

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
IN BANKRUPTCY AND INSOLVENCY
JUDICIAL DISTRICT OF MONCTON

IN THE MATTER OF the Proposal of
JEANIE MARSHAL FOODS CANADA INC.,
under the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3

JEANIE MARSHAL FOODS CANADA INC.

Applicant

ORDER APPROVING AMENDED PROPOSAL

BEFORE THE REGISTRAR IN BANKRUPTCY FOR THE PROVINCE OF NEW BRUNSWICK

UPON the Application of Deloitte Restructuring Inc. (the "Trustee"), in its capacity as Trustee under the Amended Proposal of Jeanie Marshal Foods Canada Inc. ("JMFCI") for an Order approving the Amended Proposal of JMFCI (the "Amended Proposal") pursuant to Sections 58, 59 and 60 of the *Bankruptcy and Insolvency Act* ("BIA") having been heard by the Registrar in Bankruptcy for the Province of New Brunswick;

AND UPON reading the Report of the Trustee, together with the Affidavit of James Foran, CA, CIRP sworn on January 29, 2014;

AND UPON receiving the written submissions of Benjamin Durnford, counsel for the Trustee; R, Bruce Johnson, counsel for JMFCI; and from such other counsel who provided written submissions on the Application;

AND UPON the Court being satisfied that:

1. Due notice of this Application, in the prescribed manner, has been provided by the Trustee to JMFCI, its creditors and the Official Receiver in accordance with Section 58(b) of the BIA, and that all other requirements of Section 58 have been satisfied by the Trustee;
2. The Amended Proposal satisfies the requisite formalities set forth in the BIA;
3. A meeting of JMFCI's creditors to consider the Amended Proposal was duly convened and held on January 24, 2014, and that the required majority of JMFCI's creditors have

duly accepted the Amended Proposal, which Amended Proposal is annexed hereto and marked as Schedule "A"; and

4. The terms of the Amended Proposal are reasonable and calculated to benefit the general body of JMFCI's creditors and that no offences or facts have been proved to justify the Court in withholding its approval;

NOW UPON MOTION:

IT IS ORDERED THAT:

1. pursuant to sections 58, 59 and 60 of the BIA the Amended Proposal of JMFCI be and is hereby approved; and
2. this Order and all of its provisions are effective as of 12:01 a.m. local time on the date of this Order.

DATED at Fredericton, Province of New Brunswick, this 19th day of February, 2014.

REGISTRAR

SCHEDULE "A"

Estate #51-1793121
Court #NB19522

COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE PROPOSAL OF
JEANIE MARSHAL FOODS CANADA INC.

OF THE CITY OF MONCTON
IN THE PROVINCE OF NEW BRUNSWICK

AMENDED PROPOSAL

WHEREAS Jeanie Marshal filed a proposal to its creditors on December 10, 2013 with the Official Receiver and thereafter delivered a copy of such proposal, as well as a statement of its assets and liabilities and other documentation, to its Creditors;

AND WHEREAS, subsequent to the aforementioned filing and delivery of the proposal and statement of assets and liabilities, Jeanie Marshal was advised that it may be eligible for a tax refund as a result of losses arising in its current fiscal year;

AND WHEREAS Jeanie Marshal's single largest Unsecured Creditor, Bonté Foods Limited, has indicated that it requires certain amendments to the aforementioned proposal as a condition to its assent to same, including the postponement of the Claims of parties related to Jeanie Marshal;

AND WHEREAS the Related Parties, as hereinafter defined, are prepared to agree to postpone their Claims, as required by Bonté Foods Limited;

Jeanie Marshal Foods Canada Inc. ("Jeanie Marshal"), an insolvent corporation, hereby submits the following Amended Proposal pursuant to Section 50 of the *Bankruptcy and Insolvency Act* (Canada).

