

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

APPROVAL AND VESTING ORDER

BEFORE THE HONOURABLE)
JUSTICE GROPPER) October 4, 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 4th day of October 2024; AND ON HEARING Kibben Jackson and Heidi Esslinger, counsel for the Monitor, and those other counsel listed on Schedule "A" hereto, and no one else appearing although duly served, AND UPON READING the material filed, including the Second Report of the Monitor to the Court dated September 27, 2024 (the "**Report**"); 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 Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The sale transaction (the "**Transaction**") contemplated by the Purchase and Sale Agreement dated October 3, 2024 (the "**Sale Agreement**") among BC Tree Fruits Cooperative and Growers Supply Company Limited (together, the "**Vendor**") and Stonemark Investments Ltd. (the "**Purchaser**"), a copy of which is attached hereto as Schedule "B", is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Monitor on behalf of the Vendor is hereby

authorized and approved, and the Vendor and the Monitor are 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 to the Purchaser of the Purchased Assets (as such term is defined in the Sale Agreement). The Monitor and the Purchaser shall be at liberty to extend the Closing Date (as such term is defined in the Sale Agreement) to such later date as those parties may agree, without the necessity of a further Order of this Court

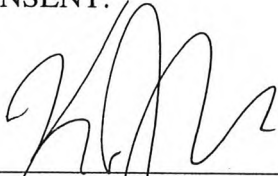
2. Upon: (i) receipt by the Monitor of the full amount of the Purchase Price (as such term is defined in the Sale Agreement); and (ii) delivery by the Monitor to the Purchaser of a certificate substantially in the form attached as **Schedule "C"** hereto (the "**Monitor's Certificate**"), all of the Vendor's right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser in fee simple, 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 (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by any order of this court in the within proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims enumerated in **Schedule "D"** 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 "E"** hereto), and, for greater certainty, this court orders that all of the Encumbrances are hereby expunged and discharged as against the Purchased Assets.
3. Upon presentation for registration in the Land Title Office for the Land Title District of Kamloops of a certified copy of this order, together with a letter from Fasken Martineau DuMoulin LLP, solicitors for the Monitor, authorizing registration of this order, the British Columbia Registrar of Land Titles is hereby directed to:
 - (a) enter the Purchaser as the owner of the Lands identified in Schedule "A" to the Sale Agreement, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Lands, and this court declares that it has been proved to the satisfaction of the court on investigation that the title of the Purchaser in and to the Lands is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and
 - (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in Schedule "**E**" hereto.

4. 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 from and after the delivery of the Monitor'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 had possession or control immediately prior to the sale.
5. The Monitor is to file with the court a copy of the Monitor's Certificate forthwith after delivery thereof.
6. Pursuant to Section 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* or Section 18(10)(o) of the *Personal Information Protection Act* of British Columbia, the Monitor and the Vendor are hereby authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Vendor's records pertaining to the Vendor's past and current employees that are to be retained or hired by the Purchaser. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Petitioners.
7. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Monitor to the Purchaser upon completion of the purchase and sale transaction contemplated in the Sale Agreement, subject to the permitted encumbrances as set out in the Sale Agreement and listed on Schedule "E" hereto.
8. Notwithstanding:
 - (a) this CCAA proceeding or the termination thereof;
 - (b) any applications for a bankruptcy order in respect of any or all of the Petitioners now or hereafter made pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA") and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made by or in respect of any or all of the Petitioners,

the vesting of the Purchased Assets in the Purchaser and/or any permitted assignees under the Sale Agreement pursuant to this order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Petitioners and shall not be void or voidable by creditors of the Petitioners, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the BIA 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.


9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this order and to assist the Monitor 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 Petitioners, the Purchaser and the Monitor, as an officer of this court, as may be necessary or desirable to give effect to this order or to assist the Petitioners, the Purchaser and the Monitor and its agents in carrying out the terms of this order.
10. The Monitor or any other party has liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this order.
11. 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
Kibben Jackson/Heidi Esslinger	Counsel for the Monitor, for Alvarez & Marsal Inc.
Mary Buttery, K.C.	Counsel for B.C. Tree Fruits members
Aaron Welch	Province of B.C.
Peter Rubin	Counsel for Canadian Imperial Bank of Commerce
Scott Andersen	Counsel for Terralink
Candace Formosa	Counsel for the Petitioners
Tevia Jeffries	Counsel for ^{Stonemark} terralink Investments Ltd.

Schedule “B”

PURCHASE AND SALE AGREEMENT

[see attached]

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is dated for reference October 3, 2024, and is made,

GROWERS SUPPLY COMPANY LIMITED (“GSC”) and **BC TREE FRUITS COOPERATIVE** (“BCTFC”), by their court-appointed monitor **ALVAREZ & MARSAL CANADA INC.** (the “**Monitor**”), acting solely in such capacity and not in its personal or corporate capacity.

(collectively, GSC, BCTFC and the Monitor are referred to as the “**Vendor**”)

AND:

STONEMARK INVESTMENTS LTD., a company incorporated pursuant to the laws of British Columbia, and having a registered office at Vancouver, BC

WHEREAS:

(the “**Purchaser**”)

- A. Pursuant to an order made in Supreme Court of British Columbia Action No. 245481, Vancouver Registry (the “**CCAA Proceedings**”) on August 13, 2024, subsequently amended and restated by a further order made on August 26, 2024 (as amended and restated, the “**ARIO**”), the Supreme Court of British Columbia (the “**Court**”) granted GSC, BCTFC and BC Tree Fruits Industries Limited (collectively, the “**BCTF Group**” or the “**Petitioners**”) protection from their creditors and appointed the Monitor as monitor of the BCTF Group with enhanced powers, among other things, all under the provisions of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c. C-36 (the “**CCAA**”).
- B. Pursuant to a further order made in the CCAA Proceedings on August 26, 2024, the Court approved a sales and investment solicitation process in respect of the assets and undertaking of GSC and certain real property of BCTFC (the “**GSC SISP**”) and authorized and directed the Monitor and GSC to do all things necessary or desirable to perform their obligations under and carry out the GSC SISP.
- C. The Vendor has agreed to sell to the Purchaser, and the Purchaser has agreed to purchase from the Vendor, the Purchased Assets (as defined herein), upon and subject to the terms and conditions set out herein (the “**Sale Transaction**”).

NOW THEREFORE in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration (the receipt and sufficiency of which are acknowledged), the Parties agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions. In this Agreement:

- (a) **“Accounting Standards”** means at any time the accounting standards for private enterprises so prescribed in Part II of the CPA Canada Handbook – Accounting (Accounting Standards for Private Enterprises).
- (b) **“Accounts Receivable”** means all accounts receivable, trade accounts, and other debts owing to GSC.
- (c) **“Administration Charge”** has the meaning given to it in the ARIO.
- (d) **“Affiliate”** means, in respect of any Person, 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 or voting securities, by contract or otherwise.
- (e) **“Agreement”** means this Purchase and Sale Agreement and all attached Schedules and Exhibits, in each case as the same may be supplemented, amended, restated or replaced from time to time in accordance with the terms hereof, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and all attached Schedules and Exhibits and unless otherwise indicated, references to Articles, Sections, Schedules and Exhibits are to Articles, Sections, Schedules and Exhibits in this Agreement.
- (f) **“Applicable Law”** means any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, restriction, by-law (zoning or otherwise), order, or any consent, exemption, approval or licence of any Governmental Authority, that applies in whole or in part to the Sale Transaction, the Monitor, the BCTF Group, the Purchaser, the Business, or any of the Purchased Assets.
- (g) **“Approval and Vesting Order”** means a Court order made in the CCAA Proceedings substantially in the form attached as Exhibit A hereto, with any amendments thereto to be acceptable to the Monitor and the Purchaser, each acting reasonably, which shall, among other things:
 - (i) authorize and approve this Agreement and the execution and delivery thereof by the Monitor on behalf of GSC and BCTFC;
 - (ii) authorize and direct the Monitor, GSC and BCTFC to complete the Sale Transaction; and
 - (iii) subject to and upon the delivery of the Monitor’s Certificate to the Purchaser, provide for:
 - (A) the vesting of the Purchased Assets in the Purchaser; and

- (B) the vesting off title to the Purchased Assets all Encumbrances other than Permitted Encumbrances.
- (h) **“BCTF Group”** has the meaning given to it in Recital A.
- (i) **“BCTF Owned Lands”** means the real property set out under the heading “BCTF Owned Lands” in Schedule A, including all buildings, structures, improvements and all appurtenances and attachments thereto.
- (j) **“Business”** means the business carried on by GSC, being the business of operating retail stores selling agricultural growing equipment and supplies.
- (k) **“Business Day”** means any day that is not a Saturday, Sunday, Boxing Day, Easter Monday or statutory holiday in British Columbia.
- (l) **“Business Records”** means all documents, files, records, reports, agreements, plans, specifications, drawings, surveys and correspondence in the possession or control of GSC relating to any of the Purchased Assets, but excluding all Excluded Assets.
- (m) **“CCAA”** has the meaning given to it in Recital A.
- (n) **“CCAA Charges”** means those charges against the property of the Petitioners created by orders of the Court made in the CCAA Proceedings, including, without limitation, the Administration Charge, Directors’ Charge, Interim Lender’s Charge, and Representative Counsel Charge, and the amounts secured thereby, as applicable.
- (o) **“CCAA Proceedings”** has the meaning given to it in Recital A.
- (p) **“Chattels”** means all of the personal property owned by GSC or BCTFC and used in the maintenance, management or operation of the Purchased Assets or any part thereof or the maintenance, management or operation of the Business, including personal property, fixtures, supplies and Equipment, as expressly set forth in Schedule H (but excluding any Excluded Assets).
- (q) **“Chemical Inventory”** means all chemical Inventory of GSC which is listed under Category 40 in the Books and Records of the Company.
- (r) **“Claims”** means any claims, suits, proceedings, liabilities, obligations, losses, damages, penalties, judgments, costs, expenses, fines, disbursements, legal fees on a solicitor and client basis, interest, demands and actions of any nature or any kind whatsoever, and **“Claim”** means any of the foregoing.
- (s) **“Closing”** means the successful completion of the Sale Transaction.
- (t) **“Closing Date”** means that day which is 10 days after Court Approval is granted, or if such day is not a Business Day, then the next Business Day, or any other date

as may be reasonably agreed to in writing by the Monitor and Purchaser provided that the Closing Date shall not be a date later than October 14, 2024.

