



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

FIRST REPORT OF THE MONITOR

ALVAREZ & MARSAL CANADA INC.

AUGUST 22, 2024



ALVAREZ & MARSAL

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1.0 INTRODUCTION

- 1.1 On August 13, 2024 (the “**Filing Date**”), BC Tree Fruits Cooperative (“**BCTFC**”), BC Tree Fruit Industries Limited (“**BCTF Industries**”) and Growers Supply Company Limited (“**GSC**”, together with BCTFC and BCTF Industries, the “**BCTF Group**” or the “**Petitioners**”) were granted an initial order (“**Initial Order**”) by the Supreme Court of British Columbia to commence proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). Among other things, the Initial Order afforded the BCTF Group an initial stay of proceedings up to and including August 23, 2024 (the “**Stay Period**”) and appointed Alvarez & Marsal Canada Inc. (“**A&M**”) as the monitor of the BCTF Group (the “**Monitor**”) with enhanced powers.
- 1.2 On August 22, 2024, the Petitioners filed an application (the “**Comeback Application**”) to be heard on August 23, 2024 to seek an amended and restated initial order (“**ARIO**”), which amends and restates the Initial Order to, among other things:
- a) extend the Stay Period through to November 3, 2024;
 - b) authorize the Monitor to sell the BCTF Group’s bulk bins without requirement for any further orders of the court, irrespective of the total proceeds of such sales;
 - c) declare that terminated employees of the BCTF Group meet the criteria established by section 3.2 of the *Wage Earner Protection Program Regulations*, SOR/2008-222 (the “**WEPP Regulations**”);
 - d) increase the Administration Charge, as defined in the Initial Order, from \$250,000 to \$500,000; and
 - e) increase the amount the Petitioners are authorized to borrow under the Interim Lending Facility (as defined below) from \$1.165 million to \$4.05 million.
- 1.3 On August 22, 2024, the Monitor filed an application seeking orders (the “**SISP Order**”):
- a) approving a sales and investment solicitation processes in respect of certain assets of BCTFC (the “**BCTF SISP**”);
 - b) approving a sales and investment solicitation process in respect of the assets of GSC and certain real property of BCTFC (the “**GSC SISP**”, and together with the BCTF SISP, the “**SISPs**”); and

- c) authorizing and directing the Monitor and the Petitioners to perform their obligations and do all things necessary or desirable to perform their obligations under the SISPs.

1.4 Further information regarding the CCAA Proceedings, including the Initial Order, affidavits, reports of the Monitor and all other Court-filed documents and notices are available on the Monitor's website at www.alvarezandmarsal.com/bctreefruits (the "**Monitor's Website**").

2.0 PURPOSE OF REPORT

2.1 This first report (the "**First Report**") has been prepared by A&M in its capacity as Monitor in the CCAA Proceedings to provide information to this Honourable Court in respect of the following:

- a) the Petitioners' business and financial affairs and the causes of the BCTF Group's insolvency;
- b) the initial activities of the Monitor;
- c) the cash flow forecast and overview of the BCTF Group's cash management system;
- d) an overview of the proposed SISPs;
- e) an overview of the proposed marketing and sales strategy for the real property, equipment and inventory that are not included in the BCTF SISP and GSC SISP;
- f) the proposed increase to certain of the Court-ordered charges granted in the Initial Order;
- g) the extension of the Stay Period; and
- h) the recommendations of the Monitor in respect of the foregoing, as applicable.

2.2 The First Report should be read in conjunction with the materials filed by the Petitioners in respect of their applications for the Initial Order and for the Comeback Application (collectively, the "**Filed Materials**"), including the first affidavit of Doug Pankiw dated August 12, 2024, as background information contained in the Filed Materials has not been included herein to avoid unnecessary duplication. Capitalized terms not defined herein have the meaning given in the Filed Materials.

3.0 TERMS OF REFERENCE

3.1 In preparing this report, A&M has necessarily relied upon unaudited financial and other information supplied, and representations made to it, by certain senior management of the BCTF Group ("**Management**"). Although this information has been subject to review, A&M has not conducted an audit nor otherwise attempted to verify the accuracy or completeness of any of the information prepared by Management, or otherwise provided by the Petitioners. Accordingly,

A&M expresses no opinion and does not provide any other form of assurance on the accuracy and/or completeness of any information contained in this report, or otherwise used to prepare this report.

3.2 Certain of the information referred to in this report consists of financial forecasts and/or projections prepared by Management. An examination or review of financial forecasts and projections and procedures as outlined by the Chartered Professional Accountants of Canada has not been performed. Readers are cautioned that since financial forecasts and/or projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from those forecasts and/or projected and the variations could be significant.

3.3 Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

4.0 BUSINESS AND FINANCIAL AFFAIRS

Corporate Overview & Operations

4.1 BCTFC is a cooperative association incorporated under the *Cooperative Association Act*, S.B.C. 1999, c 28. Headquartered in Kelowna, B.C., BCTFC, through its predecessors, had operated in the Okanagan Valley since 1936.

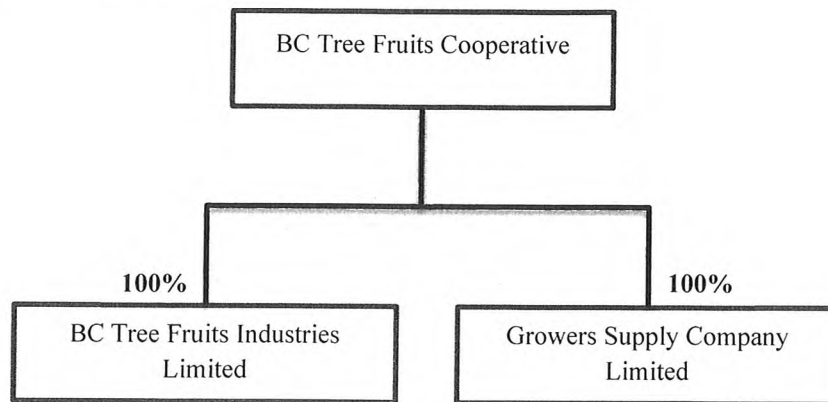
4.2 BCTFC's membership consists of approximately 300 fruit growers (the "**BCTF Growers**") located in the Okanagan Valley. As of July 16, 2024, there were 174 voting members of BCTFC consisting of 87 members in the North Region and 87 members in the South Region, as defined in the BCTFC Rules.

4.3 BCTFC serves its member base by receiving, storing, packaging, marketing and delivering packaged fruit to retailers and distributors in Canada and internationally. Fruit packaged and sold by BCTFC consists primarily of apples, cherries, pears, apricots, peaches, plums, nectarines and grapes. BCTFC also operates a cidery (the "**Cidery**") using fruit sourced from BCTF Growers. The Cidery is located at 826 Vaughan Avenue, Kelowna, B.C.

4.4 BCTF Industries is a wholly owned subsidiary of BCTFC and is a dormant entity with no business operations.

4.5 GSC is a wholly owned subsidiary of BCTFC which sells agricultural equipment and related supplies through its e-commerce website and five (5) retail locations in the Okanagan Valley ("**GSC Stores**"). GSC's products include irrigation equipment, pesticides, fertilizer, packaging materials, farm supplies, animal feed, tools and hardware.

4.6 The corporate structure of the BCTF Group is as follows:



4.7 BCTFC and GSC are both governed by a board of directors consisting of the same 10 board members (the “**Board**”).

BCTF Group’s Facilities, Stores, and Land

4.8 As summarized in the table below, the BCTF Group owns nine parcels of real property (the “**Property Parcels**”) that are located across the Okanagan Valley in Kelowna (3), Oliver (1), Summerland (1), Lake Country (1), Keremeos (1), Creston (1) and Vernon (1). The Petitioners’ facilities consist of a packing house, various controlled atmosphere (“**CA**”) storage facilities, cold storage facilities, office spaces and GSC Stores, as follows:

BC Tree Fruits Cooperative & Growers Supply Company Limited Real Estate Summary as of August 13, 2024 in CAD\$000's					
#	Address	City	Purpose	2024 BC Assessment	
				Value	Ownership
1	101 8911 Jubilee Road East	Summerland	CA Storage	\$ 6,745	BCTFC
2	327 Co-op Avenue	Oliver	Packing	5,247	BCTFC
	334 Packing House Lane	Oliver		3,127	
3	528 10th Avenue Keremeos	Keremeos	CA/Cold Storage	2,690	BCTFC
4	2605 Acland Road	Kelowna	GSC Warehouse & Store	7,995	GSC
5	754 35th Avenue S Creston	Creston	GSC Store	1,804	BCTFC
6	1200 Waddington Drive	Vernon	GSC Main Office	2,207	BCTFC
7	880 Vaughan Avenue	Kelowna	Cidery, Store, Office	21,101	BCTFC
8	3335 & 3345 Sexsmith Road	Kelowna	CA/Cold Storage, Office	27,040	BCTFC
	3670 Highway 97	Kelowna		7,539	
9	9718 Bottom Woodlake Road	Lake Country	CA Storage	9,762	BCTFC
Total				\$ 95,257	

4.9 In addition to the nine Property Parcels listed above, GSC leases two other properties from third parties from which GSC Stores are operated.

Employees

- 4.10 Prior to the initiation of these CCAA Proceedings, the BCTF Group had approximately 242 employees on a combined basis consisting of 115 unionized employees who are members of United Food and Commercial Workers Union, Local 247, and 127 non-unionized employees. All unionized staff were employed by BCTFC under the terms of a collective bargaining agreement dated October 2, 2023 (the “CBA”).
- 4.11 On or around July 29, July 31 and August 5, 2024, the Petitioners laid off 181 unionized and non-unionized employees, in aggregate (the “**Laid Off Employees**”). On August 21, 2024, the Petitioners terminated the Laid Off Employees (the “**Terminated Employees**”). No severance payments were made to the Terminated Employees and no severance payments are contemplated in the Cash Flow Forecast. The Petitioners anticipate recalling up to five unionized Terminated Employees in the near term, in accordance with the terms and rules of the CBA, to assist with the sale of bulk bins (which is further described in section 8.9 below).
- 4.12 As at the date of this First Report, 61 employees have not been laid off or terminated. These remaining employees are intended to be employed on a short-term basis to assist with shut down and decommissioning of the facilities, continuing operation of the GSC Stores as well as preparing the Petitioners’ assets for marketing and sale.

