	Accumulator		Wallaceburg
289	In feed timing belt		Wallaceburg
290	Bottle cleaner/rinser, stainless steel	TEN BRINK HELLAS GMBH JARSCLEANSTATIONKON 18-401	Wallaceburg
291	Drip collection pan		Wallaceburg
292	Down stream product back-up sensor		Wallaceburg
293	Exit transfer conveyor		Wallaceburg
294	Control system		Wallaceburg
295	NEMA electric enclosure		Wallaceburg

No.	Equipment Description	Identifier	Location
	Commercial Bottle Filling Line		Wallaceburg
	Relish Filling Line		Wallaceburg
	Filling Line I		Wallaceburg
296	Filling station, 21 station	ELMAR RPE-521	Wallaceburg
297	Temperature Probe		Wallaceburg
298	Level Probe		Wallaceburg
299	Bowl Cover		Wallaceburg
300	Bowl Plow		Wallaceburg
301	Inverter Drive Systems		Wallaceburg
302	In feed conveyer		Wallaceburg
303	Control system		Wallaceburg
	Holding		Wallaceburg
304	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
305	Heat jacket and cladding		Wallaceburg
306	Transfer pump		Wallaceburg
307	Vertical stainless steel blending tank, mounted and	TEN BRINK HELLAS GMBH	Wallaceburg
308	fixed on a reinforced base		Wallaceburg
309	Heat jacket and cladding		Wallaceburg
310	Transfer pump		Wallaceburg
311	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
312	Heat jacket and cladding		Wallaceburg
313	Transfer pump		Wallaceburg
314	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
315	Heat jacket and cladding		Wallaceburg
316	Transfer pump		Wallaceburg
317	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
318	Heat jacket and cladding		Wallaceburg
319	Transfer pump		Wallaceburg
320	Vertical stainless steel blending tank, mounted and fixed on a reinforced base	TEN BRINK HELLAS GMBH	Wallaceburg
321	Heat jacket and cladding		Wallaceburg
322	Transfer pump		Wallaceburg
323	Tube heat exchanger system		Wallaceburg
	Additive Line		Wallaceburg
324	Dry spice addition line, includes:		Wallaceburg
325	Transfer conveyer		Wallaceburg
326	Spice jar dispenser	ZACMI FOOD & BEVERAGE PLANTS 0283-R-018	Wallaceburg
327	Dry spice additive screw auger		Wallaceburg

No.	Equipment Description	Identifier	Location
	Solid Product Fill Line		Wallaceburg
	Rotary Fill Line 1		Wallaceburg
328	Rotary filling machine	TEN BRINK HELLAS GMBH	Wallaceburg
329	In feed conveyor		Wallaceburg
330	Control system		Wallaceburg
331	Transfer conveyor		Wallaceburg
332	Auger		Wallaceburg
	Rotary Fill Line 2		Wallaceburg
333	Rotary tamper	ZACMI FOOD & BEVERAGE PLANTS 0523-T-018	Wallaceburg
334	Jar ejector		Wallaceburg
335	Tamping group heads		Wallaceburg
336	Tamping group heads		Wallaceburg
337	HMI panel control		Wallaceburg
	Temper computer	ZACMI FOOD & BEVERAGE PLANTS	Wallaceburg
	Rotary Fill Line 3		Wallaceburg
338	Rotary filling machine	TEN BRINK HELLAS GMBH	Wallaceburg
339	In feed conveyor		Wallaceburg
340	Control system		Wallaceburg
341	Transfer conveyor		Wallaceburg
342	Auger		Wallaceburg
	Olive Fill Line		Wallaceburg
	Vibrator & Shaker		Wallaceburg
343	Seed vibrating shaker	TEN BRINK HELLAS GMBH 18-572	Wallaceburg
344	Reject conveyor	TEN BRINK HELLAS GMBH 19-017	Wallaceburg
345	Screen grid	TEN BRINK HELLAS GMBH 19018	Wallaceburg
346	Sorter exit double conveyor	TEN BRINK HELLAS GMBH 18-573	Wallaceburg
347	Brine preparation group	TEN BRINK HELLAS GMBH 18-547	Wallaceburg
348	Brine buffer tank	TEN BRINK HELLAS GMBH 18-546	Wallaceburg
	Filler		Wallaceburg
349	Tumble filler	SOLBEN PTF-DPL	Wallaceburg
	Capping System		Wallaceburg
	Jar Capping Line		Wallaceburg
350	Twist off capping line	EMERITO S.L. CAPPER 3.8 PET 180724M12	Wallaceburg
351	Rotary head spacer	EMERITO S.L.	Wallaceburg
352	Monoblock filler & capper	EMERITO S.L.	Wallaceburg
353	Inline conveyor		Wallaceburg
354	Cap sealer		Wallaceburg
355	Control		Wallaceburg
356	Dud detector	EMERITO S.L.	Wallaceburg

No.	Equipment Description	Identifier	Location
	Metal Detector		Wallaceburg
357	In line metal detector	SESOTEC INTUITY 250 x 350	Wallaceburg
358	HDI control panel		Wallaceburg
359	In feed		Wallaceburg
360	Conveyor with reverse pusher	SANICON	Wallaceburg
361	Belt	INTRALOX	Wallaceburg
362	Stainless steel hybrid angle tube		Wallaceburg
363	Out feed		Wallaceburg
364	Control panel		Wallaceburg
365	Reverse plough reject		Wallaceburg
	Pasteurizing Systems		Wallaceburg
366	HTST plate pasteurizer	TEN BRINK HELLAS GMBH	Wallaceburg
367	Plate heat exchanger		Wallaceburg
368	Pasteurizer timing pump		Wallaceburg
369	Sanitary heating plate, stainless steel, corrosion		Wallaceburg
370	resistant		Wallaceburg
371	Safety thermal limit recorder		Wallaceburg
372	Buffer and assemblies		Wallaceburg
	Sterilization		Wallaceburg
	Tunnel Pasteurizer		Wallaceburg
373	In feed		Wallaceburg
	Cooling Tunnel		Wallaceburg
374	Structural frame		Wallaceburg
	Pre heat tunnel		Wallaceburg
	Pasteurization tunnel		Wallaceburg
375	Cooling tunnel		Wallaceburg
376	Control system		Wallaceburg
377	In line spray		Wallaceburg
378	Out feed conveyor		Wallaceburg
379	Buffer tank		Wallaceburg
	Quality Control		Wallaceburg
380	Vacuum detector	EMERITO S.L.	Wallaceburg
381	Modular dud detector, waterproof stainless steel tripod	MASSILLEY SAFE 3002	Wallaceburg
	Packaging Equipment		
	Inline labeller		Wallaceburg
	Fully automatic labeller	LANGGUTH AMERICA LTD WETLAN WL 110-224 110.0287	Wallaceburg
382	Welded stainless steel square tube frame		Wallaceburg
383	Oscillating magazine labeller		Wallaceburg
384	Conveyor Belt		Wallaceburg

No.	Equipment Description	Identifier	Location
385	Industrial Inkjet Printer Inkjet conveyor applicator, multi line	MARKEM IMAJE 9410 US19200599	Wallaceburg Wallaceburg
	End Of Line Shrink Wrapper		Wallaceburg
	Automatic tray pack & shrink wrap machine	AETNA GROUP SPA ROBOPAC PRASMATIC TC400T UT18090069	Wallaceburg
386	In feed conveyor		Wallaceburg
387	Servo driven separation		Wallaceburg
388	Controller	SCHNEIDER	Wallaceburg
389	Display, touch screen	WEINTEK	Wallaceburg
390	Glue melt		Wallaceburg
391	Glue melter & applicator	ROBOTTECH	Wallaceburg
392	Side carton		Wallaceburg
393	Side carton magazine		Wallaceburg
394	Magazine feed system		Wallaceburg
395	Stabilizer		Wallaceburg
396	Stainless steel frame & structural assembly		Wallaceburg
397	Out feed conveyor		Wallaceburg
398	Shrink wrap machine	AETNA GROUP SPA ROBOPAC PRASMATIC MSW 450 UH18090070	Wallaceburg
399	In feed conveyor		Wallaceburg
400	Controller	SCHNEIDER	Wallaceburg
401	Display, touch screen	WEINTEK	Wallaceburg
402	Double film roll carrier		Wallaceburg
403	Film splicer with manual sealer		Wallaceburg
404	Heat shrink tunnel		Wallaceburg
405	Stainless steel frame & structural assembly		Wallaceburg
406	Chain conveyor	ATELIERS INGENIUS	Wallaceburg
	Check Weigher	FT SYSTEMS CP 600	Wallaceburg
407	Single container check weigher	FT SYSTEMS CP020 TCX	Wallaceburg
408	Input conveyor, triple chain infeed	TCC600	Wallaceburg
409	Controller	CP720-TCX	Wallaceburg
410	Worm screw	MOD01	Wallaceburg
411	Exit/output conveyor	TCA600	Wallaceburg
412	Reject system, multi lane		Wallaceburg
	Case Palletizing System	TECHNO PAK	Wallaceburg
413	End of line palletizing system		Wallaceburg
414	In feed conveyor		Wallaceburg

No.	Equipment Description	Identifier	Location
	Robotic palletization		Wallaceburg
415	Palletizing robot 4-axes	ABB IRB 600	Wallaceburg
416	Controller		Wallaceburg
417	Double angular deposit gripper		Wallaceburg
418	Heavy duty base		Wallaceburg
419	Reinforced concrete slab		Wallaceburg
420	Palletizing robot 4-axes	ABB IRB 600	Wallaceburg
421	Controller		Wallaceburg
422	Double angular deposit gripper		Wallaceburg
423	Heavy duty base		Wallaceburg
424	Reinforced concrete slab		Wallaceburg
	Case transfer		Wallaceburg
425	Automatic pallet dispenser		Wallaceburg
426	Palletizing conveyor		Wallaceburg
427	Palletizing conveyor extension		Wallaceburg
428	Gravity conveyor		Wallaceburg
429	Semi-automatic pallet stretch wrapper	MACH 1 ROCKET LPX 2191479 2191478	Wallaceburg
	Cleaning & Janitorial		Wallaceburg
430	Ride on floor scrubber with revolving signal light	KARCHER B 150 13451	Wallaceburg
	Shop & Auxiliary Production Equipment		Wallaceburg
431	Warehouse staircase		Wallaceburg
432	Drill press	KING INDUSTRIAL KC-712DS	Wallaceburg
433	Hydraulic shop press	MR BLACKSMITH	Wallaceburg
434	Milling drilling machine	KING INDUSTRIAL PDM-30	Wallaceburg
	Welding Equipment & Accessories		Wallaceburg
435	Tig/stick welder with cart	MILLER MAXSTAR 161 STL	Wallaceburg
436	Oxy/acetylene tank		Wallaceburg
437	Plasma welder	SHOP IRON CUT 30i	Wallaceburg
438	Tig/stick welder	MILLER MAXSTAR 161 STL	Wallaceburg
	Material Handling		Wallaceburg
439	Pneumatic tire forklift, 3 wheel electric Side shifter	TOYOTA 8FBE20U 16843	Wallaceburg
440	Pneumatic tire forklift, 3 wheel electric Side shifter	TOYOTA 8FBE20U 16864	Wallaceburg
441	Pneumatic tire forklift, 3 wheel electric Side shifter	TOYOTA 8FBE20U 16862	Wallaceburg
442	Pneumatic tire forklift, 3 wheel electric Side shifter	TOYOTA 8FBE20U 16825	Wallaceburg
443	Pneumatic tire forklift, 3 wheel electric Side shifter	TOYOTA 8FBE20U 16844	Wallaceburg

No.	Equipment Description	Identifier	Location
444	Pneumatic tire forklift, 3 wheel electric Side shifter	TOYOTA 8FBE20U 16852	Wallaceburg Wallaceburg
445	Pneumatic tire forklift, 3 wheel electric Side shifter	TOYOTA 8FBE20U 16855	Wallaceburg Wallaceburg
446	Pneumatic tire forklift, 3 wheel electric Side shifter	TOYOTA 8FBE20U 16860	Wallaceburg Wallaceburg
447	Pneumatic tire forklift, 3 wheel electric Side shifter	TOYOTA 8FBE20U 16849	Wallaceburg Wallaceburg
448	Pneumatic tire forklift, 3 wheel electric Side shifter	TOYOTA 8FBE20U 16830	Wallaceburg Wallaceburg
449	Aerial scissor lift	TOYOTA AICHI SV2632E 784877	Wallaceburg
450	Manual pallet jack		Wallaceburg
451	Forklift	CATERPILLAR GP25K	Wallaceburg
452	High frequency battery charger	HAWKER	Wallaceburg
	Storage & Shelving		Wallaceburg
453	Heavy duty racking, adjustable, metal, multi-tiered		Wallaceburg
454	Heavy duty racking, adjustable, metal, multi-tiered		Wallaceburg
455	Heavy duty racking, adjustable, metal, multi-tiered		Wallaceburg
	Waste Management & Recycling		Wallaceburg
456	Vertical cardboard baler	PHILADELPHIA	Wallaceburg
	Laboratory Equipment		Wallaceburg
457	Lab counter, custom constructed, commercial grade wood base & frame, installed stainless steel sink, under counter storage		Wallaceburg
458	Lab counter, custom constructed, commercial grade wood base & frame, under counter storage		Wallaceburg
459	Lab counter, custom constructed, commercial grade wood base & frame, under counter storage		Wallaceburg
460	Overhead cabinetry, custom constructed, commercial grade wood base & frame, multi-door, hinged doors		Wallaceburg
461	Lab table, custom constructed, commercial grade wood base & frame, under counter storage		Wallaceburg
462	Computer and peripherals		Wallaceburg
463	Filing cabinet, metal, three tiered		Wallaceburg
464	Weigh scale	ULINE	Wallaceburg
465	Microscope	REICHERT	Wallaceburg
466	PH meter	HANNA	Wallaceburg
467	Undercounter ware washer, low temperature, chemical sanitization	MAYTAG	Wallaceburg

