



FORCE FILED

No. S245481
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *COOPERATIVE ASSOCIATION ACT*, S.B.C. 1999, c. 28

AND

IN THE MATTER OF BC TREE FRUITS COOPERATIVE, BC TREE FRUITS INDUSTRIES
LIMITED and GROWERS SUPPLY COMPANY LIMITED

PETITIONERS

NOTICE OF APPLICATION

Name of applicant: Alvarez & Marsal Canada Inc., in its capacity as Court-appointed Monitor of the Petitioners.

To: The Service List, a copy of which is attached hereto as **Schedule "A"**

TAKE NOTICE that an application will be made by the applicant before the Honourable Madam Justice Gropper VIA MS TEAMS at 800 Smithe Street, Vancouver BC on August ~~26~~, 2024 at 10:00 a.m. for the orders set out in Part 1 below.

23

The applicant estimate that the application will take one hour.

This matter is not within the jurisdiction of an associate judge.

Part 1 ORDERS SOUGHT

1. An order substantially in the form attached as **Schedule "B"** (the "**SISPs Approval Order**"), granting *inter alia* the following relief:
 - (a) abridging the time for service to the date of actual service;
 - (b) approving a sale and investment solicitation process in respect of certain assets of BC Tree Fruits Cooperative ("**BCTF**") substantially in the form attached as Schedule "B" to the SISPs Approval Order (the "**BCTF SISP**");
 - (c) approving a sale and investment solicitation process in respect of the assets of Growers Supply Company Limited ("**GSC**") and certain assets of BCTF

substantially in the form attached as Schedule “C” to the SISPs Approval Order (the “**GSC SISP**”, and together with the BCTF SISP, the “**SISPs**”); and

- (d) authorizing and directing the Petitioners and Alvarez & Marsal Canada Inc. in its capacity as monitor of the Petitioners in these proceedings (in such capacity, the “**Monitor**”) to perform its obligations and do all things necessary or desirable to perform its obligations under the SISPs.
2. Such other relief as this Honourable Court may deem just.

Part 2 FACTUAL BASIS

3. On August 13, 2024, Madam Justice Gropper granted an initial order (the “**Initial Order**”) pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the “**CCAA**”), granting BCTF, BC Tree Fruits Industries Limited (“**BCTF Industries**”) and GSC (together with BCTF and BCTF Industries, the “**Companies**”) protection from their creditors and, among other things:
- (a) appointing the Montior with enhanced powers;
 - (b) staying proceedings against the Companies until and including August 23, 2024; and
 - (c) authorizing the Companies to borrow funds under a debtor-in-possession credit facility (the “**Interim Financing Facility**”) made available pursuant to an interim financing term sheet (the “**DIP Term Sheet**”) between the Companies as borrowers and the Canadian Imperial Bank of Commerce (“**CIBC**”) as interim lender.
4. This application is brought in parallel with an application for an amended and restated Initial Order (the “**ARIO**”) for, among other relief, an extension of the stay period to allow the BCTF SISP and the GSC SISP (together, the “**SISPs**”) to be implemented.

The SISPs

5. The SISPs have been developed by the Monitor in consultation with the Petitioners and CIBC to solicit offers for the en bloc sale of certain assets of each of BCTF and GSC. The intention is to list BCTF and GSC’s lands for sale immediately, and concurrently with the SISPs. That way, if there is no viable offer for the en bloc purchase of the BCTF or GSC assets being marketed under the SISP, the lands will have been exposed to the market for sufficient time to enable the Monitor to advance offers for just the lands themselves in a timely manner.
6. At the hearing for the Initial Order, the Petitioners advised this Honourable court of their plan to commence a sales and investment solicitation process as part of their global restructuring plan. The Monitor is of the view that it is appropriate to initiate the SISP at this time for a number of reasons, including that: (i) there is no reason to delay the restructuring plan; (ii) it is important to complete a going concern quickly for GSC as new inventory procurement and purchases ceased on or around July 25, 2024; (iii) certain of

the Petitioners' real property are already listed for sale; (iv) the Petitioners have already received expressions of interest for a sale of their Property; (v) CIBC as the senior secured creditor is owed in excess of \$50 million supports the SISPs; and (vi) the DIP Term Sheet requires the SISPs be initiated right away and has a maturity date of November 30, 2024.

7. The Monitor believes that the proposed SISPs are the most appropriate means by which to advance the Petitioners' efforts to effect en bloc sales of the Petitioners' primary operating assets with a view to maximizing value for the Petitioners' stakeholders.

The BCTF SISP¹

8. The purpose of the BCTF SISP is to solicit bids for:
- (a) an en bloc sale of the Property, which consists of certain assets, including without limitation, certain real property, inventory, accounts receivable, intellectual property and goodwill (the "Assets"), and the business operations of BCTF;
 - (b) offers for individual parcels of the real property located at 101 8911 Jubilee Road East in Summerland, 327 Co-op Avenue in Oliver, 334 Packing House Lane in Oliver, and 528 10th Avenue in Keremeos, British Columbia; or
 - (c) any one or more of the Assets.
9. The proposed BCTF SISP will proceed in two phases, and according to the following proposed deadlines and key-milestones:

PHASES	TARGET DATES
SISP to commence	August 26, 2024
LOI Deadline for En-Bloc Bids	September 27, 2024
Final Bid Deadline for all Bids whether En-Bloc or for individual assets including any of the parcels of Real Property	October 18, 2024
Final Agreement Deadline	October 31, 2024
Court Approval Deadline	November 15, 2024
Outside Closing Date	November 30, 2024

¹ All capitalized terms used in this section and not otherwise defined herein have the meanings given to them in the BCTF SISP, which is attached as Schedule "B" to the SISPs Approval Order.

10. Under Phase I, the Monitor, in consultation with the Companies, will prepare a list of potential bidders who may have an interest in acquiring all of the property (an “**En Bloc Bid**”) or in any one or more of the Assets, including any of the parcels of the Real Property (an “**Individual Asset Bid**”). At the same time, the Monitor, in consultation with the Companies may prepare marketing materials and a teaser letter to advertise the opportunities under the BCTF SISP, and may distribute such materials to the market.
11. The Monitor will prepare a data room with information which will assist Potential Bidders in evaluating their interest in advancing a viable bid, and which Potential Bidders may access after entering into a confidentiality agreement.
12. After reviewing the due diligence information provided by the Monitor, any Potential Bidder that wishes to make an En Bloc Bid may submit a written, non-binding letter of intent to the Monitor by September 27, 2024 (an “**LOI**”). Those persons who wish to submit an Individual Asset Bid (“**Individual Asset Bidders**”) do not need to submit an LOI or sign a Confidentiality Agreement.
13. The Monitor will review the LOIs to confirm whether the LOI contains the necessary provisions to be considered a “**Qualified LOI**”, such as disclosing the source of funds, the identity and ownership of the Potential Bidder, the parameters of the proposed bid, including price, assets to be purchased, and the structure of the deal. Each Potential Bidder wishing to make an En Bloc Bid that submits an LOI that the Monitor deems to be a Qualified LOI will be designated a “**Qualified Bidder**” and be invited to move to Phase II of the BCTF SISP.
14. Under Phase II of the BCTF SISP, the Proposed Monitor will invite the Qualified Bidders and Individual Asset Bidders to conduct additional due diligence, including arranging for inspections and site visits as necessary
15. Following the additional due diligence, a Qualified Bidder or an Individual Asset Bidder may submit a final bid (a “**Final Bid**”) by October 18, 2024.
16. The Monitor will evaluate the Final Bids received by the deadline to confirm if the Final Bid contains the necessary provisions to be considered a “**Qualified Final Bid**”, such as providing a duly authorized purchase and sale agreement, providing written evidence of funding, and certifying that the proposed transaction can close by no later than November 30, 2024 (the “**Outside Closing Date**”).
17. Each Qualified Final Bid must be accompanied by a deposit of 10% of the cash consideration to be paid pursuant to the Qualified Final Bid, which will be held in trust by the Monitor and released in accordance with the BCTF SISP.
18. The Proposed Monitor, in consultation with CIBC, will then review all the Qualified Final Bids and determine which, in the Monitor's judgement, is the highest or otherwise best bid (which will not be based on price alone) (the “**Winning Bid**” and the “**Successful Bidder**”) and the next highest or otherwise best bid.