Historical Operating Results

- 4.13 The summary of historical operating results of BCTFC for the fiscal years ended May 31, 2022 (“FY22”) and 2023 (“FY23”) is presented below:

BC Tree Fruits Cooperative Non-consolidated Statement of Income For the years ended May 31, 2022 and 2023 in CAD\$000's		
	Audited FY22	Audited FY23
Revenue	\$ 56,989	\$ 55,712
Direct costs	(20,465)	(18,405)
Indirect costs	(16,887)	(15,885)
Administrative costs	(5,869)	(6,434)
Total operating income	13,767	14,988
Gain on sale of property, plant & equipment	21,755	118
Other income (expenses)	5,457	3,901
Net income prior to distribution	40,979	19,008
Returned to growers	(25,700)	(23,522)
Net income (loss)	\$ 15,279	\$ (4,515)

- 4.14 For FY23, revenues totaled \$55.7 million and the net income prior to distribution was \$19.0 million (compared to \$41.0 million in FY22, of which \$21.8 million is attributed to the gain on sale of redundant property, plant and equipment (“PP&E”).
- 4.15 Operating income remained relatively consistent in FY22 and FY23 with the significant difference being a large decline in other income year-over-year resulting in a net loss of \$4.5 million in FY23.
- 4.16 In FY22 and FY23, returns to BCTF Growers were \$25.7 million and \$23.5 million, respectively, exceeding operating income of \$13.8 million and \$15.0 million, respectively.
- 4.17 A summary of historical operating results of GSC for fiscal years ended December 31, 2022 (“GFY22”) and 2023 (“GFY23”) is presented below:

Growers Supply Company Limited Non-consolidated Statement of Income For the years ended December 31, 2022 and 2023 <i>in CAD\$000's</i>		
	<i>Audited GFY22</i>	<i>Audited GFY23</i>
Revenues	\$ 37,866	\$ 33,683
Direct costs	(27,948)	(24,403)
Indirect costs	(9,191)	(10,125)
Total operating income	727	(846)
Other income (expenses)	(726)	(135)
Net income (loss)	\$ 1	\$ (981)

- 4.18 For GFY23, revenues totaled \$33.7 million compared to \$37.9 million GFY22, representing an 11.0% decline year-over-year. Management has indicated that the decline in profitability from net income of \$1,000 in GFY22 to a net loss of \$981,000 in GFY23 was primarily due to increased competition and certain adverse weather events reducing demand from growers.

Historical Statement of Financial Position

BCTFC Financial Position

- 4.19 A summary of the audited financial position of BCTFC as at May 31, 2022 and 2023 is tabled below:

BC Tree Fruits Cooperative
Non-consolidated Balance Sheet
as at May 31, 2022 and 2023
in CAD\$000's

	<i>Audited</i> FY22	<i>Audited</i> FY23
Assets		
Receivables	\$ 10,542	\$ 9,418
Inventory	3,035	2,908
Prepaid expenses	1,387	2,552
Property held for sale	-	5,001
Current assets	14,964	19,878
Growers Supply Company	0	0
BC Tree Fruits Industries Ltd	2	2
Property, land and equipment	70,727	71,620
Intangible assets	918	918
Others assets	-	-
Total assets	86,611	92,418
Liabilities		
Bank Indebtedness	3,647	13,241
Payables and accruals	9,698	10,094
Due to growers	5,905	4,285
Growers' special deposits	7	7
Current Portion of bank loans	8,867	12,202
Current liabilities	28,123	39,829
Growers' loan certificates	4,535	3,151
Total liabilities	32,658	42,980
Members' Equity		
Share capital	0	0
Retained earnings	53,952	49,437
Total member's equity	53,952	49,438
Total liabilities and equity	86,611	92,418

4.20 BCTFC's net book value of total assets of \$92.4 million as at May 31, 2023 consisted primarily of PP&E (\$71.6 million), accounts receivables (\$9.4 million), inventory (\$2.9 million) and prepaid expenses (\$2.6 million).

4.21 The book values of BCTFC's PP&E as at May 31, 2023, is tabled below:

BC Tree Fruits Cooperative	
Property, plant and equipment	
as at May 31, 2023	
<i>in CAD\$000's</i>	
	<i>Audited</i> Net Book Value
Land	\$ 9,002
Buildings	13,630
Paving and roadways	509
Machinery and equipment	41,198
Automotive equipment	1,326
Bulk bins	4,673
Computer hardware and software	1,282
Total	\$ 71,620

- 4.22 As at May 31, 2023, BCTFC's PP&E totaling \$71.6 million comprised primarily of:
- a) land and buildings with a combined book value of \$22.6 million;
 - b) machinery and equipment with a book value of \$41.2 million; and
 - c) bulk bins with a book value of \$4.7 million.

- 4.23 Summarized in the table below are the eight Property Parcels owned by BCTFC:

BC Tree Fruits Cooperative Real Estate Summary as of August 13, 2024 in CAD\$000's						
#	Address	City	Purpose	2024 BC Assessment		Occupying Entity
				Value	Ownership	
1	101 8911 Jubilee Road E	Summerland	CA Storage	\$ 6,745	BCTFC	BCTFC, MBWC
2	327 Co-op Ave	Oliver	Packing	5,247	BCTFC	BCTFC
	334 Packing House Lane	Oliver		3,127		
3	528 10th Ave Keremeos	Keremeos	CA/Cold Storage	2,690	BCTFC	BCTFC
4	880 Vaughan Ave	Kelowna	Cidery, Store, Office	21,101	BCTFC	BCTFC
5	3335 & 3345 Sexsmith Road	Kelowna	CA/Cold Storage,	27,040	BCTFC	BCTFC
	3670 Highway 97	Kelowna	Office	7,539		
6	9718 Bottom Woodlake Road	Lake Country	CA Storage	9,762	BCTFC	BCTFC
7	754 35th Ave S Creston	Creston	GSC Store	1,804	BCTF	GSC
8	1200 Waddington Drive	Vernon	GSC Main Office	2,207	BCTF	GSC
Total				\$ 87,262		

- 4.24 BCTFC owns eight Property Parcels, which have a combined 2024 B.C. Assessment Value totaling \$87.3 million. BCTFC operates out of six of the eight Property Parcels.
- 4.25 BCTFC, as landlord, is party to lease agreements for three of its Property Parcels (the "**Leased Properties**"):
 - a) 85% of the property located in Summerland, B.C. (the "**Summerland Property**") is leased to a third-party tenant, Mission Bottle Washing Company ("**MBWC**"); and
 - b) the two properties located in Creston, B.C. and Vernon, B.C. are leased to GSC.
- 4.26 Prior to these CCAA Proceedings, two Property Parcels owned by BCTFC were listed (the "**Listed Properties**") with the brokerage firm Unison HM Commercial Realty ("**HM Realty**"):
 - c) 3335 and 3345 Sexsmith Road, Kelowna, B.C. (the "**Sexsmith**") and 3670 Highway 97, Kelowna, B.C. (the "**Highway 97**", together with Sexsmith, the "**Sexsmith Property**") has been listed since September 2023 with a current listing price of \$28 million; and

d) 826 and 880 Vaughan Avenue, Kelowna, B.C. (the “**Vaughan Property**”), a 5.2-acre industrial property that has been listed since February 2024 with a current listing price of \$22 million.

4.27 The Listed Properties have a 2024 B.C. Assessment Value totaling \$48.1 million.

4.28 As at May 31, 2023, BCTFC’s liabilities totaled \$43.0 million (compared to \$32.7 million as at May 31, 2022) and primarily consisted of bank indebtedness and loans (\$25.4 million in aggregate), accounts payables (\$10.1 million), amounts due to BCTF Growers (\$4.3 million), and BCTF Growers’ loan certificates (\$3.2 million).

4.29 Summarized in the table below are BCTFC’s known liabilities as at the Filing Date:

BC Tree Fruits Cooperative Summary of Liabilities as at August 13, 2024 <i>in CAD\$000's</i>		
Bank indebtedness and loans	\$	40,005
Liens		2,412
Lease liability - various		TBD
Total secured debt	\$	42,416
Accounts payable		1,552
Due to Growers		3,737
Growers' loan certificates		1,126
Total unsecured debt		6,415
Total liabilities	\$	48,832

4.30 As at the Filing Date, BCTFC had recorded secured debt totaling approximately \$42.4 million, consisting of Canadian Imperial Bank of Commerce (“**CIBC**”) bank indebtedness and loans, and two liens (subsequently discussed). BCTFC also has outstanding lease liabilities relating to certain equipment, vehicles, and computers and related peripherals, the amount of which are presently unknown.

4.31 Unsecured debt on the Filing Date totaled \$6.4 million, consisting of accounts payable totaling \$1.6 million and an additional \$3.7 million owing to BCTF Growers for the 2023 apple and 2024 cherry and plum seasons, and \$1.1 million owing to BCTF Growers regarding various outstanding loan certificates that were issued to BCTFC prior to 2020.

GSC Financial Position

4.32 A summary of the audited financial position of GSC as at December 31, 2022 and 2023, is tabled below:

Growers Supply Company Limited
Non-consolidated Balance Sheet
as at December 31, 2022 and 2023
in CAD\$000's

	<i>Audited</i> GFY22	<i>Audited</i> GFY23
Assets		
Cash	\$ 346	\$ 111
Receivables	4,495	3,489
Inventory	14,801	13,470
Prepaid expenses	584	127
Current assets	20,225	17,196
Property and equipment	1,908	1,788
Future income taxes	-	416
Total assets	22,133	19,400
Liabilities		
Bank Indebtedness	10,399	10,819
Payables and accruals	2,988	1,566
Due to BC Tree Fruits Co-op	3,030	2,509
Current liabilities	16,417	14,894
Long-term debt	844	622
Capital lease obligations	-	-
Future income taxes	7	-
Total liabilities	17,268	15,516
Members' Equity		
Share capital	0	0
Retained earnings	4,865	3,884
Total members' equity	4,865	3,884
Total liabilities & equity	22,133	19,400

- 4.33 As at December 31, 2023, GSC's PP&E book value of \$1.8 million included (i) one Property Parcel located at 2605 Acland Road, Kelowna, B.C. which has a book value of \$930,000, compared to a 2024 B.C. Assessment Value approximating \$8.0 million; and (ii) machinery and equipment with a book value of \$857,000.
- 4.34 Tabled below is a summary of the five properties from which GSC operates:

Growers Supply Company Limited
Real Estate Summary
as of August 13, 2024
in CAD\$000's

#	Address	City	Purpose	2024 BC	
				Assessment Value	Ownership
1	2605 Acland Road	Kelowna	GSC Warehouse & Store	\$ 7,995	GSC
Leased Properties					
2	754 35th Ave S Creston	Creston	GSC Store	1,804	BCTFC
3	1200 Waddington Drive	Vernon	GSC Main Office	2,207	BCTFC
4	5911 Saw mill Road	Oliver	GSC Store	NA	3rd Party
5	272 Dawson Ave #108	Penticton	GSC Store	NA	3rd Party
Total				\$ 12,006	

- 4.35 As illustrated above, GSC owns one Property Parcel located at 2605 Acland Road, Kelowna, B.C. (the “**Acland Property**”) which is used as a warehouse and store.
- 4.36 As at December 31, 2023, GSC’s liabilities totaling \$15.5 million (compared to \$17.3 million as at December 31, 2022) primarily consisted of CIBC bank indebtedness and long-term debt (\$11.4 million in aggregate), accounts payables (\$1.6 million), and amounts due to BCTFC (\$2.5 million).
- 4.37 As at the Filing Date, GSC’s recorded liabilities totaled \$16.6 million, with \$10.8 million in secured debt consisting of CIBC bank indebtedness and a revolving demand loan, and \$50,000 in relation to a vehicle lease. Unsecured debt totaled \$5.8 million, including \$0.4 million in intercompany debt owed to BCTFC.

