



**Fifth Report of
KSV Kofman Inc.
as CCAA Monitor of
Forme Development Group Inc.
and the Companies Listed on
Appendix “A”**

April 26, 2019

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COURT FILE NO.:CV-18-608313-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF FORME DEVELOPMENT GROUP INC. AND THE OTHER COMPANIES
LISTED ON APPENDIX "A"**

**APPLICATION UNDER THE COMPANIES' CREDITORS ARRANGEMENT
ACT, R.S.C. 1985, c. C-36, AS AMENDED**

FIFTH REPORT OF KSV KOFMAN INC. AS MONITOR

April 26, 2019

1.0 Introduction

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on November 30, 2018, as amended and restated on December 6, 2018 (the "Initial Order"), Forme Development Group Inc. and the affiliated entities listed on Appendix "A" (the "Applicants") were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), and KSV Kofman Inc. ("KSV") was appointed monitor (in such capacity, the "Monitor"). A copy of the Initial Order is attached as Appendix "B".
2. The principal purpose of these proceedings is to create a stabilized environment to conduct a Court-approved sale process (the "Sale Process") for the Applicants' real property. The Initial Order approved the Sale Process, including a listing agreement between the Applicants and TD Cornerstone Commercial Realty Inc. ("TD"). The bid deadline for all properties included in the Sale Process was March 27, 2019.
3. KSV is filing this report (the "Report") in its capacity as Monitor.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about these proceedings;
 - b) provide the results of the Sale Process for:
 - i. the real property located at 27, 29 and 31 Anglin Drive in Richmond Hill, Ontario (collectively, the "Anglin Properties") owned by 27 Anglin Development Inc. and 29 Anglin Development Inc. (jointly, the "Anglin Applicants"); and
 - ii. the real property located at 1326 Wilson Avenue in Toronto, Ontario (the "Wilson Property") owned by 1326 Wilson Development Inc. (the "Wilson Applicant");
 - c) summarize the following transactions (jointly, the "Recommended Transactions") for:
 - i. the Anglin Properties, pursuant to an Agreement of Purchase and Sale dated April 11, 2019 (the "Anglin APS") between the Monitor and 2331258 Ontario Inc. (the "Anglin Purchaser") (the "Anglin Transaction"); and
 - ii. the Wilson Property, pursuant to an Agreement of Purchase and Sale dated April 18, 2019 (the "Wilson APS") between the Monitor and 8570442 Canada Incorporated (the "Wilson Purchaser") (the "Wilson Transaction");
 - d) set out the basis on which the Monitor is recommending Court approval of the Recommended Transactions;
 - e) explain why the Confidential Appendices to this Report are proposed to be sealed pending further order of the Court;
 - f) detail the Monitor's proposed distribution of the sale proceeds from the Recommended Transactions (the "Distributions");
 - g) report on the Applicants' cash flow projection for the period May 1, 2019 to July 31, 2019 ("Cash Flow Forecast");
 - h) discuss the reasons to extend the stay of proceedings from May 17, 2019 to July 31, 2019; and
 - i) recommend that the Court issue orders:
 - approving the Anglin APS, the Wilson APS and the Recommended Transactions;

- authorizing and directing the Monitor to complete the Recommended Transactions and to convey to the Anglin and Wilson Purchasers, as applicable, the Purchased Assets (as defined in each APS) and vesting the Purchased Assets in the Anglin Purchaser and the Wilson Purchaser, as applicable, on closing, free and clear of claims and encumbrances other than the permitted encumbrances, upon execution and delivery of a certificate by the Monitor confirming completion of the applicable Recommended Transaction;
- approving the Distributions;
- extending the stay of proceedings from May 17, 2019 to July 31, 2019; and
- sealing the Confidential Appendices to this Report pending further order of the Court.

