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**COUNSEL TO THE DEBTORS
AND DEBTORS IN POSSESSION**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	
	§	Chapter 11
	§	
FRESH ACQUISITIONS, LLC, <i>et al.</i> , ¹	§	Case No. 21-30721 (SGJ)
	§	
Debtors.	§	(Jointly Administered)
	§	
	§	

**UNOPPOSED MOTION FOR ENTRY OF AN AGREED ORDER EXTENDING
THE REMEDIES NOTICE PERIOD UNDER THE DIP FINANCING ORDER**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state as follows in support of this unopposed motion (the “Motion”), seeking entry of the attached agreed order (the “Agreed Order”) extending the Remedies Notice Period (defined

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Alamo Fresh Payroll, LLC (1590); Fresh Acquisitions, LLC (2795); Alamo Ovation, LLC (9002); Buffets LLC (2294); Hometown Buffet, Inc. (3002); Tahoe Joe’s Inc. (7129); OCB Restaurant Company, LLC (7607); OCB Purchasing, Co. (7610); Ryan’s Restaurant Group, LLC (7895); Fire Mountain Restaurants, LLC (8003); Food Management Partners, Inc. (7374); FMP SA Management Group, LLC (3031); FMP-Fresh Payroll, LLC (8962); FMP-Ovation Payroll, LLC (1728); and Alamo Buffets Payroll, LLC (0998). The Debtors’ principal offices are located at 2338 N. Loop 1604 W., Suite 350, San Antonio, TX 78248, United States.

below) through and including August 31, 2021, without prejudice to further extensions. In support of this Motion, the Debtors respectfully represent as follows:

1. On April 20, 2021 (the “Petition Date”), each of the Debtors commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code.

2. On May 14, 2021, this Court entered the *Final Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* [Docket No. 157] (the “Final DIP Order”).²

3. On August 24, 2021, the Bankruptcy Court orally denied the Debtors’ motion to sell substantially all of their assets to VitaNova Brands, LLC (“VitaNova”).

4. Hours later, VitaNova, in its capacity as the DIP Lender, filed a *Notice of Termination Notice* [Docket 391] (the “Termination Notice”). Under Paragraph 14(ii) of the DIP Order, the deadline by which the Debtors or Committee obtain relief from this Court to prevent the DIP Lender from pursuing remedies (the “Remedies Notice Period”) is three (3) business days from the date the DIP Lender delivers a Termination Notice in accordance with the applicable provisions of the DIP Order.

5. While the Debtors dispute the efficacy of such Termination Notice and reserve all rights hereunder, the Debtors file this Motion out of an abundance of caution. To the extent this Court determines that the Termination Notice was properly delivered in accordance with the terms of the DIP Order on August 24, 2021, the Remedies Notice Period would expire at the close of business on Friday, August 27, 2021.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the DIP Order.

6. Because the Debtors, the Committee and VitaNova are continuing to discuss potential amicable resolutions for their disputes in these cases, VitaNova has agreed to extend the Remedies Notice Period through and including Tuesday, August 31, 2021, without prejudice to further extensions by written agreement or further order of the Court.

7. Accordingly, the Parties hereby seek an order extending the Remedies Notice Period, as defined in the DIP Order, through and including **August 31, 2021**.

WHEREFORE, the Debtors respectfully request that the Court enter the Agreed Order, substantially in the form attached hereto as **Exhibit A**, extending the Remedies Notice Period and granting such other relief the Court deems appropriate under the circumstances.

Respectfully submitted this 26th day of August, 2021.

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By: /s/ Jason S. Brookner

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CERTIFICATE OF SERVICE

I certify that on August 26th, 2021, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas.

/s/ Jason S. Brookner

Jason Brookner

CERTIFICATE OF CONFERENCE

I certify that, prior to filing the foregoing Motion, I conferred with counsel to the Debtors' DIP Lender and counsel to the Official Committee of Unsecured Creditors via email and phone, and such parties have confirmed their agreement to the entry of the Agreed Order.

/s/ Aaron M. Kaufman

Aaron M. Kaufman

Exhibit A

Proposed Agreed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

FRESH ACQUISITIONS, LLC, *et al.*,¹

Debtors.

§
§
§
§
§
§
§

Chapter 11

Case No. 21-30721 (SGJ)

(Jointly Administered)

Re: Docket Nos. 157

**AGREED ORDER
EXTENDING THE REMEDIES NOTICE PERIOD UNDER THE DIP ORDER**

Upon the unopposed motion (the “Motion”)² filed by the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of this Agreed Order; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408

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² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

1. The Motion is GRANTED.
2. The Remedies Notice Period is extended through and including **August 31, 2021**, without prejudice to further extensions by written agreement among the Debtors, the Committee and VitaNova or further order of the Court.
3. This Court retains jurisdiction over the interpretation and implementation of this Agreed Order.

END OF ORDER

AGREED AS TO FORM AND CONTENT:

/s/ Jason S. Brookner

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/s/ Carolyn J. Johnsen

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**COUNSEL FOR THE OFFICIAL COMMITTEE
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