



No. S-250121  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

BETWEEN:

KINGSETT MORTGAGE CORPORATION

PETITIONER

AND

LUMINA ECLIPSE LIMITED PARTNERSHIP

BETA VIEW HOMES LTD.

and

LUMINA ECLIPSE GP LTD.

RESPONDENTS

SECOND REPORT OF KSV RESTRUCTURING INC.  
AS MONITOR

April 8, 2025

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## 1.0 Introduction

1. Pursuant to an initial order (the “**Initial Order**”) pronounced by the Supreme Court of British Columbia (the “**Court**”) on January 8, 2025 (the “**Filing Date**”), Lumina Eclipse Limited Partnership (“**Lumina LP**”) and Beta View Homes Ltd. (“**Beta View**”, and together with Lumina LP, the “**Initial Debtors**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. (“**KSV**”) was appointed as monitor of the Initial Debtors, with certain enhanced powers (in such capacity, the “**Monitor**”).
2. The Initial Order was granted pursuant to a petition filed on January 7, 2025 by KingSett Mortgage Corporation (“**KingSett**”), the Initial Debtors’ largest secured lender, owed in excess of \$189 million. KingSett’s petition for the Initial Order resulted from KingSett’s concerns regarding the Initial Debtors and their liquidity and management, including breaches of their obligations, financial mismanagement, and operational failures. The Initial Order was sought to stabilize the Initial Debtors’ operations and management, secure necessary interim financing, complete construction of the Initial Debtors’ most valuable asset, a 34-story development known as “Lumina Eclipse” located at 2381 Beta Ave, Burnaby, BC<sup>1</sup> (the “**Eclipse Project**”), and ensure presale homebuyer agreements related to the Eclipse Project can be closed as intended.
3. Pursuant to the Initial Order, the Court, among other things:
  - a) granted a stay of proceedings in favour of the Initial Debtors (the “**Stay of Proceedings**”) to and including January 18, 2025 (the “**Initial Stay Period**”);
  - b) approved the terms of a non-revolving interim financing credit facility made available by KingSett (in such capacity, the “**Interim Lender**”) in the amount of \$18 million (the “**Interim Financing Facility**”), pursuant to the terms set out in the interim financing term sheet dated January 6, 2025 (the “**Interim Financing Term Sheet**”), provided that the borrowings under the Interim Financing Facility were not to exceed \$700,000 during the Initial Stay Period;

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<sup>1</sup> Municipal Address: 2381 Beta Ave, Burnaby, BC; Parcel Identifier: 030-169-747.

- c) granted enhanced powers to the Monitor to exercise control over the business and property of the Initial Debtors in accordance with the Initial Order (the “**Initial Enhanced Powers**”);
  - d) declared that during the Initial Stay Period: (i) the Superintendent of Real Estate shall not require the Initial Debtors to file a new disclosure statement under subsection 16(2) of the *Real Estate Development Marketing Act*, S.B.C. 2004, c. 41 (“**REDMA**”) nor take any steps that would otherwise trigger a purchaser’s right of rescission under REDMA; and (ii) any rights and remedies of purchasers to rescind presale contracts with the Initial Debtors are stayed;
  - e) authorized the Initial Debtors to complete the sales of the Exempt Lots pursuant to the Strata Lot Purchase Agreements (each as defined in the Initial Order) in the ordinary course of business;
  - f) granted the following charges on all of the Initial Debtors’ current and future assets, property, and undertaking other than the Exempt Lots (collectively, the “**Property**”), in the following amounts and priority:
    - i. first, a charge in the amount of \$250,000 (the “**Administration Charge**”) to secure the fees and disbursements of the Monitor and its legal counsel, Bennett Jones LLP (“**Bennett Jones**”); and
    - ii. second, a charge up to the maximum principal amount of \$700,000, plus interest, fees, and expenses thereon, in favour of the Interim Lender to secure advances made under the Interim Financing Facility (the “**Interim Lender’s Charge**”, and together with the Administration Charge, the “**Initial Charges**”); and
  - g) permitted the Debtors to pay certain pre-filing obligations to critical suppliers, up to the aggregate amount of \$250,000, subject to the terms of the Interim Financing Term Sheet and the consent of the Interim Lender.
4. On January 16, 2025, the Court granted an amended and restated Initial Order (the “**ARIO**”), among other things:
- a) extending the Initial Stay Period to and including April 16, 2025 (the “**Stay Period**”);
  - b) adding Lumina Eclipse GP Ltd. (“**Lumina GP**”, and together with the Initial Debtors, the “**Debtors**”), Lumina LP’s general partner, to these CCAA proceedings;



- c) increasing the maximum principal amount that can be borrowed under the Interim Financing Facility to \$18 million;
  - d) increasing the maximum amount of the Initial Charges to: (i) \$500,000 for the Administration Charge; and (ii) \$18 million, plus interest, fees, and expenses, for the Interim Lender's Charge;
  - e) permitting the Debtors to pay certain pre-filing obligations to critical suppliers, subject to the terms of the Interim Financing Term Sheet and the consent of the Interim Lender (absent a limitation on the aggregate amount of such pre-filing obligations that may be paid);
  - f) expanding the Initial Enhanced Powers (the "**Enhanced Powers**"); and
  - g) lifting the Stay of Proceedings with respect to all of the Exempt Strata Lots (as defined below) and authorizing the Debtors to continue the sale and marketing of the Exempt Strata Lots in the ordinary course of business.
5. Affidavit #1 of Daniel Pollack sworn January 6, 2025 (the "**Pollack Affidavit**") in support of KingSett's CCAA petition, together with the reports to Court prepared by KSV in its capacity as proposed Monitor dated January 7, 2025 (the "**Pre-Filing Report**") and as Monitor dated January 14, 2025 (the "**First Report**"), provide additional background information regarding the Debtors and their businesses, as well as the reasons for the commencement of these CCAA proceedings.
6. Court materials filed in these CCAA proceedings, including the Pollack Affidavit, the Pre-Filing Report, and the First Report, are available on the Monitor's case website at [www.ksvadvisory.com/experience/case/beta-view-homes](http://www.ksvadvisory.com/experience/case/beta-view-homes) (the "**Case Website**"). For ease of reference, a copy of the ARIO is attached as **Appendix "A"**.

## 1.1 Purposes of this Second Report<sup>2</sup>

1. The purposes of this second report (this "**Second Report**") are to:
- a) provide an update on the status of these CCAA proceedings;
  - b) provide an update on the Eclipse Project;

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<sup>2</sup> All capitalized terms not defined in this section are defined in the sections below.

- c) report on the Debtors' cash flow forecast for the period April 7 to July 20, 2025 (the **"Second Cash Flow Forecast"**);
- d) summarize the Monitor's activities since the granting of the ARIO;
- e) provide the Monitor's recommendations in respect of its application for:
  - i. an order (the **"Sale Process Order"**), among other things:
    - 1. authorizing and empowering the Monitor, for and on behalf of the Debtors, to enter into the letter agreement dated as of April 16, 2025 (the **"Marketing Agreement"**), among the Monitor, Rennie Marketing Systems, by its partners, Rennie Project Marketing Corporation and 541823 B.C. Ltd. (collectively, **"RMS"**), and Rennie & Associates Realty Ltd. (collectively with RMS, the **"Sales Agent"** or **"Rennie"**) in the form attached as **Appendix "B"**,<sup>3</sup> and
    - 2. approving the sale process described in Section 5 of this Second Report (the **"Sale Process"**) with respect to the Inventory Units (as defined below) and authorizing the Monitor and Sales Agent to carry out the Sale Process in accordance with its terms and the terms of the Sales Process Order;
  - ii. a second amended and restated Initial Order (the **"Second ARIO"**), among other things:
    - 1. directing that all Persons (as defined below) advise the Monitor of the existence of any Property in each such Person's possession or control and grant the Monitor access to any Books and Records (as defined in the Second ARIO) in their possession or control; and
    - 2. extending the Stay Period from April 16 to July 18, 2025 (the **"Stay Extension"**); and

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<sup>3</sup> At the time of this Second Report, the Sales Agent's review of the Marketing Agreement remains ongoing. The Monitor intends to append a revised copy of the finalized Marketing Agreement in a supplement to this Second Report, should there be any material changes.

- iii. an order (the “**Sealing Order**”), among other things, sealing the Confidential Supplement to the Second Report dated April 8, 2025 (the “**Confidential Supplement**”) pending the closing of the Unit Transaction for the Last Purchased Unit (as defined below).

## 1.2 Scope and Terms of Reference

1. In preparing this Second Report, the Monitor has relied upon: (i) certain unaudited financial information, books and records, and other information provided by KingSett, the Debtors’ management, Rennie, and representatives of Thind Properties Ltd. (“**Thind**”), an entity related to the Debtors; (ii) publicly available information; and (iii) discussions with KingSett’s legal counsel, Osler Hoskin & Harcourt LLP (“**Osler**”), KingSett, the Debtors’ management, representatives of Thind, Rennie, and Brasfield Builders Ltd. (“**Brasfield**”).
2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Second Report in a manner that complies with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to rely on the financial information should perform its own due diligence.
3. An examination of the Second Cash Flow Forecast as outlined in the Chartered Professional Accountants of Canada Handbook has not been performed. Future-oriented financial information relied upon in this Second Report is based on assumptions regarding future events; actual results achieved may vary from this information, and these variations may be material. The Monitor expresses no opinion or other form of assurance on whether the Second Cash Flow Forecast will be achieved.

## 1.3 Currency

1. Unless otherwise noted, all currency references in this Second Report are in Canadian dollars.

## 2.0 Background

1. The Debtors consist of Beta View, Lumina LP, and Lumina GP, each of which is a single-purpose entity that shares common management. Beta View and Lumina GP are corporations incorporated pursuant to the *Business Corporations Act*, S.B.C. 2002, c. 57, as amended. Lumina LP is a limited partnership formed under the *Partnership Act*, R.S.B.C. 1996, c. 348, as amended, and is the general partner of Lumina LP.

2. Lumina LP and Beta View are the beneficial and registered owners, respectively, of the following real property (the “**Real Property**”):
  - a) the Eclipse Project; and
  - b) the strata lots (collectively, the “**Exempt Strata Lots**”)<sup>4</sup> – completed residential units that are actively being marketed for sale. As noted above, pursuant to the ARIO, the Court lifted the Stay of Proceedings with respect to all of the Exempt Strata Lots and authorized the Debtors to continue the sale and marketing of the Exempt Strata Lots in the ordinary course of business. The Enhanced Powers and the Monitor’s duties and obligations under the ARIO, the CCAA or applicable law do not extend to the Exempt Strata Lots.
3. As outlined in the Pollack Affidavit, KingSett has significant concerns regarding the Debtors’ liquidity and management, including breaches of their obligations, financial mismanagement, and operational failures. These include the registration, which the Debtors did not disclose to KingSett, of a Canada Revenue Agency (“**CRA**”) judgment of approximately \$12 million against the Real Property, as well as the suspension of essential insurance and permits with respect to the Eclipse Project.

## 2.1 Eclipse Project

1. The Eclipse Project is a 34-story development intended to comprise 329 strata units (collectively, the “**Eclipse Units**”). Construction is approximately 95% complete, with approximately 235 units being subject to presale agreements (collectively, the “**Sold Units**” and each, a “**Sold Unit**”). The remaining 94 Eclipse Units are not subject to agreements of purchase and sale (collectively, the “**Remaining Units**”, and each, a “**Remaining Unit**”).
2. As discussed in the First Report, in March 2024, KingSett became aware that construction of the Eclipse Project was significantly delayed and that the Debtors required additional funding to complete construction. KingSett retained BTY Group, a third-party quantity surveyor, to understand the status and cost to complete the Eclipse Project. BTY Group estimates the remaining construction costs to be between \$11 million and \$13 million.

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<sup>4</sup> Municipal Addresses: (i) 2311 Beta Ave, Burnaby, BC – Units 3702, 3703, 3803; Parcel Identifiers: 031-256-449, 031-256-457, 031-256-503; and (ii) 2351 Beta Ave, Burnaby, BC – Units TH101, TH102, TH104, TH106, 2601, 2603, 2604, 2702, 2703, 2704; Parcel Identifiers: 031-256-538, 031-256-546, 031-256-562, 031-256-597, 031-258-662, 031-258-689, 031-258-697, 031-258-719, 031-258-727, 031-258-735.

3. On October 31, 2024, KingSett learned that WBI Home Warranty Ltd. (“**WBI**”), the new home warranty insurer for the Eclipse Project, would no longer insure the Eclipse Project considering the Debtors’ financial condition. As a result of the new home warranty coverage being suspended, on November 14, 2024, the City of Burnaby (the “**City**”) suspended the building permit for the Eclipse Project (the “**Building Permit**”), halting construction.

### 3.0 Update on the Eclipse Project

1. Since the issuance of the ARIO, the Monitor, in consultation with KingSett, has undertaken the following key activities with respect to the Eclipse Project:
  - a) working to reinstate the Building Permit, which has involved: (i) securing new home warranty insurance; (ii) registering the Eclipse Project with BC Housing; and (iii) submitting the required documents and fees to the City;
  - b) obtaining access to critical information regarding the Eclipse Project; and
  - c) developing a strategy to recommence construction upon the issuance of the Building Permit, including engaging in various discussions with key subcontractors and consultants required to complete the Eclipse Project.

#### 3.1 Building Permit

1. Since the issuance of the ARIO, the Monitor and KingSett have engaged in various discussions with WBI and other new home warranty providers to obtain the required new home warranty insurance for the Eclipse Project. While efforts were made to re-engage WBI, the parties were unable to reach an agreement regarding reinstatement of the prior policy.
2. The Monitor, KingSett Real Estate Mortgage LP No. 3, and National Home Warranty Services (“**NHWS**”), on behalf of Aviva Insurance Company of Canada (“**Aviva**”), executed a terms and conditions letter dated March 11, 2025 (the “**T&C Letter**”), outlining the terms and conditions (the “**New Home Warranty Conditions**”) on which Aviva would provide the mandatory 1-2-5-10 home warranty insurance (the “**New Home Warranty Insurance**”) on the common property and single dwelling units for the Eclipse Project.

3. Since the execution of the T&C Letter, the Monitor, with the assistance of Bennett Jones and in consultation with KingSett Real Estate Mortgage LP No. 3, has worked diligently to:
  - a) satisfy the New Home Warranty Conditions to obtain the New Home Warranty Insurance;
  - b) submit the forms and fees required by the City to reissue the Building Permit; and
  - c) register the Eclipse Project with BC Housing.
4. As at the date of this Second Report, the Monitor understands that the Building Permit is expected to be issued shortly.

### 3.2 Information Required

1. Prior to the commencement of these CCAA proceedings, the Debtors utilized construction management software provided by Procore Technologies, Inc. ("**Procore**") to manage the Eclipse Project. The Monitor understands from Brasfield that access to the data related to the Eclipse Project (the "**Eclipse Data**") is critical to completing the Eclipse Project.
2. Notwithstanding that the software was utilized by the Debtors, the agreement with respect to the software is between Procore and D-Thind Development Ltd. ("**D-Thind Development**"), an entity related to the Debtors that is not subject to these CCAA proceedings. A copy of a British Columbia Registry Services Company Summary for D-Thind Development is attached as **Appendix "C"**. Procore has advised the Monitor that D-Thind Development's account in respect of the Eclipse Data has been cancelled for non-payment.
3. Given that its contractual counterparty was D-Thind Development, Procore has advised the Monitor that it is only willing to provide the Eclipse Data to the Monitor if:
  - a) D-Thind Development executes an agreement assigning the Eclipse Data to the Debtors or the Monitor (the "**Assignment Agreement**"); or
  - b) the Monitor obtains an order from the Court authorizing and/or directing Procore to transfer the Eclipse Data.

4. Despite repeated requests, representatives from D-Third Development have refused to execute the Assignment Agreement, which would allow Procore to provide access to and transfer the Eclipse Data. As a result, the proposed Second ARIO includes additional provisions in paragraphs 32 to 35 (the “**Enhanced Access Provisions**”) to enhance the Monitor’s access to the Property and Books and Records. The Enhanced Access Provisions provide that:
- a) any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) having notice of the Second ARIO forthwith advise the Monitor of the existence of any Property in such Person’s possession or control, grant the Monitor immediate and continued access to the Property, and deliver all such Property to the Monitor upon the Monitor’s request;
  - b) all Persons, including, without limitation, Procore, other than governmental authorities, shall forthwith advise the Monitor of the existence of any of the Books and Records in that Person’s possession or control;
  - c) upon request, all Persons, including, without limitation, Procore, shall provide to the Monitor or permit the Monitor to make, retain and take away copies of the Books and Records and grant to the Monitor unfettered access to and use of accounting, computer, software and physical facilities; and
  - d) all Persons, including, without limitation, Procore, shall provide the Monitor with all such assistance in gaining immediate access to the information in the Books and Records as the Monitor may require including, without limitation, providing the Monitor with instructions on the use of any computer or other system and providing the Monitor with any and all access codes, account names and account numbers that may be required to gain access to the information.
5. The Monitor believes that the Enhanced Access Provisions are reasonable and necessary in the circumstances for the following reasons:
- a) the Monitor understands from Brasfield that access to the Eclipse Data is critical to recommencing and efficiently completing construction on the Eclipse Project, and that the Eclipse Data sought pertains strictly to the Eclipse Project;
  - b) failure to access the Eclipse Data will result in delays and increased costs associated with the completion of the Eclipse Project;

- c) pursuant to the ARIO, D-Thind Development, as an entity the Monitor expects is an affiliate of the Debtors, is obligated to co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and to provide the Monitor with assistance that is necessary to enable the Monitor to adequately carry out its functions;
- d) given D-Thind Development's refusal to execute the Assignment Agreement and Procore's inability to transfer the Eclipse Data without same, the Enhanced Access Provisions are the only practical means by which the Monitor can obtain access to the Eclipse Data required to comply with its duties and obligations under the ARIO in a timely manner;
- e) the Enhanced Access Provisions are consistent with those granted in other insolvency proceedings, including receivership proceedings, and will ensure that the Property and the interests of the Debtors' stakeholders are safeguarded;
- f) Procore was provided with the proposed Enhanced Access Provisions language on April 3, 2025 and, as at the date of this Second Report, has not advised the Monitor that it objects to the granting of the proposed Enhanced Access Provisions. If the Monitor receives an objection from Procore that cannot be resolved by way of an amendment to the proposed Second ARIO prior to the hearing, it will file a supplement to the Second Report with the Court; and
- g) the Monitor is not aware of any party that would be prejudiced by the Enhanced Access Provisions.

### **3.3 Construction Strategy and D-Thind Development Beta Ltd.**

1. To facilitate construction of the Eclipse Project, Lumina LP and D-Thind Development Beta Ltd. ("**D-Thind Beta**"), an entity related to – and that the Monitor expects is an insolvent affiliate of – the Debtors, entered into a Canadian Construction Documents Committee Stipulated Price Contract dated June 10, 2021 (the "**CCDC 2 Contract**") wherein D-Thind Beta was engaged as the general contractor for the Eclipse Project. The Monitor understands that D-Thind Beta is a single purpose entity formed for this very purpose. A copy of a British Columbia Registry Services Company Summary for D-Thind Beta is attached as **Appendix "D"**.



2. As the general contractor, the Monitor understands that D-Thind Beta entered into agreements with each of the subcontractors engaged in connection with the Eclipse Project. The Monitor understands that neither Lumina LP nor the other Debtors were party to any of the subcontractor agreements.
3. As discussed in the First Report, given the Debtors' inability to finance the completion of the Eclipse Project, KingSett agreed to advance up to \$18 million for its completion, on the condition that a third-party construction manager be retained. Accordingly, Lumina LP retained Brasfield as the construction manager under a construction management agreement dated October 21, 2024 (the "**CM Agreement**"), among Brasfield, Lumina LP, by its general partner, Lumina GP and D-Thind Beta.
4. Under the CM Agreement, the existing CCDC 2 Contract was to be maintained (with no further fees being paid to D-Thind Beta), Brasfield was to be engaged to complete the construction of the Eclipse Project, and Brasfield was to oversee the completion of existing trade, consultant, and supplier contracts. However, this structure has created several challenges in dealing with subcontractors since the commencement of these CCAA proceedings. Among others, the issues posed by this structure include that:
  - a) D-Thind Beta does not benefit from the Stay of Proceedings and cannot rely on the ARIO to insist that subcontractors perform their obligations in accordance with their existing agreements notwithstanding the occurrence of defaults prior to the commencement of these CCAA proceedings;
  - b) the Monitor does not control D-Thind Beta, including for the purposes of executing change orders, complying with settlement arrangements that the Monitor understands D-Thind Beta entered into with certain subcontractors prior to these CCAA proceedings, or resolving/settling contractual disputes or asserted defaults; and
  - c) payments to subcontractors ought to be made directly by or on behalf of D-Thind Beta.
5. Copies of the CCDC 2 Contract and the CM Agreement are attached as **Appendices "E"** and **"F"**, respectively.
6. The Monitor previously explored options with Bennett Jones and KingSett to address the issues presented by this arrangement, including requesting that D-Thind Beta execute one or more payment directions that would authorize the Monitor to make payments directly to subcontractors on D-Thind Beta's behalf as the contractor. Under this structure, the contractual obligations of the subcontractors will remain owed to D-Thind Beta, and any

change orders would need to be executed by D-Thind Beta. Ultimately, the Monitor determined that this option was not viable given that:

- a) it would require D-Thind Beta's continued cooperation, which, in light of KingSett's concerns regarding the conduct and management capabilities of the Debtors (which is the same management group for D-Thind Beta) and the Monitor's experience to date, was not expected to be forthcoming; and
- b) D-Thind Beta would not benefit from the Stay of Proceedings or the Monitor's oversight.

7. In light of the above challenges, the Monitor concluded that including D-Thind Beta as a respondent in these CCAA proceedings would be the most effective solution to ensure the completion of the Eclipse Project. This option may save the Debtors millions of dollars in costs, which the principals of the Debtors have personally guaranteed. The Monitor's view is that the inclusion of D-Thind Beta within these CCAA proceedings would:

- a) stay all proceedings and the exercise of all rights and remedies against D-Thind Beta (save for certain limited and customary carveouts);
- b) permit the Monitor to require the performance of subcontractors' existing agreements (the termination of which would be stayed);
- c) allow the Monitor to exercise control over D-Thind Beta for the purposes of performing its obligations, exercising its rights (including, if necessary, funding the performance of such obligations) and executing change orders; and
- d) preserve the pre-filing contractual and payment structure among the owner, contractor, and subcontractors.

8. On February 10, 2025, Bennett Jones sent a without prejudice email (the "**February 10<sup>th</sup> Email**") to Richards Buell Sutton LLP ("**RBS**"), the Debtors' counsel: (i) summarizing certain of the issues encountered by the Monitor with respect to the CCDC 2 Contract and CM Agreement; (ii) outlining the benefits of D-Thind Beta being included in these CCAA proceedings; and (iii) inquiring whether D-Thind Beta would consent to its inclusion in these CCAA proceedings. On February 11, 2025, a representative of the Monitor discussed, among other things, certain of the content of the February 10 Email over a phone call with Paul Thind, a representative of D-Thind Beta. During the call, Paul Thind agreed with the Monitor's assessment in respect of D-Thind Beta and advised that he would execute a consent to D-Thind Beta's inclusion in these CCAA proceedings on behalf of D-Thind Beta

upon the Monitor providing a copy of same. On February 12, 2025, the Monitor provided a draft consent (the “**Consent**”) to include D-Third Beta in these CCAA proceedings. A copy of the Consent is attached as **Appendix “G”**.

9. Between February 13 and April 7, 2025, the Monitor and its legal counsel engaged in extensive email and telephone correspondence with Paul Thind, other representatives of D-Third Beta, and McQuarrie Hunter LLP, D-Third Beta’s newly retained legal counsel, regarding the Consent and certain questions put to the Monitor regarding same.
10. Notwithstanding Paul Thind’s multiple representations that he would execute the Consent, as at the date of this Second Report, the Consent has not been executed.
11. Given D-Third Beta’s central role in the construction of the Eclipse Project, the nature of its contractual relationships with subcontractors, and the potential for disruption to the completion of the Eclipse Project, the Monitor expects to seek, for and on behalf of the Debtors, an order appointing KSV as receiver and manager of D-Third Beta if D-Third Beta fails to promptly execute the Consent and otherwise cooperate with the Monitor in these CCAA proceedings (the “**Proposed Receivership**”). Though it will be attended by additional costs, the Proposed Receivership will achieve the same practical outcomes as including D-Third Beta in these CCAA proceedings, including staying proceedings against D-Third Beta, empowering a Court-appointed officer to exercise control over its contractual rights and obligations, and facilitating the orderly recommencement and completion of the Eclipse Project’s construction. The Proposed Receivership will also preserve D-Third Beta’s existing contractual and payment structure and mitigate disruption to the Eclipse Project.
12. If deemed appropriate by the Monitor, a further or supplemental report to Court in connection with the Proposed Receivership will be filed. Similarly, the Monitor will file a further or supplemental report to Court if D-Third Beta ultimately consents to its inclusion in these CCAA proceedings, and will seek either a revised form of Second ARIO or a further amended and restated version thereof, as applicable.

#### **4.0 Retention of Rennie as the Proposed Sales Agent**

1. Pursuant to a marketing agreement dated February 19, 2022 (as amended, the “**Original Marketing Agreement**”), between Rennie Marketing Systems, by RMS, and the Debtors, Rennie Marketing Systems was retained as sales agent for the Eclipse Project. Prior to the commencement of these CCAA proceedings, Rennie facilitated the sale of the Sold Units pursuant to the Original Marketing Agreement.

2. Rennie is a prominent real estate company based in Vancouver, BC, with a team of over 130 staff and 270 advisors. Rennie provides real estate marketing, development advisory, and brokerage services focusing on high-end residential properties, including luxury homes and high-rise condominiums. Further information on Rennie, and its experience and qualifications, is included in **Appendix “H”**. Rennie is also engaged as the sales agent for the Debtors’ sister projects, “Highline” and “District Northwest”, which further supports its familiarity with the Debtors’ assets and its suitability to act as Sales Agent for the Eclipse Project.
3. Following the granting of the Initial Order, the Monitor held discussions with Rennie to understand the status of the Eclipse Project, the Sold Units, and the Remaining Units. Based on Rennie’s background, familiarity with the Eclipse Project, and its proven success in marketing the Sold Units, the Monitor, in consultation with KingSett, decided to retain Rennie as the Sales Agent to market and sell the Remaining Units and any Sold Units where the underlying agreements of purchase and sale are cancelled, terminated, or rescinded (any such Sold Units being, the **“Cancelled Units”**, and together with the Remaining Units, the **“Inventory Units”**).

#### **4.1 Marketing Agreement<sup>5</sup>**

1. The Marketing Agreement was negotiated by the Monitor, in consultation with KingSett, and is subject to the granting of the proposed Sale Process Order.
2. Pursuant to the Marketing Agreement, the Sales Agent will be engaged by the Monitor, for and on behalf of the Debtors, to provide the following services with respect to the Inventory Units, among others:
  - a) developing and preparing a strategy for the sale of the Inventory Units;
  - b) listing the Inventory Units for sale when requested in writing by the Monitor to do so;
  - c) diligently marketing the Inventory Units listed for sale and using commercially reasonable efforts to sell such Inventory Units, subject to and in accordance with the Sale Conditions (as defined below);
  - d) using Rennie’s and its agents’ proprietary customer databases to introduce prospective buyers to the Inventory Units;

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<sup>5</sup> Capitalized terms used but not otherwise defined in this section have the meanings ascribed to them in the Marketing Agreement.

- e) facilitating contracts between the Monitor and eventual purchasers of the Inventory Units (collectively, the “**Purchasers**”);
  - f) acting solely for the benefit of the Monitor and the Debtors, in connection with the marketing and sale of the Inventory Units;
  - g) assisting with the contractual conveyance of the Inventory Units, including, without limitation, collecting lawyer selections, assigning parking stalls and storage lockers, and distributing completion notices;
  - h) providing weekly reports to the Monitor;
  - i) assisting in the process of administering the distribution of: (i) disclosure statements and disclosure statement amendments; (ii) addendums to contracts; (iii) deposit collection; (iv) purchaser update communications; and (v) extension requests and agreements;
  - j) preparing a marketing budget and marketing timeline outlining the detailed expenses and disbursements in connection with the marketing and sale of the Inventory Units (the “**Marketing Budget**”), which Marketing Budget shall be submitted to the Monitor for its prior approval promptly following the granting of the Sale Process Order; and
  - k) ensuring compliance with, among other things, REDMA, its regulations, the British Columbia Financial Services Authority’s requirements, and the various policy statements of the Superintendent of Real Estate, and FINTRAC regulations.
3. Subject to the earlier termination thereof, the term (the “**Term**”) of the Marketing Agreement commences on the date of the Marketing Agreement and ends on the earlier of: (i) the Completion Date of the last Inventory Unit sold (the “**Last Purchased Unit**”); and (ii) eight (8) months from the filing of the Disclosure Statement Amendment (as defined below). Among other termination rights, the Monitor or the Sales Agent may terminate the Marketing Agreement, without penalty or cost and without cause, by delivery of a written notice of termination.

4. Rennie's compensation includes:

- a) **Commission** – a commission of 3.8% of the Net Contract Sales Price, inclusive of the applicable Outside Agent's commission, plus all applicable taxes (the "**Commission**"), for each and every Inventory Unit sold during the Term, provided that no Commission will be payable on any Inventory Units sold: (i) as part of one or more bulk transactions identified, solicited or negotiated by KingSett and/or any of its affiliates; or (ii) below the Minimum Square Foot Prices (as defined below), except where such Minimum Square Foot Prices are reduced by the Monitor. The Commission will be split 1.9% for Rennie and 1.9% for the Outside Agent. No member of the Listing Team will be entitled to represent a Purchaser; and
- b) **Fees and Expenses** – Rennie will also be reimbursed for Vancouver Real Estate Board Multiple Listing Service ("**MLS**") fees and pre-approved Advertising and Promotional Expenses.

**4.2 Recommendation Regarding Retention of Rennie and Approval of Marketing Agreement**

- 1. The Monitor recommends that the Court approve the retention of Rennie as the Sales Agent under the Marketing Agreement for the following reasons:
  - a) the proposed Commission is generally consistent with the Original Marketing Agreement and, in the Monitor's experience, reflects standard market rates for engagements of this nature and is commercially reasonable;
  - b) Rennie is a leading real estate firm primarily operating in the Greater Vancouver Area with over 130 staff and 270 advisors, and substantial industry experience and expertise;
  - c) the ARIO expressly authorizes the Monitor to engage or retain or cause the Debtors to engage or retain the services of any agent, real estate broker or other person or entity from time to time on whatever basis, as the Monitor deems necessary or appropriate to assist with the exercise of its powers and duties or those of the Debtors or to facilitate or assist in the Restructuring (as defined in the ARIO);
  - d) KingSett supports the Monitor's decision to retain Rennie; and

- e) Rennie’s knowledge about the Eclipse Project (given its involvement since 2022), prior experience canvassing the market for the Eclipse Units and preparation of the marketing materials necessary to solicit interest in the Inventory Units and ongoing rapport with potential purchasers and co-operating agents, will enhance the efficacy of the Sale Process and eliminate the unnecessary delays that would result from the retention of a new agent/broker at this stage.

## 5.0 Sale Process

1. In addition to retaining Rennie as the Sales Agent to sell the Remaining Units and, if necessary, the Cancelled Units (i.e., the Inventory Units), the Monitor has developed the Sales Process described in this Section, in consultation with the Sales Agent and KingSett.
2. The Sale Process is intended to provide a flexible, efficient, and transparent framework for canvassing the market for potential purchasers and maximizing the value of the Inventory Units and recovery for the Debtors’ stakeholders. Moreover, it is intended to allow the Monitor, for and on behalf of the Debtors, to enter into any sale agreements arising from the Sale Process (each a “**Sale Agreement**” and each transaction contemplated thereunder, a “**Unit Transaction**”) that are anticipated to materialize from the Sale Process.
3. The principal features of the Sale Process are discussed below.

### 5.1 Rennie Report and Pricing Schedule

1. At the Monitor’s request, Rennie prepared a report dated April 8, 2025 to support the Sale Process (the “**Rennie Report**”). The Rennie Report outlines Rennie’s recommendations and proposed marketing plan with respect to the Inventory Units and includes schedules summarizing the following metrics for each Remaining Unit and Cancelled Unit (the “**Pricing Schedule**”):
  - a) the suggested listing prices (the “**Listing Prices**”); and
  - b) the minimum prices per square foot (the “**Minimum Square Foot Prices**”).
2. The Listing Prices and Minimum Square Foot Prices for the Cancelled Units will only be applicable in the event that an agreement of purchase and sale for a Sold Unit is cancelled, terminated, or rescinded, and the Sold Unit needs to be listed and sold during these CCAA proceedings, as determined by the Monitor.

3. A partially redacted copy of the Rennie Report is attached as **Appendix “I”**. An unredacted version of the Rennie Report will be filed as an appendix to the Confidential Supplement.
4. Holding the Inventory Units indefinitely is not viable due to the significant carrying costs associated therewith, including property taxes, insurance premiums, and maintenance costs. Delaying the sale of the Inventory Units or not setting achievable sale prices would result in further Court attendances and increased professional fees, thus exacerbating these financial burdens and diminishing the net proceeds available for distribution to the Debtors’ creditors. The prompt and efficient execution of the Sale Process is essential to mitigate these escalating costs and preserve value for stakeholders.
5. As detailed in the Pricing Schedule, the Listing Prices and Minimum Square Foot Prices are based on an analysis prepared by Rennie that considered, among other things:
  - a) prices obtained for the Sold Units prior to the date of the Initial Order;
  - b) sales data for similar development projects in Burnaby and the surrounding areas;
  - c) Rennie’s significant expertise and knowledge of the Eclipse Project; and
  - d) input from, and consultation with, KingSett.

## **5.2 Sale Process**

1. To ensure the efficiency of the Sale Process and the maximization of the Inventory Units’ value, the Monitor will only enter into Sale Agreements where the following conditions are met (collectively, the “**Sale Conditions**”):
  - a) the Monitor is satisfied with the purchase price and other terms of the applicable Sale Agreement;
  - b) the Minimum Square Foot Price for each Inventory Unit is not less than the applicable amount specified in the Pricing Schedule, subject to the Monitor’s limited authority therein to adjust the Minimum Square Foot Prices;
  - c) the applicable Sale Agreement is entered into within eight (8) months from the filing of the Disclosure Statement Amendment and is in substantially the form appended to the Disclosure Statement Amendment; and
  - d) KingSett consents to each Sale Agreement.



2. The Monitor, in consultation with KingSett, and with the assistance of Rennie, will administer, supervise, facilitate, and oversee the Sale Process to maximize value for the Inventory Units in a timely manner. In this regard, the Sale Process will involve the following:
- a) **Disclosure Statement Amendment** – the Monitor is required to file a disclosure statement amendment (the “**Disclosure Statement Amendment**”) before commencing the Sale Process. The Disclosure Statement Amendment is currently being finalized with the assistance of Bennett Jones;<sup>6</sup>
  - b) **Marketing** – upon the granting of the proposed Sale Process Order, the Sales Agent will finalize marketing materials for the Inventory for the Monitor’s approval, and with the Monitor’s oversight and input, and in consultation with KingSett, will:
    - i. send an email and newsletter regarding the opportunity to its database of parties, including industry contacts, potential buyers, and the brokerage community;
    - ii. post the Inventory Units selected by the Monitor on MLS at the Listing Prices; and
    - iii. conduct open houses for the Inventory Units;
  - c) **Sale Agreement** – the Monitor, with the assistance of its legal counsel, and in consultation with KingSett, will prepare a form of the Sale Agreement to be provided to parties interested in purchasing one or more Inventory Units;
  - d) **As Is, Where Is** – the Inventory Units and parking stalls and storage units/lockers will be marketed on an “as is, where is” basis;
  - e) **Adjustment to Minimum Square Foot Prices** – the Monitor will maintain discretion to adjust the Minimum Square Foot Prices, as provided in the Confidential Supplement; and
  - f) **Review and Acceptance of Offers** – the Monitor will review and consider all offers (collectively, the “**Offers**”) for the Inventory Units. The Monitor has sole discretion to accept, reject, or negotiate Offers, provided the Sale Conditions are satisfied. In

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<sup>6</sup> The ARIO authorized the Monitor to cause the Debtors to take such steps as the Monitor determines may be reasonably necessary or appropriate to comply with REDMA. The Monitor has determined that the filing of the Disclosure Statement Amendment prior to the commencement of the Sale Process is required to ensure REDMA compliance.

evaluating Offers, the Monitor will consider: (i) the purchase price and other terms; (ii) conditions to closing; and (iii) the proposed closing date.

3. The Monitor will seek a form of approval and vesting order from the Court at a later date to facilitate the Unit Transactions that are anticipated to materialize from the Sale Process, subject to, among other things, the registration of a strata plan. Principally, the proposed approval and vesting order will:
  - a) authorize and direct the Monitor, for and on behalf of the Debtors, to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of any Unit Transaction, the conveyance of any purchased Inventory Unit to the eventual Purchaser thereof; and
  - b) upon delivery of a Monitor's Certificate, vest title to the purchased Inventory Unit in the applicable Purchaser free and clear of all claims and encumbrances, except permitted encumbrances.

### **5.3 Bulk Offer to Purchase Remaining Units**

1. The Monitor has received a non-binding letter of intent from a third-party expressing interest in acquiring all of the Remaining Units. The Monitor has been engaging with the interested party to assess the viability of a bulk transaction and has requested additional information to support the proposal. While discussions have been ongoing, no formal agreement or binding offer has been received as of the date of this Second Report. In the event a bulk offer materializes and is deemed commercially reasonable and in the best interests of stakeholders, the Monitor may return to the Court to seek approval of such transaction.

### **5.4 Recommendation Regarding the Sale Process**

1. The Monitor recommends that this Court issue the proposed Sale Process Order for the following reasons:
  - a) the Sale Process was developed by the Monitor, in consultation with the Sales Agent, with a view to providing a flexible, efficient, and fair process for canvassing the market for potential purchasers and maximizing the value of the Inventory Units and recovery for the Debtors' stakeholders. By requiring all of the Offers to conform to a standardized Sale Agreement and satisfy the Sale Conditions, the process ensures that bids are evaluated consistently based on criteria established by the Monitor;

- b) the Sale Process will be overseen by the Monitor and the Sales Agent, whose expertise, commission structure, substantial marketing efforts, and familiarity with the Inventory Units will enhance the commercial efficacy of the process. Rennie is prepared to commence the Sale Process immediately;
- c) the proposed Sale Process is commercially reasonable and is consistent with practices employed in other residential real estate insolvency proceedings;
- d) the Sale Process will broadly market the Inventory Units and optimize the chances of securing the maximum purchase prices for such Inventory Units available in the circumstances. Adherence to the proposed Sale Conditions will ensure the fairness and integrity of the Sale Process;
- e) as the best option for maximizing recovery available at this time, the proposed Sale Process is in the best interests of the Debtors and their stakeholders;
- f) the Listing Prices and Minimum Square Foot Prices outlined in the Pricing Schedule were developed by the Sales Agent, in consultation with the Monitor, based on the sale prices for the Sold Units, market research, and Rennie's significant expertise and knowledge of the Eclipse Project;
- g) the Sale Process provides the Monitor with the procedures and flexibility that it believes are necessary to maximize the value of the Inventory Units, and if necessary, to adjust the Minimum Square Foot Prices for the Inventory Units;
- h) the ARIO expressly authorizes the Monitor to, among other things, perform or cause the Debtors to perform such other functions or duties, and enter into or cause the Debtors to enter into any agreements or incur any obligations, as the Monitor considers necessary or desirable to facilitate or assist in the Restructuring, including the realization and/or sale of all or any part of the Property and the construction, maintenance, completion or delivery of the Eclipse Project and the Eclipse Units; and
- i) KingSett has approved the Pricing Schedule and supports the Sale Process.

