



**No. S-245481**  
**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

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

**SUPPLMENTAL REPORT TO TENTH REPORT OF THE MONITOR**

**ALVAREZ & MARSAL CANADA INC.**

**FEBRUARY 26, 2025**

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## **1.0 PURPOSE**

- 1.1 This supplemental report (the “**Supplemental Report**”) has been prepared by the Monitor to provide this Honourable Court with additional information in respect of the Sexsmith Accepted Offer and other information relevant to the Monitor’s application filed February 21, 2025.
- 1.2 The Supplemental Report should be read in conjunction with the Tenth Report of the Monitor dated February 24, 2025 (the “**Tenth Report**”), and other materials filed in the CCAA Proceedings (collectively, the “**Filed Materials**”). Background information, including definitions for capitalized terms not defined herein, are contained in the Filed Materials.
- 1.3 All monetary amounts contained in this Supplemental Report are expressed in Canadian dollars unless otherwise noted.

## **2.0 SEXSMITH ACCEPTED OFFER – PRICE ALLOCATION**

- 2.1 As noted in the Tenth Report, on February 11, 2025, the Monitor accepted an offer of \$19,250,000 for the Purchased Property (as defined in the Sexsmith Accepted Offer) from Novem Pharmaceuticals Inc. (“**Novem**”). On February 21, 2025, Novem assigned its rights, interests, and obligations under the Purchase Agreement to Ocorp Holdings Ltd. (the “**Purchaser**”), by way of an Assignment and Assumption Agreement. The Sexsmith Accepted Offer and the Assignment and Assumption Agreement were attached to the Tenth Report as Appendices “B” and “C”, respectively.
- 2.2 The following assets were included in the Sexsmith Accepted Offer: (i) the Sexsmith Property (land and buildings), (ii) equipment and machinery on site (including office and automotive equipment), and (iii) 39,772 wooden bulk bins that were on site at the Sexsmith Property (and proceeds from the sale of these bins).
- 2.3 As noted in the Tenth Report, the Monitor and Novem entered into the Sexsmith PSA and the Sexsmith Lease on September 5, 2024. The assets to be acquired under the Sexsmith PSA were consistent with those to be acquired under Sexsmith Accepted Offer. Moreover, it was contemplated under the Sexsmith PSA and the Sexsmith Lease that the prepaid rent for the Sexsmith Property in the amount of \$600,000 would be credited against the purchase price under the Sexsmith PSA at closing.
- 2.4 At the time when the Sexsmith PSA was executed, the B.C. tree fruit industry was facing a shortage of bulk bins, and as a result, Novem sold approximately 13,400 bins for gross proceeds of \$1,059,990 (including applicable taxes) from the 39,772 bins on site. Proceeds from these sales

were placed in trust with Novem’s counsel, Lawson Lundell LLP, and form part of the assets being purchased under the Sexsmith Accepted Offer.

2.5 From the Monitor’s perspective, the portion of the purchase price of \$19.25 million under the Sexsmith Accepted Offer attributable to the Sexsmith Property can be calculated as follows:

| <b>BC Tree Fruits Cooperative &amp; Growers Supply Company Limited</b> |                  |
|--|------------------|
| <b>Sexsmith Accepted Offer Purchase Price</b>                          |                  |
| <b>(\$000's)</b>   |                  |
| Sexsmith Accepted Offer gross proceeds                                 | \$ 19,250        |
| <i>Less:</i>   |                  |
| Net book value of mobile equipment                                     | (23)             |
| Value of bins located at the Sexsmith Property                         | (1,800)          |
| <b>Total</b>   | <b>\$ 17,427</b> |

2.6 The value of the remaining bins at the site has been estimated at approximately \$800,000 based on a preliminary assessment of the quality of the remaining bins at the site performed by Management.

2.7 Mobile equipment included in the sale had a net book value of approximately \$23,000 according to the books and records of BCTFC.

2.8 Other machinery and equipment at the site are generally part of the building, including the integrated cooling and controlled atmosphere systems, and other mechanical systems in the buildings.

2.9 During the term of the Sexsmith Lease, an incident occurred at the Sexsmith Property whereby a structural post in the Sexsmith Property was damaged by a forklift. Novem, as tenant, made arrangements to secure the integrity of the building, and the Sexsmith Property was inspected and cleared by the appropriate authorities in order for operations to continue. The post has not been replaced as of the date of this report as the controlled atmosphere system is in continuous use.

2.10 The Monitor has received a quote for the repair of the damaged post from Novem, and notes that the cost for the removal and replacement of the post was quoted at \$55,000. A quote provided to Novem by Greyback Construction dated November 27, 2024, to remove and replace the damaged post, among other improvements, is attached hereto as Appendix “A”.

**3.0 SEXSMITH PROPERTY – OFFERS FROM MEMBERS**

3.1 As described in the Tenth Report, the Sexsmith Property has been listed on MLS since September 2023, including after the commencement of the CCAA Proceedings.

- 3.2 On August 26, 2024, this Honourable Court approved the BCTF SISP. While the Sexsmith Property was not included as part of the BCTF SISP (as it was being separately listed on MLS), the Monitor entered into discussions with the Members’ Representative and other growers/members as they expressed interest in submitting a bid to purchase substantially all of BCTFC’s assets.
- 3.3 On September 26, 2024, the Monitor received an “Asset Purchase Agreement LOI” (the “**Member/Grower LOI**”) from the “BC Fruit Growers 2024 (1471734 B.C. Ltd.)” (the “**Member/Grower Group**”) under which the Member/Grower Group offered \$58 million to purchase all of the BCTF Group’s real estate, equipment, inventory and intellectual property. A copy of the Member/Grower LOI is attached hereto as Appendix “B”.
- 3.4 The Member/Grower Group consisted of ten shareholders, including Mr. Amarjit Lalli, the Member’s Representative. A copy of the shareholders information of the Member/Grower Group, which was received in conjunction with the Member/Grower LOI, is attached hereto as Appendix “C”.
- 3.5 A summary of the BCTF Group’s real estate included in the Member/Grower LOI is tabled below:

| <b>BC Tree Fruits Cooperative &amp; Growers Supply Company Limited<br/>Summary of Real Estate in Member/Grower LOI</b> |                                |
|--|--------------------------------|
| <b># Real Estate</b>   | <b>LOI Value<sup>[1]</sup></b> |
| 1 2605 Acland Road, Kelowna, B.C.  |                                |
| 2 754 35th Ave, Creston, B.C.  |                                |
| 3 1200 Waddington Drive, Vernon, B.C.  |                                |
| 4 101 8911 Jubilee Road East, Summerland, B.C.   |                                |
| 5 327 Co-op Avenue, & 334 Packing House Lane, Oliver, B.C.   | \$58 Million                   |
| 6 528 10th Ave, Keremeos, B.C.   |                                |
| 7 880 Vaughan Ave, Kelowna, B.C.   |                                |
| 8 3335 & 3345 Sexsmith Road, 3670 Highway 97 N, Kelowna, B.C.  |                                |
| 9 9718 Bottom Wood Lake Road, Lake Country, B.C.   |                                |

*Note:*

*1) LOI value includes equipment, inventory, intellectual property and records which are not listed in this table.*

- 3.6 While further discussions between the Member/Grower Group and Monitor were held, the Monitor, in consultation with CIBC and the Petitioners, ultimately did not accept the Member/Grower LOI as it was the view of the Monitor that the proposed value of \$58 million for the assets in question was not adequate.
- 3.7 On December 12, 2024, after the termination of the Sexsmith PSA in early December 2024, the Monitor, via Unison HM, received an offer (the “**Rikhi Corp Offer**”) for the Sexsmith Property for \$10 million from Rikhi Development Corporation (“**Rikhi Corp**”). The Monitor notes that the

principal of Rikhi Corp, Mr. Ramesh Rikhi, was one of the members of the Member/Grower Group. A copy of the Rikhi Corp Offer is attached hereto as Appendix “D”.

3.8 On December 16, 2024, the Monitor provided a counter-offer to Rikhi Corp at \$25 million, which was not responded to.

3.9 As of the date of this Supplemental Report, the Monitor has completed the following real estate transactions in the CCAA Proceedings:

| <b>BC Tree Fruits Cooperative &amp; Growers Supply Company Limited</b> |  |                           |
|--|--|---------------------------|
| <b>Gross Realizations from Real Estate Sales</b>                       |  |                           |
| <b>(\$000's)</b>   |  |                           |
| <b>#</b>   | <b>Real Estate</b>                             | <b>Gross Realizations</b> |
| 1  | 2605 Acland Road, Kelowna, B.C.                | \$ 9,500                  |
| 2  | 754 35th Ave, Creston, B.C.                    | 1,900                     |
| 3  | 1200 Waddington Drive, Vernon, B.C.            | 2,860                     |
| 4  | 880 Vaughan Ave, Kelowna, B.C.                 | 17,500                    |
| 5  | 9718 Bottom Wood Lake Road, Lake Country, B.C. | 9,100                     |
|  | <b>Total</b>                                   | <b>\$ 40,860</b>          |

3.10 Following the completion of the above sales, BCTFC now owns only the following four pieces of real estate:

- a) the Sexsmith Property;
- b) the Oliver Packing Plant;
- c) controlled atmosphere storage at Keremeos, B.C. (“**Keremeos**”); and
- d) controlled atmosphere storage at Summerland, B.C. (“**Summerland**”).

3.11 The Monitor notes the following:

- a) the aggregate value of the real property sold, plus the anticipated proceeds from the Sexsmith Accepted Offer (excluding the Oliver Packing Plant, Keremeos and Summerland) would exceed the value offered in the Member/Grower LOI for all of BCTFC’s assets; and
- b) the value of the Sexsmith Property under the Sexsmith Accepted Offer significantly exceeds the Rikhi Corp Offer.

#### **4.0 SEXSMITH PROPERTY – COMMISSION**

4.1 The Monitor understands that the Member’s Representative has concerns over the payment of commission of \$48,125 to Novem’s advisor, Mr. Warren Sarafinchan. It is noted that the payment to Mr. Sarafinchan is being deducted from Unison HM’s total commission, and Unison HM is in

agreement with this arrangement. No additional commission is being charged on this proposed transaction that is contrary to the Sexsmith Listing Agreement.

\*\*\*\*\*

All of which is respectfully submitted to this Honourable Court this 26<sup>th</sup> day of February, 2025.