Existing Credit Facility - CIBC

- 4.38 Since March 2012, GSC’s operations were financed pursuant to a credit agreement (the “**GSC Credit Facility**”) with the secured lender, CIBC, comprising various credit facilities including, but not limited to, operating loans, demand loans, instalment loans and corporate credit card facilities, which were subsequently amended on multiple occasions during the period May 2012 to December 2023.
- 4.39 In or around January 2018, BCTFC entered into a credit agreement with CIBC that provided for various credit facilities (the “**CIBC Credit Facility**” and together with the GSC Existing Credit Facility, the “**Existing Credit Facility**”) including, but not limited to, a demand operating facility, a term revolving facility, and demand instalment loans, which were subsequently amended on numerous occasions between the period August 2018 to March 2023.
- 4.40 As at the Filing Date, the BCTF Group had outstanding secured debt obligations of \$50.7 million in respect of the Existing Credit Facility.
- 4.41 All of the obligations of the BCTF Group under the Existing Credit Facility are secured by, among other things, a general security interest over all present and future undertakings and personal property, a guarantee from BCTFC, BCTF Industries and GSC, a mortgage against the Acland Property and all real estate owned by BCTFC, an acknowledgment and assignment of insurance, and an environmental indemnity agreement between BCTFC and CIBC.
- 4.42 On August 6, 2024, CIBC issued to the Petitioners demands for payment, demands on guarantees, and Notices of Intention to Enforce Security pursuant to section 224 of the *Bankruptcy and Insolvency Act*.

Other Liabilities

- 4.43 As at the date of this Report, two claims of lien have been filed against BCTFC and are summarized in the table below:

BC Tree Fruits Cooperative Lien Summary as of August 13, 2024 in CAD\$000's					
#	Lienholder	Amount	Work Completed	Property	Date Filed
1	Fillmore Construction Management Inc.	\$ 2,349	Construction & renovation	327 Co-op Ave, Oliver, B.C.	July 30, 2024
2	Glacier Heights Refrigeration Inc.	63	Refrigeration decommissioning	880 Vaughan Ave, Kelowna, B.C.	July 29, 2024
		\$ 2,412			

- 4.44 The two claims of lien totaling approximately \$2.4 million have been filed under the *Builders Lien Act*, S.B.C. 1997, c.45 in respect of construction management services and refrigeration decommissioning services. It is the Monitor's understanding that the Petitioners have not responded to requests for information by certain of the lien claimants issued on or around July 31, 2024.
- 4.45 The Monitor has not yet undertaken a review of the validity or priority of the liens or other claims that may be secured against the assets of the Petitioners.

Cash Management System

- 4.46 The Petitioners maintain their bank accounts with CIBC in the names of BCTFC and GSC, respectively. The Petitioners also use a limited number of CIBC credit cards to facilitate operational corporate payments.
- 4.47 The BCTF Group maintains a centralized cash and treasury management process for banking, cash planning and payment approvals. Under the guidance of BCTFC, the Petitioners move cash amongst the BCTF Group to fund accounts payable and payroll (collectively, the "**Cash Management System**").
- 4.48 The current Cash Management System includes the necessary accounting controls to enable the Petitioners to trace funds and ensure all transactions are appropriately approved.
- 4.49 Cash management functions are conducted by the BCTF Group's treasury department consisting of the Chief Financial Officer (and currently also acting as the Interim Chief Executive Officer), BCTFC's Financial Controller and GSC's Financial Controller, all located in Kelowna, B.C.
- 4.50 Upon the commencement of the CCAA Proceedings, the Petitioners' Cash Management System has been adjusted to reflect requirements under the Interim Financing Term Sheet, which are subsequently described in section 6.0.

Causes of Insolvency

- 4.51 In recent years, the Petitioners have experienced reduced operating income due to various factors including decreasing fruit volumes due to climate events, increasing competition, reduction in grower members, and aging facilities.
- 4.52 BCTF Group's primary revenue source is from the sale of apples followed by cherries and other fruits. Apple volumes have declined significantly in recent years from approximately 122 million pounds in 2018 to 60 million pounds in 2023. Volume declines are attributed to several factors previously noted.
- 4.53 Starting 2022, the Petitioners sought to right-size their operations through sales of surplus real estate and seeking new financing alternatives to expand and modernize their operations in a new facility located in Oliver, B.C. Certain real property was sold to fund new capital investments and repay certain indebtedness but overall bank indebtedness levels rose through 2024.
- 4.54 Recognizing that the BCTF Group would not be able to pay the BCTF Growers for their 2024 fruit deliveries due to low forecast volume receipts, the Board concluded that BCTFC should cease accepting fruit and instructed Management to initiate steps to wind-down the BCTF Group under a statutory filing.
- 4.55 As a result of the Board's decision, BCTFC's operations were largely terminated on or around July 25, 2024. As of the date of this First Report, GSC is still operating at all of its five locations. However, new inventory procurement and purchases ceased on or around July 25, 2024.

5.0 INITIAL ACTIVITIES OF THE MONITOR

- 5.1 As at the date of this First Report, the following initial activities have been performed by the Monitor:

Interim Financing Term Sheet and Cash Flow Forecast

- a) engaged in extensive discussions with CIBC, its legal counsel, Blake, Cassels and Graydon LLP ("**Blakes**") and financial advisor, PricewaterhouseCoopers Inc. ("**PwC**"), in relation to the terms of the Interim Financing Term Sheet;
- b) reviewed and assisted with the preparation of the Cash Flow Forecast, as defined in the Pre-Filing Report of the Proposed Monitor dated August 12, 2024 (the "**Pre-Filing Report**"), including the probable and hypothetical assumptions;

- c) consulted with PwC and Management regarding the Cash Flow Forecast and related assumptions;

Review of CCAA Court Materials

- d) reviewed draft Court application materials and provided comments to the BCTF Group's legal counsel, Norton Rose Fulbright Canada LLP ("NRF");
- e) reviewed proposed Court-ordered charges in respect of the Administration Charge, the Interim Lender's Charge, and the D&O Charge, as defined in the Pre-Filing Report;

SISPs

- f) held discussions with the Monitor's legal counsel, Fasken Martineau DuMoulin LLP ("Fasken"), the Petitioners, NRF, CIBC and PwC, in respect of a marketing strategy for all real property and equipment;
- g) attended meetings with interested parties in relation to the Petitioners' assets;
- h) prepared marketing materials and data sites in respect of the SISPs;
- i) attended meetings with HM Realty to discuss the status of the currently listed properties;

Monitoring of Cash Receipts and Disbursements

- j) reviewed and approved the Petitioners' proposed cash disbursements and attending to correspondence with Management regarding a monitoring program;
- k) held numerous discussions and meetings with CIBC to coordinate cash management and establish new bank accounts to be used in connection with these CCAA Proceedings and authorizations to be provided to the Monitor;

Statutory and Other Responsibilities

- l) updated the Monitor's Website and posted the Filed Materials and other relevant information to the Monitor's Website as they became available;
- m) activated the Monitor's toll-free number and email account;
- n) prepared and coordinated the notices required pursuant to paragraph 58 of the Initial Order, including the following:
 - i. arranged for publication of notice of the CCAA Proceedings, in prescribed form, in the Vancouver Sun and The Daily Courier on August 15 and 16, 2024, respectively, copies of which are attached hereto as Appendix "A";

- ii. prepared a notice and list of creditors (the “**Notice to Creditors**”) with claims exceeding \$1,000 and posted same to the Monitor’s Website;
- iii. distributed the Notice to Creditors to 668 creditors by mail on August 20, 2024, a copy of which notice is attached hereto as Appendix “**B**”; and
- iv. prepared and filed prescribed statutory forms with the Office of the Superintendent of Bankruptcy as required pursuant to section 23(1)(f) of the CCAA;
- o) prepared the Pre-Filing Report and this First Report;
- p) retained Fasken to act as independent legal counsel to the Monitor;

Communication Matters

- q) attended meetings with the Ministry of Agriculture and Food on August 14 and 21, 2024 to discuss the CCAA Proceedings and explore potential options for the B.C. Government’s involvement;
- r) conducted ongoing discussions with Fasken, Management, NRF, CIBC, Blakes, PwC, and other stakeholders, among others, to discuss various matters;
- s) attended to correspondence with Management and NRF regarding communications to employees, vendors, members and other interested parties;
- t) reviewed draft communications prepared by Management;
- u) held discussions with NRF and Fasken regarding employee matters including, but not limited to, payment of wages, WEPPA and union matters;

Creditor and Other Stakeholder Matters

- v) received and responded to numerous telephone and email inquiries from trade creditors, members, employees and other interested parties. The Monitor has addressed the queries where possible; and
- w) held discussions and liaised with Management and other stakeholders in respect of the CCAA Proceedings and related matters generally.

6.0 CASH MANAGEMENT SYSTEM UNDER THE CCAA PROCEEDINGS

- 6.1 The Cash Flow Forecast was presented in the Pre-Filing Report along with the Monitor’s comments thereon. For the one week ended August 18, 2024, the Petitioners did not make any disbursements as Management, the Monitor, and CIBC worked towards setting up two new bank accounts to be

used by the Petitioners during these CCAA Proceedings. Pursuant to the Initial Order, the Petitioners are authorized to borrow under the Interim Financing Term Sheet, as defined in the Initial Order, with CIBC acting as the Interim Lender, to support operations during these CCAA Proceedings.