## 6.0 Sealing Order

1. Pursuant to the proposed Sealing Order, the Monitor is seeking to seal the Confidential Supplement. The Confidential Supplement includes an unredacted version of the Rennie Report (including the Pricing Schedule), which contains the Minimum Square Foot Prices and related analysis.
2. The information contained in the Confidential Supplement, if disclosed, could undermine the integrity of the Sale Process and negatively impact realizations from the Unit Transactions to the detriment of the Debtors and their stakeholders. In particular, the Minimum Square Foot Prices and related analysis contained in the Confidential Supplement, if disclosed, would allow a prospective purchaser to calculate the potential minimum price that could be accepted for an Inventory Unit.
3. The Confidential Supplement is proposed to remain sealed pending closing of the Unit Transaction for the Last Purchased Unit. The salutary effects of temporarily sealing such information from the public record greatly outweigh the deleterious effects of doing so in the circumstances. The Monitor is not aware of any party that will be prejudiced if the information in the Confidential Supplement is sealed or any public interest that will be served if such details are disclosed in full. Accordingly, the Monitor believes the proposed sealing of the Confidential Supplement is appropriate in the circumstances.

## 7.0 Second Cash Flow Forecast

1. The Monitor, in conjunction with KingSett, has prepared a Second Cash Flow Forecast for the period April 7 to July 20, 2025 (the “**Cash Flow Period**”). The Cash Flow Forecast was largely developed based on a construction budget provided by BTY Group. The Second Cash Flow Forecast is attached as **Appendix “J”**.<sup>7</sup> The Second Cash Flow Forecast contemplates that the Debtors can fund their business within the confines of the Interim Financing Facility during the Cash Flow Period.

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<sup>7</sup> Given this is a creditor-driven CCAA application, management was not involved in preparing the Second Cash Flow Forecast and, accordingly, Management’s Report on Cash Flow has not been included.

2. A summary of the Second Cash Flow Forecast<sup>8</sup> is provided below:

<b>(Unaudited; CAD; \$000s)</b>	<b>Note</b>	<b>Apr 7 to Jul 20, 2025</b>
Receipts	A	-
Disbursements		
Construction expenses	B	(11,000)
Administrative costs	C	(750)
Contingency	D	(3,200)
Professional fees	E	(900)
		<u>(15,850)</u>
Net cash flow		(15,850)
Opening cash balance		100
Net cash flow		(15,850)
Interim Financing Facility advances	F	<u>16,000</u>
<b>Ending cash balance</b>		<b><u>250</u></b>

3. The Monitor notes the following regarding the Second Cash Flow Forecast:

- A. Receipts: no unit sales are expected during the Cash Flow Period;
- B. Construction expenses: represent the estimated costs to complete the Eclipse Project, based on the report issued by BTY Group;
- C. Administrative costs: includes sales taxes, permit costs, license fees, and other administration expenses;
- D. Contingency: accounts for any unforeseen construction or other expenses;
- E. Professional fees: includes fees of the Monitor, Bennett Jones, and Osler; and
- F. Interim Financing Facility advances: represents the forecasted advances under the Interim Financing Facility.

4. Based on the Monitor's review of the Second Cash Flow Forecast, the assumptions appear reasonable. The Monitor's statutory report on the Second Cash Flow Forecast is attached as **Appendix "K"**.

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<sup>8</sup> The notes to the Second Cash Flow Forecast provide the underlying assumptions, including a description of each line item.

## 7.1 Interim Financing Term Sheet Amendment

1. Pursuant to the Interim Financing Term Sheet, the Interim Financing Facility shall be repaid on the earlier of, among other occurrences, June 9, 2025 (the “**June Maturity Date**”), or such later date as the Interim Lender in its sole discretion may agree to in writing with the Monitor, for and on behalf of the Debtors, acting reasonably.
2. On April 7, 2025, the Interim Lender and the Monitor, for and on behalf of the Debtors, entered into an amendment to the Interim Financing Term Sheet (the “**Interim Financing Term Sheet Amendment**”) that extended the June Maturity Date to July 31, 2025. A copy of the Interim Financing Term Sheet Amendment is attached as **Appendix “L”**.

## 8.0 Stay Extension and Related Relief

1. The Stay of Proceedings currently expires on April 16, 2025. The Monitor is requesting an extension of the Stay of Proceedings to July 18, 2025 for the following reasons, among others:
  - a) in the context of a CCAA proceeding in which a “super-monitor” has been appointed, it is appropriate that the monitor is held to the good faith standard. As “super-monitor” in these CCAA proceedings, the Monitor believes that it has and is currently discharging its duties and obligations in good faith and with due diligence, and that it has caused the Debtors to do the same;
  - b) the proposed Stay Extension will allow the Monitor, for and on behalf of the Debtors, to advance construction of the Eclipse Project, conduct the Sale Process, and facilitate the continuation of the presale agreements in anticipation of closing the transactions thereunder;
  - c) the Monitor does not believe that any creditor will be materially prejudiced by the Stay Extension;
  - d) as of the date of this Second Report, neither KingSett nor the Monitor are aware of any party opposed to the Stay Extension;
  - e) the Second Cash Flow Forecast reflects that the Debtors are projected to have sufficient liquidity to fund their operations and the costs of these CCAA proceedings during the Stay Extension; and

- f) if the proposed Stay Extension is granted, it will, among other things, have the effect of continuing to relieve the Debtors of any obligation to file a new disclosure statement under subsection 16(2) of REDMA, thereby preserving the presale agreements.

## **9.0 Monitor's Activities**

1. Since the First Report, the Monitor has, among other things:

- a) corresponded regularly with the Debtors' management team and representatives of Thind to obtain information concerning the Debtors and the Eclipse Project;
- b) corresponded with Bennett Jones, KingSett, and Osler regarding all aspects of these CCAA proceedings;
- c) corresponded with the Debtors' insurance broker to confirm that insurance coverage was in place and premiums were current, and to add the Monitor as an additional insured and loss payee on the Debtors' policies;
- d) with the assistance of Brasfield, engaged in extensive discussions with subcontractors and critical suppliers to explain the current status of these CCAA proceedings and with respect to the resumption of construction under the Monitor's oversight;
- e) engaged in extensive correspondence with various Sold Unit purchasers regarding the status of the Eclipse Project and these CCAA proceedings;
- f) corresponded regularly with Brasfield and KingSett regarding the New Home Warranty and the reinstatement of the Building Permit;
- g) prepared and sent a letter to RBS requesting the status of the deposits with respect to the Sold Units;
- h) redirected the Debtors' mail to the Monitor's office
- i) attended to various matters with respect to the requirements under REDMA;
- j) corresponded with utility service providers to set up new utility accounts for the Debtors;

- k) corresponded with the CRA in respect of certain tax matters;
- l) worked with Bennett Jones to prepare the materials in respect of the relief sought by the Monitor on the within application;
- m) maintained the Case Website; and
- n) prepared this Second Report;

## 10.0 Conclusion and Recommendation

1. Based on the foregoing, the Monitor respectfully recommends that this Court make orders granting the relief detailed in Section 1.1 of this Second Report.

\* \* \*

All of which is respectfully submitted,

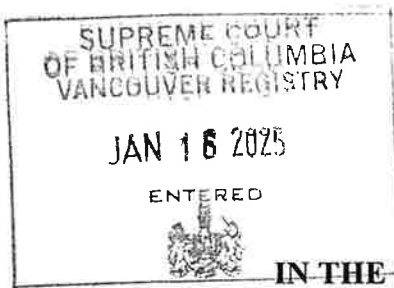
**KSV RESTRUCTURING INC.,**  
solely in its capacity as Court-appointed monitor of  
Beta View Homes Ltd., Lumina Eclipse GP Ltd., and  
Lumina Eclipse Limited Partnership, and  
not in its personal or corporate capacity

  
Per: Jason Knight  
Managing Director



# **APPENDIX A**

**[ATTACHED]**



No. S-250121  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

**BETWEEN:**

**KINGSETT MORTGAGE CORPORATION**

**PETITIONER**

**AND**

**LUMINA ECLIPSE LIMITED PARTNERSHIP**

**and**

**BETA VIEW HOMES LTD.**

**RESPONDENTS**

**ORDER MADE AFTER APPLICATION**

AMENDED AND RESTATED INITIAL ORDER

BEFORE THE HONOURABLE JUSTICE    )  
MASUHARA                                )    2025/01/16  
  )

THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on January 16, 2025; AND ON HEARING Mary Buttery, K.C., counsel for the Petitioner and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the First Affidavit of Daniel Pollack sworn January 5, 2025 (the "**First Pollack Affidavit**"), the Pre-Filing Report of the proposed monitor, KSV Restructuring Inc. ("**KSV**"), the consent of KSV to act as monitor (in such capacity, the "**Monitor**") of Beta View Homes Ltd. (the "**Nominee**"), Lumina Eclipse GP Ltd. and Lumina Eclipse Limited Partnership (collectively, the "**Respondents**" and each, a "**Respondent**"), and the First Report of the Monitor; AND UPON BEING ADVISED that the secured creditors and others who are likely to be affected by the charges created herein were given notice; AND pursuant to the *Companies' Creditors*

*Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the “CCAA”), the British Columbia Supreme Court Civil Rules, BC Reg 168/2009 and the inherent jurisdiction of this Honourable Court;

**THIS COURT ORDERS AND DECLARES THAT:**

1. The time for service of the Petition and materials filed in support of the application for this Order (collectively, the “**Application**”) is hereby abridged such that service of the Application is deemed to be timely and sufficient and the Application is properly returnable today.

**JURISDICTION**

2. Each of Beta View Homes Ltd. and Lumina Eclipse GP Ltd. is a company to which the CCAA applies. Lumina Eclipse Limited Partnership shall enjoy the benefits of the protections and authorizations provided by this Order.

**POSSESSION OF PROPERTY AND OPERATIONS**

3. Subject to this Order and any further Order of this Court, the Respondents shall remain in possession and control of their current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”), and continue to carry on their business (the “**Business**”) in the ordinary course and in a manner consistent with the preservation of the Business and the Property. The Respondents shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel, construction managers, project managers, contractors, subcontractors, trades, engineers, quantity surveyors, appraisers, real estate brokers, auditors, managers and such other persons (collectively, “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as the Respondents deem reasonably necessary or desirable in the ordinary course of business or for carrying out the terms of this Order.

4. Subject to the Definitive Documents (as defined below), the Respondents shall be entitled, but not required, to pay the following expenses which may have been incurred prior to, on or after January 8, 2025 (the “**Order Date**”):

- (a) all outstanding wages, salaries, employee and pension benefits (including long and short-term disability payments), vacation pay and expenses (but excluding

severance pay) payable before, on or after the Order Date, in each case incurred in the ordinary course of business and consistent with the relevant compensation policies and arrangements existing at the time incurred (collectively, “Wages”);

- (b) with the prior consent of the Interim Lender (as defined below), amounts owing for goods and services actually supplied to the Respondents (or any of them) prior to the Order Date, if, in the opinion of the Monitor (i) the applicable supplier or service provider is essential to the Business and the payment is required to ensure ongoing supply, (ii) making such payment will preserve, protect or enhance the value of the Property or the Business, or (iii) making such payment is required to address environmental, safety or regulatory concerns; and
- (c) the fees and disbursements of any Assistants retained or employed by the Respondents (or any of them) which are related to the Respondents’ restructuring, at their standard rates and charges.

5. Except as otherwise provided herein and subject to the Definitive Documents, the Respondents shall be entitled to pay all expenses reasonably incurred by the Respondents in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance, maintenance and security services;
- (b) all obligations incurred by the Respondents (or any of them) after the Order Date, including without limitation, with respect to goods and services actually supplied to the Respondents (or any of them) following the Order Date (including those under purchase orders outstanding at the Order Date but excluding any interest on the Respondents’ (or any of their) obligations incurred prior to the Order Date); and
- (c) fees and disbursements of the kind referred to in paragraph 5(b) which may be incurred after the Order Date.

6. The Respondents are authorized to 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 Wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;
  - (b) all goods and services or other applicable sales taxes (collectively, “Sales Taxes”) required to be remitted by the Respondents (or any of them) in connection with the sale of goods and services by the Respondents (or any of them), but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date; 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 property taxes, municipal business taxes 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.
7. Except as specifically permitted herein, including in paragraph 13 hereof, and in the Definitive Documents, the Respondents 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 Respondents (or any of them) to any of their creditors as of the Order Date except as authorized by this Order;
  - (b) to make no payments in respect of any financing leases which create security interests;
  - (c) to grant no security interests, trust, mortgages, liens, charges or encumbrances upon or in respect of any of their Property, nor become a guarantor or surety, nor

otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order;

- (d) to not grant credit except in the ordinary course of the Business only to their customers for goods and services actually supplied to those customers, provided such customers agree that there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by the Respondents (or any of them) to such customers as of the Order Date; and
- (e) to not incur liabilities except in the ordinary course of Business.

## RESTRUCTURING

8. Subject to such requirements as are imposed by the CCAA, and such covenants as may be contained in the Definitive Documents, the Respondents shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down all or any part of their Business or operations and commence marketing efforts in respect of any of their redundant or non-material assets and to dispose of redundant or non-material assets;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate;
- (c) take such steps and execute such additional documentation as may be necessary or desirable to facilitate the completion of the development property known as "Brentwood Tower C" (the "**Brentwood Project**");
- (d) subject to further Order of this Court, market or caused to be marketed for sale using a form of agreement of purchase and sale acceptable to the Monitor (the "**Sale Agreements**"), any part or parts of the Property comprising the Brentwood Project (other than, for greater certainty, the Exempt Lots (as defined below)) and the exclusive use of any and all parking stalls and/or storage lockers, in each case, in the ordinary course of Business and consistent with past practice and the Respondents' current marketing arrangements, subject to such amendments acceptable to the Monitor, and

to take such additional steps and execute such additional documentation as may be necessary or desirable in connection with such marketing;

- (e) subject to further Order of this Court, complete closings in respect of part or parts of the Property comprising the Brentwood Project (other than, for greater certainty, the Exempt Lots) and the exclusive use of any and all parking stalls and/or storage lockers pursuant to existing agreements of purchase and sale to which the Respondents (or any of them) are party, subject to such amendments as the Monitor and the applicable purchaser(s) may agree upon (the “**Existing Sale Agreements**”) and the Sale Agreements, in each case, in the ordinary course of Business and consistent with past practice, and to take such additional steps and execute such additional documentation as may be necessary or desirable for the completion of the transactions contemplated under the Existing Sale Agreements; and
- (f) pursue all avenues of refinancing, restructuring, selling or reorganizing the Business or Property, in whole or in part, subject to prior approval of this Court being obtained before any material refinancing, restructuring or reorganization or any sale outside of the ordinary course of Business,

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

9. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronics Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, and any regulations promulgated under authority of either Act, as applicable (the “**Relevant Enactment**”), the Respondents (or any of them), in the course of these proceedings, are permitted to, and hereby shall, disclose personal information of identifiable individuals in their possession or control to stakeholders, their advisors, prospective investors, financiers, buyers or strategic partners (collectively, “**Third Parties**”), but only to the extent desirable or required to negotiate and complete the Restructuring or to prepare and implement transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the Respondents binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information

as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or to prepare and implement transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Monitor or destroy it. If the Third Parties acquire personal information as part of the Restructuring or the preparation and implementation of transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Respondents.

#### **STAY OF PROCEEDINGS, RIGHTS AND REMEDIES**

10. Until and including April 4<sup>th</sup>, 2025, or such later date as this Court may order (the “**Stay Period**”), no action, suit or proceeding in any court or tribunal (each, a “**Proceeding**”) against or in respect of the Respondents (or any of them) or the Monitor, or their respective employees, advisors, counsel and other representatives acting in such capacities, or affecting the Business or the Property, shall be commenced or continued except with the prior written consent of the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Respondents (or any of them) or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Monitor.

11. During the Stay Period, the Superintendent of Real Estate shall not require the Respondents (or any of them) to file a new disclosure statement under subsection 16(2) of the *Real Estate Development Marketing Act*, S.B.C. 1004, c. 41 (“**REDMA**”) nor take any steps that would otherwise trigger a purchaser’s right of rescission under REDMA, and any rights and remedies of purchasers to rescind pre-sale contracts with the Respondents (or any of them) are stayed and suspended.

12. During the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, 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 Respondents (or any of them) or the Monitor, or their respective employees, advisors, counsel and other



representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the prior written consent of the Monitor or leave of this Court.

13. Notwithstanding the Stay Period or any other provision of this Order or the Definitive Documents, the Respondents are expressly authorized and empowered to complete the sales of the following properties in the ordinary course of Business (collectively, the “Exempt Lots”):

	<b>Municipal Address</b>	<b>PID</b>	<b>Legal Description</b>
1.	3702-2311 BETA AVE BURNABY V5C 0M1	031-256-449	STRATA LOT 281, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
2.	3703-2311 BETA AVE BURNABY V5C 0M1	031-256-457	STRATA LOT 282, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
3.	3803-2311 BETA AVE BURNABY V5C 0M1	031-256-503	STRATA LOT 287, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
4.	TH101-2351 BETA AVE BURNABY V5C 0M2	031-256-538	STRATA LOT 290, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
5.	TH102-2351 BETA AVE BURNABY V5C 0M2	031-256-546	STRATA LOT 291, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
6.	TH104-2351 BETA AVE BURNABY V5C 0M2	031-256-562	STRATA LOT 293, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
7.	TH106-2351 BETA AVE BURNABY V5C 0M2	031-256-597	STRATA LOT 296, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V

	<b>Municipal Address</b>	<b>PID</b>	<b>Legal Description</b>
8.	2601-2351 BETA AVE BURNABY V5C 0M2	031-258-662	STRATA LOT 503, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
9.	2603-2351 BETA AVE BURNABY V5C 0M2	031-258-689	STRATA LOT 505, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
10.	2604-2351 BETA AVE BURNABY V5C 0M2	031-258-697	STRATA LOT 506, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
11.	2702-2351 BETA AVE BURNABY V5C 0M2	031-258-719	STRATA LOT 508, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
12.	2703-2351 BETA AVE BURNABY V5C 0M2	031-258-727	STRATA LOT 509, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V
13.	2704-2351 BETA AVE BURNABY V5C 0M2	031-258-735	STRATA LOT 510, PLAN EPS6882, DISTRICT LOT 124, GROUP 1, NEW WESTMINSTER LAND DISTRICT, TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM V

14. Notwithstanding any provision of this Order, nothing in this Order, the Definitive Documents, or the Interim Financing Obligations affects Coast Capital Savings Federal Credit Union's security over, or interest, in the Exempt Lots and related personal property, or attaches to the Exempt Lots and related personal property, including, without limitation, the Monitor's Powers (as defined below), the stays of proceedings, or the Charges (as defined below).

15. Nothing in this Order, including paragraphs 10 and 12, shall: (i) empower the Respondents (or any of them) to carry on any business which the Respondents (or any of them) are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory

body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Respondents (or any of them).

## **NO INTERFERENCE WITH RIGHTS**

16. During the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate, rescind or cease to perform any right, renewal right, contract, agreement, licence, authorization or permit in favour of or held by the Respondents (or any of them), except with the prior written consent of the Monitor or leave of this Court.

## **CONTINUATION OF SERVICES**

17. During the Stay Period, all Persons having oral or written agreements or arrangements with the Respondents (or any of them), including, without limitation, all supply arrangements pursuant to purchase orders and historical supply practices, or mandates under an enactment for the supply or license of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefit services, security services, insurance, transportation services, maintenance services, construction and construction management services, utility or other services to the Business or the Respondents (or any of them), are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply or license of such goods or services as may be required by any of the Respondents or exercising any other remedy provided under the agreements or arrangements, and that each of the Respondents 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 Order Date are paid by such Respondent in accordance with normal payment practices of such Respondent or such other practices as may be agreed upon by the supplier or service provider and the Monitor, or as may be ordered by this Court.

## **NON-DEROGATION OF RIGHTS**

18. Notwithstanding any provision 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 Order Date, nor shall any Person be under any obligation to advance or re-advance any monies or otherwise extend any credit to the Respondents (or any of them) on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

## **NO PRE-FILING VERSUS POST-FILING SET-OFF**

19. No Person shall be entitled to set off any amounts that (i) are or may become due to the Respondents (or any of them) in respect of obligations arising prior to the Order Date with any amounts that are or may become due from the Respondents (or any of them) in respect of obligations arising on or after the Order Date, or (ii) are or may become due from any of the Respondents (or any of them) in respect of obligations arising prior to Order Date with any amounts that are or may become due the Respondents (or any of them) in respect of obligations arising on or after the Order Date, in each case without the prior written consent of the Monitor or further Order of this Court.

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

20. During the Stay Period, and except as permitted by Section 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of the Respondents (or any of them) with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Respondents (or any of them) 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 Respondents, if one is filed, is sanctioned by this Court or is refused by the creditors of the Respondents or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of the Respondents (or any of them) that might otherwise be barred or extinguished by the effluxion of

time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.

#### **APPOINTMENT OF MONITOR AND MONITOR'S POWERS**

21. KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Business and financial affairs of the Respondents with the powers and obligations set out in the CCAA or set forth herein, and that the Respondents and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Respondents (or any of them) 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. For certainty, notwithstanding any other provision of this Order, the Monitor and each of its employees, advisors and other representatives acting in such capacities shall have ~~no~~ <sup>no</sup> duties or obligations under this Order, the CCAA or applicable law, or incur any liability, of any nature or kind, and the Monitor's Powers shall not extend to nor apply, in respect of the Exempt Lots.

22. The Monitor, in addition to its prescribed rights and obligations under the CCAA and applicable law, is hereby directed and empowered to:

- (a) monitor the Respondents' receipts and disbursements, the Business and dealings with the Property, and implement such measures and controls as the Monitor deems reasonably necessary to monitor the Respondents' receipts and disbursements, the Business and dealings with the Property;
- (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 these proceedings;
- (c) assist in the dissemination to the Interim Lender and its counsel of financial and other information as agreed to between the Monitor and the Interim Lender, which may be used in these proceedings including reporting on a basis to be agreed with the Interim Lender;

- (d) prepare the Respondents' cash flow statements, including such reporting as may be required by the Interim Lender, which information shall be delivered to the Interim Lender and its counsel on a periodic basis, or as otherwise agreed to by the Interim Lender;
- (e) 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 Respondents (collectively, the "**Books and Records**"), to the extent that is necessary to adequately assess the Respondents' Business and financial affairs or to perform its duties arising under this Order;
- (f) 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; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

23. In addition to the powers and duties of the Monitor set out in paragraph 22 of this Order, the CCAA and applicable law, the Monitor, for and on behalf of and in the name of the Respondents, is hereby authorized and empowered, but not required, to exercise any powers which may be properly exercised by a board of directors or any officers of the Respondents (or any of them), as the Monitor deems appropriate, including without limitation to:

- (a) perform any and all actions or take any steps, and execute, assign, issue and endorse all agreements, instructions, documents and writings, for and on behalf of, and in the name of, the Respondents (or any of them), in order to facilitate the performance of any or all of the Respondents' powers or obligations under this Order, any other Order of this Court or otherwise, and to carry out the Monitor's duties under this Order or any other Order of this Court in these proceedings;
- (b) execute administrative filings as may be required for and on behalf of each of the Respondents;

- (c) take control of the Respondents' existing accounts and the funds credited thereto or deposited therein in such manner as the Monitor, in its sole discretion, deems necessary or appropriate, including, without limitation, transferring any funds received into such Accounts to accounts held in the name of the Monitor, effecting any disbursement from the Accounts permitted by this Order or any other Order of this Court in these proceedings, and adding or removing any Persons having signing authority with respect to any Account or directing the closing of any Account, provided that nothing in this Order shall create any obligation or liability on the part of the Monitor in respect of any amounts owing by the Respondents in connection with any of the Accounts;
- (d) engage, retain, or terminate or cause the Respondents (or any of them) to engage, retain or terminate the services of any officer, employee, consultant, agent, representative, advisor, construction manager, project manager, contractor, subcontractor, trade, engineer, quantity surveyor, appraiser, real estate broker, expert, auditor, accountant, manager or other Persons or entities from time to time on whatever basis, including, without limitation, on a temporary basis, as the Monitor deems necessary or appropriate to assist with the exercise of its powers and duties or those of the Respondents or to facilitate or assist in the Restructuring, the continuation of the Respondents' Business, bringing the Property or any part thereof into compliance with applicable laws and building codes, the preservation, protection or maintenance of the Property and the Business or any part thereof. For greater certainty, any such officer, employee, consultant, agent, representative, advisor, construction manager, project manager, contractor, subcontractor, trade, engineer, quantity surveyor, appraiser, real estate broker, expert, auditor, accountant, manager or other Persons or entities engaged or retained pursuant to this paragraph 23(d) shall thereafter be deemed to be Assistants under this Order;
- (e) conduct, supervise and direct the continuation or commencement of any process or effort to collect, preserve or recover any Property or other assets of the Respondents (or any of them), including, without limitation, any accounts receivable or cash,



and to market, sell and/or dispose of such Property or other assets in accordance with this Order, any other Order of this Court in these proceedings and the CCAA;

- (f) meet and consult with the current or former management of the Respondents (or any of them) and/or their affiliates, or any of their respective advisors, with respect to carrying out its powers and obligations under this Order or any other Order of this Court in these proceedings;
- (g) disclaim, in accordance with the CCAA, any contracts of the Respondents (or any of them);
- (h) perform or cause the Respondents (or any of them) to perform such other functions or duties, and enter into or cause the Respondents (or any of them) to enter into any agreements or incur any obligations, as the Monitor considers necessary or desirable in order to facilitate or assist in the Restructuring, including, without limitation, the realization and/or sale of all or any part of the Respondents' Property in accordance with this Order, any other Order of this Court in these proceedings and the CCAA (including the sale and closing of any or all parts of the Property comprising the Brentwood Project and the sale or assignment of the exclusive use of any and all parking stalls and/or storage lockers, in each case, in the ordinary course of Business), the collection and distribution of any net proceeds of the Property (the "**Proceeds**"), the construction, maintenance, completion or delivery of any strata lots, development projects, including the Brentwood Project, or properties owned by the Respondents, the continuation of the Respondents' Business, or any other related activities;
- (i) exercise any rights or powers of the Respondents (or any of them), including, without limitation, any contractual, shareholder, partnership, or joint venture rights or powers of the Respondents (or any of them) and/or any right or power of the Respondents set out in this Order;



- (j) initiate, defend, continue, settle or compromise any and all Proceedings now pending or hereafter instituted with respect to the Respondents (or any of them), any of the Property or Proceeds, including such appeals or applications for judicial review in respect of any order or judgment pronounced in any such Proceeding;
- (k) deal with any lien claims, that have been or may be registered, as the case may be, or which arise in respect of the Property, including any part or parts thereof and, with the approval of this Court, to make any required distribution(s) to any contractor or subcontractor of the Respondents (or any of them);
- (l) apply for permits, licenses, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Monitor, in the name of the Respondents (or any of them);
- (m) deal with any taxing or regulatory authority, including to execute any appointment or authorization form on behalf of the Respondents that any taxing or regulatory authority may require, in order to confirm the appointment of an authorized representative of the Respondents (or any of them), which may be a representative of the Monitor, for such purposes;
- (n) claim any and all insurance proceeds or refunds or tax refunds to which any of the Respondents is entitled on behalf of such Respondent;
- (o) file, or take such actions necessary for the preparation and filing of, on behalf of and in the name of the Respondents (or any of them), (i) any tax returns, and (ii) the Respondents' employee-related remittances, T4 statements and records of employment for the Respondents' former employees, in either case, based solely upon the information in the Books and Records and on the basis that the Monitor shall incur no liability or obligation to any person with respect to such returns, remittances, statements, records or other documents;

- (p) cause the Respondents (or any of them) to perform such functions or duties as the Monitor considers necessary or desirable in order to facilitate or assist the Respondents in dealing with the Property and the Business or any part thereof, the Restructuring and the Proceeds, or preserving and protecting the Property and the Business or any part thereof;
- (q) subject to paragraph 11, cause the Respondents (or any of them) to take such steps as the Monitor determines may be reasonably necessary or appropriate to comply with REDMA;
- (r) apply to this Court for any orders necessary or advisable to carry out its powers and obligations under this Order or any other Order of this Court granted in these proceedings, including, without limitation, for (i) approval of the distribution and/or allocation of the Proceeds, (ii) any vesting or other orders the Monitor deems necessary or desirable to convey the Property or any part thereof, and (iii) advice and directions with respect to any matter; and
- (s) take any steps reasonably incidental to the exercise by the Monitor of the powers listed above or the performance of any statutory obligations,

(collectively, the “**Monitor’s Powers**”).

24. Notwithstanding anything contained in this Order, where the Monitor exercises any of the Monitor’s Powers, it shall be the sole Person authorized to exercise such powers, to the exclusion of all other Persons, and no director or officer of the Respondents (or any of them) shall incur any liability for any decisions or actions of the Monitor acting under such authority.

25. Notwithstanding anything contained in this Order, the Monitor is not and shall not be deemed to be a director, officer or employee of the Respondents (or any of them).

26. Notwithstanding anything contained in this Order, the Monitor shall not take possession of the Property or Business and shall not, by fulfilling its obligations hereunder, or by inadvertence

in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession of the Business or Property, or any part thereof.

27. Subject to the employees' right to terminate their employment, all employees of the Respondents (or any of them) shall remain the employees of the applicable Respondent until such time as the Monitor, on the applicable Respondent's behalf, may terminate the employment of such employees. The Monitor shall not be liable for any employee-related liabilities of the Respondents (or any of them), including, without limitation, any successor employer liabilities as provided for in Section 11.8(1) of the CCAA or Section 14.06(1.2) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "**BIA**"). Nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever, and the Monitor shall not be liable for any employee-related liabilities including, without limitation, wages, severance pay, termination pay, vacation pay, pension or benefits amounts relating to any employees that the Monitor may hire in accordance with the terms and conditions of such employment by the Monitor.

28. Nothing herein contained shall require or allow 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 *Fisheries Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* and regulations thereunder and any other provincial or federal equivalent thereof (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. For greater certainty, 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.

29. The Monitor shall provide any creditor of the Respondents (or any of them) with information provided by the Respondents 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 deems to be confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor may agree.

30. In addition to the rights and protections afforded the Monitor under the CCAA, as an officer of this Court or otherwise at law, neither the Monitor nor its employees, advisors or other representatives acting in such capacities shall incur any liability or obligation as a result of the Monitor's appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Without limiting the generality of the foregoing, in exercising any powers granted to it hereunder: (i) neither the Monitor nor its employees, advisors or other representatives acting in such capacities shall incur any liability or obligation under or in connection with the Definitive Documents, any construction management contracts or other agreements, or the performance, actions omissions or negligence by or of any Assistants, and all other persons acting on their behalf, save and except for any gross negligence or wilful misconduct on its part; and (ii) the Monitor shall be entitled to rely on the Books and Records of the Respondents without independent investigation. Nothing in this Order shall derogate from the rights and protections afforded the Monitor by the CCAA, as an officer of this Court or any applicable legislation.

31. Nothing in this Order shall constitute or be deemed to constitute the Monitor as a receiver, assignee, liquidator, administrator, receiver-manager, agent of the creditors, or legal representative of the Respondents (or any of them) or the Property within the meaning of applicable legislation.

#### **ADMINISTRATION CHARGE**

32. The Monitor and counsel to the Monitor shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the Order Date, by the Respondents as part of the cost of these proceedings. The

Respondents are hereby authorized and directed to pay the accounts of the Monitor and counsel to the Monitor on a periodic basis.

33. 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 British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

34. The Monitor and counsel to the Monitor 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 \$500,000, unless permitted by further Order of this Court, as security for their respective 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 which are related to the Respondents’ restructuring. The Administration Charge shall have the priority set out in paragraphs 41 and 43 hereof.

## **INTERIM FINANCING**

35. The Respondents are hereby authorized and empowered to obtain and borrow under an interim credit facility from the Petitioner (in such capacity, the “**Interim Lender**”) in order to finance the Respondents’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such interim credit facility shall not exceed \$18,000,000 under this Order, plus interest, fees and expenses, unless permitted by further Order of this Court.

36. Such interim credit facility shall be on the terms and subject to the conditions set forth in the interim financing credit agreement between the Respondents and the Interim Lender attached as Exhibit “U” to the First Pollack Affidavit (the “**Interim Financing Term Sheet**”), and executed by the Monitor for and on behalf of the Respondents in accordance with the terms of this Order.

37. The Monitor, for and on behalf of the Respondents, is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively with the Interim Financing

Term Sheet, the “**Definitive Documents**”), as are contemplated by the Interim Financing Term Sheet or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Monitor, for and on behalf of the Respondents, is hereby authorized and directed to pay and perform all of the Respondents’ indebtedness, interest, fees, liabilities and obligations to the Interim Lender under and pursuant to any of the Definitive Documents (collectively, the “**Interim Financing Obligations**”) as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

38. The Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the “**Interim Lender’s Charge**”) on the Property as security for the Interim Financing Obligations, which Interim Lender’s Charge shall not exceed the aggregate amount of \$18,000,000, plus interest, fees, and expenses, unless permitted by further Order of this Court. The Interim Lender’s Charge shall not secure an obligation that exists before this Order is made. The Interim Lender’s Charge shall have the priority set out in paragraphs 41 and 43 hereof.

39. Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under any of the Definitive Documents or the Interim Lender’s Charge, the Interim Lender, upon five (5) business days’ notice to the Monitor, may exercise any and all of its rights and remedies against the Respondents or the Property under or pursuant to any of the Definitive Documents and the Interim Lender’s Charge, including without limitation, to cease making advances to the Respondents and set off and/or consolidate any amounts owing by the Interim Lender to the Respondents (or any of them) against the obligations of the Respondents to the Interim Lender under any of the Definitive Documents or the Interim 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

Respondents (or any of them) and for the appointment of a trustee in bankruptcy of the Respondents (or any of them); and

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

40. Unless agreed to by the Interim Lender, the Interim Lender, in such capacity, shall be treated as unaffected in any plan of arrangement or compromise filed by the Monitor, for and on behalf of the Respondents, under the CCAA, or any proposal filed by the Monitor, for and on behalf of the Respondents, under the BIA, with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF THE CHARGES CREATED BY THIS ORDER**

41. The priorities of the Administration Charge and the Interim Lender's Charge (together, the "Charges"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000); and

Second – Interim Lender's Charge (to the maximum amount of \$18,000,000, plus interest, fees and expenses).

42. Any security documentation evidencing, or the filing, registration or perfection of, the Charges shall not be required, and that the Charges shall be effective as against the Property, save and except for the Exempt Lots, and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.

43. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property, save and except for the Exempt Lots, and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, "Encumbrances"), in favour of any Person, save and except those claims contemplated by Section 11.8(8) of the CCAA.

44. Except as otherwise expressly provided herein, or as may be approved by this Court, the Respondents shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to, or *pari passu* with any of the Charges, unless the Respondents obtain the prior written consent of the Monitor and the beneficiaries of the Charges.

45. The Charges, and the Definitive Documents 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 Interim Lender 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 the 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, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Respondents (or any of them); 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 any of the Definitive Documents shall create or be deemed to constitute a breach by the Respondents (or any of them) of any Agreement to which the Respondents (or any of them) are 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 Monitor, for and on behalf of the Respondents, entering into the Interim Financing Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Respondents (or any of them) pursuant to this Order 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.



46. Any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Respondents' interest in such real property leases.

## **SERVICE AND NOTICE**

47. The Monitor shall (i) without delay, publish in the *Globe and Mail* (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Respondents of more than \$1,000, and (C) 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, provided that the Monitor shall not make the claims, names and addresses of the individuals who are creditors publicly available.

48. The Respondents and the Monitor are 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 (including by email) to the Respondents' creditors or other interested parties at their respective addresses as last shown on the records of the Respondents 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. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of Section 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

49. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the "**Service List**") to be maintained by the Monitor. The Monitor shall post and maintain an up-to-date form of the Service List on its website at: <https://www.ksvadvisory.com/experience/case/beta-view-homes> (the "**Monitor's Website**").

50. Any party to these proceedings may serve any court materials in these proceedings by emailing 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 shall post a copy of all prescribed materials on the Monitor's Website.

51. Notwithstanding paragraphs 48 and 50 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia, Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the Federal Crown, the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown.

**GENERAL**

52. The style of cause in these proceedings shall be amended to read as follows:

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

**BETWEEN:**

**KINGSETT MORTGAGE CORPORATION**

**PETITIONER**

**AND**

**LUMINA ECLIPSE LIMITED PARTNERSHIP**

**BETA VIEW HOMES LTD.**

**and**

**LUMINA ECLIPSE GP LTD.**

**RESPONDENTS**

53. Neither the Petitioner nor the Monitor shall be required to amend the Petition filed in these proceedings or to serve copies of the Petition or other filed materials on Lumina Eclipse GP Ltd.

54. Notwithstanding paragraph 61 of this Order, each of the Monitor or the Petitioner, including in its capacity as the Interim Lender, may from time to time apply to this Court for directions in the discharge of their powers and duties hereunder.

55. 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 Respondents (or any of them), the Business or the Property.

56. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Respondents 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 Respondents and the Monitor and their respective agents in carrying out the terms of this Order.

57. The Monitor, for and on behalf of each of the Respondents, be at liberty and is hereby authorized 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 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, including acting as a foreign representative of each of the Respondents to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C., §§ 101 – 1532, as amended.

58. The Monitor, for and on behalf of the Respondents (or any of them) may (subject to the provisions of the CCAA and the BIA), at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if and when the Monitor, for and on behalf of the Respondents (or any of them), determines that such a filing is appropriate.

59. The Monitor, for and on behalf of the Respondents, is hereby at liberty to apply for such further interim or interlocutory relief as it deems advisable within the time limited for Persons to file and serve Responses to the Petition.

60. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.

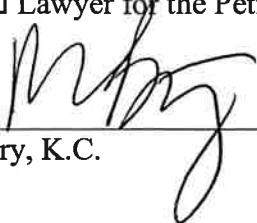
61. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order, provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in herein with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

62. Endorsement of this Order by counsel appearing on this application, other than counsel for the Respondents is hereby dispensed with.

63. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the date of this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

\_\_\_\_\_  
Signature of  
☐ Party ☒ Lawyer for the Petitioner


  
\_\_\_\_\_  
Mary Buttery, K.C.

\_\_\_\_\_  
Signature of  
☐ Party ☐ Lawyer for <name of party(ies)>

\_\_\_\_\_  
Name

  
MF

  
BY THE COURT

  
\_\_\_\_\_  
REGISTRAR

Form  
CHECKED  
MF

**Schedule "A"**

**Appearance List**

<b>NAME</b>	<b>APPEARING FOR</b>
Mary Buttery, K.C. Lucas Hodgson	KingSett Mortgage Corporation
Annalise MacDonald	Coast Capital Savings Federal Credit Union
Bryan Gibbons Candace Formosa	Westmount West Services Inc.
David Gruber	KSV Restructuring Inc.

# **APPENDIX B**

**[ATTACHED]**

April 16, 2025

KSV Restructuring Inc.  
Suite 1165, 324 – 8<sup>th</sup> Ave SW, Box 129  
Calgary, Alberta  
T2P 2Z2

Attn: Noah Goldstein

Dear Sirs:

Re: **Marketing for the sale of the strata lots in the development known as “Lumina Eclipse”  
located at 2381 Beta Avenue, Burnaby, BC**

---

This letter (this “**Agreement**”) confirms the agreement between Rennie Marketing Systems, by its partners Rennie Project Marketing Corporation and 541823 B.C. Ltd. (collectively, “**RMS**”), Rennie & Associates Realty Ltd. (“**R&A**” and together with RMS, “**Rennie**”) and KSV Restructuring Inc., in its capacity as the Court-appointed monitor (in such capacity, the “**Monitor**”) of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd.