- (u) **“Closing Documents”** has the meaning given to it in Section 8.4.
- (v) **“Closing Payment”** has the meaning given to it in Section 2.5(a)(ii).
- (w) **“Closing Statement”** has the meaning given to it in Section 2.5(c).
- (x) **“Contracts”** means all contracts, leases, deeds, mortgages, licences, instruments, notes, commitments, undertakings, indentures, joint ventures and all other agreements, commitments and legally binding arrangements, whether written or oral.
- (y) **“Court”** has the meaning given to it in Recital A.
- (z) **“Court Approval”** means the approval by the Court of this Agreement and the Sale Transaction as evidenced by the granting of the Approval and Vesting Order.
- (aa) **“Cure Costs”** means, in respect of any Purchased Contract, all amounts, costs and expenses required to be paid to remedy GSC’s monetary defaults in relation to such Purchased Contract, if any, or otherwise required to secure a counterparty’s or any other necessary Person’s consent to the assignment of a Purchased Contract pursuant to its terms or as may be required pursuant to the Approval and Vesting Order or any other applicable order of the Court in the CCAA Proceedings, and includes any other fees and expenses required to be paid to a counterparty or any other Person in connection with the assignment of a Purchased Contract pursuant to its terms or Applicable Laws.
- (bb) **“Deposit”** has the meaning given to it in Section 2.4.
- (cc) **“Directors’ Charge”** has the meaning given to it in the ARIO.
- (dd) **“Encumbrance”** means any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, pledges, 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 including, without limiting the generality of the foregoing:
 - (i) any encumbrances, Claims or charges created by the ARIO, or any other order made in the CCAA Proceedings, including the CCAA Charges;
 - (ii) all charges, security interests or Claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system;

- (iii) any legal notation, charge, lien, interest or other encumbrance or title defect of whatever kind or nature, regardless of form; and
 - (iv) any agreement, lease, license, option or Claim, easement, right of way, restriction, execution or other encumbrance (including any notice or other registration in respect of any of the foregoing) affecting title to or the ownership of the Purchased Assets or any part thereof or interest therein.
- (ee) **“Environmental Laws”** means any law, bylaw, order, ordinance, ruling, regulation or directive of any applicable federal, provincial, territorial, municipal, local or other government or governmental department agency or regulatory authority or any court of competent jurisdiction relating to environmental matters and/or regulating the import, manufacture, storage, distribution, labelling, sale, use, handling, transport or disposal of Hazardous Substances, as are in force as of the Closing Date.
- (ff) **“Equipment”** means any and all machinery, tools, vehicles, implements, fixtures, appliances, and other tangible personal property used in the maintenance, management or operation of the Purchased Assets or any part thereof or the maintenance, management or operation of the Business, as expressly set forth in Schedule H, but excluding any Excluded Assets.
- (gg) **“ETA”** has the meaning given to it in Section 9.1.
- (hh) **“Excluded Assets”** has the meaning given to it in Section 2.3.
- (ii) **“Excluded Liabilities”** means any Liabilities of GSC or BCTFC that are not expressly assumed by the Purchaser under this Agreement, including without limitation:
 - (i) any taxes of or relating to the Business or the Purchased Assets, including statutory deductions and remittances, GST, and sales taxes, in respect of any period prior to the Closing Date;
 - (ii) any Liabilities or Encumbrances in respect of any litigation involving the Monitor, GSC, BCTFC, the Purchased Assets, the Excluded Assets or the Business, commenced or threatened or resulting from any event or circumstance prior to the Closing Date;
 - (iii) any other Encumbrances made, filed, claimed, perfected or otherwise arising or resulting from any event or circumstance prior to the Closing Date;
 - (iv) any Liabilities owing to or in favour of any employees that relate to any period prior to Closing, including without limitation outstanding salaries, wages and bonuses owing to any employees, any severance or other termination obligations, including payment in lieu of notice, and any Liability for employer health tax payable;

- (v) all obligations and Liabilities arising under or in respect of any executive personnel agreements, officer or director agreements, employee benefit plans or payments, pension obligations, employee tax withholding obligations, employee health or dental plan obligations, all employee complaints or Claims, labour relations board actions or other employee proceedings;
 - (vi) all obligations and Liabilities under any Contracts which are not Purchased Contracts;
 - (vii) all Liabilities for payment of fees for operation of the Purchased Assets up to the Closing Date; and
 - (viii) any other obligations which pursuant to the terms and conditions of this Agreement, remain obligations of GSC or BCTFC after the completion of the transactions contemplated herein.
- (jj) **“Fertilizer Inventory”** means all the fertilizer Inventory of GSC which is listed under Category 41 in the Books and Records of the Company.
- (kk) **“Governmental Authority”** means (i) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise), (ii) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government, (iii) any court, tribunal, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions, and (iv) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange or professional association.
- (ll) **“GST”** has the meaning given to it in Section 9.1.
- (mm) **“GST Certificate”** has the meaning given to it in Section 9.1.
- (nn) **“Hazardous Substances”** means any underground storage tanks, any explosive or radioactive materials, pollutants, contaminants, hazardous, corrosive or toxic substances, special waste or waste of any kind, including, without limitation, compounds known as chlorobiphenyls, petroleum and any other substance or material, the storage, manufacture, disposal, treatment, generation, use, transportation, remediation or release into the environment of which is prohibited, controlled, regulated or licensed under Environmental Laws.
- (oo) **“Intellectual Property”** means all intellectual property and proprietary rights of any kind currently owned by GSC and pertaining to the Business, including the following: (a) trademarks, service marks, trade names, slogans, logos, designs, symbols, trade dress, internet domain names, uniform resource identifiers, rights in

design, brand names, any fictitious names, d/b/a's or similar filings related thereto, or any variant of any of them, and other similar designations of source or origin, together with all goodwill, registrations and applications related to the foregoing; (b) copyrights and copyrightable subject matter (including any registration and applications for any of the foregoing); (c) trade secrets and other confidential or proprietary business information (including manufacturing and production processes and techniques, research and development information, technology, intangibles, drawings, specifications, designs, plans, proposals, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans, customer and supplier lists and information), know how, proprietary processes, formulae, algorithms, models, industrial property rights, and methodologies; (d) computer software, computer programs, and databases, which may include all access and login information and information respecting permits, licenses, export controlled goods (whether in source code, object code or other form); (e) all rights to sue for past, present and future infringement, misappropriation, dilution or other violation of any of the foregoing and all remedies at law or equity associated therewith; and (f) all websites and all telephone and facsimile numbers.

- (pp) **"Interim Lender's Charge"** has the meaning given to it in the ARIO.
- (qq) **"Interim Period"** means the period between the date hereof and the Closing Date.
- (rr) **"Inventory"** means all inventories of every kind owned by GSC and pertaining to the Business including raw materials, packaging materials, work-in-progress and finished goods as set out in Schedule H.
- (ss) **"Lands"** means the BCTF Owned Lands set out in Schedule A.
- (tt) **"Law"** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.
- (uu) **"Leased Equipment"** means all Equipment which is the subject of a lease agreement or financing agreement between one or more of GSC, as lessee or borrower, and one or more third party lenders, as lessor or lender (if any).
- (vv) **"Leased Lands"** means the real property set out under the heading "Leased Lands" in Schedule A (if any), including all buildings, structures, improvements and all appurtenances and attachments thereto.
- (ww) **"Liability"** means any debt, Claim, liability, duty, responsibility, obligations, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, or due or to become due and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed.

- (xx) **“Monitor”** has the meaning given to it in the preamble.
- (yy) **“Monitor’s Certificate”** means a certificate to be filed with the Court by the Monitor certifying that: (i) the Monitor confirms, and has received from the Purchaser written confirmation in form and substance satisfactory to the Monitor that the Purchaser confirms, that all conditions to Closing have been satisfied or waived by the applicable Parties; and (ii) the Purchase Price and all applicable taxes payable by the Purchaser to the Vendor hereunder have been received by the Monitor’s Solicitors.
- (zz) **“Monitor’s Solicitors”** means Fasken Martineau DuMoulin LLP.
- (aaa) **“Mutual Condition”** has the meaning given to it in Section 7.2.
- (bbb) **“Parties”** means the Purchaser and the Vendor, and **“Party”** means any one of them.
- (ccc) **“Permits, Licenses and Certifications”** means the certifications, licenses, approvals, permits, consents or other rights entered into or obtained by GSC set out in Schedule E from any Governmental Authority, and used in connection with the Business or in respect of any of the Purchased Assets.
- (ddd) **“Permitted Encumbrances”** means the Encumbrances set out in Schedule B.
- (eee) **“Person”** means an individual, corporation, company, limited liability company, body corporate, partnership, joint venture, Governmental Authority, unincorporated organization, trust, association or other entity.
- (fff) **“Personal Information”** means any factual or subjective information, recorded or not, about an employee, contractor, agent, consultant, officer, director, executive, customer or supplier of GSC or BCTFC who is a natural person, or about any other identifiable individual, including any record that can be manipulated, linked or matched by a reasonably foreseeable method to identify an individual, but does not include the name, title, or business address of an employee of an organization.
- (ggg) **“PST”** has the meaning given to it in Section 9.2.
- (hhh) **“Purchase Price”** has the meaning given to it in Section 2.5.
- (iii) **“Purchased Assets”** means:
 - (i) all of GSC’s right, title and interest, in and to the following:
 - (A) GSC’s interest in the BCTF Owned Lands;
 - (B) the Chattels (including, without limitation, the Equipment, but excluding the Leased Equipment);