**Alvarez & Marsal Canada Inc.,**  
in its capacity as Monitor of  
BC Tree Fruits Cooperative,  
BC Tree Fruits Industries Limited and Growers Supply Company Limited



Per: Anthony Tillman  
Senior Vice President



Per: Pinky Law  
Vice President

**Appendix A – Quote provided by Greyback Construction dated November 27, 2024**

DATE: November 27, 2024

**SPECIAL PROJECTS DIVISION  
PROJECT SHEETS**

|   |  |
|---|--|
| <b>ATTENTION TO:</b><br>(Client & contact person)   | Colin Davison- CEO of Novem- 403-888-2829, colin@novemcanada.com   |
| <b>PROJECT LOCATION:</b><br>(Street address, city)  | 3335 Sexsmith Rd. Kelowna, BC V1X 7T5  |
| <b>DETAILED SCOPE OF WORK:</b><br>(Bullet points)<br><br>Exclusions:<br><ul style="list-style-type: none"> <li>• Consulting Services</li> <li>• Geotechnical Reporting</li> <li>• Permit</li> </ul><br>Clarifications:<br><ul style="list-style-type: none"> <li>• The quote items are based on the information available at this time.</li> <li>• Work to be completed based on issuance of CLIENT PO.</li> </ul><br><i>All Greyback Supervision Labour, overhead and mark-up included (*Estimate is valid for 30 days from date indicated above – after 30 days all quotes are subject to price increase)</i> | <p><b>* Room #10 - \$35,000 + \$400,000 = \$435,000</b></p> <ul style="list-style-type: none"> <li>• Remove, damaged post that was “hit” (\$35,000)</li> <li>• Replace, all post - twenty (20) -(\$400,000)</li> </ul> <p><b>*Room #4- \$100,000</b></p> <ul style="list-style-type: none"> <li>• Buildup- all four (4) bearing 12 x 12 wood posts</li> </ul> <p><b>*Room #5- \$125,000</b></p> <ul style="list-style-type: none"> <li>• Buildup- all five (5) bearing 12x12 wood posts</li> </ul> <p><b>*Dry room / Basement- \$567,000 +\$120,000= \$687,000</b></p> <ul style="list-style-type: none"> <li>• Add concrete base and eighty (80) post to add required support (\$567, 000)</li> <li>• Repairs to sixty (60), cracked and broken joists (\$120,000)</li> </ul> <p><b>*Outside Cladding (Rm 4,5,10, Dry Room)- \$275,000</b></p> <ul style="list-style-type: none"> <li>• Waterproof (current wet walls with Sawdust)</li> </ul> <p><b><u>Conditions to this Quote</u></b></p> <ol style="list-style-type: none"> <li>1. Final Engineering plan and temp shoring design to be completed by 3<sup>rd</sup> party engineer prior to price confirmation and work start</li> <li>2. Ammonia system decommissioned prior to work start by owner or an alternate strategy that is deemed safe by 3<sup>rd</sup> party experts and Greyback</li> <li>3. Winter works (snow loads) could significantly impact the price/budget or ability to perform the work at all</li> <li>4. This price is valid for 30 days</li> </ol> |
| <b>COVID-19 &amp; COMMUNICABLE DISEASE PROTOCOLS TO BE FOLLOWED (Social Distancing, masks, hand washing, tool wipe down)</b>  |  |

|  |     |
|--|-----|
| <b>PROJECT START DATE:</b><br>(DD/MM/YYYY)                 | TBD |
| <b>DURATION/ESTIMATED COMPLETION DATE:</b><br>(DD/MM/YYYY) |     |



**Appendix B – the Member/Grower LOI**

## ASSET PURCHASE AGREEMENT LOI

This Asset Purchase Agreement ("**Agreement**") made as of September 26th, 2024,

BETWEEN:

ALVAREZ & MARSAL CANADA INC  
in its capacity as Court Appointed Monitor for  
BC TREE FRUITS COOPERATIVE, BC TREE FRUITS INDUSTRIES LIMITED, and  
GROWERS SUPPLY COMPANY LIMITED and not in its personal capacity

(the "**Vendor**")

AND:

BC FRUIT GROWERS 2024 (1471734 B.C. Ltd.)  
270 Highway 33 West  
Kelowna, B.C. V1X 1X7

(the "**Purchaser**")

WHEREAS:

- A. Pursuant to the order of the Supreme Court of British Columbia (the "**Court**"), dated August 13, 2024, BC Tree Fruits Cooperative ("**BCTFC**"), BC Tree Fruits Industries Limited ("**BCTF Industries**"), and Growers Supply Company Limited (collectively, the "**Companies**") were granted relief under the *Companies' Creditor Arrangement Act*, R.S.C. 1985 c. C-36 (the "**CCAA**"). Alvarez & Marsal Canada was appointed as Monitor (the "**Monitor**") with enhanced powers in these CCAA Proceedings. On August 26, 2024, the Court granted an order (the "**SISP Order**"), which, among other things, approved this sale and investment solicitation process (the "**SISP**") in respect of certain assets, including without limitation certain real property, inventory, accounts receivable, intellectual property, and goodwill (collectively the "**Assets**") and business operations (the "**Business**" and together with the Assets, the "**Property**") of the Companies.
- B. Under this SISP the Monitor will be soliciting bids for (i) an En Bloc sale of the Property, (ii) offers for the individual parcels of the real property located at 101 8911 Jubilee Road East in Summerland, 327 Co-op Avenue in Oliver, 334 Packing House Lane in Oliver, 528 10th Avenue in Keremeos, 9718 Bottom Wood Lake Road, Lake Country, 2605 Acland Road, Kelowna, 1200 Waddington Drive, Vernon, 880 Vaughan Avenue, Kelowna, 3335 & 3345 Sexsmith Road, Kelowna, 3670 Highway 97, Kelowna, British Columbia
- C. Subject to approval of the Court ("**Court Approval**"), the Purchaser has agreed to purchase from the Vendor, and the Vendor has agreed to sell to the Purchaser, the Purchased Assets (as defined herein), upon and subject to the terms and conditions of this Agreement (the "**Transaction**").

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties intending to be legally bound agree as follows:

### ARTICLE 1 DEFINITIONS

#### 1.1 Certain Defined Terms

As used in this Agreement, the following terms shall have the following meanings and grammatical variations of such terms shall have corresponding meanings:

"**Accounts Receivable**" means all accounts, notes, bills, trade accounts, volume rebates and trade receivables

of the Companies, or such portion as remains owing to the Companies on the Closing Date.

**"Agreement"** means this asset purchase agreement including all exhibits and schedules and all amendments or restatements, as permitted.

**"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 license of any Governmental Authority, that applies in whole or in part to the Transaction, the Vendor, the Purchaser, the Business, or any of the Purchased Assets.

**"Approval and Vesting Order"** means a Court order substantially in the form of the BC Model Order, with any amendments thereto to be acceptable to the Vendor and the Purchaser, each acting reasonably, which shall, among other things:

- (a) authorize and approve this Agreement and the execution and delivery thereof by the Monitor on behalf of the Companies.
- (b) authorize and direct the Vendor to complete the Transaction.
- (c) vest the Purchased Assets in the Purchaser upon filing of a Court Order; and
- (d) provide for the vesting of title to the Purchased Assets all Encumbrances other than Permitted Encumbrances, upon the delivery of a Court Order to the Purchaser.

**"Approval Date"** has the meaning specified in Section 8.1.

**"Claims"** means any claims, obligations, demands, costs, damages, expenses, losses, damages (including special, punitive, exemplary, consequential and indirect damages), charges, suits, orders, actions, proceedings (governmental, administrative or otherwise), judgments, reviews, inquiries, investigations, audits, obligations and debts, including interest, penalties, fines, court costs and reasonable lawyer's fees and disbursements.

**"Closing"** means the closing of the Transaction contemplated by this Agreement.

**"Closing Date"** means 14 days after the Approval and Court Order is granted, or such other date as the parties may agree

**"Closing Documents"** means the documents referred to in Sections 9.1 and 9.2 hereof.

**"Companies"** means BC Tree Fruits Cooperative ("BCTFC"), BC Tree Fruits Industries Limited ("BCTF Industries"), and Growers Supply Company Limited (collectively, the "Companies").

**"Court"** means the Supreme Court of British Columbia.

**"Court Approval"** has the meaning given to it in the Recitals hereto.

**"Deposit"** has the meaning specified in Section 2.4.

**"Documents"** has the meaning specified in Section 12.5.

**"Encumbrances"** means with respect to the Purchased Assets any financial charge or encumbrance of whatever kind or nature, regardless of form, whether or not registered or registrable and whether or not consensual or arising by law (statutory or otherwise), including any mortgage, charge, pledge, hypothecation, security interest, lien, restrictive or statutory covenant, lease, licence, assignment, option or claim, or right of any Person of any kind or nature whatsoever or howsoever arising which may constitute or become by operation of law or otherwise an encumbrance on any of the Purchased Assets.

**"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.

**"Equipment"** means those assets set out in SCHEDULE D.

**"ETA"** has the meaning specified in Section 2.6(a).

**"Excluded Assets"** means all of the Companies' right, title and interest in and to the following: (a) all shares of capital stock or other equity interests in securities in any entity; and (b) Accounts Receivable.

**"Governmental Authority"** means any Canadian federal, provincial, municipal or local or governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body or any other public agency.

**"GST"** has the meaning specified in Section 2.6(a).

**"GST Certificate"** has the meaning specified in Section 2.6(a).

**"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 chlorophenyls, 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.

**"Intellectual Property"** means all trade-marks, trade names, business names, service names, copyrights, patents, technology rights, inventions, computer software, Internet protocol addresses and domain names associated with the business of the Companies including, trade secrets, know-how, industrial designs and other industrial or intellectual property and all applications therefor including, all licenses or similar rights used by or granted to the Companies in connection therewith.

**"Inventory"** means those assets set out in SCHEDULE B.

**"Liabilities"** means all costs, expenses, charges, debts, liabilities, amounts owing, claims, demands and obligations, whether primary or secondary, direct or indirect, fixed, secured or unsecured, accrued, contingent, known or unknown, absolute or otherwise.

**"Mutual Condition"** has the meaning specified in Section 3.1(b) and Section 8.1.

**"Parties"** means the parties to this Agreement and "Party" means any one of the parties to this Agreement, as the context requires.

**"Permitted Encumbrances"** means those registered encumbrances against title to the Purchased Assets, specified as such in SCHEDULE C.

**"Person"** means any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity.

**"PST"** has the meaning specified in Section 2.6(b).

**"Purchased Assets"** means all of the Companies' right, title and interest in and to the following:

- a) the Real Property;
- b) the Equipment;
- c) any existing Inventory;
- d) the Intellectual Property; and

e) the Records,

but excluding all Excluded Assets.

**"Purchase Price"** has the meaning specified in Section 2.2.

**"Real Property"** means the real property described in SCHEDULE A and includes all improvements and fixtures located in, on, or under, the Real Property, and the benefit of all easements, permits, and other appurtenances to the Real Property.

**"Records"** means all books and records of the Companies in connection with the Purchased Assets including but not limited to, copies of all accounting records, permits, all customer and supplier lists, files, documents, books, manuals, research, reservations, price lists, correspondence and databases, all in the form and on the medium or media used in the business of the Companies.

**"Third Party"** means a Person who is not a Party.

**"Transaction"** means the transaction of purchase and sale of the Purchased Assets contemplated by this Agreement.

## 1.2 List of Schedules

The following Schedules are incorporated in and form an integral part of this Agreement:

SCHEDULE A Real Property  
SCHEDULE B Inventory  
SCHEDULE C Permitted Encumbrances  
SCHEDULE D Equipment  
SCHEDULE E Purchase Price Allocation

## ARTICLE 2 PURCHASE AND SALE OF ASSETS

### 2.1 The Purchased Assets

Subject to the terms and conditions of 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 any and all Encumbrances, Liabilities, and Claims, except for Permitted Encumbrances.