19. The Proposed Monitor will then work with the Successful Bidder(s) to enter into an agreement or agreements (a "**Final Agreement**") to be executed on or before October 31, 2024 (the "**Final Agreement Deadline**").
20. Upon execution of the Final Agreement(s), the Monitor will apply for an order approving the Final Agreement(s) along with all necessary approval and vesting orders.
21. Despite the dates and details noted above, under the proposed BCTF SISP, the Monitor, with the consent of CIBC, will retain the discretion to modify timelines and conditions as it deems necessary to ensure the efficacy of the BCTF SISP. The criteria and timelines may also be modified by further Order of this Court.
22. The BCTF SISP will automatically terminate upon the occurrence of certain events, which generally concern the failure to receive any Qualified LOIs, Final Bids or Qualified Bids by the deadlines set out in the BCTF SISP.
23. To protect the integrity of the BCTF SISP, none of the Petitioners, their directors or senior management, or any creditor(s) as the Monitor deems appropriate will be entitled to information related to the BCTF SISP until any such entity provides the Monitor with written confirmation that it will not participate in the preparation or submission of any bid pursuant to the BCTF SISP.

The GSC SISP²

24. The purpose of the GSC SISP is to solicit bids for an en bloc sale of the Property, consisting of GSC's business, including inventory, as well as all or some of the real property located at 2605 Acland Road in Kelowna, 754 35th Avenue South in Creston, and 1200 Waddington Drive in Vernon, British Columbia.
25. The proposed GSC SISP will proceed in one phase, and according to the following proposed deadlines and key-milestones:

DATE	MILESTONE
August 26, 2024	SISP to commence
September 16, 2024	Bid Deadline
September 20, 2024	Agreement Deadline
October 1, 2024	Court Approval Deadline
October 14, 2024	Outside Closing Date

² All capitalized terms used in this section and not otherwise defined herein have the meanings given to them in the GSC SISP, which is attached as Schedule "C" to the SISP's Approval Order.

26. Once the GSC SISP commences, the Monitor, in consultation with the Companies, will prepare a list of potential bidders who may have an interest in a transaction involving the Property or GSC. At the same time, the Monitor, in consultation with the Companies may prepare marketing materials and a teaser letter to advertise the opportunities under the GSC SISP, and may distribute such materials to the market.
27. The Monitor will prepare a data room with information aimed at allowing potential bidders to evaluate their interest in advancing a viable bid, that bidders may access after entering into a confidentially agreement.
28. After reviewing the due diligence information provided by the Monitor, any Qualified Bidder, as designated by the Monitor, wishing to submit a bid must deliver a written, final and binding Bid to the Monitor by September 16, 2024 (a "**Final Bid**").
29. The Monitor will evaluate the Final Bids received by the deadline to confirm if the Final Bid contains the necessary provisions to be considered a "**Qualified Bid**", such as providing a duly authorized purchase and sale agreement, providing written evidence of funding, and certifying that the proposed transaction can close by no later than October 14, 2024 (the "**Outside Closing Date**").
30. Each Qualified Final Bid must be accompanied by a deposit of 10% of the cash consideration to be paid pursuant to the Qualified Final Bid, which will be held in trust by the Monitor and released in accordance with the GSC SISP.
31. The Proposed Monitor, in consultation with CIBC, will then review all the Qualified Bids and determine which, in the Monitor's judgement, is the highest or otherwise best bid (which will not be based on price alone) (the "**Winning Bid**" and the "**Successful Bidder**") and the next highest or otherwise best bid.
32. The Proposed Monitor will then work with the Successful Bidder to enter into a final agreement (the "**Final Agreement**") to be executed on or before September 20, 2024.
33. Once a Final Agreement has been executed, the Monitor will apply for an order approving the Final Agreement along with all necessary approval and vesting orders.
34. Despite the dates and details noted above, under the proposed GSC SISP, the Monitor, with the consent of CIBC, will retain the discretion to modify timelines and conditions as it deems necessary to ensure the efficacy of the GSC SISP. The criteria and timelines may also be modified by further Order of this Court.
35. The GSC SISP will automatically terminate upon the occurrence of certain events, which generally concern the failure to receive any Final Bids or Qualified Bids by the deadlines set out in the GSC SISP.
36. To protect the integrity of the GSC SISP, none of the Petitioners, their directors or senior management, or any creditor(s) as the Monitor deems appropriate will be entitled to information related to the GSC SISP until any such entity provides the Monitor with written

confirmation that it will not participate in the preparation or submission of any bid pursuant to the GSC SISP.

Part 3 LEGAL BASIS

37. The Monitor relies on:

- (a) the CCAA;
- (b) *Supreme Court Civil Rules*, in particular Rules 8-1, 13-1, and 22-4;
- (c) the inherent and equitable jurisdiction of this Court; and
- (d) such further and other legal bases and authorities as counsel may advise and this Court may permit.

Approval of the SISPs is Appropriate

38. Section 11 of the CCAA provides the court with the authority to approve a sale and investment solicitation process where the court considers it to be appropriate in the circumstances.

CCAA, s.11;
Nortel Networks Corp. Re, 2009 CanLII 39492 (ONSC) [*Nortel*], at para. 48.

39. In exercising their broad powers to facilitate restructurings under the CCAA, courts consider a number of factors in connection with the approval of a sales process, including, inter alia, whether:

- (a) a transaction is warranted at this time;
- (b) the sale will benefit the whole economic community;
- (c) creditors have a *bona fide* reason to object to a sale of the business; and
- (d) there is a better viable alternative.

Nortel, at para. 49.

40. Courts have also held that the factors set out in section 36(3) of the CCAA, relative to the approval of an eventual transaction, are relevant considerations in approving a sale process. The factors enumerated under section 36 are:

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- (b) whether the monitor approved the process leading to the proposed sale or disposition;

- (c) whether the monitor filed with the Court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- (d) the extent to which creditors were consulted;
- (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
- (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

CCAA, s. 36(3).

41. Courts have also considered additional factors in approving a sale process under the CCAA:

- (a) the fairness, transparency and integrity of the proposed process;
- (b) the commercial efficacy of the proposed process in light of the specific circumstances; and
- (c) whether the sales process will, in the circumstances, optimize the chances of securing the best possible price for the assets for sale.

Walter Energy Canada Holdings, Inc. (Re), 2016 BCSC 107 at paras. 20–23.

42. The Monitor is of the view that the proposed SISPs should be approved for the following reasons:

- (a) a transaction is warranted at this time as the Petitioners are insolvent, have a liquidity crisis, have ceased operations, and have terminated or laid-off the majority of its employees. The SISPs will provide an opportunity for the Petitioners to maximize the value of their assets and business for the benefit of its stakeholders;
- (b) it is important to complete a going concern quickly for GSC as new inventory procurement and purchases ceased on or around July 25, 2024;
- (c) under the terms of the DIP Term Sheet, the Petitioners are obligated to have obtained a court order approving a sale process by August 23, 2024, and the loan advanced under the Interim Financing Facility is due November 30, 2024;
- (d) the SISPs will benefit the stakeholders generally, including because it is designed to canvass the market broadly to identify one or more bids that maximize value for the Petitioners' stakeholders, and because they contemplate the sale of the business or operating assets of the Petitioners;
- (e) the SISPs were developed in consultation with the Petitioners and CIBC;

- (f) the timelines of the SISPs are fair and reasonable in the circumstances; and
 - (g) the Monitor is supportive of the SISPs.
43. Having regard to the circumstances of these CCAA proceedings, the Monitor submits that the proposed SISPs are reasonable and appropriate and should be granted.

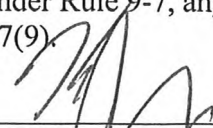
Part 4 MATERIAL TO BE RELIED ON

44. Pre-filing Report of the Monitor, dated August 13, 2024.
45. First Report of the Monitor, dated August 22, 2024.
46. Such further and other materials as counsel may advise and this Court may allow.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application,

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: 22-Aug-2024



Signature of Kibben Jackson
Lawyer for the Monitor, Alvarez & Marsal
Canada Inc.