1.2 Restrictions

1. In preparing this Report, KSV has relied upon the Applicants' unaudited financial information and discussions with the Applicants' management. KSV has not audited, reviewed or otherwise verified the accuracy or completeness of the information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants Canada Handbook.
2. KSV expresses no opinion or other form of assurance with respect to the financial information presented in this Report or relied upon by KSV in preparing this Report. Any party wishing to place reliance on the Applicants' financial information should perform its own diligence and any reliance placed by any party on the information presented herein shall not be considered sufficient for any purpose whatsoever.
3. An examination of the Cash Flow Forecast as outlined in the Chartered Professional Accountants Canada Handbook has not been performed. Future oriented financial information relied upon in this Report is based upon the Applicants' assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. KSV expresses no opinion or other form of assurance on whether the Cash Flow Forecast will be achieved.

2.0 Background

1. The Applicants are part of a commercial and residential real estate group which develops low-rise, high-rise, mixed-use and hospitality projects. The Applicants' properties are primarily located in the Greater Toronto Area.
2. In advance of these proceedings, KSV filed a report to Court dated November 6, 2018 in its capacity as proposed CCAA monitor (the "Proposed Monitor's Report"). KSV also filed three supplements to the Proposed Monitor's Report (the "Supplemental Reports"). Detailed information about the Applicants and these proceedings is set out in the Proposed Monitor's Report and the Supplemental Reports and, accordingly, that information is not repeated in this Report.

- Copies of all Court materials filed in these proceedings, including the Proposed Monitor's Report and the Supplemental Reports, are available on the Monitor's website at <https://www.ksvadvisory.com/insolvency-cases/case/former-development-group-inc>.

2.1 The Anglin Properties

- The Anglin Properties are comprised of three parcels with a total size of 1.73 acres. The Anglin Applicants acquired their properties in 2016 for \$6.17 million and intended to develop eight single detached, custom homes on the site. The proposed plan and rezoning of the site remain subject to municipal approval.
- A summary of the mortgages on the Anglin Properties is provided in the table below. The sum of the mortgages on the Anglin Properties exceeds the purchase price paid by the Anglin Applicants. The mortgage obligations continue to accrue interest and costs.

Property	Mortgagee	Priority ¹	Amount (\$000s)
27 Anglin Drive	Home Trust Company ("Home Trust")	First	2,303
27 Anglin Drive	2603616 Ontario Inc. ("260 Ontario")	Second	2,500
27 Anglin Drive	Home Trust	Third	Collateral mortgage for 59 and 63 Elm Ave. ² mortgage
29/31 Anglin Drive	Home Trust	First	2,121
29/31 Anglin Drive	260 Ontario	Second	Same charge as 27 Anglin
Total Mortgage Debt, before interest, costs and collateral mortgage			6,924

2.2 The Wilson Property

- The Wilson Applicant acquired the Wilson Property in 2016 for \$1.7 million and intended to develop a 10-storey mixed-use condominium with 95 units, 19,000 sq. ft. of commercial space and three levels of underground parking. The property is presently vacant land totaling 0.6 acres. The proposed plan and rezoning of the site remain subject to municipal approval.
- A summary of the mortgages on the Wilson Property is provided in the table below. The first mortgage debt exceeds the purchase price paid by the Wilson Applicant. The mortgage obligations continue to accrue interest and costs.

Property	Mortgagee	Priority ¹	Amount (\$000s)
1326 Wilson Ave.	Morrison Financial Mortgage Corporation ("Morrison")	First	3,000
1326 Wilson Ave.	2586614 Ontario Inc. ("258 Ontario")	Second	Collateral mortgage for 4550 Steeles Ave. mortgage
1326 Wilson Ave.	2348793 Ontario Ltd. and JYR Real Capital Mortgage Investment Corporation	Third	5,000 (co-borrower with 376 Derry Development Inc., a non-Applicant)
Total Mortgage Debt, before interest and costs			8,000

¹ The priority is based on the order in which the charges were registered on title. The Monitor is not aware of anything that would impact that priority, but the Monitor's counsel has not opined on their priorities.

² 59 and 63 Elm Avenue are residential new-build properties subject to the CCAA proceedings. The Monitor has retained a listing agent and the properties are presently listed for sale.

3. In respect of the subsequent mortgagees on the Wilson Property, the Monitor understands that:
 - a) the second mortgage in favour of 258 Ontario was either repaid or assumed, and discharged, pursuant to a transaction for 4550 Steeles Ave. completed by the Non-Applicants. The discharge was registered on April 1, 2019; and
 - b) the third mortgage was arranged by DX Financial Canada Ltd. (“DX Financial”) and, accordingly, the Monitor’s dealings in respect of the Wilson Property have been with DX Financial and its legal counsel.