NOW THEREFORE, in consideration of the premises, covenants and agreements set forth herein, the sum of Ten Dollars (\$10.00) now paid by each party to the other, and other good and valuable consideration, the receipt and sufficiency of which each party hereby acknowledges, the parties covenant and agree as follows:

1. **Definitions**

1.1 For the purpose of this Agreement, the following words and phrases not defined in the recitals hereto will have the following meanings:

- (a) “**Advertising and Promotional Expenses**” means all costs and expenses relating to the marketing, advertising and promoting of the Project, including, but not limited to, expenses incurred in connection with web design, preparation and publishing of advertisements, brochures and flyers, print media costs and bulk mailing costs;
- (b) “**affiliate**” of a person (such person referred to in this definition as the “**Principal**”) means:
  - (i) a person who directly or indirectly controls or is directly or indirectly controlled by the Principal or by the same person or persons who directly or indirectly control the Principal, and for the purposes of this definition an entity is “controlled” by a person or persons who have the authority to make decisions on behalf of the entity, or the right to exercise votes that are sufficient, if exercised, to elect or appoint the person or a majority of the persons who have the authority to make decisions on behalf of the entity and “controlling interest” is the interest held by such person or persons, or
  - (ii) any person which is not acting at “arm’s-length” (as that term is defined in the *Income Tax Act* (Canada)) to the Principal, or



- (iii) any person which is an “affiliate” of the person as defined in the *Business Corporations Act* (British Columbia);
- (c) **“Amended Disclosure Statement”** means an amendment to disclosure statement in respect of the Project to be filed by the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd. with the BCFSa pursuant to *REDMA*;
- (d) **“Approval and Vesting Order”** means an order of the Court to be sought by the Monitor in the CCAA Proceedings, *inter alia*, authorizing each applicable transaction for the Inventory Units and vesting in the applicable purchasers thereof all of Lumina Eclipse Limited Partnership’s, Beta View Homes Ltd.’s and Lumina Eclipse GP Ltd.’s right, title and interest in and to the Inventory Units;
- (e) **“BCFSA”** means the BC Financial Services Authority, as such authority may be renamed or replaced from time to time;
- (f) **“CCAA”** means the *Companies’ Creditors Arrangement Act* (Canada), as may be amended or replaced from time to time;
- (g) **“CCAA Proceedings”** means the proceedings commenced by KingSett Mortgage Corporation under the CCAA in respect of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd. bearing File No. S-250121;
- (h) **“Commission”** means the amount payable by the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., to Rennie for the sale of each Inventory Unit calculated in accordance with section 4.1;
- (i) **“Completion Date”** means, in respect of an Inventory Unit, the date upon which the purchase and sale of an Inventory Unit completes as evidenced by the release of the purchase price proceeds to the Monitor or as directed by it and the issuance of a certificate of the Monitor, certifying, among other things, that the transaction has been completed to the satisfaction of the Monitor;
- (j) **“Confidential Information”** means information, whether written, oral, electronic or otherwise, and includes records, plans or designs, trade secrets, proprietary “know how” of either party which is supplied orally or in writing by or on behalf of the disclosing party, and which is identified orally or in writing at the time of its disclosure as Confidential Information, but does not include Inventory Unit pricing information save for each Minimum Square Foot Price;
- (k) **“Contract”** means a purchase and sale agreement between a purchaser and the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and/or Lumina Eclipse GP Ltd., as applicable, pursuant to which a purchaser agrees to purchase an Inventory Unit;
- (l) **“Court”** means the Supreme Court of British Columbia;
- (m) **“Deeming Conditions”** has the meaning as set out in section 4.2;

- (n) **"Filing Date"** means the date that the Amended Disclosure Statement is filed with the BCFSa pursuant to *REDMA*;
- (o) **"FINTRAC Records"** means all documents, information and records collected, produced or maintained by Rennie as required by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) in connection with Rennie performing the Marketing Services;
- (p) **"FINTRAC Requirements"** means all of the following as required by the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) from time to time: (i) identifying purchasers of Inventory Units and third parties, (ii) collecting, producing and maintaining receipts of funds, large cash transactions, suspicious transactions and other FINTRAC Records, (iii) reporting to FINTRAC and (iv) keeping records of the foregoing;
- (q) **"Holdover Period"** has the meaning set out in section 8.9;
- (r) **"Initial Order"** means the order of the Court granted in the CCAA Proceedings on January 8, 2025, as amended and restated on January 16, 2025, and as may be further amended and/or restated from time to time;
- (s) **"Inventory Unit"** means a residential strata lot marketed for sale within the Project, including any residential strata lot within the Project that is identified by the Monitor as having been sold prior to the date of this Agreement pursuant to a Contract that has been terminated, rescinded or cancelled during the Term, and **"Inventory Units"** means some or all of such residential strata lots within the Project, as the context requires; provided that, the definition shall exclude (i) all non-residential strata lots and all rental residential units (whether created as strata lots or otherwise) within the Project and (ii) any residential strata lot within the Project that was sold prior to the date of this Agreement pursuant to a Contract, which Contract has not been terminated, rescinded or cancelled prior to or on the Completion Date of such residential strata lot;
- (t) **"KingSett Transaction"** has the meaning set out in section 4.1;
- (u) **"Listing Team"** has the meaning set out in section 6.1;
- (v) **"Marketing Services"** has the meaning set out in section 6.1;
- (w) **"Minimum Square Foot Price"** means the applicable minimum price per square foot that an Inventory Unit may be sold for in the Sale Process, as set out in the report prepared by Rennie delivered to the Monitor dated April 8, 2025;
- (x) **"Monitor"** has the meaning set out on page 1;
- (y) **"Monitor Indemnified Party"** has the meaning set out in section 10.1;
- (z) **"Net Contract Sales Price"** means the actual agreed upon purchase price of an Inventory Unit set out in the applicable fully executed Contract, excluding or net of applicable taxes, but inclusive of amounts paid for parking stalls and storage lockers, less any amounts for decorating allowances and other discounts or cash incentives (being any

cash credit given to a purchaser by the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and/or Lumina Eclipse GP Ltd., as applicable, that explicitly reduces the purchase price of an Inventory Unit or is to be shown as a cash credit in the purchaser's favour on the statement of adjustments in respect of the purchase and sale of the Inventory Unit);

- (aa) **"New Agent"** has the meaning set out in section 8.9;
- (bb) **"New Party"** has the meaning set out in section 8.5;
- (cc) **"Outside Agent"** means any real estate agent or broker that represents a client/buyer in respect of the purchase by that client/buyer of an Inventory Unit including any Rennie licensees except for those who are assigned by Rennie as designated agents to the Listing Team;
- (dd) **"person"** means an individual, corporation, body corporate, partnership, joint venture, association, trust or unincorporated organization or any trustee, executor, administrator or other legal representative;
- (ee) **"Presentation Centre"** means the presentation centre for the Project which is to consist of a general presentation area, an administrative office and a display suite within an Inventory Unit;
- (ff) **"Prohibition Act"** has the meaning set out in 5.4(c);
- (gg) **"Prohibition Legislation"** has the meaning set out in 5.4(c)
- (hh) **"Project"** means only the residential strata lots to be established in the development known as "Lumina Eclipse";
- (ii) **"R&A"** has the meaning set out on page 1;
- (jj) **"REDMA"** means the *Real Estate Development Marketing Act* (British Columbia), as it may be amended or replaced from time to time;
- (kk) **"Reimbursable Costs"** has the meaning set out in section 5.4;
- (ll) **"Rennie"** has the meaning set out on page 1;
- (mm) **"Rennie Indemnified Party"** has the meaning set out in section 7.1(j);
- (nn) **"RMS"** has the meaning set out on page 1;
- (oo) **"Sale Conditions"** has the meaning set out in section 6.1;
- (pp) **"Sale Process"** means the sale process in respect of the Inventory Units to be proposed by the Monitor in the CCAA Proceedings;
- (qq) **"Sale Process Order"** means an order of the Court to be sought by the Monitor in the CCAA Proceedings, *inter alia*, approving this Agreement and the Sale Process, and

authorizing the Monitor to make the payments contemplated under this Agreement to Rennie when earned and payable in accordance with the terms of this Agreement;

- (rr) **“Supporting Documents”** has the meaning as set out in the Contract;
- (ss) **“Term”** has the meaning set out in section 8.1;
- (tt) **“Termination Date”** means the earlier of the last day of the Term or, in the event of earlier termination of the appointment of Rennie, the date of termination specified in accordance with sections 8.2, 8.3, 8.4, or 8.6, as applicable; and
- (uu) **“Transfer”** has the meaning set out in section 8.5

## 2. **Appointment of Rennie**

2.1 Subject to approval of this Agreement pursuant the Sale Process Order, the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., hereby appoints Rennie to provide and perform the Marketing Services, and Rennie accepts such appointment, on the terms and subject to the conditions set out in this Agreement.

## 3. **Authority of the Monitor**

3.1 Subject to the remainder of this section 3.1, the Monitor represents and warrants that it has been duly appointed as monitor of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., with enhanced powers, pursuant to the Initial Order, and has the authority and power to enter into this Agreement and to authorize Rennie, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., to undertake marketing activities as outlined herein; provided, however, that this Agreement, the engagement of Rennie hereunder and the sale of any Inventory Unit is subject to approval of the Court. Notwithstanding the foregoing, Rennie acknowledges and agrees that the Monitor has only limited knowledge about the Inventory Units, and cannot confirm (i) any third party interests or claims with respect to the Inventory Units such as rights of first refusal, options, easements, mortgages, encumbrances or otherwise concerning the Inventory Units, which may affect the sale of the Inventory Units, and/or (ii) if there are any defects that are hidden, not visible, or discoverable through a reasonable inspection of the Inventory Units that may render the Inventory Units dangerous or potentially dangerous or may affect.

## 4. **Commission**

4.1 In consideration of the performance of the Marketing Services by Rennie, the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., shall pay to Rennie, subject to sections 4.2 and 4.3, a Commission of 3.8% of the Net Contract Sales Price, inclusive of the applicable Outside Agent’s commission, plus all applicable taxes payable on the Commission, for each and every Inventory Unit sold in the Project during the Term, provided that, notwithstanding any provision of this Agreement, no Commission shall be payable on any Inventory Units sold: (i) as part of one or more bulk sale transactions identified, solicited or negotiated by KingSett Mortgage Corporation and/or any of its affiliates (each, a **“KingSett Transaction”**); or (ii) below the applicable Minimum Square Foot Price, except as such Minimum Square Foot Price is reduced in the Monitor’s discretion during and in accordance with the Sale Process. Any Commission shall be split 1.9% in favour of Rennie and 1.9% in favour of the Outside Agent, and Rennie hereby agrees to forthwith pay

1.9% of the Commission to the Outside Agent upon receipt of such Commission. An Outside Agent may be employed by Rennie so long as they are not a member of the Listing Team. A member of the Listing Team may not represent a purchaser of an Inventory Unit. Other than the Listing Team, all other Rennie agents shall be treated as Outside Agents and shall not be provided with any Confidential Information in respect of the Inventory Units and shall be compensated pursuant to this Agreement as an Outside Agent.

4.2 For the purposes of this Agreement, a Contract will be deemed to be a “firm” Contract when:

- (a) the purchaser and the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and/or Lumina Eclipse GP Ltd., as applicable, have signed such Contract for the Inventory Unit;
- (b) the purchaser’s rescission period pursuant to Section 21 of *REDMA* (as may be amended from time to time) has expired and the purchaser has not exercised its right to rescind the Contract during such rescission period pursuant to *REDMA*;
- (c) the Monitor is in receipt of the deposit or deposits in an aggregate amount of not less than 10% of the purchase price payable by the purchaser in accordance with the terms of the Contract, unless the receipt of a deposit has been waived by the Monitor; and
- (d) any conditions precedent in favour of the purchaser, the Monitor, or the purchaser and the Monitor jointly, to the completion of the purchase and sale of the Inventory Unit have been satisfied, removed or waived by all parties in whose favour any such conditions precedent have been written,

(collectively, the “**Deeming Conditions**”).

4.3 Subject to sections 4.1 and 4.2, including, without limitation, the satisfaction of all of the Deeming Conditions therein, Rennie will be deemed to have earned a Commission and, subject to the Approval and Vesting Order, the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., will pay Commission to Rennie in respect of any Inventory Unit as follows: 100% of the Commission (plus all applicable GST), on the Completion Date payable out of the sales proceeds for such Inventory Unit, provided that Rennie has submitted an invoice satisfactory to the Monitor in advance thereof, and the Monitor shall include such balance on the statement of adjustments prepared for the completion of such Inventory Unit.

4.4 Rennie will remit all invoices to the Monitor by the 25<sup>th</sup> day of each calendar month. Such invoices, with the exception of those relating to Commission, will be due and payable by the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., by the last day of the following calendar month. The Monitor will pay, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., Rennie a finance charge of 2% per month (24% per year), accruing on a straight-line basis, of the amount outstanding under any invoice that is not paid in full within 90 days of becoming due.

## 5. Fees and Expenses

5.1 Upon receipt of an invoice, either from a third-party vendor retained with the prior written consent of the Monitor or from Rennie, for Advertising and Promotional Expenses, the Monitor shall, for

and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., be responsible for and shall promptly pay all such Advertising and Promotional Expenses directly to such third-party vendor within five (5) business days of receipt or Rennie in accordance with section 4.4, as applicable, provided, in each case, that such Advertising and Promotional Expenses have previously been approved by the Monitor as part of the marketing budget pursuant to section 6.1. For greater certainty, Rennie shall have no obligation to pay to third-party vendors retained with the prior written consent of the Monitor, any Advertising and Promotional Expenses on the Monitor's behalf regardless of whether any third-party invoices are addressed or delivered to Rennie. To the extent possible, Rennie will request that third-party vendors retained with the prior written consent of the Monitor issue invoices in the name of the Monitor or if directed by the Monitor, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and/or Lumina Eclipse GP Ltd., and directly provide such invoices to the Monitor. If Rennie receives any invoices for Advertising and Promotional Expenses, Rennie will promptly deliver to the Monitor all such invoices for payment.

5.2 Notwithstanding section 5.1, Rennie may (but is not obligated to) pay invoiced Advertising and Promotional Expenses up to a limit of \$500 to third-party vendors retained with the prior written consent of the Monitor. If Rennie pays any such invoiced Advertising and Promotional Expenses, the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., will reimburse Rennie for such invoiced and paid Advertising and Promotional Expenses promptly in accordance with section 4.4, provided that such expenses have been approved by the Monitor as part of the marketing budget pursuant to section 6.1. Without limiting the generality of the foregoing, the Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., shall reimburse Rennie for any Advertising and Promotional Expenses directly incurred by Rennie in accordance with this Agreement.

5.3 The Monitor will, if applicable, pay all MLS fees in relation to the Project, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., provided that such MLS fees have been previously approved by the Monitor.

5.4 The Monitor, for and on behalf of, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., shall reimburse Rennie for the following costs and expenses, provided, in each case, that such costs and/or expenses have been approved by the Monitor as part of the marketing budget pursuant to section 6.1:

- (a) all approved Advertising and Promotional Expenses incurred by Rennie or paid, with the prior written consent of the Monitor, by Rennie on behalf of the Monitor;
- (b) the documented and out-of-pocket cost of staffing sales coordinators at the Presentation Centre;
- (c) any documented and out-of-pocket costs and expenses incurred by Rennie in connection with any contracts entered into with any third parties for, on behalf and with the prior written consent of, the Monitor, including without limitation any contracts relating to the marketing and sales of Inventory Units overseas which will be compliant with the *Prohibition on the Purchase of Residential Property by Non-Canadians Act* (Canada), as may be amended from time to time (the "**Prohibition Act**") and the *Prohibition on the Purchase of Residential Property by Non-Canadians*

*Regulations*, SOR 2022-250, as may be amended from time to time (collectively, with the Prohibition Act, the “**Prohibition Legislation**”); and

- (d) such other reasonable documented and out-of-pocket costs and expenses incurred by Rennie in connection with the provision of the Marketing Services,

(collectively, the “**Reimbursable Costs**”).

Subject to section 5.5, all Reimbursable Costs shall be due and payable promptly upon the Monitor’s receipt of the invoice for such Reimbursable Costs in accordance with section 4.4.

5.5 For greater certainty, nothing in this Agreement shall (i) obligate the Monitor to pay any Reimbursable Costs, including any Advertising and Promotional Expenses and any Advertising and Promotional Expenses resulting from a third-party vendor that was not retained with the prior written consent of the Monitor, that, in each case, have not been previously approved by the Monitor, or (ii) authorize Rennie or any of its affiliates or their respective employees, agents or representatives to bind the Monitor, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. or Lumina Eclipse GP Ltd. or execute any documentation on behalf of the Monitor or Lumina Eclipse Limited Partnership, Beta View Homes Ltd. or Lumina Eclipse GP Ltd.

## **6. Sales of Inventory Units and Marketing Services**

6.1 Subject to the terms of this Agreement, Rennie shall manage and carry out, and shall be authorized to manage and carry out, the marketing and the sales of the Inventory Units (the “**Marketing Services**”), including, subject to the approval of the Monitor from time to time, the following:

- (a) collaborate and prepare reports for the Monitor on Project positioning;
- (b) develop and prepare a strategy for the sale of the Inventory Units;
- (c) prepare promotional details and materials, provided that all such promotional details and materials shall be subject to the prior approval of the Monitor and shall be published and distributed by Rennie;
- (d) only list Inventory Units for sale when requested in writing by the Monitor to do so. The Monitor will advise Rennie in writing when and which Inventory Units to list for sale and such determination shall be in the sole, absolute and unfettered discretion of the Monitor;
- (e) diligently market the Inventory Units listed for sale and use commercially reasonable efforts to sell such Inventory Units, subject to and in accordance with the Sale Conditions;
- (f) pursuant to the Monitor’s written instructions, list one or more of the Inventory Units for sale, in a manner agreed to with the Monitor, on MLS for a price to be stipulated by the Monitor, in consultation with Rennie;
- (g) if required in the Monitor’s sole discretion, stage and clean the Inventory Units to be listed for sale;



- (h) conduct open houses for the Inventory Units;
- (i) cooperate with all Outside Agents;
- (j) ensure that there is continuity in the assignment of individual staff members and agents to the work performed by Rennie under the terms of this Agreement. In particular, Rennie agrees to ensure that individual staff members assigned to the Inventory Units (collectively the “**Listing Team**”), perform work in connection with Rennie’s engagement, and will each be available and will devote the time required to undertake the engagement contemplated herein;
- (k) if required in the Monitor’s sole discretion, assist in the selection and coordination of key consultants;
- (l) send an email and newsletter in form and substance satisfactory to the Monitor regarding the Sale Process, the Project and the opportunity to purchase the Inventory Units to Rennie’s proprietary database, including industry contracts, potential purchasers, and the brokerage community;
- (m) use the proprietary customer databases of Rennie’s agents to introduce their prospective clients to the Project;
- (n) facilitate contracts between the Monitor, for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and/or Lumina Eclipse GP Ltd., as applicable, and purchasers of the Inventory Units;
- (o) subject to the instructions of the Monitor, to assist the Monitor in negotiating binding agreements subject to Court approval with those parties identified by the Monitor. For greater certainty, only the Monitor shall have authority to accept offers and Rennie shall not have any authority whatsoever to enter into any agreement of purchase and sale or other contract on behalf of the Monitor, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. or Lumina Eclipse GP Ltd. or to otherwise bind the Monitor, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. or Lumina Eclipse GP Ltd. in any manner whatsoever;
- (p) continue to assist the Monitor in connection with the sale of the Inventory Units and, to the extent required by the Monitor, seeking Court approval, after the execution of a binding agreement of purchase and sale with respect to an Inventory Unit until such sale has been successfully concluded;
- (q) unless the Monitor’s written consent is provided in advance, to act solely for the benefit of the Monitor, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd. in connection with the marketing and sale of the Inventory Units and not to have any direct or indirect interest in any purchaser or potential purchaser of an Inventory Unit, and not to receive any payment or other benefit from a purchaser or potential purchaser of an Inventory Unit except as expressly contemplated by this Agreement;



- (r) assist with contractual conveyance of Inventory Units, which assistance may include, without limitation, collection of lawyer selections, extension requests and agreements, assignment of parking stalls and storage lockers and distribution of completion notices;
- (s) assist the Monitor in preparing, and cause to be printed, all disclosure statements, disclosure statement receipts, forms of purchase and sale agreements and other addenda to be used in connection with the sales of Inventory Units, subject to review and approval, on a timely basis, by the Monitor's solicitors;
- (t) provide reports to the Monitor weekly or at such other frequency that may be mutually agreed upon;
- (u) provide data and reporting on the Project through Rennie's dashboard to the Monitor weekly;
- (v) assist in the process of administering the distribution of:
  - (i) disclosure statements and disclosure statement amendments (and receipting thereof);
  - (ii) addendums to Contracts;
  - (iii) deposit collection;
  - (iv) purchaser update communications; and
  - (v) extension requests from purchasers and extension agreements in accordance with the terms provided by the Monitor;
- (w) prepare a marketing budget and marketing timeline outlining the detailed costs, expenses and disbursements in connection with the marketing and sale of the Inventory Units, which marketing budget shall be submitted to the Monitor for its prior approval promptly following the granting of the Sale Process Order;
- (x) promptly respond to all notices and other written communications from the Monitor, purchasers, realtors and lawyers;
- (y) prepare and deliver a monthly competition report to the Monitor;
- (z) assist the Monitor in determining the conditions precedent to the Monitor's acceptance of any offer to purchase an Inventory Unit, including, without limitation, the Minimum Square Foot Price for each Inventory Unit (collectively, the "**Sale Conditions**");
- (aa) carry out, in consultation with the Monitor, the Monitor's, Lumina Eclipse Limited Partnership's, Beta View Homes Ltd.'s and Lumina Eclipse GP Ltd.'s FINTRAC Requirements and provide the Monitor with the FINTRAC Records upon request, provided that none of Rennie, its partners or affiliates or their respective employees, agents or representatives may bind the Monitor, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. or Lumina Eclipse GP Ltd. or execute any documentation on

behalf of the Monitor, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. or Lumina Eclipse GP Ltd.;

- (bb) ensure compliance with *REDMA*, the regulations under *REDMA*, the BCFSAs' requirements and policy statements of the Superintendent of Real Estate, and FINTRAC regulations; and
- (cc) attend to the distribution, execution and collection of all Supporting Documents and certificates from the purchasers of Inventory Units, in the form required by the Monitor, as may be necessary or required by the Monitor to confirm compliance with the Prohibition Legislation.

6.2 Rennie shall provide the Marketing Services in compliance with *REDMA* and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)*.

## **7. Obligations of the Monitor**

7.1 The Monitor shall:

- (a) file one or more applications seeking the granting of the Sale Process Order and the Approval and Vesting Order;
- (b) promptly make all payments when due to Rennie under this Agreement, for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd.;
- (c) promptly respond to all notices, requests for approval (including, without limitation, approval of the marketing budget prepared by Rennie pursuant to 6.1(v) and the Advertising and Promotional Expenses contained therein) and other communications from Rennie;
- (d) review all promotional details and materials and approve same or recommend changes on a timely basis prior to Rennie's use of such promotional details and materials;
- (e) attend to the execution of Contracts, related addenda, notices to purchasers in respect of the satisfaction, removal or waiver of Monitor's conditions precedent in such purchase agreements, and other such matters as appropriate in the circumstances, all on a timely basis, for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and/or Lumina Eclipse GP Ltd., as applicable;
- (f) provide to Rennie all documentation on all transactions relating to the sale of the Inventory Units in a timely manner;
- (g) subject to the Initial Order and any other order of the Court, comply with its applicable obligations under the *REDMA*;
- (h) instruct the Monitor's solicitors to hold all deposits in trust in accordance with the *REDMA* and the *Real Estate Services Act (British Columbia)*, until the Completion Date;

- (i) if the Monitor intends to Transfer the Project to a New Party, use commercially reasonable efforts to enter into an assumption agreement with Rennie and such New Party, whereby the New Party agrees to assume the obligations of the Monitor hereunder and retain Rennie as the marketing manager for the Project effective as of the completion of the Transfer; and
- (j) indemnify, defend and hold Rennie and its partners and their respective officers, directors, members, managers, employees, and representatives (each a “**Rennie Indemnified Party**”) harmless from and against any and all causes of action, claims, costs, damages, demands, expenses, liabilities, losses, and obligations incurred by a Rennie Indemnified Party arising out of or resulting from the failure by the Monitor or its employees, solicitors or representatives to comply with the obligations of the Monitor under the *REDMA*.

## 8. Term, Termination and Periods of Inactivity

8.1 Subject to earlier termination in accordance with section 8.2, 8.3, 8.4 8.4 or 8.6, Rennie’s appointment hereunder shall be for a term (the “**Term**”) commencing on the date of this Agreement as first set out above and ending on the earlier of: (a) the Completion Date of the last Inventory Unit to be sold in the Project and (b) eight (8) months from the Filing Date.

8.2 Either the Monitor or Rennie may terminate Rennie’s appointment hereunder, without penalty or cost and without cause, by delivery of a written notice of termination to all other parties. The Termination Date shall be the day that is thirty (30) calendar days from the date on which the written notice is delivered in accordance with section 16, provided that, if such date is not a business day in the Province of British Columbia, the Termination Date shall be on the first business day thereafter. For greater certainty, the Monitor may terminate either RMS or R&A’s appointment hereunder without terminating both RMS and R&A’s appointment and either RMS or R&A may terminate its appointment hereunder unilaterally without requirement that both RMS and R&A terminate their appointments hereunder.

8.3 Either RMS or R&A, or both, may, in its sole discretion and without prejudice to any other right or remedy that RMS or R&A may have, terminate this Agreement on 48 hours’ written notice to the Monitor if:

- (a) the Monitor fails to make any payment when due, and does not remedy the default within two week after the delivery of a written notice of default by RMS or R&A, or both; or
- (b) the Monitor is in default of any of its other obligations under this Agreement, and does not remedy the default within three weeks after the delivery of a written notice of default by RMS or R&A, or both.

8.4 The Monitor may, in its sole discretion and without prejudice to any other right or remedy that the Monitor may have, terminate this Agreement on 48 hours’ written notice to Rennie if either RMS or R&A is in default of any of its obligations under this Agreement, and neither RMS nor R&A remedies such default within one week after the delivery of a written notice of default by the Monitor.

8.5 Either RMS or R&A, or both, may, in its sole discretion and without prejudice to any other right or remedy that RMS or R&A may have, terminate this Agreement effective immediately on written notice to the Monitor if the Monitor sells, transfers, assigns or otherwise disposes of its entire interest in the Project or any portion thereof (each, a “**Transfer**”) to a third party (the “**New Party**”) other than single Inventory Unit sales, any KingSett Transaction, and Transfers that are made to an affiliate of the Monitor in accordance with section 15.2, and the New Party has not, prior to the effective date of such Transfer, entered into an agreement with RMS or R&A assuming the obligations of the Monitor hereunder and retaining RMS or R&A, or both, as the marketing manager for the Project on the terms and conditions hereof and otherwise on terms satisfactory to RMS or R&A, or both, acting reasonably.

8.6 This Agreement shall, upon the Monitor’s written notice to Rennie, terminate without penalty or cost to either party if:

- (a) the Initial Order or the Monitor’s appointment as monitor of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and/or Lumina Eclipse GP Ltd. is revoked, vacated, suspended or terminated or the Monitor otherwise ceases to be the Monitor;
- (b) the Monitor is restricted in or enjoined from dealing with the Inventory Units by a court of competent jurisdiction;
- (c) any creditor of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and/or Lumina Eclipse GP Ltd. other than KingSett Mortgage Corporation is permitted by Court order to enforce its rights and/or remedies against the Inventory Units;
- (d) the Court does not approve this Agreement, grant the Sale Process Order or the Approval and Vesting Order, or approve the Sale Process; or
- (e) the Sale Process Order or the Approval and Vesting Order are stayed, revoked, vacated, suspended or terminated.

8.7 Upon the Termination Date, except as a result of section 8.6, the Monitor shall, for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., pay Rennie:

- (a) all earned but unpaid Commissions, provided that nothing in this section 8.7 shall accelerate the Monitor’s obligation to pay, for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., any unpaid Commissions in advance of the time they would be payable pursuant to section 4.3; and
- (b) subject to section 5.5, all Reimbursable Costs incurred by Rennie.

8.8 All payments to be made to Rennie under section 8.7(b) shall be made by the Monitor, for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., to Rennie on or prior to the Termination Date, except that:

- (a) if this Agreement is terminated pursuant to section 8.4, such payments shall be due and payable within one week after the Termination Date; and

- (b) subject to section 5.5, any Reimbursable Costs incurred prior to the Termination Date but not invoiced as at the Termination Date shall be paid within fourteen (14) days of invoice to the Monitor.

8.9 In addition to any amounts owing pursuant to section 8.7, the Monitor shall pay, for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., Commissions to Rennie in respect of any Contract entered into after the Termination Date, where the purchaser under such Contract was (i) introduced to the Project by either RMS or R&A within the 6 month period prior to the Termination Date (the “**Holdover Period**”), (ii) the Completion Date is on or before December 31 2026 and (iii) disclosed by Rennie in writing to the Monitor no later than three (3) days following the Termination Date; provided that such Commissions shall be reduced by any fee, commission and/or other compensation paid or payable to another broker or agent by the Monitor for the sale of such Inventory Unit as the new listing brokerage (the “**New Agent**”) on the basis of an agreement with the New Agent entered into with respect to the Holdover Period or any portion thereof. Notwithstanding any other provision hereof, Rennie shall not be entitled to any Commission or other compensation as the Monitor’s agent in respect of a sale of an Inventory Unit entered into during the Holdover Period if any member of the Listing Team represents the purchaser of such Inventory Unit.

8.10 All Commissions pursuant to section 8.9 shall be earned and paid in accordance with the provisions of section 4.3. RMS or R&A shall be deemed to have introduced a purchaser for the purpose of section 8.9(i) if such purchaser is on RMS’s or R&A’s proprietary customer database, is physically brought to the Presentation Centre by RMS or R&A or is introduced to the Project through any marketing material (including digital marketing) prepared and distributed by RMS or R&A pursuant to the terms of this Agreement, or any combination of the foregoing, provided, in each case, that RMS or R&A, as applicable, shall have provided evidence to the Monitor’s satisfaction thereof.

8.11 Upon the Termination Date:

- (a) all licenses that either party may have to use proprietary information or other property of the other party shall terminate on the Termination Date, without any other act of any person;
- (b) each party shall promptly return to the other party all property of that other party then held by the first party;
- (c) if this Agreement is terminated by a party because of a breach of this Agreement by the other party, the terminating party’s right to pursue all legal remedies will survive such termination unimpaired;
- (d) Rennie shall provide the FINTRAC Records to the Monitor; and
- (e) all Marketing Services will cease unless otherwise agreed upon by all parties in writing.

8.12 The provisions of this section 8 shall survive the termination or expiration of this Agreement.

## 9. **Acknowledgements**

9.1 Rennie acknowledges and agrees in favour of the Monitor that:

- (a) the Inventory Units are to be marketed and sold on an “as is, where is” basis and, accordingly, any agreement of purchase and sale shall provide for an acknowledgment by the purchaser that such Inventory Unit is being sold on an “as is, where is” basis, and that, except as may be required by law, no representations or warranties have been or will be made by the Monitor, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. or Lumina Eclipse GP Ltd. in respect of an Inventory Unit, including with respect to the condition thereof;
- (b) in lieu of a transfer of land, the Monitor will seek to vest title to any Inventory Unit in a purchaser by way of the Approval and Vesting Order; and
- (c) the sale of any Inventory Unit requires the prior approval of the Court in the Court’s sole and absolute discretion.

## **10. Indemnity**

10.1 Rennie confirms that it owes an obligation to the Monitor to carry out its activities in respect of this engagement in a competent and professional manner acting reasonably and in good faith and in accordance with the terms of this Agreement. Rennie agrees to indemnify, defend and hold the Monitor and its affiliates and each of their respective officers, directors, partners, members, managers, employees, agents, and representatives (each, a “**Monitor Indemnified Party**”) harmless from and against any and all causes of action, claims, costs, damages, demands, expenses (including lawyers fees and expenses on a full indemnity basis), liabilities, losses, and obligations incurred by a Monitor Indemnified Party arising out of, resulting from or in connection with the failure by Rennie or its employees (including any member of the Project’s Listing Team), solicitors, agents or representatives to carry out its activities in good faith or Rennie’s failure to comply with its obligations hereunder, including, without limitation, and any all causes of action, claims, costs, damages, demands, expenses (including lawyers fees and expenses on a full indemnity basis), liabilities, losses, and obligations incurred by a Monitor Indemnified Party arising out of, resulting from or in connection with any claim made by a third party. The provisions of this section 10 shall survive the termination or expiration of this Agreement.

## **11. Non-Solicitation of Employees**

11.1 During the Term and for a period of one year following the Termination Date, the Monitor agrees that neither it nor any of its affiliates nor their respective directors, officers or employees or agents shall directly or indirectly solicit for hire any sales persons or marketing team members (e.g. project coordinator or project managers) of Rennie or its related or affiliated entities; provided that the foregoing shall not apply to general employment advertisements or job postings not directed at sales persons or marketing team members of Rennie or its affiliates.

## **12. Work Product**

12.1 The Monitor shall not, without providing prior written notice to Rennie, use any designs, brochures, web design or any other marketing materials prepared by Rennie pursuant to this Agreement for any purpose other than the marketing of the Project. Subject to Sections 12.4 and 12.5, all designs, brochures, web design and any other marketing materials prepared by Rennie pursuant to this Agreement shall be proprietary assets of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd. This Section 12.1 shall survive the termination or expiration of this Agreement.

12.2 All information collected by Rennie (but excluding information provided by the Monitor or its affiliates to Rennie) for the purpose of the Project's database of potential Inventory Unit purchasers (including registration cards, web registration and other purchaser data collected) during the Term will become the property of both Rennie and the Monitor. Notwithstanding the foregoing:

- (a) information collected by Rennie prior to the start of the Term or for projects on which Rennie has been engaged other than the Project shall be the exclusive property of Rennie; and
- (b) information collected by the Monitor (or its affiliates) prior to the start of the Term or for projects other than the Project in which the Monitor's affiliates have been involved shall be the exclusive property of the Monitor and its affiliates.

12.3 Each of the Monitor and Rennie covenants and agrees that it will collect, use and retain any personal information obtained for the purposes of the Project database in accordance with all applicable provincial and federal privacy legislation.

12.4 The marketing database system and software used by Rennie is and shall remain the exclusive property of Rennie.

12.5 Each party acknowledges and agrees that neither party has any right, title or interest in the other party's trademarks, trade names, Project name(s), logos, or any part thereof. To the extent that it is within Rennie's control to do so, Rennie shall at all times protect the Monitor's intellectual property and trademark rights with respect to the Project.

### **13. No Assignment of Purchase Contracts**

13.1 Rennie acknowledges that the Monitor, for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., does not intend to permit assignments of Contracts.

### **14. Confidentiality**

14.1 Subject to section 14.2, each party will hold in confidence any and all Confidential Information during the Term of this Agreement and at all times following the Termination Date, provided that the provisions of this section 14 will not restrict either party from disclosing Confidential Information to its professional advisors (including its consultants, advisors and solicitors), who, in each case, need to know such Confidential Information and agree to be bound by the obligations of confidentiality hereunder.

14.2 The obligation to maintain the confidentiality of Confidential Information does not apply to information, documentation, records, plans or designs:

- (a) which the other party confirms in writing is not required to be treated as Confidential Information;
- (b) which is or comes into the public domain otherwise than through any disclosure prohibited by this Agreement;
- (c) to the extent any person is required to disclose such Confidential Information by law or by any governmental authority or to the extent Rennie is required to disclose such

Confidential Information to comply with its obligations under *REDMA* or the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada); or

- (d) that is received by the party on a non-confidential basis from a source other than the other party to this Agreement, provided that to the best knowledge of the recipient party after due inquiry, the source of the information was not bound by a confidentiality agreement or other obligation of secrecy with respect to the information.

14.3 Each party specifically acknowledges and agrees that a breach of the terms of this section 14 by it may cause irreparable harm to the disclosing party not compensable in damages. Each party further acknowledges and agrees that, as monetary damages may not be a sufficient remedy for any breach of this section 14, it is essential to the effective enforcement of this section 14 that the disclosing party be entitled to seek the remedy of injunctive relief and specific performance as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of this section 14 by any party but shall be in addition to all other remedies available to disclosing party at law or in equity.

14.4 The provisions of this section 14 shall survive the termination or expiration of this Agreement.

## 15. **Assignment**

15.1 Neither RMS nor R&A shall assign this Agreement, in whole or in part, without the prior written consent of the Monitor, which consent may be arbitrarily withheld and any assignment made without such consent is void and of no effect.

15.2 The Monitor shall not assign this Agreement, in whole or in part, without the prior written consent of both RMS and R&A, which consent may be arbitrarily withheld and any assignment made without such consent is void and of no effect.

## 16. **Acceptance of Offers**

16.1 While it is the Monitor's intention to obtain the highest and best offers for the Inventory Units, Rennie acknowledges and agrees that the Monitor, for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., need not accept the highest offer and/or the best offer or any offer for any Inventory Unit, and that acceptance by the Monitor, for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd., of any offer for an Inventory Unit is subject at all times to the Monitor's approval in its sole and absolute discretion, as well as approval by the Court.

## 17. **Notices**

17.1 Any notice, payment or other communication required or permitted to be given or served pursuant to this Agreement will be deemed to be well and sufficiently given if in writing and delivered to the address as follows:

- (a) **If to the Monitor:**

**KSV Restructuring Inc.**  
Attn: Noah Goldstein and Jason Knight  
Suite 1165 – 324 – 8<sup>th</sup> Avenue SW, Box 129



Calgary, Alberta T2P 2Z2

Email: [ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com) and [jknights@ksvadvisory.com](mailto:jknights@ksvadvisory.com)

**with a copy to:**

**Bennett Jones LLP**

Attn: Sean Zweig and Josh Foster  
3400-100 King Street West  
Toronto, Ontario M5X 1A4

Email: [zweigs@bennettjones.com](mailto:zweigs@bennettjones.com) and [fosterj@bennettjones.com](mailto:fosterj@bennettjones.com)

**If to Rennie:**

Rennie Marketing Systems and  
Rennie & Associates Realty Ltd.  
Attention: Greg Zayadi  
110-1650 West 1<sup>st</sup> Avenue  
Vancouver, BC V6J 1G1

Email: [gzayadi@rennie.com](mailto:gzayadi@rennie.com)

and shall be deemed to have been received on the date in which it was delivered if in person or if transmitted by email during the regular business hours of the party receiving such notice, on the date it was transmitted.

**18. Accounts and Records**

18.1 Rennie shall keep proper accounts and records of all expenditures made in connection with the Reimbursable Costs and all invoices, receipts and vouchers relating thereto. Such accounts, records, invoices, receipts and vouchers shall at all times during this Agreement and for two years following the Termination Date be open to audit and inspection by the Monitor on reasonable notice during Rennie's regular business hours.

**19. Relationship Between Parties**

19.1 Each of Rennie and the Monitor expressly disclaims any intention to create a partnership, and Rennie shall not be the agent of the Monitor and shall not enter or purport to enter into any contract on behalf of the Monitor or act on its behalf. This Agreement shall not be construed as appointing either party a fiduciary, associate or representative of the other party, or giving a party an interest in the business or property of the other party hereunder.