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of
this Notice of Application

☐ with the following variations and additional terms:

.....
.....
.....

Date:

.....
Signature of ☐ Judge ☐ Associate
Judge

The Solicitors for the Monitor are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 550 Burrard Street, Suite 2900, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232 E-mail: kjackson@fasken.com (Reference: Kibben Jackson/285937.00020)

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above

SCHEDULE "A"

No. S245481
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *COOPERATIVE ASSOCIATION ACT*, S.B.C. 1999, c. 28

AND

IN THE MATTER OF BC TREE FRUITS COOPERATIVE, BC TREE FRUITS INDUSTRIES
LIMITED and GROWERS SUPPLY COMPANY LIMITED

PETITIONERS

CCAA SERVICE LIST

As at August 16, 2024

<p>Fasken Martineau DuMoulin LLP Attention: Kibben Jackson Mishaal Gill Heidi Esslinger Suzanne Volkow Email: kjackson@fasken.com mgill@fasken.com hesslinger@fasken.com svolkow@fasken.com jbeaulieu@fasken.com</p> <p><i>Counsel for the Monitor, Alvarez & Marsal Canada Inc.</i></p>	<p>Norton Rose Fulbright Canada LLP Attention: Howard Gorman, K.C. Candace Formosa Email: howard.gorman@nortonrosefulbright.com candace.formosa@nortonrosefulbright.com</p> <p><i>Counsel for the Petitioners</i></p>
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<p>Alvarez & Marsal Canada Inc.</p> <p>Attention: Todd Martin Anthony Tillman Pinky Law Monica Cheung</p> <p>Email: tmartin@alvarezandmarsal.com atillman@alvarezandmarsal.com pinky.law@alvarezandmarsal.com monicacheung@alvarezandmarsal.com</p> <p><i>Court Appointed Monitor</i></p>	<p>Blake Cassels & Graydon LLP</p> <p>Attention: Peter Rubin Peter Bychawski</p> <p>Email: peter.rubin@blakes.com peter.bychawski@blakes.com jennifer.alambre@blakes.com</p> <p><i>Counsel for Canadian Imperial Bank of Commerce</i></p>
<p>PricewaterhouseCoopers Inc.</p> <p>Attention: Michelle Grant Michelle Pickett</p> <p>Email: michelle.grant@pwc.com michelle.pickett@pwc.com</p>	<p>Koskie Glavin Gordon</p> <p>Attention: Anthony Glavin</p> <p>Email: glavin@koskieglavin.com</p> <p><i>Counsel for UFCW Local 247</i></p>
<p>Osler LLP</p> <p>Attention: Mary Buttery, K.C. Emma Newbery Christian Garton</p> <p>Email: mbuttery@osler.com enewbery@osler.com cgarton@osler.com</p> <p><i>Counsel for BC Tree Fruits members</i></p>	<p>Province of British Columbia</p> <p>Attention: Aaron Welch</p> <p>Email: aaron.welch@gov.bc.ca AGLSBRevTaxInsolvency@gov.bc.ca</p>
<p>Dentons Canada LLP</p> <p>Attention: Jordan Schultz Cassandra Federico Chelsea Denton</p> <p>Email: jordan.schultz@dentons.com cassandra.federico@dentons.com chelsea.denton@dentons.com</p> <p><i>Counsel for Bayer Cropscience Inc.</i></p>	<p>FH&P Lawyers LLP</p> <p>Attention: Clay Williams Wendy Advocaat</p> <p>Email: cwilliams@fhplawyers.com wadvocaat@fhplawyers.com</p> <p><i>Counsel for Glacier Heights Refrigeration Inc.</i></p>

<p>MLT Aikins LLP</p> <p>Attention: Lisa Ridgedale</p> <p>Email: lrridgedale@mltaikins.com mwarnick@mltaikins.com</p> <p><i>Counsel for AgResource</i></p>	
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E-Service List

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SCHEDULE "B"

SISPs Approval Order

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *COOPERATIVE ASSOCIATION ACT*, S.B.C. 1999, c. 28

AND

IN THE MATTER OF BC TREE FRUITS COOPERATIVE, BC TREE FRUITS INDUSTRIES
LIMITED and GROWERS SUPPLY COMPANY LIMITED

PETITIONERS

ORDER MADE AFTER APPLICATION

(Approval of Sales and Investment Solicitation Processes)

BEFORE THE HONOURABLE MADAM
JUSTICE GROPPER

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26/AUG/2024

ON THE APPLICATION OF Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as monitor of the Petitioners (in such capacity, the "**Monitor**") coming on for hearing at Vancouver, British Columbia on the 26th day of August, 2024; AND ON HEARING Kibben Jackson, counsel for the Monitor, and those other counsel listed on Schedule "A"; AND UPON READING the material filed, including the First Report of the Monitor dated August 22, 2024; AND PURSUANT to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "**CCAA**"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES that:

SERVICE

1. The time for service of this notice of application and supporting materials is hereby abridged such that the notice of application is properly returnable today.

SALES AND INVESTMENT SOLICITATION PROCESSES

2. Capitalized terms used but not otherwise defined in this Order shall have the meanings given to them in the sales and investment solicitation process concerning the business and property of BC Tree Fruits Cooperative, in substantially the form attached as Schedule "B" hereto (the "BCTFC SISP") and in the sales and investment solicitation process concerning the business and property of Growers Supply Company Limited, in substantially the form attached as Schedule "C" hereto (the "GSC SISP"), as applicable.
3. The BCTFC SISP and the GSC SISP (together, the "SISPs") are hereby approved, and the Petitioners and the Monitor, and their respective advisors, employees, agents and contractors, are authorized and directed to take any and all actions as may be necessary or desirable to implement and carry out the SISPs in accordance with their terms and this Order.
4. Neither the Monitor nor the Petitioners nor any of their respective affiliates, partners, directors, employees, agents, consultants, advisors, experts, accountants, counsel and controlling persons, shall incur any liability in respect of carrying out their duties under the SISPs in accordance with this Order unless such liability arises as a result of the gross negligence or wilful misconduct of either such party, as determined by this Court. In carrying out its duties under the SISPs, the Monitor shall continue to have all protections afforded to it under the Amended and Restated Initial Order of this Court granted herein on this date and under the CCAA (the "ARIO").
5. Pursuant to section 7(3) of the *Canadian Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, and any regulations promulgated under the authority of either Act, the Petitioners and the Monitor may disclose to Potential Bidders who sign a Confidentiality Agreement under the BCTFC SISP and Qualified Bidders under the GSC SISP, and their advisors, in connection with the SISPs, personal information of identifiable individuals, records pertaining to the Petitioners' past and current employees, and information on specific customers, but only to the extent desirable or required to carry out the SISPs. Each Potential Bidder who signs a Confidentiality Agreement under the BCTFC SISP and each Qualified Bidder under the GSC SISP, and their respective advisors to whom any such personal information is disclosed shall maintain and protect the privacy of such information to the Petitioners, or in the alternative destroy all such information. The Successful Bidder in the BCTFC SISP and the Successful Bidder in the GSC SISP shall each be entitled to continue to use the personal information provided to it in a matter that is in all material respects identical to the prior use of such information by the Petitioners, and shall return all other such information to the Petitioners, or ensure that all other personal information is destroyed.

GENERAL

6. The Monitor, or any interested party, may from time to time apply to this Court for advice and directions with respect to the SISPs, on reasonable notice to the Service List (as defined in the ARIO).

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

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

Signature of KIBBEN JACKSON
Lawyer for the Monitor, Alvarez & Marsal
Canada Inc.