- (C) the Purchased Contracts;
- (D) the Inventory;
- (E) the intangible assets enumerated in Schedule D; and
- (F) the Permits, Licenses and Certifications; and
- (ii) all of BCTFC's right, title and interest in and to the BCTF Owned Lands.
- (jjj) **"Purchased Contracts"** means the Contracts set forth in Schedule C.
- (kkk) **"Purchaser"** has the meaning given to it in the preamble.
- (lll) **"Purchaser's Condition"** has the meaning given to it in Section 7.1.
- (mmm) **"Purchaser's Solicitors"** means Farris LLP or such other firm of solicitors or agents as are retained by the Purchaser from time to time and written notice of which is provided to the Monitor and the Monitor's Solicitors.
- (nnn) **"Representative Counsel Charge"** has the meaning given to it in representative order of the Court made in the CCAA Proceedings on August 26, 2024.
- (ooo) **"Sale Transaction"** has the meaning given to it in Recital C.

1.2 **Schedules and Exhibits.** The Schedules and Exhibits to this Agreement, listed below, are an integral part of this Agreement:

<u>Schedule</u>	<u>Description</u>
Schedule A	Lands
Schedule B	Permitted Encumbrances
Schedule C	Purchased Contracts
Schedule D	Intangible Assets
Schedule E	Permits, Licenses and
Certifications	Schedule F Purchase Price
Allocation	
Schedule G	Excluded Assets
Schedule H	Chattels
<u>Exhibit</u>	<u>Description</u>
Exhibit A	Form of Approval and Vesting Order
Exhibit B	Form of Monitor's Bring-Down Certificate
Exhibit C	Form of Purchaser's Bring-Down Certificate

ARTICLE 2 PURCHASE AND SALE

2.1 **Agreement of Purchase and Sale.** Subject to the terms and conditions of this Agreement and based on the representations and warranties contained in this Agreement, the Vendor

agrees to sell, and the Purchaser agrees to purchase, the Purchased Assets for the Purchase Price on the Closing Date free and clear of all Excluded Liabilities and Encumbrances, except for the Permitted Encumbrances. For avoidance of doubt, the Purchaser will not assume any of the Excluded Liabilities.

- 2.2 As Is, Where Is.** The Purchaser is purchasing the Purchased Assets “as is, where is” as of the time of actual possession. Except for the representations and warranties of the Vendor set out in Section 6.2, none of GSC, BCTFC and the Monitor, nor anyone on their behalf, represents or warrants the condition or state of repair of any of the Purchased Assets. The Purchaser must satisfy itself, and accept the Purchased Assets, on a strictly “as is, where is” basis and on the other terms of this Agreement, and upon Closing will be taking the Purchased Assets at its own risk without any representations therefor. If the Vendor has provided the Purchaser with any physical, environmental, financial or other reports or information regarding the Purchased Assets, which, for greater certainty, the Vendor is under no obligation to do, the Purchaser acknowledges and agrees that the Vendor has not made any warranty or representation regarding such information and any use that the Purchaser or others may make of such information is strictly at the Purchaser’s own risk.
- 2.3 Excluded Assets.** Notwithstanding anything to the contrary contained in this Agreement, expressly excluded from the Purchased Assets are all of GSC and BCTFC’s right, title, and interest in and to any property and assets save and except the Purchased Assets, including the following (collectively, the “**Excluded Assets**”):
- (a) the Accounts Receivable;
 - (b) the Business Records;
 - (c) the Chemical Inventory;
 - (d) the Fertilizer Inventory;
 - (e) the Intellectual Property;
 - (f) all shares of capital stock, securities or other equity interests in any entity; and
 - (g) the items set forth in Schedule G.
- 2.4 Deposit.** The Purchaser has paid to the Monitor on behalf of GSC and BCTFC, in trust, prior to the execution and delivery of this Agreement, the amount of \$330,000.00, representing a deposit (the “**Deposit**”) to be held in trust by the Monitor in a non-interest-bearing trust account. The Deposit will be dealt with as follows:
- (a) applied in accordance with Section 2.5 in the event the Closing occurs;
 - (b) if, after the Purchaser’s Condition in Section 7.1 and the Mutual Condition in Section 7.2 herein are satisfied or waived, the Purchaser fails to complete the Sale Transaction in accordance with this Agreement or if the Purchaser repudiates this

Agreement, then the Deposit will be forfeited to the Monitor, without prejudice to any other rights or remedies of the Monitor whether at law or in equity;

- (c) if the Purchaser's Condition in Section 7.1 or the Mutual Condition in Section 7.2 herein are not satisfied or waived within the applicable time periods contemplated in Sections 7.1 and 7.2, the Deposit will be returned to the Purchaser forthwith without any deduction, as the sole remedy of the Purchaser against the Vendor; or
- (d) if, after the Purchaser's Condition in Section 7.1 and the Mutual Condition in Section 7.2 herein are satisfied or waived, and if the Purchaser is not in default of any of its obligations under this Agreement and the Vendor fails to complete the sale of the Purchased Assets in accordance with this Agreement or if the Vendor repudiates this Agreement, then the Deposit will be returned to the Purchaser forthwith without any deduction, as the sole remedy of the Purchaser against the Vendor.

2.5 Purchase Price.

- (a) The Purchase Price in consideration for the purchase and sale of the Purchased Assets is \$3,200,000.00 (exclusive of any taxes payable) and will be paid by the Purchaser to the Vendor in accordance with this Agreement as follows:
 - (i) the Deposit will be applied against payment of the Purchase Price contemporaneously with Closing; and
 - (ii) provided that the Purchaser's Condition and the Mutual Condition have been satisfied or waived in accordance with Sections 7.1 and 7.2, the balance of the Purchase Price (as adjusted in accordance with this Agreement, the "**Closing Payment**"), after applying the Deposit, will be paid by the Purchaser to the Monitor (on behalf of GSC and BCTFC) on the Closing Date in order to satisfy the Purchaser's cash consideration obligations in full.
- (b) All usual adjustments of taxes, rates, local improvement assessments and other charges and all other costs normally adjusted for on a sale of property similar to the Lands in British Columbia, both incoming and outgoing, will be made as of 12:00:00 a.m. on the Closing Date. Except as otherwise provided herein, the Vendor will be debited for all expenses and liabilities and will be entitled to receive all revenues, accrued in respect of the Purchased Assets prior to the Closing Date. The Purchaser will be responsible for all expenses and liabilities accruing from and including the Closing Date (including a pro-rated portion of the premium for any insurance policy assigned by the Vendor to the Purchaser), and will be entitled to receive all revenues accruing from and including the Closing Date in respect of the Purchased Assets.
- (c) Not less than one (1) Business Day prior to the Closing Date, the Vendor and the Purchaser will settle a statement (the "**Closing Statement**") of the calculation of the estimated amount payable at the Closing Date. The Closing Statement shall

have annexed to it complete details, to the extent available, of the calculations used by the Vendor to arrive at the calculation of the Closing Statement. The Vendor will provide the Purchaser with the draft Closing Statement not less than five (5) Business Days prior to the Closing Date. On request, the Vendor shall give the Purchaser reasonable access to the Vendor's working papers and backup materials in order to confirm the calculations shown on the Closing Statement.

2.6 Court Approval. The Vendor and the Purchaser acknowledge that this Agreement and the transactions contemplated hereby are subject to the Court Approval. The Purchaser acknowledges and agrees that, notwithstanding acceptance of this offer by the Vendor, other prospective purchasers may attend in Court in person or by agent at the hearing of the motion to approve this Agreement and such prospective purchasers may make competing offers which may be approved by the Court. The Purchaser acknowledges and agrees that, to protect its interest in purchasing the Purchased Assets, it should attend at the Court hearing in person or by agent and be prepared to amend or increase its offer to purchase the Purchased Assets as the Court may permit or direct. The Purchaser acknowledges that:

- (a) the Monitor is subject to the jurisdiction and discretion of the Court to entertain other offers and to abide by any further orders the Court may make regarding GSC and BCTFC's property or the Business;
- (b) the Monitor will apply to the Court in the CCAA Proceedings for the Approval and Vesting Order, and will advocate and express support for the acceptance of this Agreement on the basis that there was a Court approved sale and investment solicitation process that was followed and resulted in this transaction being selected by the Monitor as the best offer;
- (c) pursuant to its fiduciary and other common law duties as a monitor and court officer, if the Court requires the Monitor to report or comment on or assess the merits of any other offers in respect of GSC or BCTFC's property, nothing in this Agreement will preclude the Monitor from doing so; and
- (d) if the Court declines to grant, vacates, sets aside or varies the Approval and Vesting Order for any reason whatsoever, except for the return of the Deposit, the Vendor will not be liable to the Purchaser or any other Person in any way whatsoever.

2.7 Allocation of Purchase Price. The Monitor and the Purchaser agree to the allocation of the Purchase Price among the Purchased Assets described in Schedule F.