19.2 RMS and R&A shall be jointly and severally liable for the performance of all obligations, duties, and liabilities arising under or in connection with this Agreement. Each of RMS and R&A shall be individually responsible for the full and complete performance of the obligations, and either RMS or R&A may be held liable for the entire amount of any claim or liability arising under this Agreement, without the need for the other party to be held liable. This joint and several liability shall apply to all

claims, damages, losses, costs, and expenses arising from any breach of this Agreement or other failure to perform.

## **20. Finder's Fees**

20.1 The Monitor does not consent to Rennie or any Outside Agent (or their respective affiliates) receiving and retaining, in addition to the Commission provided for or otherwise contemplated in this Agreement, a finder's fee for any financing in respect of any of the Inventory Units.

## **21. Verification of Information**

21.1 The Monitor authorizes Rennie to obtain any information from any regulatory authorities, governments or others affecting the Inventory Units and the Monitor agrees to execute and deliver such further authorizations in this regard, including for and on behalf of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and/or Lumina Eclipse GP Ltd., as applicable, as may be reasonably required. For greater certainty, none of Rennie or its affiliates or their respective employees, agents or representatives may bind the Monitor, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. or Lumina Eclipse GP Ltd. or execute any documentation on behalf of the Monitor, Lumina Eclipse Limited Partnership, Beta View Homes Ltd. or Lumina Eclipse GP Ltd. The Monitor hereby authorizes, instructs and directs the above noted regulatory authorities, governments, mortgagees or others to release any and all information to Rennie.

## **22. Monitor's Liability**

22.1 In addition to all of the protections granted to the Monitor under the CCAA, the Initial Order, the Sale Process Order, the Approval and Vesting Order, any other order of the Court in the CCAA Proceedings, Rennie acknowledges and agrees that, notwithstanding any other provision of this Agreement, the Monitor, acting in its capacity as Monitor of the Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd. and not in its personal capacity, will have no liability, in its personal capacity or otherwise, in connection with this Agreement whatsoever. Without limiting the generality of the foregoing, Rennie agrees and acknowledges that the obligations of the Monitor hereunder are entirely non-recourse against KSV Restructuring Inc., and any of its affiliates and any of their respective shareholders, directors, officers, partners, employees, representatives, advisors, solicitors and agents.

## **23. General**

23.1 Concurrently with its execution of this Agreement, the Monitor will provide to Rennie corporate documents required for the purposes of completing the "Corporation/Entity Identification Information Record" and "Beneficial Receivership Record", attached hereto as Schedule "A" providing the information about the Monitor required by FINTRAC.

23.2 All the terms and provisions of this Agreement shall be binding upon and ensure to the benefit of and be enforceable by the parties hereto, their respective successors and permitted assigns.

23.3 If any provision hereof is determined to be void or unenforceable in whole or in part by a court or forum of competent jurisdiction, the remaining provisions shall remain in full force and effect.

23.4 No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of such rights, nor will a failure by either party to enforce any provision of this Agreement be deemed a waiver of future enforcement of that or any other provision.

23.5 Time shall be of the essence of this Agreement.

23.6 This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereto and shall supersede all prior written or oral agreement between the parties or any prior written or oral agreement between Rennie (or any partner or affiliate thereof) and any of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. or Lumina Eclipse GP Ltd., and shall not be amended, modified, waived or altered without the prior written agreement executed by duly authorized officers of each party hereto.

23.7 Neither party shall be liable to the other for special, indirect or consequential damages suffered or incurred by the other party arising as a result of this Agreement.

23.8 This Agreement may be executed in several counterparts, and each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same agreement. Either party (or all of the parties) hereto may execute and deliver an executed copy of this Agreement by facsimile or by electronic signature or transmissions, and if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

23.9 This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein. The parties hereto hereby irrevocably attorn to the exclusive jurisdiction of the Court in the CCAA Proceedings with respect to any claim, dispute or other controversy arising under or in connection with this Agreement.

23.10 In the event of any conflict or inconsistency between the provisions of this Agreement and the rights, duties, powers and/or obligations of the Monitor under the Initial Order, the Sale Process Order, the Approval and Vesting Order, any other order of the Court in the CCAA Proceedings, and/or the CCAA, the rights, duties, powers and/or obligations of the Monitor under the Initial Order, the Sale Process Order, the Approval and Vesting Order, any other order of the Court in the CCAA Proceedings, and/or the CCAA, as applicable, shall control.

***[Signatures on following page]***

IN WITNESS WHEREOF each party shall signify their acceptance and agreement with the foregoing, by signing where indicated below, whereupon this letter will constitute the Monitor's and Rennie's agreement with respect to the subject matter hereof.

Agreed to this \_\_\_\_ day of April, 2025

**RENNIE MARKETING SYSTEMS**, by its partners:

**RENNIE PROJECT MARKETING CORPORATION**

**541823 B.C. LTD.**

Per: \_\_\_\_\_  
Name: Greg Zayadi  
Title: President

Per: \_\_\_\_\_  
Name: Greg Zayadi  
Title: President

**RENNIE & ASSOCIATES REALTY LTD.**

Per: \_\_\_\_\_  
Name: Vincent Tang  
Title: Managing Broker

Agreed to this \_\_\_\_ day of April, 2025

**KSV RESTRUCTURING INC., solely in its  
capacity as the Court-appointed Monitor of  
Lumina Eclipse Limited Partnership, Beta  
View Homes Ltd. and Lumina Eclipse GP Ltd.,  
and not in any other capacity**

Per: \_\_\_\_\_  
Name: Noah Goldstein  
Title: Managing Director

Per: \_\_\_\_\_  
Name: Jason Knight  
Title: Managing Director

**SCHEDULE "A"**

**FINTRAC CORPORATE IDENTIFICATION FORM**

To be completed and shall become part of this Agreement.

# **APPENDIX C**

**[ATTACHED]**



## BC Company Summary

For

### D-THIND DEVELOPMENT LTD.

**Date and Time of Search:** April 07, 2025 10:48 AM Pacific Time

**Currency Date:** January 21, 2025

#### ACTIVE

**Incorporation Number:** BC1125316

**Name of Company:** D-THIND DEVELOPMENT LTD.

**Business Number:** 705948123 BC0001

**Recognition Date and Time:** Incorporated on June 30, 2017 01:42 PM Pacific Time

**In Liquidation:** No

**Last Annual Report Filed:** June 30, 2023

**Receiver:** No

#### COMPANY NAME INFORMATION

**Previous Company Name**

DTHIND DEVELOPMENT LTD.

**Date of Company Name Change**

August 23, 2017

#### REGISTERED OFFICE INFORMATION

**Mailing Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

**Delivery Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

#### RECORDS OFFICE INFORMATION

**Mailing Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

**Delivery Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

#### DIRECTOR INFORMATION

**Last Name, First Name, Middle Name:**

Thind, Daljit

**Mailing Address:**

700 - 4211 KINGSWAY  
VANCOUVER BC V5H 1Z6  
CANADA

**Delivery Address:**

700 - 4211 KINGSWAY  
VANCOUVER BC V5H 1Z6  
CANADA

**OFFICER INFORMATION AS AT June 30, 2023**

**Last Name, First Name, Middle Name:**

Thind, Daljit Singh

**Office(s) Held:** (President, Secretary)

**Mailing Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

**Delivery Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA



# **APPENDIX D**

**[ATTACHED]**



## BC Company Summary

For  
**D-THIND DEVELOPMENT BETA LTD.**

**Date and Time of Search:** March 06, 2025 10:57 AM Pacific Time

**Currency Date:** October 10, 2024

### ACTIVE

**Incorporation Number:** BC1182415

**Name of Company:** D-THIND DEVELOPMENT BETA LTD.

**Business Number:** 730445715 BC0001

**Recognition Date and Time:** Incorporated on October 10, 2018 09:13 AM Pacific Time **In Liquidation:** No

**Last Annual Report Filed:** October 10, 2023 **Receiver:** No

### COMPANY NAME INFORMATION

**Previous Company Name**

D-THIND DEVELOPMENT 2 LTD.

**Date of Company Name Change**

November 05, 2018

### REGISTERED OFFICE INFORMATION

**Mailing Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

**Delivery Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

### RECORDS OFFICE INFORMATION

**Mailing Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

**Delivery Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

### DIRECTOR INFORMATION

**Last Name, First Name, Middle Name:**

Thind, Daljit Singh

**Mailing Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

**Delivery Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

**OFFICER INFORMATION AS AT October 10, 2023**

**Last Name, First Name, Middle Name:**

Thind, Daljit Singh

**Office(s) Held:** (President, Secretary)

**Mailing Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

**Delivery Address:**

700 - 4211 KINGSWAY  
BURNABY BC V5H 1Z6  
CANADA

# **APPENDIX E**

**[ATTACHED]**

## CCDC 2

stipulated price contract

2008

[ Eclipse ]

Apply a CCDC 2 copyright seal here. The application of the seal demonstrates the intention of the party proposing the use of this document that it be an accurate and unamended form of CCDC 2 – 2008 except to the extent that any alterations, additions or modifications are set forth in supplementary conditions.

CANADIAN CONSTRUCTION DOCUMENTS COMMITTEE  
CANADIAN CONSTRUCTION DOCUMENTS COMMITTEE  
CANADIAN CONSTRUCTION DOCUMENTS COMMITTEE

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The Canadian Construction Documents Committee (CCDC) is a national joint committee responsible for the development, production and review of standard Canadian construction contracts, forms and guides. Formed in 1974 the CCDC is made up of volunteer representatives from:

- Public Sector Owners
- Private Sector Owners
- Canadian Bar Association (Ex-Officio)
- \* The Association of Canadian Engineering Companies
- \* The Canadian Construction Association
- \* Construction Specifications Canada
- \* The Royal Architectural Institute of Canada

\*Committee policy and procedures are directed and approved by the four constituent national organizations.

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**AGREEMENT BETWEEN OWNER AND CONTRACTOR**

For use when a stipulated price is the basis of payment.

This Agreement made on the 10 day of June in the year 2021.

by and between the parties

Lumina Eclipse Limited Partnership

hereinafter called the "Owner"

and

D-Thind Development Beta Ltd.

hereinafter called the "Contractor"

The Owner and the Contractor agree as follows:

**ARTICLE A-1 THE WORK**

The Contractor shall:

- 1.1 perform the *Work* required by the *Contract Documents* for  
Eclipse Tower

*insert above the name of the Work*

located at

2381 Beta Avenue, Burnaby BC

*insert above the Place of the Work*

for which the Agreement has been signed by the parties, and for which  
N/A

*insert above the name of the Consultant*

is acting as and is hereinafter called the "Consultant" and

- 1.2 do and fulfill everything indicated by the *Contract Documents*, and
- 1.3 commence the *Work* by the 1st day of April in the year 2021 and, subject to adjustment in *Contract Time* as provided for in the *Contract Documents*, attain *Substantial Performance of the Work*, by the 30st day of November in the year 2023.

**ARTICLE A-2 AGREEMENTS AND AMENDMENTS**

- 2.1 The *Contract* supersedes all prior negotiations, representations or agreements, either written or oral, relating in any manner to the *Work*, including the bidding documents that are not expressly listed in Article A-3 of the Agreement - CONTRACT DOCUMENTS.
- 2.2 The *Contract* may be amended only as provided in the *Contract Documents*.

## ARTICLE A-3 CONTRACT DOCUMENTS

3.1 The following are the *Contract Documents* referred to in Article A-1 of the Agreement - THE WORK:

- Agreement between *Owner* and *Contractor*
- Definitions
- The General Conditions of the Stipulated Price Contract
- \*

The Construction of one tower located at 2381 Beta Avenue, Burnaby.  
34 Storey Tower with 2 levels of underground parking

Addendum:

List of Add and Deletes

Drawings and Specifications

Schedule

Budget

\* (Insert here, attaching additional pages if required, a list identifying all other Contract Documents e.g. supplementary conditions; information documents; specifications, giving a list of contents with section numbers and titles, number of pages and date; material finishing schedules; drawings, giving drawing number, title, date, revision date or mark; addenda, giving title, number, date)



## ARTICLE A-4 CONTRACT PRICE

4.1 The *Contract Price*, which excludes *Value Added Taxes*, is:

One Hundred Ten Million Two Hundred Seven Thousand

\*\*\*\*\*  
/100 dollars \$ 110,207,000

4.2 *Value Added Taxes* (of 5 %) payable by the *Owner* to the *Contractor* are:

Five Million Five Hundred Ten Thousand Three Hundred Fifty

\*\*\*\*\*  
/100 dollars \$ 5,510,350

4.3 Total amount payable by the *Owner* to the *Contractor* for the construction of the *Work* is:

One Hundred Fifteen Million Seven Hundred Seventeen Thousand Three  
Hundred Fifty \*\*\*\*\*

/100 dollars \$ 115,717,350

4.4 These amounts shall be subject to adjustments as provided in the *Contract Documents*.

4.5 All amounts are in Canadian funds.

## ARTICLE A-5 PAYMENT

5.1 Subject to the provisions of the *Contract Documents*, and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations do not exist or apply, subject to a holdback of No holdback required percent ( \*\*\*\*\* %), the *Owner* shall:

- .1 make progress payments to the *Contractor* on account of the *Contract Price* when due in the amount certified by the *Consultant* together with such *Value Added Taxes* as may be applicable to such payments, and
- .2 upon *Substantial Performance of the Work*, pay to the *Contractor* the unpaid balance of the holdback amount when due together with such *Value Added Taxes* as may be applicable to such payment, and
- .3 upon the issuance of the final certificate for payment, pay to the *Contractor* the unpaid balance of the *Contract Price* when due together with such *Value Added Taxes* as may be applicable to such payment.

5.2 In the event of loss or damage occurring where payment becomes due under the property and boiler insurance policies, payments shall be made to the *Contractor* in accordance with the provisions of GC 11.1 – INSURANCE.

5.3 Interest

- .1 Should either party fail to make payments as they become due under the terms of the *Contract* or in an award by arbitration or court, interest at the following rates on such unpaid amounts shall also become due and payable until payment:

(1) 2% per annum above the prime rate for the first 60 days.

(2) 4% per annum above the prime rate after the first 60 days.

Such interest shall be compounded on a monthly basis. The prime rate shall be the rate of interest quoted by

Royal Bank of Canada

(Insert name of chartered lending institution whose prime rate is to be used)

for prime business loans as it may change from time to time.

- .2 Interest shall apply at the rate and in the manner prescribed by paragraph 5.3.1 of this Article on the settlement amount of any claim in dispute that is resolved either pursuant to Part 8 of the General Conditions – DISPUTE RESOLUTION or otherwise, from the date the amount would have been due and payable under the *Contract*, had it not been in dispute, until the date it is paid.

## ARTICLE A-6 RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING

- 6.1 *Notices in Writing* will be addressed to the recipient at the address set out below. The delivery of a *Notice in Writing* will be by hand, by courier, by prepaid first class mail, or by facsimile or other form of electronic communication during the transmission of which no indication of failure of receipt is communicated to the sender. A *Notice in Writing* delivered by one party in accordance with this *Contract* will be deemed to have been received by the other party on the date of delivery if delivered by hand or courier, or if sent by mail it shall be deemed to have been received five calendar days after the date on which it was mailed, provided that if either such day is not a *Working Day*, then the *Notice in Writing* shall be deemed to have been received on the *Working Day* next following such day. A *Notice in Writing* sent by facsimile or other form of electronic communication shall be deemed to have been received on the date of its transmission provided that if such day is not a *Working Day* or if it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been received at the opening of business at the place of receipt on the first *Working Day* next following the transmission thereof. An address for a party may be changed by *Notice in Writing* to the other party setting out the new address in accordance with this Article.

### Owner

Lumina Eclipse Limited Partnership

name of Owner\*

c/o 700-4211 Kingsway, Burnaby BC, V5H 1Z6

address

604 451 7740

facsimile number

daljit@thind.ca

email address

### Contractor

D-Thind Development Beta Ltd.

name of Contractor\*

700-4211 Kingsway, Burnaby BC, V5H 1Z6

address

604 451 7740

facsimile number

daljit@thind.ca

email address

### Consultant

CHRIS DIKEAKOS ARCHITECTS INC

name of Consultant\*

3989 Henning Drive, Suite 212, Burnaby, V5C 6N5 BC

address

604 291 2660

facsimile number

info@dikeakos.com

email address

\* If it is intended that the notice must be received by a specific individual, that individual's name shall be indicated.

## ARTICLE A-7 LANGUAGE OF THE CONTRACT

- 7.1 When the *Contract Documents* are prepared in both the English and French languages, it is agreed that in the event of any apparent discrepancy between the English and French versions, the English / French # language shall prevail.  
# Complete this statement by striking out inapplicable term.

- 7.2 This Agreement is drawn in English at the request of the parties hereto. La présente convention est rédigée en anglais à la demande des parties.

## ARTICLE A-8 SUCCESSION

8.1 The *Contract* shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and assigns.

In witness whereof the parties hereto have executed this Agreement by the hands of their duly authorized representatives.

SIGNED AND DELIVERED  
in the presence of:

### WITNESS

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

### WITNESS

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name of person signing*

### OWNER

Lumina Eclipse Limited Partnership

\_\_\_\_\_  
*name of owner*

\_\_\_\_\_  
*signature*

**Daljit Thind, CEO**

\_\_\_\_\_  
*name and title of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name and title of person signing*

### CONTRACTOR

D-Thind Development Beta Ltd.

\_\_\_\_\_  
*name of Contractor*

\_\_\_\_\_  
*signature*

**Daljit Thind  
CEO**

\_\_\_\_\_  
*name and title of person signing*

\_\_\_\_\_  
*signature*

\_\_\_\_\_  
*name and title of person signing*

N.B. Where legal jurisdiction, local practice or Owner or Contractor requirement calls for:

- (a) proof of authority to execute this document, attach such proof of authority in the form of a certified copy of a resolution naming the representative(s) authorized to sign the Agreement for and on behalf of the corporation or partnership; or
- (b) the affixing of a corporate seal, this Agreement should be properly sealed.

**DEFINITIONS**

The following Definitions shall apply to all *Contract Documents*.

1. **Change Directive**  
A *Change Directive* is a written instruction prepared by the *Consultant* and signed by the *Owner* directing the *Contractor* to proceed with a change in the *Work* within the general scope of the *Contract Documents* prior to the *Owner* and the *Contractor* agreeing upon adjustments in the *Contract Price* and the *Contract Time*.
2. **Change Order**  
A *Change Order* is a written amendment to the *Contract* prepared by the *Consultant* and signed by the *Owner* and the *Contractor* stating their agreement upon:
  - a change in the *Work*;
  - the method of adjustment or the amount of the adjustment in the *Contract Price*, if any; and
  - the extent of the adjustment in the *Contract Time*, if any.
3. **Construction Equipment**  
*Construction Equipment* means all machinery and equipment, either operated or not operated, that is required for preparing, fabricating, conveying, erecting, or otherwise performing the *Work* but is not incorporated into the *Work*.
4. **Consultant**  
The *Consultant* is the person or entity engaged by the *Owner* and identified as such in the Agreement. The *Consultant* is the Architect, the Engineer or entity licensed to practise in the province or territory of the *Place of the Work*. The term *Consultant* means the *Consultant* or the *Consultant's* authorized representative.
5. **Contract**  
The *Contract* is the undertaking by the parties to perform their respective duties, responsibilities and obligations as prescribed in the *Contract Documents* and represents the entire agreement between the parties.
6. **Contract Documents**  
The *Contract Documents* consist of those documents listed in Article A-3 of the Agreement - CONTRACT DOCUMENTS and amendments agreed upon between the parties.
7. **Contract Price**  
The *Contract Price* is the amount stipulated in Article A-4 of the Agreement - CONTRACT PRICE.
8. **Contract Time**  
The *Contract Time* is the time stipulated in paragraph 1.3 of Article A-1 of the Agreement - THE WORK from commencement of the *Work* to *Substantial Performance of the Work*.
9. **Contractor**  
The *Contractor* is the person or entity identified as such in the Agreement. The term *Contractor* means the *Contractor* or the *Contractor's* authorized representative as designated to the *Owner* in writing.
10. **Drawings**  
The *Drawings* are the graphic and pictorial portions of the *Contract Documents*, wherever located and whenever issued, showing the design, location and dimensions of the *Work*, generally including plans, elevations, sections, details, and diagrams.
11. **Notice in Writing**  
A *Notice in Writing*, where identified in the *Contract Documents*, is a written communication between the parties or between them and the *Consultant* that is transmitted in accordance with the provisions of Article A-6 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.
12. **Owner**  
The *Owner* is the person or entity identified as such in the Agreement. The term *Owner* means the *Owner* or the *Owner's* authorized agent or representative as designated to the *Contractor* in writing, but does not include the *Consultant*.
13. **Place of the Work**  
The *Place of the Work* is the designated site or location of the *Work* identified in the *Contract Documents*.
14. **Product**  
*Product or Products* means material, machinery, equipment, and fixtures forming the *Work*, but does not include *Construction Equipment*.

15. **Project**  
The *Project* means the total construction contemplated of which the *Work* may be the whole or a part.
16. **Provide**  
*Provide* means to supply and install.
17. **Shop Drawings**  
*Shop Drawings* are drawings, diagrams, illustrations, schedules, performance charts, brochures, *Product* data, and other data which the *Contractor* provides to illustrate details of portions of the *Work*.
18. **Specifications**  
The *Specifications* are that portion of the *Contract Documents*, wherever located and whenever issued, consisting of the written requirements and standards for *Products*, systems, workmanship, quality, and the services necessary for the performance of the *Work*.
19. **Subcontractor**  
A *Subcontractor* is a person or entity having a direct contract with the *Contractor* to perform a part or parts of the *Work* at the *Place of the Work*.
20. **Substantial Performance of the Work**  
*Substantial Performance of the Work* is as defined in the lien legislation applicable to the *Place of the Work*. If such legislation is not in force or does not contain such definition, or if the *Work* is governed by the Civil Code of Quebec, *Substantial Performance of the Work* shall have been reached when the *Work* is ready for use or is being used for the purpose intended and is so certified by the *Consultant*.
21. **Supplemental Instruction**  
A *Supplemental Instruction* is an instruction, not involving adjustment in the *Contract Price* or *Contract Time*, in the form of *Specifications*, *Drawings*, schedules, samples, models or written instructions, consistent with the intent of the *Contract Documents*. It is to be issued by the *Consultant* to supplement the *Contract Documents* as required for the performance of the *Work*.
22. **Supplier**  
A *Supplier* is a person or entity having a direct contract with the *Contractor* to supply *Products*.
23. **Temporary Work**  
*Temporary Work* means temporary supports, structures, facilities, services, and other temporary items, excluding *Construction Equipment*, required for the execution of the *Work* but not incorporated into the *Work*.
24. **Value Added Taxes**  
*Value Added Taxes* means such sum as shall be levied upon the *Contract Price* by the Federal or any Provincial or Territorial Government and is computed as a percentage of the *Contract Price* and includes the Goods and Services Tax, the Quebec Sales Tax, the Harmonized Sales Tax, and any similar tax, the collection and payment of which have been imposed on the *Contractor* by the tax legislation.
25. **Work**  
The *Work* means the total construction and related services required by the *Contract Documents*.
26. **Working Day**  
*Working Day* means a day other than a Saturday, Sunday, statutory holiday, or statutory vacation day that is observed by the construction industry in the area of the *Place of the Work*.

## GENERAL CONDITIONS OF THE STIPULATED PRICE CONTRACT

### PART 1 GENERAL PROVISIONS

#### GC 1.1 CONTRACT DOCUMENTS

- 1.1.1 The intent of the *Contract Documents* is to include the labour, *Products* and services necessary for the performance of the *Work* by the *Contractor* in accordance with these documents. It is not intended, however, that the *Contractor* shall supply products or perform work not consistent with, not covered by, or not properly inferable from the *Contract Documents*.
- 1.1.2 Nothing contained in the *Contract Documents* shall create any contractual relationship between:
  - .1 the *Owner* and a *Subcontractor*, a *Supplier*, or their agent, employee, or other person performing any portion of the *Work*.
  - .2 the *Consultant* and the *Contractor*, a *Subcontractor*, a *Supplier*, or their agent, employee, or other person performing any portion of the *Work*.
- 1.1.3 The *Contract Documents* are complementary, and what is required by any one shall be as binding as if required by all.
- 1.1.4 Words and abbreviations which have well known technical or trade meanings are used in the *Contract Documents* in accordance with such recognized meanings.
- 1.1.5 References in the *Contract Documents* to the singular shall be considered to include the plural as the context requires.
- 1.1.6 Neither the organization of the *Specifications* nor the arrangement of *Drawings* shall control the *Contractor* in dividing the work among *Subcontractors* and *Suppliers*.
- 1.1.7 If there is a conflict within the *Contract Documents*:
  - .1 the order of priority of documents, from highest to lowest, shall be
    - the Agreement between the *Owner* and the *Contractor*,
    - the Definitions,
    - Supplementary Conditions,
    - the General Conditions,
    - Division 1 of the *Specifications*,
    - technical *Specifications*,
    - material and finishing schedules,
    - the *Drawings*.
  - .2 *Drawings* of larger scale shall govern over those of smaller scale of the same date.
  - .3 dimensions shown on *Drawings* shall govern over dimensions scaled from *Drawings*.
  - .4 later dated documents shall govern over earlier documents of the same type.
- 1.1.8 The *Owner* shall provide the *Contractor*, without charge, sufficient copies of the *Contract Documents* to perform the *Work*.
- 1.1.9 *Specifications*, *Drawings*, models, and copies thereof furnished by the *Consultant* are and shall remain the *Consultant's* property, with the exception of the signed *Contract* sets, which shall belong to each party to the *Contract*. All *Specifications*, *Drawings* and models furnished by the *Consultant* are to be used only with respect to the *Work* and are not to be used on other work. These *Specifications*, *Drawings* and models are not to be copied or altered in any manner without the written authorization of the *Consultant*.
- 1.1.10 Models furnished by the *Contractor* at the *Owner's* expense are the property of the *Owner*.

#### GC 1.2 LAW OF THE CONTRACT

- 1.2.1 The law of the *Place of the Work* shall govern the interpretation of the *Contract*.

#### GC 1.3 RIGHTS AND REMEDIES

- 1.3.1 Except as expressly provided in the *Contract Documents*, the duties and obligations imposed by the *Contract Documents* and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.
- 1.3.2 No action or failure to act by the *Owner*, *Consultant* or *Contractor* shall constitute a waiver of any right or duty afforded any of them under the *Contract*, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

#### GC 1.4 ASSIGNMENT

- 1.4.1 Neither party to the *Contract* shall assign the *Contract* or a portion thereof without the written consent of the other, which consent shall not be unreasonably withheld.

### PART 2 ADMINISTRATION OF THE CONTRACT

#### GC 2.1 AUTHORITY OF THE CONSULTANT

- 2.1.1 The *Consultant* will have authority to act on behalf of the *Owner* only to the extent provided in the *Contract Documents*, unless otherwise modified by written agreement as provided in paragraph 2.1.2.
- 2.1.2 The duties, responsibilities and limitations of authority of the *Consultant* as set forth in the *Contract Documents* shall be modified or extended only with the written consent of the *Owner*, the *Contractor* and the *Consultant*.
- 2.1.3 If the *Consultant's* employment is terminated, the *Owner* shall immediately appoint or reappoint a *Consultant* against whom the *Contractor* makes no reasonable objection and whose status under the *Contract Documents* shall be that of the former *Consultant*.

#### GC 2.2 ROLE OF THE CONSULTANT

- 2.2.1 The *Consultant* will provide administration of the *Contract* as described in the *Contract Documents*.
- 2.2.2 The *Consultant* will visit the *Place of the Work* at intervals appropriate to the progress of construction to become familiar with the progress and quality of the work and to determine if the *Work* is proceeding in general conformity with the *Contract Documents*.
- 2.2.3 If the *Owner* and the *Consultant* agree, the *Consultant* will provide at the *Place of the Work*, one or more project representatives to assist in carrying out the *Consultant's* responsibilities. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in writing to the *Contractor*.
- 2.2.4 The *Consultant* will promptly inform the *Owner* of the date of receipt of the *Contractor's* applications for payment as provided in paragraph 5.3.1.1 of GC 5.3 – PROGRESS PAYMENT.
- 2.2.5 Based on the *Consultant's* observations and evaluation of the *Contractor's* applications for payment, the *Consultant* will determine the amounts owing to the *Contractor* under the *Contract* and will issue certificates for payment as provided in Article A-5 of the Agreement - PAYMENT, GC 5.3 - PROGRESS PAYMENT and GC 5.7 - FINAL PAYMENT.
- 2.2.6 The *Consultant* will not be responsible for and will not have control, charge or supervision of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs required in connection with the *Work* in accordance with the applicable construction safety legislation, other regulations or general construction practice. The *Consultant* will not be responsible for the *Contractor's* failure to carry out the *Work* in accordance with the *Contract Documents*. The *Consultant* will not have control over, charge of or be responsible for the acts or omissions of the *Contractor*, *Subcontractors*, *Suppliers*, or their agents, employees, or any other persons performing portions of the *Work*.
- 2.2.7 Except with respect to GC 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER, the *Consultant* will be, in the first instance, the interpreter of the requirements of the *Contract Documents*.
- 2.2.8 Matters in question relating to the performance of the *Work* or the interpretation of the *Contract Documents* shall be initially referred in writing to the *Consultant* by the party raising the question for interpretations and findings and copied to the other party.
- 2.2.9 Interpretations and findings of the *Consultant* shall be consistent with the intent of the *Contract Documents*. In making such interpretations and findings the *Consultant* will not show partiality to either the *Owner* or the *Contractor*.
- 2.2.10 The *Consultant's* interpretations and findings will be given in writing to the parties within a reasonable time.
- 2.2.11 With respect to claims for a change in *Contract Price*, the *Consultant* will make findings as set out in GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE.
- 2.2.12 The *Consultant* will have authority to reject work which in the *Consultant's* opinion does not conform to the requirements of the *Contract Documents*. Whenever the *Consultant* considers it necessary or advisable, the *Consultant* will have authority to require inspection or testing of work, whether or not such work is fabricated, installed or completed. However, neither the authority of the *Consultant* to act nor any decision either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the *Consultant* to the *Contractor*, *Subcontractors*, *Suppliers*, or their agents, employees, or other persons performing any of the *Work*.

- 2.2.13 During the progress of the *Work* the *Consultant* will furnish *Supplemental Instructions* to the *Contractor* with reasonable promptness or in accordance with a schedule for such instructions agreed to by the *Consultant* and the *Contractor*.
- 2.2.14 The *Consultant* will review and take appropriate action upon *Shop Drawings*, samples and other *Contractor's* submittals, in accordance with the *Contract Documents*.
- 2.2.15 The *Consultant* will prepare *Change Orders* and *Change Directives* as provided in GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.
- 2.2.16 The *Consultant* will conduct reviews of the *Work* to determine the date of *Substantial Performance of the Work* as provided in GC 5.4 - SUBSTANTIAL PERFORMANCE OF THE WORK.
- 2.2.17 All certificates issued by the *Consultant* will be to the best of the *Consultant's* knowledge, information and belief. By issuing any certificate, the *Consultant* does not guarantee the *Work* is correct or complete.
- 2.2.18 The *Consultant* will receive and review written warranties and related documents required by the *Contract* and provided by the *Contractor* and will forward such warranties and documents to the *Owner* for the *Owner's* acceptance.

### GC 2.3 REVIEW AND INSPECTION OF THE WORK

- 2.3.1 The *Owner* and the *Consultant* shall have access to the *Work* at all times. The *Contractor* shall provide sufficient, safe and proper facilities at all times for the review of the *Work* by the *Consultant* and the inspection of the *Work* by authorized agencies. If parts of the *Work* are in preparation at locations other than the *Place of the Work*, the *Owner* and the *Consultant* shall be given access to such work whenever it is in progress.
- 2.3.2 If work is designated for tests, inspections or approvals in the *Contract Documents*, or by the *Consultant's* instructions, or by the laws or ordinances of the *Place of the Work*, the *Contractor* shall give the *Consultant* reasonable notification of when the work will be ready for review and inspection. The *Contractor* shall arrange for and shall give the *Consultant* reasonable notification of the date and time of inspections by other authorities.
- 2.3.3 The *Contractor* shall furnish promptly to the *Consultant* two copies of certificates and inspection reports relating to the *Work*.
- 2.3.4 If the *Contractor* covers, or permits to be covered, work that has been designated for special tests, inspections or approvals before such special tests, inspections or approvals are made, given or completed, the *Contractor* shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good covering work at the *Contractor's* expense.
- 2.3.5 The *Consultant* may order any portion or portions of the *Work* to be examined to confirm that such work is in accordance with the requirements of the *Contract Documents*. If the work is not in accordance with the requirements of the *Contract Documents*, the *Contractor* shall correct the work and pay the cost of examination and correction. If the work is in accordance with the requirements of the *Contract Documents*, the *Owner* shall pay the cost of examination and restoration.
- 2.3.6 The *Contractor* shall pay the cost of making any test or inspection, including the cost of samples required for such test or inspection, if such test or inspection is designated in the *Contract Documents* to be performed by the *Contractor* or is designated by the laws or ordinances applicable to the *Place of the Work*.
- 2.3.7 The *Contractor* shall pay the cost of samples required for any test or inspection to be performed by the *Consultant* or the *Owner* if such test or inspection is designated in the *Contract Documents*.

### GC 2.4 DEFECTIVE WORK

- 2.4.1 The *Contractor* shall promptly correct defective work that has been rejected by the *Consultant* as failing to conform to the *Contract Documents* whether or not the defective work has been incorporated in the *Work* and whether or not the defect is the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the *Contractor*.
- 2.4.2 The *Contractor* shall make good promptly other contractors' work destroyed or damaged by such corrections at the *Contractor's* expense.
- 2.4.3 If in the opinion of the *Consultant* it is not expedient to correct defective work or work not performed as provided in the *Contract Documents*, the *Owner* may deduct from the amount otherwise due to the *Contractor* the difference in value between the work as performed and that called for by the *Contract Documents*. If the *Owner* and the *Contractor* do not agree on the difference in value, they shall refer the matter to the *Consultant* for a determination.



## PART 3 EXECUTION OF THE WORK

### GC 3.1 CONTROL OF THE WORK

- 3.1.1 The *Contractor* shall have total control of the *Work* and shall effectively direct and supervise the *Work* so as to ensure conformity with the *Contract Documents*.
- 3.1.2 The *Contractor* shall be solely responsible for construction means, methods, techniques, sequences, and procedures and for co-ordinating the various parts of the *Work* under the *Contract*.

### GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

- 3.2.1 The *Owner* reserves the right to award separate contracts in connection with other parts of the *Project* to other contractors and to perform work with own forces.
- 3.2.2 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Owner* shall:
- .1 provide for the co-ordination of the activities and work of other contractors and *Owner's* own forces with the *Work* of the *Contract*;
  - .2 assume overall responsibility for compliance with the applicable health and construction safety legislation at the *Place of the Work*;
  - .3 enter into separate contracts with other contractors under conditions of contract which are compatible with the conditions of the *Contract*;
  - .4 ensure that insurance coverage is provided to the same requirements as are called for in GC 11.1 - INSURANCE and co-ordinate such insurance with the insurance coverage of the *Contractor* as it affects the *Work*; and
  - .5 take all reasonable precautions to avoid labour disputes or other disputes on the *Project* arising from the work of other contractors or the *Owner's* own forces.
- 3.2.3 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Contractor* shall:
- .1 afford the *Owner* and other contractors reasonable opportunity to store their products and execute their work;
  - .2 cooperate with other contractors and the *Owner* in reviewing their construction schedules; and
  - .3 promptly report to the *Consultant* in writing any apparent deficiencies in the work of other contractors or of the *Owner's* own forces, where such work affects the proper execution of any portion of the *Work*, prior to proceeding with that portion of the *Work*.
- 3.2.4 Where the *Contract Documents* identify work to be performed by other contractors or the *Owner's* own forces, the *Contractor* shall co-ordinate and schedule the *Work* with the work of other contractors and the *Owner's* own forces as specified in the *Contract Documents*.
- 3.2.5 Where a change in the *Work* is required as a result of the co-ordination and integration of the work of other contractors or *Owner's* own forces with the *Work*, the changes shall be authorized and valued as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.
- 3.2.6 Disputes and other matters in question between the *Contractor* and other contractors shall be dealt with as provided in Part 8 of the General Conditions - DISPUTE RESOLUTION provided the other contractors have reciprocal obligations. The *Contractor* shall be deemed to have consented to arbitration of any dispute with any other contractor whose contract with the *Owner* contains a similar agreement to arbitrate.

### GC 3.3 TEMPORARY WORK

- 3.3.1 The *Contractor* shall have the sole responsibility for the design, erection, operation, maintenance, and removal of *Temporary Work*.
- 3.3.2 The *Contractor* shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform those functions referred to in paragraph 3.3.1 where required by law or by the *Contract Documents* and in all cases where such *Temporary Work* is of such a nature that professional engineering skill is required to produce safe and satisfactory results.

- 3.3.3 Notwithstanding the provisions of GC 3.1 - CONTROL OF THE WORK, paragraphs 3.3.1 and 3.3.2 or provisions to the contrary elsewhere in the *Contract Documents* where such *Contract Documents* include designs for *Temporary Work* or specify a method of construction in whole or in part, such designs or methods of construction shall be considered to be part of the design of the *Work* and the *Contractor* shall not be held responsible for that part of the design or the specified method of construction. The *Contractor* shall, however, be responsible for the execution of such design or specified method of construction in the same manner as for the execution of the *Work*.

#### **GC 3.4 DOCUMENT REVIEW**

- 3.4.1 The *Contractor* shall review the *Contract Documents* and shall report promptly to the *Consultant* any error, inconsistency or omission the *Contractor* may discover. Such review by the *Contractor* shall be to the best of the *Contractor's* knowledge, information and belief and in making such review the *Contractor* does not assume any responsibility to the *Owner* or the *Consultant* for the accuracy of the review. The *Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies or omissions in the *Contract Documents*, which the *Contractor* did not discover. If the *Contractor* does discover any error, inconsistency or omission in the *Contract Documents*, the *Contractor* shall not proceed with the work affected until the *Contractor* has received corrected or missing information from the *Consultant*.

#### **GC 3.5 CONSTRUCTION SCHEDULE**

- 3.5.1 The *Contractor* shall:
- .1 prepare and submit to the *Owner* and the *Consultant* prior to the first application for payment, a construction schedule that indicates the timing of the major activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate the *Work* will be performed in conformity with the *Contract Time*;
  - .2 monitor the progress of the *Work* relative to the construction schedule and update the schedule on a monthly basis or as stipulated by the *Contract Documents*; and
  - .3 advise the *Consultant* of any revisions required to the schedule as the result of extensions of the *Contract Time* as provided in Part 6 of the General Conditions - CHANGES IN THE WORK.