BY THE COURT

REGISTRAR

Schedule "A"

LIST OF COUNSEL

Counsel Name/Litigant	Party Represented
Howard A. Gorman, K.C. / Candace Formosa	The Petitioners
Peter Rubin	Canadian Imperial Bank of Commerce

Schedule "B"

BC TREE FRUITS COOPERATIVE
SALES AND INVESTMENT SOLICITATION PROCESS

(see attached)

SALE AND INVESTMENT SOLICITATION PROCEDURE
BC Tree Fruits Cooperative

INTRODUCTION

1. On August 13, 2024, the Supreme Court of British Columbia (the "**Court**") granted an initial order pursuant to the *Companies' Creditors Arrangement Act*, 1985, c C-36 granting BC Tree Fruits Cooperative ("**BCTFC**"), BC Tree Fruits Industries Limited ("**BCTF Industries**") and Growers Supply Company Limited (collectively, the "**Companies**") protection from their creditors and, among other things, appointing Alvarez & Marsal Canada Inc. as monitor of the Companies (the "**Monitor**") with enhanced powers.
2. On August 26, 2024, the Court granted an order (the "**SISP Order**") which, among other things, approved this sale and investment solicitation process (the "**SISP**") in respect of certain assets, including without limitation certain real property, inventory, accounts receivable, intellectual property and goodwill (collectively, the "**Assets**") and business operations (the "**Business**" and, together with the Assets, the "**Property**") of BCTFC.
3. This SISP describes the manner in which parties may gain access to due diligence materials concerning the Property, how bids for the Property, or any parts thereof, will be submitted to and dealt with by the Monitor, and how Court approval will be sought in respect of any transaction(s) involving the Property.
4. Under this SISP, the Monitor will be soliciting bids for (i) an en bloc sale of the Property, (ii) offers for individual parcels of the real property located at 101 8911 Jubilee Road East in Summerland, 327 Co-op Avenue in Oliver, 334 Packing House Lane in Oliver, and 528 10th Avenue in Keremeos, British Columbia, having the legal descriptions set out in Schedule "A" hereto (collectively, the "**Real Property**"); or (iii) any one or more of the Assets.
5. The terms of this SISP, including the requirements, criteria and timelines set out herein, may be amended, extended, or waived by the Monitor with the consent of the Canadian Imperial Bank of Commerce ("**CIBC**") or by further order of this Court.

"AS IS, WHERE IS" BASIS

6. Any transaction involving BCTFC or the Property (in each case, a "**Transaction**") will be subject only to such representations, warranties, covenants, or indemnities as are expressly included in a Final Agreement (as defined in paragraph 30), but will otherwise be on an "as is, where is" basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Monitor, any of the Companies, or any of their agents, estates, advisors, professionals or otherwise. Subject to the Court granting approval and any other required orders in the form(s) contemplated by the relevant Transaction, all of the right, title and interest of BCTFC in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests, except those expressly assumed pursuant to a Final Agreement.

TIMELINE

7. The following table sets out the target dates under the SISP:

PHASES	TARGET DATES
SISP to commence	August 26, 2024
LOI Deadline for En-Bloc Bids	September 27, 2024
Final Bid Deadline for all Bids whether En-Bloc or for individual assets including any of the parcels of Real Property	October 18, 2024
Final Agreement Deadline	October 31, 2024
Court Approval Deadline	November 15, 2024
Outside Closing Date	November 30, 2024

PHASE 1 OF THE SISP

A. Initial Solicitation of Interest

8. The Monitor may, but is not required to, cause a notice of this SISP to be published in a form satisfactory to the Monitor in any publication that the Monitor considers appropriate.
9. The Monitor, in consultation with the Companies, will prepare a list of potential bidders (the "**Known Potential Bidders**") who may have an interest in a Transaction. Such list will include: (i) any parties that have approached the Companies or the Monitor indicating an interest in BCTFC, the Business or the Assets; and (ii) any persons who, in the Monitor's reasonable judgment, may be interested in acquiring either all of the Property (an "**En Bloc Bid**"), or an interest in any one or more of the Assets, including any of the parcels of the Real Property (an "**Individual Asset Bid**").
10. The Monitor, in consultation with the Companies may prepare an initial marketing or offering summary (a "**Teaser Letter**") notifying Known Potential Bidders of the SISP and inviting the Known Potential Bidders to advise as to their interest in making an En Bloc Bid or an Individual Asset Bid (each, a "**Bid**").
11. The Monitor may distribute to the Known Potential Bidders and any other interested persons any Teaser Letter, or other marketing material, as well as a draft form of a confidentiality agreement (the "**Confidentiality Agreement**").
12. Subject to paragraph 13, any person who (a) executes a Confidentiality Agreement in form and substance satisfactory to the Monitor, (b) in the judgment of the Monitor appears to have a *bona fide* interest in submitting a Bid to acquire any interest in the Property, and (c) in the judgment of the Monitor appears to have the financial capabilities and the technical, managerial, and operational expertise and capabilities to

make a viable Bid, shall be deemed to be a potential bidder (each such person so deemed, a **"Potential Bidder"**).

13. A Potential Bidder need not sign a Confidentiality Agreement as long as they otherwise qualify as such, and the Monitor shall not send any confidential or commercially sensitive information to such bidders, including access to any electronic data room, but such bidders may bid on any of the Assets in any event.

B. Initial Due Diligence

14. The Monitor may prepare such marketing or other materials in addition to the Teaser Letter as they deem appropriate describing the opportunity to make a Bid for distribution to Known Potential Bidders and/or Potential Bidders.
15. The Monitor may provide Potential Bidders with access to an electronic data room that will contain such information in the possession and control of the Companies that, in the Monitor's reasonable business judgment, will allow Potential Bidders to evaluate their interest in advancing a viable bid. For greater clarity: (a) the Monitor may make such access subject to competitive and other business considerations as the Monitor deems appropriate; and (b) the Monitor is not obligated to furnish any information relating to the Property or BCTFC except to Potential Bidders.

C. Qualified LOI Process

16. Any Potential Bidder who wishes to submit an En Bloc Bid must deliver a written, non-binding letter of intent in respect of all of the Property (each, an **"LOI"**) to the Monitor in the manner and at the address specified in Schedule "B" hereto so as to be received by the Monitor not later than 5:00 p.m. (Pacific time) on **September 27, 2024** (the **"LOI Deadline"**). An LOI shall be a qualified LOI (each, a **"Qualified LOI"**), provided that it contains:
 - (a) an acknowledgment of receipt of a copy of this SISP and the SISP Order, and their agreement to accept and be bound by their provisions;
 - (b) a letter specifying the identity of the Potential Bidder, its contact information, and full disclosure of the direct and indirect owners of the Potential Bidder and their principals (without needing to disclose non-controlling interests, in the case of public companies only);
 - (c) the anticipated structure and financing of the transaction including the anticipated sources of financing;
 - (d) a clear indication of:
 - (i) the purchase price, or purchase price range, including details of any liabilities to be assumed; and
 - (ii) the Property included and any additional assets desired to be included in the transaction;

- (e) any anticipated corporate, shareholder, internal or regulatory approvals required to close the transaction and the anticipated time frame and any anticipated impediments for obtaining such approvals;
 - (f) additional due diligence required or desired to be conducted by the Potential Bidder, if any;
 - (g) any conditions to closing that the Potential Bidder may wish to impose;
 - (h) any other terms or conditions of the bid which the Potential Bidder believes are material to the transaction; and
 - (i) such other information as may be reasonably requested by the Monitor.
17. The Monitor shall retain full discretion and authority to discuss any LOIs received, and their terms, with the applicable Potential Bidder.
 18. If it is determined by the Monitor that a Potential Bidder wishing to make an En Bloc Bid has submitted a Qualified LOI and: (i) has a bona fide interest in consummating an En Bloc Bid; (ii) has the financial, managerial, operational, technical, and other capabilities to consummate their bid; and (ii) the bid includes consideration that the Monitor, in its business judgment, deems reasonable and appropriate in the circumstances, then such Potential Bidder will be deemed a **"Qualified Bidder"**.
 19. The Monitor may waive compliance with any one or more of the requirements specified in paragraph 16 and deem non-compliant Potential Bidders wishing to make En Bloc Bid to be Qualified Bidders.

PHASE 2 OF THE SISF

A. Due Diligence

20. The Monitor may, in its reasonable business judgment and subject to competitive and other business considerations, afford each Qualified Bidder and any person wishing to provide an Individual Asset Bid (an **"Individual Asset Bidder"**) such access to additional due diligence materials and information relating to the Property as the Monitor deems appropriate, which may include inspections and site visits.
21. Individual Asset Bidders will be provided with a form of draft asset purchase agreement (the **"Draft APA"**) that will serve as the basis for the submission of a Final Bid (as defined in paragraph 22).