No.	Equipment Description	Identifier	Location
	Land Mobile 2 Way Radio		Wallaceburg
468	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E XPR 3300E	Wallaceburg
469	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXTK359	Wallaceburg
470	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXV4925	Wallaceburg
471	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXV4929	Wallaceburg
472	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXV6444	Wallaceburg
473	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXVD308	Wallaceburg
474	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXVD312	Wallaceburg
475	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXK436	Wallaceburg
476	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXK7682	Wallaceburg
477	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXK7827	Wallaceburg
478	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXMH845	Wallaceburg
479	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXMH856	Wallaceburg
480	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXMH909	Wallaceburg
481	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TXMJ468	Wallaceburg
482	Digital two-way radio and peripherals, UHF	MOTOROLA XPR 3300E 446TVRH863	Wallaceburg
	Office & General Equipment		Wallaceburg
483	Sofa, wood base & frame, padded vinyl seat & back, single		Wallaceburg
484	Table, metal legs, wood top		Wallaceburg
485	Bar height table, metal legs, wood top		Wallaceburg
486	Kitchenette, custom constructed, commercial grade wood base & frame, under counter storage, L-shaped		Wallaceburg
487	Upper cabinetry, hinged doors	MAYTAG	Wallaceburg
488	Undercounter ware washer, low temperature, chemical sanitization	FRIGIDAIRE	Wallaceburg
489	Domestic reach in refrigerator		Wallaceburg
490	Lounge chair, metal base & frame, padded leatherette seat & back		Wallaceburg
491	Office desk set, L-shaped		Wallaceburg
492	Label maker		Wallaceburg
493	Paper shredder		Wallaceburg
494	Computer and peripherals		Wallaceburg
495	Filing cabinet, metal, multi-tiered		Wallaceburg
496	Closet, metal, two door, hinged doors		Wallaceburg
497	Conference table		Wallaceburg
498	Conference chair		Wallaceburg
499	Sofa, wood base & frame, padded vinyl seat & back, single		Wallaceburg
500	LED/LCD television	SAMSUNG	Wallaceburg
501	Office desk, L-shaped		Wallaceburg

No.	Equipment Description	Identifier	Location
Industrial Mechanical Equipment			
Compressed Air Systems			
502	Rotary air compressor	KAESAR BSD 50 SIGMA 1098	Wallaceburg
503	Rotary air compressor	KAESAR BSD 50 SIGMA 1090	Wallaceburg
504	Refrigerated air dryer	KAESAR SECOTEC TD 51 1076 1074	Wallaceburg
505	Auxiliary air tank		Wallaceburg
Air Piping			
506	Compressed air line piping		Wallaceburg
Commercial Boiler Systems			
507	High pressure steam, 5-pass, bent-tube boilers	UNILUX ZF600-HS-LB	Wallaceburg
508	Industrial burner	LIMPSFIELD LCN	Wallaceburg
509	Burner control unit	AUTOFLAME MINI MK 8	Wallaceburg
510	Adjustable platform	LES ATELIERS INGENIUS INC	Wallaceburg
511	High pressure steam, 5-pass, bent-tube boilers	UNILUX ZF600-HS-LB	Wallaceburg
512	Industrial burner	LIMPSFIELD LCN	Wallaceburg
513	Burner control unit	AUTOFLAME MINI MK 8	Wallaceburg
514	Adjustable platform	LES ATELIERS INGENIUS INC	Wallaceburg
515	High pressure steam, 5-pass, bent-tube boilers	UNILUX ZF600-HS-LB	Wallaceburg
516	Industrial burner	LIMPSFIELD LCN	Wallaceburg
517	Burner control unit	AUTOFLAME MINI MK 8	Wallaceburg
518	Adjustable platform	LES ATELIERS INGENIUS INC	Wallaceburg
Élévateur à baril avec palan à chaîne			
519	VULCAN 1 tonne		Sainte Thérèse
Pasteurisateur THERMOTEC			
520	1. Pasteurizing System	20-001	Sainte Thérèse
521	2. Pasteurizing exit conveyor	20-002	Sainte Thérèse
522	3. Accumulation table	20-003	Sainte Thérèse
523	4. Accumulation exit conveyor	20-004	Sainte Thérèse
524	5. Accumulation table parallel conveyor		Sainte Thérèse
525	6. Conveyor to labeller		Sainte Thérèse
526	7. Installation, main d'oeuvre et pièces		Sainte Thérèse
527	8. Pasteurizing System Electrical Panels	20-009	Sainte Thérèse
528	9. Washing System Electrical Panel	20-010	Sainte Thérèse

No.	Equipment Description	Identifier	Location
529	"LPG Semi-Auto depalletizer Option :"		Sainte Thérèse
530	LPG empty jar conveyor system w/ controls		Sainte Thérèse
530	security elements for system included		Sainte Thérèse
531	Jar Washing System	20-008	Sainte Thérèse
532	Machine d'injection de plastique KAWAGUCHI capacité 308 tonnes avec:	KX280 PK-QM1341	Sainte Thérèse
533	Châssis en acier pour vider les poches		Sainte Thérèse
534	Assécheur DRY TECH	DD60H 2000-017	Sainte Thérèse
535	Assécheur WITTMANN	DRYMAX 100	Sainte Thérèse
536	Convoyeur de sortie		Sainte Thérèse
537	2 contrôleurs de chaleur ANTPLAST		Sainte Thérèse
538	7 zones		Sainte Thérèse
539	Contrôleur de chaleur ANTPLAST		Sainte Thérèse
540	19 zones		Sainte Thérèse
541	Moules		Sainte Thérèse
542	Remplisseuse à pot à tambour rotatif		Wallaceburg
543	SOLBERN	PTF 10763	Wallaceburg
544	Monobloc RONCHI	MIZAR/P 1892/	Wallaceburg
545	Vide palette CASCADE hydraulique		Sainte Thérèse
546	Étagères industrielles pour palette incluant 2 tablettes avec barres transversales		Sainte Thérèse
547	Emballeuse à palette COUSINS	2100	Sainte Thérèse
548	Granulateur à plastique HAMILTON avec soufflerie et bac de récupération Capacité 15" x 72"	VECTRA	Sainte Thérèse
549	avec angles de chaque côté et 3 convoyeurs		Wallaceburg
550	Presse à ballots de carton PHILADELPHIA TRAMRAIL Capacité 24" x 72"		Sainte Thérèse
551	Emballeuse à palette PHEONIX		Sainte Thérèse
552	Espaceur tête du pot avec presse produit		Wallaceburg
553	Emballeuse à palette MACH 1		Sainte Thérèse
554	Remplisseuse à jus de 10' avec convoyeur et 2 pompes de circulation		Wallaceburg
555	Convoyeur 12" x 6' Stainless steel		Wallaceburg
556	Marmite à vapeur GROEN avec pompe de transfert et échangeur e chaleur AIC	N300	Sainte Thérèse
557	Tube Filler 500 ml Contrôle G, m, C		Sainte Thérèse

No.	Equipment Description	Identifiant	Location
558	Étiqueteuse LANGGUTH 2015	WETLAN 110-224/R-210 110.192	Wallaceburg
559	Laveuse de plancher	JVC 50 BC	Sainte Thérèse
560	Laveuse de plancher TENNANT	5680	Sainte Thérèse
561	Étagères industrielles pour palette incluant 3 tablettes avec barres transversales		Sainte Thérèse
562	Étagères industrielles pour palette incluant 4 tablettes avec barres transversales		Sainte Thérèse
563	Convoyeurs de transition avec lesspécifications suivantes: 1x en1 x 90° ± 12'		Wallaceburg Wallaceburg
564	Chariot élévateur électrique TCM (2010) 25,143 heures avec chargeur	FTB18-7 83B00955	Sainte Thérèse Sainte Thérèse
565	Chariot élévateur électrique TOYOTA (2007) 23,770 heures avec chargeur	7BEUCU20 14738-5	Sainte Thérèse Sainte Thérèse
566	Transpalette électrique RAYMOND (2000) avec chargeur	EASI-DR-25TT ET-D-00-8907	Sainte Thérèse Sainte Thérèse
567	bassin		Sainte Thérèse
568	Chariot élévateur électrique TOYOTA (2006) 26,400 heures avec chargeur	7FBUE20 13972	Sainte Thérèse Sainte Thérèse
569	Chariot élévateur électrique TOYOTA (2006) 26,423 heures avec chargeur	7FBUE20 13990	Sainte Thérèse Sainte Thérèse
570	Chariot élévateur électrique TOYOTA (1994) 51,121 heures avec chargeur	5FBEC18 11758	Sainte Thérèse Sainte Thérèse
571	Chariot élévateur électrique TOYOTA (1994) 6,785 heures avec chargeur	5FBEC18 11763	Sainte Thérèse Sainte Thérèse
572	Pompes de transfert NETZSCH avec aimant		Wallaceburg
573	Chariot élévateur HYSTER électrique (2003) 5,121 heures avec chargeur Capacité 3500 lbs	J35XMT2 H160N03917A	Sainte Thérèse Sainte Thérèse Sainte Thérèse
574	Transpalette électrique RAYMOND (1990) avec chargeur	31F-S-DR30TT 031F-90-15664	Sainte Thérèse Sainte Thérèse
575	Transpalette électrique CROWN 1,698 heures avec chargeur	RR5210-35 1A340747	Sainte Thérèse Sainte Thérèse
576	Convoyeurs à rouleaux assortis avec balance de plancher TRANSCCELL		Sainte Thérèse
577	T Transpalette électrique HMX avec chargeur	HMX65 HMX6526341004	Sainte Thérèse
578	Chariot élévateur électrique TCM (2014) 9,898 heures avec chargeur	FTB18-7 83B01301	Sainte Thérèse Sainte Thérèse
579	Chariot élévateur électrique TOYOTA (2005) 17,133 heures avec chargeur	7BEU15 11632	Sainte Thérèse Sainte Thérèse
580	Marmites à vapeur de 60" don't 2 avec mélangeurs et avec 3 pompes de transfert et aimant		Sainte Thérèse
581	Réservoirs avec chemise avec mélangeurs et 2 pompes de transfert Capacité 475 gallons		Sainte Thérèse Sainte Thérèse
582	Compteurs d'eau LIQUID CONTROLS		Sainte Thérèse
583	Plateformes en acier inoxydable		Wallaceburg

No.	Equipment Description	Identifiant	Location
584	Transpalette électrique RAYMOND (1999) 6,024 heures avec chargeur	112TM-FRE60L 112-99-25330	Sainte Thérèse Sainte Thérèse
585	Réservoirs de plastique de 200 litres avec mélangeur et chariot		Sainte Thérèse
586	Chariot élévateur électrique TOYOTA (2014) 4,556 heures avec chargeur	FTB18-A1 AINI-721254	Sainte Thérèse Sainte Thérèse
587	Coupe-légumes HOBART	HCM 450	Wallaceburg
588	Convoyeur de 12" x 72"		Sainte Thérèse
589	Convoyeur 90°		Wallaceburg
590	Remplisseuse SOLBERN de type tambour	PTF-DPL 10767	Wallaceburg
591	Remplisseuse à piston CAPMATIC 8 sorties		Wallaceburg Wallaceburg
592	Convoyeurs (1x 72" à 5 bandes et 1 x ± 8' à 90°)		Wallaceburg
593	Détecteur de métal CEIA	THS 21	Wallaceburg
594	Bassin de remplissage à jus par gravité de avec convoyeur et pompe de transfert		Sainte Thérèse
595	Campeuse de MASSILLY	5000 066-06	Wallaceburg
596	Convoyeur en "U" de ± 45' avec 2 rinceuses à pot et fermeuse à chaudière		Wallaceburg
597	Convoyeur de 5" x 96" avec sèche-pot		Wallaceburg
598	Convoyeur de 5" x 10' avec espaceur à pot avec tunnel chauffant et étiqueteuse	ETIPACK ENERGY 200	Wallaceburg
599	Applicateur de manchons KALISH 1996	5408 BODY BANDIT 0110	Sainte Thérèse
600	Tunnel chauffant de 30"		Wallaceburg
601	Formeuses/fermeuses de boîte BEL avec	WFPS 5150	Wallaceburg
602	Imprimante MARKEM IMAJE 2014	9232 IP65 US14490486	Wallaceburg
603	Laveuse à olive SOL BERN à panier rotatif		Wallaceburg
604	Chauffes couvercles à induction: PILLAR TECHNOLOGIES 2018	UNIFOILER U4P 4000 watts CAPMATIC IND SEAL 2000 watts	Wallaceburg
605	Élévateur-verseur à baril avec palan à chaîne VULCSN 1 tonne		Sainte Thérèse
606	Table tournante de 48"		Sainte Thérèse
607	Remplisseuse à liquide à gravité.	FLOWMATIC	Sainte Thérèse
608	2017 CAPMATIC 12 pots		Sainte Thérèse
609	Avec convoyeur vide- espaceur de pot et tourne-pot avec jet d'air et eau		Sainte Thérèse
610	Convoyer en "S" de 20' avec 2 90°		Wallaceburg
611	Alimenteur de pot CAPMATIC 2015	SORT STAR UN15092224	Wallaceburg
612	Chauffe capsule à injection	UNIFOILER U2P CB10093101	Wallaceburg
613	PILLAR TECHNOLOGIES 2016 / 2000 watts		Wallaceburg
614	Convoyer de 3" x 24' avec 1 x 90°, laveuse à pot avec soufflerie		Wallaceburg
615	Étiqueteuse à 2 têtes LABEL STAR 2007	LS 250 SX, LS250 DX	Wallaceburg
616	Imprimante MARKEM MAJE 2017	9410 US17040368	Wallaceburg
617	Formeuses-empoiseuses BEL	WFPS 5150	Wallaceburg
618	Convoyeurs (2 x 24" x 54" et 1 x 24" x 36")		Wallaceburg
619	Réservoir en acier inoxydable de 72" dia x 72" haut avec pompe de transfert escalier et structure		Wallaceburg
620	Unité de détection de métal en ligne	THS/PLVMS21-75 21700227046	Wallaceburg

No.	Equipment Description	Identifier	Location
621	CEIA 2017 avec valve de rejet et boîte de contrôle		Wallaceburg