#### **GC 3.6 SUPERVISION**

- 3.6.1 The *Contractor* shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the *Place of the Work* while work is being performed. The appointed representative shall not be changed except for valid reason.
- 3.6.2 The appointed representative shall represent the *Contractor* at the *Place of the Work*. Information and instructions provided by the *Consultant* to the *Contractor's* appointed representative shall be deemed to have been received by the *Contractor*, except with respect to Article A-6 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

#### **GC 3.7 SUBCONTRACTORS AND SUPPLIERS**

- 3.7.1 The *Contractor* shall preserve and protect the rights of the parties under the *Contract* with respect to work to be performed under subcontract, and shall:
- .1 enter into contracts or written agreements with *Subcontractors* and *Suppliers* to require them to perform their work as provided in the *Contract Documents*;
  - .2 incorporate the terms and conditions of the *Contract Documents* into all contracts or written agreements with *Subcontractors* and *Suppliers*; and
  - .3 be as fully responsible to the *Owner* for acts and omissions of *Subcontractors*, *Suppliers* and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Contractor*.
- 3.7.2 The *Contractor* shall indicate in writing, if requested by the *Owner*, those *Subcontractors* or *Suppliers* whose bids have been received by the *Contractor* which the *Contractor* would be prepared to accept for the performance of a portion of the *Work*. Should the *Owner* not object before signing the *Contract*, the *Contractor* shall employ those *Subcontractors* or *Suppliers* so identified by the *Contractor* in writing for the performance of that portion of the *Work* to which their bid applies.
- 3.7.3 The *Owner* may, for reasonable cause, at any time before the *Owner* has signed the *Contract*, object to the use of a proposed *Subcontractor* or *Supplier* and require the *Contractor* to employ one of the other subcontract bidders.
- 3.7.4 If the *Owner* requires the *Contractor* to change a proposed *Subcontractor* or *Supplier*, the *Contract Price* and *Contract Time* shall be adjusted by the differences occasioned by such required change.

- 3.7.5 The *Contractor* shall not be required to employ as a *Subcontractor* or *Supplier*, a person or firm to which the *Contractor* may reasonably object.
- 3.7.6 The *Owner*, through the *Consultant*, may provide to a *Subcontractor* or *Supplier* information as to the percentage of the *Subcontractor's* or *Supplier's* work which has been certified for payment.

### **GC 3.8 LABOUR AND PRODUCTS**

- 3.8.1 The *Contractor* shall provide and pay for labour, *Products*, tools, *Construction Equipment*, water, heat, light, power, transportation, and other facilities and services necessary for the performance of the *Work* in accordance with the *Contract*.
- 3.8.2 Unless otherwise specified in the *Contract Documents*, *Products* provided shall be new. *Products* which are not specified shall be of a quality consistent with those specified and their use acceptable to the *Consultant*.
- 3.8.3 The *Contractor* shall maintain good order and discipline among the *Contractor's* employees engaged on the *Work* and shall not employ on the *Work* anyone not skilled in the tasks assigned.

### **GC 3.9 DOCUMENTS AT THE SITE**

- 3.9.1 The *Contractor* shall keep one copy of current *Contract Documents*, submittals, reports, and records of meetings at the *Place of the Work*, in good order and available to the *Owner* and the *Consultant*.

### **GC 3.10 SHOP DRAWINGS**

- 3.10.1 The *Contractor* shall provide *Shop Drawings* as required in the *Contract Documents*.
- 3.10.2 The *Contractor* shall provide *Shop Drawings* to the *Consultant* to review in orderly sequence and sufficiently in advance so as to cause no delay in the *Work* or in the work of other contractors.
- 3.10.3 Upon request of the *Contractor* or the *Consultant*, they shall jointly prepare a schedule of the dates for provision, review and return of *Shop Drawings*.
- 3.10.4 The *Contractor* shall provide *Shop Drawings* in the form specified, or if not specified, as directed by the *Consultant*.
- 3.10.5 *Shop Drawings* provided by the *Contractor* to the *Consultant* shall indicate by stamp, date and signature of the person responsible for the review that the *Contractor* has reviewed each one of them.
- 3.10.6 The *Consultant's* review is for conformity to the design concept and for general arrangement only.
- 3.10.7 *Shop Drawings* which require approval of any legally constituted authority having jurisdiction shall be provided to such authority by the *Contractor* for approval.
- 3.10.8 The *Contractor* shall review all *Shop Drawings* before providing them to the *Consultant*. The *Contractor* represents by this review that:
- .1 the *Contractor* has determined and verified all applicable field measurements, field construction conditions, *Product* requirements, catalogue numbers and similar data, or will do so, and
  - .2 the *Contractor* has checked and co-ordinated each *Shop Drawing* with the requirements of the *Work* and of the *Contract Documents*.
- 3.10.9 At the time of providing *Shop Drawings*, the *Contractor* shall expressly advise the *Consultant* in writing of any deviations in a *Shop Drawing* from the requirements of the *Contract Documents*. The *Consultant* shall indicate the acceptance or rejection of such deviation expressly in writing.
- 3.10.10 The *Consultant's* review shall not relieve the *Contractor* of responsibility for errors or omissions in the *Shop Drawings* or for meeting all requirements of the *Contract Documents*.
- 3.10.11 The *Contractor* shall provide revised *Shop Drawings* to correct those which the *Consultant* rejects as inconsistent with the *Contract Documents*, unless otherwise directed by the *Consultant*. The *Contractor* shall notify the *Consultant* in writing of any revisions to the *Shop Drawings* other than those requested by the *Consultant*.
- 3.10.12 The *Consultant* will review and return *Shop Drawings* in accordance with the schedule agreed upon, or, in the absence of such schedule, with reasonable promptness so as to cause no delay in the performance of the *Work*.

### GC 3.11 USE OF THE WORK

- 3.11.1 The *Contractor* shall confine *Construction Equipment*, *Temporary Work*, storage of *Products*, waste products and debris, and operations of employees and *Subcontractors* to limits indicated by laws, ordinances, permits, or the *Contract Documents* and shall not unreasonably encumber the *Place of the Work*.
- 3.11.2 The *Contractor* shall not load or permit to be loaded any part of the *Work* with a weight or force that will endanger the safety of the *Work*.

### GC 3.12 CUTTING AND REMEDIAL WORK

- 3.12.1 The *Contractor* shall perform the cutting and remedial work required to make the affected parts of the *Work* come together properly.
- 3.12.2 The *Contractor* shall co-ordinate the *Work* to ensure that the cutting and remedial work is kept to a minimum.
- 3.12.3 Should the *Owner*, the *Consultant*, other contractors or anyone employed by them be responsible for ill-timed work necessitating cutting or remedial work to be performed, the cost of such cutting or remedial work shall be valued as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.
- 3.12.4 Cutting and remedial work shall be performed by specialists familiar with the *Products* affected and shall be performed in a manner to neither damage nor endanger the *Work*.

### GC 3.13 CLEANUP

- 3.13.1 The *Contractor* shall maintain the *Work* in a safe and tidy condition and free from the accumulation of waste products and debris, other than that caused by the *Owner*, other contractors or their employees.
- 3.13.2 Before applying for *Substantial Performance of the Work* as provided in GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK, the *Contractor* shall remove waste products and debris, other than that resulting from the work of the *Owner*, other contractors or their employees, and shall leave the *Place of the Work* clean and suitable for use or occupancy by the *Owner*. The *Contractor* shall remove products, tools, *Construction Equipment*, and *Temporary Work* not required for the performance of the remaining work.
- 3.13.3 Prior to application for the final payment, the *Contractor* shall remove any remaining products, tools, *Construction Equipment*, *Temporary Work*, and waste products and debris, other than those resulting from the work of the *Owner*, other contractors or their employees.

## PART 4 ALLOWANCES

### GC 4.1 CASH ALLOWANCES

- 4.1.1 The *Contract Price* includes the cash allowances, if any, stated in the *Contract Documents*. The scope of work or costs included in such cash allowances shall be as described in the *Contract Documents*.
- 4.1.2 The *Contract Price*, and not the cash allowances, includes the *Contractor's* overhead and profit in connection with such cash allowances.
- 4.1.3 Expenditures under cash allowances shall be authorized by the *Owner* through the *Consultant*.
- 4.1.4 Where the actual cost of the *Work* under any cash allowance exceeds the amount of the allowance, the *Contractor* shall be compensated for the excess incurred and substantiated plus an amount for overhead and profit on the excess as set out in the *Contract Documents*. Where the actual cost of the *Work* under any cash allowance is less than the amount of the allowance, the *Owner* shall be credited for the unexpended portion of the cash allowance, but not for the *Contractor's* overhead and profit on such amount. Multiple cash allowances shall not be combined for the purpose of calculating the foregoing.
- 4.1.5 The *Contract Price* shall be adjusted by *Change Order* to provide for any difference between the amount of each cash allowance and the actual cost of the work under that cash allowance.
- 4.1.6 The value of the work performed under a cash allowance is eligible to be included in progress payments.
- 4.1.7 The *Contractor* and the *Consultant* shall jointly prepare a schedule that shows when the *Consultant* and *Owner* must authorize ordering of items called for under cash allowances to avoid delaying the progress of the *Work*.

## **GC 4.2 CONTINGENCY ALLOWANCE**

- 4.2.1 The *Contract Price* includes the contingency allowance, if any, stated in the *Contract Documents*.
- 4.2.2 The contingency allowance includes the *Contractor's* overhead and profit in connection with such contingency allowance.
- 4.2.3 Expenditures under the contingency allowance shall be authorized and valued as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.
- 4.2.4 The *Contract Price* shall be adjusted by *Change Order* to provide for any difference between the expenditures authorized under paragraph 4.2.3 and the contingency allowance.

## **PART 5 PAYMENT**

### **GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER**

- 5.1.1 The *Owner* shall, at the request of the *Contractor*, before signing the *Contract*, and promptly from time to time thereafter, furnish to the *Contractor* reasonable evidence that financial arrangements have been made to fulfill the *Owner's* obligations under the *Contract*.
- 5.1.2 The *Owner* shall give the *Contractor Notice in Writing* of any material change in the *Owner's* financial arrangements to fulfill the *Owner's* obligations under the *Contract* during the performance of the *Contract*.

### **GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT**

- 5.2.1 Applications for payment on account as provided in Article A-5 of the Agreement - PAYMENT may be made monthly as the *Work* progresses.
- 5.2.2 Applications for payment shall be dated the last day of each payment period, which is the last day of the month or an alternative day of the month agreed in writing by the parties.
- 5.2.3 The amount claimed shall be for the value, proportionate to the amount of the *Contract*, of *Work* performed and *Products* delivered to the *Place of the Work* as of the last day of the payment period.
- 5.2.4 The *Contractor* shall submit to the *Consultant*, at least 15 calendar days before the first application for payment, a schedule of values for the parts of the *Work*, aggregating the total amount of the *Contract Price*, so as to facilitate evaluation of applications for payment.
- 5.2.5 The schedule of values shall be made out in such form and supported by such evidence as the *Consultant* may reasonably direct and when accepted by the *Consultant*, shall be used as the basis for applications for payment, unless it is found to be in error.
- 5.2.6 The *Contractor* shall include a statement based on the schedule of values with each application for payment.
- 5.2.7 Applications for payment for *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall be supported by such evidence as the *Consultant* may reasonably require to establish the value and delivery of the *Products*.

### **GC 5.3 PROGRESS PAYMENT**

- 5.3.1 After receipt by the *Consultant* of an application for payment submitted by the *Contractor* in accordance with GC 5.2 - APPLICATIONS FOR PROGRESS PAYMENT:
  - .1 the *Consultant* will promptly inform the *Owner* of the date of receipt of the *Contractor's* application for payment,
  - .2 the *Consultant* will issue to the *Owner* and copy to the *Contractor*, no later than 10 calendar days after the receipt of the application for payment, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due. If the *Consultant* amends the application, the *Consultant* will promptly advise the *Contractor* in writing giving reasons for the amendment,
  - .3 the *Owner* shall make payment to the *Contractor* on account as provided in Article A-5 of the Agreement - PAYMENT on or before 20 calendar days after the later of:
    - receipt by the *Consultant* of the application for payment, or
    - the last day of the monthly payment period for which the application for payment is made.

#### GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.4.1 When the *Contractor* considers that the *Work* is substantially performed, or if permitted by the lien legislation applicable to the *Place of the Work* a designated portion thereof which the *Owner* agrees to accept separately is substantially performed, the *Contractor* shall, within one *Working Day*, deliver to the *Consultant* and to the *Owner* a comprehensive list of items to be completed or corrected, together with a written application for a review by the *Consultant* to establish *Substantial Performance of the Work* or substantial performance of the designated portion of the *Work*. Failure to include an item on the list does not alter the responsibility of the *Contractor* to complete the *Contract*.
- 5.4.2 The *Consultant* will review the *Work* to verify the validity of the application and shall promptly, and in any event, no later than 20 calendar days after receipt of the *Contractor's* list and application:
- .1 advise the *Contractor* in writing that the *Work* or the designated portion of the *Work* is not substantially performed and give reasons why, or
  - .2 state the date of *Substantial Performance of the Work* or a designated portion of the *Work* in a certificate and issue a copy of that certificate to each of the *Owner* and the *Contractor*.
- 5.4.3 Immediately following the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor*, in consultation with the *Consultant*, shall establish a reasonable date for finishing the *Work*.

#### GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.5.1 After the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor* shall:
- .1 submit an application for payment of the holdback amount,
  - .2 submit CCDC 9A 'Statutory Declaration' to state that all accounts for labour, subcontracts, *Products*, *Construction Equipment*, and other indebtedness which may have been incurred by the *Contractor* in the *Substantial Performance of the Work* and for which the *Owner* might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute.
- 5.5.2 After the receipt of an application for payment from the *Contractor* and the statement as provided in paragraph 5.5.1, the *Consultant* will issue a certificate for payment of the holdback amount.
- 5.5.3 Where the holdback amount required by the applicable lien legislation has not been placed in a separate holdback account, the *Owner* shall, 10 calendar days prior to the expiry of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*, place the holdback amount in a bank account in the joint names of the *Owner* and the *Contractor*.
- 5.5.4 In the common law jurisdictions, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable on the first calendar day following the expiration of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*. Where lien legislation does not exist or apply, the holdback amount shall be due and payable in accordance with other legislation, industry practice or provisions which may be agreed to between the parties. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.
- 5.5.5 In the Province of Quebec, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable 30 calendar days after the issuance of the certificate. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken, or could be taken, against the *Work* or other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.

#### GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK

- 5.6.1 In the common law jurisdictions, where legislation permits and where, upon application by the *Contractor*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Contractor* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, on the first calendar day following the expiration of the holdback period for such work stipulated in the lien legislation applicable to the *Place of the Work*. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.

- 5.6.2 In the Province of Quebec, where, upon application by the *Contractor*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Contractor* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, no later than 30 calendar days after such certification by the *Consultant*. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken, or could be taken, against the *Work* or other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.
- 5.6.3 Notwithstanding the provisions of the preceding paragraphs, and notwithstanding the wording of such certificates, the *Contractor* shall ensure that such subcontract work or *Products* are protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when such certificates were issued.

#### **GC 5.7 FINAL PAYMENT**

- 5.7.1 When the *Contractor* considers that the *Work* is completed, the *Contractor* shall submit an application for final payment.
- 5.7.2 The *Consultant* will, no later than 10 calendar days after the receipt of an application from the *Contractor* for final payment, review the *Work* to verify the validity of the application and advise the *Contractor* in writing that the application is valid or give reasons why it is not valid.
- 5.7.3 When the *Consultant* finds the *Contractor's* application for final payment valid, the *Consultant* will promptly issue a final certificate for payment.
- 5.7.4 Subject to the provision of paragraph 10.4.1 of GC 10.4 - WORKERS' COMPENSATION, and any lien legislation applicable to the *Place of the Work*, the *Owner* shall, no later than 5 calendar days after the issuance of a final certificate for payment, pay the *Contractor* as provided in Article A-5 of the Agreement - PAYMENT.

#### **GC 5.8 WITHHOLDING OF PAYMENT**

- 5.8.1 If because of climatic or other conditions reasonably beyond the control of the *Contractor*, there are items of work that cannot be performed, payment in full for that portion of the *Work* which has been performed as certified by the *Consultant* shall not be withheld or delayed by the *Owner* on account thereof, but the *Owner* may withhold, until the remaining portion of the *Work* is finished, only such an amount that the *Consultant* determines is sufficient and reasonable to cover the cost of performing such remaining work.

#### **GC 5.9 NON-CONFORMING WORK**

- 5.9.1 No payment by the *Owner* under the *Contract* nor partial or entire use or occupancy of the *Work* by the *Owner* shall constitute an acceptance of any portion of the *Work* or *Products* which are not in accordance with the requirements of the *Contract Documents*.

### **PART 6 CHANGES IN THE WORK**

#### **GC 6.1 OWNER'S RIGHT TO MAKE CHANGES**

- 6.1.1 The *Owner*, through the *Consultant*, without invalidating the *Contract*, may make:
- .1 changes in the *Work* consisting of additions, deletions or other revisions to the *Work* by *Change Order* or *Change Directive*, and
  - .2 changes to the *Contract Time* for the *Work*, or any part thereof, by *Change Order*.
- 6.1.2 The *Contractor* shall not perform a change in the *Work* without a *Change Order* or a *Change Directive*.

#### **GC 6.2 CHANGE ORDER**

- 6.2.1 When a change in the *Work* is proposed or required, the *Consultant* will provide the *Contractor* with a written description of the proposed change in the *Work*. The *Contractor* shall promptly present, in a form acceptable to the *Consultant*, a method of adjustment or an amount of adjustment for the *Contract Price*, if any, and the adjustment in the *Contract Time*, if any, for the proposed change in the *Work*.
- 6.2.2 When the *Owner* and *Contractor* agree to the adjustments in the *Contract Price* and *Contract Time* or to the method to be used to determine the adjustments, such agreement shall be effective immediately and shall be recorded in a *Change Order*. The value of the work performed as the result of a *Change Order* shall be included in the application for progress payment.

### GC 6.3 CHANGE DIRECTIVE

- 6.3.1 If the *Owner* requires the *Contractor* to proceed with a change in the *Work* prior to the *Owner* and the *Contractor* agreeing upon the corresponding adjustment in *Contract Price* and *Contract Time*, the *Owner*, through the *Consultant*, shall issue a *Change Directive*.
- 6.3.2 A *Change Directive* shall only be used to direct a change in the *Work* which is within the general scope of the *Contract Documents*.
- 6.3.3 A *Change Directive* shall not be used to direct a change in the *Contract Time* only.
- 6.3.4 Upon receipt of a *Change Directive*, the *Contractor* shall proceed promptly with the change in the *Work*.
- 6.3.5 For the purpose of valuing *Change Directives*, changes in the *Work* that are not substitutions or otherwise related to each other shall not be grouped together in the same *Change Directive*.
- 6.3.6 The adjustment in the *Contract Price* for a change carried out by way of a *Change Directive* shall be determined on the basis of the cost of the *Contractor's* actual expenditures and savings attributable to the *Change Directive*, valued in accordance with paragraph 6.3.7 and as follows:
- .1 If the change results in a net increase in the *Contractor's* cost, the *Contract Price* shall be increased by the amount of the net increase in the *Contractor's* cost, plus the *Contractor's* percentage fee on such net increase.
  - .2 If the change results in a net decrease in the *Contractor's* cost, the *Contract Price* shall be decreased by the amount of the net decrease in the *Contractor's* cost, without adjustment for the *Contractor's* percentage fee.
  - .3 The *Contractor's* fee shall be as specified in the *Contract Documents* or as otherwise agreed by the parties.
- 6.3.7 The cost of performing the work attributable to the *Change Directive* shall be limited to the actual cost of the following:
- .1 salaries, wages and benefits paid to personnel in the direct employ of the *Contractor* under a salary or wage schedule agreed upon by the *Owner* and the *Contractor*, or in the absence of such a schedule, actual salaries, wages and benefits paid under applicable bargaining agreement, and in the absence of a salary or wage schedule and bargaining agreement, actual salaries, wages and benefits paid by the *Contractor*, for personnel
    - (1) stationed at the *Contractor's* field office, in whatever capacity employed;
    - (2) engaged in expediting the production or transportation of material or equipment, at shops or on the road;
    - (3) engaged in the preparation or review of *Shop Drawings*, fabrication drawings, and coordination drawings; or
    - (4) engaged in the processing of changes in the *Work*.
  - .2 contributions, assessments or taxes incurred for such items as employment insurance, provincial or territorial health insurance, workers' compensation, and Canada or Quebec Pension Plan, insofar as such cost is based on wages, salaries or other remuneration paid to employees of the *Contractor* and included in the cost of the *Work* as provided in paragraph 6.3.7.1;
  - .3 travel and subsistence expenses of the *Contractor's* personnel described in paragraph 6.3.7.1;
  - .4 all *Products* including cost of transportation thereof;
  - .5 materials, supplies, *Construction Equipment*, *Temporary Work*, and hand tools not owned by the workers, including transportation and maintenance thereof, which are consumed in the performance of the *Work*; and cost less salvage value on such items used but not consumed, which remain the property of the *Contractor*;
  - .6 all tools and *Construction Equipment*, exclusive of hand tools used in the performance of the *Work*, whether rented from or provided by the *Contractor* or others, including installation, minor repairs and replacements, dismantling, removal, transportation, and delivery cost thereof;
  - .7 all equipment and services required for the *Contractor's* field office;
  - .8 deposits lost;
  - .9 the amounts of all subcontracts;
  - .10 quality assurance such as independent inspection and testing services;
  - .11 charges levied by authorities having jurisdiction at the *Place of the Work*;
  - .12 royalties, patent licence fees and damages for infringement of patents and cost of defending suits therefor subject always to the *Contractor's* obligations to indemnify the *Owner* as provided in paragraph 10.3.1 of GC 10.3 - PATENT FEES;
  - .13 any adjustment in premiums for all bonds and insurance which the *Contractor* is required, by the *Contract Documents*, to purchase and maintain;
  - .14 any adjustment in taxes, other than *Value Added Taxes*, and duties for which the *Contractor* is liable;
  - .15 charges for long distance telephone and facsimile communications, courier services, expressage, and petty cash items incurred in relation to the performance of the *Work*;
  - .16 removal and disposal of waste products and debris; and
  - .17 safety measures and requirements.



- 6.3.8 Notwithstanding any other provisions contained in the General Conditions of the *Contract*, it is the intention of the parties that the cost of any item under any cost element referred to in paragraph 6.3.7 shall cover and include any and all costs or liabilities attributable to the *Change Directive* other than those which are the result of or occasioned by any failure on the part of the *Contractor* to exercise reasonable care and diligence in the *Contractor's* attention to the *Work*. Any cost due to failure on the part of the *Contractor* to exercise reasonable care and diligence in the *Contractor's* attention to the *Work* shall be borne by the *Contractor*.
- 6.3.9 The *Contractor* shall keep full and detailed accounts and records necessary for the documentation of the cost of performing the *Work* attributable to the *Change Directive* and shall provide the *Consultant* with copies thereof when requested.
- 6.3.10 For the purpose of valuing *Change Directives*, the *Owner* shall be afforded reasonable access to all of the *Contractor's* pertinent documents related to the cost of performing the *Work* attributable to the *Change Directive*.
- 6.3.11 Pending determination of the final amount of a *Change Directive*, the undisputed value of the *Work* performed as the result of a *Change Directive* is eligible to be included in progress payments.
- 6.3.12 If the *Owner* and the *Contractor* do not agree on the proposed adjustment in the *Contract Time* attributable to the change in the *Work*, or the method of determining it, the adjustment shall be referred to the *Consultant* for determination.
- 6.3.13 When the *Owner* and the *Contractor* reach agreement on the adjustment to the *Contract Price* and to the *Contract Time*, this agreement shall be recorded in a *Change Order*.

#### GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

- 6.4.1 If the *Owner* or the *Contractor* discover conditions at the *Place of the Work* which are:
- .1 subsurface or otherwise concealed physical conditions which existed before the commencement of the *Work* which differ materially from those indicated in the *Contract Documents*; or
  - .2 physical conditions, other than conditions due to weather, that are of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the *Contract Documents*,
- then the observing party shall give *Notice in Writing* to the other party of such conditions before they are disturbed and in no event later than 5 *Working Days* after first observance of the conditions.
- 6.4.2 The *Consultant* will promptly investigate such conditions and make a finding. If the finding is that the conditions differ materially and this would cause an increase or decrease in the *Contractor's* cost or time to perform the *Work*, the *Consultant*, with the *Owner's* approval, will issue appropriate instructions for a change in the *Work* as provided in GC 6.2 - CHANGE ORDER or GC 6.3 - CHANGE DIRECTIVE.
- 6.4.3 If the *Consultant* finds that the conditions at the *Place of the Work* are not materially different or that no change in the *Contract Price* or the *Contract Time* is justified, the *Consultant* will report the reasons for this finding to the *Owner* and the *Contractor* in writing.
- 6.4.4 If such concealed or unknown conditions relate to toxic and hazardous substances and materials, artifacts and fossils, or mould, the parties will be governed by the provisions of GC 9.2 - TOXIC AND HAZARDOUS SUBSTANCES, GC 9.3 - ARTIFACTS AND FOSSILS and GC 9.5 - MOULD.

#### GC 6.5 DELAYS

- 6.5.1 If the *Contractor* is delayed in the performance of the *Work* by an action or omission of the *Owner*, *Consultant* or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the *Contract Documents*, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. The *Contractor* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Contractor* as the result of such delay.
- 6.5.2 If the *Contractor* is delayed in the performance of the *Work* by a stop work order issued by a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Contractor* or any person employed or engaged by the *Contractor* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. The *Contractor* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Contractor* as the result of such delay.

- 6.5.3 If the *Contractor* is delayed in the performance of the *Work* by:
- .1 labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the *Contractor* is a member or to which the *Contractor* is otherwise bound),
  - .2 fire, unusual delay by common carriers or unavoidable casualties,
  - .3 abnormally adverse weather conditions, or
  - .4 any cause beyond the *Contractor's* control other than one resulting from a default or breach of *Contract* by the *Contractor*,
- then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the *Contractor* agrees to a shorter extension. The *Contractor* shall not be entitled to payment for costs incurred by such delays unless such delays result from actions by the *Owner*, *Consultant* or anyone employed or engaged by them directly or indirectly.
- 6.5.4 No extension shall be made for delay unless *Notice in Writing* of the cause of delay is given to the *Consultant* not later than 10 *Working Days* after the commencement of the delay. In the case of a continuing cause of delay only one *Notice in Writing* shall be necessary.
- 6.5.5 If no schedule is made under paragraph 2.2.13 of GC 2.2 - ROLE OF THE CONSULTANT, then no request for extension shall be made because of failure of the *Consultant* to furnish instructions until 10 *Working Days* after demand for such instructions has been made.

## **GC 6.6 CLAIMS FOR A CHANGE IN CONTRACT PRICE**

- 6.6.1 If the *Contractor* intends to make a claim for an increase to the *Contract Price*, or if the *Owner* intends to make a claim against the *Contractor* for a credit to the *Contract Price*, the party that intends to make the claim shall give timely *Notice in Writing* of intent to claim to the other party and to the *Consultant*.
- 6.6.2 Upon commencement of the event or series of events giving rise to a claim, the party intending to make the claim shall:
- .1 take all reasonable measures to mitigate any loss or expense which may be incurred as a result of such event or series of events, and
  - .2 keep such records as may be necessary to support the claim.
- 6.6.3 The party making the claim shall submit within a reasonable time to the *Consultant* a detailed account of the amount claimed and the grounds upon which the claim is based.
- 6.6.4 Where the event or series of events giving rise to the claim has a continuing effect, the detailed account submitted under paragraph 6.6.3 shall be considered to be an interim account and the party making the claim shall, at such intervals as the *Consultant* may reasonably require, submit further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 6.6.5 The *Consultant's* findings, with respect to a claim made by either party, will be given by *Notice in Writing* to both parties within 30 *Working Days* after receipt of the claim by the *Consultant*, or within such other time period as may be agreed by the parties.
- 6.6.6 If such finding is not acceptable to either party, the claim shall be settled in accordance with Part 8 of the General Conditions - DISPUTE RESOLUTION.

## **PART 7 DEFAULT NOTICE**

### **GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT**

- 7.1.1 If the *Contractor* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Contractor's* insolvency, or if a receiver is appointed because of the *Contractor's* insolvency, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, terminate the *Contractor's* right to continue with the *Work*, by giving the *Contractor* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.1.2 If the *Contractor* neglects to prosecute the *Work* properly or otherwise fails to comply with the requirements of the *Contract* to a substantial degree and if the *Consultant* has given a written statement to the *Owner* and *Contractor* that sufficient cause exists to justify such action, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, give the *Contractor Notice in Writing* that the *Contractor* is in default of the *Contractor's* contractual obligations and instruct the *Contractor* to correct the default in the 5 *Working Days* immediately following the receipt of such *Notice in Writing*.

- 7.1.3 If the default cannot be corrected in the 5 *Working Days* specified or in such other time period as may be subsequently agreed in writing by the parties, the *Contractor* shall be in compliance with the *Owner's* instructions if the *Contractor*:
- .1 commences the correction of the default within the specified time, and
  - .2 provides the *Owner* with an acceptable schedule for such correction, and
  - .3 corrects the default in accordance with the *Contract* terms and with such schedule.
- 7.1.4 If the *Contractor* fails to correct the default in the time specified or in such other time period as may be subsequently agreed in writing by the parties, without prejudice to any other right or remedy the *Owner* may have, the *Owner* may:
- .1 correct such default and deduct the cost thereof from any payment then or thereafter due the *Contractor* provided the *Consultant* has certified such cost to the *Owner* and the *Contractor*, or
  - .2 terminate the *Contractor's* right to continue with the *Work* in whole or in part or terminate the *Contract*.
- 7.1.5 If the *Owner* terminates the *Contractor's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Owner* shall be entitled to:
- .1 take possession of the *Work* and *Products* at the *Place of the Work*; subject to the rights of third parties, utilize the *Construction Equipment* at the *Place of the Work*; finish the *Work* by whatever method the *Owner* may consider expedient, but without undue delay or expense, and
  - .2 withhold further payment to the *Contractor* until a final certificate for payment is issued, and
  - .3 charge the *Contractor* the amount by which the full cost of finishing the *Work* as certified by the *Consultant*, including compensation to the *Consultant* for the *Consultant's* additional services and a reasonable allowance as determined by the *Consultant* to cover the cost of corrections to work performed by the *Contractor* that may be required under GC 12.3 - WARRANTY, exceeds the unpaid balance of the *Contract Price*; however, if such cost of finishing the *Work* is less than the unpaid balance of the *Contract Price*, the *Owner* shall pay the *Contractor* the difference, and
  - .4 on expiry of the warranty period, charge the *Contractor* the amount by which the cost of corrections to the *Contractor's* work under GC 12.3 - WARRANTY exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the *Contractor* the difference.
- 7.1.6 The *Contractor's* obligation under the *Contract* as to quality, correction and warranty of the work performed by the *Contractor* up to the time of termination shall continue after such termination of the *Contract*.

## **GC 7.2 CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT**

- 7.2.1 If the *Owner* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Owner's* insolvency, or if a receiver is appointed because of the *Owner's* insolvency, the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, terminate the *Contract* by giving the *Owner* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.2.2 If the *Work* is suspended or otherwise delayed for a period of 20 *Working Days* or more under an order of a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Contractor* or of anyone directly or indirectly employed or engaged by the *Contractor*, the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, terminate the *Contract* by giving the *Owner Notice in Writing* to that effect.
- 7.2.3 The *Contractor* may give *Notice in Writing* to the *Owner*, with a copy to the *Consultant*, that the *Owner* is in default of the *Owner's* contractual obligations if:
- .1 the *Owner* fails to furnish, when so requested by the *Contractor*, reasonable evidence that financial arrangements have been made to fulfill the *Owner's* obligations under the *Contract*, or
  - .2 the *Consultant* fails to issue a certificate as provided in GC 5.3 - PROGRESS PAYMENT, or
  - .3 the *Owner* fails to pay the *Contractor* when due the amounts certified by the *Consultant* or awarded by arbitration or court, or
  - .4 the *Owner* violates the requirements of the *Contract* to a substantial degree and the *Consultant*, except for GC 5.1 - FINANCING INFORMATION REQUIRED OF THE OWNER, confirms by written statement to the *Contractor* that sufficient cause exists.
- 7.2.4 The *Contractor's Notice in Writing* to the *Owner* provided under paragraph 7.2.3 shall advise that if the default is not corrected within 5 *Working Days* following the receipt of the *Notice in Writing*, the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, suspend the *Work* or terminate the *Contract*.
- 7.2.5 If the *Contractor* terminates the *Contract* under the conditions set out above, the *Contractor* shall be entitled to be paid for all work performed including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Contractor* may have sustained as a result of the termination of the *Contract*.

## PART 8 DISPUTE RESOLUTION

### GC 8.1 AUTHORITY OF THE CONSULTANT

- 8.1.1 Differences between the parties to the *Contract* as to the interpretation, application or administration of the *Contract* or any failure to agree where agreement between the parties is called for, herein collectively called disputes, which are not resolved in the first instance by findings of the *Consultant* as provided in GC 2.2 - ROLE OF THE CONSULTANT, shall be settled in accordance with the requirements of Part 8 of the General Conditions - DISPUTE RESOLUTION.
- 8.1.2 If a dispute arises under the *Contract* in respect of a matter in which the *Consultant* has no authority under the *Contract* to make a finding, the procedures set out in paragraph 8.1.3 and paragraphs 8.2.3 to 8.2.8 of GC 8.2 - NEGOTIATION, MEDIATION AND ARBITRATION, and in GC 8.3 - RETENTION OF RIGHTS apply to that dispute with the necessary changes to detail as may be required.
- 8.1.3 If a dispute is not resolved promptly, the *Consultant* will give such instructions as in the *Consultant's* opinion are necessary for the proper performance of the *Work* and to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any claim the party may have. If it is subsequently determined that such instructions were in error or at variance with the *Contract Documents*, the *Owner* shall pay the *Contractor* costs incurred by the *Contractor* in carrying out such instructions which the *Contractor* was required to do beyond what the *Contract Documents* correctly understood and interpreted would have required, including costs resulting from interruption of the *Work*.

### GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION

- 8.2.1 In accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing, the parties shall appoint a Project Mediator
- .1 within 20 *Working Days* after the *Contract* was awarded, or
  - .2 if the parties neglected to make an appointment within the 20 *Working Days*, within 10 *Working Days* after either party by *Notice in Writing* requests that the Project Mediator be appointed.
- 8.2.2 A party shall be conclusively deemed to have accepted a finding of the *Consultant* under GC 2.2 - ROLE OF THE CONSULTANT and to have expressly waived and released the other party from any claims in respect of the particular matter dealt with in that finding unless, within 15 *Working Days* after receipt of that finding, the party sends a *Notice in Writing* of dispute to the other party and to the *Consultant*, which contains the particulars of the matter in dispute and the relevant provisions of the *Contract Documents*. The responding party shall send a *Notice in Writing* of reply to the dispute within 10 *Working Days* after receipt of such *Notice in Writing* setting out particulars of this response and any relevant provisions of the *Contract Documents*.
- 8.2.3 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid and timely disclosure of relevant facts, information and documents to facilitate these negotiations.
- 8.2.4 After a period of 10 *Working Days* following receipt of a responding party's *Notice in Writing* of reply under paragraph 8.2.2, the parties shall request the Project Mediator to assist the parties to reach agreement on any unresolved dispute. The mediated negotiations shall be conducted in accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing.
- 8.2.5 If the dispute has not been resolved within 10 *Working Days* after the Project Mediator was requested under paragraph 8.2.4 or within such further period agreed by the parties, the Project Mediator shall terminate the mediated negotiations by giving *Notice in Writing* to the *Owner*, the *Contractor* and the *Consultant*.
- 8.2.6 By giving a *Notice in Writing* to the other party and the *Consultant*, not later than 10 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.2.5, either party may refer the dispute to be finally resolved by arbitration under the Rules for Arbitration of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing. The arbitration shall be conducted in the jurisdiction of the *Place of the Work*.
- 8.2.7 On expiration of the 10 *Working Days*, the arbitration agreement under paragraph 8.2.6 is not binding on the parties and, if a *Notice in Writing* is not given under paragraph 8.2.6 within the required time, the parties may refer the unresolved dispute to the courts or to any other form of dispute resolution, including arbitration, which they have agreed to use.

- 8.2.8 If neither party, by *Notice in Writing*, given within 10 *Working Days* of the date of *Notice in Writing* requesting arbitration in paragraph 8.2.6, requires that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 8.2.6 shall be
- .1 held in abeyance until
    - (1) *Substantial Performance of the Work*,
    - (2) the *Contract* has been terminated, or
    - (3) the *Contractor* has abandoned the *Work*,whichever is earlier; and
  - .2 consolidated into a single arbitration under the rules governing the arbitration under paragraph 8.2.6.

### GC 8.3 RETENTION OF RIGHTS

- 8.3.1 It is agreed that no act by either party shall be construed as a renunciation or waiver of any rights or recourses, provided the party has given the *Notice in Writing* required under Part 8 of the General Conditions - DISPUTE RESOLUTION and has carried out the instructions as provided in paragraph 8.1.3 of GC 8.1 – AUTHORITY OF THE CONSULTANT.
- 8.3.2 Nothing in Part 8 of the General Conditions - DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the *Place of the Work* and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.2.6 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

## PART 9 PROTECTION OF PERSONS AND PROPERTY

### GC 9.1 PROTECTION OF WORK AND PROPERTY

- 9.1.1 The *Contractor* shall protect the *Work* and the *Owner's* property and property adjacent to the *Place of the Work* from damage which may arise as the result of the *Contractor's* operations under the *Contract*, and shall be responsible for such damage, except damage which occurs as the result of:
- .1 errors in the *Contract Documents*;
  - .2 acts or omissions by the *Owner*, the *Consultant*, other contractors, their agents and employees.
- 9.1.2 Before commencing any work, the *Contractor* shall determine the location of all underground utilities and structures indicated in the *Contract Documents* or that are reasonably apparent in an inspection of the *Place of the Work*.
- 9.1.3 Should the *Contractor* in the performance of the *Contract* damage the *Work*, the *Owner's* property or property adjacent to the *Place of the Work*, the *Contractor* shall be responsible for making good such damage at the *Contractor's* expense.
- 9.1.4 Should damage occur to the *Work* or *Owner's* property for which the *Contractor* is not responsible, as provided in paragraph 9.1.1, the *Contractor* shall make good such damage to the *Work* and, if the *Owner* so directs, to the *Owner's* property. The *Contract Price* and *Contract Time* shall be adjusted as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.

### GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

- 9.2.1 For the purposes of applicable legislation related to toxic and hazardous substances, the *Owner* shall be deemed to have control and management of the *Place of the Work* with respect to existing conditions.
- 9.2.2 Prior to the *Contractor* commencing the *Work*, the *Owner* shall,
- .1 take all reasonable steps to determine whether any toxic or hazardous substances are present at the *Place of the Work*, and
  - .2 provide the *Consultant* and the *Contractor* with a written list of any such substances that are known to exist and their locations.
- 9.2.3 The *Owner* shall take all reasonable steps to ensure that no person's exposure to any toxic or hazardous substances exceeds the time weighted levels prescribed by applicable legislation at the *Place of the Work* and that no property is damaged or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances which were at the *Place of the Work* prior to the *Contractor* commencing the *Work*.
- 9.2.4 Unless the *Contract* expressly provides otherwise, the *Owner* shall be responsible for taking all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the *Place of the Work* prior to the *Contractor* commencing the *Work*.