B. Final Bid Process

22. Any Qualified Bidder or Individual Asset Bidder may submit a final and binding Bid (a **"Final Bid"**) to the Monitor (at the address specified in **Schedule "A"**) on or before 5:00 pm (Pacific Time) on **October 18, 2024** (the **"Final Bid Deadline"**).
23. A Final Bid shall be a **"Qualified Bid"** if:

- (a) in the case of an En Bloc Bid, it
 - (i) includes a duly authorized and executed purchase and sale agreement, together with all exhibits and schedules and such ancillary agreements as may be required with all exhibits and schedules;
 - (ii) specifies the purchase price, including any liabilities to be assumed;
 - (iii) indicates which of the Property is to be excluded (if any) and any additional assets desired to be included in the transaction; and
 - (iv) specifies the purchase price allocation as among the Property included in the En Bloc Bid;
- (b) in the case of an Individual Asset Bid, it:
 - (i) specifies which of the Assets are to be included in the Individual Asset Bid;
 - (ii) includes a duly authorized and executed agreement and blackline to the Draft APA, together with all exhibits and schedules and such ancillary agreements as may be required with all exhibits and schedules;
 - (iii) specifies the aggregate amount of the purchase price, including liabilities to be assumed; and
 - (iv) if applicable, specifies the purchase price allocation as among the Property included in the Individual Asset Bid;
- (c) it includes a letter stating that it is irrevocable until the earlier of (i) approval by the Court, and (ii) 30 days following the Final Bid Deadline; provided, however, that if such Bid is selected as a Winning Bid (as defined in paragraph 27) or a Backup Bid (as defined in paragraph 27), it shall remain irrevocable until the closing of the Winning Bid or the Backup Bid, as the case may be;
- (d) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- (e) it includes written evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution to consummate the proposed transaction, or other evidence of ability to consummate the proposed transaction that will allow the Monitor to make a determination as to the Qualified Bidder's or Individual Asset Bidder's (and its direct and indirect owners and their principals) financial and other capabilities to consummate the transaction contemplated by the Final Bid;
- (f) it includes an acknowledgement and representation that the Qualified Bidder or Individual Asset Bidder: (i) has had an opportunity to conduct any and all due diligence it considers necessary or desirable prior to making its Final Bid; (ii) has relied solely on its own independent review, investigation and inspection of any

documents, the assets to be acquired and the liabilities to be assumed; and (iii) did not rely on any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied, except as expressly stated in a Final Agreement;

- (g) it fully discloses the identity of each person that is bidding or otherwise that will be sponsoring or participating in the Bid, including the identification of the bidder's direct and indirect owners and their principals (without needing to disclose non-controlling interests, in the case of public companies only), and the complete terms of any such participation;
 - (h) it provides for closing of the proposed transaction by no later than **November 30, 2024** (the "**Outside Closing Date**");
 - (i) it is accompanied by a refundable deposit (the "**Deposit**") in the form of a wire transfer (to a trust account specified by the Monitor), in an amount equal to five percent (10%) of the total value of all cash and non-cash consideration to be paid in respect of the bid, to be held and dealt with in accordance with this SISP;
 - (j) it does not contain any conditions, other than Court approval, including that it is not conditional on: (i) any additional due diligence; (ii) any internal approvals and consents, including corporate, board or shareholder approval, that are required to close the contemplated transaction; or (iii) any governmental or regulatory approval;
 - (k) it contains other information as may be reasonably requested by the Monitor; and
 - (l) it is received by no later than the applicable Final Bid Deadline.
24. The Monitor may, in its discretion, waive compliance with any one or more of the requirements specified in paragraph 23 and deem non-compliant Final Bids to be Qualified Bids.

C. Evaluation of Bids

25. In reviewing the Qualified Bids and before determining a Winning Bid or Backup Bid, the Monitor shall retain full discretion and authority to discuss the bids received, and their terms, with the applicable Qualified Bidders or Individual Asset Bidders.
26. The Monitor, in consultation with CIBC, will review all Qualified Bids received to determine the highest or otherwise best bid(s). Evaluation criteria will include, but are not limited to:
- (a) the purchase price or net value being provided;
 - (b) the terms of the proposed transaction documents;
 - (c) the identity, circumstances, and ability of the bidder to successfully complete the contemplated transaction;
 - (d) the impact on the Companies' stakeholders;

- (e) the conditionality of the bid, including commitments for any financing required;
- (f) the timeline to closing, including potential third-party contractual arrangements or consents required to close;
- (g) the assets included, or excluded, from the proposed transaction;
- (h) the identity, circumstances, and ability of the proponents to successfully complete a transaction; and
- (i) the costs associated with the bid and its consummation, including restructuring costs.

D. Selection of Winning Bid(s) and Backup Bid(s)

- 27. With regard to the criteria enumerated in the immediately preceding section, the Monitor shall identify one or more Qualified Bids (each a **"Winning Bid"**), as well as one more backup Qualified Bids (each, a **"Backup Bid"**). A person or persons who make a Winning Bid shall be a **"Successful Bidder"** and a person or person who makes a Backup Bid shall be a **"Backup Bidder"**.
- 28. The Monitor shall notify a Successful Bidder, if any, a Backup Bidder, if any, and any other bidders of their respective status as soon as reasonably practicable in the circumstances.
- 29. The Monitor will notify a Backup Bidder, if any, that their bid is a successful Backup Bid and the Backup Bid shall remain open and capable of acceptance by BCTFC until the later of (i) the consummation of the transaction(s) contemplated by the Winning Bid(s); and (ii) the date that is 30 days after the applicable Final Agreement Deadline, as defined in paragraph 30, (the **"Backup Bid Release Date"**). For greater certainty, the Monitor shall be entitled to continue to hold the Deposit in respect of a Backup Bid until the Backup Bid Release Date.
- 30. The Monitor may, but shall have no obligation to, enter into an agreement or agreements with a Successful Bidder (a **"Final Agreement"**).
- 31. Any Final Agreement entered into with a Successful Bidder shall be executed on or before **October 31, 2024** (the **"Final Agreement Deadline"**).
- 32. The Monitor has the right not to accept any Qualified Bid. The Monitor further has the right to deal with one or more Qualified Bidders or Individual Asset Bidders to the exclusion of other persons, to accept a Qualified Bid for some or all of the Property, to accept multiple Qualified Bids and enter into multiple Final Agreements.

E. Property Not Sold

- 33. Any property not sold or liquidated or otherwise dealt with pursuant to a Winning Bid or a Backup Bid may be sold by the Monitor in any manner that the Monitor, in consultation with the Companies and CIBC, sees fit.

SISP ORDER

34. If the Monitor enters into a Final Agreement in respect of a Winning Bid, a Backup Bid, or any other bid, the Monitor shall apply for an order from the Court approving the transaction(s) contemplated by that Bid and any necessary or appropriate related relief required to consummate the transaction contemplated by that Bid. Court approval shall be a condition precedent to the consummation of any transaction or transactions contemplated by a Final Agreement.
35. The Monitor may also concurrently obtain relief approving the transaction contemplated by a Backup Bid and any necessary related relief required to consummate the transaction(s) contemplated by a Backup Bid.

DEPOSITS

36. All Deposits paid pursuant to this SISP shall be held in trust by the Monitor in a non-interest-bearing account. The Monitor shall hold the Deposits paid by each Successful Bidder and Backup Bidder in accordance with the terms of the applicable Final Agreement(s), or as may be ordered by the Court.
37. Subject to paragraph 23(i), if a Deposit is paid pursuant to this SISP, and BCTFC elects not to proceed to negotiate and settle the terms and conditions of a Final Agreement with the person that paid such Deposit, the Monitor shall return the Deposit to that person.
38. If a Qualified Bidder or Individual Asset Bidder breaches any of its obligations under its Qualified Bid, any Final Agreement, or the terms of this SISP (including the Confidentiality Agreement), then, in each case, such Qualified Bidder's or Individual Asset Bidder's Deposit will be forfeited to BCTFC as liquidated damages and not as a penalty.

