

No. S241161
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

BETWEEN:

THE BANK OF NOVA SCOTIA

PETITIONER

AND:

**BIFANO CONSOLIDATED INC.,
BIFANO FARMS INC.,
NATA FARMS INC.,
SSC VENTURES (NO. 105) LTD. and
SPALLUMCHEEN FARM LTD.**

RESPONDENTS

ORDER MADE AFTER APPLICATION

AMENDED AND RESTATED INITIAL ORDER

BEFORE THE HONOURABLE)
MADAM JUSTICE FITZPATRICK) MARCH 11, 2024
)

ON THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 11TH day of March, 2024; **AND ON HEARING** Lisa Hiebert and Mishaal Gill, counsel for the Petitioner, and those other counsel listed on **Schedule "A"** hereto; **AND UPON READING** the application material filed, including the First Affidavit of James Cook sworn February 13, 2024, the first report of Alvarez & Marsal Canada Inc. ("**A&M**"), in its capacity as Monitor dated 7, 2024 and the consent of A&M to act as Monitor; **AND UPON BEING ADVISED** that the secured creditors who are likely to be affected by the charges created herein were given notice; **AND UPON NOTING** the order made in these proceedings on March 11, 2024 approving a sale solicitation process and related relief; **AND PURSUANT TO**

the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "CCAA"), the *Supreme Court Civil Rules* and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The time for service of the Petition and materials filed in support of the application for this Order (collectively, the "**Application**") is hereby abridged such that service of the Application is deemed to be timely and sufficient and the Application is properly returnable today.

JURISDICTION

2. Each of the Respondents is a company to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. Subject to this Order and any further Order of this Court, the Respondents shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**") and continue to carry on their business (the "**Business**") in the ordinary course and in a manner consistent with the preservation of the Business and the Property. The Respondents, with the consent of the Monitor, shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as the Respondents, with the consent of the Monitor, deem reasonably necessary or desirable in the ordinary course of business or for carrying out the terms of this Order.

4. The Respondents shall be entitled to use their existing bank accounts with the Petitioner (the "**Accounts**"), and the Petitioner shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken in respect of the Accounts, or as to the use or application by the Respondents of the funds

transferred, paid, collected or otherwise dealt with in the Accounts. The Petitioner shall provide the Accounts without any liability in respect hereof to any Person (as defined in paragraph 15) other than the Respondents, pursuant to the documentation applicable to the Accounts, and shall be, in its capacity as provider of the Accounts, an unaffected creditor under any plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Accounts.

5. The Respondents shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after March 11, 2024 (the “**Order Date**”), subject to compliance with the Cash Flow Projections (as defined in the Interim Credit Agreement, defined below):

- (a) all outstanding wages, salaries, employee and pension benefits (including long and short term disability payments), vacation pay and expenses (but excluding severance pay) payable before or after the Order Date, in each case incurred in the ordinary course of business and consistent with the relevant compensation policies and arrangements existing at the time incurred (collectively “**Wages**”);
- (b) with the consent of the Monitor, amounts owing, to the maximum of \$150,000, for goods and services actually supplied to the Respondents prior to the Order Date by third party suppliers, if such third party is critical to the Business and ongoing operations of the Respondents; and
- (c) the fees and disbursements of any Assistants retained or employed by the Respondents which are related to the Respondents’ restructuring, at their standard rates and charges, including payment of the fees and disbursements of legal counsel retained by the Respondents, whenever and wherever incurred, in respect of:
 - (i) these proceedings or any other similar proceedings in other jurisdictions in which the Respondents or any subsidiaries or affiliated companies of the Respondents are domiciled;

- (ii) any litigation in which the Respondents are named as parties or are otherwise involved, whether commenced before or after the Order Date; and
- (iii) any related corporate matters.

6. Except as otherwise provided herein, the Respondents shall be entitled to pay all expenses reasonably incurred by the Respondents in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services, provided that any capital expenditure shall be approved by the Monitor;
- (b) all obligations incurred by the Respondents after the Order Date, including without limitation, with respect to goods and services actually supplied to the Respondents following the Order Date (including those under purchase orders outstanding at the Order Date but excluding any interest on the Respondents' obligations incurred prior to the Order Date); and
- (c) fees and disbursements of the kind referred to in paragraph 5(c) which may be incurred after the Order Date.

