

CANADA)
PROVINCE OF SASKATCHEWAN)

Court No.: 22-2400416
Estate No.: 22-2400416

COURT FILE QB No. 1200 of 2018

COURT QUEEN'S BENCH FOR SASKATCHEWAN
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE SASKATOON

APPLICANT CANADIAN EXOTIC GRAINS LTD.

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
UNDER SECTION 50.4 OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC
1985, c. B-3, AS AMENDED, OF CANADIAN EXOTIC GRAINS LTD.

ORDER
(Sale Approval, Vesting, and Extension)

Before the Honourable Madame Justice Rothery in Chambers the 8th day of August, 2018.

On the application of Canadian Exotic Grains Ltd. (the "**Debtor**"), and on hearing from counsel for the Debtor and counsel present on behalf of any other interested parties, and on reading the Originating Application dated August 3, 2018, Brief of Law, the Affidavit of Jocelyn Hartsook sworn August 3, 2018 (the "**Hartsook Affidavit**"), the First Report of the Proposal Trustee (the "**First Report**"), Deloitte Restructuring Inc. (the "**Proposal Trustee**"), the Confidential Report of the Proposal Trustee (the "**Confidential Report**"), proof of compliance with General Application Practice Directive #3, and draft Order, all filed:

The Court Orders:

GENERAL

1. Capitalized terms not otherwise defined in this Order have the respective meanings given to them in the Hartsook Affidavit and First Report.

SERVICE

2. Service of the Originating Application and the materials filed in support thereof shall be and is hereby deemed to be good and sufficient.

EXTENSION OF STAY OF PROCEEDINGS

3. Pursuant to subsection 50.4(9) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BIA**”), the period in which the Debtor is required to file a proposal to its creditors with the Official Receiver under subsection 62(1) of the BIA is hereby extended by 45 days from August 16, 2018 to 11:59 p.m. on September 28, 2018.

APPROVAL OF TRANSACTION

4. Pursuant to subsection 65.13(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, the sale transaction (the “**Transaction**”) contemplated by the agreement of purchase and sale (the “**Sale Agreement**”) between the Debtor and Section 12 Foods Inc. (the “**Purchaser**”) dated July 13, 2018 appended to the Confidential Report for the sale to the Purchaser of the Debtor’s right, title, and interest in and to the purchased assets described in the Sale Agreement (the “**Purchased Assets**”) is declared to be:
 - (a) commercially reasonable;
 - (b) in the best interests of the Debtor, its creditors, and other stakeholders; and
 - (c) is hereby authorized and approved, with such minor amendments as the Debtor and Purchaser may mutually agree to be necessary.
5. The Debtor, in consultation with and under the supervision of the Proposal Trustee, 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, subject to such amendments as the Debtor and the Purchaser may agree upon, providing that any such amendments do not materially affect the Purchase Price.

VESTING OF PROPERTY

6. Upon the Proposal Trustee determining that the Transaction has closed to its satisfaction and on terms substantially as approved by this Honourable Court pursuant to this Order, the Proposal Trustee shall deliver to the Purchaser a certificate substantially in the form set out in **Schedule “A”** hereto (the “**Proposal Trustee’s Certificate**”).
7. The Proposal Trustee may rely on written notices from the Purchaser regarding fulfillment or, if applicable, waiver of conditions to closing of the Transaction under the Sale Agreement and shall have no liability with respect to the delivery of the Proposal Trustee’s Certificate.
8. Upon delivery of the Proposal Trustee’s Certificate, all of the Debtor’s right, title, and interest in and to the Purchased Assets described in the Sale Agreement and listed on **Schedule “B”** hereto shall, save and except for the encumbrances listed in **Schedule “C”** hereto (the “**Permitted Encumbrances**”), vest absolutely in the name of the Purchaser (or its nominee, if any) free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, interests, mortgages,

trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, judgments, enforcement charges, levies, charges, or other financial or monetary claims (collectively, “**Encumbrances**”) and all rights of others, 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:

- (a) all charges, security interests or claims evidenced by registrations pursuant to *The Personal Property Security Act, 1993* SS 1993, c P-6.2, or any other personal property registry system; and
- (b) those Claims listed in **Schedule “D”** hereto;

and, for greater certainty, this Court orders that all of the Encumbrances (save and except for the Permitted Encumbrances and encumbrances noted in paragraph 9 of this Order) affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

9. Pursuant to section 109 of *The Land Titles Act, 2000*, SS 2000, c L-5.1, section 6.5 of *The Land Titles Conversion Facilitation Regulations*, RRS c L-5.1 Reg 2, and section 12 of *The Queen's Bench Act, 1998*, SS 1998, c Q-1.01, the Registrar of the Land Titles Office in Saskatchewan shall be and is hereby directed to accept an application (the “**LTO Application**”) to surrender the existing title to the real property legally described as:

Title #146165957
Surface Parcel #203033225
Referenced Land Description: Blk/Par A Plan No 101077208,
Extension 7

(the “**Real Property**”)

and to set up a new title to such Real Property in the name of the Purchaser as owner free and clear of any and all Encumbrances, save and except for the following:

Interest #169905404
Power Corporation Act Easement (s. 23)
Holder: Saskatchewan Power Corporation
2025 Victoria AVE, Regina, SK, Canada S4P 0S1
Client #100307618
Int. Register #: 120415979

Interest #182205244
Power Corporation Act Easement (s. 23)
Holder: Saskatchewan Power Corporation
2025 Victoria AVE, Regina, SK, Canada S4P 0S1
Client #100307618
Int. Register #: 122922345

Any and all registration charges and fees payable in regard to the LTO Application shall be to the account of the Purchaser.

10. For the purposes of determining the nature and priority of the Encumbrances:
 - (a) the net proceeds from the sale of the Purchased Assets (the “**Net Sale Proceeds**”) shall stand in the place and stead of the Purchased Assets; and
 - (b) from and after the delivery of the Proposal Trustee’s Certificate to the Purchaser, all Encumbrances and all rights of others shall attach to the Net Sale Proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to closing of the Transaction.
11. The Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Debtor.
12. The Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Purchased Assets and, to the extent that any such person remains in possession or control of any of the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
13. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by or through or against the Debtor.
14. Immediately after the closing of the Transaction, the holders of the Permitted Encumbrances shall have no claim whatsoever against the Proposal Trustee or the Debtor.
15. Forthwith after the delivery of the Proposal Trustee’s Certificate to the Purchaser (or its nominee), the Proposal Trustee shall file a copy of the Proposal Trustee’s Certificate with the Court.
16. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5, the Debtor is hereby authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees, including personal information of those employees listed in the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

17. Notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to such applications;
- (c) any assignment in bankruptcy made in respect of the Debtor; and
- (d) the provisions of any federal statute, provincial statute or any other law or rule of equity,

the vesting of any of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order and the obligations of the Debtor under the Sale Agreement, shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 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.

18. The Transaction is exempt from any requirement under any applicable federal or provincial law to obtain shareholder approval and is exempt from the application of any bulk sales legislation in any Canadian province or territory.

SEALING OF THE CONFIDENTIAL REPORT

19. The Confidential Report, including the Exhibits thereto, shall be kept sealed and confidential, and shall not form part of the public record but shall be kept separate and apart from the other contents of the Court file in respect of this matter in a sealed envelope which sets out the style of cause of these proceedings and a statement that the contents thereof are subject to a Sealing Order, and shall not be opened except:

- (a) by the Honourable Madame Justice A.R. Rothery;
- (b) pursuant to further Order of the Court; or
- (c) three months following the filing of the Proposal Trustee's Certificate with this Honourable Court.

20. An application to unseal the Confidential Report may be made at any time upon 14 days' notice to legal counsel for the Debtor and to the Proposal Trustee.

MISCELLANEOUS MATTERS

21. The Proposal Trustee, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
22. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Proposal Trustee 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 as to provide such assistance to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.
23. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
24. Service of this Order on any party not attending this application is hereby dispensed with.

ISSUED at Saskatoon, Saskatchewan, this 8th day of August 2018.