SUPERVISION AND CONDUCT OF THE SISP

39. The Monitor will oversee, in all respects, the conduct of this SISP.
40. The Monitor may engage such other consultants, agents, brokers, or experts and such other persons from time to time as may be reasonably necessary to assist with this SISP.
41. BCTFC shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations under this SISP and provide the Monitor with the assistance, information and documentation that is reasonably necessary to enable the Monitor to adequately carry out the Monitor's functions in this SISP.
42. The Monitor may provide information on a confidential basis to the Companies, its directors and senior management, or any creditor(s) as the Monitor deems appropriate, provided that no party is entitled to any SISP information until such time as such party confirms in writing to the Monitor that they are not, directly or indirectly (including through affiliates or companies which they control or have a majority interest) participating in the preparation or submission of any bid pursuant to this SISP, including as a financing party (the "**Independence Confirmation**"). Parties that do not provide the Independence Confirmation are deemed to be potential bidders and are not entitled to receive information under this SISP, and shall not attend meetings with, or otherwise communicate with, Qualified Bidders or Individual Asset Bidders except with the written

consent of the Monitor (which maybe provided by email), which consent may be subject to conditions, including requiring the Monitor to attend such meetings or communications.

43. The Monitor shall determine, in its sole discretion, the manner and form of information to be provided to the Companies' directors or senior management (or any of them) or any other creditor pursuant to this SISP.
44. Notwithstanding the foregoing and anything else to the contrary in this SISP, the Monitor shall provide to CIBC information relating to this SISP, including as to any LOIs and Bids as reasonably requested by CIBC.
45. To the extent that any Potential Bidders (as defined in paragraph 12) wish to engage, discuss, or communicate with any party with an existing contractual relationship with any of the Companies in relation to this SISP or the business or assets of BCTFC, such Potential Bidders may only do so after advising the Monitor and obtaining the Monitor's consent. In considering any specific request, the Monitor shall impose such restrictions (if any) or participation by the Monitor as the Monitor deems appropriate.
46. BCTFC, the Monitor and their respective agents, estates, advisors, and professionals are not responsible for, and will have no liability with respect to, any information provided to or obtained by any Potential Bidder in connection with BCTFC or its Property.
47. Any party receiving information under this SISP, including the Companies, the Monitor, CIBC, or other persons shall keep confidential:
 - (a) the names, details, and all other non-public information related to Potential Bidders, LOIs, Qualified Bidders, Individual Asset Bidders, Final Bids, Qualified Bids, the Successful Bidder(s), the Winning Bid(s), the Backup Bidder(s), the Backup Bid(s), and the Final Agreement(s); and
 - (b) any other information provided to them and marked as confidential,
 and shall only use such information to conduct or assist with this SISP, or as is reasonably necessary to seek directions from or make submissions to the Court, or to obtain, oppose, or otherwise make submissions regarding the approval of any Winning Bid or Backup Bid (as defined in paragraph 27) all while taking such steps as may be reasonably necessary so as to preserve the confidentiality of such information and protect the integrity of the SISP.

TERMINATION OF THE SISP

48. If,
 - (a) there are no Qualified LOI(s) by the LOI Deadline, or the Monitor determines that no LOIs are commercially reasonable; or
 - (b) there are no Final Bid(s) by the Final Bid Deadline; or
 - (c) there is no Qualified Bid by the Final Bid Deadline, or the Monitor determines that no Qualified Bids should be accepted; or

- (d) there is no Winning Bid; or
- (e) a Final Agreement is not executed by the Final Agreement Deadline; or
- (f) the transactions contemplated by the Final Agreement(s) do not close by the Outside Closing Date; or
- (g) the Monitor, in consultation with the Companies and CIBC, decides to terminate this SISP,

then this SISP shall, subject to any amendments, extensions or waivers granted in accordance with this SISP, terminate.

OTHER MATTERS

- 49. The SISP does not, and will not be interpreted to, create any contractual or other legal relationship between the Monitor any Potential Bidder, Qualified Bidder, Individual Asset Bidder, or any other party, other than as specifically set out in a Final Agreement executed by BCTFC or the Monitor, as applicable.
- 50. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any bid, due diligence activities, and any other negotiations, steps, or actions, whether or not they lead to the consummation of a transaction.

SCHEDULE "A"

REAL PROPERTY

1. The property located at 101 8911 Jubilee Road East, Summerland, British Columbia, legally described as:

LOT 1, PLAN KAP25304, DISTRICT LOT 473, OSOYOOS DIV OF YALE LAND
DISTRICT, PID: 005-529-018

LOT 2, PLAN KAP25304, DISTRICT LOT 473, OSOYOOS DIV OF YALE LAND
DISTRICT, PID: 005-529-026

LOT 1, PLAN KAP8244, DISTRICT LOT 473, OSOYOOS DIV OF YALE LAND
DISTRICT, PID: 009-868-135

2. The property located at 327 Co-op Avenue, Oliver, British Columbia, legally described as:

LOT A, PLAN EPP25807, DISTRICT LOT 2450S, SIMILKAMEEN DIV OF YALE LAND
DISTRICT, PID: 029-001-285

3. The property located at 334 Packing House Lane, Oliver, British Columbia, legally described as:

LOT B, PLAN EPP25807, DISTRICT LOT 2450S, SIMILKAMEEN DIV OF YALE LAND
DISTRICT, PID: 029-001-293

4. The property located at 528 10th Ave, Keremeos, British Columbia, legally described as:

LOT 1, PLAN KAP18668, DISTRICT LOT 174, SIMILKAMEEN DIV OF YALE LAND
DISTRICT, EXCEPT PLAN KAP61843, PID: 008-237-051

SCHEDULE "B"**Addresses for Deliveries**

Any delivery made to the Monitor pursuant to this SISP shall be made to:

Alvarez & Marsal Canada Inc.
Licensed Insolvency Trustee
925 West Georgia Street, Suite 902
Vancouver, BC V6C 3L2

Attention: Anthony Tillman and Pinky Law
Email: pinky.law@alvarezandmarsal.com and atillman@alvarezandmarsal.com

Deliveries pursuant to this SISP by email shall be deemed to be received when sent. In all other instances, deliveries made pursuant to this SISP shall be deemed to be received when delivered to the address as identified above.

- 6 -

Schedule "C"

GROWERS SUPPLY COMPANY LIMITED
SALES AND INVESTMENT SOLICITATION PROCESS

(see attached)

SALE AND INVESTMENT SOLICITATION PROCEDURE Growers Supply Company

INTRODUCTION

1. On August 13, 2024, the Supreme Court of British Columbia (the "**Court**") granted an initial order pursuant to the *Companies' Creditors Arrangement Act*, 1985, c C-36 granting BC Tree Fruits Cooperative ("**BCTFC**"), BC Tree Fruits Industries Limited ("**BCTF Industries**") and Growers Supply Company Limited. ("**GSC**", and together with BCTFC and BCTF Industries, the "**Companies**") protection from their creditors and, among other things, appointing Alvarez & Marsal Canada Inc. as monitor of the Companies (the "**Monitor**") with enhanced powers.
2. On August 26, 2024, the Court granted an order (the "**SISP Order**") which, among other things, approved this sale and investment solicitation process (the "**SISP**") in respect of the assets, including without limitation real property, inventory, accounts receivable, intellectual property and goodwill (collectively, the "**Assets**") and business operations (the "**Business**" and, together with the Assets, the "**Property**") of GSC.
3. This SISP describes the manner in which parties may gain or continue to have access to due diligence materials concerning GSC and the Property, how bids involving the Property or GSC will be submitted to and dealt with by the Monitor, and how Court approval will be sought in respect of any transaction(s) involving the Property and GSC.
4. Under this SISP, the Monitor will be soliciting bids for an en bloc sale of the Property including all or some of the real property located at 2605 Acland Road in Kelowna, 754 35th Avenue South in Creston, and 1200 Waddington Drive in Vernon, British Columbia, having the legal descriptions set out in Schedule "A" hereto (collectively, the "**Real Property**").
5. The terms of this SISP, including the requirements, criteria and timelines set out herein, may be amended, extended, or waived by the Monitor with the consent of the Canadian Imperial Bank of Commerce ("**CIBC**") or by further order of this Court.

