



FORCE FILED

No. S245481
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

AND

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

PETITIONERS

NOTICE OF APPLICATION

Name of applicant: Alvarez & Marsal Canada Inc., in its capacity as court-appointed Monitor of the Petitioners (the "**Monitor**").

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

TAKE NOTICE that an application will be made by the applicant before the Honourable Madam Justice Gropper in person at 800 Smithe Street, Vancouver BC on November 27, 2024 at 9:00 a.m. for the orders set out in Part 1 below.

The applicant estimate that the application will take one hour.

This matter is not within the jurisdiction of an associate judge. Madam Justice Gropper is seized of these proceedings. The date and time of this application has been set by Scheduling.

Part 1 ORDERS SOUGHT

1. An order abridging the time for service of this Notice of Application such that this application is properly returnable today.
2. An order, in substantially the form attached hereto as **Schedule "B"**, (the "**Vaughan Order**") approving the purchase and sale of 880 Vaughan Avenue, Kelowna, B.C. (the "**Vaughan Property**") and the Vaughan Accepted Offer (as defined below).

3. An order, in substantially the form attached hereto as **Schedule “C”**, (the “**Lake Country Order**”) approving the purchase and sale of 9718 Bottom Wood Lake Road, Lake Country, B.C. (the “**Lake Country Property**”) and the Lake Country Accepted Offer (as defined below).
4. Such further and other relief as this Honourable Court may deem just.

Part 2 FACTUAL BASIS

5. Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Sixth Report of the Monitor dated November 21, 2024 (the “**Sixth Report**”).

Background

6. On August 26, 2024, this court granted an amended and restated initial order which, among other things, appointed A&M as monitor of the Petitioners with certain enhanced powers, and extended the stay of proceedings up to and including November 3, 2024.
7. On October 24, 2024, this court granted an order extending the stay of proceedings to December 13, 2024.

Sale of the Vaughan Property

8. The Vaughan Property is a 5.2-acre industrial site with a 195,159 square foot warehouse, and currently BCTFC’s head office.
9. In February 2024, BCTFC hired Unison HM Commercial Realty (“**Unison HM**”) to market the Vaughan Property. An initial sale agreement fell through in September 2024 as a result of the proposed purchaser failing to remove subjects.
10. Subsequently, in September 13, 2024, the Monitor re-engaged Unison HM to list the property on MLS for \$22 million.
11. Since February 2024, Unison HM has marketed the property by organizing the taking of professional photos, posting the listing (with such photographs) to MLS, hosting an open house, and distributing via email a property brochure and marketing communications to its database of over 1,000 recipients. Unison HM’s marketing efforts resulted in 21 private viewing appointments, as well as phone calls and listing inquiries from interested parties requesting additional information.

12. On September 18, 2024, Mark Anthony Group of Companies ("**Mark Anthony**") offered \$17 million for the Vaughan Property.
13. On September 23, 2024, after consulting with CIBC and Unison HM, and further negotiations, the Monitor accepted an offer of \$17.5 million (the "**Vaughan Accepted Offer**"), which included the following key terms: (i) a closing date 10-days after court approval; (ii) that the Vaughan Property be sold on an "as-is, where-is" basis; and (iii) that the sale be subject to court approval.
14. On October 1, 2024, Mark Anthony paid a deposit of \$1.75 million, which is held in trust by its purchasing agent.
15. On October 30, 2024, Mark Anthony removed subjects and the Vaughan Accepted Offer was amended to substitute Pelecanus Real Estate Ltd. in place of Mark Anthony, as purchaser.
16. Pursuant to the Vaughan Listing Agreement, the Monitor has agreed to pay a total commission of 2% of the final purchase price, which, for the Vaughan Accepted Offer is \$350,000, of which Unison HM would receive \$218,750 and Coldwell would receive \$131,250.
17. The Monitor supports the Vaughan Accepted Offer for the following reasons:
 - (a) the Vaughan Property has been marketed by BCTFC and Unison HM since February 2024, and the Vaughan Accepted Offer of \$17.5 million is the best offer received to date;
 - (b) the Vaughan Accepted Offer has a near-term closing date of 10 business days after Court approval, which is reasonable and consistent with typical sale timelines;
 - (c) the sale transaction will allow the Monitor to avoid incurring additional holding costs in respect of the Vaughan Property, including preservation costs, statutory obligations (including property taxes) and professional fees; and
 - (d) the secured lender, CIBC, is supportive of the sale.
18. The Monitor is of the view that the Vaughan Property was marketed in an appropriate manner and the property has been exposed to the market for a reasonable amount of time.

Given the current state of the real estate market for industrial commercial properties and stated interest rates, the Monitor views the transaction to be in the best interest of the creditors.

19. Since the execution of the Vaughan Accepted Offer, Unison HM has continued to market the property and seek competing bids pursuant to Practice Direction #62.

The Sale of the Lake Country Property

20. On September 4, 2024, the Monitor engaged Colliers Macaulay Nicolls Inc. ("**Colliers**"), to market for sale the Lake Country Property, an 8.43-acre industrial site with a large warehouse/controlled atmosphere storage.
21. Colliers listed the Lake Country Property for \$10,995,000, and marketed the property by, among other things, organizing professional photographs, posting the listing on MLS, and distributing via email a property brochure and marketing communications to over 3,000 prospective buyers and brokers in Colliers' database.
22. Colliers' efforts led to seven private viewings and multiple inquiries.
23. On October 4, 2024, the District of Lake Country (the "**District**"), offered \$8.7 million for the Lake Country Property, and after negotiations, the Monitor accepted a \$9.1 million offer on October 17, 2024 (the "**Lake Country Accepted Offer**").
24. The District paid deposits totaling \$870,000, which amount is held in trust by Monitor's counsel.
25. The key terms of the Lake Country Accepted Offer include: (i) a closing date being the earlier of the first business day following 14 days after the date the Lake Country Order and December 12, 2024; (ii) that the Lake Country Property is sold on an "as-is – where, is" basis; and (iii) that the sale is subject to Court approval.
26. Pursuant to the Lake Country Listing Agreement, the Monitor has agreed to pay a total commission of 2% of the final purchase price, which, for the Lake Country Accepted Offer is \$182,000.
27. The Monitor supports the Lake Country Accepted Offer for the following reasons:

- (a) the Lake Country Accepted Offer totaling \$9.1 million is the best offer received to date;
 - (b) the Lake Country Accepted Offer has a near-term closing date of 14 days after Court approval, which is reasonable and consistent with typical sale timelines;
 - (c) the sale transaction will allow the Monitor to avoid incurring additional holding costs in respect of the Lake Country Property, including CA Storage maintenance costs, preservation costs, statutory obligations (including property taxes) and professional fees; and
 - (d) the secured lender, CIBC, is supportive of the sale.
28. The Monitor is of the view that the Lake Country Property was marketed in an appropriate manner and the property has been exposed to the market for a reasonable amount of time. Given the current state of the real estate market for industrial commercial properties and stated interest rates, the Monitor views the transaction to be in the best interest of the creditors.
29. Since the execution of the Lake Country Accepted Offer, Colliers has continued to market the property and seek competing bids pursuant to Practice Direction #62.

Part 3 LEGAL BASIS

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

Approval of the Vaughan Accepted Offer

31. Section 36 of the CCAA provides the statutory basis for approval of a sale outside the ordinary course of business in CCAA proceedings.
32. Section 36(5) of the CCAA sets out the non-exhaustive list of factors to be considered in respect of a sale of an insolvent debtor's assets:

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
 - (b) whether the monitor approved the process leading to the proposed sale or disposition;
 - (c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
 - (d) the extent to which the creditors were consulted;
 - (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
 - (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.
33. In addition to the factors set out above, the court should consider all of the circumstances to determine whether the proposed sale is fair and reasonable, an analysis that focuses on the process used to attempt to obtain the best price for the assets in question for the benefit of creditors. To that end, courts have also considered the so-called "Soundair" factors, which are:¹
- (a) whether sufficient effort has been made to obtain the best price and that the debtor has not acted improvidently;
 - (b) the interests of all parties;
 - (c) the efficacy and integrity of the process by which offers have been obtained; and
 - (d) whether there has been unfairness in the working out of the process.

¹ *Royal Bank of Canada v Soundair Corp.*, 1991 CanLII 2727 (ONCA); *Veris Gold Corp. (Re)*, 2015 BCSC 1204, at paras. 22-25; *North American Tungsten Corporation Ltd (Re)*, 2016 BCSC 12 at paras. 29-30 [*North American Tungsten*].

34. Courts will generally approve a sale where the monitor is of the view that the sale price and terms are commercially reasonable and satisfactory.²
35. The Monitor submits that approval of the Vaughan Accepted Offer is appropriate for the following reasons:
- (a) the marketing efforts of Unison HM was fair and transparent, and resulted in the Vaughan Property being sufficiently marketed to potential buyers;
 - (b) the Monitor approves of the Vaughan Accepted Offer;
 - (c) CIBC has been consulted throughout the marketing of the Vaughan Property and is supportive of the Vaughan Accepted Offer.
 - (d) the Vaughan Property has been marketed by BCTFC and Unison HM since February 2024, and the Vaughan Accepted Offer of \$17.5 million is the best offer received to date;
 - (e) the Vaughan Accepted Offer has a near-term closing date of 10 business days after Court approval, which is reasonable and consistent with typical sale timelines; and
 - (f) the sale transaction will allow the Monitor to avoid incurring additional holding costs in respect of the Vaughan Property, including preservation costs, statutory obligations (including property taxes) and professional fees.

Approval of Lake Country Accepted Offer

36. The Monitor submits that the Lake Country Accepted Offer satisfies the above “Soundair” factors, and is in the best interests of the Petitioners, their creditors, and other stakeholders.
37. In particular, the Monitor submits that approval of the Lake Country Accepted Offer is appropriate for the following reasons:
- (a) the marketing efforts of Colliers was fair and transparent, and resulted in the Lake Country Property being sufficiently marketed to potential buyers;
 - (b) the Lake Country Accepted Offer totaling \$9.1 million is the best offer received to date;

² *North American Tungsten*, at para. 30.