ARTICLE 3 GENERAL COVENANTS

3.1 Covenants of the Vendor. During the Interim Period, the Vendor will:

- (a) maintain in full force and effect all existing policies of insurance currently maintained by GSC and maintain insurance on all the Purchased Assets at least to the levels as they are insured on the date of this Agreement (provided that the

Purchaser acknowledges and agrees that the Vendor makes no representations or warranties whatsoever as to the adequacy or sufficiency of such coverage);

- (b) not modify any material terms of or terminate any of the Purchased Contracts, Permitted Encumbrances, or Permits, Licenses and Certifications, except in the ordinary course of business consistent with past practice, without the prior written consent of the Purchaser, not to be unreasonably withheld, or without order of the Court; and
- (c) promptly notify the Purchaser if the Vendor becomes aware that, after the date of this Agreement, any of its covenants, terms or conditions in this Agreement are breached or cannot be performed.

3.2 Covenants of the Purchaser. The Purchaser will:

- (a) take possession of the Purchased Assets wherever situated at Closing in accordance with Article 5; and
- (b) at all times, comply with all Laws governing the protection of personal information with respect to Personal Information disclosed or otherwise provided to the Purchaser by the Vendor under this Agreement, and without limiting the foregoing:
 - (i) prior to Closing:
 - (A) the Purchaser shall only collect, use or disclose such Personal Information for purposes related to the transactions contemplated in this Agreement;
 - (B) the Purchaser shall safeguard all Personal Information collected from the Vendor in a manner consistent with the degree of sensitivity of the Personal Information and maintain, at all times, the security and integrity of the Personal Information; and
 - (C) if the transactions contemplated in this Agreement do not complete for any reason the Purchaser shall return all Personal Information to the Vendor or, at the Monitor's request, destroy such Personal Information at its own expense; and
 - (ii) following Closing:
 - (A) the Purchaser shall not use or disclose the Personal Information for any purposes other than the carrying on of the Business (with use or disclosure of the Personal Information being restricted to those purposes for which the information was initially collected or for which additional consent was or is obtained) or as otherwise permitted or required by Applicable Laws;

- (B) the Purchaser shall give effect to any withdrawal of consent with respect to Personal Information; and
- (C) if and to the extent required by Applicable Law, the Purchaser shall notify in writing those individuals whose Personal Information was disclosed in connection with the Sale Transaction that (i) the Sale Transaction has been completed, and (ii) Personal Information about them was disclosed to the Purchaser in connection with the Sale Transaction.

3.3 Purchaser's Acknowledgement. The Purchaser acknowledges that the Monitor is entering into this Agreement as Vendor solely in its capacity as the court-appointed monitor of the assets, undertakings and property of the BCTF Group and not in its personal or corporate capacity. The Purchaser acknowledges that the Vendor is selling the right, title, and interest of GSC and BCTFC in the Purchased Assets pursuant to the ARIO and the Approval and Vesting Order. The Purchaser agrees to purchase and accept the right, title, and interest of GSC and BCTFC in and to the Purchased Assets pursuant to and in accordance with the terms of this Agreement and any other agreements required to be delivered pursuant to the terms of this Agreement. The acceptance by the Monitor on behalf of GSC and BCTFC of this Agreement is expressly subject to Court Approval and any applicable orders that the Court may make in the CCAA Proceedings.

3.4 Employment. The Purchaser acknowledges that the Monitor intends to terminate the employment of all Employees effective as of the close of business on the Business Day immediately before the Closing Date and to pay all accrued or earned and outstanding compensation owing to them as of the Closing Date. The Purchaser may, in its sole discretion, make offers of employment to any of the Employees. "**Employees**" means all personnel employed, engaged or retained by the Vendor in connection with the Business.

ARTICLE 4 RISK

4.1 Risk. The Purchased Assets will be at the risk of the Vendor until Closing and thereafter at the risk of the Purchaser.

4.2 Site Profile and Environmental Condition.

- (a) The Purchaser hereby waives and releases the Vendor from any obligation to deliver a site profile or site disclosure statement to the Purchaser for the Lands as contemplated by the *Environmental Management Act*, SBC 2003, c 53 or any regulation in respect thereof.
- (b) Without limiting the generality of Section 2.2, the Purchaser acknowledges and agrees that the Vendor does not make any representations or warranties with regard to the environmental condition of the Lands, and the Purchaser is relying solely on its own investigations and inspections to verify the existence and extent of any Hazardous Substances in, on or migrating to or from the Lands, and that the environmental condition of or relating to the Lands is otherwise satisfactory.

- (c) The Purchaser does hereby irrevocably release and forever discharge the Vendor and each of their respective directors, officers, agents and employees from any and all Claims that the Purchaser has or may have against the Vendor in connection with the environmental condition of the Lands, any contamination or Hazardous Substances located on the Lands or migrating onto the Lands or from the Lands or any breach of any Environmental Laws irrespective of whether such Claim arose before or after the Purchaser's acquisition of the Lands pursuant to this Agreement.
- (d) The Purchaser agrees that it shall not directly or indirectly commence or assert or pursue or threaten to commence, assert or pursue any type of Claim (including an order issued by a Governmental Authority) against the Vendor relating to the environmental condition of or any environmental matter or issue involving the Lands including the location of contaminants or Hazardous Substances thereon or migrating thereon or therefrom.
- (e) Without limiting the generality of the foregoing, the Parties acknowledge and agree that any and all costs in any way related to the environmental remediation of the Lands (including any and all costs associated with the disposal of Hazardous Substances or contaminated soil) or in connection with any adjacent property contaminated by Hazardous Substances or contamination migrating from the Lands shall be for the Purchaser's sole account and the Vendor shall not have any Liability or responsibility in connection with any such remediation costs.
- (f) The Parties acknowledge and confirm that the provisions of this Section 4.2 constitute an agreement between them that is a private agreement respecting Liability for Hazardous Substances and contamination on, in, at or under or released to, at or from the Lands or otherwise associated with the Lands and any contamination of adjacent properties and waters resulting from such Hazardous Substances and contamination or remediation of the Lands.
- (g) The terms of this Section 4.2 shall survive completion of the sale of the Purchased Assets to the Purchaser.

ARTICLE 5 POSSESSIO N

- 5.1 Possession Time.** Possession shall occur and shall be governed by operation of and pursuant to the terms of the Approval and Vesting Order and any further order of the Court made in the CCAA Proceedings. The Purchaser acknowledges that the Monitor is not in possession of the Lands and has no control over whether GSC, BCTFC or any persons in possession of the Lands vacate the Lands on the Closing Date (other than through the Approval and Vesting Order or any further order of the Court made in the CCAA Proceedings). The Purchaser acknowledges that if vacant possession is not available on the Closing Date, it shall allow the Monitor a reasonable time to obtain vacant possession through a writ of possession.

5.2 Third Parties. Notwithstanding Section 5.1, the Purchaser acknowledges and confirms that if any of the Purchased Assets are not transferable without consent of a third party by the terms of the applicable instruments, the Vendor shall use commercially reasonable efforts to obtain such consent prior to the Closing Date and, if such consent is not obtained by the Closing Date, the Vendor shall apply for and make commercially reasonable efforts to obtain an order of the Court in the CCAA Proceedings transferring or assigning, as applicable, such Purchased Assets to the Purchaser, provided that the Purchaser shall ensure that any Liability in respect of such Purchased Assets is paid or otherwise satisfied by the Purchaser and there are no arrears or defaults on the part of the Purchaser thereunder immediately after the closing of the transactions contemplated hereunder. Any of the Purchased Assets that have not been or are not capable of being assigned or transferred to the Purchaser pursuant to the foregoing sentence shall be deemed to be excluded from the Purchased Assets.

5.3 Required Consents.

- (a) Before Closing, the Purchaser shall use all reasonable efforts to obtain any and all approvals required under Applicable Law to permit closing of the Sale Transaction. The Parties acknowledge that except for the Approval and Vesting Order, the acquisition of such approvals shall not be a condition precedent to Closing. It shall be the sole obligation of the Purchaser, at the Purchaser's sole cost and expense, to provide any and all financial assurances, remedial work or other applications or documentation required by Governmental Authorities to permit the transfer to the Purchaser, and registration of the Purchaser as owner of any of the Purchased Assets, including any Permits, Licenses and Certifications referenced in Schedule E attached hereto.
- (b) Notwithstanding anything to the contrary herein, except for the Approval and Vesting Order, it is the sole obligation of the Purchaser to obtain any third-party consents, permissions or approvals that are required in connection with the assignment of any Purchased Contract or any Permit, License and Certification at the Purchaser's sole cost and expense, which may include payment of any Cure Costs. Upon providing prior written notice and sufficient documentary support to the Purchaser, all reasonable and necessary costs, fees, expenses, penalties or levies that are incurred by the Vendor in order to effect the assignment of the Purchased Assets to the Purchaser shall be the sole responsibility of the Purchaser, and the Purchaser agrees to pay on behalf of the Vendor any such reasonable and necessary costs, fees, expenses, penalties or levies on a timely basis.

5.4 Purchaser's Possession of Excluded Assets. The Purchaser shall promptly notify the Monitor of any Excluded Assets that may come into the possession or control of the Purchaser or its Affiliates, whether before or after Closing, and thereupon shall promptly release such Excluded Assets to the Monitor or to such other Person as the Monitor may direct in writing and, for greater certainty, no title or other license to use shall, or shall be deemed to, vest in the Purchaser in respect of any Excluded Assets.