6.2 Pursuant to the Interim Financing Term Sheet, interim advances are to be deposited into new CIBC bank accounts in the name of the Monitor, which CIBC and the Monitor have been working towards establishing since the Filing Date. Effective August 15, 2024, two of the Monitor's representatives have been set up as signing authorities ("**Monitor Signatories**") for the two new CIBC bank accounts.

6.3 During the CCAA Proceedings, Management will prepare funding requests for proposed disbursements on a weekly basis for the Monitor's review and approval. If approved, Management will follow historical payment procedures to issue payment to vendors with releases to be approved online by the Monitor Signatories.

6.4 A more detailed cash flow variance analysis will be included in the Monitor's subsequent reports.

7.0 SALES AND INVESTMENT SOLICITATION PROCESS

7.1 The Monitor is seeking Court approval of the SISP's to market and sell the assets of the Petitioners, including without limitation the real property, equipment, inventory, accounts receivables, intellectual property and goodwill (collectively, the "**Assets**") in two parallel SISP processes: (i) the BCTF SISP; and (ii) the GSC SISP. The BCTF SISP and GSC SISP have been developed by the Monitor in consultation with its legal counsel, Fasken, the Petitioner and its legal counsel, and CIBC and its legal counsel and financial advisor, to strategically package complementary assets for sale to maximize recoveries and preserve the opportunity for sales of operating assets which might be operated to support the industry.

7.2 Real property that is not included in the SISP's is anticipated to be marketed and sold concurrently through listings by a brokerage firm and are further described in section 8.0.

BCTF SISP

7.3 The BCTF SISP contemplates the sale of certain assets, including without limitation, certain real property, bulk bins, inventory, machinery and equipment (for the packing facility and the Cidery), trademark, and other intangible assets (collectively, the "**BCTFC Assets**"), and business operations (collectively, with the BCTFC Assets, the "**BCTFC Property**").

7.4 Summarized in the table below are the Property Parcels proposed to be included in the BCTF SISP:

BCTFC SISP
Real Estate Summary
as of August 13, 2024
in CAD\$000's

#	Address	City	Purpose	2024 BC		Ownership	Occupying Entity
				Assessment Value			
1	101 8911 Jubilee Road E	Summerland	CA Storage	\$ 6,745		BCTFC	BCTFC, MBWC
2	327 Co-op Ave	Oliver	Packing	5,247		BCTFC	BCTFC
	334 Packing House Lane	Oliver		3,127			
3	528 10th Ave Keremeos	Keremeos	CA/Cold Storage	2,690		BCTFC	BCTFC
Total				\$ 17,809			

7.5 The Property Parcels listed above have been strategically packaged together as the packing facility located in Oliver, B.C. (the “**Oliver Packing Plant**”) is more likely to attract buyers and potentially higher value if sold together with the two cold storage/CA facilities located in Summerland, B.C. and Keremeos, B.C. (the “**Summerland and Keremeos Property**” and together with the Oliver Packing Plant, the “**BCTFC Real Property**”) as they offer complementary facilities and equipment.

7.6 As at the date of this Report, the Petitioners have received unsolicited offers and interest in the BCTFC Real Property and BCTFC’s trademark.

BCTF SISP Timeline

7.7 Summarized in the table below are the key milestones and target dates under the proposed BCTF SISP. Undefined terms in the table below are subsequently defined:

PHASE	TARGET DATES	DESCRIPTION
Phase I - Qualification		
BCTF SISP to commence	August 26, 2024	Initial solicitation of interest by way of notice the Monitor deems appropriate and initial due diligence period
LOI Deadline for En Bloc Bids	September 27, 2024	Deadline for Potential Bidders to submit a non-binding letter of intent which shall be qualified by the Monitor
Phase II – Final Bid Process		
Final Bid Deadline for all Bids whether En Bloc of for individual BCTFC Assets including any of the BCTFC Real Property	October 18, 2024	Deadline for Qualified Bidders to submit a binding Final Bid from which the Monitor may select a Winning Bid or Backup Bid
Final Agreement Deadline	October 31, 2024	Deadline for the Monitor to accept and enter into Final Agreement(s)
Court Approval Deadline	November 15, 2024	Monitor to seek approval of Final Agreement(s)

PHASE	TARGET DATES	DESCRIPTION
Outside Closing Date	November 30, 2024	N/A

- 7.8 The BCTFC SISP contemplates two phases: (i) the qualification phase (“**Phase I**”); and (ii) the final bid process phase (“**Phase II**”).

Phase I

- 7.9 Phase I includes commencement of the BCTFC SISP immediately, if approved by this Honourable Court. The Monitor will invite offers from a list of potential bidders that may be interested in acquiring (i) all of the Property (an “**En Bloc Bid**”) or (ii) any one or more of the BCTFC Assets including any of the BCTFC Real Property (an “**Individual Asset Bid**”).
- 7.10 To solicit En Bloc Bids or Individual Asset Bids from potential bidders (“**Potential Bidder**”) the Monitor will, among other things, prepare and distribute an initial marketing summary (the “**Teaser**”) and prepare an electronic data room containing additional due diligence materials, including but not limited to, a confidential information memorandum information package (the “**CIM**”). Upon execution of a confidentiality agreement Potential Bidders will be granted access to the data room.
- 7.11 On or before September 27, 2024, any Potential Bidder who wishes to submit a Bid must deliver a written, non-binding letter of intent (“**LOI**”) to the Monitor, which shall be qualified (the “**Qualified LOI**”) provided it contains certain requisites as outlined in the BCTF SISP. Bidders demonstrating to the Monitor their financial wherewithal and technical and operational expertise may be deemed a qualified bidder (“**Qualified Bidder**”).

Phase II

- 7.12 In the event that the Monitor receives a final and binding bid (the “**Final Bid**”) acceptable to the Monitor in form and substance, by October 18, 2024 (the “**Final Bid Deadline**”), the Monitor, in consultation with CIBC, shall select the winning bid (the “**Winning Bid**”) and/or backup bid (“**Backup Bid**”), if any, from the selection of Final Bids. Evaluation criteria will include, but are not limited to: (i) the purchase price or net value being provided; (ii) the terms of the proposed transaction documents; (iii) the conditionality of the bid, including commitments for any financing required; and (iv) the identity, circumstances, and ability of the bidder to successfully complete the contemplated transaction.

- 7.13 On or before October 31, 2024, the Monitor intends to enter into an agreement or multiple agreements (a “**Final Agreement**”) with a Successful Bidder and seek Court approval of the Final Agreement on or before November 15, 2024. It is the Monitor’s intention to effect a closing of a Final Agreement by November 30, 2024.

Monitor’s Comments

- 7.14 The Monitor’s comments in respect of the BCTF SISP are as follows:
- a) the BCTF SISP was developed with a view to maximizing value to stakeholders by packaging complementary assets that are believed to be of greater value if sold together;
 - b) Management advises that the sale of the Oliver Packing Plant alone would likely be less attractive to potential bidders as parties interested in purchasing a packaging facility would require CA and cold storage facilities to preserve the fruit;
 - c) the Monitor recognizes that adherence to the short timelines in the SISP may be challenging for potential bidders. However, there have already been unsolicited expressions of interest from various parties in respect of BCTFC’s assets and operations and further delay in commencing the SISP may result in declining interest by certain parties due to the imminent commencement of the current apple packing season, starting September 2024; and
 - d) the Monitor notes that the BCTF SISP has sufficient flexibility in place for the Monitor to either extend or accelerate the timelines, or consider alternative offer structures (both in consultation with CIBC), should they arise.
- 7.15 Based on the above, it is the Monitor’s view that the proposed BCTF SISP terms and timelines are reasonable in the circumstances.

GSC SISP

- 7.16 The GSC SISP contemplates an en bloc sale of certain assets, including without limitation, certain real property, machinery and equipment, inventory, accounts receivable, intellectual property and goodwill (collectively, the “**GSC Assets**”) and business operations (collectively, together with the BCTFC Assets, the “**GSC Property**”) that would be necessary to operate GSC as a going concern.
- 7.17 The Property Parcels included in the GSC SISP are summarized in the table below:

GSC SISP Real Estate Summary as of August 13, 2024 <i>in CAD\$000's</i>					
#	Address	City	Purpose	2024 BC Assessment	
				Value	Ownership
1	2605 Acland Road ("Acland Property")	Kelowna	GSC Warehouse & Store	\$ 7,995	GSC
Leased Properties					
2	754 35th Ave S Creston 9 ("Creston Property")	Creston	GSC Store	1,804	BCTFC
3	1200 Waddington Drive ("Vernon Property")	Vernon	GSC Main Office	2,207	BCTFC
Total				\$ 12,006	

- 7.18 As noted in the table above, the GSC SISP includes the Acland Property which is owned by GSC, and the Creston Property and Vernon Property which are both owned by BCTFC. Although the latter two properties are owned by BCTFC, they are used by GSC as a GSC Store and main office, respectively. The Acland Property, Creston Property and Vernon Property (together, the “**GSC Real Property**”) have a combined B.C. Assessment Value of approximately \$12 million.
- 7.19 The GSC Real Property is anticipated to be listed by a brokerage firm concurrently with being marketed under the GSC SISP. The Monitor has requested proposals from certain marketing agents, but has not yet selected a marketing agent.
- 7.20 It is the Monitor’s understanding that prior to these CCAA Proceedings, the Petitioners had explored a potential sale of the GSC Property as a going concern and solicited offers from interested parties through informal discussions and meetings. Certain parties had expressed interest in the GSC Property. For these reasons, the GSC Property has been strategically packaged together to be sold as a going concern in the GSC SISP.