PART I INTERPRETATION

Definitions

1. In this Proposal, the following items have the meanings herein set out:
 - a. "BIA" means the *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, c.B-3, as amended;
 - b. "Claim" means any indebtedness, liability, action, cause of action, suit, debt due, account, bond, covenant, contract, counterclaim, demand, claim, right and obligation of any nature whatsoever of Jeanie Marshal other than a secured creditor to any person, whether liquidated, unliquidated, fixed, contingent, matured, legal, equitable, present, future, known or unknown and whether by guarantee, surety or otherwise, incurred or arising or relating to the period prior to the NOI Date, or based in whole or in part on facts, contracts or arrangements which occurred or existed prior to the NOI Date, together with any other claims provable in bankruptcy had Jeanie Marshal become bankrupt on the NOI Date, including without limitation, repudiation, disclaimer or termination of any lease, license, contract, arrangement or contract of employment prior to the NOI Date, providing that all claims shall be allowed

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without allowance for interest after the NOI Date (except as otherwise provided for in this Proposal) and without allowance for penalties and net of any normal discounts. All claims must be converted to Canadian Dollars as of September 26, 2013;

- c. "Convenience Class" means the first \$3,500 of any Unsecured Creditors Proven Claim;
- d. "Court" means the Court of Queen's Bench of New Brunswick in Bankruptcy and Insolvency;
- e. "Court Approval Order" means the final order of the Court approving this Proposal in accordance with Section 60 of the BIA;
- f. "Creditors" means the Preferred and Unsecured Creditors of Jeanie Marshal, and for greater certainty does not include Secured Creditors or Subsequent Creditors in respect of only the amounts described in Paragraph 16 hereof;
- g. "Estate" means the estate of Jeanie Marshal under this Proposal pursuant to the BIA;
- h. "Effective Date" means the date after the Court Approval Order and the expiration of all appeals;
- i. "Event of Default" means when any of the following occur:
 - i. Failure to pay a Creditor the amounts to be repaid in accordance with the terms hereof; and
 - ii. Statutory defaults under the BIA.
- j. "Filing Date" means December 10, 2013, the date on which Jeanie Marshal initially filed a proposal with the Official Receiver in Halifax, Nova Scotia;
- k. "Fund" means monies provided by Jeanie Marshal to the Proposal Trustee in order to satisfy the Proven Claims of all the Unsecured Creditors except the Related Parties pursuant to Paragraph 15 and 15.1 of this Proposal;
- l. "Inspector" means any persons appointed or elected as Inspectors of Jeanie Marshal pursuant to paragraph 17 of this Proposal;
- m. "Jeanie Marshal" and "Company" means Jeanie Marshal Foods Canada Inc., an insolvent corporation, with a head office located in Moncton, New Brunswick;
- n. "Lien" means any mortgage, charge, pledge, assignment by way of security, lien, hypothec, security interest, deemed trust or other encumbrance granted or arising pursuant to a written agreement or statute of otherwise created by law;
- o. "Maturity Date" means the date on which all payments to Creditors have been made, provided that no Event of Default has occurred under this Proposal that has not been cured or waived;
- p. "NOI Date" means September 26, 2013, the date which Jeanie Marshal filed its Notice of Intention to File a Proposal with the Official Receiver;
- q. "Preferred Creditors" means those persons with Claims provable pursuant to the BIA against Jeanie Marshal as of the NOI Date whose Claims are entitled to be paid in priority to the claims of Unsecured Creditors as provided in Section 136 of the BIA;

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- r. "Proposal" means this Amended Proposal of Jeanie Marshal under the BIA, as amended or supplemented from time to time;
- s. "Proposal Period" means the period between the Filing Date and the Maturity Date;
- t. "Proposal Trustee" and "Deloitte" means Deloitte Restructuring Inc, a licensed trustee of New Brunswick, the Proposal Trustee acting in the Proposal of Jeanie Marshal;
- u. "Proven Claim" means a provable claim pursuant to the BIA against Jeanie Marshal as of the NOI Date of a Creditor in respect of its Claim which has been proven in accordance with the provisions of the BIA;
- v. "Related Parties" means the following four Unsecured Creditors who are related to Jeanie Marshal in accordance with the provisions of Section 4 of the BIA:
 - i. BAFS, Inc.;
 - ii. Jeanie Marshal Foods Inc.;
 - iii. Lewis Associates; and
 - iv. Jeanie Marshal Foods Ltd. (identified on the creditor list as "JMFUK").
- w. "Secured Creditor" means a party holding a claim that is secured:
 - i. By operation of law; or
 - ii. By a Lien that is duly registered or otherwise perfected in accordance with applicable law as of the NOI Date, or thereafter, pursuant to an Order, to the extent of the value of the collateral secured by such Lien having regard to the priority of the Lien.
- x. "Subsequent Creditor" means persons who provided goods and services on credit to Jeanie Marshal subsequent to the NOI Date to and including the Effective Date, and employees of Jeanie Marshal employed subsequent to the NOI Date to and including the Effective Date; and
- y. "Unsecured Creditors" means those persons with ordinary unsecured Claims (including contingent claims) provable pursuant to the BIA against Jeanie Marshal as at the NOI Date which are not preferred pursuant to Section 136 of the BIA.