- 5.5 Vendor's Possession of Purchased Assets.** The Vendor shall promptly notify the Purchaser of any Purchased Assets that may come into the possession or control of the Vendor after Closing, and thereupon shall promptly release such Purchased Assets to the Purchaser or its Affiliates at the cost and expense of the Purchaser to pick up and transfer such Purchased Assets, or to such other Person as the Purchaser may direct in writing and, for greater certainty, no title or other license to use shall, or shall be deemed to, vest in the Vendor in respect of any Purchased Assets.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

- 6.1 Purchaser's Representations and Warranties.** The Purchaser represents and warrants to the Vendor, regardless of any independent investigation that the Vendor may cause to be made that:
- (a) The Purchaser is a company incorporated and existing under the laws of British Columbia, and is in good standing thereunder with respect to the filing of annual reports.
 - (b) The Purchaser has the corporate power and authority to enter into this Agreement and to perform its obligations under this Agreement.
 - (c) The execution, delivery and performance by the Purchaser of this Agreement, and the consummation of the transactions contemplated hereby, do not and will not:
 - (i) result in a violation or breach of any provision of the constating documents of the Purchaser;
 - (ii) result in a violation or breach of any provision of any Applicable Law or order of any Governmental Authority by the Purchaser; or
 - (iii) require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any agreement to which the Purchaser is a party.
 - (d) All necessary corporate action on the part of the directors and shareholders of the Purchaser has been taken, or will have been taken as of the Closing Date, to authorize and approve the execution and delivery of this Agreement, the completion of the Sale Transaction and the performance and observance of the Purchaser's obligations under this Agreement.
 - (e) This Agreement has been duly executed and delivered by the Purchaser and, subject to Court Approval being obtained, constitute valid and binding obligations of the Purchaser enforceable against it in accordance with its 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.

- (f) No consent, approval, Permit, License and Certification, order of any Governmental Authority, declaration, filing or registration with, or notice to, any Governmental Authority is required by or with respect to the Purchaser in connection with the execution and delivery of this Agreement and the consummation of the Sale Transaction except the Approval and Vesting Order.
- (g) The Purchaser is or will on the Closing Date be registered for GST levied under the ETA.
- (h) The Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada) or the *Prohibition on the Purchase of Residential Property by Non-Canadians Act* (Canada) and the regulations made thereunder, and will not be as of the Closing Date.

6.2 Vendor's Representations and Warranties. The Vendor represents and warrants to the Purchaser and acknowledges that the Purchaser is relying upon the following representations and warranties in connection with the Sale Transaction:

- (a) Subject to Court Approval being obtained, the Monitor has all necessary power, authority and capacity to enter into this Agreement and to carry out its obligations as Vendor under this Agreement.
- (b) This Agreement has been, and at Closing, the Closing Documents will be, duly executed and delivered by the Vendor and, subject to Court Approval being obtained, constitute valid and binding obligations of the Vendor enforceable against it in accordance with its 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.

The Vendor makes no representations or warranties of any kind whatsoever, expressed or implied, with respect to the Purchased Assets.

ARTICLE 7 CONDITIONS PRECEDENT

7.1 Closing Condition Precedent in favour of the Purchaser. The obligation of the Purchaser to complete the Sale Transaction is subject to the following condition (the "**Purchaser's Condition**"):

- (a) the Vendor having performed in all material respects each of its obligations under this Agreement to the extent required to be performed at or before the Closing Date, including the delivery of each of the items required pursuant to Section 8.2.

The foregoing condition is for the exclusive benefit of the Purchaser. Unless fulfilled, the condition in this Section 7.1 may be waived by the Purchaser in whole or in part, or the Purchaser may elect not to complete.

- 7.2 **Mutual Condition.** The obligation of the Parties to complete the transactions contemplated by this Agreement will be subject to the mutual condition (the “**Mutual Condition**”), for the benefit of both the Vendor and the Purchaser that on or before October 4, 2024, the Monitor will have obtained the Approval and Vesting Order.

The Mutual Condition is for the mutual benefit of the Vendor and the Purchaser and may not be waived unilaterally by either Party. Both Parties agree that they will use all reasonable commercial efforts to satisfy the Mutual Condition. If the Mutual Condition has not been satisfied by the applicable deadline provided for in this Section 7.2, then the Purchaser’s and the Vendor’s obligation to complete the Sale Transaction pursuant to this Agreement will be at an end.

- 7.3 **Appeal.** The Purchaser shall support the application for the Approval and Vesting Order and take a consistent position in any appeal arising in relation thereto. In the event any variation is sought or leave to appeal is sought, an appeal is taken or a stay pending appeal is requested with respect to the Approval and Vesting Order, the Vendor shall promptly notify the Purchaser of such application for leave to appeal, appeal or stay request and shall promptly provide to the Purchaser a copy of the related notice(s) or order(s). If the Approval and Vesting Order is made by the Court, then the Parties will complete the Sale Transaction without regard to any appeal or application for leave to appeal to vary or set aside the Approval and Vesting Order by any person, unless the Approval and Vesting Order has been stayed by further Court order.

ARTICLE 8 CLOSING

- 8.1 **Closing.** The Closing will take place on the Closing Date by electronic exchange of documents between the Monitor’s Solicitors and the Purchaser’s Solicitors.
- 8.2 **Vendor’s Closing Documents.** On or before the Closing Date, the Vendor will deliver, or cause the Monitor’s Solicitors to deliver, to the Purchaser’s Solicitors in trust to be held in escrow pending Closing, the following documents duly executed as applicable and all in a form satisfactory to the Purchaser and the Vendor, acting reasonably:
- (a) a Court certified copy of the Approval and Vesting Order and any other orders of the Court as are necessary, all in a form registerable in all necessary offices required to effect the transfer of the Purchased Assets to the Purchaser (the “**Certified Vesting Order**”). The Approval and Vesting Order shall describe the Purchaser exactly as the Purchaser appears on the first page of this Agreement, so the Purchaser shall appear as the owner of the BCTF Owned Lands after Closing. The Vendor shall not be bound by any term in this Agreement describing the Purchaser otherwise, or allowing the Purchaser to complete the purchase with a different purchase entity;
 - (b) the Monitor’s Certificate;
 - (c) the Closing Statement;

- (d) if applicable and available in respect of the Sale Transaction, an election under section 167 of the ETA pursuant to Section 9.3;
- (e) a letter from the Monitor's Solicitors to the Registrar of the Kamloops Land Title Office or other agency authorizing registration of the Approval and Vesting Order;
- (f) an assignment and assumption of the Purchased Contracts wherein the Vendor assigns to the Purchaser, and the Purchaser assumes, the rights and obligations under the Purchased Contracts as of the Closing Date and the Purchaser indemnifies the Vendor for all Liability under the Purchased Contracts whether arising before or after Closing;
- (g) a general conveyance and assignment in respect of the Vendor's right, title and interest in and to all other Purchased Assets;
- (h) a bring-down certificate of the Vendor, in the form attached as Exhibit B, dated as of the Closing Date, that the representations and warranties of the Vendor in this Agreement are, as at the Closing Date, true and correct in all material respects and all covenants of the Vendor to be performed on or before the Closing Date have been duly observed and performed in all material respects;
- (i) all corporate records and account books of GSC that are in the possession or control of the Monitor;
- (j) a notice from the Vendor to the other parties under the Purchased Contracts giving notice of the sale of the Purchased Assets and the assignment of the Purchased Contracts; and
- (k) such other documents and assurances as may be reasonably required by the Purchaser to give full effect to the intent and meaning of this Agreement.

8.3 Purchaser's Closing Documents. In addition to payment of the Purchase Price, on or before the Closing Date, the Purchaser will deliver, or cause the Purchaser's Solicitors to deliver, to the Monitor's Solicitors in trust to be held in escrow pending Closing, the following duly executed as applicable:

- (a) an assignment and assumption of the Purchased Contracts wherein the Vendor assigns to the Purchaser, and the Purchaser assumes, the rights and obligations under the Purchased Contracts as of the Closing Date and the Purchaser indemnifies the Vendor for all Liability under the Purchased Contracts whether arising before or after Closing;
- (b) a general conveyance and assignment in respect of the Vendor's right, title and interest in and to the remaining Purchased Assets;
- (c) the Closing Statement;
- (d) an assignment and assumption of Permitted Encumbrances;

- (e) the GST Certificate or an election under section 167 of the ETA pursuant to Section 9.3;
- (f) a bring-down certificate, in the form attached as Exhibit C, dated as of the Closing Date of a senior officer of the Purchaser having knowledge of the facts certifying, on behalf of the Purchaser and without personal liability, that the representations and warranties of the Purchaser in this Agreement are true and correct in all material respects as at the Closing Date and that the Purchaser's covenants and agreements to be observed or performed on or before the Closing Date pursuant to the terms of this Agreement have been duly observed and performed in all material respects; and
- (g) such other documents and assurances as may be reasonably required by the Vendor to give full effect to the intent and meaning of this Agreement.

8.4 Preparation and Form of Documents. The closing documents contemplated in Sections 8.2 and 8.3 (other than the Approval and Vesting Order and the Closing Statement) (collectively, the "**Closing Documents**") will be prepared by the Purchaser's Solicitors and delivered to the Monitor's Solicitors at least five (5) Business Days before the Closing Date. The Closing Documents (including the Approval and Vesting Order) will be in a form and substance reasonably satisfactory to the Parties and their respective solicitors. The Monitor will provide the Purchaser with drafts of all material to be filed with the Court no later than five (5) Business Days prior to the date of any hearing of the Court regarding the Approval and Vesting Order or such other date as may be agreed to by the Parties.

8.5 Payment into Trust. On or before the Closing Date, the Purchaser will pay to the Purchaser's Solicitors in trust, by way of certified cheque or wire transfer, funds in an amount equal to the Closing Payment.

8.6 Registration. On the Closing Date, after receipt by the Purchaser's Solicitors of the Closing Documents set out in Section 8.2, and after receipt by the Monitor's Solicitors of the Closing Documents set out in Section 8.3 and the funds as set out in Section 8.5, the Purchaser will cause the Purchaser's Solicitors to file the Approval and Vesting Order in the Kamloops Land Title Office.

