

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>In re:</b>  <b>COUNTRY FRESH HOLDING COMPANY INC., et. al.<sup>1</sup></b>  <b>Debtors.</b>	§ <b>Chapter 7</b> § § <b>Case No.: 21-30574 (MI)</b> § § <b>Jointly Administered</b> §
--	--

**STIPULATION AND AGREED ORDER RELATED TO SALE OF ASSETS TO  
STELLEX/CF BUYER (US) LLC**

This stipulation and agreed order (“Stipulation and Agreed Order”) is entered into by and between Janet Northrup, as chapter 7 trustee (the “Trustee”) of the estates of Country Fresh Holding Company Inc., et al. (collectively, the “Debtors”), the Ad Hoc Group of Secured Lenders, and Stellex/CF Buyer (US) LLC (the “Buyer”, and together with the Trustee, on behalf of the Debtors, and the Ad Hoc Group of Secured Lenders, collectively, the “Parties”). The Parties hereby stipulate and agree as follows:

**RECITALS**

WHEREAS, on February 15, 2021, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code;

WHEREAS, on March 29, 2021, the Court approved the sale of substantially all the Debtors’ assets to the Buyer pursuant to the *Order Authorizing Country Fresh Holdings Company Inc. and Its Affiliated Debtors to (I) Sell Substantially All of the Debtors’ Assets Free and Clear*

---

<sup>1</sup> The Debtors in these Chapter 7 cases and the last four digits of each Debtors’ taxpayer identification number are as follows: Country Fresh Holding Company Inc. (7822); Country Fresh Midco Corp. (0702); Country Fresh Acquisition Corp. (5936); Country Fresh Holdings, LLC (7551); Country Fresh LLC (1258); Country Fresh Dallas, LLC (7237); Country Fresh Carolina, LLC (8026); Country Fresh Midwest, LLC (0065); Country Fresh Orlando, LLC (7876); Country Fresh Transportation LLC (8244) CF Products, LLC (8404) Country Fresh Manufacturing, LLC (7839); Champlain Valley Specialty of New York, Inc. (9030); Country Fresh Pennsylvania, LLC (7969); Sun Rich Fresh Foods (NV) Inc. (5526); Sun Rich Fresh Foods (USA) Inc. (0429); and Sun Rich Fresh Foods (PA) Inc. (4661). The Debtors’ principal place of business is 3200 Research Forest Drive, Suite A5, The Woodlands, TX, 77381.

*of All Liens, Claims, Encumbrances, and Interests, (II) Authorizing and Approving the Debtors' Performance under the APA, (III) Authorizing and Approving the Assumption and Assignment of Certain of the Debtors' Executory Contracts, Unexpired Leases, And Permits Related Thereto, and (IV) Granting Related Relief* [Docket No. 437] (as the same has been and may further be amended, supplemented, or otherwise modified from time to time in accordance with its terms, together with all exhibits thereto, the "Sale Order");<sup>2</sup>

WHEREAS, as authorized by the Sale Order, the Debtors and the Buyer entered into that certain Asset Purchase Agreement, dated as of April 29, 2021 (as the same has been and may further be amended, supplemented, or otherwise modified from time to time in accordance with its terms, together with all exhibits and schedules thereto, the "APA");

WHEREAS, as authorized by the Sale Order and the APA, the Debtors and the Buyer entered into the Transition Services Agreement, dated as of April 29, 2021 (as the same has been and may further be amended, supplemented, or otherwise modified from time to time in accordance with its terms, together with all exhibits and schedules thereto, the "TSA");

WHEREAS, in accordance with the APA, the Parties entered into an escrow agreement dated April 29, 2021 (the "Escrow Agreement") pursuant to which the Buyer placed the Adjustment Escrow Amount and the License Escrow Amount into escrow with Citibank, N.A., as escrow agent;

WHEREAS, on April 29, 2021, the Closing of the sale with the Buyer occurred;

WHEREAS, pursuant to and in accordance with (a) the *Stipulation and Agreed Order Resolving (I) Stellex/CF Buyer (US) LLC's Emergency Motion to Enforce the APA and the Sale Order and (II) Debtors' Emergency Motion for Entry of Order Enforcing Sale Order* [Docket

---

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sale Order, the APA (as defined below), or the Escrow Agreement (as defined below), as applicable.