Headings

- 2. The division of this Proposal into parts, paragraphs and sub-paragraphs, and the insertion of headings herein, is for the convenience of reference only and is not to affect the construction or interpretation of this Proposal. Unless otherwise provided in this Proposal, references herein to parts, paragraphs and sub-paragraphs are references to parts, paragraphs and sub-paragraphs of this Proposal.

Number, etc.

- 3. In this Proposal, where the context requires a word importing the singular includes the plural and vice versa, and a word importing gender includes the masculine, feminine and neutral genders.

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Successor and Assigns

- 4. This Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, personal representatives, successors and assigns of all persons named or referred to herein including, without limitation, all Creditors.

**PART II
PURPOSE AND EFFECT OF THE PROPOSAL**

Purpose of Proposal

- 5. The purpose of this Proposal is to effect a restructuring of the business and affairs of Jeanie Marshal in the expectation that all Creditors will derive a greater benefit from the continued operation of the business and affairs of Jeanie Marshal than would result from a forced liquidation of its assets.

Effect of Proposal

- 6. This Proposal restructures the affairs of Jeanie Marshal and amends the terms of any and all agreements between Jeanie Marshal and the Creditors existing as at the Effective Date to the extent affected by the Proposal, and provides the essential terms on which all Claims will be fully and finally resolved and settled. During the Proposal Period, the provisions of Section 69.1 of the BIA shall be in effect. Without limiting the generality of the foregoing, during the Proposal Period all Creditors will be stayed from commencing or continuing any proceeding or remedy against Jeanie Marshal or any of its property or assets in respect of a Claim, including, without limitation, any proceeding or remedy to recover payment of any monies owing to Creditors, to recover or enforce any judgment against Jeanie Marshal in respect of a Claim or commence any formal proceedings against it in respect of a Claim other than as provided under the Proposal.

Persons Affected

- 7. This Proposal will, as of the Effective Date, be binding on Jeanie Marshal and all Creditors in the manner provided for in this Proposal and the BIA.

**PART III
CLASS OF CREDITORS AND VOTING**

- 8. There are no classes of Secured Creditors to which this Proposal is made.
- 9. For the purposes of voting on this Proposal, there shall be one class of Unsecured Creditors, consisting of all of the Preferred Creditors and Unsecured Creditors.

**PART IV
SECURED CREDITORS**

- 10. Payment of all amounts owing to the Secured Creditors of Jeanie Marshal shall be made in accordance with the terms of any agreements or as may otherwise be agreed between the Secured Creditor and Jeanie Marshal.

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**PART V
UNSECURED CLAIMS**

Preferred Claims and Mandatory Payments

11. Proven Claims of Preferred Creditors as of the NOI Date shall be paid in full, without interest, in priority to the claims of Unsecured Creditors, as follows:
- i. Proven Claims of current and former employees equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the BIA if Jeanie Marshal became bankrupt on the NOI Date, shall be paid immediately after the Effective Date, without interest. For greater certainty, amounts due or which may become due pursuant to this paragraph do not include claims for severance or termination. Jeanie Marshal shall pay sufficient funds to the Proposal Trustee to fulfill this obligation prior to the Proposal Trustee seeking the Court Approval Order;
 - ii. Proven Claims as of the NOI Date of Her Majesty in right of Canada or a province of a kind that could be subject to a demand under Section 224(1.2) of the *Income Tax Act* (Canada) or under any substantially similar provision of provincial legislation, shall be paid by Jeanie Marshal within six months of the Effective Date; and
 - iii. Proven Claims as of the NOI Date of the other Preferred Creditors shall be paid in full (without interest subsequent to the date of the filing of the NOI) in priority to all claims of Unsecured Creditors following the Effective Date in the manner as may be arranged with the Preferred Creditors but prior to any payments to the Unsecured Creditors.