8.7 Closing Procedure.

- (a) All Closing Documents, funds, and other items delivered by the Parties will be held in escrow by the Monitor's Solicitors and the Purchaser's Solicitors until completion of the Closing on the Closing Date in accordance with this Agreement.

Forthwith following receipt by the Purchaser's Solicitors of the Closing Payment and the documents and items referred to in Section 8.2, the Purchaser shall cause the Purchaser's Solicitors to file the Certified Vesting Order in the Land Title Office on the Closing Date in accordance with written undertakings settled as between the Purchaser's Solicitors and the Monitor's Solicitors. For greater certainty, the Canadian Bar Association (BC Branch) (Real Property Section) standard undertakings (the "**CBA Standard Undertakings**") may apply, subject to

necessary and required amendments that are satisfactory to the Purchaser's Solicitors and to the Monitor's Solicitors. Forthwith following the submission for registration of the Certified Vesting Order, and upon the Purchaser's Solicitors being satisfied as to the Purchaser's pending title to the BCTF Owned Lands after conducting a post-filing registration check of the property index disclosing only the following:

- (i) the existing title numbers to the BCTF Owned Lands;
- (ii) the Permitted Encumbrances; and
- (iii) pending numbers assigned respectively to the Certified Vesting Order,

the Purchaser shall:

- (iv) pay the Closing Payment or cause the Closing Payment to be paid to the Monitor's Solicitors "in trust" for the Vendor by certified cheque or wire transfer of immediately available funds or as otherwise directed by the Approval and Vesting Order prior to the Closing Date; and
- (v) provide written confirmation addressed to the Monitor's Solicitors and to the Vendor that the Deposit can be released to the Vendor or as otherwise directed by the Approval and Vesting Order,

and upon completion thereof the Closing Documents will be released to the appropriate Parties.

8.8 Concurrent Requirements. It is a condition of Closing that all matters of payment, execution and delivery of documents by each Party to the other pursuant to the terms of this Agreement will be deemed to be concurrent requirements and it is specifically agreed that nothing will be complete at the Closing until everything required as a condition precedent at the Closing has been paid, executed and delivered.

8.9 Payment by Wire Transfer. Notwithstanding anything else contained herein, the Purchaser will make all commercially reasonable efforts to ensure that the Closing Payment will be paid to and received by the Monitor's Solicitors on or before 5:00 p.m. (Vancouver time) on the Closing Date. Notwithstanding any provision of this Agreement, the Parties agree that, with respect to the Closing Payment, if the Purchaser is paying the Closing Payment by way of wire transfer, and if the Purchaser and the Purchaser's Solicitors have: (i) used commercially reasonable efforts to ensure that the Monitor's Solicitors will receive the Closing Payment on or before 5:00 p.m. on the Closing Date and provided evidence that such wire transfer was initiated prior to such time to the Monitor's Solicitors, but for any reason outside of the Purchaser's control (excluding any event which is a default by the Purchaser under this Agreement) the Monitor's Solicitors do not receive the Closing Payment by such time, then the time and date on which the Closing Payment must be received by the Monitor's Solicitors will be extended to 5:00 p.m. on the next Business Day following the Closing Date, so long as, in addition to the Closing Payment, the Purchaser also pays to the Monitor or the Monitor's Solicitors on such next Business

Day following the Closing Date interest on the Closing Payment at a rate equal to the Prime Rate plus two percent per annum for each day from and including the Closing Date to but not including the day such payment is made. In this paragraph, "Prime Rate" means that variable annual rate of interest quoted by the main branch of Bank of Nova Scotia, Vancouver, British Columbia, from time to time as the rate of interest used by it as a reference rate for setting rates of interest on Canadian dollar loans in Canada repayable on demand and commonly referred to by such bank as its "prime rate". For example, if the Closing Date occurs on a Friday, the funds are wired on the following Monday and the Closing Payment is received by the Monitor's Solicitors at 6:00 p.m. (Vancouver time) the day after wiring, the Purchaser will pay the Monitor four days' interest on the Closing Payment.

8.10 Termination. Notwithstanding any other provision of this Agreement, prior to the Closing this Agreement may be terminated as follows:

- (a) by the Purchaser or the Vendor if the Court or other court of competent jurisdiction has issued an order permanently restraining, enjoining or otherwise prohibiting the consummation of Closing and such order or action has become final (provided the same was not initiated by or on behalf of the Purchaser or the Vendor or their respective affiliates);
- (b) by the Purchaser, if there has been a material violation or breach by the Vendor of any covenant, representation or warranty which would prevent the satisfaction of the conditions necessary for Closing or other requirements for Closing in this Agreement and such violation or breach has not been waived by the Purchaser, unless the Purchaser is in material breach of its obligations under this Agreement;
- (c) by the Vendor, if there has been a material violation or breach by the Purchaser of any covenant, representation or warranty which would prevent the satisfaction of the conditions necessary for Closing or other requirements for Closing in this Agreement and such violation or breach has not been waived by the Vendor, unless the Monitor is in material breach of its obligations under this Agreement; or
- (d) by the Vendor, at any time prior to receipt of the Approval and Vesting Order, if the Vendor determine, in their sole and complete discretion, that it is inadvisable to present this Agreement to the Court, or to withdraw the Agreement from the Court, for any reason whatsoever.

The Party desiring to terminate this Agreement pursuant to this Section 8.10 shall give written notice of such termination to the other Party, specifying in reasonable detail the basis for such party's exercise of its termination rights.

8.11 Effect of Termination. In the event of termination of this Agreement pursuant to Section 8.10, this Agreement shall become void and of no further force or effect without liability to any party to any other party to this Agreement except that:

- (a) Sections 2.4, 4.1, 4.2 and 10.7 and Article 9 and any other provision herein that is expressed to survive the termination of this Agreement shall survive; and

- (b) no termination of this Agreement shall relieve any Party for any Liability for any wilful breach by it of this Agreement.

ARTICLE 9

TAXES

- 9.1 GST.** The Purchaser represents and warrants to the Vendor that it is and will be, as of the closing on the Closing Date, registered for the purposes of Part IX of the *Excise Tax Act* (Canada) (the “**ETA**”) in accordance with the requirements of Subdivision D of Division V of the ETA and will assume responsibility to account for and report any goods and services tax and harmonized sales tax (collectively, the “**GST**”) payable under the ETA in connection with the Sale Transaction. The Purchase Price does not include GST and the Purchaser will pay any GST payable with respect to the acquisition of the Purchased Assets in accordance with the ETA. Subject to Section 9.3, on the Closing Date, the Purchaser will deliver to the Vendor a certificate (the “**GST Certificate**”) of a senior officer of the Purchaser certifying, on behalf of the Purchaser and without personal liability (a) that the Purchaser is registered under Part IX of the ETA as of the Closing Date; (b) its registration number; and (c) that the Purchaser will account for, report and remit any GST payable in respect of the purchase of the Purchased Assets in accordance with the ETA. The Purchaser will indemnify and hold the Vendor and their directors, officers, employees, advisors and agents harmless from any Liability under the ETA arising as a result of any breach of the ETA with respect to GST payable in respect of the Purchased Assets, this Section 9.1, the GST Certificate or any declaration made therein and such indemnity will survive Closing.
- 9.2 Provincial Sales Tax.** The Purchaser acknowledges that it may be liable to pay British Columbia provincial sales tax (“**PST**”) in respect of its purchase of some or all of the Purchased Assets. To the extent permitted under the *Provincial Sales Tax Act* (British Columbia), the Purchaser will report and remit as required by Applicable Law any such PST that is due directly to the applicable taxing authority, and otherwise will pay to the Monitor an amount equal, to the PST (if any) payable by the Purchaser and collectible by the Vendor in connection with the acquisition of the Purchased Assets on Closing together with the balance of the Purchase Price. The Purchaser will indemnify and hold the Vendor and their directors, officers, employees, advisors and agents harmless from any Liability related to the Purchaser’s or the Vendor’s failure to account for, or report and remit such PST and such indemnity will survive Closing.
- 9.3 Tax Elections.** Notwithstanding the above, the Vendor will cooperate with the Purchaser to execute any election available under Applicable Law that may reduce or defer the amount or due date of any GST, PST, or other tax payable by the Purchaser provided such election will not result in any increased cost or tax liability for the Vendor. At the Closing, if available in respect of the Sale Transaction, each of the Monitor and the Purchaser shall execute jointly an election under subsection 167(1) of Part IX of the ETA, in the prescribed form and within the prescribed time therefor, in respect of the sale and transfer of the Purchased Assets and the Purchaser shall file such election with the Canada Revenue Agency.

- 9.4 Other Taxes.** The Purchaser will be responsible for all property and other transfer taxes, fees and expenses in connection with the registration of the Approval and Vesting Order or transfer of the Purchased Assets and the Vendor will be responsible for income taxes or fees in respect of the disposition of the Purchased Assets.