GSC SISP Timeline

- 7.21 Summarized in the table below are the key milestones and target dates:

DATE	MILESTONE
August 23, 2024	SISP to commence
September 16, 2024	Bid Deadline
September 20, 2024	Final Agreement Deadline
October 1, 2024	Court Approval Deadline
October 14, 2024	Outside Closing Date

- 7.22 To solicit bids from potential bidders (“**Potential Bidder**”) the Monitor will, among other things, prepare and distribute a Teaser and prepare an electronic data room containing additional due diligence materials, including but not limited to, a CIM. Upon execution of a confidentiality agreement, Potential Bidders will be granted access to the data room.
- 7.23 In the event that the Monitor receives a viable bid (a “**Qualified Bid**”) acceptable to the Monitor in form and substance by September 16, 2024 (the “**GSC Bid Deadline**”), the Monitor intends to finalize an asset purchase agreement (the “**APA**”) by September 20, 2024, seek approval of the APA by October 1, 2024, and effect a closing of the proposed sale transaction by October 14, 2024.
- 7.24 The Monitor will review all Qualified Bids with CIBC against a set of evaluation criteria that will include, but are not limited to: (i) the purchase price or net value being provided; (ii) the terms of the proposed transaction documents; (iii) the conditionality of the bid, including commitments for any financing required; and (iv) the identity, circumstances, and ability of the bidder to successfully complete the contemplated transaction. The Monitor will identify one or more Qualified Bids (each a “**Winning Bid**”) as well as one more backup Qualified Bids (each a “**Backup Bid**”)

Monitor’s Comments

- 7.25 The Monitor’s comments in respect of the GSC SISP are as follows:
- a) the GSC SISP was developed by the Monitor in consultation with its legal counsel, the Petitioners and their legal counsel, and CIBC and its legal counsel and financial advisor with a view to maximizing value to stakeholder by packaging together complementary assets that are believed to be of greater value if sold together;
 - b) Management confirmed that marketing and sales efforts for GSC as a going concern commenced prior to these CCAA Proceedings and numerous parties, with the financial wherewithal and operational capabilities, have expressed interest in GSC’s business and operations;
 - c) the Monitor is preparing the marketing materials including, but not limited to, the Teaser and CIM, as well as an electronic data site, to immediately launch the GSC SISP, subject to approval by this Honourable Court; and
 - d) the Monitor recognizes that adherence to the short timelines in the SISP may be challenging for potential bidders; however, as noted above, the Petitioners have received interest in GSC prior to these CCAA Proceedings, GSC is not replenishing its inventory (i.e. declining

inventory offerings) and further delay in effecting a sale of the GSC Assets *en bloc* or otherwise will result in further holding and other costs related to the GSC Assets.

- 7.26 Based on the above, it is the Monitor’s view that the GSC SISP terms and timelines are reasonable in the circumstances.

8.0 BROKERAGE-LISTED PROPERTIES AND SALE OF OTHER ASSETS

- 8.1 Pursuant section 27(p) of the Initial Order, the Monitor shall have the right to:

“market, conduct, supervise, and direct the sale, conveyance, transfer, lease, assignment or disposal of any Property or any part or parts thereof, whether or not outside of the normal course of business, subject to any approval of this Court as may be required pursuant to the CCAA and this Order, and to sign or execute on behalf and in the name of the Petitioners any conveyance or other closing documents in relation thereto;”

- 8.2 The Monitor contemplates the sale of Property Parcels not sold pursuant to either of the SISPs through a brokerage-firm as well as the direct sale or auction of certain packing and other equipment owned by the Petitioners that would not add value if included in the SISPs.

Brokerage-listed Properties

- 8.3 Tabled below are the three Property Parcels that are not considered complementary assets if packaged together in a SISP and are contemplated to be listed, or continue to be listed, with a brokerage firm:

BCTF Group Real Estate Summary as of August 13, 2024 in CAD\$000's						
#	Address	City	Purpose	2024 BC Assessment		
				Value	List Price	Ownership
1	880 Vaughan Ave	Kelowna	Cider, Store, Office	\$ 21,101	\$ 22,000	BCTFC
2	3335 & 3345 Sexsmith Road	Kelowna	CA/Cold Storage,	27,040	28,000	BCTFC
	3670 Highway 97	Kelowna	Office	7,539		
3	9718 Bottom Woodlake Road	Lake Country	CA Storage	9,762	NA	BCTFC
Total				\$ 65,442	\$ 50,000	

- 8.4 The Vaughan Property is a 5.2-acre industrial property with 195,159 sf of warehouse/storage facility and is currently being utilized by BCTFC as the Cider store and office. The Vaughan Property was listed by HM Realty on February 21, 2024, at a list price of \$28 million which had subsequently been reduced to its current list price of \$22 million. BCTFC had received and accepted an offer (the “**Vaughan Offer**”) and entered into an agreement of purchase and sale (the

“APS”) for this property on July 12, 2024. The APS contemplates, among other things, a subject removal date of August 30, 2024 (the “**Due Diligence Date**”) and a closing date that is 30 business days following the date the purchaser removes subjects (i.e. closing date on or around October 16, 2024).

- 8.5 The Monitor, in consultation with its legal counsel, the Petitioner and with the support of the secured lender, CIBC, intends to advance the Vaughan Offer. Subject to the purchaser waiving conditions by the Due Diligence Date, the Monitor intends to seek approval of the Vaughan Offer from this Honourable Court shortly thereafter.
- 8.6 The Sexsmith Property is a controlled atmosphere and cold storage facility and office, and has been listed for sale since September 2023 with HM Realty. The Sexsmith Property has a 2024 B.C. Assessment Value of approximately \$34.5 million and was listed for sale at \$28 million. One offer has been received for the Sexsmith Property prior to these CCAA Proceedings and the Monitor, in consultation with CIBC, the Petitioners and HM Realty, are discussing whether the Sexsmith Offer should be advanced. In the meantime, the Monitor intends to continue the current listing of the Sexsmith Property with HM Realty.
- 8.7 The property located at 9718 Bottom Woodlake Road, Lake Country, B.C. (the “**Lake Country Property**”) is a CA storage facility with a 2024 B.C. Assessment Value of approximately \$9.8 million. The Lake Country Property is not currently listed with a broker. However, the Petitioners have received unsolicited interest on the Lake Country Property and are of the view that the Lake Country Property should be listed in the near term.
- 8.8 The Monitor is in the process of soliciting listing proposals from various real estate brokerage firms for the Property Parcels it intends to list on the Multiple Listing Service System, including but not limited to the Lake Country Property, the Acland Property, the Creston Property and the Vernon Property. The Monitor expects to be in a position to enter into listing agreements with a brokerage firm (or firms) in the near term.

Bulk Bins

- 8.9 Pursuant section 11(a) of the Initial Order, the Petitioners shall have the right to:

“... commence marketing efforts in respect of any of their redundant of non-material assets and to dispose of redundant or non-material assets not exceeding \$1,000,000 in any one transaction or \$5,000,000 in the aggregate.”

- 8.10 The tree fruit industry is facing a shortage of bulk bins and the Petitioners own in excess of 200,000 bins consisting of wood, and half wood and plastic bins. Since the commencement of the CCAA Proceedings, the Petitioners have been receiving numerous requests from BCTF Growers, packers and other industry competitors to purchase bins. Accordingly, the Petitioners have commenced a process to collect and review bin purchase requests in order to develop a broader sales strategy while considering the needs of the BCTF Growers, order sizes relative to prior harvest levels for BCTF Grower bin orders and the broader needs of the industry.
- 8.11 At this stage, BCTFC is prepared to sell up to 100,000 wooden bins to the BCTF Growers and others, which Management advises may result in sales proceeds exceeding the \$5 million limit included in the Initial Order and the proposed ARIO. Specialized bulk bins (plastic and half-plastic bins) related to the Oliver Packing Plant will be excluded from the bulk bin sales and are included in the BCTF SISP.
- 8.12 The Monitor has reviewed certain bin purchase requests made by BCTF Growers and other interested parties, and has held discussions with the Petitioners with respect to proposed sales methodologies including logistics for collection of bin proceeds as they are sold.
- 8.13 It is unclear at this time whether the Petitioners will be selling the bins through many lower value transactions, or in few large transactions. In any event, it is possible that sales proceeds from transactions may exceed the sales thresholds set in the Initial Order and the proposed ARIO. In order to expedite the sale of the bins, the Petitioners are seeking an order in the proposed ARIO to exclude the bin sales from the sales thresholds in the ARIO.

Auctioned Equipment

- 8.14 Prior to the CCAA Proceedings, on June 1, 2024, the Petitioners had entered into an auction agreement (the “**Auction Agreement**”) with Steep Hill Equipment Solutions, in partnership with New Mill Capital Holdings, LLC to market for sale two pieces of equipment consisting of a pear processing and box crate packing line (the “**Auctioned Equipment**”) through an online public auction slated for August 28, 2024 to September 4, 2024. The Auction Agreement is attached herewith as Appendix “C”.
- 8.15 The Monitor understands that the equipment earmarked for auction is redundant and surplus to the BCTF Group’s operations when operating as a going concern and would not add additional value if included in the proposed SISPs. The Monitor notes that the net book value of the Auctioned Equipment is well below the approval threshold noted in section 11(a) of the Initial Order.

9.0 WEPPA

- 9.1 On November 20, 2021, amendments to WEPPA and WEPP Regulations came into force (the “**WEPP Amendments**”) which authorized the court to make a determination that terminated employees are entitled to WEPPA payments in the context of CCAA proceedings if the following criteria (set out in section 5(1) of WEPPA) are established:
- a) the individual’s employment ended for a reason prescribed by regulation which includes termination or expiry of the individual’s employment;
 - b) the former employer is subject to proceedings under the CCAA;
 - c) the individual is owed eligible wages by the former employer; and
 - d) a court determines under subsection 5(5) that criteria prescribed by regulation are met.
- 9.2 In this respect, the enacted section 5(5) of WEPPA provides that on application by any person, the supervising CCAA court may determine that a former employee satisfies the criteria prescribed by regulation. In turn, section 3.2 of the WEPP Regulations now provides that “*for the purposes of subsection 5(5) of [WEPPA], a court may determine whether the former employer is the former employer of all of whose employees in Canada have been terminated other than any retained to wind down its business operations*” [emphasis added].
- 9.3 The Monitor is of the view that substantially all the Terminated Employees are entitled to statutory termination and severance pay, vacation pay, and/or salary continuance pursuant to the employment standards legislation in their respective provinces of employment, contractual entitlement, common law entitlement, and/or an employment termination agreement. None of the terminated employees have received any form of termination or severance pay from the Petitioners. Accordingly, the Terminated Employees would have “eligible wages” as assessed under WEPPA, subject to the review by Service Canada.
- 9.4 Based on the above, the Monitor is of the view that it is appropriate for this Honourable Court to declare that the BCTF Group meets the criteria as prescribed in the WEPP Regulations and that former employees of the BCTF Group are entitled to receive payments under WEPPA, in order for terminated employees to access their statutory entitlements with respect to unpaid termination and/or severance pay.