No.	Equipment Description	Identifiant	Location
622	Serpentins de transfert de chaleur pour relish:		Wallaceburg
623	1 x refroidissement comprenant 8 longueurs de 20' et aimant		Wallaceburg
624	1 x pour réchauffer comprenant 10 longueurs de 20' avec contrôle de température		Wallaceburg
625	Convoyeurs assortis (16" x 96" et 24" x 102")		Sainte Thérèse
626	Bassins de 7' x 10' x 5' haut en acier inoxydable avec pompes de transfert		Sainte Thérèse
627	Bassins de 5' x 10' x 30' haut avec pompes de transfert		Sainte Thérèse
628	Bassins de 7' x 10' x 30' haut avec pompes de transfert		Sainte Thérèse
629	Marmites de 300 gallons avec paroi double		Wallaceburg
630	Réservoirs de plastique assortis		Sainte Thérèse
631	Ensemble d'équipements comprenant:		Wallaceburg
632	Hotte d'aspiration de 5' x 14' en acier inoxydable		Wallaceburg
633	2 compteurs d'eau LIQUID CONTROL		Wallaceburg
634	Plateforme de 44" x 27' en acier inoxydable		Wallaceburg
635	Bacs à cerise de 44" x 48' avec couvercle		Wallaceburg
636	Réservoirs de 10,000 litres en plastique avec 4 pompes de transfert		Sainte Thérèse
637	Réservoir pour glucose 5000 gallons en acier inoxydable avec pompe de transfert		Sainte Thérèse
638	Compresseur KAESER 2001 avec réservoir	ABT 102 / SFC 45T 1005	Sainte Thérèse
639	77,139 heures		Sainte Thérèse
640	Réservoirs de plastique 8' x 8' avec pompe		Sainte Thérèse
641	Bassins de 7' x 10' x 5' haut avec pompes de transfert		Wallaceburg
642	Convoyeur 15" x 10'		Wallaceburg
643	Tables en acier inoxydable assorties		Wallaceburg
644	Réservoirs de ± 72" dia 72" haut (1997) en acier inoxydable avec paroi double, mélangeur et plateforme de 5' x 15'		Sainte Thérèse
645	Pompes de transfert		Wallaceburg
646	Imprimante IMAJE 2004	JAIME 1000 S8	Sainte Thérèse
647	Convoyeurs (1 x 24" x 80", 1 x 12" x 48", 1 x 24" x 150", 1 x 2' x 15' et 2 x 12" x 84")		Wallaceburg
648	Remplisseuse de légumes tranchés TEN	ROTARY FILLER	Sainte Thérèse
649	BRINK 2019		Sainte Thérèse
650	Trancheuses à concombre SOLBERN	SSF30 SLAB SLICER	Sainte Thérèse
651	Soudeuse MILLER MAXSTAR 152 avec chariot		Sainte Thérèse
652	Ensemble de petits outils tels que tronçonneuse DEWALT, cisaille manuelle, perceuses, serres, meules, scie radiale, pigeonniers, coffre à outils, etc.		Sainte Thérèse
653	Perceuse-fraiseuse KING 2011 avec avance automatique	PDM-30 13D0396	Sainte Thérèse
654	Système de traitement des eaux usées comprenant:		Sainte Thérèse
655	3 réservoirs en plastique 1700 gallons avec mélangeur		Sainte Thérèse
656	Réservoir de ± 56" x 96" en acier inoxydable		Sainte Thérèse
657	4 pompes doseuses		Sainte Thérèse
658	Contrôle automate CEI		Sainte Thérèse
659	Contrôle pour pompe MYERS		Sainte Thérèse
660	Sonde et indicateur de Ph et température		Sainte Thérèse
661	Plieuse à métal manuelle FINTEK 2012	NU-4816	Wallaceburg

No.	Equipment Description	Identifier	Location
662	Emballeuse à palette MACH 1 2013	SONIC HPX 2120688	Sainte Thérèse
663	Récurveuse à plancher TENNANT 1,884 heures	5700	Sainte Thérèse
664	Pinces à baril		Sainte Thérèse
665	Emballeuse à palette MACH 1 2015	SONIC LPX 215 0952	Sainte Thérèse
666	Chariot élévateur TOYOTA électrique 1998 avec chargeur *Pas vu, ni inspecté en réparation au garage, informations fournies par l'entreprise	5FBEU15 22606	Sainte Thérèse sainte Thérèse
667	Chariot élévateur TOYOTA électrique avec chargeur / 25,353 heures capacité 3,250 lbs	7FBEU20 13960	Sainte Thérèse sainte Thérèse
668	Chariot élévateur TOYOTA électrique avec chargeur / 19,994 heures capacité 3,4500 lbs	7FBEV20 13117	Sainte Thérèse sainte Thérèse
669	Chariot élévateur TOYOTA électrique avec chargeur / 23,714 heures Capacité 3,450 lbs	5FBE20 10225	Sainte Thérèse sainte Thérèse
670	Chariot élévateur HANGCHA électrique 2018 avec chargeur / 2,476 heures Capacité 4,800 heures	CPDS20 L4AG00227	Sainte Thérèse Sainte Thérèse
671	Chariot élévateur TCM électrique 2012 avec chargeur / 16,0007 heures Capacité 4,500 lbs	FTB20-7 83C00205	Sainte Thérèse Sainte Thérèse
672	Lot comprenant:	VS 600 2015021, 2015022	Sainte Thérèse
673	2 convoyeurs de montée de 14" x 19' avec trémie		Sainte Thérèse
674	2 mouleuses de bouteille KENPLAS 2015		Sainte Thérèse
675	2 alimenteurs de pré-formes	KCA 08 CA150421012	Sainte Thérèse
676	Refroidisseur d'eau KENPAS 2015		Sainte Thérèse
677	14 ensembles de moules		Sainte Thérèse
678	Machine à pression DYNABLAST	C1904 HT SS	Sainte Thérèse
679	Machine de nettoyage VAPORE	ASPIRA 3000	Sainte Thérèse
680	Armoires RUBBERMAID avec 4 portes		Sainte Thérèse

T A B L E

Rechercher une entreprise au registre

État de renseignements d'une personne morale au registre des entreprises

Renseignements en date du 2023-10-25 12:26:59

État des informations

Identification de l'entreprise

Numéro d'entreprise du Québec (NEQ)	1145187713
Nom	LES ALIMENTS WHYTE'S INC.
Version du nom dans une autre langue	WHYTE'S FOODS INC.

Adresse du domicile

Adresse	20 rue Sicard Sainte-Thérèse (Québec) J7E3W7 Canada
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Adresse du domicile élu

Nom de l'entreprise	LES ALIMENTS WHYTE'S INC.
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Adresse	1300-1 Place Ville-Marie Montréal (Québec) H3B0E6 Canada
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Immatriculation

Date d'immatriculation	1995-10-27
Statut	Immatriculée
Date de mise à jour du statut	1995-10-27
Date de fin d'existence prévue	Aucune date de fin d'existence n'est déclarée au registre.

Forme juridique

Forme juridique	Société par actions ou compagnie
Date de la constitution	1978-12-31 Fusion
Régime constitutif	QUÉBEC : Loi sur les compagnies, Partie 1 (RLRQ, C. C-38)

Régime courant

QUÉBEC : Loi sur les sociétés par actions (RLRQ, C. S-31.1)

Dates des mises à jour

Date de mise à jour de l'état de renseignements	2023-09-08
Date de la dernière déclaration de mise à jour annuelle	2023-03-30 2023
Date de fin de la période de production de la déclaration de mise à jour annuelle de 2023	2024-04-13
Date de fin de la période de production de la déclaration de mise à jour annuelle de 2022	2022-08-01

Faillite

L'entreprise n'est pas en faillite.

Fusion, scission et conversion

La personne morale a fait l'objet de fusion(s).

Type	Loi applicable	Date	Nom et domicile de la personne morale	Composante	Résultante
Fusion ordinaire	QUÉBEC : Loi sur les compagnies, Partie 1 (RLRQ, C. C-38)	1978-12-31	KOURI FOODS INC.		1145187713
			TRANSALPINE GOURMET FOODS CORP.		

Continuation et autre transformation

La personne morale a fait l'objet d'une continuation.

Loi applicable	QUÉBEC : Loi sur les compagnies partie 1A, RLRQ, C. C-38
Date de la continuation ou autre transformation	1984-11-13

Liquidation ou dissolution

Aucune intention de liquidation ou de dissolution n'a été déclarée.

Activités économiques et nombre de salariés

1^{er} secteur d'activité

Code d'activité économique (CAE)	5999
Activité	Autres types de commerce de gros
Précisions (facultatives)	FABRICANT ALIMENTAIRE ET IMPORTATEUR

2^e secteur d'activité

Aucun renseignement n'a été déclaré.

Nombre de salariés

Nombre de salariés au Québec

De 50 à 99

Proportion de salariés qui **ne sont pas** en mesure de communiquer en français au travail

Non tenue de déclarer cette information

Convention unanime, actionnaires, administrateurs, dirigeants, bénéficiaires ultimes et fondé de pouvoir

Actionnaires

Premier actionnaire

Le premier actionnaire est majoritaire.

Nom

TRIAK CAPITAL INC.

Adresse du domicile

1730 BOUL. Aimco Mississauga Ontario L4W1V1
Canada

Convention unanime des actionnaires

Il n'existe pas de convention unanime des actionnaires conclue en vertu d'une loi du Québec ou d'une autre autorité législative du Canada.

Liste des administrateurs

Nom de famille

KAWAJA

Prénom

ELISABETH

Date du début de la charge

2015-10-13

Date de fin de la charge

Fonctions actuelles

Président

Adresse du domicile

Adresse non publiable

Adresse professionnelle

6800 Base Line, Wallaceburg, Ontario N8A2K6
Canada

Dirigeants non membres du conseil d'administration

Aucun dirigeant non membre du conseil d'administration n'a été déclaré.

Déclaration relative aux bénéficiaires ultimes

Aucun renseignement n'a été déclaré.

Fondé de pouvoir

Aucun fondé de pouvoir n'a été déclaré.

Administrateurs du bien d'autrui

Aucun administrateur du bien d'autrui n'a été déclaré.

Établissements

Numéro et nom de l'établissement	Adresse	Activités économiques (CAE)
0008 - LES ALIMENTS WHYTE'S INC.	20 rue Sicard Sainte-Thérèse (Québec) J7E3W7 Canada	Autres types de commerce de gros (5999)
(Établissement principal)		
0006 - LES ALIMENTS WHYTE'S INC.	196 rue Saint-Martin Saint-Louis (Québec) J0G1K0 Canada	Autres types de commerce de gros (5999)

Documents en traitement

Aucun document n'est actuellement traité par le Registraire des entreprises.

Index des documents

Documents conservés

Type de document	Date de dépôt au registre
Déclaration de mise à jour courante	2023-09-08
Déclaration de mise à jour courante	2023-08-24
Déclaration de mise à jour courante	2023-07-18
DÉCLARATION DE MISE À JOUR ANNUELLE 2023	2023-03-30
Déclaration de mise à jour courante	2023-03-27
DÉCLARATION DE MISE À JOUR ANNUELLE 2022	2022-08-02
DÉCLARATION DE MISE À JOUR ANNUELLE 2021	2021-10-15
DÉCLARATION DE MISE À JOUR ANNUELLE 2020	2020-10-02
DÉCLARATION DE MISE À JOUR ANNUELLE 2019	2019-08-01
DÉCLARATION DE MISE À JOUR ANNUELLE 2018	2018-08-01
DÉCLARATION DE MISE À JOUR ANNUELLE 2017	2017-05-17
DÉCLARATION DE MISE À JOUR ANNUELLE 2016	2016-07-27
Déclaration de mise à jour courante	2016-03-24
DÉCLARATION DE MISE À JOUR ANNUELLE 2015	2015-05-22
DÉCLARATION DE MISE À JOUR ANNUELLE 2014	2014-06-12
DÉCLARATION DE MISE À JOUR ANNUELLE 2013	2014-06-09
Déclaration de mise à jour courante	2013-09-27
DÉCLARATION DE MISE À JOUR ANNUELLE 2012	2013-03-18
Certificat de modification	2012-09-06
Déclaration de mise à jour courante	2012-08-20
DÉCLARATION DE MISE À JOUR ANNUELLE 2011	2012-05-23
Déclaration annuelle 2010	2011-04-04
Déclaration modificative	2010-05-04
Déclaration modificative	2010-04-08
État et déclaration de renseignements 2009	2010-02-15
Déclaration annuelle 2008	2009-07-07
Déclaration modificative	2009-07-07
Déclaration modificative	2009-01-19
Déclaration annuelle 2007	2008-04-16
Certificat de modification	2008-02-18
État et déclaration de renseignements 2006	2007-08-01
Déclaration annuelle 2005	2005-12-20
Déclaration annuelle 2004	2004-12-01
Déclaration annuelle 2003	2004-02-05
Déclaration modificative	2003-03-27
Déclaration annuelle 2002	2002-12-17
Déclaration annuelle 2001	2002-06-26

Type de document	Date de dépôt au registre
Certificat de modification	2002-06-26
Avis de défaut	2002-05-23
Déclaration annuelle 2000	2000-11-08
Déclaration annuelle 1999	2000-01-27
Déclaration annuelle 1998	1999-01-14
Déclaration annuelle 1997	1998-03-24
Déclaration modificative	1997-05-08
Déclaration annuelle 1996	1997-01-10
Déclaration d'immatriculation	1995-10-27

Index des noms

Date de mise à jour de l'index des noms	2012-09-05
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Nom

Nom	Versions du nom dans une autre langue	Date de déclaration du nom	Date de déclaration du retrait du nom	Situation
LES ALIMENTS WHYTE'S INC.	WHYTE'S FOODS INC.	2012-09-05		En vigueur
CORPORATION ALIMENTAIRE WHYTE'S INC.	WHYTE'S FOOD CORPORATION INC.	2002-05-27	2012-09-05	Antérieur
LES ALIMENTS KOURI INC.	KOURI FOODS INC.	1978-12-31	2002-05-27	Antérieur