- 9.2.5 If the *Contractor*
- .1 encounters toxic or hazardous substances at the *Place of the Work*, or
  - .2 has reasonable grounds to believe that toxic or hazardous substances are present at the *Place of the Work*, which were not brought to the *Place of the Work* by the *Contractor* or anyone for whom the *Contractor* is responsible and which were not disclosed by the *Owner* or which were disclosed but have not been dealt with as required under paragraph 9.2.4, the *Contractor* shall
  - .3 take all reasonable steps, including stopping the *Work*, to ensure that no person's exposure to any toxic or hazardous substances exceeds any applicable time weighted levels prescribed by applicable legislation at the *Place of the Work*, and
  - .4 immediately report the circumstances to the *Consultant* and the *Owner* in writing.
- 9.2.6 If the *Owner* and *Contractor* do not agree on the existence, significance of, or whether the toxic or hazardous substances were brought onto the *Place of the Work* by the *Contractor* or anyone for whom the *Contractor* is responsible, the *Owner* shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the *Owner* and the *Contractor*.
- 9.2.7 If the *Owner* and *Contractor* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were not brought onto the place of the *Work* by the *Contractor* or anyone for whom the *Contractor* is responsible, the *Owner* shall promptly at the *Owner's* own expense:
- .1 take all steps as required under paragraph 9.2.4;
  - .2 reimburse the *Contractor* for the costs of all steps taken pursuant to paragraph 9.2.5;
  - .3 extend the *Contract* time for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and the expert referred to in 9.2.6 and reimburse the *Contractor* for reasonable costs incurred as a result of the delay; and
  - .4 indemnify the *Contractor* as required by GC 12.1 - INDEMNIFICATION.
- 9.2.8 If the *Owner* and *Contractor* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were brought onto the place of the *Work* by the *Contractor* or anyone for whom the *Contractor* is responsible, the *Contractor* shall promptly at the *Contractor's* own expense:
- .1 take all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to safely remove and dispose the toxic or hazardous substances;
  - .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the place of the *Work* as provided in paragraph 9.1.3 of GC 9.1 - PROTECTION OF WORK AND PROPERTY;
  - .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.2.6; and
  - .4 indemnify the *Owner* as required by GC 12.1 - INDEMNIFICATION.
- 9.2.9 If either party does not accept the expert's findings under paragraph 9.2.6, the disagreement shall be settled in accordance with Part 8 of the General Conditions - Dispute Resolution. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert's determination and take the steps required by paragraph 9.2.7 or 9.2.8 it being understood that by so doing, neither party will jeopardize any claim that party may have to be reimbursed as provided by GC 9.2 - TOXIC AND HAZARDOUS SUBSTANCES.

### GC 9.3 ARTIFACTS AND FOSSILS

- 9.3.1 Fossils, coins, articles of value or antiquity, structures and other remains or things of scientific or historic interest discovered at the *Place or Work* shall, as between the *Owner* and the *Contractor*, be deemed to be the absolute property of the *Owner*.
- 9.3.2 The *Contractor* shall take all reasonable precautions to prevent removal or damage to discoveries as identified in paragraph 9.3.1, and shall advise the *Consultant* upon discovery of such items.
- 9.3.3 The *Consultant* will investigate the impact on the *Work* of the discoveries identified in paragraph 9.3.1. If conditions are found that would cause an increase or decrease in the *Contractor's* cost or time to perform the *Work*, the *Consultant*, with the *Owner's* approval, will issue appropriate instructions for a change in the *Work* as provided in GC 6.2 - CHANGE ORDER or GC 6.3 CHANGE DIRECTIVE.

### GC 9.4 CONSTRUCTION SAFETY

- 9.4.1 Subject to paragraph 3.2.2.2 of GC 3.2 - CONSTRUCTION BY OWNER OR OTHER CONTRACTORS, the *Contractor* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations and practices required by the applicable construction health and safety legislation and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the *Work*.

## GC 9.5 MOULD

- 9.5.1 If the *Contractor* or *Owner* observes or reasonably suspects the presence of mould at the *Place of the Work*, the remediation of which is not expressly part of the *Work*,
- .1 the observing party shall promptly report the circumstances to the other party in writing, and
  - .2 the *Contractor* shall promptly take all reasonable steps, including stopping the *Work* if necessary, to ensure that no person suffers injury, sickness or death and that no property is damaged as a result of exposure to or the presence of the mould, and
  - .3 if the *Owner* and *Contractor* do not agree on the existence, significance or cause of the mould or as to what steps need be taken to deal with it, the *Owner* shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the *Owner* and *Contractor*.
- 9.5.2 If the *Owner* and *Contractor* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was caused by the *Contractor*'s operations under the *Contract*, the *Contractor* shall promptly, at the *Contractor*'s own expense:
- .1 take all reasonable and necessary steps to safely remediate or dispose of the mould, and
  - .2 make good any damage to the *Work*, the *Owner*'s property or property adjacent to the *Place of the Work* as provided in paragraph 9.1.3 of GC 9.1 - PROTECTION OF WORK AND PROPERTY, and
  - .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.5.1.3, and
  - .4 indemnify the *Owner* as required by GC 12.1 - INDEMNIFICATION.
- 9.5.3 If the *Owner* and *Contractor* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was not caused by the *Contractor*'s operations under the *Contract*, the *Owner* shall promptly, at the *Owner*'s own expense:
- .1 take all reasonable and necessary steps to safely remediate or dispose of the mould, and
  - .2 reimburse the *Contractor* for the cost of taking the steps under paragraph 9.5.1.2 and making good any damage to the *Work* as provided in paragraph 9.1.4 of GC 9.1 - PROTECTION OF WORK AND PROPERTY, and
  - .3 extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and the expert referred to in paragraph 9.5.1.3 and reimburse the *Contractor* for reasonable costs incurred as a result of the delay, and
  - .4 indemnify the *Contractor* as required by GC 12.1 - INDEMNIFICATION.
- 9.5.4 If either party does not accept the expert's finding under paragraph 9.5.1.3, the disagreement shall be settled in accordance with Part 8 of the General Conditions - DISPUTE RESOLUTION. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert's determination and take the steps required by paragraphs 9.5.2 or 9.5.3, it being understood that by so doing neither party will jeopardize any claim the party may have to be reimbursed as provided by GC 9.5 - MOULD.

## PART 10 GOVERNING REGULATIONS

### GC 10.1 TAXES AND DUTIES

- 10.1.1 The *Contract Price* shall include all taxes and customs duties in effect at the time of the bid closing except for *Value Added Taxes* payable by the *Owner* to the *Contractor* as stipulated in Article A-4 of the Agreement - CONTRACT PRICE.
- 10.1.2 Any increase or decrease in costs to the *Contractor* due to changes in such included taxes and duties after the time of the bid closing shall increase or decrease the *Contract Price* accordingly.

### GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- 10.2.1 The laws of the *Place of the Work* shall govern the *Work*.
- 10.2.2 The *Owner* shall obtain and pay for development approvals, building permit, permanent easements, rights of servitude, and all other necessary approvals and permits, except for the permits and fees referred to in paragraph 10.2.3 or for which the *Contract Documents* specify as the responsibility of the *Contractor*.
- 10.2.3 The *Contractor* shall be responsible for the procurement of permits, licences, inspections, and certificates, which are necessary for the performance of the *Work* and customarily obtained by contractors in the jurisdiction of the *Place of the Work* after the issuance of the building permit. The *Contract Price* includes the cost of these permits, licences, inspections, and certificates, and their procurement.
- 10.2.4 The *Contractor* shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the performance of the *Work* and which relate to the *Work*, to the preservation of the public health, and to construction safety.

- 10.2.5 The *Contractor* shall not be responsible for verifying that the *Contract Documents* are in compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the *Work*. If the *Contract Documents* are at variance therewith, or if, subsequent to the time of bid closing, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the *Contract Documents*, the *Contractor* shall advise the *Consultant* in writing requesting direction immediately upon such variance or change becoming known. The *Consultant* will make the changes required to the *Contract Documents* as provided in GC 6.1 - OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 - CHANGE ORDER and GC 6.3 - CHANGE DIRECTIVE.
- 10.2.6 If the *Contractor* fails to advise the *Consultant* in writing; and fails to obtain direction as required in paragraph 10.2.5; and performs work knowing it to be contrary to any laws, ordinances, rules, regulations, or codes; the *Contractor* shall be responsible for and shall correct the violations thereof; and shall bear the costs, expenses and damages attributable to the failure to comply with the provisions of such laws, ordinances, rules, regulations, or codes.
- 10.2.7 If, subsequent to the time of bid closing, changes are made to applicable laws, ordinances, rules, regulations, or codes of authorities having jurisdiction which affect the cost of the *Work*, either party may submit a claim in accordance with the requirements of GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE.

### GC 10.3 PATENT FEES

- 10.3.1 The *Contractor* shall pay the royalties and patent licence fees required for the performance of the *Contract*. The *Contractor* shall hold the *Owner* harmless from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Contractor's* performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention by the *Contractor* or anyone for whose acts the *Contractor* may be liable.
- 10.3.2 The *Owner* shall hold the *Contractor* harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Contractor's* performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention in executing anything for the purpose of the *Contract*, the model, plan or design of which was supplied to the *Contractor* as part of the *Contract Documents*.

### GC 10.4 WORKERS' COMPENSATION

- 10.4.1 Prior to commencing the *Work*, again with the *Contractor's* application for payment of the holdback amount following *Substantial Performance of the Work* and again with the *Contractor's* application for final payment, the *Contractor* shall provide evidence of compliance with workers' compensation legislation at the *Place of the Work*, including payments due thereunder.
- 10.4.2 At any time during the term of the *Contract*, when requested by the *Owner*, the *Contractor* shall provide such evidence of compliance by the *Contractor* and *Subcontractors*.

## PART 11 INSURANCE AND CONTRACT SECURITY

### GC 11.1 INSURANCE

- 11.1.1 Without restricting the generality of GC 12.1 - INDEMNIFICATION, the *Contractor* shall provide, maintain and pay for the following insurance coverages, the minimum requirements of which are specified in CCDC 41 – CCDC Insurance Requirements in effect at the time of bid closing except as hereinafter provided:
1. General liability insurance in the name of the *Contractor* and include, or in the case of a single, blanket policy, be endorsed to name, the *Owner* and the *Consultant* as insureds but only with respect to liability, other than legal liability arising out of their sole negligence, arising out of the operations of the *Contractor* with regard to the *Work*. General liability insurance shall be maintained from the date of commencement of the *Work* until one year from the date of *Substantial Performance of the Work*. Liability coverage shall be provided for completed operations hazards from the date of *Substantial Performance of the Work*, as set out in the certificate of *Substantial Performance of the Work*, on an ongoing basis for a period of 6 years following *Substantial Performance of the Work*.
  2. Automobile Liability Insurance from the date of commencement of the *Work* until one year after the date of *Substantial Performance of the Work*.
  3. Aircraft or Watercraft Liability Insurance when owned or non-owned aircraft or watercraft are used directly or indirectly in the performance of the *Work*.
  4. "Broad form" property insurance in the joint names of the *Contractor*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The "Broad form" property insurance shall be provided from the date of commencement of the *Work* until the earliest of:
    - (1) 10 calendar days after the date of *Substantial Performance of the Work*;



- (2) on the commencement of use or occupancy of any part or section of the *Work* unless such use or occupancy is for construction purposes, habitational, office, banking, convenience store under 465 square metres in area, or parking purposes, or for the installation, testing and commissioning of equipment forming part of the *Work*;
  - (3) when left unattended for more than 30 consecutive calendar days or when construction activity has ceased for more than 30 consecutive calendar days.
- 5 Boiler and machinery insurance in the joint names of the *Contractor*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The coverage shall be maintained continuously from commencement of use or operation of the boiler and machinery objects insured by the policy and until 10 calendar days after the date of *Substantial Performance of the Work*.
- 6 The "Broad form" property and boiler and machinery policies shall provide that, in the case of a loss or damage, payment shall be made to the *Owner* and the *Contractor* as their respective interests may appear. In the event of loss or damage:
- (1) the *Contractor* shall act on behalf of the *Owner* for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the *Contractor* shall proceed to restore the *Work*. Loss or damage shall not affect the rights and obligations of either party under the *Contract* except that the *Contractor* shall be entitled to such reasonable extension of *Contract Time* relative to the extent of the loss or damage as the *Consultant* may recommend in consultation with the *Contractor*;
  - (2) the *Contractor* shall be entitled to receive from the *Owner*, in addition to the amount due under the *Contract*, the amount which the *Owner's* interest in restoration of the *Work* has been appraised, such amount to be paid as the restoration of the *Work* proceeds in accordance with the progress payment provisions. In addition the *Contractor* shall be entitled to receive from the payments made by the insurer the amount of the *Contractor's* interest in the restoration of the *Work*; and
  - (3) to the *Work* arising from the work of the *Owner*, the *Owner's* own forces or another contractor, the *Owner* shall, in accordance with the *Owner's* obligations under the provisions relating to construction by *Owner* or other contractors, pay the *Contractor* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as in accordance with the progress payment provisions.
- 7 Contractors' Equipment Insurance from the date of commencement of the *Work* until one year after the date of *Substantial Performance of the Work*.
- 11.1.2 Prior to commencement of the *Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the *Contractor* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the *Work*.
- 11.1.3 The parties shall pay their share of the deductible amounts in direct proportion to their responsibility in regards to any loss for which the above policies are required to pay, except where such amounts may be excluded by the terms of the *Contract*.
- 11.1.4 If the *Contractor* fails to provide or maintain insurance as required by the *Contract Documents*, then the *Owner* shall have the right to provide and maintain such insurance and give evidence to the *Contractor* and the *Consultant*. The *Contractor* shall pay the cost thereof to the *Owner* on demand or the *Owner* may deduct the cost from the amount which is due or may become due to the *Contractor*.
- 11.1.5 All required insurance policies shall be with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Work*.
- 11.1.6 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies reduced insurance requirements, the parties shall address such reduction, prior to the *Contractor's* insurance policy becoming due for renewal, and record any agreement in a *Change Order*.
- 11.1.7 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies increased insurance requirements, the *Owner* may request the increased coverage from the *Contractor* by way of a *Change Order*.
- 11.1.8 A *Change Directive* shall not be used to direct a change in the insurance requirements in response to the revision of CCDC 41 – INSURANCE REQUIREMENTS.

## GC 11.2 CONTRACT SECURITY

- 11.2.1 The *Contractor* shall, prior to commencement of the *Work* or within the specified time, provide to the *Owner* any *Contract* security specified in the *Contract Documents*.

- 11.2.2 If the *Contract Documents* require surety bonds to be provided, such bonds shall be issued by a duly licensed surety company authorized to transact the business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until the fulfillment of the *Contract*. The form of such bonds shall be in accordance with the latest edition of the CCDC approved bond forms.

## PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY

### GC 12.1 INDEMNIFICATION

- 12.1.1 Without restricting the parties' obligation to indemnify as described in paragraphs 12.1.4 and 12.1.5, the *Owner* and the *Contractor* shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to their involvement as parties to this *Contract*, provided such claims are:
- .1 caused by:
    - (1) the negligent acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
    - (2) a failure of the party to the *Contract* from whom indemnification is sought to fulfill its terms or conditions; and
  - .2 made by *Notice in Writing* within a period of 6 years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work* issued pursuant to paragraph 5.4.2.2 of GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work*.
- The parties expressly waive the right to indemnity for claims other than those provided for in this *Contract*.
- 12.1.2 The obligation of either party to indemnify as set forth in paragraph 12.1.1 shall be limited as follows:
- .1 In respect to losses suffered by the *Owner* and the *Contractor* for which insurance is to be provided by either party pursuant to GC 11.1 – INSURANCE, the general liability insurance limit for one occurrence as referred to in CCDC 41 in effect at the time of bid closing.
  - .2 In respect to losses suffered by the *Owner* and the *Contractor* for which insurance is not required to be provided by either party in accordance with GC 11.1 – INSURANCE, the greater of the *Contract Price* as recorded in Article A-4 – CONTRACT PRICE or \$2,000,000, but in no event shall the sum be greater than \$20,000,000.
  - .3 In respect to claims by third parties for direct loss resulting from bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, the obligation to indemnify is without limit. In respect to all other claims for indemnity as a result of claims advanced by third parties, the limits of indemnity set forth in paragraphs 12.1.2.1 and 12.1.2.2 shall apply.
- 12.1.3 The obligation of either party to indemnify the other as set forth in paragraphs 12.1.1 and 12.1.2 shall be inclusive of interest and all legal costs.
- 12.1.4 The *Owner* and the *Contractor* shall indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of their obligations described in GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES.
- 12.1.5 The *Owner* shall indemnify and hold harmless the *Contractor* from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings:
- .1 as described in paragraph 10.3.2 of GC 10.3 – PATENT FEES, and
  - .2 arising out of the *Contractor's* performance of the *Contract* which are attributable to a lack of or defect in title or an alleged lack of or defect in title to the *Place of the Work*.
- 12.1.6 In respect to any claim for indemnity or to be held harmless by the *Owner* or the *Contractor*:
- .1 *Notice in Writing* of such claim shall be given within a reasonable time after the facts upon which such claim is based became known;
  - .2 should any party be required as a result of its obligation to indemnify another to pay or satisfy a final order, judgment or award made against the party entitled by this contract to be indemnified, then the indemnifying party upon assuming all liability for any costs that might result shall have the right to appeal in the name of the party against whom such final order or judgment has been made until such rights of appeal have been exhausted.

## GC 12.2 WAIVER OF CLAIMS

- 12.2.1 Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Contractor* waives and releases the *Owner* from all claims which the *Contractor* has or reasonably ought to have knowledge of that could be advanced by the *Contractor* against the *Owner* arising from the *Contractor's* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the date of *Substantial Performance of the Work*, except as follows:
- .1 claims arising prior to or on the date of *Substantial Performance of the Work* for which *Notice in Writing* of claim has been received by the *Owner* from the *Contractor* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;
  - .2 indemnification for claims advanced against the *Contractor* by third parties for which a right of indemnification may be asserted by the *Contractor* against the *Owner* pursuant to the provisions of this *Contract*;
  - .3 claims for which a right of indemnity could be asserted by the *Contractor* pursuant to the provisions of paragraphs 12.1.4 or 12.1.5 of GC 12.1 – INDEMNIFICATION; and
  - .4 claims resulting from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.2.2 The *Contractor* waives and releases the *Owner* from all claims referenced in paragraph 12.2.1.4 except for those referred in paragraphs 12.2.1.2 and 12.2.1.3 and claims for which *Notice in Writing* of claim has been received by the *Owner* from the *Contractor* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.2.3 Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Owner* waives and releases the *Contractor* from all claims which the *Owner* has or reasonably ought to have knowledge of that could be advanced by the *Owner* against the *Contractor* arising from the *Owner's* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the date of *Substantial Performance of the Work*, except as follows:
- .1 claims arising prior to or on the date of *Substantial Performance of the Work* for which *Notice in Writing* of claim has been received by the *Contractor* from the *Owner* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;
  - .2 indemnification for claims advanced against the *Owner* by third parties for which a right of indemnification may be asserted by the *Owner* against the *Contractor* pursuant to the provisions of this *Contract*;
  - .3 claims for which a right of indemnity could be asserted by the *Owner* against the *Contractor* pursuant to the provisions of paragraph 12.1.4 of GC 12.1 - INDEMNIFICATION;
  - .4 damages arising from the *Contractor's* actions which result in substantial defects or deficiencies in the *Work*. "Substantial defects or deficiencies" mean those defects or deficiencies in the *Work* which affect the *Work* to such an extent or in such a manner that a significant part or the whole of the *Work* is unfit for the purpose intended by the *Contract Documents*;
  - .5 claims arising pursuant to GC 12.3 - WARRANTY; and
  - .6 claims arising from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.2.4 The *Owner* waives and releases the *Contractor* from all claims referred to in paragraph 12.2.3.4 except claims for which *Notice in Writing* of claim has been received by the *Contractor* from the *Owner* within a period of six years from the date of *Substantial Performance of the Work* should any limitation statute of the Province or Territory of the *Place of the Work* permit such agreement. If the applicable limitation statute does not permit such agreement, within such shorter period as may be prescribed by:
- .1 any limitation statute of the Province or Territory of the *Place of the Work*; or
  - .2 if the *Place of the Work* is the Province of Quebec, then Article 2118 of the Civil Code of Quebec.
- 12.2.5 The *Owner* waives and releases the *Contractor* from all claims referenced in paragraph 12.2.3.6 except for those referred in paragraph 12.2.3.2, 12.2.3.3 and those arising under GC 12.3 – WARRANTY and claims for which *Notice in Writing* has been received by the *Contractor* from the *Owner* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.2.6 "Notice in Writing of claim" as provided for in GC 12.2 – WAIVER OF CLAIMS to preserve a claim or right of action which would otherwise, by the provisions of GC 12.2 – WAIVER OF CLAIMS, be deemed to be waived, must include the following:
- .1 a clear and unequivocal statement of the intention to claim;
  - .2 a statement as to the nature of the claim and the grounds upon which the claim is based; and
  - .3 a statement of the estimated quantum of the claim.
- 12.2.7 The party giving "Notice in Writing of claim" as provided for in GC 12.2 – WAIVER OF CLAIMS shall submit within a reasonable time a detailed account of the amount claimed.

- 12.2.8 Where the event or series of events giving rise to a claim made under paragraphs 12.2.1 or 12.2.3 has a continuing effect, the detailed account submitted under paragraph 12.2.7 shall be considered to be an interim account and the party making the claim shall submit further interim accounts, at reasonable intervals, giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 12.2.9 If a *Notice in Writing* of claim pursuant to paragraph 12.2.1.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 12.2.3.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.
- 12.2.10 If a *Notice in Writing* of claim pursuant to paragraph 12.2.3.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 12.2.1.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.

### GC 12.3 WARRANTY

- 12.3.1 Except for extended warranties as described in paragraph 12.3.6, the warranty period under the *Contract* is one year from the date of *Substantial Performance of the Work*.
- 12.3.2 The *Contractor* shall be responsible for the proper performance of the *Work* to the extent that the design and *Contract Documents* permit such performance.
- 12.3.3 The *Owner*, through the *Consultant*, shall promptly give the *Contractor Notice in Writing* of observed defects and deficiencies which occur during the one year warranty period.
- 12.3.4 Subject to paragraph 12.3.2, the *Contractor* shall correct promptly, at the *Contractor's* expense, defects or deficiencies in the *Work* which appear prior to and during the one year warranty period.
- 12.3.5 The *Contractor* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.4.
- 12.3.6 Any extended warranties required beyond the one year warranty period as described in paragraph 12.3.1, shall be as specified in the *Contract Documents*. Extended warranties shall be issued by the warrantor to the benefit of the *Owner*. The *Contractor's* responsibility with respect to extended warranties shall be limited to obtaining any such extended warranties from the warrantor. The obligations under such extended warranties are solely the responsibilities of the warrantor.

75 Albert Street  
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# CANADIAN CONSTRUCTION DOCUMENTS COMMITTEE CANADIAN CONSTRUCTION DOCUMENTS COMMITTEE

## CCDC 41 CCDC INSURANCE REQUIREMENTS

PUBLICATION DATE: JANUARY 21, 2008

1. General liability insurance shall be with limits of not less than \$5,000,000 per occurrence, an aggregate limit of not less than \$5,000,000 within any policy year with respect to completed operations, and a deductible not exceeding \$5,000. The insurance coverage shall not be less than the insurance provided by IBC Form 2100 (including an extension for a standard provincial and territorial form of non-owned automobile liability policy) and IBC Form 2320. To achieve the desired limit, umbrella or excess liability insurance may be used. Subject to satisfactory proof of financial capability by the *Contractor*, the *Owner* may agree to increase the deductible amounts.
2. Automobile liability insurance in respect of vehicles that are required by law to be insured under a contract by a Motor Vehicle Liability Policy, shall have limits of not less than \$5,000,000 inclusive per occurrence for bodily injury, death and damage to property, covering all vehicles owned or leased by the *Contractor*. Where the policy has been issued pursuant to a government-operated automobile insurance system, the *Contractor* shall provide the *Owner* with confirmation of automobile insurance coverage for all automobiles registered in the name of the *Contractor*.
3. Aircraft and watercraft liability insurance with respect to owned or non-owned aircraft and watercraft (if used directly or indirectly in the performance of the *Work*), including use of additional premises, shall have limits of not less than \$5,000,000 inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof and limits of not less than \$5,000,000 for aircraft passenger hazard. Such insurance shall be in a form acceptable to the *Owner*.
4. "Broad form" property insurance shall have limits of not less than the sum of 1.1 times *Contract Price* and the full value, as stated in the *Contract*, of *Products* and design services that are specified to be provided by the *Owner* for incorporation into the *Work*, with a deductible not exceeding \$5,000. The insurance coverage shall not be less than the insurance provided by IBC Forms 4042 and 4047 (excluding flood and earthquake) or their equivalent replacement. Subject to satisfactory proof of financial capability by the *Contractor*, the *Owner* may agree to increase the deductible amounts.
5. Boiler and machinery insurance shall have limits of not less than the replacement value of the permanent or temporary boilers and pressure vessels, and other insurable objects forming part of the *Work*. The insurance coverage shall not be less than the insurance provided by a comprehensive boiler and machinery policy.
6. "Broad form" contractors' equipment insurance coverage covering *Construction Equipment* used by the *Contractor* for the performance of the *Work*, shall be in a form acceptable to the *Owner* and shall not allow subrogation claims by the insurer against the *Owner*. Subject to satisfactory proof of financial capability by the *Contractor* for self-insurance, the *Owner* may agree to waive the equipment insurance requirement.
7. Standard Exclusions
  - 7.1 In addition to the broad form property exclusions identified in IBC forms 4042(1995), and 4047(2000), the *Contractor* is not required to provide the following insurance coverage:
    - Asbestos
    - Cyber Risk
    - Mould
    - Terrorism

Association  
of Canadian  
Engineering  
Companies

Canadian  
Construction  
Association

Construction  
Specifications  
Canada

The Royal  
Architectural  
Institute of Canada

# **APPENDIX F**

**[ATTACHED]**

DATE: *October 21, 2024*  
[Date to be updated]  
OWNER: *Lumina Eclipse Limited Partnership as represented by its general partner Lumina Eclipse GP Inc.*

SERVICE PROVIDER: *BRASFIELD BUILDERS LTD.*

PROJECT: *Brentwood Tower C*

SITE: *Burnaby, British Columbia*

The Owner (Lumina Eclipse Limited Partnership as represented by its general partner Lumina Eclipse GP Inc.) as well as its construction arm D-Third Development – Beta Ltd. accepts the Service Provider's proposal to perform services in connection with the Project in accordance with the Terms and Conditions attached hereto as Exhibit A, and as more particularly described in Exhibit B (the "Charge out rates") attached hereto (the "Services"). In the event of any conflict between the provisions of the Agreement (including Exhibit A) and the Service Provider's proposal, the provisions of this Agreement shall govern.

FORM OF COMPENSATION:			(check option left, fill in amount right)
Lump Sum	<input type="checkbox"/>	Amount:	_____
Hourly Rates	<input checked="" type="checkbox"/>	Estimated Total:	_____
Hourly Rates with Upset Limit:	<input type="checkbox"/>	Upset Limit:	_____
Monthly Fee	<input type="checkbox"/>	Amount:	_____
Estimate of Reimbursables		Method/Amount:	_____

TERM OF WORK (fill in all boxes)

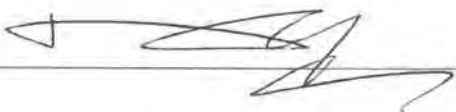
- |   |                                       |
|---|---------------------------------------|
| 1. Work under this Agreement shall commence on (the "Commencement Date"): | <i>October 21, 2024</i>               |
| 2. The Period of this Agreement is:                                       | _____                                 |
| 3. Work under this Agreement shall be complete on:                        | <i>Towe C substantial completion</i>  |
| 4. This Agreement shall terminate on (the "Termination Date"):            | <i>Tower C substantial completion</i> |

EXECUTED as of the date first above written.

Lumina Eclipse Limited Partnership  
as represented by its general partner  
Lumina Eclipse GP Inc.

[BRASFIELD BUILDERS LTD.]

By



By



Name \_\_\_\_\_  
Title \_\_\_\_\_

D-Third Development – Beta Ltd.

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_



Name \_\_\_\_\_  
Title \_\_\_\_\_

Simran Bhat

Director of Construction

November 3, 2024

#### LIST OF ATTACHED EXHIBITS

- Exhibit A Terms and Conditions of this Agreement
- Exhibit B Service Provider's Proposal
- Exhibit C Insurance Specifications



## EXHIBIT A: TERMS AND CONDITIONS OF THIS AGREEMENT

### 1. Performance of Services

Lumina Eclipse Limited Partnership as represented by its general partner Lumina Eclipse GP Inc. (Lumina)Limited is engaging [●] [NTD: Insert full legal name] (Brasfield Builders Ltd.) (BB) to complete the construction of the project known as Brentwood Tower C in lieu of its construction arm D-Third Development – Beta Ltd. For clarity the existing CCDC between the Owner and D-Third Development – Beta Ltd shall remain in place but D-Third Development – Beta Ltd is consenting to allowing BB to complete the construction on its behalf; with no fees to be charged by D-Third Development – Beta Ltd. All Services to be performed by the Service Provider (BB) shall be performed diligently and efficiently, in a professional, competent, and prudent manner, in accordance with this Agreement, recognized and accepted codes and professional practice, applicable laws and regulations, and by qualified and duly licensed personnel and utilizing industry accepted tools and materials. The Owner shall have not have the right to terminate this Agreement or the services hereunder without prior written consent of its mortgagee, KingSett Mortgage Corporation.

For clarity, the existing trade contracts, consultant contracts and supplier contracts will remain in place with the Owner, but the Owner agrees to hire BB as the service provider to oversee the successful completion of these existing agreements. The scope of work expected to be completed by BB include:

1. Completing the construction of Brentwood Tower C until the provisional occupancy permit by city of Burnaby is issued. The Service Provider commits to showing the same standard of care that would be expected of a prudent, experienced Construction Manager engaged under a CCDC 5B contract, including but not limited to:
  - a. Overseeing construction, including rectifying deficiencies
  - b. Managing the schedule
  - c. Liaising with trades
  - d. Maintaining on site safety standards
  - e. Receiving and reviewing trade invoices
  - f. Submitting RFIs to consultants
  - g. Keeping records of manpower on site
2. Liaising with the city, authorities having jurisdiction and consultants and arranging for all necessary inspections and reports.
3. Any tasks that would normally be contemplated under a development management agreement, such as:
  - a. Arranging for any legal documents needed, such as condo registration documents
  - b. Organizing inspections as necessary with purchasers and tracking colour selections
  - c. Providing accounting services and administering payments
  - d. Managing the design team

- e. Preparing handover documents
  - f. Providing the cost consultant with the required information (all items from a to f in this subsection will require occasional input from the Owner in reasonable timeframe)
2. All Services to be performed by the Service Provider shall bring the Property into compliance with applicable laws and/or building codes. BB is not liable for the works done prior to the date of this agreement and cannot be held liable for conformance to applicable code and specifications in respect of such work. BB is tasked to execute work listed in contract documents (drawings shared with BB via email) per the contract agreements signed by Owner. BB has been provided a cost to complete estimate by the mortgagee and Owner and is not responsible for cost overruns and scope gaps.

The Owner agrees to support and provide the Service provider with all the information needed to successfully complete the Services outlined above. This includes access to Brentwood Tower C's Procore site, accounting records, agreements of purchaser and sale and any other pertinent information BB may require while performing the services. The Owner will also provide the Service provider with input as needed / deemed necessary by the service provider in relation to dealing with the city, scheduling the site and existing agreements with trades. As part of this agreement the Owner consents to BB directly hiring some of its staff / employees. Owner to send an introductory memo/notice/email to all subcontractors, consultants, city staff etc. to bring them up to speed with revised roles and responsibilities for the project.

The Owner will also work with BB to ensure that all Interim Tax Credits (ITCs) are processed in a timely manner and reinjected into the project. The Owner acknowledges that any and all ITCs form part of KingSett Mortgage Corporation's security and any misappropriation of such funds will, among other things, constitute an event of default in relation to the Owner's Brentwood Tower C loan. BB to periodically check in with Owner to ensure ITCs are processed in timely fashion. BB understands that the data provided by the Owner is true and in line with mortgagee's expectations.

### 3. Inspection and Review

Owner has the right to inspect and review the Services, including the Work Product, either as a work in progress or a completed Work Product to determine whether such Services adhere to this Agreement. In the event that the Owner has concerns about the work being completed on site, the Owner will provide written notice to the Service Provider and KingSett Mortgage Corporation. In the event there are on site deficiencies the Service Provider shall promptly rectify any deficiencies. No acceptance, review or approval of the Services by Owner or others shall relieve Service Provider of any of its responsibility for the proper performance of the Services. In order to document workmanship issues accurately in the building, BB requests Owner to provide a detailed unit matrix confirming the nature of deficiencies it has have recorded to date in each strata unit and common areas. In absence of such matrix, BB will work coordinate with trades already onboarded by the Owner to fix deficiencies.

### 4. Time

The Service Provider shall perform its Services as expeditiously as is consistent with professional skill and care. The Service Provider shall coordinate its Services with all service providers engaged by the Owner in connection with the Project. It shall be the obligation of the Service Provider to request any information necessary to be provided by the Owner for the performance of this

Service. Time is of the essence of this Agreement. BB recognizes the time sensitive nature of the project and is committed to work efficiently and expedite timelines.

5. Reimbursable Expenses

The Service Provider agrees to use commercially reasonable efforts to minimize expenses which are reimbursable by the Owner. All reimbursable expenses shall be reasonably and necessarily incurred for the purpose of performing the Services, and without markup.

6. Service Provider's Compensation

a. Hourly Rates

The Service Provider shall use its best efforts to complete the performance of its Services within the hourly rates provided by BB. Hourly Rates shall be as set out in Exhibit B, and shall be fixed and firm for the term of the Agreement. The Service Provider shall advise the Owner at such time as the Estimated Cost has been reached or at any time that Service Provider anticipates that the Services will not be completed within the Estimated Cost. Given the nature of the project, BB has provided unit rate pricing for key resources.

b. In addition to this BB is requesting a monthly fee of \$40,000/month. This will cover any development management resources required in the execution of this work.

7. Payment

All billing by the Service Provider shall be in a form acceptable to the Owner with such supporting documents as may be reasonably required by Owner and sent to King Sett Mortgage Corporation and the cost consultant. No more than one billing under this Agreement shall be made in any calendar month unless specifically requested by the Owner. Each billing shall set forth all items for which the Service Provider is to be paid. Payment shall be due within thirty (30) days (or such other period as is prescribed by law) after the Owner receives an acceptable and correct invoice. In no event shall the Owner be liable for interest, penalties, expenses or legal fees. All dollar amounts are in Canadian dollars unless otherwise specified. Owner may set off any amounts due from Service Provider against any amounts due to Service Provider.

8. Taxes

The Service Provider shall be solely responsible for any and all taxes, deductions at source, and any other contributions or remittances required by law in relation to its employees. The compensation set out on the cover of this Agreement is inclusive of all applicable taxes, duties and levies, other than value added taxes. The Owner agrees to pay the Service provider any value added taxes that are payable in relation to compensation. The Service Provider represents and warrants to Owner that it is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada).

9. Service Provider's Accounting Records

All records relating to the performance of the Services, including records of all expenses which are reimbursable to the Service Provider and all of the Service Provider's time records shall be kept on a generally recognized accounting basis and shall be available to the Owner and its authorized representatives for audit at all reasonable times until two years after the completion of the services.

10. Occupational Health and Safety

The Service Provider shall assume overall responsibility for, and shall be solely responsible for, construction health and safety at the Project and the Site (including for the Work and any other Work or

other activities conducted or performed at the Project or Site by any person whatsoever including the Service Provider, trade contractors, suppliers, Subcontractors, Owner's own forces, other contractors, or any other person employed by any of them, and each of their respective employees, directors, officers, agents, and invitees, and whether or not any contractual relationship exists between the Service Provider and such person (collectively the "Project Work")) and for compliance with the rules, regulations, and practices required by, and other requirements of, the *Occupational Health and Safety Act* and its regulations ("OHSA"). The Service Provider's duties, obligations, and responsibilities shall also include carrying out and fulfilling the Owner's duties and responsibilities as an Employer in relation to workplace safety in respect of the Project, the Project Work, and the Site Applicable from date of mobilization off BB resources.

- a. The Owner and the Service Provider acknowledge and agree that the Service Provider was selected by the Owner based on a number of key factors including: (i) the Service Provider's skill, knowledge, experience (including health and safety policies, WSIB and safety records), health and safety policies, and expertise relating to workplace safety; and (ii) Service Provider's record of convictions, and violations issued by the British Columbia Ministry of Labour, Immigration, Training and Skills Development. The Service Provider shall exercise reasonable diligence in accordance with the standard of care set out in paragraph 1 in the pre-selection process with respect to any trade contractors or subcontractors.
- b. The Service Provider represents and warrants that the Service Provider has not received any charges or violations issued by the British Columbia Ministry of Labour, Immigration, Training and Skills Development and have not been convicted of any such charges or violations, in the current year and in the prior 5 years.
- c. The Service Provider represents and warrants and shall provide evidence to the Owner upon request that the Service Provider and its trade contractors, Subcontractors and suppliers have in place safety programs, and that all employees of the Service Provider, its Subcontractors, suppliers and its trade contractors have received training in occupational safety, all in compliance with the requirements of the OHSA, and are effectively enforcing the applicable safety programs. The Service Provider shall promptly report to the Owner any accident or emergency that relates to the Work. The Service Provider shall cooperate fully with the Owner with respect to dealing with any claim resulting from an accident or emergency. In the event of an accident or emergency threatening health, life or property, the Service Provider, without instruction or authorization from the Owner, shall take such action as may be necessary to save lives and protect persons from injury, and, this being done, to protect and preserve property.
- d. Without limiting the generality of any other provision in the Agreement, the Service Provider shall indemnify, defend and hold harmless the Owner Indemnified Parties from claims substantiated by credible evidence, demands or proceedings, arising directly from negligent failure by service provider. This indemnity shall not apply to claims arising from third party acts or omissions outside BB's control. BB's total liability shall not exceed total coverage as listed in exhibit C and shall not include liability for indirect, consequential or punitive damages.

#### 11. Reports, Drawings, Instruments of Service

When the Service Provider has been paid for the Services performed by it hereunder, all reports, drawings, and other material furnished to the Owner ("Work Product") shall become the Owner's property and may be used by the Owner thereafter in such manner and for such purposes as the



Owner thereafter in such manner and for such purposes as the Owner may deem advisable, without further employment of or additional compensation to the Service Provider. The Service Provider shall not release or disclose to any third party any Work Product without obtaining the Owner's prior written consent (in case of scope gaps, BB is allowed to share project information with potential contractors, suppliers, consultants etc.). If any Work Product submitted by the Service Provider is altered after submission to the Owner, then the Service Provider shall not be held responsible for the results of the use of such altered Work Product provided that the Service Provider did not participate in the alteration of said Work Product.

12. Intellectual Property

The Service Provider shall solely and exclusively own all rights, title and interest in, and to, all proprietary right provided under (a) patent law; (b) copyright law; (c) trademark law; (d) design patent or industrial design law; and, (e) any other statutory provision or common law principle ("Intellectual Property Rights") of the Service Provider's background technology, information, materials, drawings, documents, methods, and other property that was not created and developed in connection with the Services, and that all such property shall remain the sole, absolute and exclusive property of the Service Provider. The Service Provider hereby grants to, or agrees to obtain for, the Owner an irrevocable, perpetual, assignable, royalty-free and cost-free license to use such Intellectual Property Rights in the use of the Work Product. The Service Provider represents and warrants that the provision of the Services shall not infringe or induce the infringement of the Intellectual Property Rights of any third party. The Owner shall solely and exclusively own all rights, title and interest in, and to, all foreground Intellectual Property Rights created and developed in connection with the Services. The Service Provider will not assert, and waives and shall cause all of its subcontractors and its and their employees to waive, any "moral rights" in the Work Product.

13. Insurance

The Service Provider shall effect and maintain insurance (billed to project) as set forth in Exhibit C of this Agreement commencing upon the execution of this Agreement and for such period as is specified in Exhibit C.