- (c) the Lake Country Accepted Offer has a near-term closing date of 14 days after Court approval, which is reasonable and consistent with typical sale timelines;
- (d) the sale transaction will allow the Monitor to avoid incurring additional holding costs in respect of the Lake Country Property, including CA Storage maintenance costs, preservation costs, statutory obligations (including property taxes) and professional fees; and
- (e) the Monitor approves of the Lake Country Accepted Offer;
- (f) CIBC has been consulted throughout the marketing of the Lake Country Property and is supportive of the Lake Country Accepted Offer.

Part 4 MATERIAL TO BE RELIED ON


- 38. First Report of the Monitor, dated August 22, 2024, excluding appendices.
- 39. Sixth Report of the Monitor, dated November 21, 2024.
- 40. Such further and other materials as counsel may advise and this Court may allow.

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

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;

- (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: 21-Nov-2024



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

To be completed by the court only:

Order made

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

☐ with the following variations and additional terms:

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

Date:

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

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

APPENDIX**THIS APPLICATION INVOLVES THE FOLLOWING:**

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

SCHEDULE "A"

No. S245481
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

AND

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

PETITIONERS

CCAA SERVICE LIST

As at November 18, 2024

<p>Fasken Martineau DuMoulin LLP Attention: Kibben Jackson Mishaal Gill Heidi Esslinger Suzanne Volkow Email: kjackson@fasken.com mgill@fasken.com hesslinger@fasken.com svolkow@fasken.com jbeaulieu@fasken.com richeung@fasken.com</p> <p><i>Counsel for the Monitor, Alvarez & Marsal Canada Inc.</i></p>	<p>Norton Rose Fulbright Canada LLP Attention: Howard Gorman, K.C. Candace Formosa Email: howard.gorman@nortonrosefulbright.com candace.formosa@nortonrosefulbright.com</p> <p><i>Counsel for the Petitioners</i></p>
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<p>Alvarez & Marsal Canada Inc.</p> <p>Attention: Todd Martin Anthony Tillman Pinky Law Monica Cheung</p> <p>Email: tmartin@alvarezandmarsal.com atillman@alvarezandmarsal.com pinky.law@alvarezandmarsal.com monicacheung@alvarezandmarsal.com</p> <p><i>Court Appointed Monitor</i></p>	<p>Blake Cassels & Graydon LLP</p> <p>Attention: Peter Rubin Peter Bychawski</p> <p>Email: peter.rubin@blakes.com peter.bychawski@blakes.com jennifer.alambre@blakes.com</p> <p><i>Counsel for Canadian Imperial Bank of Commerce</i></p>
<p>PricewaterhouseCoopers Inc.</p> <p>Attention: Michelle Grant Michelle Pickett</p> <p>Email: michelle.grant@pwc.com michelle.pickett@pwc.com</p>	<p>Koskie Glavin Gordon</p> <p>Attention: Anthony Glavin Dawid Cieloszczyk</p> <p>Email: glavin@koskieglavin.com dcieloszczyk@koskieglavin.com</p> <p><i>Counsel for UFCW Local 247</i></p>
<p>Osler LLP</p> <p>Attention: Mary Buttery, K.C. Emma Newbery Christian Garton</p> <p>Email: mattery@osler.com enewbery@osler.com cgarton@osler.com</p> <p><i>Counsel for BC Tree Fruits members</i></p>	<p>Province of British Columbia</p> <p>Attention: Aaron Welch</p> <p>Email: aaron.welch@gov.bc.ca AGLSBRevTaxInsolvency@gov.bc.ca</p>

<p>Dentons Canada LLP</p> <p>Attention: Jordan Schultz Cassandra Federico Chelsea Denton</p> <p>Email: jordan.schultz@dentons.com cassandra.federico@dentons.com chelsea.denton@dentons.com</p> <p><i>Counsel for Bayer Cropscience Inc.</i></p>	<p>FH&P Lawyers LLP</p> <p>Attention: Clay Williams Wendy Advocaat Wendy Cheung</p> <p>Email: cwilliams@fhplawyers.com wadvocaat@fhplawyers.com wcheung@fhplawyers.com</p> <p><i>Counsel for Glacier Heights Refrigeration Inc., Keldon Electric Ltd., Rock Welding Ltd., Armitage Electric and Van Doren Sales North Inc.</i></p>
<p>MLT Aikins LLP</p> <p>Attention: Lisa Ridgedale Marisa McGarry</p> <p>Email: lrridgedale@mltaikins.com mwarnick@mltaikins.com mmcgarry@mltaikins.com</p> <p><i>Counsel for AgResource</i></p>	<p>Department of Justice Canada British Columbia Regional Office</p> <p>Attention: Aminollah Sabzevari Charlotte Woo Khanh Gonzalez</p> <p>Email: Aminollah.Sabzevari@justice.gc.ca Charlotte.Woo@justice.gc.ca Khanh.Gonzalez@justice.gc.ca</p>
<p>Lax O'Sullivan Lisus Gottlieb LLP</p> <p>Attention: Rahool Agarwal Annecey Pang</p> <p>Email: ragarwal@lolg.ca apang@lolg.ca</p> <p><i>Counsel for Mangal Capital Inc.</i></p>	<p>Dentons Canada LLP</p> <p>Attention: Eamonn Watson Afshan Naveed</p> <p>Email: Eamonn.watson@dentons.com Afshan.naveed@dentons.com</p> <p><i>Counsel for BC Investment Agriculture Foundation</i></p>
<p>Mission Bottle Washing Co. Ltd.</p> <p>Attention: Maged Said</p> <p>Email: msaid@mbwco.ca</p>	

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SCHEDULE "B"
VAUGHAN ORDER

[see attached]

No. S245481
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

AND

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

PETITIONERS

ORDER MADE AFTER APPLICATION

**APPROVAL AND VESTING ORDER
(VAUGHAN PROPERTY)**

BEFORE THE HONOURABLE)
JUSTICE GROPPER) November 27, 2024
)

ON THE APPLICATION OF Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as monitor of the Petitioners (in such capacity, the "**Monitor**") coming on for hearing at Vancouver, British Columbia, on the 27th day of November, 2024; AND ON HEARING Heidi Esslinger, counsel for the Monitor, and those other counsel listed on Schedule "A" hereto, and no one else appearing although duly served, AND UPON READING the material filed, including the Sixth Report of the Monitor to the Court dated November 21, 2024 (the "**Sixth Report**"); AND PURSUANT TO the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "**CCAA**"), the *British Columbia Supreme Court Civil Rules*, and the inherent jurisdiction of this Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The time for service of the notice of application for this Order and the Sixth Report is hereby abridged and deemed good and sufficient such that this application is properly returnable today.
2. Capitalized terms used but not otherwise defined in this Order shall have the meanings given to them in the Contract of Purchase and Sale dated September 20, 2024, between the

Monitor, as vendor, and Pelecanus Real Estate Ltd. (the “**Purchaser**”), as purchaser, a copy of which is attached hereto as Schedule “B” (the “**Sale Agreement**”).

3. The sale transaction (the “**Transaction**”) contemplated by the Sale Agreement is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Monitor is hereby authorized and approved, and the Monitor is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance to the Purchaser of the Property. The Monitor and the Purchaser shall be at liberty to extend the Closing Date to such later date as those parties may agree, without the necessity of a further Order of this Court.
4. Upon: (i) receipt by the Monitor of the full amount of the Purchase Price; and (ii) delivery by the Monitor to the Purchaser of a certificate substantially in the form attached as Schedule “C” hereto (the “**Monitor’s Certificate**”), all of the Monitor’s right, title and interest in and to the Property shall vest absolutely in the Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by any order of this court in the within CCAA proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims enumerated in Schedule “D” hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “E” hereto), and, for greater certainty, this Court orders that all of the Encumbrances are hereby expunged and discharged as against the Property.
5. Upon presentation for registration in the Land Title Office for the Land Title District of Kamloops of a certified copy of this Order, together with a letter from Fasken Martineau DuMoulin LLP, solicitors for the Monitor, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:
 - (a) enter the Purchaser as the owner of the Property identified in the Sale Agreement, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Property, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Purchaser in and to the Property is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and

- (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Property all of the registered Encumbrances except for those listed in Schedule "E" hereto.
- 6. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Property shall stand in the place and stead of the Property, and from and after the delivery of the Monitor's Certificate all Claims shall attach to the net proceeds from the sale of the Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the Property had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.
- 7. The Monitor is to file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof.
- 8. Subject to the terms of the Sale Agreement, vacant possession of the Property shall be delivered by the Monitor to the Purchaser upon completion of the Transaction, subject to the permitted encumbrances as set out in the Sale Agreement and listed on Schedule "E" hereto.
- 9. Notwithstanding:
 - (a) these CCAA proceedings or the termination thereof;
 - (b) any applications for a bankruptcy order in respect of any or all of the Petitioners now or hereafter made pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA") and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made by or in respect of any or all of the Petitioners,

the vesting of the Property in the Purchaser and/or any permitted assignees under the Sale Agreement pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Petitioners and shall not be void or voidable by creditors of the Petitioners, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.
- 10. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Monitor and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this order.

11. The Monitor or any other party has liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.
12. Endorsement of this Order by counsel appearing on this application other than counsel for the Monitor is hereby dispensed with.

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

Signature of Heidi Esslinger
Lawyer for the Monitor, Alvarez & Marsal
Canada Inc.