Trustee Fees and Expenses

12. For the purposes of this Proposal, all proper fees of the Proposal Trustee, and the reasonable expenses and legal costs of the Proposal Trustee, on and incidental to the proceedings arising out of this Proposal (including the preparation of this Proposal) shall be paid in priority to all claims of the Secured Creditors, Preferred Creditors, Unsecured Creditors and Subsequent Creditors. Such fees shall be based on the time expended and charged by the Proposal Trustee and its legal counsel at their normal billing rates as set from time to time.

Unsecured Creditors

13. Proven Claims of Unsecured Creditors, except those of the Related Parties, as of the NOI Date shall be paid as follows:
- i. The Convenience Class portion of the claim will be paid in full from the Fund, without interest, on or before the 1st day of June, 2014;
 - ii. The remaining portion of Proven Claims will be paid pro-rata, without interest, from the Fund; and
 - iii. Payments other than the Convenience Class portion of Proven Claims are to be made in equal quarterly installments, to commence no later than August 31, 2014, which quarterly payments shall continue up to June 30, 2018. Notwithstanding this payment schedule, Jeanie Marshal shall be entitled in its discretion, subject to the approval of the Inspectors and the Proposal Trustee, to accelerate the payment schedule and complete these payments by an earlier date, should the same prove possible during the Proposal Period.

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14. The Unsecured Creditors except the Related Parties shall accept the distribution from the Fund in full and complete settlement of their Claims against Jeanie Marshal as at the NOI Date.
 15. Jeanie Marshal shall pay the Proposal Trustee a Fund consisting of \$845,456 on a schedule at least sufficient to make the payments to Unsecured Creditors set out in Paragraph 13.
 - 15.1 Jeanie Marshal shall forthwith file its income tax return for the fiscal year ending January 5, 2014, and shall elect at the time of filing to carry any losses for that year back to its three most recent tax years in order to recover taxes paid in those years. Should this result in a tax refund to Jeanie Marshal, Jeanie Marshal shall pay the lesser of the amount refunded or \$200,000.00 to the Fund, in addition to the \$845,456 set forth in Paragraph 15.
 - 15.2 Payment of the Proven Claims of the Related Parties shall be postponed until the Proven Claims of all other Unsecured Creditors have been paid and the Fund is exhausted. Thereafter, Jeanie Marshal shall, as soon as is reasonably possible, pay the Proven Claims of the Related Parties as follows:
 - i. the Convenience Class portion of the claim will be paid in full, without interest;
 - ii. The remaining portion of the Proven Claims will be paid in an amount equal to that amount each of the Related Parties would have received from the Fund if they had had been paid as the other Unsecured Creditors in accordance with Paragraph 13 ii, except, for the purposes of calculating the amount so payable, the Proven Claims of the Related Parties shall stand in the place and stead of an equivalent amount of the Proven Claims of other Unsecured Creditors.
- The Related Parties shall accept the aforementioned payments in full and complete settlement of their Claims against Jeanie Marshal as at the NOI Date.
- 15.3 Upon making final payments to Unsecured Creditors, the terms of this Proposal shall be deemed to be fully performed and the Trustee shall provide a certificate to Jeanie Marshal and to the Official Receiver pursuant to Section 65.3 of the BIA.

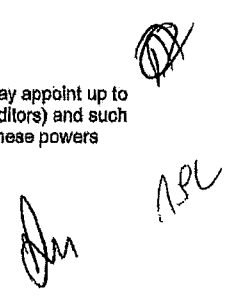
**PART VI
SUBSEQUENT CREDITORS**

16. Amounts owed by Jeanie Marshal to Subsequent Creditors for goods, services and employment actually provided to Jeanie Marshal, subsequent to the NOI Date, to and including the Effective Date, but not for damages, severance or termination or other claims arising, will be paid in the ordinary course of business according to normal credit terms, by Jeanie Marshal.