"AS IS, WHERE IS" BASIS

6. Any transaction involving GSC and the Property will be subject only to such representations, warranties, covenants, or indemnities as are expressly included in a Final Agreement (as defined in paragraph 23), but will otherwise be on an "as is, where is" basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Monitor, any of the Companies, or any of their agents, estates, advisors, professionals or otherwise, and in the event of a sale, subject to the Court granting approval and any other required orders in the form(s) contemplated by the relevant transaction, all of the right, title and interest of GSC in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests, except those expressly assumed pursuant to a Final Agreement.

TIMELINE

7. The following table sets out the target dates under the SISP:

DATE	MILESTONE
August 26, 2024	SISP to commence
September 16, 2024	Bid Deadline
September 20, 2024	Final Agreement Deadline
October 1, 2024	Court Approval Deadline
October 14, 2024	Outside Closing Date

THE SISP PROCESS

A. Solicitation of Interest

8. The Monitor may, but is not required to, cause a notice of this SISP to be published in a form satisfactory to the Monitor in any publication that the Monitor considers appropriate.
9. The Monitor, in consultation with the Companies, will prepare a list of potential bidders (the "**Known Potential Bidders**") who may have an interest in a transaction. Such list will include: (i) any parties that have approached the Companies or the Monitor indicating an interest in GSC, the Business or the Assets; and (ii) any persons who, in the Monitor's reasonable judgment, may be interested in an en bloc sale of the Property including all or some of the Real Property (a "**Bid**").
10. The Monitor, in consultation with the Companies, may prepare an initial marketing or offering summary (a "**Teaser Letter**") notifying Known Potential Bidders of the SISP and inviting the Known Potential Bidders to advise as to their interest in making a Bid.
11. The Monitor may distribute to the Known Potential Bidders and any other interested persons any Teaser Letter or other marketing material, as well as a draft form of a confidentiality agreement (the "**Confidentiality Agreement**").
12. Any person who (a) executes a Confidentiality Agreement in form and substance satisfactory to the Monitor, (b) in the judgment of the Monitor appears to have a *bona fide* interest in submitting a Bid, and (c) in the judgment of the Monitor appears to have the financial capabilities and the technical, managerial, and operational expertise and capabilities to make a viable Bid shall be deemed to be a qualified bidder (each such person so deemed, a "**Qualified Bidder**").

B. Due Diligence

13. The Monitor may prepare such marketing or other materials in addition to the Teaser Letter as they deem appropriate describing the opportunity to make a Bid for distribution to Known Potential Bidders and Qualified Bidders.

14. The Monitor may provide Qualified Bidders with access to an electronic data room that will contain such information in the possession and control of the Companies that, in the Monitor's reasonable business judgment, will allow Qualified Bidders to evaluate their interest in advancing a viable Bid. For greater clarity: (a) the Monitor may make such access subject to competitive and other business considerations as the Monitor deems appropriate; and (b) the Monitor is not obligated to furnish any information relating to the Property or GSC except to Qualified Bidders.

C. Qualified Bids

15. Any Qualified Bidder who wishes to submit a Bid must deliver a written, final and binding Bid (a "**Final Bid**") to the Monitor in the manner and at the addresses specified in Schedule "B" so as to be received by the Monitor not later than 5:00 p.m. (Pacific time) on **September 16, 2024** (the "**Bid Deadline**").
16. A Final Bid shall be a "**Qualified Bid**" if it:
 - (a) provides for closing of the proposed transaction by no later than the Outside Closing Date (being **October 14, 2024**);
 - (b) includes a duly authorized and executed purchase and sale agreement, together with all exhibits and schedules and such ancillary agreements as may be required with all exhibits and schedules;
 - (c) specifies the purchase price, including any liabilities and leases to be assumed;
 - (d) indicates which of the Property, including which of the Real Property, is to be excluded (if any) and any additional assets desired to be included in the transaction; and
 - (e) specifies the purchase price allocation as among the assets included in the Bid;
 - (a) it includes a letter stating that it is irrevocable until the earlier of (i) approval by the Court, and (ii) 30 days following the Bid Deadline; provided, however, that if such Bid is selected as a Winning Bid (as defined in paragraph 20) or a Backup Bid (as defined in paragraph 20), it shall remain irrevocable until the closing of the Winning Bid or the Backup Bid, as the case may be;
 - (b) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
 - (c) it includes written evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution to consummate the proposed transaction, or other evidence of ability to consummate the proposed transaction that will allow the Monitor to make a determination as to the Qualified Bidder's (and its direct and indirect owners and their principals) financial and other capabilities to consummate the transaction contemplated by the Final Bid;

- (d) it includes an acknowledgement and representation that the Qualified Bidder: (i) has had an opportunity to conduct any and all due diligence it considers necessary or desirable prior to making its Final Bid; (ii) has relied solely on its own independent review, investigation and inspection of any documents, the assets to be acquired and the liabilities to be assumed; and (iii) did not rely on any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied, except as expressly stated in a Final Agreement;
 - (e) it fully discloses the identity of each person that is bidding or otherwise that will be sponsoring or participating in the Bid, including the identification of the bidder's direct and indirect owners and their principals (without needing to disclose non-controlling interests, in the case of public companies only), and the complete terms of any such participation;
 - (f) it is accompanied by a refundable deposit (the "**Deposit**") in the form of a wire transfer (to a trust account specified by the Monitor), in an amount equal to five percent (10%) of the total value of all cash and non-cash consideration to be paid in respect of the Final Bid, to be held and dealt with in accordance with this SISP;
 - (g) it does not contain any conditions, other than Court approval, including that it is not conditional on: (i) any additional due diligence; (ii) any internal approvals and consents, including corporate, board or shareholder approval, that are required to close the contemplated transaction; or (iii) any governmental or regulatory approval;
 - (h) it contains other information as may be reasonably requested by the Monitor; and
 - (i) it is received by no later than the Bid Deadline.
17. The Monitor may, with the prior written approval of CIBC, waive compliance with any one or more of the requirements specified in paragraph 16 and deem non-compliant Final Bids to be Qualified Bids.

D. Evaluation of Bids

18. In reviewing the Qualified Bids and before determining a Winning Bid or Backup Bid, the Monitor shall retain full discretion and authority to discuss the bids received, and their terms, with the applicable Qualified Bidders.
19. The Monitor, in consultation with CIBC, will review all Qualified Bids received to determine the highest or otherwise best bid(s). Evaluation criteria will include, but are not limited to:
- (a) the purchase price or net value being provided;
 - (b) the terms of the proposed transaction documents;
 - (c) the identity, circumstances, and ability of the bidder to successfully complete the contemplated transaction;
 - (d) the impact on the Companies' stakeholders;

- (e) the conditionality of the bid, including commitments for any financing required;
- (f) the timeline to closing, including potential third-party contractual arrangements or consents required to close;
- (g) the assets included, or excluded, from the proposed transaction;
- (h) the identity, circumstances, and ability of the Qualified Bidder to successfully complete a transaction; and
- (i) the costs associated with the bid and its consummation, including restructuring costs.

E. Selection of Winning Bid(s) and Backup Bid(s)

- 20. With regard to the criteria enumerated in the immediately preceding section, the Monitor shall identify one or more Qualified Bids (each a **"Winning Bid"**), as well as one more backup Qualified Bids (each, a **"Backup Bid"**). A person or persons who make a Winning Bid shall be a **"Successful Bidder"** and a person or person who makes a Backup Bid shall be a **"Backup Bidder"**.
- 21. The Monitor shall notify a Successful Bidder, if any, a Backup Bidder, if any, and any other bidders of their respective status as soon as reasonably practicable in the circumstances.
- 22. The Monitor will notify a Backup Bidder, if any, that their bid is a successful Backup Bid and the Backup Bid shall remain open and capable of acceptance by the Companies until the later of (i) the consummation of the transaction(s) contemplated by the Winning Bid(s); and (ii) the date that is 30 days after the applicable Final Agreement Deadline, as defined in paragraph 234, (the **"Backup Bid Release Date"**). For greater certainty, the Monitor shall be entitled to continue to hold the Deposit in respect of a Backup Bid until the Backup Bid Release Date.
- 23. The Monitor may, but shall have no obligation to, enter into an agreement or agreements with a Successful Bidder (a **"Final Agreement"**).
- 24. Any Final Agreement entered into with a Successful Bidder in respect of a Bid shall: (i) be executed no later than **September 20, 2024** (the **"Final Agreement Deadline"**); and (ii) require as a condition that Court approval of the Final Agreement be obtained no later than **October 1, 2024**; and (iii) include as a term that the outside closing date be no later than **October 14, 2024** (the **"Outside Closing Date"**).
- 25. The Monitor has the right not to accept any Qualified Bid. The Monitor further has the right to deal with one or more Qualified Bidders to the exclusion of other persons, to accept a Qualified Bid for some or all of the Property, to accept multiple Qualified Bids and enter into multiple Final Agreements.