14. Indemnification by Service Provider

- a. The Service Provider agrees to indemnify, defend and save harmless the Owner, its affiliates, KingSett Mortgage Corporation, and their respective managers, members, partners, officers, directors, shareholders, employees, tenants, lenders, and agents, and their respective successors and assigns (collectively, the "Owner Indemnified Parties") only to the extent that such claims are directly caused by the negligence of BB (substantiated by credible evidence), its employees or agents. (collectively, "Claims"). Such claims shall include indirect, consequential or punitive damages and BB's liability for such claims shall not exceed total coverage as listed in exhibit C. BB will not be responsible for claims arising from third parties or contractors outside of BB's control.

15. Indemnification and Release by Owner

- a. The Owner agrees to indemnify, defend and save harmless the Service Provider and its affiliates, KingSett Mortgage Corporation and its affiliates, and their respective managers, members, partners, officers, directors, shareholders, employees, tenants, lenders, and agents, and their respective successors and assigns (collectively, the "Service Provider Indemnified Parties") of, from and against any and all Claims, including Claims arising from reputational damage, personal injury, property loss or damage, injury (including

death) to others (including personnel of Owner and the Service Provider Indemnified Parties, their contractors and subcontractors), and response costs, to which the Service Provider Indemnified Parties may be subjected or put resulting from, in connection with, or growing out of any act or omission of the Owner, its agents, servants, employees, or any person or corporation connected with the Owner.

- b. The Owner hereby releases, to the greatest extent permitted at law, the Service Provider Indemnified Parties in respect of all Claims the Owner now has, or may in the future have, against the Service Provider Indemnified Parties in any way relating to this Agreement. Notwithstanding the foregoing, this release does not apply to the extent any Claim was determined by a court of competent jurisdiction to be caused by the applicable Service Provider Indemnified Party's negligence or wilful misconduct.

#### 16. Protection of Persons and Property

The Service Provider shall take reasonable precautions to prevent damage to property, visible and concealed (billed to project). The Service Provider shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Project, and shall be solely responsible for the means and methods of providing its Services. The Service Provider shall take proper precautions for safety and protection against damage, injury or loss to: (a) all persons performing Services at the Site and all other persons who may be affected thereby (including Site occupants); (b) the Services and materials and equipment to be used therewith, and (c) other property at the Site or adjacent thereto, such as landscaping, walks, pavements, roadways, structures and utilities. The Service Provider shall erect proper safeguards for protection and safety, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying affected persons. All activities shall be supervised by properly qualified personnel, and utmost care shall be exercised by the Service Provider to prevent danger and damage and to ensure safety throughout the course of the Project.

#### 17. Suspension

The Owner, with the prior written consent of KingSett Mortgage Corporation, may at any time and for any reason suspend all or part of the Services for a specified or unspecified period of time upon 7 days advance notice by notifying the Service Provider in writing. During the period of suspension, the Service Provider shall minimize any further expenditures relating to the Services, and within 14 days after the notification date, the Service Provider shall submit to the Owner an estimate of the costs it expects to incur as a direct result of such suspension. If a suspension by the Owner continues for less than three (3) weeks, the Service Provider shall be compensated for all properly substantiated costs that it reasonably incurs during the period of suspension. Should a period of suspension exceed three (3) weeks, the Parties and KingSett Mortgage Corporation may agree to continue the Services and make any necessary amendments to this Agreement. If the Parties cannot agree on the desirability or conditions of continued performance, then Owner with the consent of KingSett Mortgage Corporation may terminate this Agreement by notice in accordance with Section 18.e.

#### 18. Term and Termination of Agreement

- a. If this Agreement is for ongoing services, Service Provider shall provide services for the term of this Agreement as set forth on the face of this Agreement, except that the term of this Agreement shall, subject to earlier termination in accordance with the provisions

of this Agreement, expire as of the Termination Date set forth on the face of this Agreement.

- b. N/A
- c. This Agreement may be terminated by the Service Provider upon five (5) days written notice to the Owner and KingSett Mortgage Corporation should the Owner fail substantially to perform in accordance with its obligations hereunder through no fault of the Service Provider and such failure is not rectified within such five (5) day period. Any such termination shall be without prejudice to any rights or remedies available to the Service Provider.
- d. This Agreement may be terminated by the Owner with the prior written consent of KingSett Mortgage Corporation upon five (5) days written notice to the Service Provider should the Service Provider fail substantially to perform in accordance with its obligations hereunder through no fault of the Owner and such failure is not rectified within such five (5) day period. Any such termination shall be without prejudice to any rights or remedies available to the Owner.
- e. The Owner, with the prior written consent of KingSett Mortgage Corporation, may terminate this Agreement for any reason or no reason upon written notice to the Service Provider, provided that it shall make payments in accordance with this Agreement for work completed through the termination date. In such event, the Service Provider shall deliver to the Owner reproducible Work Product, and thereupon the Owner shall pay the Service Provider any unpaid balances for Services rendered to the date of termination. For greater certainty, in the event of any such termination, the Owner shall not be liable to the Service Provider for costs or damages whatsoever including any indirect, consequential or special damages, such as loss of profits, loss of opportunity or loss of productivity.

#### 19. Force Majeure

Neither the Service Provider nor the Owner shall be liable for damages caused by delay or failure to fulfill any material obligation under this Agreement where such delay or failure is caused by events beyond its reasonable control ("Force Majeure"), provided that such event does not arise as a result of: (a) the negligence or willful misconduct of the party claiming Force Majeure or those for whom it is in law responsible; (b) any act or omission by the party claiming Force Majeure (or those for whom it is in law responsible) in breach of the provisions of this Agreement; (c) lack or insufficiency of funds or failure to make payment of monies; or (d) any delay or shortages of supplies or labour. The party claiming Force Majeure shall use its reasonable commercial efforts to minimize any delays or damages attributable to any such event. If the Services are interrupted by an event of Force Majeure for more than sixty (60) consecutive days then either party shall have the right to terminate this Agreement by written notice to the other Party.

#### 20. Successors, Assigns and Subcontractors

- a. Subject to this Section 20, the Owner and the Service Provider each binds itself, its partners, successors, assigns, and legal representatives to the other party.
- b. The Service Provider shall not assign, sublet or transfer its interest (including its right to receive any monies due hereunder) in this Agreement without the written consent of the

Owner and KingSett Mortgage Corporation. Any assignment, subletting or transfer by the Service Provider in violation of this Section 20 shall be void and without force and effect.

- c. The Owner shall have the right to assign this Agreement to any purchaser of the Project or the Site and to any affiliate of the Owner without the Service Provider's consent. In addition, the Owner shall have the right to assign this Agreement to any other party upon obtaining the Service Provider's prior written consent, which shall not be unreasonably withheld or delayed.
- d. Except as provided for in Exhibit B, the Service Provider shall not subcontract any portion of the Services without the Owner's prior written consent. The Service Provider shall be fully responsible for the acts or omissions of any subcontractor.

#### 21. Entire Agreement

This Agreement represents the entire and integrated agreement between the Owner and the Service Provider with respect to the subject matter hereof and supersedes all prior negotiations, representatives or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner (with the prior written consent of KingSett Mortgage Corporation) and the Service Provider. No waiver shall be binding unless it is in writing and executed by the Party to be bound thereby. The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights or remedies available at law or in equity or otherwise. No single or partial exercise by a Party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that Party may be entitled.

#### 22. Independent Contractor

The Service Provider is and shall remain at all times an independent contractor and is not and shall not represent itself to be an employee of the Owner or its affiliates. The Service Provider agrees that it shall not, without the prior approval of the Owner, make any representations or engage in any acts which could establish an apparent relationship of agency, joint venture, partnership or employment with the Owner or its affiliates. For greater certainty, the Owner shall not be bound in any manner whatsoever by any agreement, warranty or representation made by the Service Provider to any other person or by any action of the Service Provider, except where the Service Provider has first obtained the approval of the Owner. Nothing contained in this Agreement is intended to create, nor shall be construed as creating, an employment or dependent contractor relationship between the Service Provider and the Owner.

#### 23. Governing Law

This Agreement shall be governed by the law of the province of the Site.

#### 24. Dispute Resolution

Any dispute not resolved by the Parties within 14 days shall be referred to senior management of the Service Provider and the Owner. Any dispute which cannot be resolved by senior management within 30 days of its referral, shall be resolved by mandatory and binding arbitration before a single arbitrator. The decision of the arbitrator shall be conclusive, final and binding upon the Parties and may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the provisions of the *Arbitration Act, 1991* (British Columbia) or solely on a question of law. Each Party shall bear its own costs incurred during the arbitration process, and its equal share of the costs of the arbitrator. The performance of the Services shall continue notwithstanding any such dispute, provided that Owner continues to make undisputed payments to Service Provider when due.



25. Rules of Interpretation

Paragraph headings are included herein for reference purposes only and in no way define, limit or describe the scope or intent or any of the provisions of this Agreement. This Agreement shall not be construed more strictly against either party to it by virtue of that party's role in drafting the Agreement. Where used in this Agreement, the word "including" or "includes" means "including, without limitation".

26. Confidentiality

The Service Provider shall not, without the Owner's prior written consent, release or disclose any information relating to the Project or other confidential information of Owner to anyone except as necessary to perform its duties hereunder, and then, only where the person receiving such information is bound by covenants of confidentiality. Such confidential information referenced shall include information with respect to Owner's business affairs, internal procedures and processes, products, materials, sales, costs, profitability, distribution, marketing, customer lists, patents, trademarks, copyrights or other intellectual properties, inventions, methods of manufacturing or retailing, management, information systems, trade secrets or other confidential or proprietary information. All of the Work Product prepared or assembled by the Service Provider in the performance of the Services is confidential and the Service Provider agrees that it will not, without prior written approval by Owner, submit or make same available to any individual, agency, public body or organization other than Owner, except as may be otherwise herein provided.

27. Certification and Further Assurances

The Service Provider shall, from time to time, make such certifications and statements to the Owner and to such of the Owner's architects, designers, contractors, and lenders as the Owner shall reasonably request, in such form as the Owner shall reasonably request, provided that the Service Provider determines that such certifications are true and correct based upon the Services performed by the Service Provider hereunder. Each Party shall from time to time promptly execute and deliver all further documents and take all further action reasonably necessary or appropriate to give effect to the provisions and intent of this Agreement.

28. Changes

The Owner, with the prior written consent of KingSett Mortgage Corporation, may, from time to time, request changes to the Services. The Service Provider shall, within seven days after such a request, either submit for the Owner's review and approval a revised work plan and fee proposal or advise the Owner in writing why the requested change should not or cannot be accommodated. In the event of a reduction in the Services, the Owner shall be entitled to a credit. Upon approval of the Service Provider's submission with respect to changed Services, the Owner shall prepare a written amendment to the Agreement. The Service Provider shall not commence any changed Services until such time as it has been so instructed in writing by Owner.

## EXHIBIT B: SERVICE PROVIDER'S PROPOSAL

The Rates for Service Provider personnel engaged to do the above services are the following:

### Site team Proposed:

Senior Project Managers: Moe (Salary \$195,000) , Owen Wu (Salary \$135,000)  
~~Assisting Project Manager: Owen (Salary \$135,000)~~ Kulwinder Hundal (Contract \$200,000)  
Project Coordinator/ deficiency tracking and Procore management: Dev (Salary \$90,000)  
Thind employee Allistair rate - Director of project (estimate \$200,000)

Exterior / Parkade/ landscape and offsite Super: JC (Salary \$185,000)  
Common space, roof top, hallways etc Super: Anthony (Salary \$165,000)  
Finishing Super/Interior: Ali (Salary \$145,000)  
Key Runner: Arsh \$37.5/Hourly

Monthly rate : \$105,000 plus GST and WCB

CSO- Brasfield will need to transfer project of notice to Brasfield builders from Lumina Eclipse  
CSO: Inderpal & Aman \$48/Hourly

Monthly rate based on 160 hours but overtime may be required if Brasfield need trades to work longer hours and weekends

Monthly rate \$15,360 plus GST and WCB

### Labour Proposed

Labour Forman: Sukha \$48/hourly ( based on 160 hours)  
General Labour: Honey, Harpreet, Jashan, Jaspreet, Parth, Cam (\$35/hourly) (based on 160 hours) \$33.6  
Carpenter: Spencer (Salary \$85,000)

More labour may be required closer to Occupancy

Monthly rate \$48,280 plus GST and WCB

### Quality control / homeowner walk through and key hand over process

Quality Control Manager: Tasmeen (Salary \$95,000)  
QC Tech: TBD (Salary \$85,000)  
Walk Through Reps: Serena, Jeshen, Nina, Paul (\$35/Hourly)

Monthly rate \$17,000 plus GST and WCB

### Accounting

Brasfield will create an eclipseaccounts@brasfield.ca email and our accounting team will manage all invoices, work with the cost consultant and KingSett Capital to produce QS reports and handle cheque releases via KingSett's lawyer etc and manage all correspondence with trades.

Monthly rate \$6,000 plus GST and WCB

Note that all prices are based on 40 hour work week and do not include over time work hours. In order to accelerate schedule, overtime work will be required. It is also understood that BB may have to add/modify/remove resources based on project needs.

## EXHIBIT C: INSURANCE SPECIFICATIONS

INSURANCE SHALL BE MAINTAINED BY SERVICE PROVIDER AND ITS SUBCONSULTANTS AT ALL TIMES THAT SERVICES ARE BEING PERFORMED. The following insurance requirements shall be applicable to Service Provider and any of its Subcontractors. "Subcontractors" means any service providers, consultants, contractors, subservice providers or other suppliers engaged by Service Provider for the performance of Services.

Coverage and Limits. Except as otherwise specified below, Service Provider and each and every Subcontractors shall maintain the following types of insurance coverages and with the following minimum limits:

- a) Commercial General Liability Insurance (including broad form contractual liability and completed operations, explosion, collapse and underground hazards) in the amount of Five Million Dollars (\$5,000,000) covering bodily injury and property damage with a maximum deductible of \$25,000;
- b) Environmental/Pollution Liability Insurance with a limit of \$5,000,000 per occurrence with a maximum deductible of \$25,000. The insurance shall be maintained continuously from the commencement of the Services until 24 months following the date of completion of the Services;
- c) Comprehensive Automobile Liability Insurance, including owned, hired and non-owned vehicles, if any, in the amount of Two Million Dollars (\$2,000,000) covering bodily injury and property damage; and
- d) Workers' Compensation Insurance as required by applicable laws and employer's liability in the amount of \$100,000 for bodily injury by accident (each accident), \$100,000 for bodily injury by disease (policy limit) and \$100,000 bodily injury by disease (each employee).

Evidence of Insurance. Prior to the date upon which any Services are performed at the Site, Service Provider shall submit to Owner, and thereafter, upon their expiration or termination, provide Owner with renewal or replacements thereof, certificates of insurance and clearance certificates evidencing the insurance coverages described above for Service Provider and any Subcontractors.

### Other Requirements.

- a) All policies of insurance shall be placed with insurance companies rated at least A+ by Best Rating Service.
- b) All policies of insurance also shall provide that Named or Additional Insureds shall be given notice at least thirty (30) days' prior to the cancellation, non-renewal or material modification.
- c) The Commercial General Liability policy shall be endorsed to include the Owner Indemnified Parties as Additional Insureds.
- d) The limits of any insurance policy required to be provided under this Agreement may be satisfied by a combination of primary and excess or umbrella policies. Defense costs are excluded from the face amount of the above policies.

Provisions of Policies. All insurance policies shall (a) provide coverage primary to any insurance carried independently by the Owner Indemnified Parties; (b) be written by a company or companies acceptable to Owner and lawfully authorized to do business in the jurisdiction in which the Project is located; and (c) with the exception of Professional Liability Insurance, be maintained on occurrence basis. Certificates of insurance acceptable to the Owner and upon request copies of the insurance policies shall be filed with the Owner prior to commencement of the Services.

Owner must ensure all project insurance including but not limited to Builder's risk and wrap up insurance is in place and premiums paid by owner. Service provider is not responsible for any insurance claims, premiums and damages.

# **APPENDIX G**

**[ATTACHED]**

## CONSENT

**TO:** KSV Restructuring Inc., in its capacity as the Court-appointed monitor of Lumina Eclipse Limited Partnership, Beta View Homes Ltd. and Lumina Eclipse GP Ltd. (collectively, the “Debtor Companies”)

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The undersigned hereby confirms that it is a direct subsidiary of one of the Debtor Companies, is a subsidiary of the same company as one or more of the Debtor Companies or is controlled by the same person as one or more of the Debtor Companies, and consents to its inclusion as a “Respondent” in the proceedings commenced under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, pursuant to an initial order of the Supreme Court of British Columbia granted on January 8, 2025 bearing Court File No. S-250121.

**DATED** this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2025.

**D-THIND DEVELOPMENT BETA LTD.**

By: \_\_\_\_\_

Name: Daljit Thind

Title: Director

I have authority to bind the corporation.

# **APPENDIX H**

**[ATTACHED]**

rennie

rennie proposal\_Burnaby







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**“When we first opened the doors as a brokerage in 1988, we called the company “Rennie and Associates”. It was important to me that the community knew that when you work with one of us you work with all of us ...as the founder, I am so proud that a collective power still defines the culture at rennie today.”**

**Bob Rennie**

**FOUNDER**

about us

---

# we are *thoughtful* real estate

---

rennie brings a thoughtful, trusted approach to the real estate industry, supporting our clients and communities for more than 40 years.

Founded on a people-first culture, we are proud of our long history supporting the seamless collaboration between our in-house Intelligence, Technology, Conveyance, Finance, Marketing, Brand, and Advisor teams.

Our growing teams of 130+ head office staff and 270+ advisors work seamlessly to deliver exceptional experiences and services. Together, we provide our clients with the confidence they need to make informed decisions when buying, selling, or building a home or community.

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3





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**“The confidence we provide  
is based on over 40 years  
of building and nurturing  
strong relationships with  
exceptional service.”**

**Greg Zayadi**  
RENNIE PRESIDENT



about us: the rennie advantage

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## what makes us different

Through thoughtful guidance, market intelligence, and sales and marketing expertise, our strong connection with our clients allows us to offer a breadth, depth, and scale of service unmatched in the industry.

01

---

the most trusted  
advisor in real estate  
for over 40 years

02

---

our unparalleled  
reach

03

---

always in service of  
our clients

04

---

we're the business  
banks recommend



about us: the rennie advantage

---

# 01

the most trusted  
advisor in real estate

Long recognized for our vision and leadership in the real estate market, rennie has been a trusted partner and thoughtful guide in the development, marketing, and reshaping of skylines for more than 40 years.

---

## 6,142

new homes sold in  
the last 3 years

---

## \$16 billion<sup>+</sup>

in new home transactions

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## 241

projects  
completed

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## 26,248

new homes transacted  
in our history

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## 216

clients and counting

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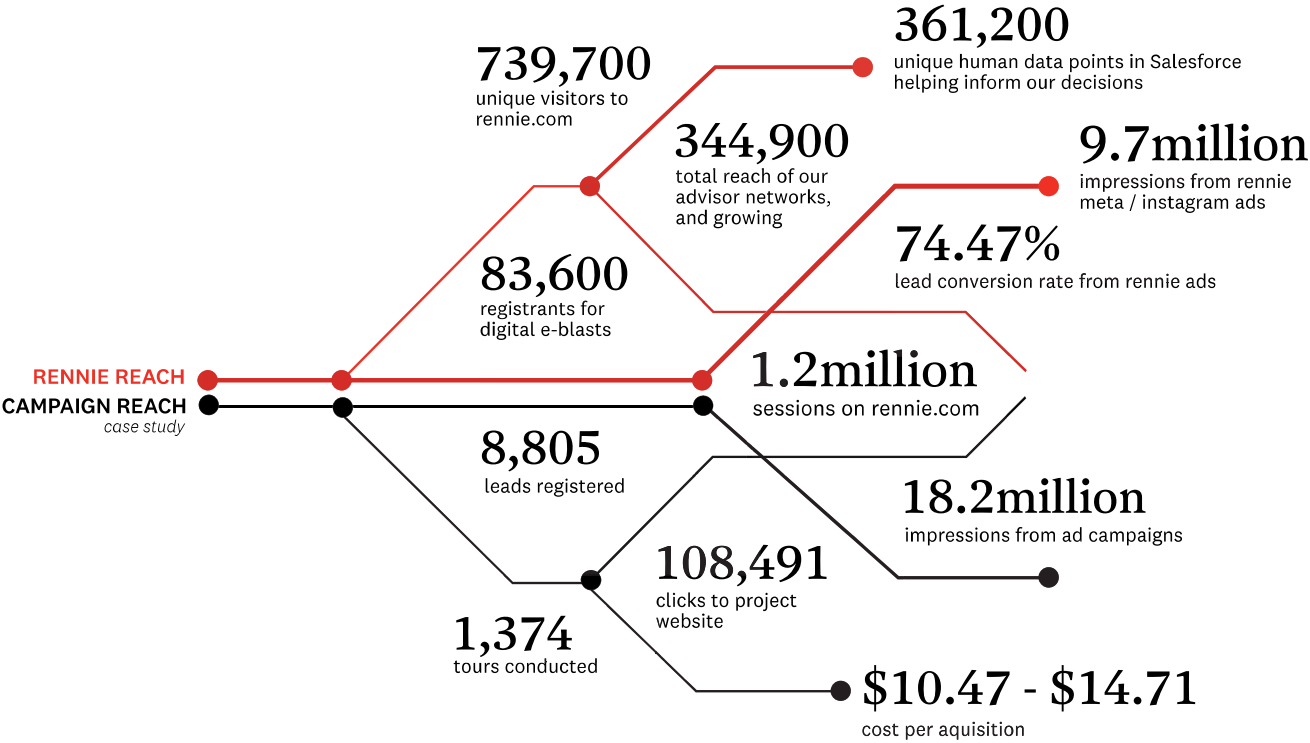
## 2,209

master plan homes sold

# 02

## our unparalleled reach

Our growing team of 240+ real estate advisors and ongoing investment in digital and physical retail locations allows us to have a dominant presence in every market across Metro Vancouver. More than just a database of potential buyers, we are a trusted partner woven into the fabric of the local communities we serve.



about us: the rennie advantage

# 03

always in service of  
our clients

Our network is wide and our experience is vast but our mission is clear: everything we do is in service of our clients.

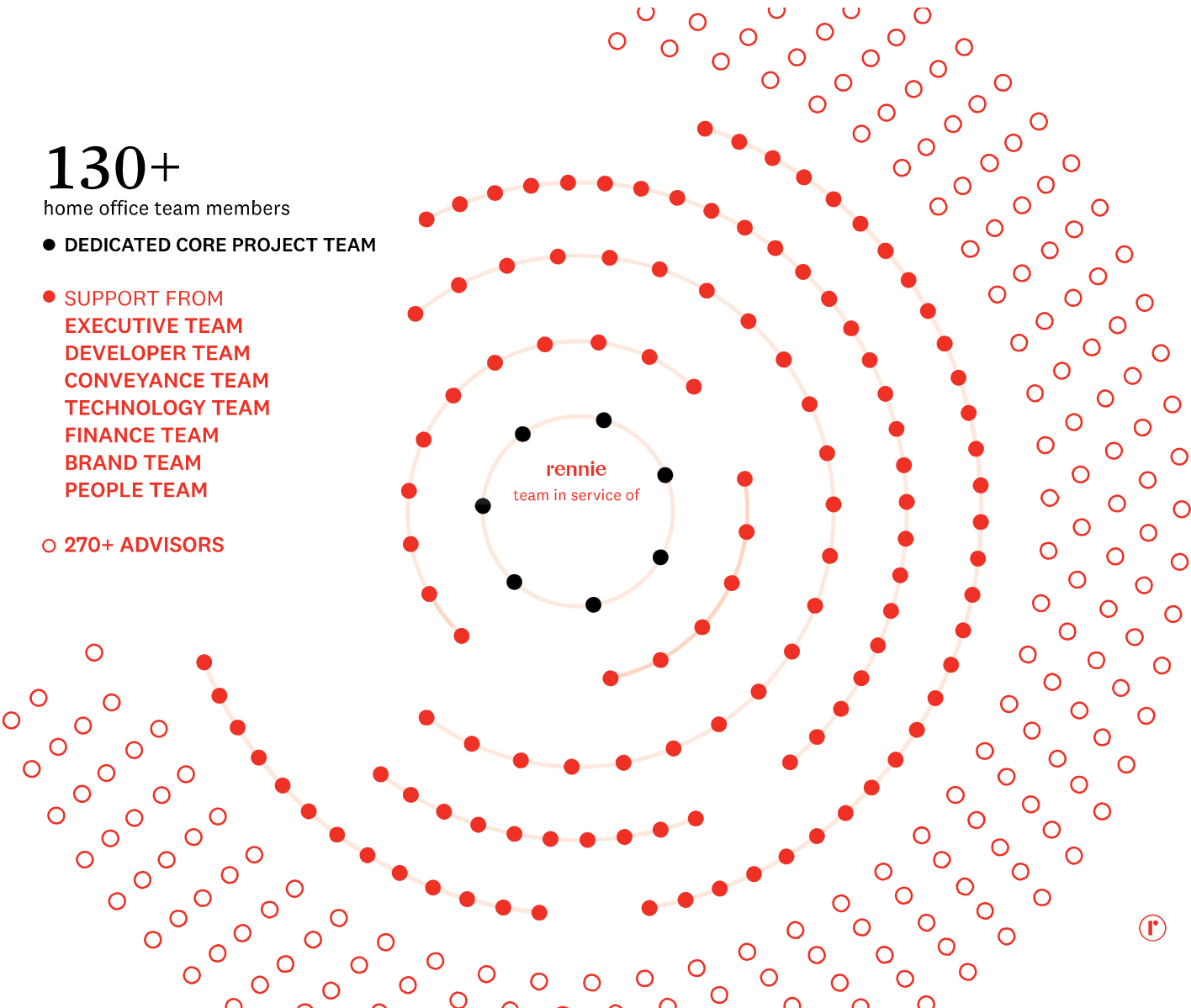
130+

home office team members

● DEDICATED CORE PROJECT TEAM

- SUPPORT FROM
  - EXECUTIVE TEAM
  - DEVELOPER TEAM
  - CONVEYANCE TEAM
  - TECHNOLOGY TEAM
  - FINANCE TEAM
  - BRAND TEAM
  - PEOPLE TEAM

○ 270+ ADVISORS





about us: the rennie advantage

# 04

we're the business  
banks recommend

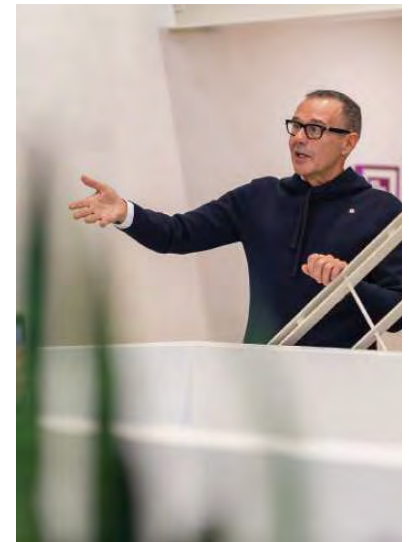
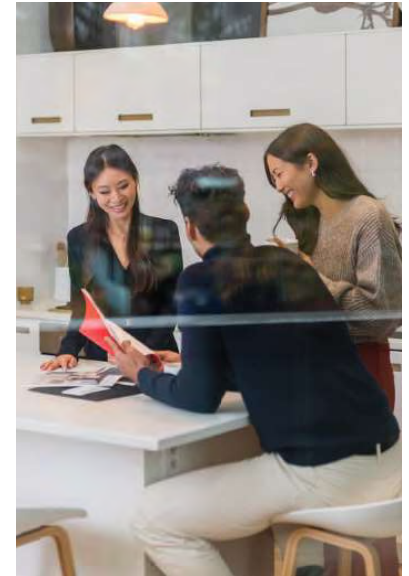
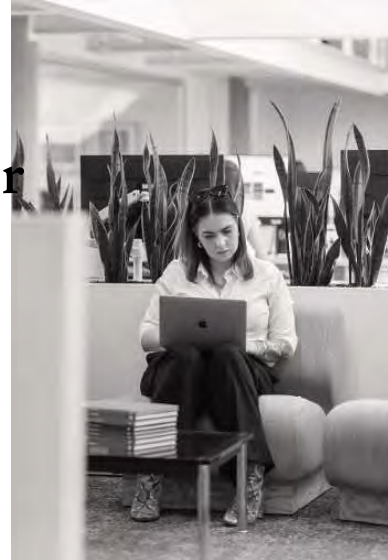
Our team of experts, including a full-stack sales and marketing team, a veteran demographer and a senior economist, provide our clients with confidence through real-time market intelligence, proprietary sales and marketing, and trusted guidance throughout their projects.

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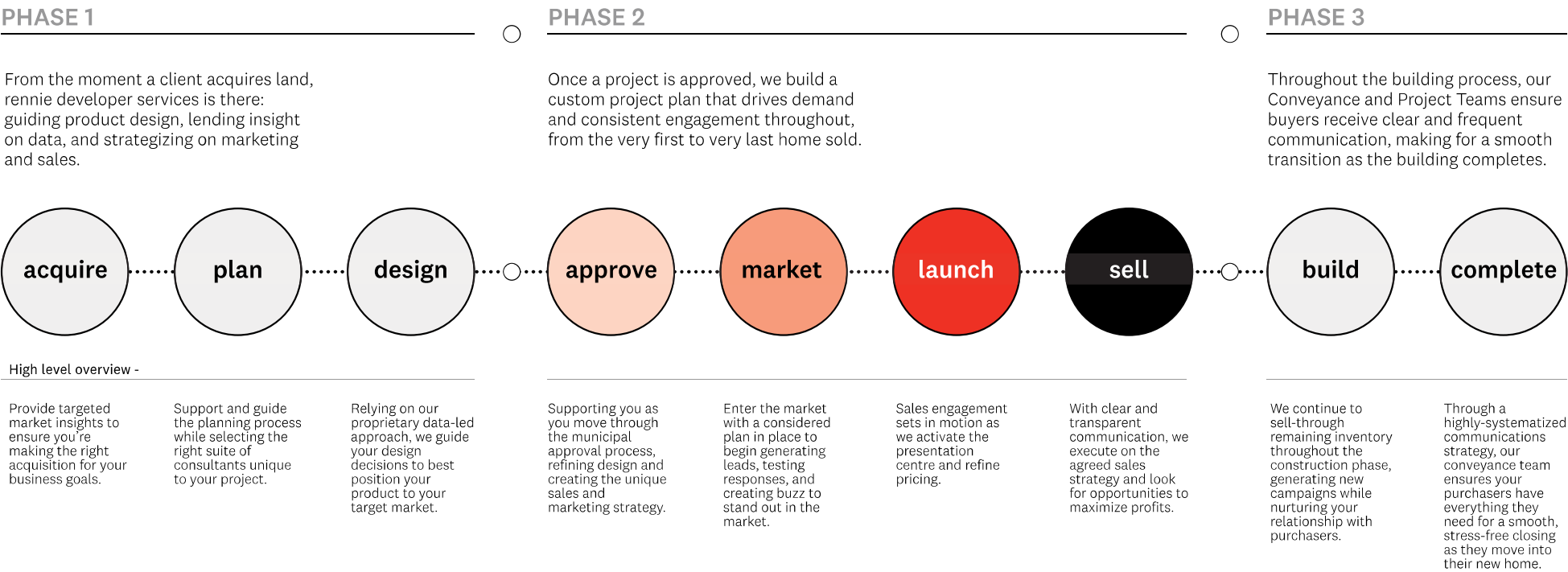
10

SELECT CLIENTS

Aquilini  
Beedie  
Century Group  
Chard  
City of Kelowna  
City of Vancouver  
Fabric Living  
Four Seasons  
Great West Life  
Grosvenor  
Intracorp  
Musqueam Capital Corp.  
Oxford  
PC Urban  
Quadreal Property Group  
Translink  
Wesgroup



developer journey





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**“ I’ve been a part of many teams throughout my career, but this one is truly unique. With a dedication to building strong, long-lasting relationships with our clients, each team member puts in the effort to establish trust and connection from day one. And it shows - the end result is always exceptional work.”**

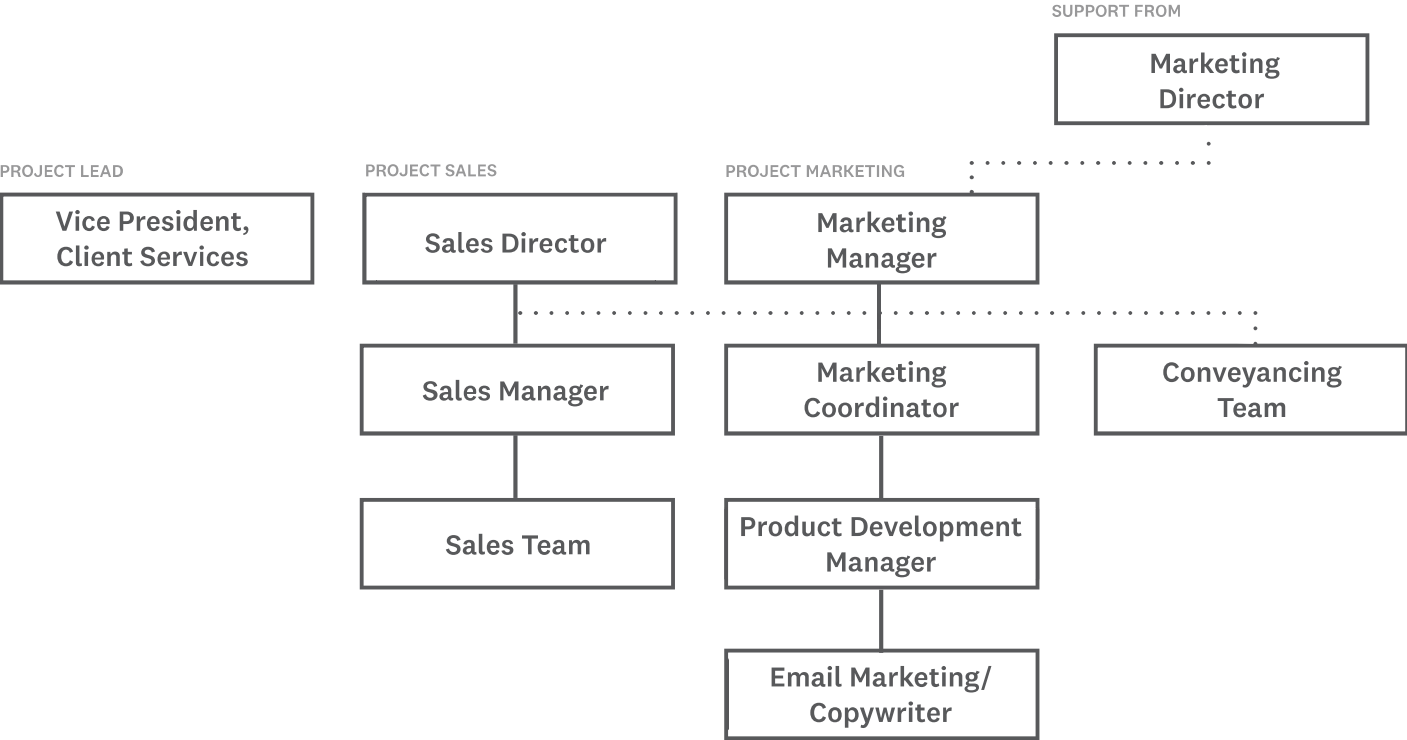
**Dana Samis**

SENIOR VICE PRESIDENT  
MARKETING

our team

meet your project team

At rennie, each project team is tailored to meet the specific needs and goals of your project, ensuring that you have the right expertise and support at every stage of the development journey.



our leadership

leading with confidence

Our leadership team has over 250+ years of combined experience in real estate development. Leveraging our in-house data and intelligence and deep industry contacts, we guide our developer partners to create thriving communities across North America.



**Bob Rennie**  
*Founder*



**Kris Rennie**  
*CEO*



**Greg Zayadi**  
*President*



**Dana Samis**  
*Senior Vice President  
Marketing*



**Jack Bernard**  
*Vice President  
Client Services*



**Tony Zarsadias**  
*Vice President  
Consumer Services*



**James Coles**  
*Vice President  
Sales Operations*



**Andy Ramlo**  
*Vice President  
Advisory Services*



**Houtan Rafii**  
*Managing Director*



**Lisa Dudley**  
*Senior Vice President,  
People & Culture*



**Ryan Berlin**  
*Vice President, Intelligence  
Senior Economist*



**Jean Whitaker**  
*Vice President  
Brand and Communications*





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**“We take the job of managing our data and generating useful insights from it incredibly seriously, but we have fun while we do it.”**

**Ryan Berlin**

VICE PRESIDENT, INTELLIGENCE &  
SENIOR ECONOMIST



## intelligence

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our successes are built upon a backbone of data and insights that give confidence to every decision.

Our intelligence division, led by our in-house senior economist, provides analysis, insight, and strategy both internally to the rennie teams and to our development partners, as well as externally to a broad range of clients. The most fundamental aspect of this division is conducting objective, innovative, and publicly-available research.



DATA AS OF OCTOBER 2024

## highlights for Burnaby

There are 45 active projects in Burnaby as of October 2024, with a total of 11,605 homes, and 3,363 remain unsold (29%).

There is an estimated 45,968 homes across 100 projects that are in various stages of planning and have yet to launch.

