

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) TUESDAY, THE 17TH DAY
)
MR. JUSTICE MORAWETZ) OF JANUARY, 2012

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
NFC ACQUISITION GP INC., NFC ACQUISITION CORP. AND
NFC LAND HOLDINGS CORP.**



INITIAL ORDER

THIS APPLICATION, made by NFC Acquisition GP Inc., NFC Acquisition Corp. and NFC Land Holdings Corp. (collectively, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Brian Cram sworn January 16, 2012 (the "Cram Affidavit") and the Exhibits thereto, filed, and on being advised that the Bank of Montreal ("BMO") and TD Capital Mezzanine Partners Management Ltd. were given notice of this application, and on reading the consent of FTI Consulting Canada Inc. ("FTI") to act as the Monitor (the "Monitor"), filed, and the report of FTI dated January 16, 2012 (the "Pre-Filing Report"), in its capacity as proposed Monitor, filed,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies and that the Applicants and New Food Classics and NFC Acquisition L.P. (together, the “Partnerships”, and together with the Applicants, the “NFC Entities”) shall enjoy the benefits of the protections and authorizations provided by this Order.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that any of the NFC Entities shall have the authority to file and may, subject to further order of this Court, file with this Court a plan or plans of compromise or arrangement (hereinafter referred to as the “Plan”).

POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the NFC Entities shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, whether real, personal, immovable or movable, inchoate or intangible, including all proceeds thereof (the “Property”). Subject to further Order of this Court, the NFC Entities shall continue to carry on business in a manner consistent with the preservation of their business (the “Business”) and Property. The NFC Entities shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, the “Assistants”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the NFC Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Cram Affidavit or replace it with another substantially similar central cash management system with BMO (the “Cash

Management System”) and that BMO shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the NFC Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the NFC Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that the NFC Entities shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses, and similar amounts owed to any Assistants, payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the NFC Entities in respect of these proceedings, at their standard rates and charges.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the NFC Entities shall be entitled but not required to pay all reasonable expenses incurred by the NFC Entities in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the NFC Entities following the date of this Order.

8. THIS COURT ORDERS that the NFC Entities shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the NFC Entities in connection with the sale of goods and services by the NFC Entities, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the NFC Entities.

9. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the NFC Entities shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the NFC Entities and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. THIS COURT ORDERS that, except as specifically permitted herein, the NFC Entities are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the NFC Entities to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. THIS COURT ORDERS that the NFC Entities shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

12. THIS COURT ORDERS that the NFC Entities shall provide each of the relevant landlords with notice of the NFC Entities’ intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the NFC Entities’ entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the NFC Entities, or by further Order of this Court upon application by the NFC Entities on at least two (2) days’ notice to such landlord and any such secured creditors. If the NFC Entities disclaim the lease governing

such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the NFC Entities' claim to the fixtures in dispute.

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

NO PROCEEDINGS AGAINST THE NFC ENTITIES OR THE PROPERTY

14. THIS COURT ORDERS that until and including February 16, 2012, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the NFC Entities or the Monitor, or affecting the Business or the Property, except with the written consent of the NFC Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the NFC Entities or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the NFC Entities or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the NFC Entities and the Monitor, or leave of this

Court, provided that nothing in this Order shall: (a) empower the NFC Entities to carry on any business which the NFC Entities are not lawfully entitled to carry on; (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest; or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform or provide any right, renewal right, contract, agreement, licence or permit in favour of or held by the NFC Entities, except with the written consent of the NFC Entities and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES AND SUPPLY

17. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements or arrangements, including, without limitation, by conduct, with the NFC Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility, food and food processing safety monitoring, food storage services, facility cleaning services or other services to the Business or the NFC Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the NFC Entities, and that the NFC Entities shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the NFC Entities in accordance with normal payment practices of the NFC Entities or such other practices as may be agreed upon by the supplier or service provider and each of the NFC Entities and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or

licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the NFC Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the NFC Entities with respect to any claim against the directors or officers that arose before, on or after the date hereof and that relates to any obligations of the NFC Entities whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the NFC Entities, if one is filed, is sanctioned by this Court or is refused by the creditors of the NFC Entities or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. THIS COURT ORDERS that the NFC Entities shall indemnify their present directors, former directors during the sixty (60) day period prior to the date hereof and officers against obligations and liabilities that they may incur as directors or officers of the NFC Entities after the commencement of the within proceedings, including, without limitation, wages and source deductions included therein, vacation pay, PST, GST, HST and prospective liability under Saskatchewan legislation for pay in lieu of notice, if any, and without limiting the generality of the foregoing, against all claims, costs and expenses relating to the failure of the NFC Entities after the date hereof to make payments of the nature referred to in paragraphs 8(a), 8(b) and 8(c) of this Order, except to the extent that, with respect to any present director, former director during the sixty (60) day period prior to the date hereof or officer, the obligation or liability was incurred as a result of such director's or officer's gross negligence or wilful misconduct.

21. THIS COURT ORDERS that the present directors, former directors during the sixty (60) day period prior to the date hereof and officers of the NFC Entities shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$3,000,000, as security for the indemnity provided in

paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 38 and 40 herein.

22. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary: (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the NFC Entities' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

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

24. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the NFC Entities' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the NFC Entities, to the extent required by the NFC Entities, in their dissemination, to the DIP Lender and its counsel on a weekly basis or more frequently as may be reasonably required by the DIP Lender of financial and other information as agreed to between the NFC Entities and the DIP Lender which may be

used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

- (d) advise the NFC Entities in their preparation of the NFC Entities' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lender;
- (e) advise the NFC Entities in the development of the Plan and any amendments to the Plan;
- (f) assist the NFC Entities, to the extent required by the NFC Entities, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the NFC Entities, to the extent that is necessary to adequately assess the NFC Entities' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) hold and administer funds in connection with arrangements made among the NFC Entities, any Person and the Monitor, or by Order of this Court;
- (j) upon the direction of the NFC Entities, remit to the applicable insurer the premium due in respect of any director and officer insurance contemplated by the Initial CCAA Cash Flow (as such term is defined in the DIP Agreement (as defined below), which funds the Monitor shall hold in trust for the benefit of the NFC Entities' directors and officers pending its receipt of such request;
- (k) act as the sole sales agent in connection with the supervision of the Sale Process (as defined below); and

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

25. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

29. THIS COURT ORDERS that the Monitor, counsel to the Monitor, counsel to the NFC Entities and counsel to the directors and officers shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the NFC Entities as part of the costs of these proceedings. The NFC Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor, counsel to the NFC Entities and counsel to the directors and officers on a weekly basis.

30. THIS COURT ORDERS that at the request of the NFC Entities, any party in interest, or this Court, the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

ADMINISTRATION CHARGE

31. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the NFC Entities shall be entitled to the benefit of and are hereby granted a charge (the “Administration Charge”) on the Property, which charge shall not exceed an aggregate amount of \$350,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 38 and 40 hereof.

DIP FINANCING

32. THIS COURT ORDERS that the NFC Entities are hereby authorized and empowered to obtain and borrow under a credit facility from the Bank of Montreal (the “DIP Lender”) in order to finance the NFC Entities’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed the principal amount of \$10,500,000 unless permitted by further Order of this Court.

33. THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the Super-Priority, Senior Secured Debtor-in-Possession Credit Facility Letter Loan Agreement among the NFC Entities and the DIP Lender dated as of January 16, 2011 (the “DIP Agreement”), filed.

34. THIS COURT ORDERS that the NFC Entities are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “Definitive Documents”), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the NFC Entities are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “DIP Lender’s Charge”) on the Property, which DIP Lender's Charge shall not secure any indebtedness under existing credit facilities with the Bank of Montreal that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 38 and 40 hereof.

36. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender’s Charge, the DIP Lender, upon three (3) days’ notice to the NFC Entities and the Monitor, may exercise any and all of its rights and remedies against the NFC Entities or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Lender’s Charge, including without limitation, to cease making advances to the NFC Entities and set off and/or consolidate any amounts owing by the DIP Lender to the NFC Entities against the obligations of the NFC

Entities to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the NFC Entities and for the appointment of a trustee in bankruptcy of the NFC Entities; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the NFC Entities or the Property.

37. THIS COURT ORDERS AND DECLARES that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the NFC Entities under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

38. THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge and the DIP Lender's Charge (collectively, the "Charges"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$350,000);

Second – Directors' Charge (to the maximum amount of \$3,000,000); and

Third – DIP Lender's Charge.

39. THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest in the Property, filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect, under any statute, regulation, rule, instrument or other applicable law.

40. THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and such Charges shall rank ahead in priority to the existing security interests of the Bank of Montreal and TD Capital Mezzanine Partners Management Ltd., but behind all other

security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “Encumbrances”) in favour of any Persons that have not been served with notice of this application. The NFC Entities and the Chargees (as defined below) shall be entitled to seek priority ahead of the Encumbrances on notice to those parties likely to be affected by such priority.

41. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the NFC Entities shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the NFC Entities also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Directors’ Charge and the Administration Charge, or further Order of this Court.

42. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “Chargees”) and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “Agreement”) which binds the NFC Entities, and notwithstanding any provision to the contrary in any Agreement:

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

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

43. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the NFC Entities' interest in such real property leases.

SALE PROCESS

44. THIS COURT ORDERS that the terms and provisions of the sale process (the "Sale Process"), as described in the Pre-Filing Report, be and they are hereby approved, and the NFC Entities and the Monitor shall be authorized to conduct the Sale Process as contemplated therein.

SERVICE AND NOTICE

45. THIS COURT ORDERS that the Monitor shall: (a) without delay, publish in The Globe and Mail (National Edition) once a week for two weeks a notice containing the information prescribed under the CCAA; and (b) within five days after the date of this Order: (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, together with the NFC Entities, in the prescribed manner, a notice to every known creditor who has a claim against the NFC Entities of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

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

47. THIS COURT ORDERS that the NFC Entities, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at <http://cfcanada.fticonsulting.com/nfc>.

GENERAL

48. THIS COURT ORDERS that the NFC Entities or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

49. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the NFC Entities, the Business or the Property.

50. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere, to give effect to this Order and to assist the NFC Entities, the Monitor and their respective 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 NFC Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the NFC Entities and the Monitor and their respective agents in carrying out the terms of this Order.

51. THIS COURT ORDERS that each of the NFC Entities and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

52. THIS COURT ORDERS that any interested party (including the NFC Entities and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days'

notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

53. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JAN 17 2012

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

Court File No. CV-12-0554
-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NFC ACQUISITION GP
INC., NFC ACQUISITION CORP. AND NFC LAND HOLDINGS CORP.

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

INITIAL ORDER

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