No. 645] (the “May 24 Order”), (b) the *Stipulation and Agreed Order Regarding Release of Escrowed Funds By Citibank, N.A., to Buyer* [Docket No. 863] (the “Round 3 Payables Order”), and (c) the *Stipulation and Agreed Order Regarding Release of Escrowed Funds By Citibank, N.A. to Buyer* [Docket No. 928] (the “Round 4 Payables Order” and together with the May 24 Order and the Round 3 Payables Order, collectively, the “Post-Petition Payable Orders”), the Buyer was authorized to pay certain Post-Petition Trade Payables with funds advanced from the Adjustment Escrow Amount;

WHEREAS, funds in the amount of \$26,994.00 were advanced to the Buyer from the Adjustment Escrow Amount in accordance with the Round 4 Payables Order on account of payables that are subject to a pending dispute (the “Disputed Payables”);

WHEREAS, pursuant to and in accordance with the *Stipulation and Agreed Order (I) Withdrawing Certain PACA Claim Objections, (II) Paying Certain New Undisputed PACA Claims, (III) Extending Certain TSA End Dates, and (IV) Resolving Certain Insurance Disputes* [Docket No. 710], the Buyer agreed, among other things, to assume and pay certain PACA Claims;

WHEREAS, on June 21, 2021, the Court entered the *Order (I) Authorizing and Approving the Conversion of the Chapter 11 Cases, (II) Extending the Designation Rights Period, and (III) Granting Related Relief* [Docket No. 719];

WHEREAS, on June 21, 2021, Janet Northrup was appointed as the Trustee in the above-captioned cases;

WHEREAS, on July 13, 2021, the Buyer delivered the Closing Statement to the Trustee in accordance with Section 3.1(e) of the APA;

WHEREAS, on July 14, 2021, the Court entered the *Stipulation and Agreed Order Amending Transition Services Agreement and Asset Purchase Agreement* [Docket No. 784] (the “TSA Order”), which, among other things, amended the TSA to allow the Buyer to pay Service

Fees (other than Transition Employment Fees) directly and directed the Trustee to return any funds that the Buyer previously paid to the Debtors in advance pursuant to the TSA that had not yet been remitted to the applicable vendor in accordance with the TSA (collectively, the “TSA Trust Funds”);

WHEREAS, pursuant to the TSA Order certain TSA Trust Funds were returned to the Buyer, however, funds in the amount of \$115,368.00 that were advanced by the Buyer to the Debtors under the TSA remain the subject of a pending dispute (the “Disputed TSA Trust Funds”);

WHEREAS, on July 30, 2021, the Court entered the *Stipulation and Agreed Order Regarding Turnover of Trust Receipts to Buyer Pursuant to Sale Order, APA, and TSA* [Docket No. 822] (the “Trust Receipts Order”), pursuant to which, among other things, the Trustee was directed to release any additional Trust Receipts (as defined therein) to the Buyer within five (5) Business Days of becoming aware of receipt and reconciliation of the amount due under the relevant agreement;

WHEREAS, on August 9, 2021, the Trustee delivered a Notice of Disagreement to the Closing Statement to the Buyer in accordance with Section 3.1(e) of the APA;

WHEREAS, on October 1, 2021, the Court entered the *Order Granting Trustee’s Motion for Authority (A) To Pay All Remaining Pre-Closing PACA Claims from the PACA Escrow Reserve, (B) To Release Any Remaining Escrowed Funds in the PACA Escrow Reserve to the Trustee, (C) To Expunge All Other PACA Claims and (D) For Related Relief* [Docket No. 1105] (the “Final PACA Order”), pursuant to which, among other things, all Disputed PACA Claims were deemed fully and finally resolved for purposes of the APA and the requirement for the \$2,500,000 Disputed PACA Claims Amount to remain in cash in the Adjustment Escrow Fund no longer applied;

WHEREAS, pursuant to the *Order (I) Denying the Trustee's Expedited Motion for Turnover of Funds Pursuant to 11 U.S.C. § 543 and Oral Court Order and (II) Granting Related Relief* [Docket No. 847] entered on August 5, 2021, the Trustee was substituted for the Debtors under the Escrow Agreement for all purposes and the authorized representative of the Debtors set forth on Schedule 1-B thereof was replaced with Janet Northrup in her capacity as Trustee;

WHEREAS, in accordance with the APA, upon the Closing Statement becoming final, the Purchase Price shall be adjusted upwards or downwards as set forth in the APA (as defined in the APA, the "Adjustment Amount");

WHEREAS, in accordance with Section 3.1(e)(x) of the APA, the Parties worked in good faith to resolve the disputes set forth in the Notice of Disagreement and have reached an agreement regarding the Closing Statement, the Adjustment Amount, the Disputed Payables, and the Disputed TSA Trust Funds, as set forth in Exhibit A attached hereto (the "Agreed Closing Statement");

WHEREAS, pursuant to the Agreed Closing Statement the Parties have agreed that the Purchase Price shall be adjusted downward by \$1,356,170.67, which amount shall be paid to Buyer from the Adjustment Escrow Fund;

WHEREAS, pursuant to the Agreed Closing Statement and in accordance with Section 3.1(k)(iv) of the APA and the Final PACA Order, after payment of the \$1,356,170.67 to Buyer, the \$3,200,594.46 remaining in the Adjustment Escrow Fund shall be paid to the Trustee (for the bankruptcy estates of the Sellers); and

WHEREAS, the License Escrow Fund in the amount of \$220,000 shall also be returned to the Trustee (for the bankruptcy estates of the Sellers) in accordance with the terms of the APA and the Escrow Agreement.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:**

1. The recitals to this Stipulation and Agreed Order are incorporated as if fully set forth herein.

2. Upon entry of this Stipulation and Agreed Order, the Agreed Closing Statement shall be deemed the final, binding, and non-appealable Closing Statement for all purposes under the APA.