**PART VII
INSPECTORS**

Appointment of Inspectors

17. At the statutory meeting of Creditors to consider this Proposal, such Creditors may appoint up to five Inspectors (who shall have no personal liability to Jeanie Marshal or the Creditors) and such Inspectors shall have the powers as set out in the BIA and for greater certainty these powers include, but are not limited to the following:
 - i. To extend the dates of payments provided under this Proposal;
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- ii. To advise the Proposal Trustee from time to time on any matter the Trustee may refer to the them;
- iii. To advise the Proposal Trustee regarding the admission or disallowance of Creditors proofs of claim where the Proposal Trustee requests such assistance;
- iv. To approve on behalf of the Creditors any decision of the Proposal Trustee relating to any matter not contained in this Proposal which the Proposal Trustee may refer to them from time to time, including any extension of time of payment required under this Proposal; and
- v. To waive any default in the performance of this Proposal. The Proposal Trustee shall notify the Inspectors of any default of which the Proposal Trustee becomes aware and the Proposal Trustee shall hold a meeting of Inspectors following such notice for the purpose of obtaining the instructions of the Inspectors with respect to such a default and the steps to be taken.

Decisions of Inspectors

- 18. Any decision, direction or act of the Inspectors may be referred to the Court by the Proposal Trustee and the Court may confirm, revoke or vary the decision, direction or act of the Inspectors and make such other order as it deems just.

**PART VIII
CONDITIONS PRECEDENT**

- 19. As provided for in the BIA, the arrangements set out in this Proposal will not take effect unless the conditions set forth below are satisfied or waived by Jeanie Marshal on or before the Effective Date:
 - i. The Court Approval Order shall have been granted;
 - ii. No order or decree restraining or enjoining the consummation of the transactions contemplated by this Proposal will have been issued; and
 - iii. All agreements or instruments necessary to effect the intention and purpose of this Proposal have been received by Jeanie Marshal and the Proposal Trustee in a form satisfactory to them.

**PART IX
GENERAL**

Acceptance of this Proposal

- 20. By acceptance of this Proposal and its approval by the Court, the Creditors shall be deemed to have accepted and consented to all matters, things and procedures provided for herein, including the full and final compromise of their Claims in accordance with Section 62(2) of the BIA.
- 21. By acceptance of this Proposal and its approval by the Court, the Creditors shall be deemed to have released all of their claims against any person who is or was, at any time, a director of Jeanie Marshal that arose before the NOI Date and that relate to Claims where such directors (or any of them) are by law liable in their capacity as directors for such Claims. For greater certainty, such current or former directors shall be released and discharged from any and all claims in respect of any and all potential statutory liabilities as set out in section 50(13) of the BIA, provided that nothing herein shall release or discharge any current or former director from claims which:

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- i. Relate to contractual rights of one or more creditors arising from contracts with one or more directors; or
- ii. Are based on allegations of misrepresentation made by directors to creditors or of wrongful or oppressive conduct by directors.

For greater certainty, should Jeanie Marshal become bankrupt before this Proposal is fully performed, then this paragraph 21 shall be null and void and have no force and effect.

Consents, Waivers and Agreements

22. On the Effective Date, all Creditors will be deemed to have consented and agreed to all of the provisions of this Proposal in its entirety. For greater certainty, each such Creditor will be deemed to have waived any default by Jeanie Marshal in any provision, express or implied, in any agreement existing between the Creditors and Jeanie Marshal that has occurred on or prior to the Effective Date, and to have agreed that, to the extent that there is any conflict between the provisions of any such agreement and the provisions of the Proposal, the provisions of this Proposal take precedence and priority and the provisions of any such agreement are amended accordingly.

Further Actions

23. Jeanie Marshal and the Creditors will execute and deliver all such documents and instruments and do all such things as may be necessary or desirable to carry out the full intent and meaning of this Proposal and to give effect to the transactions completed hereby.

Performance

24. All obligations of Jeanie Marshal under this Proposal will commence as of the Effective Date. All terms of this Proposal will take effect as of the Effective Date. All obligations of Jeanie Marshal under this Proposal will be fully performed for the purposes of Section 65.3 of the BIA upon the Proposal Trustee having made all payments to the Creditors provided herein.