### 2.2 Purchase Price

The purchase price (the **"Purchase Price"**) payable by the Purchaser to the Vendor in consideration for the Purchased Assets shall be **FIFTY-EIGHT MILLION DOLLARS (\$58,000,000.00)**

### 2.3 Adjustment

- (a) In respect of the Real Estate (if any), 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 Real Estate in British Columbia, both incoming and outgoing, will be made as of 12:00:00 a.m. on the Closing Date.
- (b) Except as otherwise provided herein, the Vendor will be responsible 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 and will be entitled to receive all revenues accruing from and including the Closing Date in respect of the Purchased Assets.
- (c) Other than taxes, there shall be no other adjustment to the Purchase Price.

## 2.4 Deposit and Payment of Purchase Price

The Purchaser shall pay the Purchase Price as follows:

- (a) **FIVE MILLION DOLLARS (\$5,000,000.00)**, by way of deposit (the “**Deposit**”) to be paid by the Purchaser to the Vendor’s Lawyer in trust, within 14 business days of execution of this Agreement by all parties; and
- (b) the balance of the Purchase Price, to be paid on closing by certified cheque, bank draft or wire transfer of immediately available funds to or to the order of the Monitor/ Vendor.

## 2.5 Terms of Deposit

The Deposit shall be held in trust by the Vendor’s Lawyers, in a non-interest-bearing trust account. The Deposit shall be dealt with as follows:

- (a) on the Closing Date, the Deposit shall be credited on account of the Purchase Price.
- (b) if Mutual Conditions are not satisfied or waived within the applicable time period, the Deposit will be returned to the Purchaser forthwith without any deduction, as the sole remedy of the Purchaser against the Vendor; or
- (c) 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 after all conditions to the Vendor’s obligation to complete have been satisfied or waived or if the Vendor repudiates this Agreement, then the Deposit together with accrued interest thereon shall be refunded to the Purchaser upon demand by the Purchaser, as the sole remedy of the Purchaser against the Vendor.

## 2.6 Taxes

- (a) 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 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 2.6(c), 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 Monitor, Vendor and its 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 2.6(a), the GST Certificate or any declaration made therein and such indemnity will survive Closing.
- (b) 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 Vendor an amount equal, to the PST (if any) payable by the Purchaser and collectible by the Monitor 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 Monitor 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.

- (c) 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 Transaction, each of the Vendor 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 therefore, in respect of the sale and transfer of the Purchased Assets and the Purchaser shall file such election with the Canada Revenue Agency.
- (d) The Purchaser will be responsible for all property and other transfer taxes, fees and expenses in connection with the registration of the Approval and Court 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.

## 2.7 Allocation of Purchase Price

The Purchase Price shall be allocated between the Purchased Assets in accordance with SCHEDULE E.

## ARTICLE 3 PURCHASERS CONDITIONS

### 3.1 Purchase Agreement

The negotiation and preparation of a definitive purchase agreement (the "Purchase Agreement") shall be subject to the satisfaction of the following conditions precedent:

- (a) Purchaser's Conditions: The following conditions will be for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser in his sole discretion on or before **November 1<sup>st</sup>, 2024**, unless otherwise noted:
  - i. the Purchaser undertaking and completing due diligence customary for a transaction of this nature with results of the due diligence.
  - ii. the Purchaser completing a walkthrough of the Company's business premises and viewing all properties.
  - iii. the Purchaser obtaining financing on terms and conditions to the sole satisfaction of the Purchaser.
  - iv. the Purchaser reviewing the inventory report and the value of such inventory.
  - v. the Purchaser and their advisors obtaining and reviewing all licences, permits, registrations and other authorizations required by either the Government of Canada or the Province of British Columbia for all operations.
  - vi. the Purchaser reviewing the Equipment list as provided by the Vendor and being satisfied with the condition of the equipment at the Purchaser's sole discretion.
- (b) Mutual Conditions: The following condition will be for the mutual benefit of the Vendor and the Purchaser, and may only be waived, in whole or in part, by the Vendor and the Purchaser together:
  - i. The Purchaser and The Vendor agree to engage their respective lawyers to begin the formal Share Purchase Agreement process on or before November 1<sup>st</sup>, 2024
  - ii. The formal Asset Purchase Agreement will include the terms and conditions of this LOI, together with representations and warranties, covenants, closing conditions, and other

terms as are customary for an Asset purchase transaction of this nature. The parties will negotiate expeditiously and in good faith with the aim to complete the formal Asset Purchase Agreement on or before November 29<sup>th</sup>, 2024. The formal Asset Purchase Agreement shall be satisfactory to the Purchaser's solicitors.

#### **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE SELLER**

The Vendor hereby represents and warrants to the Purchaser that is not a non-resident of Canada under the *Income Tax Act (Canada)*. The Vendor makes no representations or warranties of any kind whatsoever, expressed or implied, with respect to the Purchased Assets.

#### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF BUYER**

The Purchaser hereby represents and warrants to the Vendor as follows:

- (a) the Purchaser is a duly formed and registered corporation existing pursuant to the laws of the jurisdiction of its incorporation.
- (b) the Purchaser has the power and authority to execute and deliver this Agreement and the other documents and instruments contemplated herein or therein to which it is or will be a party and to perform its obligations hereunder and thereunder. The execution, delivery and performance of this Agreement and the documents contemplated hereby, and the consummation of the transaction contemplated hereby and thereby have been duly authorized and approved by the Purchaser.
- (c) this Agreement, and if, as, and when executed, each of the other agreements, documents and instruments to be executed and delivered by the Purchaser on or before the Closing, have been or will upon such execution and delivery be duly executed and delivered by, and constitute the valid and binding obligations of the Purchaser, in accordance with their terms;
- (d) the execution and delivery by the Purchaser of this Agreement and the performance by the Purchaser of its obligations under this Agreement will not result in the breach or violation of any terms or conditions of:
  - (i) the constating documents or by-laws of the Purchaser; or
  - (ii) any applicable law, regulation or order; and
- (e) the Purchaser will be a registrant for purposes of Part IX of the Excise Tax Act (Canada) on the Closing Date and its registration number shall be provided as part of the Closing; or alternatively the Purchaser will remit to the Vendor all applicable GST.
- (f) 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.

#### **ARTICLE 6 ACKNOWLEDGEMENTS BY PURCHASER**

##### **6.1 "As Is, Where Is"**

Except as expressly provided herein, the Purchaser acknowledges that the Purchased Assets are purchased

on an "as is, where is" basis and without any representation or warranty by the Vendor of any kind and that the Purchaser has inspected the Purchased Assets and will not be obligated to accept the same unless on the Closing Date the Purchased Assets are in the same state, condition and location existing as of the date of this Agreement, reasonable wear and tear excepted.

## **6.2 Vendor's Capacity**

The Purchaser acknowledges that the Vendor is entering into this Agreement solely in its capacity as the court-appointed Monitor and manager of the Companies and not in its personal or corporate capacity. The Purchaser acknowledges that the Vendor is selling the right, title, and interest of the Companies in the Purchased Assets pursuant to the Court Order and the Approval and Vesting Order. The Purchaser agrees to purchase and accept the right, title, and interest of the Companies 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 Vendor of this Agreement is expressly subject to Court Approval and all such other orders that the Court may make.

## **6.3 Site Profile and Environmental Condition.**

- (a) The Purchaser hereby requests the Vendor to deliver a site profile or site disclosure statement to the Purchaser for the Real Estate as contemplated by the *Environmental Management Act*, SBC 2003, c 53 or any regulation in respect thereof.
- (b) Without limiting the generality of the foregoing, the Purchaser acknowledges and agrees that the Vendor does not make any representation or warranty with regard to the environmental condition of the Real Estate, 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 Real Estate, and that the environmental condition of or relating to the Real Estate is otherwise satisfactory.
- (c) The Purchaser does hereby irrevocably release and forever discharge the Monitor, Vendor and each of its 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 Real Estate, any contamination or Hazardous Substances located on the Real Estate or migrating onto the Real Estate or from the Real Estate or any breach of any Environmental Laws irrespective of whether such Claim arose before or after the Purchaser's acquisition of the Real Estate 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 or any of them relating to the environmental condition of or any environmental matter or issue involving the Real Estate 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 Real Estate (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 Real Estate 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 6.3 constitutes 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 Real Estate or otherwise associated with the Real Estate and any contamination of adjacent properties and waters resulting from such Hazardous Substances and contamination or remediation of the Real Estate.
- (g) The terms of this Section 6.3 shall survive completion of the sale of the Real Estate to the

Purchaser.

## **ARTICLE 7 COVENANTS OR APPROVALS**

### **7.1 Consents**

The Purchaser shall take, or cause to be taken, and the Monitor and Vendor shall, as may be requested by the Purchaser, take or cause to be taken, all commercially reasonable actions and as may be necessary, proper or advisable to permit and diligently pursue completion of the Transaction contemplated by this Agreement in accordance with the terms hereof, including obtaining the authorization, approval or consent of any Governmental Authority and shall co-operate with each other in connection therewith, including using all commercially reasonable efforts to obtain as soon as reasonably possible and in any event, prior to the Closing Date any consents required from any Governmental Authority having jurisdiction over the Purchased Assets, provided that the Purchaser will fully indemnify the Vendor against its reasonable costs and expenses incurred by the Vendor for services requested by the Purchaser in connection with obtaining the consents, if any, required under this Section 7.1.

### **7.2 Transfer of Purchased Assets**

In connection with transfer and assignment of the Purchased Assets, the Vendor shall at the request and sole cost of the Purchaser take all such actions and do, or cause to be done, all such things at the request of the Purchaser as shall reasonably be necessary in order to transfer or assign the Purchased Assets, including but not limited to any licenses, permits, and all Intellectual Property and Trademarks, to the Purchaser, but only to the extent the same are transferable.

## **ARTICLE 8 COURT APPROVAL**

### **8.1 Court Approval**

The obligation of the Parties to complete the transactions contemplated by this Agreement will be subject to the following mutual condition (the "**Mutual Condition**"), for the benefit of both the Monitor, Vendor and the Purchaser:

- (a) that on or before November 1st, 2024, or such later date as the Monitor/ Vendor and Purchaser may agree to in writing (the "**Approval Date**"), the Monitor/ Vendor will have obtained the Approval and Court Order satisfactory to the Monitor/ Vendor and the Purchaser,

The Mutual Condition is for the mutual benefit of the Monitor/ 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 Approval Date, then the Purchaser's and Monitor/ Vendor's obligation to complete the Transaction pursuant to this Agreement will be at an end.

### **8.2 Appeals**

For greater certainty, expiration of the appeal period for the Court Order shall not be a precondition of the Purchaser's or Vendor's obligation to complete the within transaction. Vendor shall forthwith upon execution of this Agreement by all parties make application and diligently pursue obtaining Court Approval.