F. Property Not Sold

- 26. Any property not sold or liquidated or otherwise dealt with pursuant to a Winning Bid or a Backup Bid may be sold by the Monitor in any manner that the Monitor, in consultation with the Companies and CIBC, sees fit.

SISP ORDER

27. If the Monitor enters into a Final Agreement in respect of a Winning Bid, the Monitor shall apply for an order from the Court approving the transaction contemplated by that bid and any necessary or appropriate related relief required to consummate the transaction contemplated by that bid. Court approval shall be a condition precedent to the consummation of any transaction or transactions contemplated by a Final Agreement.
28. The Monitor may also concurrently obtain relief approving the transaction contemplated by a Backup Bid and any necessary related relief required to consummate the transaction contemplated by a Backup Bid.

DEPOSITS

29. All Deposits paid pursuant to this SISP shall be held in trust by the Monitor in a non-interest-bearing account. The Monitor shall hold the Deposits paid by each Successful Bidder and Backup Bidder in accordance with the terms of the applicable Final Agreement(s), or as may be ordered by the Court.
30. Subject to paragraph 16(f), if a Deposit is paid pursuant to this SISP, and the Companies elect not to proceed to negotiate and settle the terms and conditions of a Final Agreement with the person that paid such Deposit, the Monitor shall return the Deposit to that person.
31. If a Qualified Bidder breaches any of its obligations under its Qualified Bid, any Final Agreement, or the terms of this SISP (including the Confidentiality Agreement), then, in each case, such Qualified Bidder's Deposit will be forfeited to the Companies as liquidated damages and not as a penalty.

SUPERVISION AND CONDUCT OF THE SISP

32. The Monitor will oversee, in all respects, the conduct of this SISP.
33. The Monitor may engage such other consultants, agents, or experts and such other persons from time to time as may be reasonably necessary to assist with this SISP.
34. The Companies shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations under this SISP and provide the Monitor with the assistance, information and documentation that is reasonably necessary to enable the Monitor to adequately carry out the Monitor's functions in this SISP.
35. The Monitor may provide information on a confidential basis to the Companies, their directors and senior management, or any creditor(s) as the Monitor deems appropriate, provided that no party is entitled to any SISP information until such time as such party confirms in writing to the Monitor that they are not, directly or indirectly (including through affiliates or companies which they control or have a majority interest) participating in the preparation or submission of any bid pursuant to this SISP, including as a financing party (the "**Independence Confirmation**"). Parties that do not provide the Independence Confirmation are deemed to be potential bidders and are not entitled to receive information under this SISP, and shall not attend meetings with, or otherwise communicate with, Qualified Bidders except with the written consent of the Monitor (which maybe provided by email), which consent may be subject to conditions, including requiring the Monitor to attend such meetings or communications.

36. The Monitor shall determine, in its sole discretion, the manner and form of information to be provided to the Companies' directors or senior management (or any of them) or any other creditors pursuant to this SISP.
37. Notwithstanding the foregoing and anything else to the contrary in this SISP, the Monitor shall provide to CIBC information relating to this SISP, including as to any Bids as reasonably requested by CIBC.
38. To the extent that any Qualified Bidders (as defined in paragraph 12) wish to engage, discuss, or communicate with any party with an existing contractual relationship with any of the Companies in relation to this SISP or the business or assets of GSC, such Qualified Bidders may only do so after advising the Monitor and obtaining the Monitor's consent. In considering any specific request, the Monitor shall impose such restrictions (if any) or participation by the Monitor as the Monitor deems appropriate.
39. The Companies, the Monitor and their respective agents, estates, advisors, and professionals are not responsible for, and will have no liability with respect to, any information provided to or obtained by any Qualified Bidder in connection with GSC or its Property.
40. Any party receiving information under this SISP, including the Companies, the Monitor, CIBC, or other persons shall keep confidential:
 - (a) the names, details, and all other non-public information related to Qualified Bidders, Qualified Bids, the Successful Bidder(s), the Winning Bid(s), the Backup Bidder(s), the Backup Bid(s), and the Final Agreement(s); and
 - (b) any other information provided to them and marked as confidential,
 and shall only use such information to conduct or assist with this SISP, or as is reasonably necessary to seek directions or make submissions to the Court, or to obtain, oppose, or otherwise make submissions regarding the approval of any Winning Bid or Backup Bid, all while taking such steps as may be reasonably necessary so as to preserve the confidentiality of such information and protect the integrity of the SISP.

TERMINATION OF THE SISP

41. If,
 - (a) there are no Qualified Bid(s) by the Bid Deadline; or
 - (b) the Monitor determines that no Qualified Bids should be accepted; or
 - (c) there is no Winning Bid; or
 - (d) a Final Agreement is not executed by the Final Agreement Deadline; or
 - (e) the transactions contemplated by the Final Agreement(s) do not close by the applicable Outside Closing Date; or
 - (f) the Monitor, in consultation with the Companies and CIBC, decides to terminate this SISP,

then this SISP shall, subject to any amendments, extensions or waivers granted in accordance with this SISP, terminate.

OTHER MATTERS

42. The SISP does not, and will not be interpreted to, create any contractual or other legal relationship between the Monitor any Known Potential Bidder, Qualified Bidder, or any other party, other than as specifically set out in a Final Agreement executed by the Companies or the Monitor, as applicable.
43. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any bid, due diligence activities, and any other negotiations, steps, or actions, whether or not they lead to the consummation of a transaction.

SCHEDULE "A"

Real Property

1. The real property located at 2605 Acland Road, Kelowna, British Columbia, legally described as:

PID: 023-189-096

LOT A, PLAN KAP55505, DISTRICT LOT 123, OSOYOOS DIV OF YALE LAND DISTRICT.

2. The real property located at 754 35th Ave S Creston, Creston, British Columbia, legally described as:

PID: 025-774-778

LOT A, PLAN NEP74260, DISTRICT LOT 5617, KOOTENAY LAND DISTRICT, & DL 9640

which property is owned by BCTFC and the Monitor is permitted to advance a sale of.

3. The real property located at 1200 Waddington Drive, Vernon, British Columbia, legally described as:

PID: 005-056-535

LOT 29, PLAN KAP26664, SECTION 26, TOWNSHIP 9, OSOYOOS DIV OF YALE LAND DISTRICT, EXC PCL D ON PL E12950

which property is owned by BCTFC and the Monitor is permitted to advance a sale of.

SCHEDULE "B"**Address for Deliveries**

Any delivery made to the Monitor pursuant to this SISP shall be made to:

Alvarez & Marsal Canada Inc.
Licensed Insolvency Trustee
925 West Georgia Street, Suite 902
Vancouver, BC V6C 3L2

Attention: Anthony Tillman and Pinky Law
Email: pinky.law@alvarezandmarsal.com and atillman@alvarezandmarsal.com

Deliveries pursuant to this SISP by email shall be deemed to be received when sent. In all other instances, deliveries made pursuant to this SISP shall be deemed to be received when delivered to the address as identified above.

No. S245481
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH
COLUMBIA**

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

AND

IN THE MATTER OF THE COOPERATIVE
ASSOCIATION ACT, S.B.C. 1999, C. 28

AND

IN THE MATTER OF BC TREE FRUITS
COOPERATIVE, BC TREE FRUITS INDUSTRIES
LIMITED AND GROWERS SUPPLY COMPANY
LIMITED

PETITIONERS

**ORDER MADE AFTER APPLICATION
(SISPS APPROVAL)**

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