Binding Effect

25. The provisions of this Proposal will be binding on the Creditors and Jeanie Marshal, and their respective heirs, executors, administrators, successors and assigns as of the Effective Date.

Compromise Effective for all Purposes

26. The payment, compromise or other satisfaction of any Claim under this Proposal shall be binding upon the Creditor holding the Claim, its heirs, executors, administrators, successors and assigns, for all purposes.

Her Majesty the Queen

27. Jeanie Marshal acknowledges and agrees that Her Majesty the Queen, during the term of the Proposal, may exercise any rights of set-off to which it is entitled by law and may apply, if any:
 - i. Income tax refunds pertaining to the year of the Proposal or prior years to the Debtor's income tax arrears;

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- ii. HST refunds or rebates to all periods for which the HST liability is due; and
 - iii. Any other tax or customs refund to which the Debtor may be entitled.
28. Jeanie Marshal covenants and agrees that during the course of the Proposal it will:
- i. Remit current year installment payments of corporate tax and file income tax returns as required by the *Income Tax Act*;
 - ii. Remit current HST payments and file HST returns as required by the *Excise Tax Act*; and
 - iii. Remit current year payroll deductions (employment insurance premiums, Canada Pension Plan contributions and income tax deductions) as required by law.
29. Jeanie Marshal covenants and agrees that all debts due to Her Majesty the Queen proved in this Proposal shall be compromised in accordance with the terms of this Proposal only in the event this Proposal is fully performed pursuant to its terms and the BIA. In the event the Debtor fails to comply with any of the terms of this Proposal and the Proposal is annulled pursuant to the provisions of the BIA, Jeanie Marshal agrees that Her Majesty the Queen will be entitled to recover the full amount of all debts due to Her Majesty the Queen proved in the Proposal, net of any payments or dividends received.

Other

- 30. The assets of Jeanie Marshal, if any, shall not vest in the Proposal Trustee but shall remain vested in Jeanie Marshal, and the Proposal Trustee shall have no liability whatsoever for the Claims of Creditors arising before or after the date of the filing of the NOI Date.
- 31. Jeanie Marshal represents and warrants that it has disclosed all relevant information in respect of this Proposal.
- 32. Any payments made by the Proposal Trustee to Creditors hereunder shall be made by the Proposal Trustee net of any levies payable or due under the BIA.
- 33. Upon making final payments to Unsecured Creditors in accordance with this Proposal and providing a certificate to Jeanie Marshal and the Official Receiver pursuant to Section 65.3 of the BIA, this Proposal shall be satisfied and all conditions and requirements fulfilled and met and the Proposal Trustee shall be entitled to be discharged.

**PART X
THE PROPOSAL TRUSTEE**

- 34. Deloitte shall be the Proposal Trustee and the following provisions shall apply to the Proposal Trustee:
 - i. Deloitte, in acting as Proposal Trustee, is acting as Proposal Trustee and not in its personal capacity and shall not be responsible or liable for any obligations of Jeanie Marshal;
 - ii. All monies and other consideration payable under the terms of this Proposal shall be paid over to the Proposal Trustee who shall make all payments in accordance with the terms of this Proposal; and

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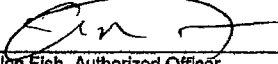
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iii. Upon completion of all payments in accordance with the terms of this Proposal, and all other conditions and requirements being fulfilled, the Proposal Trustee shall be discharged.

DATED at BANCOB MAINE USA, the 13 day of January, 2014.

Jeanie Marshal Foods Canada Inc.

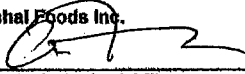
per: 
Allen Fish, Authorized Officer

We the undersigned, being the Related Parties as herein defined, hereby consent to the terms of this Amended Proposal.


BAFS, Inc.

per: 
Allen Fish, Authorized Officer

Jeanie Marshal Foods Inc.

per: 
Allen Fish, Authorized Officer

Lewis Associates

per:  Bob Lewis
Bob Lewis, Authorized Officer



Jeanie Marshal Foods Ltd.

per:  D. Wood
David Wood, Authorized Officer

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