Autres noms utilisés au Québec

Autre nom	Versions du nom dans une autre langue	Date de déclaration du nom	Date de déclaration du retrait du nom	Situation
FISH GUY Design (Trade-Mark)		2012-08-20		En vigueur
PICKLE GUY Design (Trade-Mark)		2012-08-20		En vigueur
SANDWICH GUY Design (Trade-Mark)		2012-08-20		En vigueur
SHOESTRING SLICED DILL PICKLES (Trade-Mark)		2012-08-20		En vigueur
STRUB'S Design (Trade-Mark)		2012-08-20		En vigueur
STRUB'S THE COOLER PICKLE & Design (Trade-Mark)		2012-08-20		En vigueur
WILLIE'S (Trade-Mark)		2012-08-20		En vigueur
CORONATION & DESIGN (TRADE-MARK)		2010-02-15		En vigueur
MRS.WHYTE'S (TRADE-MARK)		2010-02-15		En vigueur
ROBOTIS, NORD-AMÉRIQUE		2009-07-07		En vigueur
ROBOTIS, NORTH AMERICA		2009-07-07		En vigueur
WHYTE'S DESIGN (TRADE-MARK)		2009-07-07		En vigueur

Autre nom	Versions du nom dans une autre langue	Date de déclaration du nom	Date de déclaration du retrait du nom	Situation
CORONATION (TRADE-MARK)		2005-12-20		En vigueur
GRAND PRIX (TRADE-MARK)		1998-03-24		En vigueur
MRS. WHYTE'S & DESIGN (TRADE-MARK)		1998-03-24		En vigueur
NRG DESIGN (TRADE-MARK)		1998-03-24		En vigueur
POLONAISE & DESIGN (TRADE-MARK)		1998-03-24		En vigueur
ENVIRA-CARE (TRADE-MARK)		1997-05-08		En vigueur
TRANS-ALPINE & DESIGN (TRADE-MARK)		1997-05-08		En vigueur
VIA ITALIA (TRADE-MARK)		1997-05-08		En vigueur
CORONATION & DESIGN (TRADE-MARK)		2005-12-20	2009-07-07	Antérieur
KOUREX ®		1999-01-14	2002-12-17	Antérieur
REINE DE DIJON ®		1999-01-14	2002-12-17	Antérieur
DELITALIA ®		1998-03-24	2002-12-17	Antérieur
MAMA BIANCA ®		1997-05-08	2002-12-17	Antérieur
COMBUSTIBLES N.R.G.		1997-05-08	1999-01-14	Antérieur
LES ALIMENTS TRANSALPIN		1997-05-08	1999-01-14	Antérieur
LES PRODUITS ALIMENTAIRES GRAND PRIX		1997-05-08	1999-01-14	Antérieur
MRS. WHYTES PRODUCTS		1997-05-08	1999-01-14	Antérieur
N.R.G. FUELS		1997-05-08	1999-01-14	Antérieur
PRODUITS MRS. WHYTES		1997-05-08	1999-01-14	Antérieur
TRANSALPINE FOODS		1997-05-08	1999-01-14	Antérieur



**T
A
B
F**

CV-23-00707205-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

FARM CREDIT CANADA

Applicant

and

WHYTE'S FOODS INC./LES AILMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC.

Respondents

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE COURTS OF
JUSTICE ACT, R.S.O 1990, C.C.43, AS AMENDED

AFFIDAVIT

I, Dale Snider, of the City of Elmira, in the Province of Ontario, MAKE OATH AND

SAY:

1. I am the Senior, Corporate and Commercial Account Manager, Special Credit of Farm Credit Canada ("**FCC**"), the applicant in this proceeding, and as such, I have personal knowledge of the matters contained in this affidavit, except where I refer to matters based on information and belief, in which case I state the source of that information and believe it to be true.

2. I make this affidavit in support of FCC's application for an Order (the "**Appointment Order**") appointing FTI Consulting Canada Inc. ("**FTI**") as receiver and manager (in such capacity, the "**Receiver**"), without security, over the property, assets

and undertakings that constitute the Non-Trade Personal Property (defined below) of Whyte's Foods Inc./Les Aliments Whyte's Inc. ("**Whyte's**" or the "**Borrower**"), Triak Capital Inc./Capital Triak Inc. ("**Triak**"), Mario Saroli Sales Inc. ("**Saroli**"), and Maison Gourmet Inc. ("**Gourmet**", together with Triak and Saroli, the "**Guarantors**" and collectively with Whyte's, the "**Debtors**") pursuant to section 243 of the Bankruptcy and Insolvency Act, RSC 1985, c B-3 (the "**BIA**") and section 101 of the Courts of Justice Act, RSO 1990, c C43, as amended.

3. All capitalized terms used herein and not otherwise defined have the meaning ascribed to them in the Credit Agreement, defined below.

I. THE PARTIES

(a) FCC

4. FCC is an independent mortgage finance company specializing in commercial and development mortgage financing for the agricultural and food sector. As further described below, FCC initially provided credit facilities to Whyte's for two real property loans and subsequently provided credit facilities to two additional real property loans. FCC is the first ranking secured creditor and mortgagee with respect to the Non-Trade Personal Property, as defined below.

(b) Debtors

5. The Borrower, Whyte's, is a privately held Canadian company that carried on business as a leading producer of pickled and fermented food products in Canada. Whyte's was the operating entity of all of the Debtors. Whyte's was incorporated

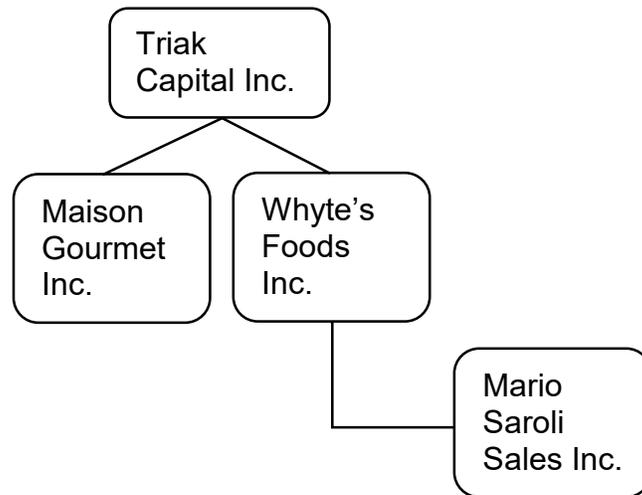
pursuant to the *Business Corporations Act* (Quebec) with its head office in Mississauga, Ontario and its registered office in Sainte-Thérèse, Québec. Attached as **Exhibit “A”** is a true copy of the Corporate Profile Report of Whyte’s, obtained from the provincial ministry with a file current date of October 2, 2023.

6. Whyte’s operated two manufacturing facilities in Wallaceburg, Ontario (the **“Wallaceburg Facility”**) and Saint-Louis, Quebec (the **“St-Louis Facility”**). Attached as **Exhibits “B”** and **“C”** are true copies of the parcel registers for the Wallaceburg Facility and the St-Louis Facility.

7. Whyte’s also leased a warehouse and distribution space in a facility in Ste-Thérèse, Quebec (the **“Ste-Thérèse Lease”**). In accordance with the terms of the Ste-Thérèse Lease, Whyte’s was able to assign the lease to an affiliated entity. To decrease the cash requirements of the Borrower, in April 2023, Whyte’s assigned the Ste-Thérèse Lease to Care Real Estate Holdings ULC (**“Care”**). Since that time, Care has paid, and continues to pay, rental payments directly to the ultimate landlord of the Ste-Thérèse Facility.

8. On August 23, 2023, Whyte’s filed a Notice of Intention (**“NOI”**) to make a proposal under the BIA (the **“NOI Proceeding”**), discussed in more detail below. The NOI Proceeding was commenced in Toronto, Ontario bearing Estate No. 31-2978830 (the **“NOI Proceedings”**). The NOI Proceedings are ongoing.

9. The Guarantors are all affiliated companies of Whyte’s. Below is a summary of the corporate structure of the Debtors:



10. Triak is the parent company of Whyte's. Gourmet is a wholly owned subsidiary of Triak. Saroli is a wholly owned subsidiary of Whyte's. A copy of the corporation profile reports for Triak, Gourmet, and Saroli as of October 2, 2023 are attached as **Exhibits "D", "E", and "F"**.

11. Elizabeth Anna Kawaja ("**Kawaja**") is the President and Chief Executive Officer of Whyte's. She also holds roles as an officer of each of Triak, Gourmet, and Saroli. Kawaja provided a limited personal guarantee dated May 20, 2020 in favour of FCC, limited to the amount of \$1,821,750.

(c) Wells Fargo

12. Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**") is a subsidiary of Wells Fargo Bank, N.A. and specializes in asset based loans in Canada. Wells Fargo is incorporated and existing under the laws of the Province of Ontario. Wells Fargo is a first ranking secured creditor over the Trade Personal Property (as defined below) of the Debtors. Wells Fargo is also providing financing in the NOI Proceedings.

13. Wells Fargo is seeking a parallel Appointment Order to appoint a receiver over the Trade Personal Property (which, together with the Non-Trade Personal Property, forms all of the assets, property and undertakings of the Debtors) bearing Court File No. CV-23-00707052-00CL (the “**Wells Fargo Receivership Application**”).

II. THE FCC CREDIT FACILITY

(a) **The Credit Agreement**

14. On May 20, 2020, Whyte’s, as borrower, EJJ Capital Inc. (“**EJJ**”), Triak, Gourmet, Saroli and Kawaja, as guarantors, and FCC, as lender, entered into a credit agreement for two real property loans in the maximum principal amount of \$18,217,500 (the “**Initial FCC Credit Agreement**”). Attached as **Exhibit “G”** is a true copy of the Initial Credit Agreement dated May 20, 2020.

15. On April 11, 2023, Whyte’s and FCC entered into an amendment of the Initial Credit Agreement (the “**Amended and Restated Credit Agreement**” or “**ARCA**”) which provided two further credit facilities for real property loans in the maximum principal amount of \$17,300,000. Attached as **Exhibit “H”** is a true copy of the ARCA.

16. On April 19, 2023, Whyte’s, as borrower, Triak, Gourmet and Saroli, as guarantors, and FCC, as lender, entered into a forbearance agreement (the “**FCC Forbearance Agreement**”, together with the Initial FCC Credit Agreement and the ARCA, the “**FCC Credit Agreement**”). Attached as **Exhibit “I”** is a true copy of the Forbearance Agreement.

17. As of August 23, 2023, in contemplation of Whyte's filing an NOI, the Debtors and FCC entered into an extension of the forbearance agreement (the "**Forbearance Extension Agreement**"), together with the Initial FCC Credit Agreement, the ARCA and the FCC Forbearance Agreement, the "**FCC Credit Agreement**"). Attached as **Exhibit "J"** is a true copy of the Forbearance Agreement.

18. As of October 3, 2023, the aggregate outstanding Indebtedness owed by the Debtors is \$34,695,269.77, excluding professional fees, disbursements and accruing interest (the "**Indebtedness**"). Attached as **Exhibit "K"** is a copy of the Indebtedness as of October 3, 2023.

(b) The Security

19. Under the Credit Agreement, FCC holds certain security and guarantees, including the documents attached as the following Exhibits to this Affidavit:

- (a) **Exhibit "L"** – a Mortgage in the principal amount of \$35,000,000 by Whyte's in favour of FCC dated as of May 19, 2020 creating a first charge against the Wallaceburg Property registered as Instrument No. CK173090;
- (b) **Exhibit "M"** – a universal deed of hypothec (movable and immovable) in the principal amount of \$18,217,500 by Whyte's in favour of FCC dated as of May 14, 2020, received before Mtre Cindy Afram, notary, under minute number 256, registered at the land registry, registration division of Richelieu under number 25 379 545 and at the Register of Personal and Movable Real Rights ("**RPMRR**") under number 20-0415557-0004;

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- (c) **Exhibit “N”** – a universal deed of hypothec (movable and immovable) in the principal amount of \$16,782,500 by Whyte’s in favour of FCC dated as of April 17, 2023, received before Mtre Angelo Febbraio, notary, under minute number 6877, registered at the land registry, registration division of Richelieu under number 27 960 011 and at the RPMRR under number 23-0434377-0002;
- (d) **Exhibit “O”** – a universal deed of hypothec (movable) in the principal amount of \$35,000,000 by Gourmet in favour of FCC dated as of April 17, 2023, registered at the RPMRR under number 23-0434377-0001;
- (e) **Exhibit “P”** – an unlimited corporate guarantee from Triak in favour of FCC dated May 20, 2020;
- (f) **Exhibit “Q”** – an unlimited corporate guarantee from Gourmet in favour of FCC dated May 20, 2020;
- (g) **Exhibit “R”** – an unlimited corporate guarantee from Saroli in favour of FCC dated May 20, 2020;
- (h) **Exhibit “S”** – an Assignment, Postponement and Subordination Agreement by Triak in favour of FCC dated May 20, 2020;
- (i) **Exhibit “T”** – an Assignment, Postponement and Subordination Agreement by Triak and Paul Kawaja in favour of FCC dated May 20, 2020;

-8-

- (j) **Exhibit “U”** – an Assignment, Postponement and Subordination Agreement by Care in favour of FCC dated May 20, 2020;
- (k) **Exhibit “V”** – an Amended and Restated Assignment, Postponement and Subordination Agreement by EJJ in favour of FCC dated May 20, 2020;
- (l) **Exhibit “W”** – a Security Agreement by Whyte’s in favour of FCC dated May 20, 2020, granting a security interest registered at the Personal Property Registry (Ontario) (“**PPR**”) under number 20200513 1637 1590 3546;
- (m) **Exhibit “X”** – a Security Agreement by Whyte’s in favour of FCC dated May 20, 2020, granting a security interest registered at the PPR under number 20200728 1447 1590 8331 and a movable hypothec published at the RPMRR under number 20-0690365-0002;
- (n) **Exhibit “Y”** – a Security Agreement by Gourmet in favour of FCC dated May 20, 2020, granting a security interest registered at PPR under number 20200513 1636 1590 3543;
- (o) **Exhibit “Z”** – a Security Agreement by Saroli in favour of FCC dated May 20, 2020, granting a security interest registered at PPR under number 20200513 1636 1590 3544; and

(p) **Exhibit “AA”** – an Assignment of rents and leases by Whyte’s in favour of FCC with respect to the Wallaceburg Property dated May 19, 2020 registered as Instrument No. CK173091.

(collectively, the **“FCC Security and Guarantees”**).

20. On April 19, 2023, the Debtors also provided an Acknowledgement and Confirmation of Existing Security under the Initial FCC Credit Agreement. Attached as **Exhibit “BB”** is a copy of the Acknowledgement and Confirmation of Existing Security.

21. As a result of the FCC Security and Guarantees, FCC has valid and enforceable security securing all obligations under the FCC Credit Agreement from each of the Debtors.