BY THE COURT

REGISTRAR

Schedule "A"

LIST OF COUNSEL

[illegible]

Schedule “B”

CONTRACT OF PURCHASE AND SALE

[see attached]

INFORMATION ABOUT THE CONTRACT OF PURCHASE AND SALE COMMERCIAL REAL ESTATE

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

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

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

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

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

CONTRACT OF PURCHASE AND SALE FOR COMMERCIAL REAL ESTATE

MLS® NO: 10300812

DATE: 09/20/2024

PART 1 – INFORMATION SUMMARY

1. Prepared By	
1.1	Name of Brokerage Coldwell Banker Horizon Realty
1.2	Brokerage Address # 14 1470 Harvey Avenue, Kelowna, BC v1y 9K8 Phone No. 250-860-7500
1.3	REALTOR®'s Name Ian Watson
1.4	Personal Real Estate Corporation
1.5	REALTOR®'s Email Address ian@watson-brothers.com Fax No.
1.6	Brokerage Phone No. (250) 860 7500 Fax No.
2. Parties to the Contract	
2.1	Seller Alvarez & Marsal Canada Inc., in its capacity as Court Appointed Monitor pursuant to Supreme Court of Seller British Columbia Action No. S245481, Vancouver Registry. Seller
2.2	Seller's Address 925 W Georgia Street Vancouver BC V6C 3L2
2.3	Seller's Phone No. 7783742300 Fax No.
2.4	Seller's Email Address
2.5	Seller's Incorporation No.
2.6	Seller's GST No.
2.7	Buyer Mark Anthony Group of Companies Buyer Buyer
2.8	Buyer's Address 565 Great Northern Way #100 Vancouver BC V5T 0H8
2.9	Buyer's Phone No. Fax No.
2.10	Buyer's Email Address mlebedoff@markanthony.com
2.11	Buyer's Incorporation No.
2.12	Buyer's GST No.
3. Property	
3.1	Civic Address of Property 880 Vaughan Avenue, Kelowna, BC V1Y 7E4
3.2	Legal Description of Property THE NORTHERLY 349.38 FEET OF BLOCK 30 MEASURED ALONG THE EASTERLY BOUNDARY OF SAID BLOCK BY THE FULL DEPTH THEREOF SECTION 30 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 202 PID


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BUYER'S INITIALS


AT

SELLER'S INITIALS

BC 2053 REV. NOV 2023


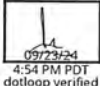
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880 Vaughan Avenue, Kelowna, BC V1Y 7E4

PAGE 2 of 8 PAGES

PROPERTY ADDRESS

4.	Purchase Price	\$	Clause
4.1	\$ 17,500,000		14
	Seventeen million five hundred thousand	Dollars	
5.	Deposit		Clause
5.1	Deposit to be provided by the following date: <input checked="" type="checkbox"/> within <u>5 business days of acceptance of this offer</u> on or before October 1, 2024 <input type="checkbox"/> date _____ <input type="checkbox"/> other _____	 	15
5.2	Amount of Deposit	10% of the purchase price	15
5.3	Deposit to be paid in trust to	Coldwell Banker Horizon Realty	15
6.	Completion Date		
6.1	Completion Date	10 business days after court approval	17
7.	Possession Date		
7.1	Possession Date	Upon registration	18
7.2	Vacant Possession	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	18
7.3	All Existing Tenancies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
8.	Adjustment Date		
8.1	Adjustment Date	Upon the completion date	19
9.	Viewing Date		
9.1	Viewing Date	09/13/2024	21
10.	Agency Disclosure		
10.1	Seller's Designated Agent	REALTOR® <u>Marshall McAnerney</u> REALTOR® _____ Brokerage <u>Unison HM Commercial Realty</u>	38A
10.2	Buyer's Designated Agent	REALTOR® <u>Ian Watson, Trish Power, Avery Watson</u> REALTOR® _____ Brokerage <u>Coldwell Banker Horizon Realty</u>	38B
10.3	Limited Dual Agency Designated Agent	REALTOR® _____ REALTOR® _____ Brokerage _____	38C
10.4	Date of Limited Dual Agency Agreement		38C


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PROPERTY ADDRESS

11. Acceptance			
11.1	Offer Open Until – Date 09/23/2024	Time 4pm	44
12. Schedules			
15	Deposit	Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	15
16A	Buyer's Conditions	Attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	16
16B	Seller's Conditions	Attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	16
18	Accepted Tenancies	Attached <input type="checkbox"/> Yes <input type="checkbox"/> No	18
20A	Additional Included Items	Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	20
20B	Excluded Items	Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	20
22	Additional Permitted Encumbrances	Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	22
23	Additional Seller's Warranties and Representations	Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	23
24	Additional Buyer's Warranties and Representations	Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	24
40	Additional Terms	Attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	40

PART 2 – TERMS

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


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

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

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


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

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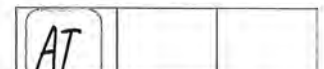
SELLER'S INITIALS

PROPERTY ADDRESS

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


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PROPERTY ADDRESS

AT
INITIALS

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

INITIALS

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

INITIALS		

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

INITIALS		

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

INITIALS		

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

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

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

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

41. **ACCEPTANCE IRREVOCABLE:**

BUYER'S INITIALS

SEAL

SELLER'S INITIALS

SEAL

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

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

BUYER'S INITIALS		

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SELLER'S INITIALS		



BCREA
BRITISH COLUMBIA
REAL ESTATE ASSOCIATION



THE CANADIAN
BAR ASSOCIATION
British Columbia Branch

CONTRACT OF PURCHASE AND SALE FOR COMMERCIAL REAL ESTATE SCHEDULE

MLS® NO: 10300812

DATE: 09/18/2024

RE: ADDRESS: 880 Vaughan Avenue, Kelowna, BC V1Y 7E4

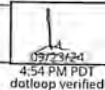
THE NORTHERLY 349.38 FEET OF BLOCK 30 MEASURED ALONG THE EASTERLY BOUNDARY OF SAID BLOCK BY THE FULL DEPTH THEREOF SECTION 30 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 202

LEGAL DESCRIPTION

PID: 012-603-911

FURTHER TO THE CONTRACT OF PURCHASE AND SALE DATED ~~09/18/2024~~ 09/20/2024

AT



MADE BETWEEN Mark Anthony Group of Companies

AS BUYER(S), AND

Alvarez & Marsal Canada Inc., in its capacity as Court Appointed Monitor pursuant to Supreme Court of British Columbia Action No. S245481, Vancouver Registry

AS SELLER(S) AND COVERING

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

4.)Phase II Environment inspection

Subject to the Buyer, on or before October 30 2024 at the Buyer's expense, obtaining and approving a phase II environmental assessment report of the property against any defects which reasonably may adversely affect the property's use or value. The Seller will allow access to the property for this purpose on reasonable notice.

5.)STRUCTURAL INSPECTION

Subject to the Buyer, on or before October 30 2024 at the Buyer's expense, obtaining and approving a structural inspection report against any defects which reasonably may adversely affect the property's use or value. The Seller will allow access to the property for this purpose on reasonable notice.

6.)COURT APPROVAL

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

The Buyer is aware the property is being sold by court approval and is sold in an "as is where is" condition.

BUYER

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BUYER

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BUYER

SEAL

MARK ANTHONY GROUP OF COMPANIES

PRINT NAME

PRINT NAME

PRINT NAME

WITNESS

Anthony Tillman

SEAL

SELLER

Anthony Tillman

PRINT NAME

WITNESS

SELLER

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WITNESS

SCHEDULE "A-1"
TO THE AGREEMENT OF PURCHASE AND SALE

BETWEEN

ALVAREZ & MARSAL CANADA INC.

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

(SELLER)

AND:

Mark Anthony Group of Companies

[●]

(BUYER)

RE:

880 Vaughan Avenue, Kelowna, British Columbia
(MUNICIPAL ADDRESS OF PROPERTY)

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

1. Title will be transferred to the Buyer free and clear of all registered encumbrances, other than those listed in **Appendix "A"**, in accordance with the Vesting Order (defined herein) to be sought from the Supreme Court of British Columbia (the "**Court**") in Supreme Court of British Columbia Action No. S245481, Vancouver Registry (the "**Proceeding**").
2. Any existing registered financial charges to be paid under the terms of the Vesting Order may be paid by the Seller upon receipt of the Purchase Price and the Buyer may pay the Purchase Price to the Seller's lawyer in trust on undertakings to pay those financial charges in accordance with the terms of the Vesting Order.
3. Possession will be governed by the terms of the Vesting Order.
4. The Buyer is purchasing the Property on an "as is - where is" basis as of the completion date. The Buyer agrees that the Seller has no obligation to maintain the property in the condition it may have been in at some time before the completion date contemplated by this agreement. The Buyer agrees that the Purchase Price does not include any chattels/personal property. The Seller assumes no risk with respect to the buildings on the Property or any other items included in this purchase and sale.

AT

5. No property condition disclosure statement concerning the Property will be given by the Seller.
6. The acceptance of this offer by the Seller is in its capacity as Court-appointed Monitor of the owner of the Property pursuant to the Amended and Restated Initial Order granted August 26, 2024 (the "**ARIO**") in the Proceeding, and not in its personal capacity or as owner of the Property. The acceptance of this offer is subject to the approval of the Court in the Proceeding and will become effective from the time an order is made approving this offer (the "**Vesting Order**"). The Seller hereby advises the Buyer that the Seller's obligations in connection with this offer, until it is approved by the Court, are limited to putting this offer before the Court. The Seller is only obligated to present the offer to the Court for approval within 30 days of the Purchaser removing all subject conditions in respect of this offer.
7. The Seller is subject to the jurisdiction and discretion of the Court to entertain other offers and to any further Orders the Court may make regarding the Property. The Seller may be compelled to advocate that the Court consider other offers in order to obtain the highest price for the Property. The Seller gives no undertaking to exclusively advocate for the acceptance of only this offer. In that regard the Buyer may wish to consider making its own arrangements to support this offer in Court if other offers are received by the Seller. The Buyer agrees the Seller will disclose the purchase price being offered to any prospective buyers indicating an intention to submit an offer to purchase the Property.
8. Acceptance of this offer by the Seller and any obligation of the Seller to put this offer before the Court may be terminated at any time before the Court makes the Vesting Order approving this sale if the mortgage which is the subject of these proceedings is redeemed, or if the mortgage is brought into good standing or at the option of the Seller in its sole discretion. This condition is for the sole benefit of the Seller.
9. Real estate commission is payable relative to this offer only if this offer is approved by the Court and the sale is completed pursuant to the Vesting Order.
10. The Buyer agrees that there may be GST and PTT payable relating to this transaction and that it is the responsibility of the Buyer to pay any such tax accruing on this sale. The Buyer agrees that the Seller may be responsible to collect and remit GST payable on this transaction. Accordingly, the Buyer agrees to pay any such tax to the Seller so that the Seller can, in turn, pay such GST as may be due and owing on this sale.
11. The Buyer is satisfied that there is no need for a holdback from the purchase price for the possibility that the Seller is not a Canadian resident for the purposes of the Income Tax Act.
12. The Buyer agrees not to holdback any part of the purchase price for any reason.