## **ARTICLE 9 CLOSING MATTERS**

### **9.1 Vendor's Closing Documents**

On the Closing Date, the Vendor will deliver the following to the Purchaser's solicitor, on the condition that the same will only be dealt with in accordance with the procedure set out in Section 9.1

- (a) a certified copy of the Approval and Court Order.
- (b) if applicable and available in respect of the Transaction, an election under section 167 of the ETA pursuant to Section 2.6;
- (c) the bill of sale duly executed by the Vendor, together with such other deeds of conveyance, bills of sale, assurances, transfers, assignments, consents, and such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the transfer of the Purchased Assets;
- (d) all Records that are in the possession or control of the Monitor; and
- (e) such documents necessary or desirable in the parties' mutual opinion, acting reasonably, to effect the assignment, transfer and sale of the Purchased Assets as contemplated by this Agreement, to the extent not effected by the Approval and Vesting Order, in form and substance satisfactory to the Purchaser, acting reasonably.

## 9.2 The Purchaser's Closing Documents

On the Closing Date, the Purchaser will deliver the following to the Vendor's solicitor, on the condition that the same will only be dealt with in accordance with the procedure set out in Section 9.2:

- (a) payment of the balance of the Purchase Price pursuant to Section 2.4;
- (b) the GST Certificate or an election under section 167 of the ETA pursuant to Section 2.6;
- (c) such other documents as may be requested by the Vendor, acting reasonably.

## 9.3 Terms of Closing

None of the Closing Documents and monies will be dealt with before Closing until the deliveries contemplated by this ARTICLE 9 have been made, and the Mutual Condition has been fulfilled, except in accordance with Section 2.4 hereof.

## ARTICLE 10 PIPA PROVISIONS

### 10.1 Disclosure of Information

The Purchaser acknowledges and agrees that in the course of the Purchaser's due diligence in respect of the Purchased Assets, the Purchaser has requested and may hereafter request and the Vendor has disclosed and may hereafter disclose certain personnel records and other information related to Purchased Assets and/or the business of the Companies that may include "personal information" (the "**Personal Information**") as defined in and subject to the British Columbia *Personal Information Protection Act* ("**PIPA**"). For the purposes of Section 20 of PIPA:

- (a) the Purchaser hereby confirms to the Vendor that the Personal Information that the Purchaser has requested or may hereafter request in the course of its due diligence is necessary in order for the Purchaser to determine whether to proceed with the proposed purchase of the Purchased Assets; and
- (b) the Purchaser hereby covenants and agrees that:

- i. prior to Closing, any Personal Information that the Vendor discloses to the Purchaser shall be used by the Purchaser solely for purposes related to its due diligence and its proposed purchase of the Purchased Assets.
- ii. if the proposed purchase of the Purchased Assets does not proceed or is not completed, the Purchaser will destroy or return to the Vendor all of the Personal Information disclosed to the Purchaser by the Vendor in accordance with the Vendor's instructions; and
- iii. if the proposed purchase of the Purchased Assets is completed:
  - (i) the Purchaser shall only use or disclose the Personal Information for the same purposes for which it was collected, used or disclosed by the Vendor, or as otherwise permitted by and in accordance with PIPA; and
  - (ii) the Purchaser shall notify the individuals who are the subject of the Personal Information that the purchase of the Purchased Assets has taken place and that their Personal Information was disclosed to the Purchaser.

## **ARTICLE 11 TERMINATION**

### **11.1 Termination**

This Agreement may be terminated at any time prior to the Closing Date, as the case may be:

- (a) by mutual written consent of the Purchaser and the Monitor.
- (b) by the Purchaser or the Vendor if any court of competent jurisdiction or other Governmental Authority shall have issued an order, decree or ruling, or taken any other action specifically restraining, enjoining or otherwise prohibiting the transaction contemplated hereby, which order, decree, ruling or other action is not stayed or dismissed prior to the Closing Date; or
- (c) by either party if the Mutual Condition is not satisfied by the Approval Date.

## **ARTICLE 12 MISCELLANEOUS**

### **12.1 Risk of Loss**

Up to the time of the Closing, the Purchased Assets shall be and remain at the risk of the Vendor.

### **12.2 Notices**

Any demand, notice or other communication to be made or given hereunder shall be in writing and may be made or given by personal delivery, sent by courier, or transmitted by electronic mail, as follows:

- (a) to the Purchaser:

BC FRUIT GROWERS INC. 2024 (1471734 B.C. Ltd.)  
270 Highway 33 West  
Kelowna, B.C. V1X 1X7

with a copy to:

Benson Law LLP  
270 Hwy 33  
Kelowna, BC V1X 1X7  
Attention: Robert Starke

(b) to the Vendor:

Alvarez & Marsal Canada Inc.  
925 West Georgia Street, Suite 902  
Vancouver, B.C. V6C 3L2  
Attention: Anthony Tillman and Pinky Law

Emails: atillman@alvarezandmarsal.com and pinky.law@alvarezandmarsal.com

or to such other address or facsimile number as any party may from time to time notify to the other party in accordance with this Section 12.2. Any demand, notice or communication made or given by personal delivery shall be conclusively deemed to have been made or given on the day of actual delivery thereof and if made or given by facsimile copy or other means of electronic transmission, shall be conclusively deemed to have been given on the day of transmittal.

### **12.3 Further Assurances**

At any time and from time to time after the date hereof each of the parties hereto, at the reasonable request and expense of the other party hereto, will execute and deliver such other instruments of sale, transfer, conveyance, assignment, confirmation and other instruments as may be reasonably requested in order to more effectively transfer, convey and assign to the Purchaser and to confirm the Purchaser's title to the Purchased Assets and to effectuate the transaction contemplated herein.

### **12.4 Legal Fees and Broker's Fees**

Each Party shall be responsible for and bear all of its own costs and expenses, including any broker's or finder's fees and the expenses of its legal and other representatives, incurred at any time in connection with pursuing and/or consummating the Transaction.

### **12.5 Entire Agreement**

This Agreement together with the Schedules hereto and the other documents executed in connection herewith or referred to herein (together, the "**Documents**") embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in the Documents shall affect, or be used to interpret, change or restrict, the express terms and provisions of the Documents.

### **12.6 Modifications and Amendments**

The terms and provisions of this Agreement may be modified or amended only by written agreement executed by all parties hereto and, where same may be required, by order of the Court.

### **12.7 Assignment**

No party to this Agreement may assign any of its rights or obligations under this Agreement without the prior written consent of the other Party.

### **12.8 Parties in Interest**

This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their permitted

assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement. Nothing in this Agreement shall be construed to create any rights or obligations except among the parties hereto, and no person or entity shall be regarded as a third party beneficiary of this Agreement.

**12.9 Governing Law**

This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of British Columbia and the federal laws of Canada applicable therein.

**12.10 Headings and Captions**

The headings and captions of the various subdivisions of this Agreement are for convenience of reference only and shall in no way modify, or affect, or be considered in construing or interpreting the meaning or construction of any of the terms or provisions hereof.

**12.11 Counterparts**

This Agreement may be executed in counterparts, and by different parties hereto on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Execution and delivery of this Agreement may be made and evidenced by facsimile or other electronic means of transmission.

IN WITNESS WHEREOF, the Purchaser and the Vendor have executed this Agreement as of the day and year first written above.

ALVAREZ & MARSAL CANADA INC. in its capacity as Court appointed Monitor of BC TREE FRUITS COOPERATIVE, BC TREE FRUITS INDUSTRIES LIMITED, and GROWERS SUPPLY COMPANY LIMITED and not in its personal capacity

Per: \_\_\_\_\_  
Name:  
Title:

BC TREE FRUITS 2024 (1471734 B.C. Ltd) by its authorized signatory:

Per:  09/27/24  
Name: Gordie Sandhu  
Title: Director

  
Amarjit Lalli  
Director

 09/27/24  
Surinder Gosal  
Director

**SCHEDULE "A"**  
**REAL PROPERTY**

**(Please confirm as our information was limited)**

A. 2605 Acland Road, Kelowna, British Columbia

PID: 023-189-096

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

B. 754 35th Ave S Creston, Creston, British Columbia

PID: 025-774-778

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

C. 1200 Waddington Drive, Vernon, British Columbia

PID: 005-056-535

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

D. 101 8911 Jubilee Road East, Summerland, British Columbia

PID: 005-529-018, 005-529-026, 009-868-135

LOT 1, PLAN KAP25304, DISTRICT LOT 473, OSOYOOS DIV OF YALE LAND DISTRICT

LOT 2, PLAN KAP25304, DISTRICT LOT 473, OSOYOOS DIV OF YALE LAND DISTRICT

LOT 2, PLAN KAP8244, DISTRICT LOT 473, OSOYOOS DIV OF YALE LAND DISTRICT

E. 327 Co-op Avenue, Oliver, British Columbia

PID: 029-001-285

LOT A, PLAN EPP25807, DISTRICT LOT 2450S, SIMILKAMEEN DIV OF YALE LAND DISTRICT,  
EXCEPT PLAN KAP61843

F. 334 Packing House Lane, Oliver, British Columbia

PID: 029-001-293

LOT B, PLAN EPP25808, DISTRICT LOT 2450S SIMILKAMEEN DIV OF YALE LAND DISTRICT

G. 528 10th Ave, Keremeos, British Columbia

PID: 008-237-051

LOT 1, PLAN KAP18668, DISTRICT LOT 174, SIMILKAMEEN DIV OF YALE LAND DISTRICT,  
EXCEPT PLAN KAP61843

H. 880 Vaughan Ave, Kelowna, British Columbia

PID: 012-603-911

THE NORTHERLY 349.38 FEET OF BLOCK 30 MEASURED ALONG THE EASTERLY BOUNDARY  
OF SAID BLOCK BY THE FULL DEPTH THEREOF SECTION 30 TOWNSHIP 26 OSOYOOS  
DIVISION YALE DISTRICT PLAN 202

I. 3335 & 3345 Sexsmith Rd, Kelowna, British Columbia

PID: 003-285-359

LOT 1 SECTION 35 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 36362

J: 3670 Highway 97 N, Kelowna, British Columbia

PID: 005-312-060

LOT A, PLAN KAP4410, SECTION 35, TOWNSHIP 26, OSOYOOS DIV OF YALE LAND DISTRICT,  
EXCEPT PLAN RD ON PL 37429 AND H8110 (2) PLAN 37430

K. 9718 Bottom Wood Lake Rd, Lake Country, British Columbia

PID: 009-973-532

LOT 38, PLAN KAP457, DISTRICT LOT 118, OSOYOOS DIV OF YALE LAND DISTRICT, EXCEPT  
PLAN 17370 22191 36673

**SCHEDULE "B"**  
**INVENTORY**

- TBD

**SCHEDULE "C"**  
**PERMITTED ENCUMBRANCES**

**Permitted Encumbrances:**

**SCHEDULE "D"**  
**EQUIPMENT**

All equipment used in the operation of the Companies' business located on the Lands.