10.0 COURT-ORDERED CHARGES

- 10.1 Pursuant to the Initial Order, four Court-ordered charges were granted by this Honourable Court which included the following in priority sequence:

- a) First - Administration Charge (to a maximum amount of \$250,000 during the Stay Period);
 - b) Second - the Interim Lender's Charge;
 - c) Third – the CIBC indebtedness; and
 - d) Fourth – the Director's Charge (to a maximum amount of \$300,000).
- 10.2 This Comeback Application seeks the continuation of the four Court-ordered charges as well as an increase to the following Court-ordered charges:
- a) Administration Charge – an increase from \$250,000 to \$500,000; and
 - b) Interim Lender's Charge – an increase of the amount the Petitioners are authorized and empowered to borrow under the Interim Financing Term Sheet from \$1.165 million to \$4.05 million.
- 10.3 It is the Monitor's view that the increase to the Administration Charge is reasonable in the circumstances given the complex nature of the business and operations and the proposed parallel SISPs that, if granted by this Honourable Court, would require significant resources to be allocated by the Monitor and its legal counsel, and the Petitioner, to manage the sales processes, close potentially multiple transactions and eventually wind-down the BCTF Group.
- 10.4 Additionally, the Monitor views the increase of authorized borrowings under the Interim Financing Term Sheet is reasonable for the following reasons:
- a) pursuant to the Interim Financing Term Sheet (as defined in the Initial Order), the Petitioners are permitted to borrow from the Interim Lender up to the maximum principal amount of \$4.05 million during these CCAA Proceedings including an initial advance up to \$1.165 million (the “**Initial Advance**”). The Initial Advance and the corresponding Interim Lender's Charge were approved by this Honourable Court in the Initial Order; and
 - b) the Cash Flow Forecast appended to the Pre-Filing Report of the proposed Monitor, dated August 12, 2024, estimates that the Petitioners will incur total disbursements approximating \$4.04 million during the period from August 5, 2024 to November 3, 2024 (the “**Forecast Period**”). Accordingly, the increase to the Interim Lenders' Charge will provide the Petitioners with the funds required to advance monetization strategies for the BCTF Group's business and assets.

11.0 EXTENSION OF STAY

- 11.1 Pursuant to the Initial Order, the Stay Period will expire on August 23, 2024. Accordingly, the Petitioners are seeking an extension of the Stay Period from this Court to November 3, 2024.
- 11.2 The Monitor supports extending the Stay Period to November 3, 2024 for the following reasons:
- a) during the proposed extension of the Stay Period, the Petitioners will have an opportunity to commence and advance the SISPs (if approved by this Honourable Court), the sale of brokerage-listed Property Parcels and other assets with a view to maximizing value for stakeholders in the most expedient manner possible;
 - b) with the Interim Financing Facility in place, the Petitioners are forecast to have sufficient liquidity to continue operating in the ordinary course of business during the requested extension of the Stay Period;
 - c) no creditor of the Petitioners would be materially prejudiced by the extension of the Stay Period; and
 - d) the Petitioners have acted in good faith and with due diligence in these CCAA Proceedings since the date of the Initial Order.

12.0 CONCLUSION AND RECOMMENDATIONS

- 12.1 The Monitor respectfully recommends that this Honourable Court grant the following:
- a) the ARIO to amend and restate the following:
 - i. declare that the employees of the BCTF Group meet the criteria established by section 3.2 of the WEPP Regulations;
 - ii. approve the sale of the bulk bins without regard to sales thresholds in the proposed ARIO;
 - iii. increase the Administration Charge from \$250,000 to \$500,000;
 - iv. increase the authorized borrowings under the Interim Lending Facility to \$4.05 million; and
 - v. extend the Stay Period through to November 3, 2024; and
 - b) the SISP Order to approve the SISPs.

All of which is respectfully submitted to this Honourable Court this 22st day of August, 2024.

Alvarez & Marsal Canada Inc.,

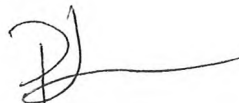
in its capacity as Monitor of

BC Tree Fruits Cooperative,

BC Tree Fruit Industries Limited and Growers Supply Company Limited



Per: Anthony Tillman
Senior Vice President



Per: Pinky Law
Vice President

Appendix A – Newspaper Advertisement in the Vancouver Sun and The Daily Courier



COLL. SECTION / THE CANADIAN PRESS FILES
A U.S. Customs and Border Protection canine unit patrols at the Peace Bridge port of entry in Buffalo, N.Y.

Homeland Security takes steps to tighten asylum rules at Canadian border

KELLY GERALDINE MALONE

WASHINGTON • The U.S. Department of Homeland Security says people seeking asylum at the border with Canada will have less time to consult a lawyer before making their case, as U.S. President Joe Biden's asylum halt makes its way to Canada's doorstep.

Biden announced sweeping changes mostly targeted at the U.S. border with Mexico in June, as the issue remains a thorn in the Democrats' side ahead of the November election. The new procedural changes, which the department confirmed Tuesday, will affect migrants crossing into the U.S. from Canada.

The number of migrants crossing between Canada and the United States is much smaller than at the U.S.-Mexico border, but recent increases have caught the attention of Republicans.

The Department of Homeland Security said it reviewed the Safe Third Country Agreement with Canada and concluded that it could streamline the process without affecting access to fair procedures for determining a claim to asylum.

Under the agreement, which came into effect in 2004, refugees must seek asylum in the first of the two countries they land in.

The procedural change means people entering the U.S. from Canada will now have four hours to consult with lawyers. It is a significant drop from the previous 24-hour time frame, said Kathleen Bush-Joseph, a policy analyst with the Migration Policy Institute in Washington, D.C.

"This makes it incredibly difficult when you think about how legal service providers work," she said.

The change also means border officers will only consider the documentary evidence that asylum claimants have with them when they arrive. People fleeing for their lives don't tend to have their belongings with them, Bush-Joseph said, "let alone reams of documentation of persecution."

Ottawa didn't immediately respond to a request for comment.

"This is a huge red flag," said Jamie Chai Yun Liew, a law professor at the University of Ottawa.

"It really begs the question whether or not the U.S. is meeting its international obligations."

She was part of a legal team that intervened when the agreement was before the Supreme Court of Canada. The court ruled last year that the pact with the U.S. is constitutional.

Prime Minister Justin Trudeau and Biden updated the Safe Third Country Agreement around the same time

to close a loophole that allowed people who skirted official border crossings to make a claim.

It led to a dramatic drop in people crossing into Canada from the U.S. at unofficial border crossings, but the number of people travelling in the opposite direction has started to increase.

U.S. Customs and Border Protection data show agents have taken 17,612 people into custody along the international border with Canada in the first six months of 2024. The stark increase — up from 12,218 for all of 2023 — has become a talking point for Republicans as immigration and border security remains a political liability for Democrats.

Marco Rubio, the Republican senator for Florida, sent a letter to Homeland Security Secretary Alejandro Mayorkas last month urging him to heighten precautions along the U.S.-Canada border.

"The possibility of terrorists crossing the U.S.-Canada border is deeply concerning given the deep penetration of Hamas," Rubio said in the letter, after Canada pledged an increase to temporary visas for Gaza residents looking to join family members in the country.

Donald Trump, former U.S. president and Republican nominee, hammered his criticism of border security and migration under the Biden administration during a long talk with tech billionaire Elon Musk on Monday night.

Trump repeated claims the border was Vice-President Kamala Harris's problem and claimed the presumptive Democratic presidential nominee was "not a smart woman."

The new rules at the Canada-U.S. border mirror the time-constraint changes brought to America's border with Mexico earlier this year.

Bush-Joseph said lawyers have already seen fallout from the policy. Four hours is usually not enough to hear an asylum seeker's background, find out if they are eligible for exemptions and prepare them for the interview, she said. There are additional hurdles in some cases, like not speaking the same language or the lawyer being unable to view documents.

Liew said she is sympathetic to governments trying to deal with a backlog and long processing times. But, she said, the new timelines don't have the right balance to ensure people get a fair hearing.

"It doesn't balance the interests of an efficient movement of people at the border and ensuring that we are meeting the obligations that are owed to these people."

The Canadian Press, with additional reporting from The Associated Press

Obituaries

Obituaries



RATHBUN, Elizabeth
Lenore

July 8, 1952 - July 26, 2024

Died peacefully at home, surrounded by close family members, after dealing with the challenges of life for over 25 years. Elizabeth was the beloved wife of Bernard Gobin; mother to Nicholas (Melissa) and Stephanie (Jacob); grandmother to Noah and Celeste; sister to Jim (Julie) and Roger (Bobbi); sister-in-law to Jenny (Michael); aunt to Joel and Anne, Andrew and Jocelyn and Oliver and Napier, Michael and Cecile; and great-aunt to fifteen.

Elizabeth had lifelong passions for literature and for music.

Elizabeth and her family would like to thank her health care providers, including those at the UBC MS Clinic, GF Strong Hospital, Blusson Spinal Cord Centre, UBC Respiratory Clinic, Provincial Respiratory Outreach Program, VGH, and Pacific Spirit Community Health Centre who were essential in maintaining her ability to live and drive over the last 25 years, and also the providers of MAID and the dedicated staff of Motion Specialties and Technology for Independent Living.

Most especially, we thank the dedicated caregivers since 2008 who have been woven into the fabric of our lives. They have honoured the web of our family relationships, and we hope that we have honoured theirs. Dima aragatsizamasu, ayyamank unay, maraming salamat, salamat kayo, thank you very much.

A Celebration of Life will be held at VanDusen Gardens (Visitor Centre Hall) on August 18, between noon and 3:00 p.m. RSVPs are accepted via www.mylifetimevcs.ca/vancouver/.

In Memoriams



In loving memory of
Al Shady Lane
July 28, 1938 - August 15, 2020

We cherish the memories we created together. You are loved beyond words and missed beyond measure by your loving wife Rose and family.



In loving memory of
John Bayer Jr.
July 22, 1953 - August 15, 1996.

It still feels like you're going to walk through the door any minute brother. Miss you always.



In loving memory of
Trevor Neil Landon
Feb 11, 1936 - Aug 15, 2023

You were here, now you are not. Your essence gone, your strength lingers on, still caring for us. We miss you. We love you. Forever in our hearts.

In memory of
David "Superdave"
Aubin
1946 - 2023

In honour of the anniversary of Dave's passing, a burial will take place for him to rest with his beloved mother, father, sister and brother at the North Vancouver Cemetery on Friday August 16, 2024 at 2:00pm.

View and sign the guest book.

Classifieds

Public Notices

UNIVERSITY ENDOWMENT LANDS

Notice of Intent to Enact Bylaws

Pursuant to Section 12 of the University Endowment Land Act, the Minister of Municipal Affairs intends to amend the following bylaw.

• University Endowment Lands Land Use, Building and Community Administration Bylaw:

o Amend the existing CD-2 Land Use District zoning to permit:
Additional density allotment of 31.152 m² in the form of market rental housing; and
Five residential towers ranging from 22 to 34 stories to a maximum height of 107 metres, each with townhouses at grade and a maximum combined floor space ratio (FSR) of 3.72.