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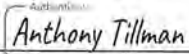
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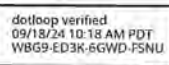
13. The Seller, as party having conduct of sale of the Property pursuant to the ARIO, is not and will not be liable to the Purchaser, nor to anyone claiming by through or under the Purchaser, for any damages, costs or expenses, including but not limited to damage caused to the Purchaser by the registered owner(s) of the Property or his/her tenants, guests, assigns, agents or persons unknown, or for them failing to provide vacant possession when required. The Purchaser acknowledges that if vacant possession is not available on the possession date, the Purchaser will complete the sale in any event. The Seller will make reasonable efforts to obtain a Writ of Possession or similar Court order, and the Purchaser acknowledges that this process may take a considerable period of time.

SELLER:

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

SIGNED: 
NAME: Anthony Tillman
DATE: 09/23/24

BUYER:


SIGNED:  
NAME: Matt Lebedoff
DATE: 09/18/2024

AT

285937.00020/308525346.3


09/18/24
10:18 AM PDT
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APPENDIX "A"

LIST OF ENCUMBRANCES TO REMAIN ON TITLE

Nature of Charge	Holder of Charge	Registration No.

AT

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THE CANADIAN
BAR ASSOCIATION
British Columbia Branch

CONTRACT OF PURCHASE AND SALE ADDENDUM / AMENDMENT

MLS® NO: 10300812 DATE: 10/30/2024
 RE: ADDRESS: 880 Vaughan Avenue, Kelowna, BC V1Y 7E4
 LEGAL DESCRIPTION: THE NORTHERLY 349.38 FEET OF BLOCK 30 MEASURED ALONG THE EASTERLY BOUNDARY OF SAID BLOCK BY THE FULL DEPTH THEREOF SECTION 30 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 202
 PID: 012-603-911 OTHER PID(S):

ADDENDUM TO / AMENDMENT MADE FURTHER TO AND FORMING PART OF THE CONTRACT OF PURCHASE AND SALE
 DATED 09/20/2024 MADE BETWEEN Mark Anthony Group of Companies

AS BUYER(S), AND
 Alvarez & Marsal Canada Inc., in its capacity as Court Appointed Monitor pursuant to Supreme Court of British Columbia Action No.

S245481, Vancouver Registry

AS SELLER(S) AND COVERING THE ABOVE-MENTIONED PROPERTY, THE UNDERSIGNED HEREBY AGREE AS FOLLOWS:

The following is not to be construed as a counter-offer or repudiation of the Offer to Purchase and Agreement of Purchase and Sale between the Seller and the Purchaser:

The Buyer(s) and Seller(s) agree to change the purchasers name from Mark Anthony Group of Companies to Pelecanus Real Estate Ltd.

BUYER
 Pelecanus Real Estate Ltd
 PRINT NAME



WITNESS

Signed by:

Pui Lam (Pinky) Law



SELLER
 1D3C0C7E789C483...
 Alvarez & Marsal Canada Inc.
 PRINT NAME

BUYER

PRINT NAME

WITNESS

SELLER

PRINT NAME

WITNESS

BUYER

PRINT NAME

WITNESS

SELLER

PRINT NAME

WITNESS

Schedule "C"

FORM OF MONITOR'S CERTIFICATE

No. S245481
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

AND

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

PETITIONERS

MONITOR'S CERTIFICATE

1. Capitalized terms used but not otherwise defined in this Monitor's Certificate shall have the meanings given to them in the order of the Supreme Court of British Columbia (the "**Court**") pronounced on November 27, 2024 (the "**Approval and Vesting Order**") and the Contract of Purchase and Sale dated September 20, 2024 (as amended, the "**Sale Agreement**") between the Monitor, as vendor, and Pelecanus Real Estate Ltd. (the "**Purchaser**"), as purchaser, a copy of which is appended as Schedule "B" to the Approval and Vesting Order.
2. Pursuant to an order made on August 13, 2024, as amended and restated on August 26, 2024, the court granted the Petitioners protection from their creditors and appointed the Monitor as monitor of the Petitioners, all under the provisions of the CCAA.
3. Pursuant to the Approval and Vesting Order, the court ordered that all of the right, title and interest of the Monitor in and to the Property shall vest in the Purchaser effective upon, among other things, delivery of this Monitor's Certificate by the Monitor to the Purchaser.

THE MONITOR HEREBY CERTIFIES as follows:

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

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

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

Per: _____

Name:

Title:

Schedule "D"

CLAIMS TO BE DELETED/EXPUNGED FROM TITLE TO REAL PROPERTY

1. The mortgage registered by Canadian Imperial Bank of Commerce on October 15, 2008, with registration number CA945413, and all extensions and modifications thereto.
2. The assignment of rents registered by Canadian Imperial Bank of Commerce on October 15, 2008, with registration number CA945414, and all extensions thereto.
3. The claim of Builders Lien registered by Glacier Heights Refrigeration Inc. on July 29, 2024, with registration number CB1473210.
4. The claim of Builders Lien registered by Armitage Electric on August 27, 2024, with registration number CB1555429.

Schedule "E"

PERMITTED ENCUMBRANCES

Legal Notations

HERETO IS ANNEXED RESTRICTIVE COVENANT CA9648588 OVER LOTS B AND C
ODYD PLAN 27467

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 29 OF THE MUNICIPAL
ACT, SEE KK11708

SCHEDULE "C"
LAKE COUNTRY ORDER

[see attached]

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

AND

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

PETITIONERS

ORDER MADE AFTER APPLICATION

**APPROVAL AND VESTING ORDER
(LAKE COUNTRY PROPERTY)**

BEFORE THE HONOURABLE)
JUSTICE GROPPER) November 27, 2024
)

ON THE APPLICATION OF Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as monitor of the Petitioners (in such capacity, the "**Monitor**") coming on for hearing at Vancouver, British Columbia, on the 27th day of November, 2024; AND ON HEARING Heidi Esslinger, counsel for the Monitor, and those other counsel listed on Schedule "A" hereto, and no one else appearing although duly served, AND UPON READING the material filed, including the Sixth Report of the Monitor to the Court dated November 21, 2024 (the "**Sixth Report**"); AND PURSUANT TO the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "**CCAA**"), the *British Columbia Supreme Court Civil Rules*, and the inherent jurisdiction of this Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The time for service of the notice of application for this Order and the Sixth Report is hereby abridged and deemed good and sufficient such that this application is properly returnable today.
2. Capitalized terms used but not otherwise defined in this Order shall have the meanings given to them in the Contract of Purchase and Sale dated October 17, 2024 between the

Monitor, as vendor, and District of Lake Country (the “**Purchaser**”), as purchaser, a copy of which is attached hereto as **Schedule “B”** (the “**Sale Agreement**”).

3. The sale transaction (the “**Transaction**”) contemplated by the Sale Agreement is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Monitor is hereby authorized and approved, and the Monitor is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance to the Purchaser of the Property. The Monitor and the Purchaser shall be at liberty to extend the Closing Date to such later date as those parties may agree, without the necessity of a further Order of this Court.
4. Upon: (i) receipt by the Monitor of the full amount of the Purchase Price; and (ii) delivery by the Monitor to the Purchaser of a certificate substantially in the form attached as **Schedule “C”** hereto (the “**Monitor’s Certificate**”), all of the Monitor’s right, title and interest in and to the Property shall vest absolutely in the Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by any order of this court in the within CCAA proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims enumerated in **Schedule “D”** hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule “E”** hereto), and, for greater certainty, this Court orders that all of the Encumbrances are hereby expunged and discharged as against the Property.
5. Upon presentation for registration in the Land Title Office for the Land Title District of Kamloops of a certified copy of this Order, together with a letter from Fasken Martineau DuMoulin LLP, solicitors for the Monitor, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:
 - (a) enter the Purchaser as the owner of the Property identified in the Sale Agreement, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Property, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Purchaser in and to the Property is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and

- (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Property all of the registered Encumbrances except for those listed in Schedule "E" hereto.
- 6. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Property shall stand in the place and stead of the Property, and from and after the delivery of the Monitor's Certificate all Claims shall attach to the net proceeds from the sale of the Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the Property had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.
- 7. The Monitor is to file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof.
- 8. Subject to the terms of the Sale Agreement, vacant possession of the Property shall be delivered by the Monitor to the Purchaser upon completion of the Transaction, subject to the permitted encumbrances as set out in the Sale Agreement and listed on Schedule "E" hereto.
- 9. Notwithstanding:
 - (a) these CCAA proceedings or the termination thereof;
 - (b) any applications for a bankruptcy order in respect of any or all of the Petitioners now or hereafter made pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA") and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made by or in respect of any or all of the Petitioners,

the vesting of the Property in the Purchaser and/or any permitted assignees under the Sale Agreement pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Petitioners and shall not be void or voidable by creditors of the Petitioners, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.
- 10. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Monitor and its agents in carrying out the terms of this order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such Orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this order or to assist the Monitor and its agents in carrying out the terms of this Order.

11. The Monitor or any other party has liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.
12. Endorsement of this Order by counsel appearing on this application other than counsel for the Monitor is hereby dispensed with.

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

Signature of Heidi Esslinger
Lawyer for the Monitor, Alvarez & Marsal
Canada Inc.

BY THE COURT

REGISTRAR

Schedule "A"

LIST OF COUNSEL

[illegible]

Schedule “B”

CONTRACT OF PURCHASE AND SALE

[see attached]

CONTRACT OF PURCHASE AND SALE

THIS AGREEMENT made as of the latest of the dates of execution set out at the end of this Agreement.

BETWEEN:

DISTRICT OF LAKE COUNTRY, a municipal corporation incorporated pursuant to the law of British Columbia and having an address at 10150 Bottom Wood Lake Road, Lake Country, BC, V4V 2M1

(the "**Buyer**")

AND:

ALVAREZ & MARSAL CANADA INC.