**SCHEDULE "E"**  
**Allocation of the Purchase Price**

| <b>Asset</b>  | <b>Allocation of Purchase Price</b> |
|---------------|-------------------------------------|
|               |                                     |
|               |                                     |
|               |                                     |
|               |                                     |
|               |                                     |
| <b>Total:</b> |                                     |

**Appendix C – Shareholders information of the Member/Grower Group**

**B.C. Fruit Growers 2024 - 1471734 B.C Ltd**

**(Shareholders Information)**

Please see below Shareholder information for the 10 CLASS "A" Shareholders of 1471734 B.C. Ltd

Gordie Sandhu –

Second Generation Farmer  
Large scale vertically integrated cherry operation  
Past BC Cherry Association Director  
First family to establish a private packing operation  
Vast experience in apple, cherry packing  
First operation to pack on a optical cherry sizer  
Experience in fruit sales domestic and export  
Consulting growers, packers and broker

Ramesh Rikhi –

Fruit grower in Summerland since 1978  
Has been in building, construction and retail business  
Served on real Council of British Columbia a public appointee for approximately 17 years.  
Director on Valley First now First West for approximately 17 years.  
Serving on South Okanagan Similkameen Medical Foundation  
Director on Okanagan College Foundation

Amarjit Lalli –

Past BC Tree Fruit Director  
Apple Grower  
Subway franchise operator  
Kelowna Cab operator  
Chamber of Commerce Board 2023  
Sikh representative on the Spiritual Care Advisory Committee for Kelowna General Hospital  
Previous Director for Summerland Varieties  
Past President of The Okanagan Sikh Temple and Cultural Society.  
Served on the BCFGa for 2 terms

Gurjit Pabla –

Operations manager for Gorman's  
Apple Grower  
BCTF Director

Surinder Gosal –

Developer  
Home builder  
BC Risk Management Board  
NPAC Board  
BC Tree Fruit Director  
Apple Farmer  
Advisor

Rajan Gill –

Second generation farmer  
Pesticide sales rep for Cohart  
Degree in Biology and Professional Agrologist (PAG)  
Large scale organic apple grower  
Consultant to growers

Deep Brar –

President of BCFGA  
Large scale vertically integrated cherry operation  
Apple Grower  
Peach Grower

Avtar Boparai –

Past President of Okanagan Sikh Temple  
Past President of Guru Armadas Darbar  
Award winning apple grower  
Large cherry grower  
Community activist

Tahir Raza –

Award winning apple grower  
Face of Buy BC

HONEYBEAR BRANDS –

Multi regional vertically integrated apple production, distribution marketing company.  
Production of unique high value varieties, Honeycrisp, Jazz, Sonja, Pazazz and Riverbell.  
Owns apple and cherry operations in Minnesota and Washington with additional packing partners in Michigan, Wisconsin, New York, Chile and Nova Scotia, Canada  
Honeybear Marketing company current sales exceed \$290 Million.  
Largest apple importer in the USA with over 1.2 million boxes of apples, pears and cherries imported annually.

In 2020, expanded Midwest regional footprint. Today Honeybear represents Elite Apple Company in Michigan. Elite Apple Company is a successful privately held grower owned production facility.

A model that BC Tree Fruits 2024 could replicate.

## **Appendix D – the Rikhi Corp Offer**

## INFORMATION ABOUT THE CONTRACT OF PURCHASE AND SALE **COMMERCIAL REAL ESTATE**

THIS INFORMATION IS INCLUDED FOR THE ASSISTANCE OF THE PARTIES ONLY. IT DOES NOT FORM PART OF THE CONTRACT AND SHOULD NOT AFFECT THE PROPER INTERPRETATION OF ANY OF ITS TERMS.

1. **CONTRACT:** This document, when signed by both parties, is a legally binding contract. READ IT CAREFULLY. The parties should ensure that everything that is agreed to is in writing.
2. **DEPOSIT(S):** Section 28 of the *Real Estate Services Act* requires that money held by a brokerage in respect of a real estate transaction for which there is an agreement between the parties for the acquisition and disposition of the real estate be held by the brokerage as a stakeholder. The money is held for the real estate transaction and not on behalf of one of the parties. If a party does not remove a subject clause, the brokerage requires the written agreement of both parties in order to release the deposit. If both parties do not sign the agreement to release the deposit, then the parties will have to apply to court for a determination of the deposit issue.
3. **COMPLETION:** (Clauses 6.1 and 17) Unless the parties are prepared to actually meet at the Land Title Office and exchange title documents for the purchase price, it is, in every case, advisable for the completion of the sale to take place in the following sequence:
  - (a) The buyer pays the purchase price or down payment in trust to the buyer's lawyer or notary (who should advise the buyer of the exact amount required) several days before the completion date and the buyer signs the documents.
  - (b) The buyer's lawyer or notary prepares the documents and forwards them for signature to the seller's lawyer or notary who returns the documents to the buyer's lawyer or notary.
  - (c) The buyer's lawyer or notary then attends to the deposit of the signed title documents (and any mortgages) in the appropriate Land Title Office.
  - (d) The buyer's lawyer or notary releases the sale proceeds at the buyer's lawyer's or notary's office.

Since the seller is entitled to the seller's proceeds on the completion date, and since the sequence described above takes a day or more, it is strongly recommended that the buyer deposits the money and the signed documents AT LEAST TWO DAYS before the completion date, or at the request of the conveyancer, and that the seller delivers the signed transfer documents no later than the morning of the day before the completion date.

While it is possible to have a Saturday or Sunday completion date using the Land Title Office's electronic filing system, parties are strongly encouraged NOT to schedule a Saturday completion date as it will restrict their access to fewer lawyers or notaries who operate on Saturdays; lenders will generally not fund new mortgages on Saturdays; lenders with existing mortgages may not accept payouts on Saturdays; and other offices necessary as part of the closing process may not be open.

4. **POSSESSION:** (Clauses 7.1 and 18) The buyer should make arrangements through the REALTORS® for obtaining possession. The seller will not generally let the buyer move in before the seller has received the sale proceeds. Where residential tenants are involved, buyers and sellers should consult the *Residential Tenancy Act*.
5. **ADJUSTMENT:** (Clauses 8.1 and 19) The buyer and seller should consider any additional adjustments that are necessary given the nature of the property and how any costs are payable by tenants and whether the seller holds any of the tenant's funds with respect to such costs.

INFORMATION ABOUT THE CONTRACT OF PURCHASE AND SALE  
**COMMERCIAL REAL ESTATE** (continued)

6. **TITLE:** (Clause 22) It is up to the buyer to satisfy the buyer on matters of zoning or building or use restrictions, toxic or environmental hazards, encroachments on or by the property and any encumbrances which are staying on title before becoming legally bound. It is up to the seller to specify in the contract if there are any encumbrances, other than those listed in clause 22 and Schedule 22, which are staying on title before becoming legally bound. If you as the buyer are taking out a mortgage, make sure that title, zoning and building restrictions are all acceptable to your mortgage company. In certain circumstances, the mortgage company could refuse to advance funds. If you as the seller are allowing the buyer to assume your mortgage, you may still be responsible for payment of the mortgage, unless arrangements are made with your mortgage company.
7. **CUSTOMARY COSTS:** (Clause 31) In particular circumstances there may be additional costs, but the following costs are applicable in most circumstances:

**Costs to be Borne by the Seller**

- Lawyer or Notary Fees and Expenses:
  - attending to execution documents
- Costs of clearing title, including:
  - discharge fees charged by encumbrance holders,
  - prepayment penalties.
- Real Estate Commission (plus GST).
- Goods and Services Tax (if applicable).

**Costs to be Borne by the Buyer**

- Lawyer or Notary Fees and Expenses:
  - searching title,
  - investigating title,
  - drafting documents.
- Land Title Registration fees.
- Survey Certificate (if required).
- Costs of Mortgage, including:
  - mortgage company's lawyer/notary,
  - appraisal (if applicable),
- Land Title Registration fees.
- Fire Insurance Premium.
- Sales Tax (if applicable).
- Property Transfer Tax.
- Goods and Services Tax (if applicable).

In addition to the above costs there maybe financial adjustments between the seller and the buyer pursuant to Clause 19.

8. **RISK:** (Clause 32) The buyer should arrange for insurance to be effective as of 12:01 am on the earlier of the completion date. The seller should maintain the seller's insurance in effect until the later of the date the seller receives the proceeds of sale, or the date the seller vacates the property.
9. **FORM OF CONTRACT:** This Contract of Purchase and Sale is designed primarily for the purchase and sale of freehold commercial real estate. If your transaction involves: a building under construction, an operating business with or without employees being hired, a sale and purchase of shares in the owner of the property, the purchase of a leasehold interest, other special circumstances, additional provisions, not contained in this form, may be needed, and professional advice should be obtained.



# CONTRACT OF PURCHASE AND SALE FOR COMMERCIAL REAL ESTATE

MLS® NO: 10284272

DATE: DEC. 12, 2024

## PART 1 – INFORMATION SUMMARY

|                                   |                                  |  |                          |
|-----------------------------------|----------------------------------|--|--------------------------|
| <b>1. Prepared By</b>             |                                  |  |                          |
| 1.1                               | Name of Brokerage                | Business Finders Canada  |                          |
| 1.2                               | Brokerage Address                | 565 Bernard Ave #120 Kelowna BC V1Y 1R1  | Phone No. (250) 491-1111 |
| 1.3                               | REALTOR®'s Name                  | Brent Marshall   |                          |
| 1.4                               | Personal Real Estate Corporation |  |                          |
| 1.5                               | REALTOR®'s Email Address         | brent@commercialfinders.com  | Fax No.                  |
| 1.6                               | Brokerage Phone No.              | (250) 491-1111   | Fax No.                  |
| <b>2. Parties to the Contract</b> |                                  |  |                          |
| 2.1                               | Seller                           | ALVAREZ & MARSAL CANADA INC., IN ITS CAPACITY AS COURT APPOINTED MONITOR   |                          |
|                                   | Seller                           | PERSUANT TO SUPREME COURT OF BRITISH COLUMBIA ACTION NO. S245481   |                          |
|                                   | Seller                           | BC TREE FRUITS COOPERATIVE   |                          |
| 2.2                               | Seller's Address                 | 925 W GEORGIA STREET VANCOUVER BC  | V6C 3L2                  |
| 2.3                               | Seller's Phone No.               | 778-374-2300   | Fax No.                  |
| 2.4                               | Seller's Email Address           | atillman@alvarezandmarsal.com  |                          |
| 2.5                               | Seller's Incorporation No.       |  | 2.6 Seller's GST No.     |
| 2.7                               | Buyer                            | RIKHI DEVELOPMENT CORPORATION  |                          |
|                                   | Buyer                            |  |                          |
|                                   | Buyer                            |  |                          |
| 2.8                               | Buyer's Address                  | BOX 520 13211 NORTH VICTORIA RD SUMMERLAND BC  | V0H 1Z0                  |
| 2.9                               | Buyer's Phone No.                | 250-490-7688   | Fax No.                  |
| 2.10                              | Buyer's Email Address            | rlrikhi@hotmail.com  |                          |
| 2.11                              | Buyer's Incorporation No.        | BC0441114  | 2.12 Buyer's GST No.     |
| <b>3. Property</b>                |                                  |  |                          |
| 3.1                               | Civic Address of Property        | 3335 & 3345 Sexsmith Road Kelowna BC   | V1X 7T5                  |
| 3.2                               | Legal Description of Property    | LOT 1 SECTION 35 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 36362<br>THE WEST 40 FEET OF LOT 2 SECTION 35 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 2946<br>LOT A SECTION 35 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 4410 EXCEPT (1) ROAD ON PLAN 37429 AND H8110 (2) PLAN 37430<br>PID 003-285-359, 010-931-121, 005-312-060 |                          |