Of these 45,968 homes, the expected product mix is as follows: 98% concrete, 1% woodframe, and 1% townhome.

	concrete	woodframe	townhome	all types
AVERAGE PPSF <small>(ACTIVE PROJECTS)</small>	\$1,281	\$1,083	\$988	\$1,267
AVERAGE PRICE <small>(ACTIVE PROJECTS)</small>	\$973,964	\$792,682	\$1,171,680	\$973,487
AVERAGE SQFT <small>(ACTIVE PROJECTS)</small>	761	734	1,197	772
PRE-SALE COUNT <small>Q3 2024</small>	118 <small>+6% TO PAST QUARTER</small>	34 <small>+ 240% TO PAST QUARTER</small>	13 <small>+6 TO PAST QUARTER</small>	165 <small>+28% TO PAST QUARTER</small>
PROJECTS LAUNCHED <small>Q3 2024</small>	1 <small>67% TO PAST QUARTER</small>	- <small>100% TO PAST QUARTER</small>	1 <small>% TO PAST QUARTER</small>	2 <small>100% TO PAST QUARTER</small>
RELEASED & UNSOLD <small>Q3 2024</small>	3,617 <small>+ 28% TO PAST QUARTER</small>	107 <small>+ 28% TO PAST QUARTER</small>	90 <small>+ 18% TO PAST QUARTER</small>	3,814 <small>+ 23% TO PAST QUARTER</small>
UPCOMING HOMES	45,152	571	245	45,968
RESALE COUNT <small>Q3 2024</small>	-	-	-	857 <small>-13% TO PAST QUARTER</small>
RESALE INVENTORY <small>(QUARTER-END ACTIVE LISTINGS)</small>	-	-	-	1,696 <small>+ 5% TO PAST QUARTER</small>

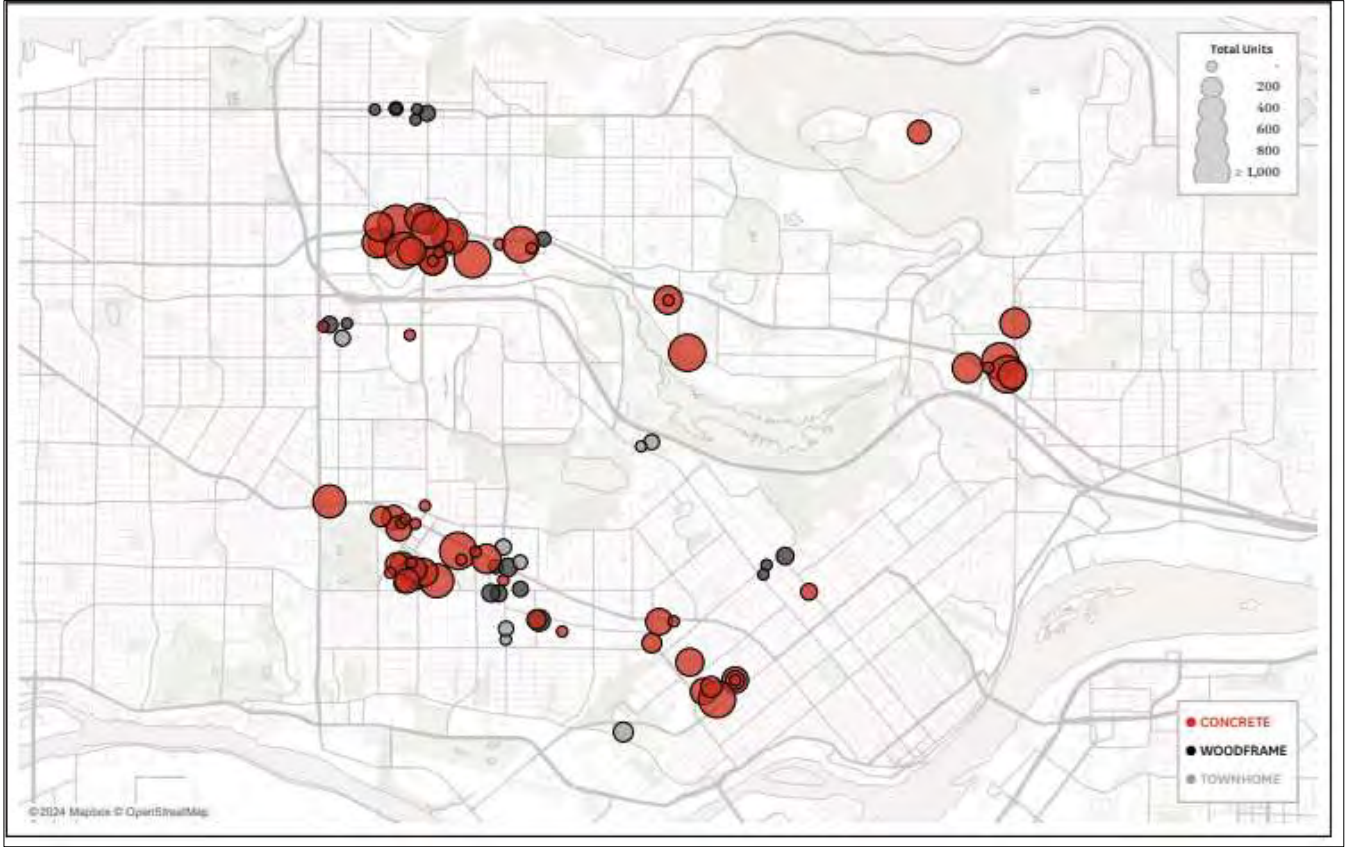




DATA AS OF OCTOBER 2024

# anticipated projects in Burnaby

UPCOMING/FUTURE PROJECTS



## intelligence: market snapshot

DATA AS OF OCTOBER 2024

## anticipated projects in Burnaby in development and anticipated launch timeframes

project	developer/applicant	neighbourhood	type	estimated launch	total homes
Brentwood	Shaps Properties	Brentwood	Concrete	0 - 6 Months	1,845
Brentwood Block	Grosvenor	Brentwood	Concrete	0 - 6 Months	900
Brentwood Block - Phase 1 - Tower 1	Grosvenor	Brentwood	Concrete	0 - 6 Months	451
Brentwood West Phase 1	Isosa Development	Brentwood	Concrete	6 - 12 Months	472
Bassano	Soffo Developments Ltd.	Brentwood	Concrete	12 - 24 Months	928
South Yards (Phase 4) - Rez# 17-36	Anthem	Brentwood	Concrete	12 - 24 Months	417
Gilmore Place Phase 2 (Tower 5)	Inni Group of Companies	Brentwood	Concrete	12 - 24 Months	532
Gilmore Place Phase 2 (Tower 6) Rez #18-26	Inni Group of Companies	Brentwood	Concrete	12 - 24 Months	480
South Yards (Phase 3) - Rez# 20-19	Anthem	Brentwood	Concrete	12 - 24 Months	425
Buchanan West	First Capital	Brentwood	Concrete	12 - 24 Months	6,000
Brentwood West Phase 3	Isosa Development	Brentwood	Concrete	12 - 24 Months	340
Concord Brentwood - Parkside (Phase 3)	Concord Pacific	Brentwood	Concrete	12 - 24 Months	1,750
Brentwood West Phase 4	Isosa Development	Brentwood	Concrete	24+ Months	190
2300 Madison Avenue	Polygon Homes	Brentwood	Concrete	24+ Months	975
5695 Lougheed Hwy	Tachipai Singh Gupta	Brentwood	Woodframe	Upcoming/Future	20
4612 and 4650 Dawson Street	Chris Dikeakos Architects	Brentwood	Concrete	Upcoming/Future	-
Douglas Tower Brentwood	MAN Development	Brentwood	Concrete	Upcoming/Future	-
4180 Lougheed Highway	Inni Group of Companies	Brentwood	Concrete	Upcoming/Future	-
4410 Juneau St.	Softerra Group of Companies	Brentwood	Concrete	Upcoming/Future	-
South Yards (Phase 2) - Rez# 17-38	Anthem	Brentwood	Concrete	Upcoming/Future	-
4587 & 4545 Juneau St	Anthem	Brentwood	Concrete	Upcoming/Future	-
5502 Lougheed Hwy	Celtic Canada Development	Brentwood	Concrete	Upcoming/Future	-
Deer Lake Mews	Hampton Enterprises	Central Burnaby	Townhome	0 - 6 Months	27
Kwasi Village	Aquilini Development	Central Burnaby	Concrete	12 - 24 Months	-
2211 and 2271 Rosser Avenue	Imacon	Central Burnaby	Concrete	12 - 24 Months	442

project	developer/applicant	neighbourhood	type	estimated launch	total homes
3737 Canada Wy & 3748 Norfolk St	Gerry Bionski Architects	Central Burnaby	Woodframe	Upcoming/Future	43
3526 Smith Ave	HNPA Architecture	Central Burnaby	Townhome	Upcoming/Future	34
3819 & 3841 Canada Way	Brownstone Group of Companies	Central Burnaby	Woodframe	Upcoming/Future	-
3300 Boundary Rd	AviSira Developments	Central Burnaby	Concrete	Upcoming/Future	-
Southgate Village	Ledingham McAlister	Edmonds	Concrete	12 - 24 Months	6,300
Southgate Village - Gateway Neighbourhood (REZ #14-26)	Ledingham McAlister	Edmonds	Concrete	12 - 24 Months	351
Highgate Tower	OpenForm Properties	Edmonds	Concrete	12 - 24 Months	357
7109 18th Ave and 7358/6076/78 18th St	Square Nine Developments Inc.	Edmonds	Concrete	12 - 24 Months	148
Southgate Village - Gateway Neighbourhood (REZ #17-07)	Ledingham McAlister	Edmonds	Concrete	12 - 24 Months	95
7330 Sixth Street	Lorick Scott Architects	Edmonds	Woodframe	24+ Months	58
7320 Canada Way	Kamcon Construction	Edmonds	Woodframe	Upcoming/Future	-
Southgate Village - Island Neighbourhood 5 (REZ #16-08)	Ledingham McAlister	Edmonds	Concrete	Upcoming/Future	352
Southgate Village (REZ #17-15)	Southgate Villages Homes LP	Edmonds	Concrete	Upcoming/Future	-
7112 Kingsway, 7236 and 7248 Salisbury Avenue	ZGF Architects Inc.	Edmonds	Concrete	Upcoming/Future	-
7201 11th Avenue	Ledingham McAlister	Edmonds	Concrete	Upcoming/Future	-
7629 7639 6th St and 7873 14th Ave	Sodhi Real Estate Group	Edmonds	Concrete	Upcoming/Future	45
7753 7767 Edmonds Street	Moody Park Homes Ltd	Edmonds	Woodframe	Upcoming/Future	-
5070 Canada Way and 4951 Claude Avenue	Derek Venter Architectural Design	Edmonds	Townhome	Upcoming/Future	-
Burnaby Lake Heights Phase 1	Create Properties	Lougheed	Concrete	5 - 12 Months	440

DATA AS OF OCTOBER 2024

summary report for all pre-sale inventory in Burnaby





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**“It’s making sure that our connections are authentic. From those authentic connections, we build trust. And that is irreplaceable.”**

**Jack Bernard**

VICE PRESIDENT  
CLIENT SERVICES

## what our clients are saying

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**Jordan Prior**

**VICE PRESIDENT  
PROJECT MARKETING  
AT GROSVENOR**

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“As the Vice President of Project Marketing at Grosvenor, I am extremely impressed with the level of professionalism and expertise rennie provides particularly when it comes to their focus on high-end residential towers in downtown Vancouver.

The rennie team delivers quality insights and a highly strategic approach to sales and marketing. Their sales performance at The Pacific has exceeded the competition in the downtown Vancouver market and their sales numbers have outperformed other standing inventory. The results rennie has delivered align with Grosvenor's brand standards which have led to successful campaigns that we have been very pleased with.

If you're looking for a trusted and experienced partner to help you navigate the competitive downtown market in Vancouver, I strongly recommend rennie. Their professional level of service and performance in the real estate industry is unmatched.”



## what our clients are saying

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AQUILINI

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**Linda Broda**

VICE PRESIDENT  
SALES AND MARKETING  
AQUILINI DEVELOPMENT

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“The team’s expertise and compassion are important to us as we take strides forward with our new indigenous-led masterplan developments.

They have joined us in taking on the responsibility to educate the real estate community on the merits and value of leasehold. Partnering with rennie for over 20 years is a testament to a relationship based on the alignment of our core values.”

what our clients are saying

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**Sean Hodgins**

**PRESIDENT OF  
CENTURY GROUP**

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“Our success has been made possible by the data-driven approach to marketing and sales provided by rennie. I have been consistently impressed by the depth and breadth of their team.”

## what our clients are saying

---



**FORME**  
DEVELOPMENT

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**Damon Chan**

**OWNER  
FORME DEVELOPMENT**

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“As a boutique developer, growing our brand is a priority and it was important for us to partner with a marketing firm that could provide the same level of care and attention to detail as a larger company. That's why we chose rennie to work on our Westside boutique townhome project. From the start, it was clear that rennie was the right fit for our team. They brought a level of expertise and luxury branding to our project that exceeded our expectations.

But what really set rennie apart was the care and attention to detail of their project team. Each person made sure to take the time to understand our vision and helped bring it to life in a way that exceeded our expectations.”



## case studies

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# Amazing Brentwood

## Achieving 1,380 homes sold within 14 months.

**opportunities** - Create a new placemaking landmark that would redefine the Brentwood neighbourhood. By crafting a name that is both striking and straightforward— "Amazing"—lay the foundation for community success and a preview of what lies ahead. This community will bring 11 towers, it was crucial to establish a strong master planned strategy for marketing and sales that would carry through various phases and towers. A 15,000 SF Presentation Centre serves as the main sales arena, offering a retail experience with daily delivery of cupcakes, coffee and flowers to animate the expansive space.

**Challenges** - As an emerging developer, Shape Properties turned to rennie to cultivate the developer's image and underscore its solid financial backing from pension funds. rennie strategically championed the 8 fundamentals of the Amazing Brentwood, positioning them as distinctive features that would surpass any future developments in the area. As a newcomer in the industry, rennie successfully built the developer's standing within the realtor community, fostering a robust following that sustained momentum from the initial release to the third release.

**results** - An amazing achievement of 1,380 homes sold within 14 months of launch, firmly cementing the foundation and instilling confidence in the vision of the masterplan community. The success of the Amazing Brentwood laid a foundation for Shape Properties' brand in the market which carried into their subsequent projects in Coquitlam and Richmond, showcasing the enduring impact of the Amazing Brentwood's success on the developer's overall reputation and future endeavors.

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### CLIENT

Shape Properties

### PRODUCT TYPE

Concrete One: 62-storey, Two - 62-storey, Three - 54-storey

### NUMBER OF HOMES

One: 291, Two: 563, Three: 526

### LOCATION

Burnaby

### SALES START

June 2014

### PPSF

One: \$611, Two: \$592,  
Three: \$676

### HOW WE EXCEEDED EXPECTATIONS

**Amazing Brentwood achieved a 13% PSF increase and sold 1,100 more homes than the closet competitor over the same time period.**



## case studies

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# Century City

## Creating value with brand storytelling.

**opportunities** - Century Group enlisted the services of rennie to oversee the sales and marketing programming for a concrete tower situated in Surrey City Centre, boasting an integrated residential space, a food hall, and on-site retail amenities. Notably, the project includes a distinctive, custom-built presentation center, setting the stage for a compelling and immersive buyer experience.

**strategies** - The presence of considerable market competition in Surrey, spearheaded by reputable developers, prompted the rennie team to craft a compelling brand narrative with an innovative agricultural theme. This thematic approach not only complemented the project's amenity programming but also unified the green house inspired design of the presentation center and overall storytelling, effectively distinguishing the project from its competitors. Additionally, navigating high-interest rates and market volatility presented a significant challenge that required astute market positioning and strategic planning.

**results** - Capitalizing on the created momentum leading up to the launch, the team achieved exceptional sales success, selling over 40% of the tower within the first three months of its launch. During the tempo campaign, continuous revisions and refreshing of the brand creatives played a pivotal role in maintaining buyer and realtor engagement. As a result, the campaigns consistently generated new leads and conversions throughout the tempo stage. Building on the success of the Southwest Tower, Century Group expressed its continued collaboration with rennie for their upcoming tower at Century City.

---

### CLIENT

Century Group

### PRODUCT TYPE

Concrete 39-storey tower

### NUMBER OF HOMES

409 homes  
1, 2 bedroom condos  
& townhomes

### LOCATION

Surrey

### SALES START

May 2022

### PPSF

\$1,057

### HOW WE EXCEEDED EXPECTATIONS

**Over 40% sold within  
3 months of launch.**





case studies

# King George Hub

885 homes sold within 9 months.

*opportunities* - rennie helped PCI Developments, a developer mainly focused in office, commercial, and rental sectors, to build and sell market condos as part of the King George Hub masterplan community. rennie was asked to maximize profits while keeping a consistent cadence of sales, a balance between fast absorptions and profitability.

*strategies* - At the onset of the development process, rennie helped with the financial feasibility analysis supported by the voice of the market - determining the best product for the site including interior and amenity design.

Both phases of King George Hub’s residential portion were sold just after a market downturn during the 2020 pandemic. rennie created a robust marketing campaign to cut through the noise amongst the competition and drew attention to the project. We monitored transactions and market conditions closely and increased revenue where possible to maximize sales revenue for both towers.

*results* - Together with PCI, we recognized the opportunity and were a trailblazer intiming. rennie was able to sell through over 880 homes within 9 months, while helping the client generate more \$2.88M more in revenue than planned.

CLIENT

PCI Developments

PRODUCT TYPE

2 concrete high-rise towers

NUMBER OF HOMES

885 - 1 & 2 bedroom condos

LOCATION

Surrey Masterplan Community

SALES START

Novemeber 2020

PPSF

\$864

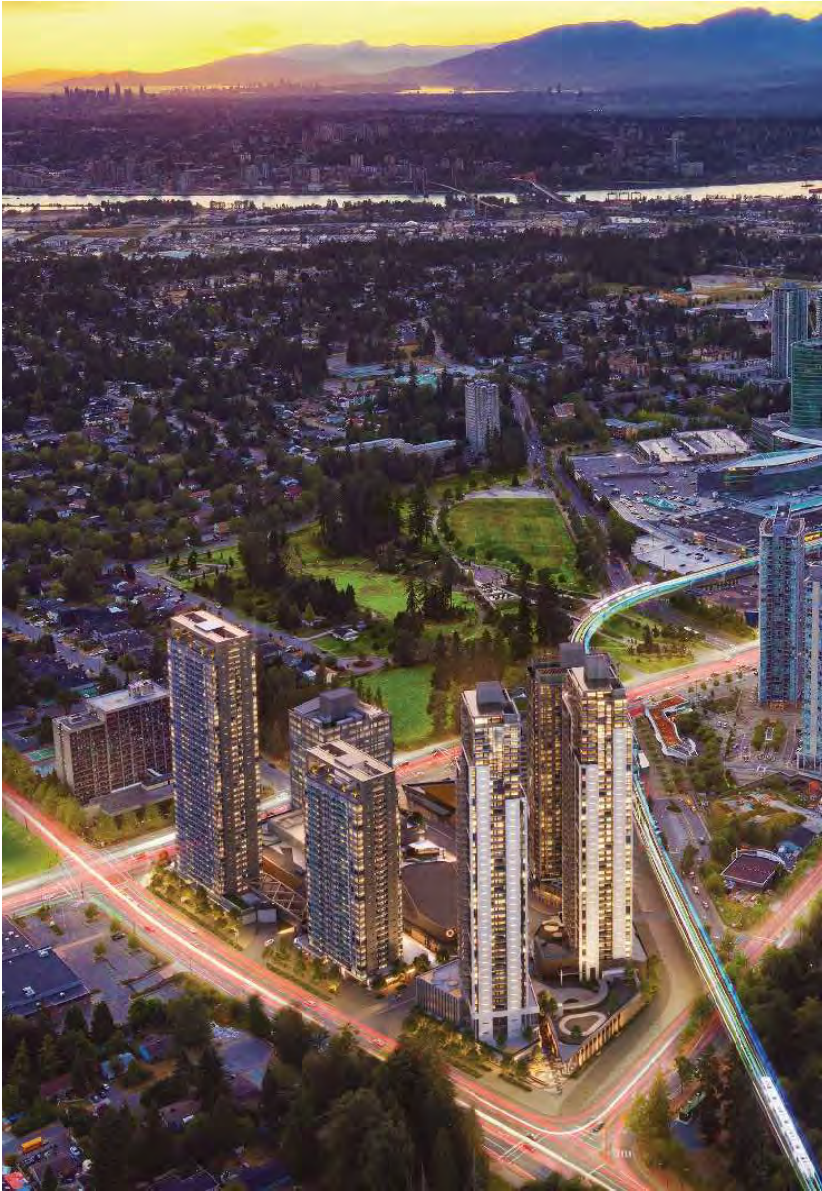
MARKET AVERAGE

	2020	2021
resale	\$513/SF	\$625/SF
presale	\$815/SF	\$848/SF

KEY METRICS

8.08% sales conversion rate from registrations

\$2,174 cost per sale (0.41% of total revenue)



case studies

# The Pacific

Consistently achieving sales goals in the ever-changing luxury market.

*opportunities* - rennie has an ongoing partnership with the developer in various projects and were able to consistently meet their goals. In 2017, rennie launched The Pacific and worked through the market fluctuations through various stages.

*strategies* - rennie consistently met the developer’s sales goals with robust and evolving marketing & sales campaigns. Transitioning from a 12-month launch phase to achieve financing targets, to running tempo campaigns over 36 months to moving into an in-building program, we worked alongside Grosvenor to sell through the entire building. The marketing campaign was strategically adjusted to transition from early investors to end-users towards completion of the project.

*results* - In November 2017, rennie brought the project to market in downtown Vancouver at \$2,029/SF and sold 94 homes with a total volume of \$165.6M in 2 months. The average home price achieved was \$1.76M. Out of all the agencies who participated, rennie advisors sold the most amount of homes and achieved a PPSF of \$2,040/SF (4.3% higher than other agencies) while achieving higher average home prices.

CLIENT

Grosvenor

PRODUCT TYPE

39-storey concrete high rise

NUMBER OF HOMES

224 1,2,3,4 bedroom homes & townhomes

LOCATION

Downtown Vancouver

SALES START

Novemeber 2017

PPSF

\$1,946

MARKET AVERAGE

	sales start	Dec 2022
resale	\$1,242/SF	\$1,089/SF
presale	\$1,820/SF	\$2,133/SF

KEY METRICS

Achieved 11.5% higher than average presale PPSF in the first 3 months off launch.







---

**“Together, we turn the page  
with everything we need to  
create the future: systems to  
make us strong, data to  
make us sure, and solid  
planning to inspire us to  
create the best work.”**

**James Coles**

**VICE PRESIDENT  
SALES OPERATIONS**



---

**“New technology is implemented, new divisions are added, and markets continue to ebb and flow — but the consistency and character remain the same in all that we do.”**

A stylized, handwritten signature in black ink that reads "Kris".

**Kris Rennie**

CEO

rennie

Thank you

---

# **APPENDIX I**

**[ATTACHED]**



**TO**

Noah Goldstein  
220 Bay St. Suite 1300  
Toronto, ON M5J 2W4  
[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com)

**FROM**

Jack Bernard  
110-1650 West 1<sup>st</sup> Ave  
Vancouver, BC V6J 1G1  
[jbernard@rennie.com](mailto:jbernard@rennie.com)

**DATE**

April 8, 2025



Eclipse – 2381 Beta Ave, Burnaby, BC V5C 5M8

KSV Advisory has asked rennie to provide an opinion of value, measured on a per square foot (PSF) saleable condo price basis, for the project 'Eclipse, which is located to the Southeast of Brentwood Mall, adjacent to the railway line, at 2381 Beta Ave, Burnaby, BC V5C 5M8: more specifically 'Brentwood'.

It is with great pleasure that we are considered to support the continued sales and marketing of Eclipse in the Brentwood neighbourhood of Burnaby. With our extensive experience in the area including this project specifically we appreciate the opportunity to work with you on this unique situation of stabilization while working through the receivership process. With our deep experience of working on projects in the Greater Vancouver region and our added value to support KSV Advisory, we trust that our experience can achieve your goals.

**PROVEN RESULTS**

Our deep understanding of the real estate market from a residential condo landscape, paired with our pragmatic marketing approach, allows us to provide you with expert guidance and risk management supported by data. By establishing a highly collaborative process from the outset, we enhance the value of your project starting with product design and encompassing floorplan layouts, interior design, and marketing and sales strategies.

**TEAM WIDE & DEEP**

When working with rennie, you will have more horsepower behind your project than any other marketing and sales firm. A team of professionals, best fit for the project, will be a part of the process from beginning to end from our executive leadership team and our sales & marketing professionals to over 270 in-house agents supporting the project.

**INSTITUTIONAL STANDARDS**

rennie's vision was to become the firm that banks recommend, and this is where we are now. As a data-driven company, our marketing and sales systems are underpinned by our significant investment in Salesforce and Tableau, which enable us to provide you with unparalleled, real-time insights on your project's success and empower you to adapt to shifting market conditions throughout the sales program.

**RELATIVE EXPERIENCE**

With a variety of receivership sales experience our teams are well educated to serve KSV Advisory through the challenging landscape of Eclipse's receivership. rennie has assisted in the stabilization and sales of multiple receivership scenarios ranging from 24 homes at 'The Carleton' in North Burnaby to one of the city's largest receiverships in 'The Village on False Creek'. The expertise



needed to navigate valuation and managing public perception is a skill we confidently bring to the table in these trying situations.

DATA-CENTRIC & RELATIONSHIP FOCUSED

rennie's approach to marketing and sales is characterized by a comprehensive, data-driven strategy tailored to the unique needs of each project. We collaborate closely with our intel team to conduct thorough reporting which helps us identify key target markets such as end-users and investors. This collaboration guides our overall project marketing direction.

Our process leverages detailed market data, sales trends, and insights to inform both our sales and marketing strategies. By analyzing supply, market data and emerging design trends, we ensure that our strategies align with current market demands and preferences. This meticulous approach allows us to craft targeted marketing campaigns that resonate with the right audiences, effectively showcasing the project's unique value proposition and setting the stage for a successful sales campaign.

We also place a high value on building strong relationships. With over 270 in-house advisors and a robust database of realtors, rennie excels in nurturing relationships and gathering real-time market feedback. This extensive network enables us to create tailored sales campaigns and respond dynamically to market needs, positioning each project for success in the lower mainland.

THE CURRENT ECLIPSE SALES CONTEXT

Prior to news of the receivership, rennie's sales efforts through 2024 saw

[REDACTED]

Eclipse 2024 Sales

	Price Min	Price Max	Avg Price	\$/SF Min	\$/SF Max	Avg \$/SF	No. Sales
2-bed	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

ECLIPSE RELATIVE TO BRENTWOOD & BURNABY

[REDACTED]

## THE BURNABY MULTI-FAMILY SALES CONTEXT

Through 2024 Burnaby saw 690 Concrete Condos sold.

On average these homes sold for \$1130 PSF, inclusive of GST or approximately \$1045 PSF net of taxes and realtors commissions

These homes had an average size of 742 SF of interior square footage and transacted at an average per door price of \$800,192.

### Burnaby 2024 Sales

	Price Min	Price Max	Avg Price	\$/SF Min	\$/SF Max	Avg \$/SF	No. Sales
Studio	\$465,000	\$475,000	\$469,629	\$1,157	\$1,181	\$1,172	3
1-bed	\$425,000	\$800,900	\$648,300	\$874	\$1,390	\$1,167	276
2-bed	\$640,000	\$1,345,000	\$891,418	\$734	\$1,408	\$1,085	338
3-bed	\$829,000	\$3,200,000	\$1,191,419	\$734	\$1,783	\$1,096	73

When narrowing the geographic search, whilst maintaining like parameters, to the 'Brentwood' subarea the number of sales through 2024 dropped to 329 Concrete Condos sold.

### Brentwood 2024 Sales

	Price Min	Price Max	Avg Price	\$/SF Min	\$/SF Max	Avg \$/SF	No. Sales
Studio							
1-bed							
2-bed							
3-bed							

As of February 25, 2025 Burnaby has 350 **active** concrete condos currently for sale within the above search criteria, currently averaging \$1201 PSF or a relative value of approximately \$1110 PSF net of taxes and commissions.

### Burnaby Current Listings

	List Price Min	List Price Max	Avg List Price	List \$/SF Min	List \$/SF Max	Avg List \$/SF	No. Listings
Studio	\$498,000	\$1,240,000	\$794,414	\$1,106	\$1,494	\$1,314	7
1-bed	\$529,900	\$1,191,710	\$670,242	\$866	\$1,825	\$1,180	157
2-bed	\$599,000	\$2,199,000	\$935,250	\$744	\$1,785	\$1,095	252
3-bed	\$899,000	\$3,288,000	\$1,427,999	\$940	\$1,607	\$1,213	54

As of February 25, 2025 Brentwood, specifically, has 163 **active** concrete condos currently for sale within the above search criteria, currently averaging

### Brentwood 2024 Listings

	List Price Min	List Price Max	Avg List Price	List \$/SF Min	List \$/SF Max	Avg List \$/SF	No. Listings
1-bed							
2-bed							
3-bed							
4-bed							

\*\* A comprehensive appendix has been supplied to extrapolate the above data on a home-by-home basis

#### OPINION OF VALUE

In order to approach a net value to sell the remaining 97 homes at Eclipse we must look at many factors: Quality of Build, Location, Relative Competitive Pricing, Volumes of Homes Sold and For Sale in the Region, Market Conditions, Public Perception of the Developer's Reputation for Quality and Public Perception of Receivership. With over a Decade of Experience in Receivership Sales we understand the sensitive nature of this analysis along with the continued efforts required for sales to transact.

Eclipse's 97 homes would bring Burnaby's total Active homes, of like kind, up to 567 and would account for 17% of all homes for sale in Burnaby on MLS. Further to that, Eclipse's 97 homes would bring Brentwood's total Active homes, of like kind, up to 309 and would account for 31% of all homes for sale in Brentwood on MLS.

In addition to the above numbers there is a current reported 3,812 homes actively for sale in presale developments in Burnaby; these projects are generally not represented on MLS. 1562 of these available presale homes are in Brentwood specifically.

\*Report noted is added as appendices

There are a reported 45,084 homes in application yet to come to market but are expected in the coming years in Burnaby with 15,901 of these in Brentwood specifically.

\*Report noted is added as appendices

Based on an examination of the data above; as well as consideration of both broader macroeconomic and demographic factors, we see a PSF baseline value for saleable multi-family space of [REDACTED] as constituting a needed overall net value to successfully sell through the 97 remaining homes at Eclipse.

To note: in order to achieve the above recommended pricing significant deficiency work, including but not limited to installation of blinds, paint touch ups, appliance repair etc in most homes. Blinds per home is estimated at \$5,000 / home. In total we would require an approximate, additional estimated budget of \$4,000 - \$5,000 / home or \$388,000 - \$485,000 for these repairs.

Appendices Below:

APPENDIX A

ECLIPSE 2024 SALES

**REDACTED**

APPENDIX B

BURNABY 2024 SALES

&

BRENTWOOD 2024 SALES Highlighted

**REDACTED**



APPENDIX C

BURNABY ACTIVE LISTINGS

&

BRENTWOOD ACTIVE LISTINGS Highlighted

**REDACTED**

APPENDIX D

ZONDA REPORTS SHOWING ACTIVE &  
CONTEMPLATED BURNABY PROJECTS & # OF  
HOMES UNSOLD OR CONTEMPLATED

&

ZONDA REPORTS SHOWING ACTIVE &  
CONTEMPLATED BRENTWOOD SPECIFIC  
PROJECTS & # OF HOMES UNSOLD OR  
CONTEMPLATED

**REDACTED**

APPENDIX E

CURRENT ECLIPSE PRICING

&

RECOMMENDED ECLIPSE PRICING (RED)

**REDACTED**

# **APPENDIX J**

**[ATTACHED]**

Lumina Eclipse Limited Partnership, Lumina Eclipse GP Ltd., and Beta View Homes Ltd.  
Projected Weekly Cash Flow Statement (Consolidated)  
April 7, 2025 to July 20, 2025  
(Unaudited: \$CAD Thousands)

		Week ending																	
	Note	07-Apr-25	13-Apr-25	20-Apr-25	27-Apr-25	04-May-25	11-May-25	18-May-25	25-May-25	01-Jun-25	08-Jun-25	15-Jun-25	22-Jun-25	29-Jun-25	06-Jul-25	13-Jul-25	20-Jul-25	Total	
RECEIPTS																			
Collections	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
DISBURSEMENTS																			
Operating disbursements																			
Construction expenses	3	-	-	-	-	-	-	(3,500)	-	-	-	(4,000)	-	-	-	-	(3,500)	(11,000)	
Administrative costs	4	-	-	(250)	-	-	-	(250)	-	-	-	-	(250)	-	-	-	-	(750)	
Contingency	5	(200)	(200)	(200)	(200)	(200)	(200)	(200)	(200)	(200)	(200)	(200)	(200)	(200)	(200)	(200)	(200)	(3,200)	
		(200)	(200)	(450)	(200)	(200)	(200)	(3,950)	(200)	(200)	(200)	(4,200)	(450)	(200)	(200)	(200)	(3,700)	(14,950)	
Professional fees	6	-	-	(225)	-	-	-	(225)	-	-	-	(225)	-	-	-	-	(225)	(900)	
Total disbursements		(200)	(200)	(675)	(200)	(200)	(200)	(4,175)	(200)	(200)	(200)	(4,425)	(450)	(200)	(200)	(200)	(3,925)	(15,850)	
Net Cash Flow		(200)	(200)	(675)	(200)	(200)	(200)	(4,175)	(200)	(200)	(200)	(4,425)	(450)	(200)	(200)	(200)	(3,925)	(15,850)	
Opening cash balance		100	200	-	825	625	425	225	750	550	350	150	1,225	775	575	375	175	100	
Net cash flow		(200)	(200)	(675)	(200)	(200)	(200)	(4,175)	(200)	(200)	(200)	(4,425)	(450)	(200)	(200)	(200)	(3,925)	(15,850)	
Interim financing facility advances	7	300	-	1,500	-	-	-	4,700	-	-	-	5,500	-	-	-	-	4,000	16,000	
Ending cash balance		200	-	825	625	425	225	750	550	350	150	1,225	775	575	375	175	250	250	



### **Purpose and General Assumptions**

1. The purpose of the projection is to present a cash flow forecast of Lumina Eclipse Limited Partnership, Lumina Eclipse GP Ltd., and Beta View Homes Ltd. (collectively, the "Debtors") from April 7, 2025 to July 20, 2025 (the "Period") in respect of the proceedings under the Companies' Creditors Arrangement Act ("CCAA").

The cash flow projection has been prepared based on hypothetical and most probable assumptions.

### **Hypothetical**

5. Represents a contingency to account for any unforeseen expenses.

### **Most Probable**

2. No unit sales are expected during the Period.
3. Represents the estimated costs to complete the Eclipse project, based on a third-party quantity surveyor report. Progress draws are assumed to be paid on a monthly basis.
4. Includes sales taxes, permit costs, license fees, and other administration expenses.
6. Includes fees of the monitor, its counsel, and KingSett Mortgage Corporation's ("KingSett") counsel.
7. As at April 7, 2025 approximately \$1.196 million has been advanced under the interim financing facility.

# **APPENDIX K**

**[ATTACHED]**

**IN THE SUPREME COURT OF BRITISH COLUMBIA**  
**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,**  
**R.S.C. 1985, c.C-36, AS AMENDED**  
**IN THE MATTER OF**  
**BETA VIEW HOMES LTD., LUMINA ECLIPSE LIMITED PARTNERSHIP, AND LUMINA**  
**ECLIPSE GP LTD.**

**MONITOR'S REPORT ON CASH FLOW STATEMENT**  
(paragraph 23(1)(b) of the CCAA)

On January 8, 2025, on application by KingSett Mortgage Corporation ("**KingSett**"), the Supreme Court of British Columbia granted an initial order (as amended and restated on January 16, 2025, the "**Initial Order**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") (the "**CCAA Proceedings**") in respect of Beta View Homes Ltd., Lumina Eclipse Limited Partnership, and Lumina Eclipse GP Ltd. (collectively, the "**Debtors**") and appointed KSV Restructuring Inc. as monitor, with enhanced powers (in such capacity, the "**Monitor**"), in the CCAA Proceedings.

The attached statement of projected cash flow of the Debtors, as of the 8<sup>th</sup> day of April, 2025, consisting of a weekly projected cash flow statement for the period April 7, 2025 to July 20, 2025 (the "**Cash Flow**") has been prepared by KSV, in conjunction with KingSett (the Debtors' primary secured lender) for the purpose described in Note 1, using the probable and hypothetical assumptions set out in the notes to the Cash Flow.

Our review consisted of inquiries, analytical procedures, and discussions related to information supplied by KingSett. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow. We have also reviewed the support provided by KingSett for the probable assumptions and the preparation and presentation of the Cash Flow.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- a) the hypothetical assumptions are not consistent with the purpose of the Cash Flow;
- b) as at the date of this report, the probable assumptions are not suitably supported and consistent with the plans of KingSett and the Monitor, or do not provide a reasonable basis for the Cash Flow, given the hypothetical assumptions; or
- c) the Cash Flow does not reflect the probable and hypothetical assumptions.

Since the Cash Flow is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the Cash Flow will be achieved. We express no opinion or other form of assurance with respect to the accuracy of any financial information presented in this report, or relied upon in preparing this report.

The Cash Flow has been prepared solely for the purpose described in Note 1 of the Cash Flow and readers are cautioned that it may not be appropriate for other purposes.

Dated at Calgary, Alberta this 8<sup>th</sup> day of April, 2025.

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
IN ITS CAPACITY AS THE CCAA MONITOR OF  
BETA VIEW HOMES LTD., LUMINA ECLIPSE GP LTD.,  
AND LUMINA ECLIPSE LIMITED PARTNERSHIP,  
AND NOT IN ITS PERSONAL CAPACITY**

# **APPENDIX L**

**[ATTACHED]**

## **AMENDMENT NO. 1 TO THE DIP AGREEMENT**

This amending agreement (this “**Agreement**”) is made as of April 7, 2025, between KSV Restructuring Inc., solely in its capacity as the Court-appointed monitor (in such capacity, the “**Monitor**”) of Beta View Homes Ltd. and Lumina Eclipse Limited Partnership (together, the “**Borrowers**”), and KingSett Mortgage Corporation (the “**Lender**”).

### **WHEREAS:**

- A. The Monitor, for and on behalf of the Borrowers, and the Lender entered into an Interim Financing Term Sheet dated as of January 6, 2025 (the “**DIP Agreement**”); and
- B. The Monitor, for and on behalf of the Borrowers, and the Lender have agreed to make certain amendments to the DIP Agreement on and subject to the terms and conditions set out in this Agreement;

**NOW THEREFORE** in consideration of the premises and the agreements set out herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Monitor, for and on behalf of the Borrowers, and the Lender agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **Section 1.1 Definitions**

Unless otherwise defined herein, capitalized terms used in this Agreement, including in the recitals hereto, shall have the meaning ascribed to such terms in the DIP Agreement.

### **Section 1.2 References to the DIP Agreement**

Upon execution of this Agreement, the DIP Agreement shall be deemed to have been amended as of the date hereof. The terms “hereof”, “herein”, “this DIP Agreement”, “the DIP Agreement” and similar terms used in the DIP Agreement, shall mean and refer to, from and after the date hereof, the DIP Agreement as amended by this Agreement.

### **Section 1.3 Continued Effectiveness**

Nothing contained in this Agreement shall be deemed to be a waiver by the Lender of compliance by the Borrowers with any covenant or agreement contained in the DIP Agreement, or a waiver of any default or event of default under the DIP Agreement, and each of the parties hereto agrees that the DIP Agreement as amended by this Agreement shall remain in full force and effect, and time shall remain of the essence.

### **Section 1.4 Benefit of the Agreement**

This Agreement shall enure to the benefit of and be binding upon the Borrowers and the Lender and their respective successors and permitted assigns.

**Section 1.5 Currency**

All references in this Agreement to dollars, monetary amounts or to \$ are expressed in the lawful currency of Canada unless otherwise specifically indicated.

**Section 1.6 Invalidity of any Provisions**

Any provision of this Agreement, which is prohibited by the laws of any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition in such jurisdiction without invalidating the remaining terms and provisions hereof and no such invalidity shall affect the obligation of the Borrowers to pay the debts, liabilities and obligations of the Borrowers under the DIP Facility.

**Section 1.7 Captions and Headings**

The inclusion of headings preceding the text of the sections of this Agreement and the headings following each Article in this Agreement are intended for convenience of reference only and shall not affect in any way such construction or interpretation thereof.

**ARTICLE 2  
AMENDMENTS****Section 2.1 Amendments**

The DIP Agreement is hereby amended by deleting “June 9, 2025” in clause a. in Section 8 titled “Maturity Date” on page 2 of the DIP Agreement and replacing it with “July 31, 2025”.

**ARTICLE 3  
CONDITIONS PRECEDENT****Section 3.1 Conditions Precedent**

This Agreement shall not become effective until this Agreement is duly executed and delivered to the Lender.

**ARTICLE 4  
MISCELLANEOUS****Section 4.1 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**Section 4.2 Time of the Essence**

Time shall be of the essence in this Agreement in all respects.

### **Section 4.3 Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

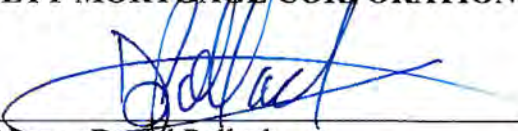
*[The remainder of this page has been left intentionally blank]*



**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date first set out above.

**KINGSETT MORTGAGE CORPORATION**

By:



Name: Daniel Pollack

Title: Executive Director

By:



Name: Scott Coates

Title: President

**KSV RESTRUCTURING INC.**, solely in its capacity as Court-appointed Monitor of Beta View Homes Ltd. and Lumina Eclipse Limited Partnership and not in its personal, corporate or any other capacity

DocuSigned by:



Per:

87E48B2D2D52481

Name: Jason Knight

Title: Managing Director