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

(the "**Seller**")

WHEREAS:

- A. The Seller was appointed by the British Columbia Supreme Court (the "**Court**") in the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") proceedings of BC Tree Fruits Cooperative (the "**Owner**") as the monitor of the Owner, and in that capacity is entitled to sell the entire legal and beneficial interest of the Owner in the Property (as hereinafter defined);
- B. Subject to the approval of the Court (the "**Court Approval**"), the Seller has agreed to sell and the Buyer has agreed to purchase all of the Owner's right, title, and interest in and to the Property, on the terms and conditions set out in this Agreement.

NOW THEREFORE, for good and valuable consideration now paid by each of the parties to the other (the receipt and sufficiency of which is hereby acknowledged) and of the mutual covenants and agreements contained in this Agreement, the parties agree as follows:

1. PURCHASE AND SALE

Subject to the terms and conditions herein set forth, the Buyer hereby agrees to purchase and the Seller agrees to sell, the lands and improvements located at 9718 Bottom Wood Lake Road, Lake Country, BC, legally described as set out in Schedule "A" (the "**Property**"), free and clear of all liens, charges, encumbrances and title notations save and except those described in Schedule "B" (collectively, the "**Permitted Encumbrances**").

2. PURCHASE PRICE

- (a) The purchase price for the Property is the sum of **NINE MILLION ONE HUNDRED THOUSAND DOLLARS (\$9,100,000.00)** (the "**Purchase Price**") in lawful money of Canada, subject to adjustment pursuant to Section 6, to be paid in the following manner:

- (i) an initial deposit of \$150,000 (the “**Initial Deposit**”) by way of bank wire transfer, certified cheque or bank draft payable to the Seller’s solicitors in trust within five (5) Business Days of execution of this Agreement by the Seller and the Buyer;
 - (ii) a further deposit of \$720,000 (the “**Further Deposit**” and together with the Initial Deposit, the “**Deposit**”) by way of bank wire transfer, certified cheque or bank draft payable to the Seller’s solicitors in trust within five (5) Business Days of satisfaction or waiver of all of the Buyer’s Conditions; and
 - (iii) the balance of the Purchase Price (as adjusted in accordance with this Agreement, the “**Closing Payment**”), by the Buyer’s solicitors to the Seller’s solicitors on or prior to the Closing Date in accordance with the terms of this Agreement.
- (b) The Buyer represents and warrants to the Seller that it is and will be, as of the Closing Date, registered for the purposes of Part IX of the *Excise Tax Act* (Canada) (the “**ETA**”) in accordance with the requirements of Subdivision D of Division V of the ETA and will assume responsibility to account for and report any Goods and Services Tax (“**GST**”) payable under the ETA in connection with the transactions contemplated by this Agreement. The Purchase Price does not include GST and the Buyer will pay any GST payable with respect to the acquisition of the Property in accordance with the ETA. On the Closing Date, the Buyer will deliver to the Seller a certificate (the “**GST Certificate**”) of a senior officer of the Buyer certifying, on behalf of the Buyer and without personal liability (a) that the Buyer is registered under Part IX of the ETA as of the Closing Date; (b) its registration number; and (c) that the Buyer will account for, report and remit any GST payable in respect of the purchase of the Property in accordance with the ETA. The Buyer will indemnify and hold the Seller and its directors, officers, employees, advisors and agents harmless from any liability under the ETA arising as a result of any breach of the ETA with respect to GST payable in respect of the Property, this Section 2(c), the GST Certificate or any declaration made therein and such indemnity will survive Closing.

3. CONDITIONS

- (a) The obligation of the Buyer to complete this transaction is subject to the following condition (the “**Buyer’s Condition**”) being waived or satisfied on or before that date which is the first Business Day following thirty (30) days from the date this Agreement is executed by the Buyer and the Seller (the “**Buyer’s Condition Date**”):
- (i) The Buyer reviewing and approving all the Due Diligence Materials and conducting any property related searches or reports that the Buyer deems necessary including, but not limited to, environmental searches or reports.
- (b) If the Buyer’s Condition is not satisfied or waived by notice in writing to be given by 5:00 pm PST on or before the Buyer’s Condition Date, then this Agreement is then terminated and the Initial Deposit is to be returned to the Buyer.
- (c) Upon acceptance and execution of this Agreement by the both the Buyer and the Seller, the Seller agrees to assist the Buyer in the satisfaction of the Buyer’s Condition by cooperating with the Buyer to have site inspections in furtherance of the satisfaction of the Buyer’s Condition. The Buyer shall indemnify and hold harmless the Seller for any costs, charges, fees, or obligations incurred or assessed to the Seller as a result of the actions of the Buyer with respect to the fulfillment or removal of the Buyer’s Condition.

- (d) The obligation of the Buyer and the Seller to complete this transaction is subject to the following mutual condition (the "**Mutual Condition**") being satisfied on or before the date which is the first Business Day following fifteen (15) days after the Buyer's Condition Date (the "**Mutual Condition Date**");
 - (i) The Seller obtaining Court Approval and the Court issuing the Vesting Order (as defined in Schedule "C"), which order shall be substantially in the form attached hereto as Schedule "D" (with only such changes as the parties to this Agreement shall approve in their reasonable discretion, but in all cases in form and substance acceptable to the Seller) and any other related relief required to consummate the transaction contemplated hereby.
- (e) The Mutual Condition is for the mutual benefit of the Buyer and the Seller and may not be waived unilaterally by either party. Both parties agree that they will use reasonable commercial efforts to satisfy the Mutual Condition. If the Mutual Condition has not been satisfied on or before the Mutual Condition Date, then the Buyer's and the Seller's obligation to complete the transaction pursuant to this Agreement will be at an end.
- (f) In consideration of \$10.00 non-refundable to be paid by each party to the other party and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each party, the Seller and the Buyer both agree not to revoke their acceptance of the agreement contained herein while this Agreement remains subject to any of the conditions precedent set out in this section 3.

4. DEPOSITS

The Deposit and any accrued interest shall be dealt with as follows:

- (a) upon written notice of the waiver or satisfaction of all the Buyer's Conditions, and upon the delivery of the Further Deposit to the Buyer's solicitor, the Initial Deposit and Further Deposit shall be held by the Seller's solicitor, in trust, in accordance with the terms herein;
- (b) the Deposit shall be credited against the Purchase Price, and shall not otherwise be released to either party except in accordance with this Agreement;
- (c) if the Buyer fails to complete the transaction contemplated by this Agreement, after the waiver or satisfaction of all of the Buyer's Condition and the satisfaction of the Mutual Condition, other than as a result of the Seller's default, then the Deposit together with accrued interest, if any, shall be forfeited to the Seller, without prejudice to any other rights or remedies of the Seller whether at law or in equity; and
- (d) if, after the Buyer's Condition and the Mutual Condition are satisfied or waived, the Seller fails to close the transaction contemplated by this Agreement (except as a result of a default by the Buyer), then the Buyer shall thereupon be entitled to return of the Deposit, as the Buyer's sole and exclusive remedy against the Seller.

5. CLOSING DATE AND POSSESSION

Unless otherwise agreed in writing by the Buyer and the Seller, the purchase and sale of the Property will be completed in accordance with the provisions of this Agreement on the date which is the earlier of (i) the

first Business Day following fourteen (14) days after the date of the Vesting Order; and (ii) December 12, 2024 (the “**Closing Date**”).

6. ADJUSTMENTS

The Seller and the Buyer shall adjust the Purchase Price as of the Closing Date in respect of the following items (including GST, where applicable), insofar as such items are applicable to the Property:

- (a) realty taxes, municipal taxes, and local improvement rates and charges;
- (b) utility accounts;
- (c) unless otherwise expressly provided for or set out in this Agreement, all other items reasonably capable of, and usually the subject of, adjustment in connection with the ownership, operation and management of properties similar to the Property.

The transaction contemplated herein shall be completed on the Closing Date. The Seller shall be responsible for all expenses and entitled to all revenues derived from the Property for the period prior to the Closing Date. As of and after the Closing Date, the Buyer shall be responsible for all expenses and shall be entitled to all revenues in respect of the Property.

7. REPRESENTATIONS AND WARRANTIES

- (a) The Seller represents and warrants to the Buyer that as of the date of the Agreement (unless otherwise specified) and as of the Closing Date:
 - (i) the Seller has, subject to Court Approval, the full power, authority and capacity to enter into this Agreement and to carry out the transactions contemplated herein; and
 - (ii) the Property will, on the Closing Date, be conveyed to the Buyer free and clear of any and all easements, rights of way, liens, mortgages, charges, pledges, security interests, leases and other encumbrances of whatsoever a nature or howsoever arising and any rights or privileges capable of becoming any of the foregoing, save and except for the Permitted Encumbrances or as provided in the Vesting Order.
- (b) The Seller’s representations and warranties contained in paragraph 7(a) above shall survive for a period of 12 months after the Closing Date and shall continue in full force and effect for the benefit of the Buyer for a period of one year from the Closing Date notwithstanding any independent inquiry or investigation by the Buyer or the waiver by the Buyer of any condition, the subject matter of which is contained in a representation or warranty in this Agreement.
- (c) The Buyer warrants and represents to the Seller that:
 - (i) the Buyer is a municipal corporation duly existing under the laws of British Columbia and is duly qualified to purchase and own the Property and the Buyer has full power, authority and capacity to enter into this Agreement and carry out the transactions contemplated herein;

- (ii) there is no action or proceeding pending or to the Buyer's knowledge threatened against the Buyer before any court, arbiter, arbitration panel, administrative tribunal or agency which, if decided adversely to the Buyer, might materially affect the Buyer's ability to perform its obligations hereunder;
- (iii) neither the Buyer entering into this Agreement nor the performance of its terms will result in the breach of or constitute a default under any term or provision of any indenture, mortgage, deed of trust or other agreement to which the Buyer is bound or subject;
- (iv) no consent or approval or registration, declaration or filing with, any governmental commission, board, court or other regulatory body is required for the execution or delivery of this Agreement by the Buyer, the validity or enforceability of this Agreement against the Buyer, or the performance by the Buyer of any of the Buyer's obligations hereunder; and
- (v) on the Closing Date the Buyer will be duly registered for GST under the *Excise Tax Act*.
- (d) The Buyer's representations and warranties contained in paragraph 7(c) above shall survive the Closing Date and shall continue in full force and effect for the benefit of the Seller after the Closing Date.
- (e) The Buyer acknowledges that the Property is being purchased "as is, where is" on the basis set out in Schedule "C", without warranty of any kind including, without limitation, warranties of merchantability and/or fitness for a particular purpose and saves the Seller harmless from all claims resulting from or relating to the age, fitness, condition, zoning, lawful use, environmental condition or circumstances and location of the Property, and agrees to accept the Property subject to any outstanding work orders or notices or infractions as to the date of closing and subject to the existing municipal or other governmental by-laws, restrictions or orders affecting its use, including subdivision agreements and easements.