ARTICLE 10 GENERAL

- 10.1 Further Assurances.** Each of the Parties will execute and deliver all such further documents and do such further acts and things as may be reasonably required from time to time to give effect to this Agreement. The Purchaser will be solely responsible for any and all steps including documents and filings necessary, if any, to effect the transfer of the Purchased Assets including registration in the Purchaser's name in any applicable registry. The Vendor will execute such further documents as may reasonably be required by the Purchaser to give effect to the sale of the Purchased Assets at the sole cost and expense of the Purchaser, provided that nothing in this Agreement shall create any obligation on the part of the Vendor to take any action after the date that is 30 days after the Closing Date unless, not less than five Business Days prior to that date, the Purchaser delivers written notice to the Vendor of the reasonable specific actions it requests that the Vendor take and provided that the costs associated therewith (including but not limited to the expenses and hourly charges of the Monitor and its counsel in connection with the ongoing appointment of the Monitor, and all applicable taxes) shall be the obligation of the Purchaser and the Purchaser agrees to pay such costs within 10 Business Days following delivery by the Vendor to the Purchaser of an invoice itemizing such costs.
- 10.2 No Merger.** The execution and delivery of the Closing Documents is not intended to and will not in any way merge or otherwise restrict the terms, covenants, conditions, representations, warranties or provisions made or to be performed or observed by the Parties contained in this Agreement (other than the obligation to deliver the Closing Documents), all of which will survive the Closing.
- 10.3 Entire Agreement.** This Agreement constitutes the entire agreement between the Vendor and the Purchaser pertaining to the purchase and sale of the Purchased Assets and supersedes all prior agreements and undertakings, negotiations and discussions, whether oral or written, of the Vendor and the Purchaser and there are no representations, warranties, covenants or agreements between the Vendor and Purchaser except as set out in this Agreement.
- 10.4 Amendment.** Subject to Section 10.5, this Agreement may only be altered or amended by an agreement in writing executed by all of the Parties.
- 10.5 Solicitors as Agents.** Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement may be given or delivered and accepted or received by the Purchaser's Solicitors, on behalf of the Purchaser, and by the Monitor's Solicitors, on behalf of the Vendor, and any tender of Closing Documents and the Purchase Price may be made upon the Monitor's Solicitors and the Purchaser's Solicitors, as the case may be.

10.6 Notices. Any notice, document or communication required or permitted to be given under this Agreement will be in writing and delivered by hand or electronic transmission as follows:

(a) if to the Purchaser:

Stonemark Investments Ltd.
1410 – 555 W. Hastings Street
Vancouver, BC V6B 4N6

Attention: Brent Reimer
E-mail: brent.reimer@gmail.com

with a copy to the Purchaser's Solicitors:

Farris LLP
700 W. Georgia St, 25th floor
Vancouver, BC V7Y 1B3

Attention: Tevia Jeffries & Rebecca Morse
E-mail: tjeffries@farris.com; rmorse@farris.com

(b) if to the Monitor:

Alvarez & Marsal Canada Inc.
925 W Georgia Street, Unit 902
Vancouver BC V6C 3L2

Attention: Anthony Tillman and Pinky Law
E-mail: atillman@alvarezandmarsal.com
and
pinky.law@alvarezandmarsal.com

with a further copy to the Monitor's Solicitors:

Fasken Martineau DuMoulin LLP
550 Burrard Street, Suite 2900
Vancouver BC V6C 0A3

Attention: Kibben Jackson
E-mail: kjackson@fasken.com

or to such other address in Canada as either party may in writing advise. Any notice, document or communication will be deemed to have been given on the Business Day when delivered by hand if delivered prior to 5:00 p.m. (Vancouver time), otherwise will be deemed to be delivered and received on the next Business Day; or, if made by email, will be deemed to have been given on the Business Day when transmitted if it is so transmitted

prior to 5:00 p.m. (Vancouver time) on the day of transmittal, otherwise will be deemed to be given and received on the next Business Day.

- 10.7 Fees.** Each of the Parties will pay its own legal fees and fees of its consultants. The Purchaser will pay all registration costs and property transfer tax payable in connection with its purchase of the Purchased Assets.
- 10.8 Accounting Terms.** Accounting terms used herein and not expressly defined will be deemed to have such meanings as may apply on the application of the Accounting Standards.
- 10.9 Time.** Time is of the essence of this Agreement.
- 10.10 Tender.** Unless otherwise set out herein, any tender of documents or money may be made upon the party being tendered or upon its solicitors and money will be tendered by certified cheque or wire transfer.
- 10.11 Enurement.** This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.
- 10.12 Assignment.** The Purchaser will not assign any of its rights and obligations under this Agreement without the prior written consent of the Monitor.
- 10.13 Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in it. Any disputes concerning this Agreement or the subject matter thereof will be resolved by the Court in the CCAA Proceedings, and the Purchaser hereby attorns to the exclusive jurisdiction of the Court.
- 10.14 Waiver.** No waiver of any of the provisions of this Agreement will be deemed or will constitute a waiver of any other provision nor will any waiver constitute a continuing waiver unless otherwise expressed or provided.
- 10.15 Currency.** All dollar amounts referred to are Canadian dollars.
- 10.16 Business Day.** If the date for the performance of any act or thing falls on a day which is not a Business Day, then the date for the performance of such act or thing shall be extended to the next Business Day, except that the Closing Date shall be no later than October 14, 2024.
- 10.17 Construction.** The division and headings of this Agreement are for reference only and are not to affect construction or interpretation.
- 10.18 Counterparts and Execution.** This Agreement may be executed in counterparts and delivered by electronic transmission including by PDF format, and each such counterpart will constitute an original and all such counterparts together will constitute one and the same agreement.

[Signature page follows]

The Parties are signing this Agreement as of the date set out above.

**GROWERS SUPPLY COMPANY
LIMITED**, by their court-appointed monitor,
ALVAREZ & MARSAL CANADA INC.
acting solely in such capacity and not in
its personal or corporate capacity

By: _____

Name:

Title:

By: _____

Name:

Title:

STONEMARK INVESTMENTS LTD.

By:  _____

Name: Brenton Reimer

Title: Director

**SCHEDULE A
LANDS**

BCTF Owned Lands

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.

SCHEDULE B
PERMITTED ENCUMBRANCES

1. the reservations, limitations, provisions or conditions expressed in the original grants from the Crown of any of the Lands and the statutory exceptions to title currently applicable to those Lands;
2. a Claim of right, title or jurisdiction which may be made or established by any aboriginal peoples by virtue of their status as aboriginal peoples to or over any lands;
3. liens for taxes, assessments, rates, duties, charges or levies not at the time due, which relate to obligations or liability assumed by the Purchaser; and
4. the Encumbrances listed below in respect of each of the lots comprising the Lands:
 - Easement No. KC23289

PURCHASED CONTRACTS

NONE

INTANGIBLE ASSETS

NONE

NONE

**SCHEDULE
E
PERMITS,
LICENSES
AND
CERTIFIC
ATIONS**

SCHEDULE F
PURCHASE PRICE ALLOCATION

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. - \$2,860,000.00

Inventory as per list dated September 25, 2024 – Category 46 - \$244,000.00

Inventory as per list dated September 25, 2024 – Category 36 - \$10,000.00

All Inventory except categories 40 and 41 located at 1200 Waddington Drive only as per list dated September 25, 2024 - \$50,000.00

All assets, buildings, racking, shelving, desks, contents, Equipment and furnishings as-is located at 1200 Waddington Drive, Vernon, BC, but excluding laptops, servers, desktop computers, and Business Records, - \$5,000.00

Vernon Forklift FK#1 - \$10,000.00

Vernon Forklift FK#2 - \$10,000.00

Vernon Forklift FK#3 - \$10,000.00

Vernon Pickup Truck - \$1,000.00

SCHEDULE G
EXCLUDED ASSETS

All properties and assets not included in schedule F.

**SCHEDULE H
CHATTELS**

Inventory as per list dated September 25, 2024 – Category 46

Inventory as per list dated September 25, 2024 – Category 36

All Inventory except categories 40 and 41 located at 1200 Waddington Drive only as per list dated September 25, 2024

All assets, buildings, racking, shelving, desks, contents, equipment and furnishings as-is located at 1200 Waddington Drive, Vernon, BC

Vernon Forklift FK#1

Vernon Forklift FK#2

Vernon Forklift FK#3

Vernon Pickup Truck

**EXHIBIT A
APPROVAL AND VESTING ORDER**

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

APPROVAL AND VESTING ORDER

BEFORE THE
HONOURABLE JUSTICE
GROPPER

)
)
)

_____2024
[REDACTED]

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 [REDACTED] day of [REDACTED], 2024; AND ON HEARING Kibben Jackson and Heidi Esslinger, counsel for the Monitor, and those other counsel listed on **Schedule "A"** hereto, and no one else appearing although duly served, AND UPON READING the material filed, including the [REDACTED] Report of the Monitor to the [REDACTED] (the "**Report**"); AND Court dated _____

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 Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The sale transaction (the “**Transaction**”) contemplated by the Purchase and Sale Agreement dated October [●], 2024 (the “**Sale Agreement**”) among BC Tree Fruits Cooperative and Growers Supply Company Limited (together, the “**Vendor**”) and Stonemark Investments Ltd. (the “**Purchaser**”), a copy of which is attached hereto as **Schedule “B”**, is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Monitor on behalf of the Vendor is hereby authorized and approved, and the Vendor and the Monitor are 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 to the Purchaser of the Purchased Assets (as such term is defined in the Sale Agreement). The Monitor and the Purchaser shall be at liberty to extend the Closing Date (as such term is defined in the Sale Agreement) to such later date as those parties may agree, without the necessity of a further Order of this Court.
2. Upon: (i) receipt by the Monitor of the full amount of the Purchase Price (as such term is defined in the Sale Agreement); and (ii) delivery by the Monitor to the Purchaser of a certificate substantially in the form attached as **Schedule “C”** hereto (the “**Monitor’s Certificate**”), all of the Vendor’s right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser in fee simple, 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 (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by any order of this court in the within proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims enumerated in **Schedule “D”** 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 “E”** hereto), and, for greater certainty, this court orders that all of the Encumbrances are hereby expunged and discharged as against the Purchased Assets.
3. Upon presentation for registration in the Land Title Office for the Land Title District of Kamloops of a certified copy of this order, together with a letter from Fasken Martineau DuMoulin LLP, solicitors for the Monitor, authorizing registration of this order, the British Columbia Registrar of Land Titles is hereby directed to:
 - (a) enter the Purchaser as the owner of the Lands identified in Schedule “A” to the Sale Agreement, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Lands, and this court declares that it has been proved to the satisfaction of the court on investigation that the title of the Purchaser in and to the Lands is a

good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and

- (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in Schedule "E" hereto.
- 4. 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 from and after the delivery of the Monitor'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 had possession or control immediately prior to the sale.
 - 5. The Monitor is to file with the court a copy of the Monitor's Certificate forthwith after delivery thereof.
 - 6. Pursuant to Section 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* or Section 18(10)(o) of the *Personal Information Protection Act* of British Columbia, the Monitor and the Vendor are hereby authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Vendor's records pertaining to the Vendor's past and current employees that are to be retained or hired by the Purchaser. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Petitioners.
 - 7. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Monitor to the Purchaser upon completion of the purchase and sale transaction contemplated in the Sale Agreement, subject to the permitted encumbrances as set out in the Sale Agreement and listed on Schedule "E" hereto.
 - 8. Notwithstanding:
 - (a) this CCAA proceeding or the termination thereof;
 - (b) any applications for a bankruptcy order in respect of any or all of the Petitioners now or hereafter made pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA") and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made by or in respect of any or all of the Petitioners,the vesting of the Purchased Assets in the Purchaser and/or any permitted assignees under the Sale Agreement pursuant to this order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Petitioners and shall not be void or voidable by

creditors of the Petitioners, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the BIA 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.