(Deputy) Local Registrar

CONTACT INFORMATION AND ADDRESS FOR SERVICE

Name of firm:
lawyer in charge of file:
Address of legal firm:

Telephone / Fax number:
Email address:

McDougall Gauley LLP Name of
Ian A. Sutherland / Craig Frith
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SCHEDULE "A"
FORM OF PROPOSAL TRUSTEE'S CERTIFICATE

CANADA)	Court No.: 22-2400416
PROVINCE OF SASKATCHEWAN)	Estate No.: 22-2400416

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1985, c. B-3, AS AMENDED, OF CANADIAN EXOTIC GRAINS LTD.

PROPOSAL TRUSTEE'S CERTIFICATE

RECITALS

- A. Pursuant to an Order of the Court dated [Date], the Court approved the agreement of purchase and sale made as of July 13, 2018 (the "**Sale Agreement**") between Canadian Exotic Grains Ltd. (the "**Debtor**") and Section 12 Foods Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 6 of the Sale Agreement have been satisfied or waived by the Debtor and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Proposal Trustee.
- B. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Proposal Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Article 5 of the Sale Agreement have been satisfied or waived by the Debtor and the Purchaser (or its nominee); and

3. The Transaction has been completed to the satisfaction of the Proposal Trustee.

This Certificate was delivered by the Proposal Trustee at [Time] on [Date].

**Deloitte Restructuring Inc. in its capacity as
Proposal Trustee respecting Canadian
Exotic Grains Ltd. and not in its personal
capacity.**

Per; _____

Name:

Title:

SCHEDULE "B"
PURCHASED ASSETS

As particularized in the Asset Purchase Agreement dated July 13th, 2018 between the Debtor and the Purchaser:

All of the property and assets of every kind and description and wheresoever situate, owned by the Debtor and used or utilized by the Debtor in the business of the operation of a pulse and spice processing marketing business (the "**Business**") of the Debtor, including without limiting the generality of the foregoing, all of the assets of the Business shown or reflected in the Financial Statements as being owned by the Debtor and/or used in the Business, other than the assets which have been disposed of or consumed in the ordinary course of the Business since the date of the Financial Statements, and for greater certainty, the Purchased Assets shall include, but shall not be limited to:

- (a) the Real Property;
- (b) the Assigned Agreements, being:

Purchase Agreements

- (i) #1745 with KAST Farms Ltd.
- (ii) #1735 with Brian Kendall

Sales Agreement

- (ii) #1734 with McCormick Ingredients
- (iii) #1800 with Hensall District Co-operative, Incorporated
- (iv) #1808 with Phoenicia Group Inc.
- (v) #1809 with Unico Inc.
- (vi) #1885690 with Kalustyan Corporation
- (vii) #1785630 with Baldom USA Inc.

- (c) the Goodwill, being;
 - (i) the right or interest of the Purchaser following Closing to represent itself as carrying on the Business in continuation of and in succession to the Debtor;
 - (ii) the rights to the telephone numbers, facsimile numbers, used by the Debtor in connection with the Business to the extent that the same may be assigned by the Debtor to the Purchaser;

- (iii) the operational standards or procedures of the Business (ISO 22:000); and
- (iv) customer and producer lists for the Business;
- (d) the Books and Records; being:
 - (i) means all sales and purchase records, employee records, ISO documentation, lists of suppliers and customers, credit and pricing information, files, ledgers, correspondence, lists, recipes, manuals, drawings, blueprints, reports, texts, notes, engineering designs or drawings or other information, environmental or feasibility studies, appraisals, memoranda, computer discs, tapes, back-up tapes or other means of electronic storage, and all other records or documents or information of any nature or kind whatsoever of or relating to the Business or the Purchased Assets, including all records and documents accessible through any computer system or electronically;
- (e) the Inventory, being:
 - (i) all grain and product in the possession of the Debtor and allocated or acquired by the Vendor for the closing and completion of the Assigned Agreements; and
 - (ii) all packaging materials; and
- (f) the Machinery, Equipment, Vehicles, Furniture and Tools, being all of the machinery, equipment, furniture and tools normally utilized in the operation of the Business including, without limitation, the machinery, equipment, furniture and tools listed and described below:

Bin #5	Steel hopper	1600 bu.
Bin #6	Steel hopper	1600 bu.
Bin #7	Steel hopper	1900 bu.
Bin #8	Steel hopper	1900 bu.
Bin #68	Steel hopper	2300 bu.
Bin #69	Steel hopper	2300 bu.
Bin #79	Steel flatbottom	3500 bu.
Bin #81	Steel hopper	2000 bu.
Bin #82	Steel hopper	2000 bu.
Bin #83	Steel hopper	2000 bu.
Bin #84	Steel hopper	2300 bu.
Bin #85	Steel hopper	2300 bu.
Bin #86	Steel hopper	2300 bu.
Bin #87	Steel hopper	2300 bu.
Bin #88	Steel hopper	2300 bu.
Bin #89	Steel hopper	2300 bu.
Bin #90	Steel hopper	2300 bu.
Bin #91	Steel hopper	2300 bu.
Bin #92	Steel hopper	2300 bu.

Bin #93	Steel hopper	2300 bu.
Bin #94	Steel hopper	2300 bu.
Bin #95	Steel hopper	2300 bu.
Bin #96	Steel hopper	2300 bu.
Bin #97	Steel hopper	4000 bu.
Bin #98	Steel hopper	4000 bu.
Bin #99	Steel hopper	4000 bu.
Bin #100	Steel hopper	4000 bu.
Bin #101	Steel hopper	4000 bu.
Bin #102	Steel hopper	3500 bu.
RB1	Steel hopper	4500 bu.
RB2	Steel hopper	4500 bu.
SB2	Steel hopper	4500 bu.
<u>SB3</u>	<u>Steel hopper</u>	<u>3000 bu.</u>
Total storage capacity		91000 BU.

Shop Contents

- (a) tools, parts, misc shop items

Grain Handling System

- (a) all attached fixtures and equipment necessary to operate the system and bag product: Bagger, Bag Closers, Bag Handling Conveyors, scales, air compressor, Forklifts x 2 (with safety cage), etc.

Grain Cleaner

- (a) all attached fixtures and equipment necessary to operate cleaning equipment: Garratt PF 144 Air / Screen Machines x 2 3 Carter Indents (sn: C004367-5 2016, C004367-4 2016, C004367-3 2015) Model 2353 Garratt Destoner (sn:21518 2015) Bench Industries Debearder

Screens

Round Hole

- o 4 of 30R
- o 8 of 26R
- o 4 of 24R
- o 4 of 23R
- o 4 of 21.5R
- o 8 of 20R
- o 4 of 19R
- o 4 of 18 R
- o 4 of 14R
- o 4 of 12R
- o 4 of 10R

- o 4 of 6R
- Slotted Hole
- o 8 of 16S
- o 4 of 8S
- o 8 of 4S
- o 4 of 3.5S

Batco 1814 LP Conveyor

Other Equipment

- (a) 40 foot Sea-Can
- (b) 2000 Batco Grain Conveyor
- (c) Fuel Tanks - One Diesel, Two Gas
- (d) 2002 Blue Tandem 900 bu. box
- (e) 7" - 35' Brandt Electric Auger
- (f) 8" - 47' Brandt 2010 25 HP and Mover

Office Equipment

- (a) LG Computer with ViewSonic Screens - x 5
- (b) Complete Networking System
- (c) HP Printers x 2
- (d) Brother Photocopier & Fax Machine
- (e) Office Furniture and attached fixtures
- (f) Phone System
- (g) Office Supplies

Vehicles

- (a) 1998 GMC Extended Cab truck
- (b) Kenworth Semi & Trailer
- (c) GMC Tandem Truck
- (d) International Tandem Truck
- (e) Massey Tractor with Blade
- (f) Grain Vac
- (g) 2014 Massey Ferguson 1736 Light Tractor
- (h) 2014 Farm King Allied Tiller
- (i) 2014 Farm King Allied Mower

SCHEDULE "C"
PERMITTED ENCUMBRANCES

All encumbrances which are enumerated as permitted liens pursuant to the Asset Purchase Agreement dated July 13th, 2018 between the Debtor and the Purchaser

Nil

SCHEDULE "D"
CLAIMS

Nil