8. DELIVERY OF DUE DILIGENCE MATERIALS

The Seller shall within five (5) days of the execution of this Agreement by the Buyer and Seller to provide the Buyer with access to a data room containing any material information in the Seller's possession or control with respect to the Property (the "**Due Diligence Materials**").

9. ADDITIONAL COVENANTS OF THE SELLER

The Seller covenants with the Buyer to:

- (a) permit the Buyer and its representatives to enter onto the Property and carry out such inspections, tests, studies, appraisals, surveys and investigations of the Property as the Buyer may reasonably require;
- (b) maintain insurance coverage with respect to the Property in full force and effect until the completion of the closing of the transactions contemplated herein, in such amounts and on such terms as would a prudent owner; and

- (c) not enter into or amend any contract with respect to the Property without the prior written approval of the Buyer.

10. CLOSING DOCUMENTATION

- (a) On or before the Closing Date, the Seller will cause the Seller's solicitors to deliver to the Buyer's solicitors the following documents, duly executed as applicable, to be dealt with pursuant to Section 10(d):
 - (i) a Court-certified copy of the Vesting Order transferring the Property to the Buyer free and clear of all liens, charges, and encumbrances except for the Permitted Encumbrances (the "**Certified Vesting Order**"), together with a solicitor's letter to the Land Title Survey Authority of British Columbia authorizing its registration;
 - (ii) the Seller's statement of adjustments prepared in accordance with Section 6;
 - (iii) an assignment of all of the Seller's rights under any and all warranties, guarantees, or contractual obligations, in form and substance satisfactory to the Buyer, acting reasonably, which entitle the Seller to any rights against a contractor or supplier engaged in the repairs, maintenance, renovations, and modifications of the Property or any part of the Property, insofar as those rights can be assigned, together with the right to use the Seller's name to enforce any such unassignable warranties, guarantees, or contractual obligations, and to obtain all benefits from any legal proceedings initiated by it in the name of the Seller with respect the Property;
 - (iv) an assignment of any licences or permits required in connection with the operation of the Property;
 - (v) an assignment and assumption of Permitted Encumbrances; and
 - (vi) such other documents as may be reasonably required by the Buyer to give full effect to the intent and meaning of this Agreement.
- (b) On or before the Closing Date, the Buyer will cause the Buyer's solicitors to deliver to the Seller's solicitors the following documents to be dealt with pursuant to Section 10(e):
 - (i) any documents contemplated by Section which require execution or delivery by the Buyer, executed by the Buyer;
 - (ii) the GST Certificate (as herein defined);
 - (iii) such other documents and assurances as may be reasonably required by the Seller to give full effect to the intent and meaning of this Agreement.
- (c) Preparation of Closing Documents
 - (i) The closing documents contemplated in Sections 10(a) and 10(b) other than the Vesting Order, will be prepared by the Buyer's solicitors and delivered to the Seller's solicitors at least five (5) Business Days prior to the Closing Date; and

- (ii) all documents referred to in Sections 10(a) and 10(b) shall be in form and substance satisfactory to the solicitors for the party entitled to delivery thereof, acting reasonably.
- (d) Payment into Trust
 - (i) On or before the Closing Date, the Buyer will pay to the Buyer's solicitors in trust, by way of a certified cheque or wire transfer, funds in an amount equal to the Closing Payment.
- (e) Closing Procedure
 - (i) On the Closing Date, forthwith following the delivery by the Buyer's solicitors of the documents pursuant to Section 10(b) and the payment to the Buyer's solicitors referred to in Section 10(d) and after receipt by the Buyer's solicitors of the documents referred to in Section 10(a), the Buyer will cause the Buyer's solicitors to file the Certified Vesting Order in the Land Title Office in accordance with written undertakings settled as between the Buyer's solicitors and the Seller's solicitors.
 - (ii) Forthwith following the filing referred to in Section 10(e)(i), and upon the Buyer's solicitors being satisfied as to the title to the Property, after conducting a post filing registration check of the Property disclosing only the following:
 - (A) the existing title number to the Property;
 - (B) the Permitted Encumbrances;
 - (C) pending numbers assigned to the Certified Vesting Order; and
 - (D) pending numbers assigned to any additional documents deposited for registration by or at the direction of the Buyer,the Buyer will cause the Closing Payment to be paid to the Seller's solicitors in trust by wire transfer of immediately available funds or as otherwise directed by the Vesting Order on the Closing Date, and thereupon the Buyer's solicitors shall be entitled to release the documents referred to in Section 10(a) to the Buyer and the Seller's solicitors shall be entitled to release to the Seller the documents referred to in Section 10(b).
- (f) Concurrent Requirements
 - (i) It is a condition of Closing that all matters of payment, execution and delivery of documents by each party to the other pursuant to the terms of this Agreement will be deemed to be concurrent requirements and it is specifically agreed that nothing will be complete at the Closing until everything required as a condition precedent at the Closing has been paid, executed and delivered.
- (g) Payment by Wire Transfer

- (i) Notwithstanding anything else contained herein, the Buyer will make all commercially reasonable efforts to ensure that the Closing Payment will be paid to and received by the Seller's solicitors on or before 5:00 p.m. (Vancouver time) on the Closing Date. Notwithstanding any provision of this Agreement, the Buyer and the Seller agree that, with respect to the Closing Payment, if the Buyer is paying the Closing Payment by way of wire transfer, and if the Buyer and the Buyer's solicitors have: (i) used commercially reasonable efforts to ensure that the Seller's solicitors will receive the Closing Payment on or before 5:00 p.m. on the Closing Date and provided evidence that such wire transfer was initiated prior to such time to the Seller's solicitors, but for any reason outside of the Buyer's control (excluding any event which is a default by the Buyer under this Agreement) the Seller's solicitors do not receive the Closing Payment by such time, then the time and date on which the Closing Payment must be received by the Seller's solicitors will be extended to 5:00 p.m. on the next Business Day following the Closing Date, so long as, in addition to the Closing Payment, the Buyer also pays to the Seller or the Seller's solicitors on such next Business Day following the Closing Date interest on the Closing Payment at a rate equal to the Prime Rate plus two percent per annum for each day from and including the Closing Date to but not including the day such payment is made. In this paragraph, "Prime Rate" means that variable annual rate of interest quoted by the main branch of Bank of Nova Scotia, Vancouver, British Columbia, from time to time as the rate of interest used by it as a reference rate for setting rates of interest on Canadian dollar loans in Canada repayable on demand and commonly referred to by such bank as its "prime rate". For example, if the Closing Date occurs on a Friday, the funds are wired on the following Monday and the Closing Payment is received by the Seller's solicitors at 6:00 p.m. (Vancouver time) the day after wiring, the Buyer will pay the Seller four days' interest on the Closing Payment.

11. RISK

- (a) Risk
 - (i) The Property shall be and remain at the risk of the Seller until the consummation of the purchase and sale on the Closing Date.
- (b) Site Profile and Environmental Condition
 - (i) The Buyer hereby waives and releases the Seller from any obligation to deliver a site profile or site disclosure statement to the Buyer for the Property as contemplated by the *Environmental Management Act*, SBC 2003, c 53 or any regulation in respect thereof.
 - (ii) Within this Section 11(b), the following terms shall have the following meanings:
 - (A) "Environmental Laws" means any law, bylaw, order, ordinance, ruling, regulation or directive of any applicable federal, provincial, territorial, municipal, local or other government or governmental department agency or regulatory authority or any court of competent jurisdiction relating to environmental matters and/or regulating the import, manufacture, storage, distribution, labelling, sale, use, handling, transport or disposal of Hazardous Substances, as are in force as of the Closing Date.

- (A) "Hazardous Substances" means any underground storage tanks, any explosive or radioactive materials, pollutants, contaminants, hazardous, corrosive or toxic substances, special waste or waste of any kind, including, without limitation, compounds known as chlorobiphenyls, petroleum and any other substance or material, the storage, manufacture, disposal, treatment, generation, use, transportation, remediation or release into the environment of which is prohibited, controlled, regulated or licensed under Environmental Laws
- (iii) The Buyer acknowledges and agrees that the Seller does not make any representations or warranties with regard to the environmental condition of the Property, and the Buyer is relying solely on its own investigations and inspections to verify the existence and extent of any Hazardous Substances in, on or migrating to or from the Property, and that the environmental condition of or relating to the Property is otherwise satisfactory.
- (iv) The Buyer does hereby irrevocably release and forever discharge the Seller and each of their respective directors, officers, agents and employees from any and all claims that the Buyer has or may have against the Seller in connection with the environmental condition of the Property, any contamination or Hazardous Substances located on the Property or migrating onto the Property or from the Property or any breach of any Environmental Laws irrespective of whether such Claim arose before or after the Buyer's acquisition of the Property pursuant to this Agreement.
- (v) The Buyer agrees that it shall not directly or indirectly commence or assert or pursue or threaten to commence, assert or pursue any type of claim (including an order issued by a governmental authority) against the Seller relating to the environmental condition of or any environmental matter or issue involving the Property including the location of contaminants or Hazardous Substances thereon or migrating thereon or therefrom.
- (vi) Without limiting the generality of the foregoing, the Buyer and the Seller acknowledge and agree that any and all costs in any way related to the environmental remediation of the Property (including any and all costs associated with the disposal of Hazardous Substances or contaminated soil) or in connection with any adjacent property contaminated by Hazardous Substances or contamination migrating from the Property shall be for the Buyer's sole account and the Seller shall not have any liability or responsibility in connection with any such remediation costs.
- (vii) The Parties acknowledge and confirm that the provisions of this Section 11(b) constitute an agreement between them that is a private agreement respecting liability for Hazardous Substances and contamination on, in, at or under or released to, at or from the Property or otherwise associated with the Property and any contamination of adjacent properties and waters resulting from such Hazardous Substances and contamination or remediation of the Property.
- (viii) The terms of this Section 11(b) shall survive completion of the sale of the Property by the Buyer.