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BUYER'S INITIALS

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| <b>4. Purchase Price</b>   | <b>\$10,000,000.00</b>  | <b>Clause</b> |
| <b>4.1</b>   |   | <b>14</b>     |
| Ten Million  | Dollars   |               |
| <b>5. Deposit</b>  |   | <b>Clause</b> |
| <b>5.1</b> Deposit to be provided by the following date:<br><input checked="" type="checkbox"/> within 48 hours of acceptance of offer or counter-offer<br><input type="checkbox"/> date _____<br><input type="checkbox"/> other _____ |   | <b>15</b>     |
| <b>5.2</b> Amount of Deposit \$100,000.00  | One Hundred Thousand  | <b>15</b>     |
| <b>5.3</b> Deposit to be paid in trust to BUSINESS FINDERS CANADA  |   | <b>15</b>     |
| <b>6. Completion Date</b>  |   |               |
| <b>6.1</b> Completion Date AT COURT'S DIRECTION  |   | <b>17</b>     |
| <b>7. Possession Date</b>  |   |               |
| <b>7.1</b> Possession Date UPON REGISTRATION   |   | <b>18</b>     |
| <b>7.2</b> Vacant Possession <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No   | <b>7.3</b> All Existing Tenancies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No             | <b>18</b>     |
| <b>8. Adjustment Date</b>  |   |               |
| <b>8.1</b> Adjustment Date UPON COMPLETION DATE  |   | <b>19</b>     |
| <b>9. Viewing Date</b>   |   |               |
| <b>9.1</b> Viewing Date TBD  |   | <b>21</b>     |
| <b>10. Agency Disclosure</b>   |   |               |
| <b>10.1</b> Seller's Designated Agent  | REALTOR® <u>JEFF HUDSON</u><br>REALTOR® <u>MARSHALL MCANERNEY</u><br>Brokerage <u>UNISON HM COMMERCIAL REALTY</u> | <b>38A</b>    |
| <b>10.2</b> Buyer's Designated Agent   | REALTOR® <u>BRENT F. MARSHALL</u><br>REALTOR® _____<br>Brokerage <u>BUSINESS FINDERS CANADA</u>                   | <b>38B</b>    |
| <b>10.3</b> Limited Dual Agency Designated Agent   | REALTOR® _____<br>REALTOR® _____<br>Brokerage _____   | <b>38C</b>    |
| <b>10.4</b> Date of Limited Dual Agency Agreement  |   | <b>38C</b>    |

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| <b>11. Acceptance</b> |  |  |                   |
| <b>11.1</b>           | Offer Open Until – Date                            | DEC 17, 2024   | Time 5:00 p.m. 44 |
| <b>12. Schedules</b>  |  |  |                   |
| 15                    | Deposit  | Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 15                |
| 16A                   | Buyer's Conditions                                 | Attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 16                |
| 16B                   | Seller's Conditions                                | Attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 16                |
| 18                    | Accepted Tenancies                                 | Attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 18                |
| 20A                   | Additional Included Items                          | Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 20                |
| 20B                   | Excluded Items                                     | Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 20                |
| 22                    | Additional Permitted Encumbrances                  | Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 22                |
| 23                    | Additional Seller's Warranties and Representations | Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 23                |
| 24                    | Additional Buyer's Warranties and Representations  | Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 24                |
| 40                    | Additional Terms                                   | Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 40                |

**PART 2 – TERMS**

- 13. INFORMATION SUMMARY:** The Information Summary being Part 1 to this Contract of Purchase and Sale for Commercial Real Estate and the Schedules attached to this Contract of Purchase and Sale for Commercial Real Estate, form an integral part of this offer. The Seller and Buyer acknowledge that they have read all of Part 1 and Part 2 and the Schedules to this Contract of Purchase and Sale for Commercial Real Estate.
- 14. PURCHASE PRICE:** The purchase price of the Property will be the amount set out in Clause 4.1 (Purchase Price).
- 15. DEPOSIT:** A deposit in the amount set out in Clause 5.2 which will form part of the Purchase Price, will be paid in accordance with Clause 26 except as otherwise set out in Schedule 15 and on the terms set out in Schedule 15. All monies paid pursuant to this Clause (the "Deposit") will be delivered in trust to the party identified in Clause 5.3 and held in trust in accordance with the provisions of the *Real Estate Services Act*. In the event the Buyer fails to pay the Deposit as required by this Contract, the Seller may, at the Seller's option, terminate this Contract. The party who receives the Deposit is authorized to pay all or any portion of the Deposit to the Buyer's or Seller's conveyancer (the "Conveyancer") without further written direction of the Buyer or Seller, provided that: (a) the Conveyancer is a Lawyer or Notary; (b) such money is to be held in trust by the Conveyancer as stakeholder pursuant to the provisions of the *Real Estate Services Act* pending the completion of the transaction and not on behalf of any of the principals to the transaction; and (c) if the sale does not complete, the money should be returned to such party as stakeholder or paid into Court.
- 16. CONDITIONS:** The obligations of the Buyer described in this Contract are subject to the satisfaction or waiver of the conditions precedent set out in Schedule 16A, if any (the "Buyer's Conditions"). The Buyer's Conditions are inserted for the sole benefit of the Buyer. The satisfaction or waiver of the Buyer's Conditions will be determined in the sole discretion of the Buyer and the Buyer agrees to use reasonable efforts to satisfy the Buyer's Conditions. The Buyer's Conditions may only be satisfied or waived by the Buyer giving written notice (the "Buyer's Notice")

  
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to the Seller on or before the time and date specified for each condition. Unless each Buyer's Condition is waived or declared fulfilled by delivery of the Buyer's Notice to the Seller on or before the time and date specified for each condition, this Contract will be terminated thereupon and the Deposit returnable in accordance with the *Real Estate Services Act*.

The obligations of the Seller described in this Contract are subject to the satisfaction or waiver of the conditions precedent set out in Schedule 16B, if any (the "Seller's Conditions"). The Seller's Conditions are inserted for the sole benefit of the Seller. The satisfaction or waiver of the Seller's Conditions will be determined in the sole discretion of the Seller and the Seller agrees to use reasonable efforts to satisfy the Seller's Conditions. These conditions may only be satisfied or waived by the Seller giving written notice (the "Seller's Notice") to the Buyer on or before the time and date specified for each condition. Unless each Seller's Condition is waived or declared fulfilled by delivery of the Seller's Notice to the Buyer on or before the time and date specified for each condition, this Contract will be terminated thereupon and the Deposit returnable in accordance with the *Real Estate Services Act*.

- 17. **COMPLETION:** The sale will be completed on the date specified in Clause 6.1 (Completion Date) at the appropriate Land Title Office.
- 18. **POSSESSION:** The Buyer will have possession of the Property at the time and on the date specified in Clause 7.1 (Possession Date) with vacant possession if so indicated in Clause 7.2, or subject to all existing tenancies if so indicated in Clause 7.3; or subject to the specified tenancies set out in Schedule 18, if so indicated in Clause 12 (if Clause 7.3 or 12 is selected, such tenancies shall be the "Accepted Tenancies").
- 19. **ADJUSTMENTS:** The Buyer will assume and pay all taxes, rates, local improvement assessments, fuel, utilities, insurance, rents, tenant deposits including interest, prepaid rents, and other charges from, and including, the date set for adjustments, and all adjustments both incoming and outgoing of whatsoever nature will be made as of the date specified in Clause 8.1 (the "Adjustment Date").
- 20. **INCLUDED ITEMS:** The Purchase Price includes the Accepted Tenancies, any buildings, improvements, fixtures, appurtenances and attachments thereto, and all security systems, security bars, blinds, awnings, curtain rods, tracks and valances, fixed mirrors, fixed carpeting, electric, plumbing, heating and air conditioning fixtures and all appurtenances and attachments thereto as viewed by the Buyer at the date of inspection, together with those items set out in Schedule 20A but excluding those items set out in Schedule 20B.
- 21. **VIEWED:** The Property and all included items will be in substantially the same condition at the Possession Date as when viewed by the Buyer on the date specified in Clause 9.1.
- 22. **TITLE:** Free and clear of all encumbrances except subsisting conditions, provisos, restrictions, exceptions and reservations, including royalties, contained in the original grant or contained in any other grant or disposition from the Crown, registered or pending restrictive covenants and rights-of-way in favour of utilities and public authorities, the Accepted Tenancies and any additional permitted encumbrances set out in Schedule 22.
- 23. **ADDITIONAL SELLER'S WARRANTIES AND REPRESENTATIONS:** In addition to the representations and warranties set out in this Contract, the Seller makes the additional representations and warranties set out in Schedule 23 to the Buyer.
- 24. **ADDITIONAL BUYER'S WARRANTIES AND REPRESENTATIONS:** In addition to the representations and warranties set out in this Contract, the Buyer makes the additional representations and warranties set out in Schedule 24 to the Seller.

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- 25. GST:** In addition to the Purchase Price, the applicable Goods and Services Tax ("GST") imposed under the *Excise Tax Act* (Canada) (the "Act") will be paid by the Buyer. On or before the Completion Date, the Buyer may confirm to the Seller's Lawyer or Notary that it is registered for the purposes of Part IX of the Act and will provide its registration number. If the Buyer does not confirm that it is a registrant under Part IX of the Act on or before the Completion Date, then the Buyer will pay the applicable GST to the Seller on the Completion Date and the Seller will then remit the GST as required by the Act. All taxes payable pursuant to the *Provincial Sales Tax Act* arising out of the purchase of the Property, will be paid by the Buyer and evidence of such payment will be provided to the Seller.
- 26. TENDER:** Tender or payment of monies by the Buyer to the Seller will be by bank draft, wire transfer, certified cheque, or Lawyer's/Notary's or real estate brokerage's trust cheque.
- 27. DOCUMENTS:** All documents required to give effect to this Contract will be delivered in registerable form where necessary and will be lodged for registration in the appropriate Land Title Office by 4 pm on the Completion Date.
- 27A. SELLER'S PARTICULARS AND RESIDENCY:** The Seller shall deliver to the Buyer on or before the Completion Date a statutory declaration of the Seller containing: (A) particulars regarding the Seller that are required to be included in the Buyer's Property Transfer Tax Return to be filed in connection with the completion of the transaction contemplated by this Contract (and the Seller hereby consents to the Buyer inserting such particulars on such return); and (B) if the Seller is not a non-resident of Canada as described in the non-residency provisions of the *Income Tax Act*, confirmation that the Seller is not then, and on the Completion Date will not be, a non-resident of Canada. If on the Completion Date the Seller is a non-resident of Canada as described in the residency provisions of the *Income Tax Act*, the Buyer shall be entitled to hold back from the Purchase Price the amount provided for under section 116 of the *Income Tax Act*.
- 28. TIME:** Time will be of the essence hereof, and unless the balance of the payment is paid and such formal agreement to pay the balance as may be necessary is entered into on or before the Completion Date, the Seller may, at the Seller's option, terminate this Contract, and, in such event, the amount paid by the Buyer will be non-refundable and absolutely forfeited to the Seller, subject to the provisions of Section 28 of the *Real Estate Services Act*, on account of damages, without prejudice to the Seller's other remedies.
- 29. BUYER FINANCING:** If the Buyer is relying upon a new mortgage to finance the Purchase Price, the Buyer, while still required to pay the Purchase Price on the Completion Date, may wait to pay the Purchase Price to the Seller until after the transfer and new mortgage documents have been lodged for registration in the appropriate Land Title Office, but only if, before such lodging, the Buyer has: (a) made available for tender to the Seller that portion of the Purchase Price not secured by the new mortgage, and (b) fulfilled all the new mortgagee's conditions for funding except lodging the mortgage for registration, and (c) made available to the Seller, a Lawyer's or Notary's undertaking to pay the Purchase Price upon the lodging of the transfer and new mortgage documents and the advance by the mortgagee of the mortgage proceeds pursuant to the Canadian Bar Association (BC Branch) (Real Property Section) standard undertakings (the "CBA Standard Undertakings").
- 30. CLEARING TITLE:** If the Seller has existing financial charges to be cleared from title, the Seller, while still required to clear such charges, may wait to pay and discharge existing financial charges until immediately after receipt of the Purchase Price, but in this event, the Seller agrees that payment of the Purchase Price shall be made by the Buyer's Lawyer or Notary to the Seller's Lawyer or Notary, on the CBA Standard Undertakings to pay out and discharge the financial charges, and remit the balance, if any, to the Seller.
- 31. COSTS:** The Buyer will bear all costs of the conveyance and, if applicable, any costs related to arranging a mortgage and the Seller will bear all costs of clearing title.