7. The Respondents are authorized to remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from Wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;

- (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Respondents in connection with the sale of goods and services by the Respondents, but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal property taxes, municipal business taxes or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors.

8. Until such time as a real property lease is disclaimed in accordance with the CCAA, the Respondents shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated between the Respondents and the landlord from time to time (“**Rent**”), for the period commencing from and including the Order Date, twice-monthly in equal payments on the first and fifteenth day of the month in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including Order Date shall also be paid.

9. Except as specifically permitted herein, the Respondents are hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Respondents to any of their creditors as of the Order Date except as authorized by this Order;
- (b) to make no payments in respect of any financing leases which create security interests;

- (c) to grant no security interests, trusts, mortgages, liens, charges or encumbrances upon or in respect of any of the Property, nor become guarantors or sureties, nor otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order;
- (d) to not grant credit except in the ordinary course of the Business only to their customers for goods and services actually supplied to those customers, provided such customers agree that there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by the Respondents to such customers as of the Order Date; and
- (e) to not incur liabilities except in the ordinary course of Business.

RESTRUCTURING

10. Subject to such requirements as are imposed by the CCAA, and such covenants as may be contained in the Definitive Documents (as hereinafter defined), the Respondents shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down all or any part of their Business or operations and commence marketing efforts in respect of any of their redundant or non-material assets and to dispose of redundant or non-material assets not exceeding \$25,000 in any one transaction or \$100,000 in the aggregate, except that the Monitor, in consultation with the Respondents, has authority to sell surplus livestock, without limitation on the individual or aggregate transaction value;
- (b) terminate the employment of such of their employees or temporarily lay off such employees as they deem appropriate; and
- (c) pursue all avenues of refinancing for their Business or Property, in whole or in part,

all of the foregoing to permit the Respondents to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

11. The Respondents shall provide each of the relevant landlords with notice of the Respondents’ intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Respondents’ entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors who claim a security interest in the fixtures, such landlord and the Respondents, or by further Order of this Court upon application by the Respondents, the landlord or the applicable secured creditors on at least two (2) clear days’ notice to the other parties. If the Respondents disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any dispute concerning such fixtures (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Respondents’ claim to the fixtures in dispute.

12. If a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours on giving the Respondents and the Monitor 24 hours’ prior written notice; and (b) at the effective time of the disclaimer, the landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims the landlord may have against the Respondents, or any other rights the landlord might have, in respect of such lease or leased premises and the landlord shall be entitled to notify the Respondents of the basis on which it is taking possession and gain possession of and re-lease such leased premises to any third party or parties on such terms as the landlord considers advisable, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

13. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronics Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal Information Protection Act*,

S.B.C. 2003, c. 63, and any regulations promulgated under authority of either Act, as applicable (the “**Relevant Enactment**”), the Respondents, in the course of these proceedings, are permitted to, and hereby shall, disclose personal information of identifiable individuals in its possession or control to stakeholders, its advisors, prospective investors, financiers, buyers or strategic partners (collectively, “**Third Parties**”), but only to the extent desirable or required to negotiate and complete the Restructuring or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the Respondents binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Respondents or destroy it. If the Third Parties acquire personal information as part of the Restructuring or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Respondents.

STAY OF PROCEEDINGS, RIGHTS AND REMEDIES

14. Until and including May 24, 2024, or such later date as this Court may order (the “**Stay Period**”), no action, suit or proceeding in any court or tribunal (each, a “**Proceeding**”) against or in respect of the Respondents or the Monitor, or affecting the Business or the Property, shall be commenced or continued except with the written consent of the Respondents and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Respondents or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court, except for claims by CWB National Leasing Inc. (“**CWL**”) in respect of lease agreements between CWL and Nata Farms Inc. and Bifano Consolidated Inc. for specific leased equipment (the “**CWL Leases**”).

15. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “Persons” and each being a “Person”) against or in respect of the Respondents or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Respondents and the Monitor or leave of this Court or claims by CWL for the CWL Leases.

16. Nothing in this Order, including paragraphs 14 and 15, shall: (i) empower the Respondents to carry on any business which they are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Respondents.