These amendments will implement the Change of Land Use District (Rezoning) Application #17/23 at Lots E, F, G, H, and I applied for by Townline Developments Inc. on behalf of Musquam Block F Land Ltd. on August 9, 2023.

The bylaws are available for review at the UEL Administration Office from Monday to Friday, 8:30 am to 12:00 pm and 1:00 pm to 4:30 pm and available online at www.universityendowmentlands.gov.bc.ca

University Endowment Lands Administration Office
5495 Chancellor Boulevard, Vancouver, BC V8T 1E2
Telephone: (604) 960-1808
Email: UEL@uel.gov.bc.ca

Legals, Tenders and Notices

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, AS AMENDED (THE "CCAA")

AND
BC TREE FRUITS COOPERATIVE, BC TREE FRUITS INDUSTRIES LIMITED AND GROWERS SUPPLY COMPANY LIMITED (COLLECTIVELY, "BCTF GROUP")

TAKE NOTICE THAT on August 13, 2024, BCTF Group commenced proceedings under the CCAA (the "CCAA Proceedings") in the Supreme Court of British Columbia (the "Court") and was granted an order (the "Initial Order") protecting BCTF Group from its creditors.

The Initial Order, among other things, stays all proceedings against the creditors of BCTF Group. Pursuant to the Initial Order, Alvarez & Marsal Canada Inc. was appointed Monitor (the "Monitor") of the business and financial affairs of the BCTF Group.

A copy of the Initial Order has been posted on the Monitor's website at: www.alvarezandmarsal.com/bctfrefruts

The Monitor will post additional relevant information and documentation related to the CCAA Proceedings on the Monitor's website as they become available. Interested parties may contact the Monitor directly for further information at:

Alvarez & Marsal Canada Inc.
925 West Georgia Street, Suite 902
Commerce Place
Vancouver, BC V6C 3L2
Telephone: (+1) 604-425-5012
Facsimile: (+1) 604-638-7441
Email: bctfrefruts@alvarezandmarsal.com

Two trailers with licence plates UTD 835 and SD 3568 abandoned by K. Bakker former tenant at 102-174 Grant St Vancouver BC V5L 2X5 will be disposed of to recover parking fees unless claimed by K. Bakker before September 30th 2024. Claim may be addressed to Property Manager 100-1314 Grant St Vancouver BC V5L 2X5 Phone 778 668 9016

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For Sale 2 cemetery crosses (see by side) priced at \$4,000 each. purchase by cash transfer fee. Contact Michael Major for appointment to view at Valley View Funeral Home & Cemetery, 14644 72nd Ave., Surrey, BC S4S 0G9. Call: 604-765-4058

From the end spring new beginnings.



View and sign the guest book.

REMEMBERING

Other



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visit our website <https://www.adamtm.com/>

p.s. if you know a business owner or who can benefit from having an ATM, we will pay you a referral fee of up to \$500, once the deal is finalized. Call: 250-661-8911 adamtm@protonmail.com <https://www.adamtm.com/>

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For Sale 2 cemetery crosses (see by side) priced at \$4,000 each. purchase by cash transfer fee. Contact Michael Major for appointment to view at Valley View Funeral Home & Cemetery, 14644 72nd Ave., Surrey, BC S4S 0G9. Call: 604-765-4058

From the end spring new beginnings.



View and sign the guest book.

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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, AS AMENDED (THE "CCAA")**

AND

**BC TREE FRUITS COOPERATIVE, BC TREE
FRUITS INDUSTRIES LIMITED AND GROWERS SUPPLY
COMPANY LIMITED
(COLLECTIVELY, "BCTF GROUP")**

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The Initial Order, among other things, stays all proceedings against the creditors of BCTF Group. Pursuant to the Initial Order, Alvarez & Marshall Canada Inc. was appointed Monitor (the "Monitor") of the business and financial affairs of the BCTF Group.

A copy of the Initial Order has been posted on the Monitor's website at:
www.alvarezmarshall.com/bctf/bctf.html

The Monitor will post additional relevant information and documentation related to the CCAA Proceedings on the Monitor's website as they become available. Interested parties may contact the Monitor directly for further information at:

Alvarez & Marshall Canada Inc.
925 West Georgia Street, Suite 902
Comex Place
Vancouver, BC V6C 3L2
Telephone: (+1) 604-681-2512
Facsimile: (+1) 604-681-2741
Email: bctfinfo@alvarezmarshall.com

The Initial Order, among other things, stays all proceedings against the creditors of BCTF Group. Pursuant to the Initial Order, Alvarez & Marshall Canada Inc. was appointed Monitor (the "Monitor") of the business and financial affairs of the BCTF Group.

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Vancouver, BC V6C 3L2
Telephone: (+1) 604-681-2512
Facsimile: (+1) 604-681-2741
Email: bctfinfo@alvarezmarshall.com

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Coming Events 25

Gallagher's Canyon Parade of Homes Back, by popular demand! The Gallagher's Parade of Homes is an opportunity for you to see all the beautiful homes for sale in Gallagher's Village right now. Join us on Saturday, August 17th, from 1pm to 4pm. Just head on over to the Village at Gallagher's Canyon and look for all the signs!

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Forest Operations Map (FOM) Public Notice Weyerhaeuser Company Limited

Please be advised that Weyerhaeuser Company Limited has published a FOM which will be publicly available for review and comment. A FOM depicts the locations where harvesting and/or road construction may occur. The public may access and review the map the following ways during the period of August 16, 2024 to Sept 17, 2024:

- In person at Weyerhaeuser's place of business, located at 201 Old Hedley Road, Princeton, B.C. during the normal operating hours of 8:00 AM to 4:00 PM, Monday-Friday.
- Online at <https://fom.nrs.gov.bc.ca/public/projects>

Public review and comment begins on August 16, 2024 and ends Sept 17, 2024. Those wishing to submit comments may do so the following ways:

- By personal delivery at the physical address identified above, during normal operating hours. Please call 250-295-4285 to make an appointment.
- By mail, c/o Planning Forester, Weyerhaeuser Company Limited, PO Box 550, Princeton, B.C. V0X1W0
- By email at mapcomment@weyerhaeuser.com
- Or, by accessing the FOM website listed above and providing comments through the online public website.

This notice is applicable to the following project(s) listed below. Weyerhaeuser may rely upon these maps for 3 years commencing on the date of this publication for the purpose of applying for a cutting permit, or for a road permit.

FOM Name	Landscape Unit	FOM Name	Landscape Unit	FOM Name	Landscape Unit
FOM_2024_17	Simikameen	FOM_2024_20	Otter	FOM_2024_23	McHully
FOM_2024_18	Smith-Willis	FOM_2024_21	Summers	FOM_2024_24	Penticton
FOM_2024_19	Ancient TFL15	FOM_2024_22	Hayes	FOM_2024_25	Kettle

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Sat & Sunday Aug 17 & 18 9:00 to 4:00. Household items etc. No early birds! 41-3333 South Main Street

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Appendix B – Notice to Creditors dated August 20, 2024



Alvarez & Marsal Canada Inc.
Licensed Insolvency Trustees
Cathedral Place Building
925 West Georgia Street, Suite 902
Vancouver, BC V6C 3L2
Phone: +1 604 638 7440
Fax: +1 604 638 7441

August 20, 2024

To whom it may concern,

RE: BC Tree Fruits Cooperative, BC Tree Fruits Industries Limited, and Growers Supply Company Limited

On August 13, 2024, BC Tree Fruits Cooperative ("**BCTFC**"), BC Tree Fruits Industries Limited ("**BCTF Industries**") and Growers Supply Company Limited ("**GSC**", together with BCTFC and BCTF Industries, the "**BCTF Group**" or the "**Petitioners**") were granted an initial order (the "**Initial Order**") to commence proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended* (the "**CCAA**"). Pursuant to the Initial Order, Alvarez & Marsal Canada Inc. was appointed as monitor (the "**Monitor**" or "**A&M**") of the business and financial affairs of the BCTF Group in these CCAA Proceedings.

The Initial Order provides for, among other things, a stay of proceedings initially expiring on August 23, 2024 (the "**Stay Period**"). The Stay Period may be extended by the Court from time to time. A copy of the Initial Order and other materials filed in these CCAA Proceedings are accessible on the Monitor's website: www.alvarezandmarsal.com/bctreefruits (the "**Monitor's Website**").

The BCTF Group ceased operations on or around July 25, 2024.

Pursuant to the Initial Order, all persons having oral or written agreements with the BCTF Group or statutory or regulatory mandates for the supply of goods and/or services are restrained until further Order of the Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the BCTF Group, provided that the normal prices or charges for all such goods or services received after the date of the Initial Order are paid by the BCTF Group in accordance with normal payment practices of the BCTF Group or such other practices as may be agreed upon by the supplier or service provider and each of the BCTF Group and the Monitor, or as may be ordered by the Court.

During the Stay Period, parties are prohibited from commencing or continuing any legal proceeding or enforcement action against the BCTF Group and all rights and remedies of any party against or in respect of the BCTF Group or their assets are stayed and suspended except in accordance with the Initial Order, or with the written consent of the BCTF Group and the Monitor, or with leave of the Court.

To date, no claims procedure has been approved by the Court and creditors are therefore not required to file a proof of claim at this time. A preliminary list of known creditors is available on the Monitor's Website.

If you have any questions regarding the foregoing or require further information, please consult the Monitor's Website. Should you wish to speak to a representative of the Monitor, please contact bctreefruits@alvarezandmarsal.com or 1-877-425-6012.

Yours very truly,

Alvarez & Marsal Canada Inc.

in its capacity as Court-appointed Monitor of the BCTF Group
and not in its personal capacity

Per: Pinky Law
Vice President

Appendix C – Auction Agreement dated June 1, 2024

AUCTION / SALE AGREEMENT

This equipment auction agreement (this "Agreement") is entered into and effective as of June 25, 2024 by and between BC Tree Fruits ("Seller") and Steep Hill Equipment Solutions, in partnership with New Mill Capital Holdings, LLC collectively referred to herein as ("Agent").