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SELLER'S INITIALS

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- 32. **RISK:** All buildings on the Property and all other items included in the purchase and sale will be, and remain, at the risk of the Seller until 12:01 am on the Completion Date. After that time, the Property and all included items will be at the risk of the Buyer. If loss or damage to the Property occurs before the Seller is paid the Purchase Price, then any insurance proceeds shall be held in trust for the Buyer and the Seller according to their interests in the Property.
- 33. **GOVERNING LAW:** This Contract will be governed by the laws of the Province of British Columbia. The parties submit to the exclusive jurisdiction of the courts in the Province of British Columbia regarding any dispute that may arise out of this transaction.
- 34. **CONFIDENTIALITY:** Unless the transaction contemplated by this Contract is completed, the Buyer and the Seller will keep all negotiations regarding the Property confidential, and the Buyer will not disclose to any third party the contents or effect of any documents, materials or information provided pursuant to or obtained in relation to this Contract without the prior written consent of the Seller, except that each of the Buyer and the Seller may disclose the same to its employees, inspectors, lenders, agents, advisors, consultants, potential investors and such other persons as may reasonably be required and except that the Buyer and the Seller may disclose the same as required by law or in connection with any regulatory disclosure requirements which must be satisfied in connection with the proposed sale and purchase of the Property.
- 35. **PLURAL:** In this Contract, any reference to a party includes that party's heirs, executors, administrators, successors and assigns; singular includes plural and masculine includes feminine.
- 36. **SURVIVAL OF REPRESENTATIONS AND WARRANTIES:** There are no representations, warranties, guarantees, promises or agreements other than those set out in this Contract and any attached Schedules. All of the warranties contained in this Contract and any attached Schedules are made as of and will be true at the Completion Date, unless otherwise agreed in writing.
- 37. **PERSONAL INFORMATION:** The Buyer and the Seller hereby consent to the collection, use and disclosure by the Brokerages and by the managing broker(s), associate broker(s) and representative(s) of those Brokerages (collectively the "REALTOR®(s)") described in Clause 38, the real estate boards of which those Brokerages and REALTOR®s are members and, if the Property is listed on a Multiple Listing Service®, the real estate board that operates that Multiple Listing Service®, of personal information about the Buyer and the Seller:
  - A. for all purposes consistent with the transaction contemplated herein;
  - B. if the Property is listed on a Multiple Listing Service®, for the purpose of the compilation, retention and publication by the real estate board that operates the Multiple Listing Service® and other real estate boards of any statistics including historical Multiple Listing Service® data for use by persons authorized to use the Multiple Listing Service® of that real estate board and other real estate boards;
  - C. for enforcing codes of professional conduct and ethics for members of real estate boards; and
  - D. for the purposes (and to the recipients) described in the British Columbia Real Estate Association's Privacy Notice and Consent form.

The personal information provided by the Buyer and Seller may be stored on databases outside Canada, in which case it would be subject to the laws of the jurisdiction in which it is located.
- 38. **AGENCY DISCLOSURE:** The Seller and the Buyer acknowledge and confirm as follows (initial appropriate box(es) and complete details as applicable):

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INITIALS

A. The Seller acknowledges having received, read and understood the BC Financial Services Authority (BCFSA) form entitled "Disclosure of Representation in Trading Services" and hereby confirms that the Seller has an agency relationship with the Designated Agent(s)/REALTOR®s specified in Clause 10.1 who is/are licensed in relation to the brokerage specified in Clause 10.1.

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INITIALS

B. The Buyer acknowledges having received, read and understood the BCFSA form entitled "Disclosure of Representation in Trading Services" and hereby confirms that the Buyer has an agency relationship with the Designated Agent(s)/REALTOR®(s) specified in Clause 10.2 who is/are licensed in relation to the brokerage specified in Clause 10.2.

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INITIALS

C. The Seller and the Buyer each acknowledge having received, read and understood the BCFSA form entitled "Disclosure of Risks Associated with Dual Agency" and hereby confirm that they each consent to a dual agency relationship with the Designated Agent(s)/REALTOR®(s) specified in Clause 10.3 who is/are. licensed in relation to the brokerage specified in Clause 10.3, having signed a dual agency agreement with such Designated Agent(s)/REALTOR®(s) dated the date set out in Clause 10.4.

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INITIALS

D. If only (A) has been completed, the Buyer acknowledges having received, read and understood the BCFSA form "Disclosure of Risks to Unrepresented Parties" from the Seller's agent listed in (A) and hereby confirms that the Buyer has no agency relationship.

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INITIALS

E. If only (B) has been completed, the Seller acknowledges having received, read and understood the BCFSA form "Disclosure of Risks to Unrepresented Parties" from the Buyer's agent listed in (B) and hereby confirms that the Seller has no agency relationship.

**39. ASSIGNMENT OF REMUNERATION:** The Buyer and the Seller agree that the Seller's authorization and instruction set out in clause 45(c) below is a confirmation of the equitable assignment by the Seller in the Listing Contract and is notice of the equitable assignment to anyone acting on behalf of the Buyer or Seller.

**39A. RESTRICTION ON ASSIGNMENT OF CONTRACT:** The Buyer and the Seller agree that this Contract: (a) must not be assigned without the written consent of the Seller; and (b) the Seller is entitled to any profit resulting from an assignment of the Contract by the Buyer or any subsequent assignee.

**40. ADDITIONAL TERMS:** The additional terms set out in Schedule 40 are hereby incorporated into and form a part of this Contract.

**41. ACCEPTANCE IRREVOCABLE:**

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BUYER'S INITIALS

 The Seller and the Buyer specifically confirm that this Contract of Purchase and Sale, whether executed and sealed by hand or by digital or electronic signature and seal, or otherwise, is hereby executed under seal, which is evidenced by each of the Buyer and the Seller making the deliberate, intentional and conscious act of inserting their initials (whether by hand or electronically) in the appropriate space provided beside this Section 41. The parties intend that the act of inserting their initials as set out above is to have the same effect as if this Contract of Purchase and Sale had been physically sealed by wax, stamp, embossing, sticker or any other manner. It is agreed and understood that, without limiting the foregoing, the Seller's acceptance is irrevocable including without limitation during the period prior to the date specified for the Buyer to either:

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SELLER'S INITIALS



- A. fulfill or waive the terms and conditions herein contained; and/or
- B. exercise any option(s) herein contained.

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SELLER'S INITIALS

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- 42. COUNTERPARTS:** The parties agree that this Contract of Purchase and Sale and any amendments or attachments thereto may be executed in counterparts by the parties and delivered originally or by facsimile, email, or other means of electronic transmission. Each such counterpart when so executed and delivered is deemed to be an original and all such counterparts of a relevant document taken together shall constitute one and the same relevant document as though the signatures of all the parties were upon the same document.
- 43. THIS IS A LEGAL DOCUMENT. READ THIS ENTIRE DOCUMENT AND INFORMATION PAGE BEFORE YOU SIGN.**
- 44. OFFER:** This offer, or counter-offer, will be open for acceptance until the time and date specified in Clause 11.1 (unless withdrawn in writing with notification to the other party of such revocation prior to notification of its acceptance), and upon acceptance of the offer, or counter-offer, by accepting in writing and notifying the other party of such acceptance, there will be a binding Contract of Purchase and Sale on the terms and conditions set forth.

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| <p>Authentisign 12/12/24</p> <p><u>Ramesh Rikhi</u> </p> <p>BUYER</p> <p><u>Rikhi Development Corp.</u></p> <p>PRINT NAME</p> <p>_____</p> <p>WITNESS</p> | <p>_____</p> <p>BUYER</p> <p>_____</p> <p>PRINT NAME</p> <p>_____</p> <p>WITNESS</p> | <p>_____</p> <p>BUYER</p> <p>_____</p> <p>PRINT NAME</p> <p>_____</p> <p>WITNESS</p> |
|--|--|--|

- 45. ACCEPTANCE:** The Seller (a) hereby accepts the above offer and agrees to complete the sale upon the terms and conditions set out above, (b) agrees to pay a commission as per the Listing Contract, and (c) authorizes and instructs the Buyer and anyone acting on behalf of the Buyer or Seller to pay the commission out of the cash proceeds of sale and forward copies of the Seller's Statement of Adjustments to the Cooperating/Listing Brokerage, as requested, forthwith after completion.

Seller's acceptance is dated this \_\_\_\_\_ day of \_\_\_\_\_ yr. \_\_\_\_\_ .