III. **THE WELLS FARGO CREDIT FACILITY**

22. On October 14, 2022, Whyte’s and Gourmet, as borrowers, Triak and Saroli, as guarantors, and Wells Fargo, as lender, entered into a credit agreement for a revolving loan with a limit of \$25,000,000 and a term loan in the maximum principal amount of \$1,500,000 (the **“Initial Wells Fargo Credit Agreement”**).

23. The Wells Fargo Credit Agreement was amended pursuant to a waiver and amendment agreement dated as of January 6, 2023 (the **“Wells Fargo Waiver and Amendment”**), a forbearance and second amendment dated as of April 19, 2023 (the **“Wells Fargo Forbearance and Second Amendment”**) and a third amendment and forbearance dated as of August 22, 2023 (the **“DIP Facility Agreement”**, together with the Original Credit Agreement, the Waiver and Amendment and the Forbearance and

Second Amendment, and as the same may be further amended from time to time, the **“Wells Fargo Credit Agreement”**).

24. I understand from the Affidavit of Carmela Massari, sworn October 3, 2023 in relation to the Wells Fargo Receivership Application (the **“Massari Affidavit”**), that the Debtors are indebted to Wells Fargo in the principal amount of \$8,109,221.60. Attached as **Exhibit “CC”** is a copy of the Massari Affidavit, without exhibits.

25. I further understand from the Massari Affidavit that Wells Fargo holds the following security and guarantees in relation to the Wells Fargo Credit Agreement:

- (a) A Canadian guarantee and security agreement dated as of October 14, 2022 given by each of the Co-Borrowers and the Guarantors pursuant to which each of the Co-Borrowers and Guarantors granted security to the Applicant over all of their right, title, and interest in all of their personal property and undertaking, whether now owned or hereafter acquired or arising and wherever located, to secure all the present and future obligations of each of the Co-Borrowers and Guarantors;
- (b) A deed of hypothec dated as of October 11, 2022 given by Whyte’s to the Applicant pursuant to which Whyte’s granted a hypothec on the universality of all of its movable property, present and future, corporeal and incorporeal, of whatever nature and wherever situated, to secure the payment and performance of the Obligations;

-11-

- (c) A deed of hypothec dated as of October 11, 2022 given by Maison Gourmet to the Applicant pursuant to which Maison Gourmet granted a hypothec on the universality of all of its movable property, present and future, corporeal and incorporeal, of whatever nature and wherever situated, to secure the payment and performance of the Obligations;
- (d) An intellectual property security agreement dated as of October 14, 2022 executed by Maison Gourmet in favour of the Applicant pursuant to which Maison Gourmet granted security in and to all of its right, title and interest in and to: (i) all patents and industrial designs; (ii) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos, Internet domain names and other source or business identifiers, and all goodwill associated therewith; and (iii) all copyrights, whether now owned or at any time hereafter acquired; and
- (e) An intellectual property security agreement dated as of October 14, 2022 executed by Whyte's in favour of the Applicant pursuant to which Whyte's granted security in and to all of its right, title and interest in and to: (i) all patents and industrial designs; (ii) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos, Internet domain names and other source or business identifiers, and all goodwill associated therewith; and (iii) all copyrights, whether now owned or at any time hereafter acquired.

IV. THE FCC / WELLS FARGO INTERCREDITOR AGREEMENT

26. On October 14, 2022, Wells Fargo, as operational financing lender, the Business Development Bank of Canada (“**BDC**”), FCC, as the fixed-term loan lenders, and the Debtors entered into an intercreditor agreement (the “**Original Intercreditor Agreement**”).

27. In March, 2023, FCC agreed to refinance the BDC indebtedness, which resulted in BDC being paid out.

28. On April 19, 2023, the Original Intercreditor Agreement was amended and restated to reflect the removal of BDC (the “**A&R FCC Intercreditor Agreement**” together with the Original Intercreditor Agreement, the “**Intercreditor Agreement**”).

Attached as **Exhibit “DD”** is a copy of the A&R FCC Intercreditor Agreement.

29. The A&R FCC Intercreditor Agreement identifies two types of property:

“**Trade Personal Property**” means all of the present and future accounts receivables, monetary claims, cash, deposit accounts, inventory and Operational Financing Purchased Equipment of the Debtors and the Guarantors, together with all claims, documents of title, chattel paper, instruments, books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records relating to the foregoing, and all accessions to, substitutions for and replacements, and products of the foregoing or relating to the foregoing, including cash and other proceeds thereof, including, without limitation, proceeds of insurance and insurance indemnities and the right to receive proceeds of insurance on account of any of the foregoing.

“**Non-Trade Personal Property**” means all of the present and after-acquired personal (movable) property of the Debtors and the Guarantors including the related proceeds and insurance indemnities, excluding the Trade Personal Property.

30. The A&R FCC Intercreditor Agreement provides for the following priority:
- (a) with respect to the Trade Personal Property: (i) Wells Fargo's Operational Financing Security has a first ranking priority to the extent of the Operational Financing Debt, as defined in the Intercreditor Agreement; and (ii) FCC has a second ranking priority to the extent of the FCC Credit Agreement; and
 - (b) with respect to the Non-Trade Personal Property: (i) FCC has a first ranking priority to the extent of the FCC Credit Agreement; and (ii) Wells Fargo's Operational Financing Security has a second ranking priority to the extent of the Operational Financing Debt.
31. The A&R Intercreditor Agreement also sets out FCC and Wells Fargo's respective rights in an enforcement scenario.

V. OTHER SECURED CREDITORS

32. In addition to FCC and Wells Fargo, I understand that Whyte's has outstanding secured liabilities to EJJ and Care.
33. EJJ is a company affiliated with Whyte's that had previously advanced multiple loans to Whyte's (collectively, the "**EJJ Loan**"). EJJ Capital Inc. provided an unlimited guarantee dated May 20, 2020 in favour of FCC as security under the Initial FCC Credit Agreement. Subsequently, as part of the ARCA, EJJ's assets were to be liquidated, the proceeds were to be used to increase Whyte's working capital, and EJJ's guarantee was released on April 19, 2023. On May 20, 2020, EJJ provided an amended and

restated assignment, postponement and subordination agreement in favour of FCC in relation to FCC, whereby EJJ agreed to subordinate, postpone, and standstill all amounts owing by Whyte's to EJJ and any lien granted to secure the EJJ Loan.

34. Care provided a \$500,000 loan to Whyte's (the "**Care Loan**"). On May 20, 2020, Care provided an assignment, postponement and subordination agreement in favour of FCC in relation to any amounts owed or owing to Care, including under the Care Loan.

35. Based on searches conducted in Ontario under the PPR on October 2, 2023 and in Québec under the Québec RPMRR on October 2, 2023, the following additional parties have registrations against the Debtors: Ryder Truck Rental Canada Ltd., Meridian OneCap Credit Corp., and Constant International. Attached as **Exhibit "EE"** is a true copy of the PPR and RPMRR searches.

VI. DEBTORS' FINANCIAL DIFFICULTIES AND DEFAULTS

36. Whyte's has reported financial difficulties in 2020 as a result of COVID-19, which were exacerbated by crop shortages in 2021, 2022 and 2023.

37. In early 2023, Whyte's engaged Kroll Corporate Finance Canada ("**Kroll**") and Alvarez & Marsal Canada Inc. ("**A&M**") to provide financial and strategic advice.

38. On December 13, 2022, January 30, 2023, March 28, 2023 and April 3, 2023, Wells Fargo delivered notices of default and reservation of rights letters to the parties under the Wells Fargo Credit Agreement, relating to, among other things, the parties failure to meet certain financial covenants and failure to respond to various requests made by Wells Fargo for information within the timeframes agreed upon by the parties

(the “**Wells Fargo Events of Default**”). Attached as **Exhibit “FF”** is a copy the Wells Fargo notices of default and reservation of rights letters.

39. On April 3, 2023, FCC received a copy of the notice of default and reservation of rights dated April 3, 2023 by Wells Fargo.

40. On April 19, 2023, pursuant to the FCC Forbearance Agreement, among other things:

- (a) the Debtors acknowledged that certain Events of Default had occurred and are continuing under the Wells Fargo Credit Agreement and the FCC Credit Agreement, as applicable;
- (b) the Debtors acknowledged that the Wells Fargo Events of Default constituted an Event of Default under the FCC Credit Agreement (the “**FCC Events of Default**”);
- (c) FCC agreed to forbear from exercising their rights and remedies under the FCC Security and Guarantees through the earlier of (i) July 31, 2023 or such later date agreed to by FCC and Whyte’s, (ii) the occurrence of any Event of Default under the loan documents, other than the existing FCC Events of Default, or (iii) expiration of the “Forbearance Period” under the Wells Fargo Second Amendment and Forbearance Agreement (the “**Forbearance Period**”); and
- (d) the Forbearance Agreement would only be effective upon written confirmation from Wells Fargo that all conditions precedent under the

Wells Fargo Second Amendment and Forbearance Agreement had been met.

41. On the same date, pursuant to the Wells Fargo Second Amendment and Forbearance Agreement, among other things:

- (a) Wells Fargo consented to the refinancing of the BDC indebtedness by FCC;
- (b) Wells Fargo consented to the injection of the EJJ Loan, which was to be used for working capital;
- (c) Wells Fargo consented to the sale of the Debtors' cheese quota;
- (d) the Debtors agreed to continue the engagement with A&M;
- (e) the Debtors agreed to cooperate with Wells Fargo's financial advisor, Ernst & Young ("**EY**");
- (f) Wells Fargo consented to the sale of the St-Louis Facility provided that the Debtors covenanted and agreed to provide to Wells Fargo (i) by no later than June 30, 2023 a signed binding agreement between Whyte's and a third party purchaser for the sale of the St-Louis Facility and all assets located thereon; and (ii) by no later than July 31, 2023 evidence that such sale had closed and net proceeds were distributed Wells Fargo and FCC in accordance with their respective priorities; and

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(g) the Debtors covenanted and agreed to undertake a sale process to be conducted by Kroll whereby by no later than June 30, 2023 the Debtors were to provide the Applicant with a copy of all final bids and by no later than July 31, 2023 the Debtors were to provide the Applicant with evidence that the sale process had closed (the “**Pre-NOI Sale Process**”).

42. Following this, Kroll commenced the Pre-NOI Sale Process to identify an executable transaction for the sale of some or all of Whyte’s property, additional investment into the business and/or financing alternatives. The Pre-NOI Sale Process did not result in a viable transaction.

43. On June 15, 2023, Wells Fargo sent a demand letter (the “**Wells Fargo Demand Letter**”) to the Debtors demanding repayment of the obligations and giving notice of its intention to enforce its security pursuant to Section 244 of the BIA.

44. On June 20, 2023, FCC sent demand letters to each of the Debtors (the “**FCC Demand Letters**”) and a notice of intention to enforce its security pursuant to Section 244 of the BIA to Whyte’s (the “**Whyte’s NITES**”). Attached as **Exhibit “GG”** is a copy of the FCC Demand Letters and Whyte’s NITES.

45. On July 4, 2023, FCC registered a prior notice of the exercise of a hypothecary right at the RPMRR under number 23-0780262-0001 for Whyte’s and on October 4, 2023 for Gourmet registered at the RPMRR under number. On August 23, 2023, Wells Fargo registered a prior notice of the exercise of a hypothecary right at the RPMRR under number 23-0995214-0001 for Whyte’s.

46. Throughout the remainder of June and July, 2023, the Debtors continued their efforts to find a viable transaction outside of an NOI proceeding. FCC supported this approach and was hopeful Whyte's would be able to secure a going-concern sale.

47. Whyte's was unable to meet certain covenants under the Wells Fargo Forbearance Agreement prior to the July 31, 2023 termination date, which constituted an additional Event of Default under the Wells Fargo Credit Agreement.

48. Following the expiry of the Forbearance Period on July 31, 2023, Whyte's requested further funding from Wells Fargo to fund working capital requirements. By mid-August, 2023, Wells Fargo was of the opinion that there was no prospect of an acceptable transaction and that an NOI proceeding would be necessary to complete the Pre-NOI Sales Process.

VII. The NOI Proceeding

49. On August 22, 2023, the Debtors and Wells Fargo entered into a further forbearance agreement through the DIP Facility Agreement. Pursuant to the DIP Facility Agreement, the Debtors and Wells Fargo agreed, among other things:

- (a) Whyte's would file an NOI on or about August 23, 2023;
- (b) Whyte's would name A&M as its proposal trustee for the purposes of the NOI Proceedings;

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- (c) Wells Fargo would provide a facility up to a maximum availability of \$2,700,000 to be used to fund Whyte's working capital, operating and restructuring processes;
- (d) Whyte's shall obtain an initial NOI order no later than August 31, 2023;
- (e) Wells Fargo would forbear against the Debtors until the earlier of (i) October 10, 2023 and (ii) the occurrence of a Terminating Event, as defined in the DIP Financing Agreement; and
- (f) Kroll would complete the Pre-NOI Sales Process no later than October 10, 2023.

50. On August 23, 2023, the Debtors and FCC entered into the Forbearance Extension Agreement to revise FCC's forbearance terms in contemplation of the NOI Proceeding.

51. On August 23, 2023, Whyte's filed the NOI and A&M was named as proposal trustee (in such capacity, the "**Proposal Trustee**").

52. On August 31, 2023, Whyte's obtained, among other things, approval of the Kroll engagement, the sale process (the "**NOI SISP**"), the DIP financing, an extension of the stay period to October 10, 2023, and approval of the DIP Lender's Charge.

53. The bid deadline under the NOI SISP was September 21, 2023 at 5:00 pm (EST). Whyte's received four offers, including two potential going concern offers.

54. Over the following days, FCC worked with A&M as Proposal Trustee, the Debtors and the prospective purchasers and their respective advisors to determine whether acceptable terms for either of the going concern offers could be achieved.

Unfortunately, the purchasers were not able to offer terms that were acceptable to both FCC and Wells Fargo. FCC understands A&M will return to this Court for approval of the sale of certain assets in the NOI SISP. The remaining assets are the subject of this receivership application and the Wells Fargo Receivership Application.