NO INTERFERENCE WITH RIGHTS

17. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Respondents except with the written consent of the Respondents and the Monitor or leave of this Court.

CONTINUATION OF SERVICES

18. During the Stay Period, all Persons having oral or written agreements with the Respondents or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Respondents are hereby restrained until further Order of this Court from

discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by the Respondents and that the Respondents shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Respondents in accordance with normal payment practices of the Respondents or such other practices as may be agreed upon by the supplier or service provider and the Respondents and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. Notwithstanding any provision in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Order Date, nor shall any Person be under any obligation to advance or re-advance any monies or otherwise extend any credit to the Respondents on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of the Respondents with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Respondents whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Respondents, if one is filed, is sanctioned by this Court or is refused by the creditors of the Respondents or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of the Respondents that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.

DIRECTORS AND OFFICERS INDEMNIFICATION AND CHARGE

21. The Respondents shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Respondents after the commencement of the within proceedings, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

22. The directors and officers of the Respondents shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$150,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 42 and 44 herein.

23. Notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Respondents' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

APPOINTMENT OF MONITOR AND MONITOR'S POWERS

24. A&M is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Respondents with the powers and obligations set out in the CCAA or set forth herein, and that the Respondents and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Respondents pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

25. The Monitor, in addition to its prescribed rights and obligations under the CCAA and all applicable law, is hereby directed and empowered to:

- (a) monitor the Respondents' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Respondents, to the extent required by the Respondents, in their dissemination to the Interim Lender (as hereinafter defined) and their counsel of financial and other information as agreed to between the Respondents and the Interim Lender, which may be used in these proceedings including reporting on a basis to be agreed with the Interim Lender;
- (d) advise the Respondents in its preparation of the Respondents' cash flow statements, including such reporting as may be required by the Interim Lender, which information shall be delivered to the Interim Lender and its counsel on a periodic basis, but not less than monthly, or as otherwise agreed to by the Interim Lender;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Respondents (collectively, the "**Books and Records**"), to the extent that is necessary to adequately assess the Respondents' business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and

- (g) perform such other duties as are required by this Order or by this Court from time to time.

26. The Monitor, on behalf of and in the name of the Respondents, is hereby authorized and empowered, but not required, to exercise any powers which may be properly exercised by a board of directors or any officers of the Respondents, as the Monitor deems appropriate, including without limitation to:

- (a) perform any actions or take any steps, and execute all agreements, documents and writings, on behalf of, and in the name of, the Respondents, including execution of the Interim Credit Agreement (as defined in paragraph 37) and any ancillary documents and issuing notices of disclaimer pursuant to Section 32 of the CCAA;
- (b) engage, retain, or terminate the services of any officer, employee, consultant, agent, representative, advisor, or other persons or entities, as the Monitor deems necessary or appropriate to assist with the exercise of its powers and duties or those of the Respondents;
- (c) perform such other functions or duties, and enter into any agreements or incur any obligations, as the Monitor considers necessary or desirable in order to facilitate or assist in the Respondents' restructuring, including the sale of all or any part of the Respondents' Property, the distribution of any net proceeds of the Property (the "**Proceeds**") or any other related activities;
- (d) exercise any rights of the Respondents;
- (e) initiate, defend, continue, settle or compromise any and all Proceedings now pending or hereafter instituted with respect to the Respondents, the Property or the Proceeds, including such appeals or applications for judicial review in respect of any order or judgment pronounced in any such Proceeding;

- (f) deal with any taxing or regulatory authority, including to execute any appointment or authorization form on behalf of the Respondents that any taxing or regulatory authority may require, in order to confirm the appointment of an authorized representative of the Respondents (which may be a representative of the Monitor) for such purposes;
- (g) claim any and all insurance refunds or tax refunds to which any of the Respondents is entitled on behalf of such Respondent;
- (h) file, or take such actions necessary for the preparation and filing of, on behalf of and in the name of the Respondents, (i) any tax returns, and (ii) the Respondents' employee-related remittances, T4 statements and records of employment for the Respondents' former employees, in either case, based solely upon the information in the Respondents' books and records and on the basis that the Monitor shall incur no liability or obligation to any person with respect to such returns, remittances, statements, records or other documents; and
- (i) take any steps reasonably incidental to the exercise by the Monitor of the powers listed above or the performance of any statutory obligations

(collectively, the “**Monitor’s Powers**”).