12. NOTICES

Any notices required or permitted to be given hereunder or any tender or delivery of documents may be sufficiently given by delivery or email (with original to follow by mail) to the Buyer at the following address:

10150 Bottom Wood Lake Road, Lake Country, BC, V4V 2M1
Attention: Paul Gipps, CAO
Email: pgipps@lakecountry.bc.ca

copy to the Buyer's solicitors:

Lawson Lundell LLP
1631 Dickson Avenue, Suite 1800
Kelowna BC V1Y 0B5
Attention: Peter MacPherson
E-mail: pmacpherson@lawsonlundell.com

and to the Seller at the following address:

925 West Georgia Street, Suite 902, Vancouver, BC V6C 3L2
Attention: Anthony Tillman and Pinky Law
Email: pinky.law@alvarezandmarsal.com and atillman@alvarezandmarsal.com

copy to the Seller's solicitors:

Fasken Martineau DuMoulin LLP
550 Burrard Street, Suite 2900
Vancouver BC V6C 0A3
Attention: Kibben Jackson
E-mail: kjackson@fasken.com

Notice shall be deemed to be given upon actual delivery.

13. CONFIDENTIALITY

Unless the transaction contemplated by this Agreement is completed, the Buyer and Seller will keep all negotiations regarding the Property confidential and the Buyer will not disclose to any third party the contents or effects of any document, materials or information provided pursuant to or obtained in relation to this Agreement without the prior written consent of the Seller, except that each of the Buyer and the Seller may disclose the same to its employees, inspectors, lenders, agents, advisors, consultants, potential investors and such other persons as may reasonably be required and expect that the Buyer and the Seller may disclose the same as required by law or in connection with the proposed sale and purchase of the Property or in connection with any legal proceedings related to this Agreement. Furthermore, the Buyer and the Seller agree that no press or other publicity release or communication to the general public concerning the proposed transaction will be issued without the other party's prior written approval, unless such disclosure is required by law.

14. ASSIGNMENT

The Buyer shall not be entitled to assign its interest in this Agreement without the prior written consent of the Seller, which consent may be withheld in the Seller's sole, absolute and unfettered discretion.

15. TIME

Specific times shall be in accordance with the system of standard or daylight-saving time in effect where the Property is located. If the date for making of any payment hereunder or the date for doing any act shall be a Saturday, Sunday or holiday in the Province of British Columbia, such date shall be extended to the first Business Day next following such date. "**Business Day**" means a day other than a Saturday, Sunday, municipal statutory holiday in British Columbia.

Time shall be of the essence of this Agreement.

16. TAXES AND FEES

(a) The Buyer shall be responsible for payment of Property Transfer Tax and any registration fees payable in connection with the registration of the transfers and any other documents to be registered by or through the Buyer.

(b) Each party shall pay its own legal fees with respect to this transaction.

17. COUNTERPARTS

This Agreement may be executed electronically, including by DocuSign, in any number of counterparts, and may be delivered originally, by facsimile, by Portable Document Format ("**PDF**"), or email and each such original, facsimile copy or PDF copy, when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

18. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of British Columbia and the applicable laws of Canada. The Seller and the Buyer agree to submit to the jurisdiction and the courts of British Columbia concerning any dispute relating to this Agreement or the transaction contemplated herein and to appoint respective agents for the receipt and service of process in British Columbia.

19. ENTIRE AGREEMENT

This Agreement together with any Schedules as attached constitutes the entire agreement between the Seller and the Buyer concerning the Transaction and supersedes all prior agreements, negotiations and discussions, whether oral or written, of the Seller and the Buyer. There are no agreements, representations or warranties, express, implied, statutory, collateral or otherwise, except as contained in this Agreement. This Agreement shall not be amended except in a written instrument executed by both the Seller and the Buyer or their solicitors and stated to be an amendment to this Agreement.

20. COMMISSIONS PAYABLE

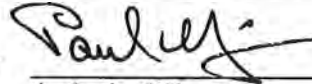
The Seller shall pay all real estate commissions arising out of the purchase and sale of the Property contemplated by this Agreement and the Seller will indemnify and save the Buyer harmless in respect of any claim or action against the Buyer on account of such real estate commissions. The Buyer represents and warrants to the Seller that the Buyer has not engaged a broker regarding the purchase of the Property and shall indemnify and save harmless the Seller from any misrepresentation in this regard.

(execution page follows)

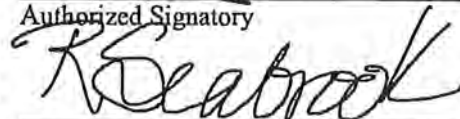
IN WITNESS WHEREOF the Buyer has executed this Agreement as of October 17, 2024.

DISTRICT OF LAKE COUNTRY

PAUL GIPPS
Chief Administrative Officer


Authorized Signatory

REYNA SEABROOK
Corporate Officer


Authorized Signatory

IN WITNESS WHEREOF the Seller has executed this Agreement as of October 17, 2024.

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

Per: _____

Per: _____

IN WITNESS WHEREOF the Buyer has executed this Agreement as of October 17, 2024.

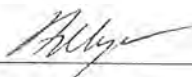
DISTRICT OF LAKE COUNTRY

Per: _____
Authorized Signatory

Authorized Signatory

IN WITNESS WHEREOF the Seller has executed this Agreement as of October 17, 2024.

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

Per: _____ 

Per: _____

SCHEDULE "A"

the "Property"

Address	Legal Description	PID
9718 Bottom Wood Lake Road, Lake Country, British Columbia	Lot 38 District Lot 118 Osoyoos Division Yale District Plan 457 Except Plans 17370, 22191 and 36673	009-973-532

SCHEDULE "B"

PERMITTED ENCUMBRANCES

Unless otherwise agreed in writing, title will be free and clear of all encumbrances, registrations and obligations except the following:

1. The reservations, limitations, provisions or conditions expressed in the original grants from the Crown and the statutory exceptions to title currently applicable to the Property;
2. a claim of right, title or jurisdiction which may be made or established by any aboriginal peoples by virtue of their status as aboriginal peoples to or over any lands;
3. liens for taxes, assessments, rates, duties, charges or levies not at the time due, which relate to obligations or liability assumed by the Buyer; and
4. the encumbrances listed below:

Legal Notations

HERETO IS ANNEXED RESTRICTIVE COVENANT CB750540 OVER LOT 2 SECTIONS 10 AND 11 TOWNSHIP 20 ODYD PLAN 4169; LOT 44 DISTRICT LOT 118 ODYD PLAN 457 EXCEPT PLANS 20108, 36673 AND 39429; THAT PART LOT 45 AND THAT PART LOT 46 SHOWN ON PLAN 940F DISTRICT LOT 118 ODYD PLAN 457 EXCEPT PLAN 36673

THIS CERTIFICATE OF TITLE MAY BE AFFECTED BY THE AGRICULTURAL LAND COMMISSION ACT, SEE AGRICULTURAL LAND RESERVE PLAN NO. M11328

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER MUNICIPAL ACT PART 29 (SEE DF KE23756)

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 29, MUNICIPAL ACT, SEE KH28138

Charges, Liens and Interests

Nature: UNDERSURFACE RIGHTS

Registration Number: 19038E

Registration Date and Time: 1930-07-24 10:18

Registered Owner: THE DIRECTOR OF SOLDIER SETTLEMENT

Remarks: INTER ALIA SEE 55200F OTHER THAN THOSE EXCEPTED BY THE CROWN

Nature: RIGHT OF WAY

Registration Number: K22615

Registration Date and Time: 1975-05-13 14:08

Registered Owner: WINFIELD AND OKANAGAN CENTRE IRRIGATION DISTRICT

Remarks: PART ON PLAN A11771

Nature: EASEMENT

Registration Number: CB969496

Registration Date and Time: 2023-10-17 13:29

Remarks: APPURTENANT TO THAT PART OF LOT 44, LOT 45 AND LOT 46 SHOWN ON PLAN 940F DISTRICT LOT 118 ODYD PLAN 457 EXCEPT PLAN 36673; AND LOT 2 SECTIONS 10 AND 11 TOWNSHIP 20 ODYD PLAN 4169

SCHEDULE "C"

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

1. Title will be transferred to the Buyer free and clear of all registered encumbrances, other than those listed in Schedule "B" to the Contract in accordance with the Vesting Order (defined herein) to be sought from the Supreme Court of British Columbia (the "**Court**") in Supreme Court of British Columbia Action No. S245481, Vancouver Registry (the "**Proceeding**").
2. Any existing registered financial charges to be paid under the terms of the Vesting Order may be paid by the Seller upon receipt of the Purchase Price and the Buyer may pay the Purchase Price to the Seller's lawyer in trust on undertakings to pay those financial charges in accordance with the terms of the Vesting Order.
3. Possession will be governed by the terms of the Vesting Order.
4. The Buyer is purchasing the Property on an "as is - where is" basis as of the completion date. The Buyer agrees that the Seller has no obligation to maintain the Property in the condition it may have been in at some time before the Closing Date. The Buyer agrees that the Purchase Price does not include any chattels/personal property. The Seller assumes no risk with respect to the buildings on the Property or any other items included in this purchase and sale.
5. No property condition disclosure statement concerning the Property will be given by the Seller.
6. The acceptance of this offer by the Seller is in its capacity as Court-appointed Monitor of the owner of the Property pursuant to the Amended and Restated Initial Order granted August 26, 2024 (the "**ARIO**") in the Proceeding, and not in its personal capacity or as owner of the Property. The acceptance of this offer is subject to the approval of the Court in the Proceeding and will become effective from the time an order is made approving this offer (the "**Vesting Order**"). The Seller hereby advises the Buyer that the Seller's obligations in connection with this offer, until it is approved by the Court, are limited to putting this offer before the Court. The Seller is only obligated to present the offer to the Court for approval within 30 days of the Buyer removing all subject conditions in respect of this offer.
7. The Seller is subject to the jurisdiction and discretion of the Court to entertain other offers and to any further Orders the Court may make regarding the Property. The Seller may be compelled to advocate that the Court consider other offers in order to obtain the highest price for the Property. The Seller gives no undertaking to exclusively advocate for the acceptance of only this offer. In that regard the Buyer may wish to consider making its own arrangements to support this offer in Court if other offers are received by the Seller. The Buyer agrees the Seller will disclose the Purchase Price to any prospective buyers indicating an intention to submit an offer to purchase the Property.
8. Acceptance of this offer by the Seller and any obligation of the Seller to put this offer before the Court may be terminated at any time before the Court makes the Vesting Order approving this sale if the mortgage which is the subject of these proceedings is redeemed, or if the mortgage is brought into good standing or at the option of the Seller in its sole discretion. This condition is for the sole benefit of the Seller.