3. The Buyer and Trustee are authorized and directed to execute the Joint Instruction Letter substantially in the form attached hereto as **Exhibit B**, or as may otherwise be agreed among the Buyer and Trustee without further order of the Court, releasing: (a) the Adjustment Amount of \$1,356,170.67 to the Buyer from the Adjustment Escrow Fund; (b) after payment of the Adjustment Amount to Buyer, the \$3,200,594.46 remaining in Adjustment Escrow Fund to the Trustee (for the bankruptcy estates of the Sellers); and (c) the \$220,000 in the License Escrow Fund to the Trustee (for the bankruptcy estates of the Sellers).

4. Notwithstanding anything to the contrary in the APA, the TSA, the Escrow Agreement, or the Sale Order, upon entry of this Stipulation and Agreed Order and the payment of the amounts set forth herein, (a) the Parties shall have no further obligations, including with respect to amounts owing, with respect to: (i) Sections 3.1 and 4.3 of the APA; (ii) the TSA; (iii) the Post-Petition Payable Orders, including the Disputed Payables; and (iv) the Disputed TSA Trust Funds other than with respect to the turnover of any Trust Receipts (whether pursuant to the Trust Receipts Order or otherwise) and (b) the Parties shall be deemed released of any and all claims, rights, and obligations arising under or related to the preceding (i) through (iv) other than with respect to Trust Receipts as set forth above (collectively, the “Claims”); *provided* that the foregoing shall not release (x) any claims, rights, or obligations under this Stipulation and Agreed Order or (y) any Claims and liens the Prepetition Lenders (as defined in the Final DIP Order) may have against the Debtors, the estates, and any remaining property thereof. Upon entry of this

Stipulation and Agreed Order and the payment of the amounts set forth herein, the Debtors shall have no further obligations to the Buyer with respect to the PACA Claims or the Post-Petition Trade Payables under the APA.

5. The Parties are authorized to take all actions necessary to effectuate the relief granted pursuant to this Stipulation and Agreed Order.

6. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Stipulation and Agreed Order.

7. This Stipulation and Agreed Order is effective and immediately enforceable upon entry.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2021  
Houston, Texas

---

MARVIN ISGUR,  
UNITED STATES BANKRUPTCY JUDGE

**AGREED AND ACCEPTED:**

**HUGHES WATTERS & ASKANASE**

/s/ Heather McIntyre

Wayne Kitchens TBN 11541110  
wkitchens@hwa.com  
Heather McIntyre TBN 24041076  
hmcintyre@hwa.com  
HUGHESWATTERSASKANASE, LLP  
Total Plaza  
1201 Louisiana, 28<sup>th</sup> Floor  
Houston, Texas 77002  
Telephone: (713) 759-0818  
Facsimile: (713) 759-6834

**COUNSEL FOR CHAPTER 7 TRUSTEE  
FOR THE ESTATE OF COUNTRY FRESH  
HOLDING COMPANY INC., et. al.**

**WINSTON & STRAWN LLP**

/s/ Carey D. Schreiber

Carey D. Schreiber\*  
200 Park Avenue  
New York, New York 10166  
Telephone: (212) 294-6700  
Facsimile: (212) 294-4700  
E-mail: cschreiber@winston.com

\*Admitted *Pro Hac Vice*

**COUNSEL FOR THE BUYER**

**PORTER HEDGES LLP**

/s/ John F. Higgins

John F. Higgins, State Bar No. 09597500  
Shane Johnson, State Bar No. 24083263  
Megan Young-John, State Bar No. 24088700  
1000 Main Street, 36th Floor,  
Houston, Texas 77002-2764  
Telephone: (713) 226-6000  
Facsimile: (713) 226-6248  
jhiggins@porterhedges.com  
sjohnson@porterhedges.com  
myoung-john@porterhedges.com

and

**PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP**

Elizabeth R. McColm\*  
John T. Weber\*  
Diane Meyers\*  
Grace C. Hotz\*  
1285 Avenue of the Americas  
New York, NY 10019  
(212) 373-3000  
(212) 757-3990 (Fax)  
emccolm@paulweiss.com

jweber@paulweiss.com  
dmeyers@paulweiss.com  
ghotz@paulweiss.com

*\*Admitted Pro Hac Vice*

**COUNSEL TO AD HOC GROUP OF  
SECURED LENDERS**