55. On October 4, 2023, FCC sent further demand letters to Triak, Gourmet and Saroli along with notices of intention to enforce its security pursuant to Section 244 of the BIA (the “**Corporate Guarantor NITES**”). The Corporate Guarantor NITES included an acknowledgement, consent and waiver of the statutory notice period provided for under Section 244 of the BIA. Attached as **Exhibit “HH”** is a copy of the further demands letters and Corporate Guarantor NITES.

VIII. APPOINT OF FTI AS RECEIVER IS JUST AND CONVENIENT

56. I understand that the appointment of the Receiver is on consent of Wells Fargo, the Debtors and the Proposal Trustee.

57. As set out above, as of October 3, 2023, the aggregate outstanding Indebtedness owed by the Debtors is \$34,695,269.77, excluding professional fees, disbursements and accruing interest (the “**Indebtedness**”).

58. Multiple events of default have occurred under the FCC Credit Agreement, which are ongoing and outstanding.

59. The statutory notice period provided for under the BIA and outlined in the Whyte's NITES has expired.

60. Additionally, FCC has supported the Debtors through ongoing operational and financial difficulties, including through the Debtors efforts to find a going concern sale of its business in the Pre-NOI Sale Process and in the NOI SISP. There was no viable going concern sale of the Debtors' business through the NOI SISP.

61. The NOI SISP did not result in the sale of the Non-Trade Personal Property. As a result, it is my view that the appointment of a Receiver is necessary at this point to conduct a subsequent sale process to sell the Non-Trade Personal Property in order to maximize the repayment of amounts owed to FCC and other creditors of the Debtors.

62. If this Honourable Court sees fit to make such an appointment, FTI has consented to act as Court-appointed receiver. FTI is a licensed insolvency trustee and has significant experience in mandates of this nature. Attached as **Exhibit "II"** is a copy of FTI's Consent to Act as receiver.

63. FTI advised FCC in the weeks leading up to the NOI Proceeding and throughout to the NOI SISP. FTI has become familiar with the Debtors' business and assets during this period.

64. FTI has also engaged in discussions with Wells Fargo, EY, the Debtors, and the Proposal Trustee regarding the NOI SISP and the proposed NOI sale transactions, which will ensure a smooth transition between closing the NOI sale transactions, the Wells Fargo Receivership Application, and the current proceeding.

65. This affidavit is sworn in support of FCC's application for the Appointment Order and for no other or improper purpose.

SWORN by Dale Snider of the City of Elmira, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on October 4, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



DocuSigned by:
Heather Fisher
2F7B29C04CC6424...

Commissioner for Taking Affidavits
(or as may be)

HEATHER FISHER

DocuSigned by:
Dale Snider
F678701139AA463...

DALE SNIDER

**T
A
B
G**

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

BETWEEN:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS
AMENDED**

**FEE AFFIDAVIT
(Sworn October 30, 2023)**

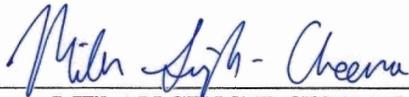
I, Jeffrey Rosenberg, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY AS FOLLOWS:**

1. I am a Senior Managing Director at FTI Consulting Canada Inc. ("FTI") who has had primary carriage of this file and, as such, have knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters discussed in this Affidavit, I have stated the source of my information and, in all cases, believe it to be true.
2. FTI is the Court-appointed Receiver in the above-captioned proceedings (in such capacity, the "Receiver").

3. Attached hereto as **Exhibit "A"** are copies of the Statements of Account rendered by FTI in connection with its role as Receiver for the period between October 2, 2023 and October 29, 2023. These Statements of Account have been redacted to address matters of confidentiality or privilege.
4. Attached hereto as **Exhibit "B"** is a table summarizing the aforementioned Statements of Account for the fees and disbursements incurred by FTI in connection with these proceedings for the period between October 2, 2023 and October 29, 2023
5. Attached hereto as **Exhibit "C"** is a table detailing, among other things, the hourly rates and the time expended by the various professionals at FTI who have worked on this matter for the period between October 2, 2023 and October 29, 2023
6. The total fees (exclusive of disbursements and general and harmonized sales taxes) billed by FTI for the aforementioned accounts to October 29, 2023, in connection with its role the Receiver, are \$150,345.50. To the best of my knowledge, the rates charged FTI are comparable to the rates charged for the provision of services of a similar nature and complexity by other large consulting firms in the Toronto market.

7. This Affidavit is made in support of approval of the fees and disbursements of FTI as the Receiver, and for no other or improper purpose.

SWORN REMOTELY by Jeffrey Rosenberg stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on October 30, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



MILAN SINGH-CHEEMA
Commissioner for Taking Affidavits
(or as may be)



Jeffrey Rosenberg

THIS IS EXHIBIT "A" REFERRED TO IN
THE AFFIDAVIT OF JEFFREY ROSENBERG,
SWORN BEFORE ME THIS 30TH DAY OF OCTOBER, 2023.



MILAN SINGH-CHEEMA
A Commissioner for taking Affidavits
(or as may be)



Corporate Finance

October 30, 2023

Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada

RE: Financial Advisory
FTI Job No. 500000.3749
Invoice No. 102900000636

Enclosed is our invoice for professional services rendered in connection with the above referenced matter. This invoice covers professional fees through October 29, 2023.

Please do not hesitate to call me to discuss this invoice or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey Rosenberg", written over a light blue horizontal line.

Jeffrey Rosenberg
Senior Managing Director



Invoice Remittance

**Farm Credit Canada
100 - 120 Research Lane
Guelph, ON N1G 0B5
Canada**

**Invoice No. October 30, 2023
Job No. 102900000636
Terms 500000.3749
Currency Due Upon Receipt
Tax Registration: CAD**

RE: Financial Advisory

Amount Due Current Invoice

\$178,776.06

[REDACTED]

**Please remit cheque
payments to:**

**FTI Consulting Canada Inc.
C/O T10073
P.O. Box 10073
Postal Station A
Toronto, ON M5W 2B1
Canada**



Invoice Summary

Farm Credit Canada
 100 - 120 Research Lane
 Guelph, ON N1G 0B5
 Canada

Invoice No. October 30, 2023
 Job No. 102900000636
 Terms 500000.3749
 Currency Due Upon Receipt
 Tax Registration: CAD

RE: Financial Advisory

Name	Title	Rate	Hours	Total
Jeffrey Rosenberg	Senior Managing Director	\$1,230.00	61.80	\$76,014.00
Jodi Porepa	Senior Managing Director	\$1,050.00	11.00	\$11,550.00
Adsaran Vithiyananthan	Senior Consultant	\$590.00	105.70	\$62,363.00
Caitlin Moreland	Receptionist	\$155.00	1.70	\$263.50
Kathleen Foster	Executive Assistant II	\$155.00	1.00	\$155.00
Total Professional Services			181.20	\$150,345.50
Expenses				Total
Business Meals				\$472.78
Hotel & Lodging				\$1,199.60
Mileage				\$835.70
Purchased Services				\$844.95
Total Expenses				\$3,353.03
Administrative Fee				\$4,510.37
Invoice Total				CAD Amount
HST (13%)				\$158,208.90
Total Due				\$20,567.16
				\$178,776.06

Invoice Detail

Invoice No.
Job No.

October 30, 2023
10290000636
50000.3749

10/10/2023	Discussions with real estate brokers on potential sale of Wallaceburg facility; discussions with locksmith on changing locks after Receivership order is granted; discussion with EY on collaboration and next steps; internal discussions; updating internal trackers.	3.70
10/11/2023	Internal discussions; call with insurance broker on extending coverage to Receivers; updating outstanding item listing; phone calls with commercial real estate brokerages on potential sale; travel to Wallaceburg; summarizing Kohli appraisal report.	6.40
10/12/2023	Site visit to Wallaceburg factory; tour of factory with human resources business partner; meetings with EY Parthenon; internal discussions; meeting with management on equipment to be picked up by Putters and equipment to be kept in various facilities; changing all locks at the facility and coordinating with locksmith and security guard to ensure premises is secured after receivership order granted.	6.20
10/13/2023	Internal discussions; site visit at Wallaceburg facility; phone calls with utilities companies on setting up new accounts; discussions with employees on new keys and new procedures following granting of Receivership Order; discussions with EY Parthenon on logistics and outstanding items; set up of bank account for Receivership; communications with security company and locksmith; travel; set up of new accounts for Receivership with utility companies; reviewing the machinery and equipment listing; set up of Receiver's website with all documents submitted to Court.	8.20
10/14/2023	Compiling consolidated equipment listing for Treehouse APA.	2.50
10/15/2023	Internal discussions; travel for site visit; discussions with videographers of potential machinery and equipment count.	2.70
10/16/2023	Site visit to Wallaceburg, ON; discussions with EY Parthenon; internal discussions; discussions with utility providers on set up of new accounts; discussions with bank on set up of new accounts; emails regarding APA with Treehouse; reviewing machinery and equipment listing; set up of Ascend estate.	5.40
10/17/2023	Drafting Form 87; compiling unsecured creditor listing; internal discussions; discussions with real estate brokerages; discussions with EY Parthenon.	4.50
10/18/2023	Wallaceburg site visit; summarizing Wallaceburg and St. Therese equipment listings; discussions with utility providers; discussions with EY Parthenon.	2.00
10/19/2023	Internal discussions; site tours with various prospective commercial brokerages; site tour with prospective equipment purchaser.	8.20



Invoice Detail

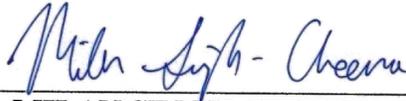
Invoice No. **October 30, 2023**
Job No. **102900000636**
 500000.3749

Kathleen Foster

10/14/2023	Website update.		1.00	
		\$155.00	per hour x total hrs	1.00 \$155.00

Total Professional Services			CAD	\$150,345.50
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THIS IS **EXHIBIT "B"** REFERRED TO IN
THE AFFIDAVIT OF JEFFREY ROSENBERG
SWORN BEFORE ME THIS 30TH DAY OF OCTOBER, 2023.

A handwritten signature in blue ink, reading "Milan Singh-Cheema".

MILAN SINGH-CHEEMA
A Commissioner for taking Affidavits
(or as may be)

Invoice #	Period Ended	Fees	Expenses	Administration Fee	GST/HST	Total
1	October 29, 2023	\$150,345.50	\$3,353.03	\$4,510.37	\$20,567.16	\$178,776.06
Total		\$150,345.50	\$3,353.03	\$4,510.37	\$20,567.16	\$178,776.06

THIS IS **EXHIBIT "C"** REFERRED TO IN
THE AFFIDAVIT OF JEFFREY ROSENBERG,
SWORN BEFORE ME THIS 30TH DAY OF OCTOBER, 2023.



MILAN SINGH-CHEEMA
A Commissioner for taking Affidavits
(or as may be)

Timekeeper	Title	Hourly Rate	Total Hours	Total Fees
Jeffrey Rosenberg	Senior Managing Director	\$1,230.00	61.80	\$76,014.00
Jodi Porepa	Senior Managing Director	\$1,050.00	11.00	\$11,550.00
Adsaran Vithiyananthan	Senior Consultant	\$590.00	105.70	\$62,363.00
Caitlin Moreland	Receptionist	\$155.00	1.70	\$263.50
Kathleen Foster	Executive Assistant II	\$155.00	1.00	\$155.00
Total			181.20	\$150,345.50

Average hourly rate = \$828.59 ¹

¹ Exclusive of applicable general and harmonized sales taxes.

FARM CREDIT CANADA

and

**WHYTE'S FOODS INC./LES ALIMENTS
WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK
INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

FEE AFFIDAVIT

BENNETT JONES LLP
One First Canadian Place, Suite 3400
P.O. Box 130
Toronto, ON M5X 1A4

Sean Zweig (LSO# 57307I)
Tel: (416) 777-6254
Email: zweigs@bennettjones.com

Jesse Mighton (LSO# 62291J)
Tel: (416) 777-6255
Email: mightonj@bennettjones.com

Milan Singh-Cheema (LSO# 88258Q)
Tel: (416) 777-5527
Email: singhcheemam@bennettjones.com

Lawyers for FTI Canada Consulting Inc.

**T
A
B
H**

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

BETWEEN:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC.,
TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC**

Respondents

**IN THE MATTER OF AN APPLICATION UNDER SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS
AMENDED**

**FEE AFFIDAVIT
(Sworn October 30, 2023)**

I, Sean Zweig, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND
SAY AS FOLLOWS:**

1. I am a partner at Bennett Jones LLP ("**Bennett Jones**") who has had primary carriage of this file and, as such, have knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters discussed in this Affidavit, I have stated the source of my information and, in all cases, believe it to be true.
2. Bennett Jones is counsel to FTI Consulting Canada Inc. ("**FTI**"), in its capacity as the Court-appointed Receiver in the above-captioned proceedings (in such capacity, the "**Receiver**").

3. Attached hereto as **Exhibit "A"** is a copy of the Statement of Account rendered by Bennett Jones in connection with its role as counsel to the Receiver for the period between October 4, 2023 and October 27, 2023. This Statement of Account have been redacted to address matters of confidentiality or privilege.

4. Attached hereto as **Exhibit "B"** is a table summarizing the aforementioned Statement of Account for the fees and disbursements incurred by Bennett Jones in connection with these proceedings for the period between October 4, 2023 and October 27, 2023

5. Attached hereto as **Exhibit "C"** is a table detailing, among other things, the hourly rates and the time expended by the various professionals at Bennett Jones who have worked on this matter for the period between October 4, 2023 and October 27, 2023

6. The total legal fees (exclusive of disbursements and general and harmonized sales taxes) billed by Bennett Jones for the aforementioned accounts to October 27, 2023, in connection with its role as counsel to the Receiver, are \$109,376.00. To the best of my knowledge, the rates charged by Bennett Jones are comparable to the rates charged for the provision of services of a similar nature and complexity by other large legal firms in the Toronto market.

7. This Affidavit is made in support of approval of the fees and disbursements of Bennett Jones as counsel to the Receiver, and for no other or improper purpose.

SWORN REMOTELY by Sean Zweig stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on October 30th, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



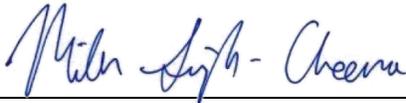
MILAN SINGH-CHEEMA

Commissioner for Taking Affidavits
(or as may be)



SEAN ZWEIG

THIS IS **EXHIBIT "A"** REFERRED TO IN
THE AFFIDAVIT OF SEAN ZWEIG,
SWORN BEFORE ME THIS 30TH DAY OF OCTOBER, 2023.



MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)



Bennett Jones

Bennett Jones LLP
Suite 3400
1 First Canadian Place
P.O. Box 130
Toronto, Ontario M5X 1A4

FTI CONSULTING CANADA INC.
SUITE 2010, 79 WELLINGTON STREET WEST
TORONTO, ON M5K 1G8

**Attention: JEFFREY ROSENBERG
SENIOR MANAGING DIRECTOR**

Re: Whyte's Canada Inc.
Our File Number: 076142.00016

Date: October 30, 2023
Invoice: 1539395

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	\$	109,376.00
Disbursements	\$	2,192.65
Total Due before Tax	\$	111,568.65
GST/HST	\$	14,503.92
Total Due in CAD	\$	126,072.57

Due upon receipt. Bennett Jones reserves the right to charge interest at a rate not greater than 12% per annum on outstanding invoices over 30 days. We collect, use and disclose information pursuant to our Privacy Policies. For further information visit our website at www.bennettjones.com. GST/HST number: 119346757 QST number: 1230818653

Date	Name	Description	Hours
04/10/23	Sean Zweig	Discussions with J. Rosenberg; Reviewing and commenting on draft Receivership Order	0.80
05/10/23	Sean Zweig	Reviewing Whyte's factum; Reviewing Second Report of Trustee; Reviewing factum and draft Receivership Order for Wells Fargo application; Reviewing Report of EY; Discussion with J. Rosenberg regarding same and other issues; Reviewing FCC application record; Various correspondence regarding upcoming hearing and draft Transition Order; Reviewing and commenting on updated FCC draft Receivership Order; Discussion with J. Rosenberg regarding priority of charges, and correspondence regarding same; Reviewing FCC factum	4.40
06/10/23	Sean Zweig	Various correspondence in connection with upcoming hearing; Preparing for and attending at hearing; Follow-up discussion with J. Rosenberg; Reviewing Endorsement and Orders granted	2.30
10/10/23	Sean Zweig	Call with Gowlings and FTI regarding Treehouse APA and other matters; Call with J. Rosenberg; Emails with Goodmans; Dealing with Service List	1.00
11/10/23	Milan Singh-Cheema	Reviewing materials; Updating Service List; Call with Stikeman, FTI and Gowlings	1.60
11/10/23	Sean Zweig	Call with Stikeman, FTI and Gowlings; Reviewing various documents provided by Stikeman; Reviewing and revising Occupation Agreement; Discussions with J. Rosenberg; Reviewing Intercreditor Agreement; Emails with J. Rosenberg regarding Occupation Agreement	3.50
12/10/23	Milan Singh-Cheema	Drafting consulting letter and updating APA for current circumstances	2.10
12/10/23	Sean Zweig	Reviewing and revising draft consulting agreement; Emails with J. Rosenberg regarding Treehouse APA execution timing; Reviewing and revising draft Treehouse APA to update for receivership sale; Various correspondence regarding Putters; Call with J. Rosenberg; Other correspondence	2.10
13/10/23	Milan Singh-Cheema	Working on APA; Various correspondence regarding multiple issues	2.20
13/10/23	Jesse Mighton	Preliminary review of purchase agreement; Review procedural background	2.00

Date	Name	Description	Hours
13/10/23	Sean Zweig	Discussion with J. Rosenberg regarding updated APA, and revising same; Various correspondence with FTI team; Discussions with M. Singh-Cheema; Call with R. Ward regarding tax issues in APA	1.20
14/10/23	Jesse Mighton	Ongoing review of purchase agreement and internal correspondence regarding same; Reviewing procedural background; Discussions regarding Receiver's website; Call with J. Rosenberg; Preparing equipment list	2.50
14/10/23	Milan Singh-Cheema	Preparing for and attending call with S. Zweig and P. Ward to discuss tax issues with Treehouse APA	0.80
14/10/23	Sean Zweig	Emails with J. Mighton regarding APA and other issue; Call regarding tax issues in APA; Emails with purchaser's counsel regarding same; Emails regarding asset listing	1.00
14/10/23	Phil Ward	Call with S. Zweig and M. Singh-Cheema regarding tax issues	0.30
15/10/23	Milan Singh-Cheema	Call with J. Mighton; Preparing equipment list for APA	0.90
15/10/23	Jesse Mighton	Dealing with equipment list schedule; Internal correspondence regarding same	1.30
15/10/23	Sean Zweig	Various correspondence with J. Mighton and M. Singh-Cheema in connection with equipment sale and related matters	0.30
16/10/23	Jesse Mighton	Reviewing purchaser APA comments; Internal call regarding same; Dealing with equipment list; Discussions with purchaser's counsel; Drafting Receiver's report	2.80
16/10/23	Milan Singh-Cheema	Reviewing newly compiled equipment list for accuracy; Revising equipment list; Call with S. Zweig and J. Mighton to discuss APA; Call with J. Rosenberg to discuss APA changes from purchaser's counsel and our comments; Various correspondence; Drafting Approval and Vesting Order	8.60
16/10/23	Sean Zweig	Reviewing Treehouse's comments on draft APA; Internal call regarding Treehouse APA and next steps; Correspondence with FTI and internal team regarding same and related matters	1.10

Date	Name	Description	Hours
17/10/23	Milan Singh-Cheema	Various correspondence; Revising AVO	1.10
17/10/23	Jesse Mighton	Reviewing and commenting on draft order; Drafting Receiver's report; Call with purchaser's counsel; Correspondence regarding security review	3.20
17/10/23	John van Gent	Discussion with J. Mighton regarding required security opinion; Call with M. O'Grady to provide instructions concerning same; Email from J. Mighton forwarding application documentation	0.30
17/10/23	Sean Zweig	Various discussions with J. Mighton; Reviewing revised Order and AVO; Emails regarding Fasken security opinion	0.70
18/10/23	John van Gent	Numerous emails to and from M. O'Grady and C. Deschenes concerning Quebec real property searches; Numerous emails to and from J. Mighton forwarding additional documentation concerning existing security and prior security opinions; Emails to and from M. O'Grady and D. Rotchtin concerning strategy to proceed with riders for real property component of security opinion	0.20
18/10/23	Mike O'Grady	Reviewing application record materials; Speaking with J. Mighton and D. Rotchtin regarding Quebec security opinion requirements; Keeping up with and conducting various email correspondence regarding same; Reviewing Fasken security opinions provided on a non-reliance basis	1.60
18/10/23	Milan Singh-Cheema	Revising APA; Various correspondence; Reviewing and summarizing Intercreditor Agreement	3.20
18/10/23	Jesse Mighton	Call regarding St Therese site access issues; Email correspondence with purchaser's counsel; Reviewing and considering intercreditor issues; Correspondence regarding security review	4.00
18/10/23	Frances Wu	Reviewing documents provided for security review; Meeting with D. Rotchtin to discuss steps of security review; Reviewing Fasken opinion	4.80
18/10/23	Chloe Deschenes	Conducting searches at the Register of Personal and Movable Real Rights against Whyte's Foods Inc. and Maison Gourmet Inc.; Conducting searches at the land registry; Drafting email to R. Burgos with a summary for the security; Call with R. Burgos	1.00

Date	Name	Description	Hours
18/10/23	Sean Zweig	Reviewing Fasken security opinion and related documents; Emails regarding access rights issues; Reviewing analysis regarding same; Emails with H. Sibre	1.00
18/10/23	Richard Burgos	Discussion and correspondence internally as to developments and scope of Québec security; Reviewing documents	0.40
19/10/23	Mike O'Grady	Reviewing previously delivered security opinion; Reviewing title to property and registered security in favour of Farm Credit Canada; Drafting summary of same; Keeping up with and conducting various related email correspondence	1.90
19/10/23	Frances Wu	Reviewing security agreements of all obligors, Preparing security review summaries	4.90
19/10/23	Chloe Deschenes	Call with R. Burgos; Reviewing the Quebec security documents; Drafting an email with respect to the Quebec security	1.00
19/10/23	Jesse Mighton	Drafting Receiver's report; Dealing with THS purchase agreement	4.50
19/10/23	Sean Zweig	Reviewing comments from purchaser's counsel on AVO and APA	0.10
19/10/23	Richard Burgos	Internal discussion and correspondence as to Quebec review and review of Quebec security	2.50
20/10/23	Mike O'Grady	Keeping up with and conducting various email correspondence regarding security opinion	0.10
20/10/23	Frances Wu	Continuing to review security agreements and preparing review summary	5.20
21/10/23	Jesse Mighton	Correspondence regarding various issues; Working on THS purchase agreement issues	1.50
22/10/23	Frances Wu	Continuing to prepare security review summary; Reviewing PPSA searches conducted against obligors	4.30
23/10/23	Mike O'Grady	Keeping up with and conducting various email correspondence	0.20
23/10/23	Jane Sergievskaya	Reviewing certified Ontario PPSA searches; Email correspondence; Discussion with F. Wu with respect to existing registrations in favour of FCC	0.80

October 30, 2023
Page 6Client:
Invoice No.:076142.00016
1539395

Date	Name	Description	Hours
23/10/23	Milan Singh-Cheema	Finalizing equipment list and APA; Various correspondence regarding multiple issues; Call with J. Mighton; Drafting distribution and ancillary relief order	2.30
23/10/23	Frances Wu	Discussion with J Sergievskaya regarding PPSA search results and revising and finalizing security review summary	6.00
23/10/23	Jesse Mighton	Drafting Receiver's report; Internal correspondence regarding same; Call with J. Latham regarding Wells receivership issues; Finalizing THS purchase agreement and correspondence related to same	4.50
23/10/23	Sean Zweig	Call with J. Mighton; Reviewing updated equipment list and APA; Other correspondence; Reviewing and commenting on draft First Report, and providing comments to J. Mighton	1.20
24/10/23	Chloe Deschenes	Meeting with R. Burgos; Reviewing the Quebec security and the searches conducted at the Register of Personal and Movable Real Rights	2.00
24/10/23	Frances Wu	Updating security review memorandum after call with D. Rotchtin; Incorporating real estate security review and Quebec security review into the memorandum	6.30
24/10/23	Milan Singh-Cheema	Revising draft distribution and ancillary relief order	0.20
24/10/23	Jesse Mighton	Ongoing drafting of Receiver's report; Call with J. Rosenberg regarding status update and timing issues	2.80
24/10/23	Sean Zweig	Reviewing and commenting on revised First Report	1.30
24/10/23	Richard Burgos	Preparation of report as to Quebec security and internal discussion and correspondence as to developments	1.50
25/10/23	Mike O'Grady	Keeping up with and conducting various email correspondence; Reviewing internal memorandum for real estate specific matters	0.40
25/10/23	Frances Wu	Finalizing security review memorandum	1.60
25/10/23	Jesse Mighton	Drafting Receiver's report; Drafting notice of motion; Correspondence regarding FCC security review; Email and phone correspondence with J.	6.00

Date	Name	Description	Hours
		Rosenberg; Email correspondence regarding St. Therese facility; Considering issues relating to the foregoing; Dealing with THS purchase agreement	
25/10/23	Sean Zweig	Discussion with J. Mighton regarding First Report; Various correspondence regarding security opinion; Reviewing email from H. Sibre regarding Ste-Therese facility, and response to same	0.50
25/10/23	Richard Burgos	Internal discussions regarding Quebec security	0.50
26/10/23	Mike O'Grady	Drafting real estate rider to security interest opinion; Reviewing materials in connection with same; Keeping up with and conducting various email correspondence regarding same	2.00
26/10/23	Jesse Mighton	Email correspondence with equipment purchaser regarding logistical matters; Finalizing purchase agreement; Correspondence regarding security review; Revising draft Receiver's report; Discussion with FCC counsel; Phone calls with J. Rosenberg regarding the foregoing; Discussing Wells Fargo receivership issues	5.50
26/10/23	Frances Wu	Preparing draft opinion; Email correspondence with clerk to discuss search results, and correspondence with Gowlings to address matters identified in security review	5.20
26/10/23	Milan Singh-Cheema	Finalizing execution copy of asset purchase agreement; Various correspondence; Call with J. Mighton; Working on notice of motion	2.00
26/10/23	Jane Sergievskaya	Ordering security searches in connection with opinion; Email correspondence	0.50
26/10/23	John van Gent	Numerous emails and discussions with M. O'Grady regarding rider of real estate provisions for security opinion	0.20
26/10/23	Sean Zweig	Various correspondence throughout day regarding equipment APA, security opinion, Ste-Therese facility, and other matters	0.40
26/10/23	Richard Burgos	Various discussions and correspondence regarding Quebec security	0.50
27/10/23	Mike O'Grady	Reviewing draft security opinion and providing comments on Ontario real estate related provisions; Keeping up with and conducting various email correspondence regarding same	0.80

Date	Name	Description	Hours
27/10/23	Milan Singh-Cheema	Preparation of motion record and related documents; Various correspondence; Call with J. Mighton	5.40
27/10/23	Jane Sergievskaya	Reviewing Ontario search results; Email correspondence	0.30
27/10/23	Jesse Mighton	Working on Receiver's report; Dealing with motion record; Phone calls with J. Rosenberg	4.80
27/10/23	Sean Zweig	Reviewing Gowlings' comments on Report, and discussing same; Emails regarding security opinion, and considering same	0.60
27/10/23	Richard Burgos	Internal discussion and correspondence regarding Quebec security	0.50
Total Hours			157.10
Total Professional Services			\$ 109,376.00

Name	Hours
John van Gent	0.70
Sean Zweig	23.50
Phil Ward	0.30
Jesse Mighton	45.40
Richard Burgos	5.90
Mike O'Grady	7.00
Frances Wu	38.30
Milan Singh-Cheema	30.40
Jane Sergievskaya	1.60
Chloe Deschenes	4.00

Disbursements	Amount
Land Title - Search	\$ 86.30
Online Government Service	\$ 2,106.35
Total Disbursements	\$ 2,192.65
GST/HST	\$ 14,503.92
TOTAL DUE	\$ 126,072.57



Bennett Jones

FTI CONSULTING CANADA INC.
SUITE 2010, 79 WELLINGTON STREET WEST
TORONTO, ON M5K 1G8

**Attention: JEFFREY ROSENBERG
SENIOR MANAGING DIRECTOR**

Re: Whyte's Canada Inc.
Our File Number: 076142.00016

Date: October 30, 2023
Invoice: 1539395

Remittance Statement

Professional Services	\$	109,376.00
Disbursements	\$	2,192.65
Total Due before Tax	\$	<u>111,568.65</u>
GST/HST	\$	14,503.92
Total Due in CAD	\$	<u>126,072.57</u>



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Bennett Jones LLP
4500, 855 2 Street SW
Calgary, AB T2P 4K7

[REDACTED]

THIS IS **EXHIBIT "B"** REFERRED TO IN
THE AFFIDAVIT OF SEAN ZWEIG,
SWORN BEFORE ME THIS 30TH DAY OF OCTOBER, 2023.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line underneath it.

MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)

Invoice #	Period Ended	Fees	Disbursements	GST/HST	Total
1	October 27, 2023	\$109,376.00	\$2,192.65	\$14,503.92	\$126,072.57
Total		\$109,376.00	\$2,192.65	\$14,503.92	\$126,072.57

THIS IS **EXHIBIT "C"** REFERRED TO IN
THE AFFIDAVIT OF SEAN ZWEIG,
SWORN BEFORE ME THIS 30TH DAY OF OCTOBER, 2023.

A handwritten signature in blue ink that reads "Milan Singh-Cheema". The signature is written in a cursive style with a horizontal line extending from the end of the name.

MILAN SINGH-CHEEMA

A Commissioner for taking Affidavits
(or as may be)

Timekeeper	Year of Call (if applicable)	Hourly Rate	Total Hours	Total Fees
R. Burgos	1986	\$780.00	5.90	\$4,602.00
J. van Gent	2002	\$1,050.00	0.70	\$735.00
S. Zweig	2009	\$1,035.00	23.50	\$24,322.50
J. Mighton	2012	\$860.00	45.40	\$39,044.00
P. Ward	2012	\$1,010.00	0.30	\$303.00
M. O'Grady	2018	\$745.00	7.00	\$5,215.00
F. Wu	2022	\$495.00	38.30	\$18,958.50
M. Singh-Cheema	2023	\$465.00	30.40	\$14,136.00
J. Sergievskaya	N/A	\$475.00	1.60	\$760.00
C. Deschenes	N/A	\$325.00	4.00	\$1,300.00
Total			157.10	\$109,376.00

Average hourly rate = \$695.92¹

¹ Exclusive of applicable general and harmonized sales taxes.

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ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) MONDAY, THE 6th
)
JUSTICE STEELE) DAY OF NOVEMBER, 2023
)

B E T W E E N:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC.**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED****

APPROVAL AND VESTING ORDER

THIS MOTION, made by FTI Consulting Canada Inc. ("**FTI**") in its capacity as the Court-appointed receiver (FTI in such capacity, the "**Receiver**") of the undertaking, property and assets that constitute the FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement (the "**Sale Agreement**") between the Receiver and THS Foods Canada, Ltd. (the "**Purchaser**") dated October 23, 2023 and appended to the First Report of the Receiver dated 30, 2023 (the "**First Report**"), and vesting in the Purchaser the Debtors' right, title and interest in and to the assets

described in the Sale Agreement (the "**Purchased Assets**"), was heard this day by videoconference.

ON READING the First Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of [●] sworn [●], 2023 filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, and including without limitation those registrations set out in Schedule "B" hereto (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Cavanagh dated October 6, 2023 (the "**Receivership Order**"); and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system.

3. **THIS COURT ORDERS** that the Quebec Personal and Real Movable Real Rights Registrar, upon presentation of a certified copy of this Order and filed Receiver's Certificate, be and is hereby authorized and directed to discharge and cancel the hypothecs registered at the Register of Personal and Movable Real Rights listed in Schedule "B" hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors, or any of them, and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors, or any of them;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT ORDERS** that the purchase price contemplated by the Purchase Agreement shall be sealed and kept confidential pending further order of this Court.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

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

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-23-00707205-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

B E T W E E N:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED****

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated October 6, 2023 (the "**Receivership Order**"), FTI Canada Consulting Inc. was appointed as the receiver (in such capacity the "**Receiver**") of the FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**").

B. Pursuant to an Order of the Court dated November [6], 2023, the Court approved the asset purchase agreement made as of October 23, 2023 (the "**Sale Agreement**") between the Receiver and THS Foods Canada, Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in article 7 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in article 7 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [●] on [●], 2023.

**FTI Canada Consulting Inc. in its capacity as
Receiver of the FCC Secured Property, and
not in its personal or corporate capacity**

Per: _____

Name: [●]

Title: [●]

Schedule "B"

Registrations pursuant to the Register of Personal and Movable Real Rights (Quebec)

- A. Conventional hypothec dated May 14, 2020 and registered on May 15, 2020 under number 20-0415557-0004 by Whyte's Foods Inc. ("**Whyte's Foods**") in favour of Farm Credit Canada ("**FCC**") on the universality of the movable and immovable property;
- B. Security Agreement dated May 20, 2020 and registered on July 20, 2020 under number 20-0690365-0002 by Whyte's Foods in favour of FCC securing notably the feed-in tariff contract bearing identification number F-001838-SPV-130-502 dated June 16, 2011 between Agracity Ltd. and Ontario Power Authority;
- C. Conventional hypothec dated April 17, 2023 registered on April 18, 2023 under number 23-0434377-0002 by Whyte's Foods in favour of FCC on the universality of the movable and immovable property;
- D. Conventional hypothec dated April 17, 2023 registered on April 18, 2023 under number 23-0434377-0001 by Maison Gourmet Inc. in favour of FCC on the universality of the movable property; and
- E. Conventional hypothec dated May 14, 2020 and registered on May 15, 2020 under number 20-0415557-0001 by Maison Gourmet Inc. in favour of FCC on the universality of the movable property.

FARM CREDIT CANADA

and

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL
TRIAK INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

APPROVAL AND VESTING ORDER

BENNETT JONES LLP

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Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "~~Debtor~~") for an order approving the sale transaction (the "Transaction") contemplated by an asset purchase agreement ~~of purchase and sale~~ (the "Sale Agreement") between the Receiver and ~~[NAME OF PURCHASER]~~ THS Foods Canada, Ltd. (the "Purchaser") dated ~~[DATE]~~ October 23, 2023 and appended to the First Report of the Receiver dated ~~[DATE]~~ 30, 2023 (the "First Report"), and vesting in the Purchaser the ~~Debtor's~~ Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by videoconference.

ON READING the First Report and on hearing the submissions of counsel for the Receiver, ~~[NAMES OF OTHER PARTIES APPEARING]~~, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ [NAME] sworn ~~[DATE]~~ [DATE], 2023 filed¹:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved,² and the execution of the Sale Agreement by the Receiver³ is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the

¹~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

²~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

³~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

"Receiver's Certificate"), all of the ~~Debtor's~~Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~⁴ shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, and including without limitation those registrations set out in Schedule "B" hereto (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~Cavanagh dated ~~[DATE]~~October 6, 2023 (the "Receivership Order"); and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; ~~and~~ (iii) ~~those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.~~

~~3. — THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]~~⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real

⁴ To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.

⁵ The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

⁶ Elect the language appropriate to the land registry system (Registry vs. Land Titles).

~~Property”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

3. THIS COURT ORDERS that the Quebec Personal and Real Movable Real Rights Registrar, upon presentation of a certified copy of this Order and filed Receiver's Certificate, be and is hereby authorized and directed to discharge and cancel the hypothecs registered at the Register of Personal and Movable Real Rights listed in Schedule "B" hereto.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims ~~and Encumbrances~~ shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

~~6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the~~

⁷~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

⁸~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

~~personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

6. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the ~~Debtor~~Debtors, or any of them, and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the ~~Debtor~~Debtors, or any of them;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtorss and shall not be void or voidable by creditors of the Debtorss, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT ORDERS that the purchase price contemplated by the Purchase Agreement shall be sealed and kept confidential pending further order of this Court.**

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

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

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-23-00707205-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

B E T W E E N:

PLAINTIFF

Plaintiff

FARM CREDIT CANADA

Applicant

- and -

DEFENDANT

Defendant

WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC

Respondents

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~ Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ October 6, 2023 (the "Receivership Order"), FTI Canada

Consulting Inc. was appointed as the receiver (in such capacity the "Receiver") of the ~~undertaking, property and assets of [DEBTOR]~~ (FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "Debtors").

B. Pursuant to an Order of the Court dated ~~[DATE]~~ November [6], 2023, the Court approved the asset purchase agreement ~~of purchase and sale~~ made as of ~~[DATE OF AGREEMENT]~~ October 23, 2023 (the "Sale Agreement") between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~ THS Foods Canada, Ltd. (the "Purchaser") and provided for the vesting in the Purchaser of the ~~Debtor's~~ Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section~~ article 7 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in ~~section~~ article 7 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ ~~[DATE]~~ [DATE], 2023.

~~{NAME OF RECEIVER}~~, FTI Canada Consulting Inc. in its capacity as Receiver of the ~~undertaking, property and assets of~~ ~~{DEBTOR}~~ FCC Secured Property, and not in its personal or corporate capacity

Per: _____

Name: [●]

Title: [●]

Schedule ~~"B—Purchased Assets"~~

Registrations pursuant to the Register of Personal and Movable Real Rights (Quebec)

A. Conventional hypothec dated May 14, 2020 and registered on May 15, 2020 under number 20-0415557-0004 by Whyte's Foods Inc. ("Whyte's Foods") in favour of Farm Credit Canada ("FCC") on the universality of the movable and immovable property;

B. Security Agreement dated May 20, 2020 and registered on July 20, 2020 under number 20-0690365-0002 by Whyte's Foods in favour of FCC securing notably the feed-in tariff contract bearing identification number F-001838-SPV-130-502 dated June 16, 2011 between Agracity Ltd. and Ontario Power Authority;

C. Conventional hypothec dated April 17, 2023 registered on April 18, 2023 under number 23-0434377-0002 by Whyte's Foods in favour of FCC on the universality of the movable and immovable property;

D. Conventional hypothec dated April 17, 2023 registered on April 18, 2023 under number 23-0434377-0001 by Maison Gourmet Inc. in favour of FCC on the universality of the movable property; and

E. Conventional hypothec dated May 14, 2020 and registered on May 15, 2020 under number 20-0415557-0001 by Maison Gourmet Inc. in favour of FCC on the universality of the movable property.

~~Schedule C — Claims to be deleted and expunged from title to Real Property~~

**Schedule D — Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

<u>FARM CREDIT CANADA</u>	<u>and</u>	<u>WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND MARIO SAROLI SALES INC.</u>
<u>Applicant</u>	<u>Respondents</u>	<u>Court File No.: CV-23-00707205-00CL</u>
		<u>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</u>
		<u>Proceedings commenced in Toronto</u>
		<u>APPROVAL AND VESTING ORDER</u>
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Lawyers for FTI Canada Consulting Inc.

Document comparison by Workshare 10.0 on Monday, October 30, 2023 5:06:13 PM

Input:	
Document 1 ID	file://C:\Users\singhcheemam\Downloads\approval-and-vesting-order-EN (2).doc
Description	approval-and-vesting-order-EN (2)
Document 2 ID	iManage://bjwork.legal.bjlocal/WSLegal/35922708/6
Description	#35922708v6<WSLegal> - Project Pickle - AVO
Rendering set	Standard

Legend:	
<u>Insertion</u>	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:

	Count
Insertions	114
Deletions	92
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	206

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ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) MONDAY, THE 6th
JUSTICE STEELE) DAY OF NOVEMBER, 2023

B E T W E E N:

FARM CREDIT CANADA

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND
MARIO SAROLI SALES INC.**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED****

DISTRIBUTION AND ANCILLARY RELIEF ORDER

THIS MOTION, made by FTI Consulting Canada Inc. ("**FTI**") in its capacity as the Court-appointed receiver (FTI in such capacity, the "**Receiver**") of the undertaking, property and assets that constitute the FCC Secured Property (as defined in the Receivership Order) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**") for an order, among other things: (i) authorizing and directing the Receiver to make one or more distributions to Farm Credit Canada ("**FCC**"); (ii) approving the First Report of the Receiver dated October 30, 2023 (the "**First Report**") and the Receiver's conduct, activities and fees described therein; and (iii) amending the

style of cause in these proceedings to correct the French-language spelling of "Les Ailments Whyte's Inc." to "Les Aliments Whyte's Inc.", was heard this day by videoconference.

ON READING the Notice of Motion of the Receiver and the First Report, filed, and on hearing the submissions of counsel for the Receiver and counsel for those other parties appearing as indicated by the counsel sheet, no one else appearing although properly served, as appears from the affidavit of service of Milan Singh-Cheema sworn and filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the First Report.
3. **THIS COURT ORDERS** that the Receiver is hereby authorized, directed and empowered to make one or more cash distributions to FCC up to the amounts owing by the Debtors to FCC as partial payment of the FCC Indebtedness, which shall be applied by FCC to reduce such FCC Indebtedness in accordance with the FCC Credit Agreement.

CORRIGENDUM

4. **THIS COURT HEREBY AMENDS AND CORRECTS** all references to "Ailmentation Whyte's Inc." in the style of cause and materials filed and orders issued in these proceedings to "Alimentation Whyte's Inc."

APPROVAL OF RECEIVER'S REPORT, ACTIVITIES AND FEES

5. **THIS COURT ORDERS** that the First Report, and the activities of the Receiver described therein are hereby approved; provided that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

6. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and the Receiver's legal counsel, Bennett Jones LLP, as set out in the First Report, be and are hereby approved.

GENERAL

7. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

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

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

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

FARM CREDIT CANADA

and

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL
TRIAK INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

**DISTRIBUTION AND ANCILLARY RELIEF
ORDER**

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FARM CREDIT CANADA

and

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL
TRIAK INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

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

Proceedings commenced in Toronto

**MOTION RECORD OF FTI CONSULTING
CANADA INC. solely in its capacity as Court-
appointed Receiver
(Returnable November 6, 2023)**

BENNETT JONES LLP

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capacity as Court-appointed Receiver*