9. Real estate commission is payable relative to this offer only if this offer is approved by the Court and the sale is completed pursuant to the Vesting Order.
10. The Buyer agrees that there may be GST and PTT payable relating to this transaction and that it is the responsibility of the Buyer to pay any such tax accruing on this sale. The Buyer agrees that the Seller may be responsible to collect and remit GST payable on this transaction. Accordingly, the Buyer agrees to pay any such tax to the Seller so that the Seller can, in turn, pay such GST as may be due and owing on this sale.
11. The Buyer is satisfied that there is no need for a holdback from the Purchase Price for the possibility that the Seller is not a Canadian resident for the purposes of the Income Tax Act.
12. The Buyer agrees not to holdback any part of the Purchase Price for any reason.
13. The Seller, as party having conduct of sale of the Property pursuant to the ARIO, is not and will not be liable to the Buyer, nor to anyone claiming by through or under the Buyer, for any damages, costs or expenses, including but not limited to damage caused to the Buyer by the registered owner(s) of the Property or his/her tenants, guests, assigns, agents or persons unknown, or for them failing to provide vacant possession when required. The Buyer acknowledges that if vacant possession is not available on the possession date, the Buyer will complete the sale in any event. The Seller will make reasonable efforts to obtain a Writ of Possession or similar Court order, and the Buyer acknowledges that this process may take a considerable period of time.

SCHEDULE "D"

FORM OF VESTING ORDER

No. S245481
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

AND

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

PETITIONERS

ORDER MADE AFTER APPLICATION

**APPROVAL AND VESTING ORDER
(LAKE COUNTRY)**

BEFORE THE HONOURABLE)
JUSTICE GROPPER) October [●], 2024
)

ON THE APPLICATION OF Alvarez & Marsal Canada Inc. ("A&M") in its capacity as monitor of the Petitioners (in such capacity, the "**Monitor**") coming on for hearing at Vancouver, British Columbia, on the [●] day of [●] 2024; AND ON HEARING Kibben Jackson and Heidi Esslinger, counsel for the Monitor, and those other counsel listed on **Schedule "A"** hereto, and no one else appearing although duly served, AND UPON READING the material filed, including the [●] Report of the Monitor to the Court dated [●], 2024 (the "**Report**"); AND PURSUANT TO the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "**CCAA**"), the *British Columbia Supreme Court Civil Rules*, and the inherent jurisdiction of this Court;

THIS COURT ORDERS AND DECLARES THAT:

The sale transaction (the "**Transaction**") contemplated by the Contract of Purchase and Sale dated [●], 2024 (the "**Sale Agreement**") between the Monitor, in its capacity as the Monitor of BC Tree Fruits Cooperative (the "**Vendor**"), and District of Lake Country (the "**Purchaser**"), a copy of which is attached hereto as **Schedule "B"**, is hereby approved,

and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Monitor on behalf of the Vendor is hereby authorized and approved, and the Vendor and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance to the Purchaser of the Property (as such term is defined in the Sale Agreement). The Monitor and the Purchaser shall be at liberty to extend the Closing Date (as such term is defined in the Sale Agreement) to such later date as those parties may agree, without the necessity of a further Order of this Court.

Upon: (i) receipt by the Monitor of the full amount of the Purchase Price (as such term is defined in the Sale Agreement); and (ii) delivery by the Monitor to the Purchaser of a certificate substantially in the form attached as **Schedule "C"** hereto (the "**Monitor's Certificate**"), all of the Vendor's right, title and interest in and to the Property shall vest absolutely in the Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by any order of this court in the within proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims enumerated in **Schedule "D"** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "E"** hereto), and, for greater certainty, this court orders that all of the Encumbrances are hereby expunged and discharged as against the Property.

Upon presentation for registration in the Land Title Office for the Land Title District of Kamloops of a certified copy of this order, together with a letter from Fasken Martineau DuMoulin LLP, solicitors for the Monitor, authorizing registration of this order, the British Columbia Registrar of Land Titles is hereby directed to:

enter the Purchaser as the owner of the Property identified in the Sale Agreement, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Property, and this court declares that it has been proved to the satisfaction of the court on investigation that the title of the Purchaser in and to the Property is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and

having considered the interest of third parties, to discharge, release, delete and expunge from title to the Property all of the registered Encumbrances except for those listed in Schedule **"E"** hereto.

For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Property shall stand in the place and stead of the Property, and from and after the delivery of the Monitor's Certificate all Claims shall attach to the net proceeds from the sale of the Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the Property had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.

The Monitor is to file with the court a copy of the Monitor's Certificate forthwith after delivery thereof.

Subject to the terms of the Sale Agreement, vacant possession of the Property, including any real property, shall be delivered by the Monitor to the Purchaser upon completion of the purchase and sale transaction contemplated in the Sale Agreement, subject to the permitted encumbrances as set out in the Sale Agreement and listed on Schedule "E" hereto.

Notwithstanding:

 this CCAA proceeding or the termination thereof;

 any applications for a bankruptcy order in respect of any or all of the Petitioners now or hereafter made pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA") and any bankruptcy order issued pursuant to any such applications; and

 any assignment in bankruptcy made by or in respect of any or all of the Petitioners,

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

THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this order and to assist the Monitor and its agents in carrying out the terms of this order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners, the Purchaser and the Monitor, as an officer of this court, as may be necessary or desirable to give effect to this order or to assist the Petitioners, the Purchaser and the Monitor and its agents in carrying out the terms of this order.

The Monitor or any other party has liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this order.

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

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

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

BY THE COURT

REGISTRAR

Schedule "A"

LIST OF COUNSEL

[illegible]

Schedule “B”

CONTRACT OF PURCHASE AND SALE

[see attached]

Schedule "C"

FORM OF MONITOR'S CERTIFICATE

No. S245481
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

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

AND

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

PETITIONERS

MONITOR'S CERTIFICATE

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

THE MONITOR HEREBY CERTIFIES as follows:

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

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

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

Per: _____

Name:

Title:

Schedule “D”

CLAIMS TO BE DELETED/EXPUNGED FROM TITLE TO REAL PROPERTY

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

Schedule "E"

PERMITTED ENCUMBRANCES

Unless otherwise agreed in writing, title will be free and clear of all encumbrances, registrations and obligations except the following:

5. The reservations, limitations, provisions or conditions expressed in the original grants from the Crown and the statutory exceptions to title currently applicable to the Property;
6. a claim of right, title or jurisdiction which may be made or established by any aboriginal peoples by virtue of their status as aboriginal peoples to or over any lands;
7. liens for taxes, assessments, rates, duties, charges or levies not at the time due, which relate to obligations or liability assumed by the Buyer; and
8. the encumbrances listed below:

Legal Notations

HERETO IS ANNEXED RESTRICTIVE COVENANT CB750540 OVER LOT 2 SECTIONS 10 AND 11 TOWNSHIP 20 ODYD PLAN 4169; LOT 44 DISTRICT LOT 118 ODYD PLAN 457 EXCEPT PLANS 20108, 36673 AND 39429; THAT PART LOT 45 AND THAT PART LOT 46 SHOWN ON PLAN 940F DISTRICT LOT 118 ODYD PLAN 457 EXCEPT PLAN 36673

THIS CERTIFICATE OF TITLE MAY BE AFFECTED BY THE AGRICULTURAL LAND COMMISSION ACT, SEE AGRICULTURAL LAND RESERVE PLAN NO. M11328

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER MUNICIPAL ACT PART 29 (SEE DF KE23756)

THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 29, MUNICIPAL ACT, SEE KH28138

Charges, Liens and Interests

Nature: UNDERSURFACE RIGHTS

Registration Number: 19038E

Registration Date and Time: 1930-07-24 10:18

Registered Owner: THE DIRECTOR OF SOLDIER SETTLEMENT

Remarks: INTER ALIA SEE 55200F OTHER THAN THOSE EXCEPTED BY THE CROWN

Nature: RIGHT OF WAY

Registration Number: K22615

Registration Date and Time: 1975-05-13 14:08

Registered Owner: WINFIELD AND OKANAGAN CENTRE IRRIGATION DISTRICT

Remarks: PART ON PLAN A11771

Nature: EASEMENT

Registration Number: CB969496

Registration Date and Time: 2023-10-17 13:29

Remarks: APPURTENANT TO THAT PART OF LOT 44, LOT 45 AND LOT 46 SHOWN ON PLAN 940F DISTRICT LOT 118 ODYD PLAN 457 EXCEPT PLAN 36673; AND LOT 2 SECTIONS 10 AND 11 TOWNSHIP 20 ODYD PLAN 4169

Schedule "C"

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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

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ALVAREZ & MARSAL CANADA INC.
acting solely in its capacity as court-appointed
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COOPERATIVE and not in its personal or
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Per: _____

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