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this order and to assist the Monitor 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 Petitioners, the Purchaser and the Monitor, as an officer of this court, as may be necessary or desirable to give effect to this order or to assist the Petitioners, the Purchaser and the Monitor and its agents in carrying out the terms of this order.
10. The Monitor or any other party has liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this order.
11. 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

[illegible]

Schedule "B"

PURCHASE AND SALE AGREEMENT

Schedule "C"

FORM OF MONITOR'S CERTIFICATE

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

MONITOR'S CERTIFICATE

1. Capitalized terms used but not otherwise defined in this Monitor's Certificate shall have the meanings given to them in the order of the Supreme Court of British Columbia (the "**Court**") pronounced on [●], 2024 (the "**Approval and Vesting Order**") and the Offer to Purchase and Agreement of Purchase and Sale dated [●], 2024 (the "**Sale Agreement**") among BC Tree Fruits Cooperative and Growers Supply Company Limited (the "**Vendor**") and Stonemark Investments Ltd. (the "**Purchaser**"), a copy of which is appended as Schedule "B" to the Approval and Vesting Order.
2. Pursuant to an order made on August 13, 2024, as amended and restated on August 26, 2024, the court granted the Petitioners protection from their creditors and appointed the Monitor as monitor of the Petitioners, all under the provisions of the CCAA.
3. Pursuant to the Approval and Vesting Order, the court ordered that all of the right, title and interest of the vendor in and to the Purchased Assets shall vest in the Purchaser effective upon, among other things, delivery by the Monitor of this Monitor's Certificate to the Purchaser.

THE MONITOR HEREBY CERTIFIES as follows:

1. The Purchaser has delivered written notice to the Monitor that all applicable conditions in favour of the Purchaser under the Sale Agreement have been satisfied and/or waived, as applicable.
2. The Monitor has received the full amount of the Purchase Price under the Sale Agreement.
3. Except for delivery of this Monitor's Certificate, all of the transactions contemplated by the Sale Agreement have been implemented.

Dated at the City of Vancouver, in the Province of British Columbia, this [●] day of [●], 2024

GROWERS SUPPLY COMPANY LIMITED,
by their court-appointed monitor, **ALVAREZ
& MARSAL CANADA INC.** acting solely in
such capacity and not in its personal or
corporate capacity

Per: _____

Name:

Title:

Schedule “D”

CLAIMS TO BE DELETED/EXPUNGED FROM TITLE TO REAL PROPERTY

1. The mortgage registered by Canadian Imperial Bank of Commerce on October 15, 2008, with registration number CA945413, and all extensions and modifications thereto.
2. The assignment of rents registered by Canadian Imperial Bank of Commerce on October 15, 2008, with registration number CA945414, and all extensions thereto.

Schedule "E"

PERMITTED ENCUMBRANCES

1. the reservations, limitations, provisions or conditions expressed in the original grants from the Crown of any of the Lands and the statutory exceptions to title currently applicable to those Lands;
2. a Claim of right, title or jurisdiction which may be made or established by any aboriginal peoples by virtue of their status as aboriginal peoples to or over any lands;
3. liens for taxes, assessments, rates, duties, charges or levies not at the time due, which relate to obligations or liability assumed by the Purchaser; and
4. the Encumbrances listed below in respect of each of the lots comprising the Lands:
 - a. Easement No. KC23289

EXHIBIT B
MONITOR'S BRING-DOWN CERTIFICATE

TO: [●] (the “**Purchaser**”)

DATED: _____, 2024

This certificate is delivered pursuant to the purchase and sale agreement dated for reference _____, 2024, as amended from time to time (collectively, the “**Purchase and Sale Agreement**”) between Alvarez & Marsal Canada Inc., in its capacity as court-appointed Monitor of the assets, undertakings and property of Growers Supply Company Limited and BC Tree Fruits Cooperative and not in its personal or corporate capacity (collectively, the “**Monitor**”) and the Purchaser. Capitalized terms used and not defined in this certificate have the meanings given to them in the Purchase and Sale Agreement.

The Monitor certifies in favour of the Purchaser that the representations and warranties of the Vendor set forth in the Purchase and Sale Agreement are, as at the Closing Date, true and accurate in all material respects and all covenants of the Vendor to be performed on or before the Closing Date have been duly observed and performed in all material respects.

ALVAREZ & MARSAL CANADA INC. in
its capacity as court-appointed monitor
of **GROWERS SUPPLY COMPANY**
LIMITED and **BC TREE FRUITS**
COOPERATIVE and not in its personal
or corporate capacity

By: _____
Name:
Title:

EXHIBIT C
PURCHASER'S BRING-DOWN CERTIFICATE

TO: Alvarez & Marsal Canada Inc., in its capacity as court-appointed Monitor of Growers Supply Company Limited and BC Tree Fruits Cooperative and not in its personal or corporate capacity (collectively, the “**Monitor**”)

DATED: _____, 2024

This certificate is delivered pursuant to the purchase and sale agreement dated for reference _____, 2024, as amended from time to time (collectively, the “**Purchase and Sale Agreement**”) between the Monitor, Growers Supply Company Limited and BC Tree Fruits Cooperative, on the one hand, and [●] (the “**Purchaser**”), on the other hand. Capitalized terms used and not defined in this certificate have the meanings given to them in the Purchase and Sale Agreement.

The Purchaser certifies that the representations and warranties of the Purchaser set forth in the Purchase and Sale Agreement are, as at the Closing Date, true and accurate in all material respects and all covenants of the Purchaser to be performed on or before the Closing Date have been duly observed and performed in all material respects.

[●]

By: _____
Name:
Title:

Schedule “C”

FORM OF MONITOR’S CERTIFICATE

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

MONITOR’S CERTIFICATE

1. Capitalized terms used but not otherwise defined in this Monitor's Certificate shall have the meanings given to them in the order of the Supreme Court of British Columbia (the "**Court**") pronounced on October 4, 2024 (the "**Approval and Vesting Order**") and the Offer to Purchase and Agreement of Purchase and Sale dated October 3, 2024 (the "**Sale Agreement**") among BC Tree Fruits Cooperative and Growers Supply Company Limited (the "**Vendor**") and Stonemark Investments Ltd. (the "**Purchaser**"), a copy of which is appended as Schedule "B" to the Approval and Vesting Order.
2. Pursuant to an order made on August 13, 2024, as amended and restated on August 26, 2024, the court granted the Petitioners protection from their creditors and appointed the Monitor as monitor of the Petitioners, all under the provisions of the CCAA.
3. Pursuant to the Approval and Vesting Order, the court ordered that all of the right, title and interest of the vendor in and to the Purchased Assets shall vest in the Purchaser effective upon, among other things, delivery by the Monitor of this Monitor’s Certificate to the Purchaser.

THE MONITOR HEREBY CERTIFIES as follows:

1. The Purchaser has delivered written notice to the Monitor that all applicable conditions in favour of the Purchaser under the Sale Agreement have been satisfied and/or waived, as applicable.
2. The Monitor has received the full amount of the Purchase Price under the Sale Agreement.
3. Except for delivery of this Monitor's Certificate, all of the transactions contemplated by the Sale Agreement have been implemented.

Dated at the City of Vancouver, in the Province of British Columbia, this [●] day of [●], 2024

GROWERS SUPPLY COMPANY LIMITED,
by their court-appointed monitor, **ALVAREZ & MARSAL CANADA INC.** acting solely in such capacity and not in its personal or corporate capacity

Per: _____

Name:

Title:

Schedule "D"

CLAIMS TO BE DELETED/EXPUNGED FROM TITLE TO REAL PROPERTY

1. The mortgage registered by Canadian Imperial Bank of Commerce on October 15, 2008, with registration number CA945413, and all extensions and modifications thereto.
2. The assignment of rents registered by Canadian Imperial Bank of Commerce on October 15, 2008, with registration number CA945414, and all extensions thereto.

Schedule "E"

PERMITTED ENCUMBRANCES

1. the reservations, limitations, provisions or conditions expressed in the original grants from the Crown of any of the Lands and the statutory exceptions to title currently applicable to those Lands;
2. a Claim of right, title or jurisdiction which may be made or established by any aboriginal peoples by virtue of their status as aboriginal peoples to or over any lands;
3. liens for taxes, assessments, rates, duties, charges or levies not at the time due, which relate to obligations or liability assumed by the Purchaser; and
4. the Encumbrances listed below in respect of each of the lots comprising the Lands:
 - a. Easement No. KC23289