The Seller declares their residency:

RESIDENT OF CANADA 

|  |  |  |
|--|--|--|
|  |  |  |
|--|--|--|

 INITIALS NON-RESIDENT OF CANADA 

|  |  |  |
|--|--|--|
|  |  |  |
|--|--|--|

 INITIALS as defined under the *Income Tax Act*.

|  |   |   |
|--|---|---|
| <p>_____ </p> <p>SELLER</p> <p><u>Alvarez &amp; Marsal Canada Inc</u></p> <p>PRINT NAME</p> <p>_____</p> <p>WITNESS</p> | <p>_____</p> <p>SELLER</p> <p>_____</p> <p>PRINT NAME</p> <p>_____</p> <p>WITNESS</p> | <p>_____ </p> <p>SELLER</p> <p>_____</p> <p>PRINT NAME</p> <p>_____</p> <p>WITNESS</p> |
|--|---|---|

\*PREC represents Personal Real Estate Corporation

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BC 2053 REV. NOV 2023

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# CONTRACT OF PURCHASE AND SALE FOR COMMERCIAL REAL ESTATE SCHEDULE

MLS® NO: 10284272

DATE: DEC 12, 2024

RE: ADDRESS: 3335 & 3345 Sexsmith Road Kelowna BC V1X 7T5

**LOT 1 SECTION 35 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 36362  
THE WEST 40 FEET OF LOT 2 SECTION 35 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 2946  
LOT A SECTION 35 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 4410 EXCEPT (1) ROAD ON PLAN 37429 AND  
H8110 (2) PLAN 37430**

LEGAL DESCRIPTION

PID: 003-285-359, 010-931-121, 005-312-060

FURTHER TO THE CONTRACT OF PURCHASE AND SALE DATED DECEMBER 12 2024

MADE BETWEEN RIKHI DEVELOPMENT CORPORATION AS BUYER(S), AND  
ALVAREZ & MARSAL CANADA INC. AS SELLER(S) AND COVERING

THE ABOVE-MENTIONED PROPERTY, THE UNDERSIGNED HEREBY AGREE AS FOLLOWS:

This offer is subject to the following subjects for the sole benefit of the Buyer.

**1) LEGAL ADVICE**

Subject to the approval of this contract, both in form and content, by the Buyer's Solicitor on or before January 24th, 2024.

**2) PROFESSIONAL ADVICE**

Subject to the Buyer on or before January 24th, 2024, receiving and being satisfied with such professional advice as they deem appropriate, including, but not limited to, Tax advice, Legal advice satisfactory to the Buyer concerning their rights and obligations under this Contract, and Appraisal advice as to the current fair market value of the Property.

**3) INSPECTION OF PROPERTY**

Subject to the Buyer, on or before January 24th, 2024, at the Buyer's expense, obtaining an inspection report against the presence of Asbestos. The Seller will allow access to the property for this purpose on reasonable notice.

**ACCESS and SITE VISITS:**

The Seller(s) agrees to allow the Buyer(s), their agent or inspectors, with reasonable notice, to access the property in order to carry out such inspections, tests, assessments and appraisals of the land and buildings as the Buyer(s) may reasonable require.

(Schedule continued Page 2)

*Ramesh Rikhi* 12/12/24

BUYER

BUYER

BUYER

Rikhi Development Corp.

PRINT NAME

PRINT NAME

PRINT NAME

WITNESS

WITNESS

WITNESS

SELLER

SELLER

SELLER

Alvarez & Marsal Canada Inc

PRINT NAME

PRINT NAME

PRINT NAME

WITNESS

WITNESS

WITNESS



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ALVAREZ & MARSAL CANADA INC. AS SELLER(S) AND COVERING

THE ABOVE-MENTIONED PROPERTY, THE UNDERSIGNED HEREBY AGREE AS FOLLOWS:

**4) PHASE II ENVIRONMENTAL INSPECTION**

Subject to the Buyer, on or before January 24th, 2024, and at the Buyer's expense, obtaining and approving a Phase II Environmental Assessment Report of the Property against any defects which may adversely affect the property's use or value if required. The Seller will allow access to the Property for this purpose on reasonable notice.

**5) STRUCTURAL INSPECTION**

Subject to the Buyer, on or before January 24th, 2024 and at the Buyer's expense, obtaining and approving a Structural Inspection Report against any defects which reasonably may adversely affect the property's use or value. The Seller will allow access to the Property for this purpose on reasonable notice.

**6) CO-OP COMMISSION**

The commission payable to Business Finders Canada will be in the amount of 1.5% of the final sale price and will be paid from the proceeds of the sale of the property.

**7) TENANCY AGREEMENT**

Subject to the Buyer receiving and being satisfied with, on or before December 24th, 2024, the tenancy agreement for the Property.

**8) The Seller represents and warrants:**

- (a) the Property is subject to a lease agreement;
- (b) the monthly rent is \_\_\_\_\_;
- (c) the monthly rent includes \_\_\_\_\_;
- (d) the monthly rent is due on the \_\_\_\_ day of each month;
- (f) a security deposit of \_\_\_\_\_ was paid by the tenant on \_\_\_\_\_

Ramesh Rikhi 12/12/24

BUYER

BUYER

Rikhi Development Corp.  
PRINT NAME

BUYER  
PRINT NAME

BUYER  
PRINT NAME

WITNESS

WITNESS

WITNESS

SELLER  
Alvarez & Marsal Canada Inc

SELLER  
PRINT NAME

SELLER  
PRINT NAME

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PRINT NAME

WITNESS

WITNESS

WITNESS



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ALVAREZ & MARSAL CANADA INC. AS SELLER(S) AND COVERING

THE ABOVE-MENTIONED PROPERTY, THE UNDERSIGNED HEREBY AGREE AS FOLLOWS:

**9) COURT APPROVAL**

Subject to Court Approval which is to be no more than 30 days after final subject removal. This condition is for the sole benefit of the Seller.

|  |            |            |
|--|------------|------------|
| <u>Ramesh Rikhi</u> 12/12/24           |            |            |
| BUYER                                  | BUYER      | BUYER      |
| <u>Rikhi Development Corp.</u>         |            |            |
| PRINT NAME                             | PRINT NAME | PRINT NAME |
| WITNESS                                | WITNESS    | WITNESS    |
|  |            |            |
| SELLER                                 | SELLER     | SELLER     |
| <u>Alvarez &amp; Marsal Canada Inc</u> |            |            |
| PRINT NAME                             | PRINT NAME | PRINT NAME |
| WITNESS                                | WITNESS    | WITNESS    |

SCHEDULE A-1

TO THE AGREEMENT OF PURCHASE AND SALE

BETWEEN

**ALVAREZ & MARSAL CANADA INC.**

in its capacity as Court-appointed Monitor of BC Tree Fruits Cooperative, BC Tree Fruits Industries Limited and Growers Supply Company Limited,  
and not in its personal or corporate capacity

(SELLER)

AND:

(BUYER)

RE:

3335-3345 Sexsmith Road, Kelowna, British Columbia  
(MUNICIPAL ADDRESS OF PROPERTY)

The parties agree that the following terms replace, modify and, where applicable override the terms of the attached contract of purchase and sale and any modifications, amendments, additions or addenda thereto, (collectively the "**Contract**"). Where any conflict arises between the terms of this Schedule "A-1" and the Contract, the terms of this Schedule "A-1" shall apply. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Contract.

1. Title will be transferred to the Buyer free and clear of all registered encumbrances, other than those listed in **Appendix "A"**, in accordance with the Vesting Order (defined herein) to be sought from the Supreme Court of British Columbia (the "**Court**") in Supreme Court of British Columbia Action No. S245481, Vancouver Registry (the "**Proceeding**").
2. Any existing registered financial charges to be paid under the terms of the Vesting Order may be paid by the Seller upon receipt of the Purchase Price and the Buyer may pay the Purchase Price to the Seller's lawyer in trust on undertakings to pay those financial charges in accordance with the terms of the Vesting Order.
3. Possession will be governed by the terms of the Vesting Order.
4. The Buyer is purchasing the Property on an "as is - where is" basis as of the completion date. The Buyer agrees that the Seller has no obligation to maintain the property in the condition it may have been in at some time before the completion date contemplated by this agreement.

The Buyer agrees that the Purchase Price does not include any chattels/personal property. The Seller assumes no risk with respect to the buildings on the Property or any other items included in this purchase and sale.

5. No property condition disclosure statement concerning the Property will be given by the Seller.

6. The acceptance of this offer by the Seller is in its capacity as Court-appointed Monitor of the owner of the Property pursuant to the Amended and Restated Initial Order granted August 26, 2024 (the “**ARIO**”) in the Proceeding, and not in its personal capacity or as owner of the Property. The acceptance of this offer is subject to the approval of the Court in the Proceeding and will become effective from the time an order is made approving this offer (the “**Vesting Order**”). The Seller hereby advises the Buyer that the Seller's obligations in connection with this offer, until it is approved by the Court, are limited to putting this offer before the Court. The Seller is only obligated to present the offer to the Court for approval within 30 days of the Buyer removing all subject conditions in respect of this offer.

7. The Seller is subject to the jurisdiction and discretion of the Court to entertain other offers and to any further Orders the Court may make regarding the Property. The Seller may be compelled to advocate that the Court consider other offers in order to obtain the highest price for the Property. The Seller gives no undertaking to exclusively advocate for the acceptance of only this offer. In that regard the Buyer may wish to consider making its own arrangements to support this offer in Court if other offers are received by the Seller. The Buyer agrees the Seller will disclose the purchase price being offered to any prospective buyers indicating an intention to submit an offer to purchase the Property.

8. Acceptance of this offer by the Seller and any obligation of the Seller to put this offer before the Court may be terminated at any time before the Court makes the Vesting Order approving this sale if the mortgage which is the subject of these proceedings is redeemed, or if the mortgage is brought into good standing or at the option of the Seller in its sole discretion. This condition is for the sole benefit of the Seller.

9. Real estate commission is payable relative to this offer only if this offer is approved by the Court and the sale is completed pursuant to the Vesting Order.

10. The Buyer agrees that there may be GST and PTT payable relating to this transaction and that it is the responsibility of the Buyer to pay any such tax accruing on this sale. The Buyer agrees that the Seller may be responsible to collect and remit GST payable on this transaction. Accordingly, the Buyer agrees to pay any such tax to the Seller so that the Seller can, in turn, pay such GST as may be due and owing on this sale.

11. The Buyer is satisfied that there is no need for a holdback from the purchase price for the possibility that the Seller is not a Canadian resident for the purposes of the Income Tax Act.

12. The Buyer agrees not to holdback any part of the purchase price for any reason.

13. The Seller, as party having conduct of sale of the Property pursuant to the ARIO, is not and will not be liable to the Buyer, nor to anyone claiming by through or under the Buyer, for

any damages, costs or expenses, including but not limited to damage caused to the Buyer by the registered owner(s) of the Property or his/her tenants, guests, assigns, agents or persons unknown, or for them failing to provide vacant possession when required. The Buyer acknowledges that if vacant possession is not available on the possession date, the Buyer will complete the sale in any event. The Seller will make reasonable efforts to obtain a Writ of Possession or similar Court order, and the Buyer acknowledges that this process may take a considerable period of time.

**SELLER:**

**ALVAREZ & MARSAL CANADA INC. (in its capacity as Court-appointed Monitor of BC Tree Fruits Cooperative, BC Tree Fruits Industries Limited and Growers Supply Company Limited and not in its personal or corporate capacity capacity)**

SIGNED: \_\_\_\_\_

NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

**BUYER:**

SIGNED:  *Ramesh Rikhi* \_\_\_\_\_

NAME: RIKHI DEVELOPMENT CORPORATION

DATE: 12/12/24

**APPENDIX "A"**

**LIST OF ENCUMBRANCES TO REMAIN ON TITLE**

| <b>Nature of Charge</b> | <b>Holder of Charge</b> | <b>Registration No.</b> |
|-------------------------|-------------------------|-------------------------|
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