27. Notwithstanding anything contained in this Order, where the Monitor exercises any of the Monitor’s Powers, it shall be the sole Person authorized to exercise such powers, to the exclusion of all other Persons, and no director or officer of the Respondents shall incur any liability for any decisions or actions of the Monitor acting under such authority.

28. Notwithstanding paragraph 26 and 27, the directors or officers of the Respondents are authorized and empowered to retain and instruct counsel to the Respondents in these proceedings to bring applications and make submissions in these proceedings on all matters affecting or relating to these proceedings.

29. Notwithstanding anything contained in this Order, the Monitor shall not take possession of the Property or Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

30. Nothing herein contained shall require or allow the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be: (i) environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* and regulations thereunder (the "**Environmental Legislation**"); (ii) considered livestock or an animal under any federal, provincial or other law regulating the possession, protection, conservation, management, farming, sale or transport of livestock or animals including, without limitation, the *British Columbia Prevention of Cruelty to Animals Act*, the *British Columbia Livestock Act*, the *British Columbia Animal Health Act*, the *British Columbia Livestock Public Sale Act* and regulations thereunder (the "**Farm Animal Legislation**"); or (iii) considered unpasteurized or raw milk, fluid milk or manufactured milk ("**Milk**") under any federal, provincial or other law regulating the production, transportation, packing, storing, marketing and sale of Milk including, without limitation, the *Canadian British Columbia Milk Order* (SOR 95-511), *The Consolidated Order* of the British Columbia Milk Marketing Board, the *British Columbia Milk Industry Act*, the *British Columbia Natural Products Marketing (BC) Act*, the *Canadian Agricultural Products Marketing Act* and the regulations thereunder (the "**Dairy Legislation**") provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation, Farm Animal Legislation or Dairy Legislation. For greater certainty,

the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, Farm Animal Legislation or Dairy Legislation, unless it is actually in possession.

31. The Monitor shall provide any creditor of the Respondents and the Interim Lender with information provided by the Respondents in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Respondents is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Respondents may agree.

32. In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

33. The Monitor, counsel to the Monitor and counsel to the Respondents shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Respondents as part of the cost of these proceedings. The Monitor is hereby authorized and directed to pay such accounts on a periodic basis.

34. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

35. The Monitor, counsel to the Monitor and counsel to the Respondents shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$150,000, as security for their respective fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order which are related to the Respondents' restructuring. The Administration Charge shall have the priority set out in paragraphs 42 and 44 hereof. For greater clarity, the Administration Charge does not secure fees or disbursements related to advice provided to directors and officers or to individual guarantors.

INTERIM FINANCING

36. The Respondents are hereby authorized and empowered to obtain and borrow under an interim credit facility from the Petitioner (in such capacity, the "**Interim Lender**") in order to finance the Respondents' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such interim credit facility shall not exceed \$1,500,000 under this Order unless permitted by further Order of this Court.

37. Such interim credit facility shall be on the terms and subject to the conditions set forth in the interim financing credit agreement between the Respondents and the Interim Lender dated as of February 28, 2024 (the "**Interim Credit Agreement**") attached as Exhibit "B" to Affidavit #1 of Kibben Jackson made on February 27, 2024.

38. The Respondents and the Monitor are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (with the Interim Credit Agreement, collectively the "**Definitive Documents**"), as are contemplated by the Interim Credit Agreement or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Respondents are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the Interim Lender under and pursuant to the Interim Credit Agreement and the Definitive Documents (collectively, the "**Interim Financing Obligations**") as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

39. The Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property as security for the Interim Financing Obligations, which Interim Lender's Charge shall be in the aggregate amount of the Interim Financing Obligations outstanding at any given time under the Definitive Documents. The Interim Lender's Charge shall not secure an obligation that exists before this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 42 and 44 hereof.

40. Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under any of the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon three (3) business days' notice to the Respondents and the Monitor, may exercise any and all of its rights and remedies against the Respondents or the Property under or pursuant to the Interim Credit Agreement, Definitive Documents and the Interim Lender's Charge, including without limitation, to cease making advances to the Respondents and set off and/or consolidate any amounts owing by the Interim Lender to the Respondents against the obligations of the Respondents to the Interim Lender under the Interim Credit Agreement, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Respondents and for the appointment of a trustee in bankruptcy of the Respondents; and
- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Respondents or the Property.

41. The Interim Lender, in such capacity, shall be treated as unaffected in any plan of arrangement or compromise filed by the Respondents under the CCAA, or any proposal filed by the Respondents under the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

42. The priorities of the Administration Charge, the Directors' Charge and the Interim Lenders' Charge as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$150,000);

Second – Interim Lender's Charge (to the maximum amount of the Interim Financing Obligations at the relevant time); and

Third – Directors' Charge (to the maximum amount of \$150,000).

43. Any security documentation evidencing, or the filing, registration or perfection of, the Administration Charge, the Interim Lender's Charge and the Directors' Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.

44. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**"), in favour of any Person, save and except:

- (a) those claims contemplated by section 11.8(8) of the CCAA; and
- (b) valid and perfected security interests in favour of CWL for specific equipment leased by Nata Farms Inc. and Bifano Consolidated Inc. which rank in priority to

the Petitioner's security interests under the *Personal Property Security Act* (British Columbia).

45. Except as otherwise expressly provided herein, or as may be approved by this Court, the Respondents shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to, or *pari passu* with the Charges, unless the Respondents obtain the prior written consent of the Monitor, the Interim Lender and the beneficiaries of the Administration Charge and the Director's Charge.

46. The Charges, the Interim Credit Agreement and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the Interim Lender shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Respondents; and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Interim Credit Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Respondents of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Respondents entering into the Interim Credit Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by the Respondents pursuant to this Order, the Interim Credit Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

47. Any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Respondents' interest in such real property leases.

SERVICE AND NOTICE

48. The Monitor shall (i) without delay, publish in The Daily Courier (Kelowna) a notice containing the information prescribed under the CCAA, (ii) within five days after Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Respondents of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

49. The Respondents and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission (including by e-mail) to the Respondents' creditors or other interested parties at their respective addresses as last shown on the records of the Respondents and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

50. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the "**Service List**") to be

maintained by the Monitor. The Monitor shall post and maintain an up to date form of the Service List on its website at: <http://www.alvarezandmarsal.com/BifanoNata> (the “**Monitor’s Website**”).

51. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on the Monitor’s Website.

52. Notwithstanding paragraphs 49 and 51 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the Federal Crown, and the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown.

GENERAL

53. The Respondents or the Monitor may from time to time apply to this Court for directions in the discharge of its powers and duties hereunder.

54. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Respondents, the Business or the Property.

55. **THIS COURT REQUESTS** the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Respondents and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Respondents and the Monitor and their respective agents in carrying out the terms of this Order.

56. Each of the Respondents and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as a foreign representative of the Respondents to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1330, as amended.

57. The Respondents may (subject to the provisions of the CCAA and the BIA) at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if the Respondents determine that such a filing is appropriate.

58. The Respondents are hereby at liberty to apply for such further interim or interlocutory relief as they deem advisable within the time limited for Persons to file and serve Responses to the Petition.

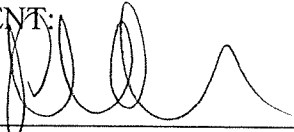
59. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.

60. Any interested party (including the Respondents and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 42 and 44 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

61. Endorsement of this Order by counsel appearing on this application, other than counsel for the Respondents, is hereby dispensed with.

62. This Order and all its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

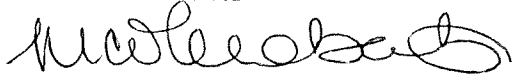
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



 Signature of Lisa Hiebert
☐ Party ☒ Lawyer for the Petitioner

S. Fitzpatrick J.
per [signature]

BY THE COURT



 REGISTRAR



Schedule "A"
Appearance List

Counsel Name	Party Represented
Bryan Gibbons	Alvarez & Marsal Canada Inc., in its capacity as Monitor
Jordan Schultz	The Respondents
Heather Frydenlund	CWB National Leasing Inc.
Christian Garton	Sure Crop Feeds
Jonathan Ross	Bank of Montreal Transportation Finance