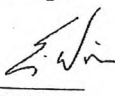
1) **1) SALE AGREEMENT:** Seller hereby authorizes, employs, and grants Agent the exclusive right to act as Seller's exclusive agent to auction Seller's Property via online public auction to the highest bidder on each lot of all the Property on or around August 20, 2024 for the all items with the exception of the cherry line Property which will be listed via private treaty until October 15, 2024, at which time Agent will convert to an auction of the cherry line Property on or around November 20, 2024. At the request of Seller, Agent shall expedite the auction date of the cherry line Property. This Agreement shall be irrevocable by Seller without Agent's written consent. Agent shall endeavor to secure the highest amount obtainable for the Property at the public auction sale. However, Agent makes no representation concerning the value of the Property or the prices obtainable. There shall be no reserves placed on the Property other than Agent's starting bids unless otherwise agreed to or applied by Agent.

2) **PROPERTY:** The word "Property" in this Agreement is defined as Seller's personal property located at 826 Vaughan Ave Kelowna BC (the "Premises") Commonly known as BC Tree Fruits, including but potentially not limited to the Property set forth on Exhibit "A" attached hereto. The Equipment shall be divided into and sold in such lots as Agent may determine to be appropriate to facilitate the sale. Seller represents and warrants that it has full an absolute control to sell the Property free and clear of all liens, claims and encumbrances.

3) **COMPENSATION; DISBURSEMENT OF PROCEEDS; REMOVAL; TERMS:**

- a) **COMMISSION:** Agent shall retain a 12% commission from the hammer price of all items of Property sold at the public auction sale. Agent shall charge to successful bidders and retain an industry standard buyer's premium as its compensation. No Property may be sold prior to or removed from the public auction without the written consent of Agent and Seller, which consent shall not be unreasonably withheld. Agent shall remit the portion of the proceeds due to Seller upon final removal of all the sold Property.
- b) **EXPENSES:** Agent shall recoup its advanced advertising expenses incurred in connection with Agent's performance of this Agreement, capped at \$10,000, from the first sale proceeds and the balance of expenses incurred reimbursed solely from the commission and buyer's premium as described in Section 3a above unless Seller material breaches this Agreement in a manner that does not allow Agent to sell the Property or allow the buyer from Agent to remove the sold Property from the Premises. In the case of such material breach by Seller, Seller shall immediately pay to Agent all of Agent's out of pocket expenses related to the performance of this Agreement and the equivalent of the buyer's premium that Agent would have earned based on the forced liquidation value of the Property affected by such material breach.
- c) **AUTHORIZATION TO RETAIN AND DISBURSE SALES PROCEEDS:** Seller hereby authorizes Agent to retain from the proceeds of the Property sale all sums due to Agent under the terms of this Agreement and next to pay over to Seller along with Agent's accounting of the Property sales per Section 3a of this Agreement. In the event any auction buyer defaults per

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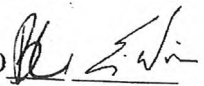
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Agent's terms and conditions of sale or the Property is not able to be removed from the Premises for any reason, Agent shall have the right to cancel the sale and either re-sell such defaulted Property or return such items of Property to the Seller with no liability to Agent or anyone claiming through Agent.

- d) **LOADING & REMOVAL:** Seller shall provide unfettered access to the Premises as detailed in Section 3e of this Agreement to allow Property buyers to remove the sold Property via a dedicated equipment mover or machinery rigger post auction. As a convenience to auction buyers, Agent shall list the removal and loading price in the Property auction description for each item. Under any removal circumstance, the Property shall be disconnected at the first process utility or electrical junction from the Property and any utilities altered by sold Property removal are to be left in safe condition. Agent shall coordinate auction buyer pick up with machinery mover or rigger. Buyers of the Property are responsible for the removal and transportation cost of the sold Property. Non-loadbearing walls required to be altered or removed to facilitate removal of the sold Property shall not be replaced by Agent or the machinery rigger and shall be left in clean, safe, and squared off condition. Loadbearing walls may only be altered after written approval from Seller and landlord of the Premises as to the scope and nature of the alteration. Any machinery rigger or removal company shall be required to provide to Agent and Seller a commercial general liability insurance policy in the amount of \$2,000,000 or greater to cover their work at the Premises. Such policy shall be in form and scope acceptable to Agent and Seller and name Agent, Seller, and any landlord of the Premises as additional insured. Neither Agent, Property buyer, nor any machinery mover or rigger shall be responsible for the remediation or restoration of any part of the Premises post Property removal nor be required to clean or remove existing debris or items not caused by sold Property removal.
- e) **ACCESS TO PREMISES:** Seller agrees to provide Agent rent free, expense free and unfettered access to the Premises for the purpose of cataloging the Property, conducting auction inspections for prospective bidders and post auction for removal of the sold Property and for any other purpose required to properly conduct the duties contemplated in this Agreement.
- f) **SALES TAX:** Agent shall collect all applicable sales tax in connection with Agent's sale of the Property on Seller's behalf and promptly remit the same to the proper agencies.
- g) **GENERAL TERMS:** The parties hereby agree that this Agreement shall be construed, enforced, and governed by the laws of the State of British Columbia. Regardless of any prior writings or communications, this Agreement constitutes the entire agreement among the parties and is exclusively for the benefit of Agent and Seller, and no party, other than Agent or Seller, shall be entitled to pursue any action or seek any remedy arising out of, resulting from, or in any way connected with this Agreement or the transactions contemplated herein.
- h) **LIMITATION OF LIABILITY:** Except for gross negligence or willful misconduct, Agent's maximum liability in connection with this Agreement other than to remit Seller's portion of the Property sale proceeds consistent with the terms of this Agreement is limited to the amount actually received by Agent as compensation under this Agreement less expenses.

4) **TITLE & CONDITION OF PROPERTY:** Seller represents and warrants that, except as expressly disclosed herein, Seller is the sole owner of the Property or has full and absolute authority to sell the Property and

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title to the Property shall be free and clear of all liens, claims and encumbrances at the time of the auction sale so that Agent can transfer clear title to the successful Property buyers. To the best of Seller's knowledge, the sale of the Property does not infringe upon any patent or trademark limitations placed on the Property and Seller warrants that to the best of Seller's knowledge, the Property does not contain any hazardous material or substance. Seller shall be responsible for remediation should hazardous material or substance be discovered on the Property. In no way shall this Agreement represent or be construed to represent any obligation of Agent to remediate or dispose of any hazardous material or substance on the Property or Premises. Seller further and agrees to indemnify, defend, and hold Agent harmless against any action, suites or judgments related to Seller's breach of this section of the Agreement.

5) **TERMS & CONDITIONS OF AUCTION:** Agent warrants to Seller that it is authorized to conduct its duties contemplated under this agreement and shall require each auction bidder to agree to extensive sale terms and conditions that contain language substantially similar to the following in addition to other terms: All machinery, equipment, merchandise and other items (the "Goods") are sold on an "AS IS/WHERE IS" basis with no warranties or representations whatsoever, either express or implied. Neither Agent, any client, Seller of the Goods, consignor, or anyone acting on their behalf, make any warranties or representations of any kind or nature with respect to the property, its condition, condition suitable for safe operation or its value, and in no event shall they be responsible for the correctness of description, genuineness, attribution, provenance, title, chain of title, authenticity, authorship and completeness. PROSPECTIVE BIDDERS ARE STRONGLY URGED TO CONDUCT THEIR OWN INSPECTION OF THE LOTS THROUGH PRIVATE OR OPEN INSPECTION DATES MADE AVAILABLE TO ALL PROSPECTIVE BIDDERS. No statement (oral or written), including any catalog description or photographs at any auction, or elsewhere shall be deemed such a warranty or representation, or any assumption of responsibility of any kind or nature, whatsoever. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY AND ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY OF GOODS ARE EXPRESSLY DISCLAIMED.

6) **ADVERTISING:** Seller hereby authorizes Agent to use Seller's name in promotional or advertising materials or otherwise pertaining to the sale of the Property by Agent.

7) **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all counterparts shall be constituted as one Agreement.

8) **TECHNOLOGY DISCLAIMER:** Agent does not warrant that the functions, features, or content contained in Agent's website, or any third-party software, platforms, products, or other material will be timely, secure, uninterrupted or error free or that any defects will be corrected. Notwithstanding the foregoing, Agent shall utilize its commercially reasonable efforts to prevent such errors and/or correct such defects.

9) **FORCE MAJEURE.** Either party may suspend performance during the occurrence of an excusable delay, which shall mean and include any delay not occasioned by the fault or negligence of Agent or Seller and which results from the act of God or public enemy, restrictions, prohibitions, priorities, or allocations imposed by governmental authority, embargoes, floods, fires, typhoons, earthquakes, epidemics, pandemics, unusually severe weather, delays of similar nature or governmental causes, and strikes or labor disputes or any cause outside the reasonable control of Agent and Seller, then the time for performance of the affected obligation shall be extended for at minimum a period equivalent to the period of such delay, interruption or prevention.

Each party by signing this Agreement hereby warrants and represents that the signatory is duly authorized to sign this Agreement on behalf of Seller or Agent, as the case may be, intending it to be legally bound by the terms and conditions hereof.

SELLER

Company/Corporation

Name: BC TREE FRUITS

Individual's Name: Craig Ogilvie

Title: Vice Preseident Supply Chain

Address: 3335 Sexsmith Road, Kelowna

Telephone No: 6043537953

Email: cogilvie@bctree.com

I and Company/Corporation hereby agree to
the above terms and conditions:



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AGENT

Steep Hill Equipment Solutions

By:

Brent Larsen

Steep Hill Equipment Solutions Inc

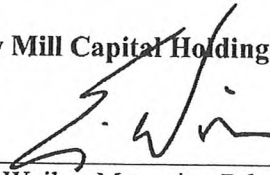
31255 Wheel Ave

Abbotsford BC V2T 6H1

Telephone No.: 604-425-2002

New Mill Capital Holdings, LLC

By:



Eric Weiler, Managing Principal

50 Louis NW, 6th Floor

Grand Rapids, MI 49503


Telephone No.: 616-607-9667

Email: ericw@newmillcapital.com

AGENT

Steep Hill Equipment Solutions


By:



Brent Larsen, President

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TIMELINE

June 25th: Pear Processing line with shop, plant support and forklifts auction to commence

Auction to Close ~~August 20th~~ *Sept 15*

Removal August and September

No reserve prices on pear line with shop and forklifts unless agreed to or applied by Agent

Cherry Processing Line

Presale efforts

Our goal is a negotiated sale prior to auction. If pre-sale is not achieved by Mid October, Agent will convert to auction at a mutually agreeable date in November

If we sell in piece expectations need to be low if we can find a pre-sale it will work well and cover all removal.

EXHIBIT "A"

Pear Sizing and Filling Line

Forklifts

Shop Equipment

Warehouse supplies

Lab Equipment

Parts

Bins

Racking

Cherry Line

(continued)

CO *[Signature]*
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