3.0 Sale Process

3.1 Overview

1. The Initial Order approved the retention of TD to carry out the Sale Process under the Monitor’s supervision.
2. Immediately following the granting of the Initial Order, TD began preparing for the Sale Process in accordance with the Initial Order. The Sale Process overview and timelines are provided in the following table.

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 1 – Underwriting</i>		
Finalize marketing materials	<ul style="list-style-type: none"> ➤ TD and the Monitor to: <ul style="list-style-type: none"> ○ prepare an offering summary; ○ populate an online data room; and ○ prepare a confidentiality agreement (“CA”). 	November 30, 2018 to February 5, 2019
Prospect Identification	<ul style="list-style-type: none"> ➤ TD to develop a master prospect list. ➤ TD will qualify and prioritize prospects. ➤ TD will have pre-marketing discussions with targeted prospects. 	

Summary of Sale Process		
Milestone	Description of Activities	Timeline
<i>Phase 2 – Marketing</i>		
Stage 1	<ul style="list-style-type: none"> ➤ Mass market introduction, including: <ul style="list-style-type: none"> ○ Offering summary and marketing materials printed; ○ publication of the acquisition opportunity in The Globe and Mail (National Edition) and other community or industry targeted publications, as applicable; ○ telephone and email canvass of leading prospects, both from a sale and refinancing perspective; and ○ meet with and interview prospective bidders. ➤ TD to assist the Monitor and its legal counsel in the preparation of a Vendor's form of Purchase and Sale Agreement. ➤ TD to provide detailed information to qualified prospects which execute the CA including an offering summary and access to the data room. ➤ TD to facilitate all diligence by interested parties. 	February 6, 2019 to March 26, 2019
Stage 3	<ul style="list-style-type: none"> ➤ Deadline for prospective purchasers to submit offers. 	March 27, 2019
<i>Phase 3 – Offer Review and Negotiations</i>		
Short-listing of Offers	<ul style="list-style-type: none"> ➤ Short listing bidders. ➤ Further bidding - Interested bidders may be asked to improve their offers in as many rounds of bidding as is required to maximize the consideration. 	April 3, 2019
Selection of Successful Bid	<ul style="list-style-type: none"> ➤ Select successful bidder and finalize definitive documents. 	April 10, 2019
Sale Approval Motion and Closing	<ul style="list-style-type: none"> ➤ Motion for transaction approval and close transaction. 	April 17, 2019 to April 24, 2019

3. On April 2, 2019, TD provided the Monitor with a letter summarizing the procedures it performed carrying out the Sale Process and feedback received from the market during that process (the "Sale Process Letter"). The Sale Process Letter details that:
- a) the offering summary and CA were distributed to TD's subscriber list of approximately 2,000 market participants;
 - b) all properties, including the Anglin Properties and the Wilson Property, were listed on the Toronto Multiple Listing Service ("MLS") system;

- c) print advertisements were placed in *The Globe and Mail* on two occasions;
 - d) advertisements were placed in two online development focused publications - *Novae Res Urbis* (GTA and Toronto editions) and *Urban Toronto*; and
 - e) the offering summary and CA were placed on the Monitor's Website.
4. TD also discussed the opportunity with numerous developers and other parties that it believed would have an interest in the properties and engaged in discussions with those parties to facilitate diligence and to maximize value.
5. A redacted version of the Sale Process Letter is attached as Appendix "C". An unredacted version is attached as Confidential Appendix "1". The basis for the sealing request is provided below in Section 4.1 of this Report.

3.2 Sale Process Results

1. A summary of the results of the Sale Process is as follows:
- a) approximately 120 parties executed the CA³, were provided the Confidential Information Memorandum and given access to the data room;
 - b) on the bid deadline, March 27, 2019, multiple offers were received for the Anglin Properties and the Wilson Property; and
 - c) as subsequent rounds of bidding were contemplated under the Sale Process, on March 29, 2019, TD requested that bidders clarify certain terms and conditions of their offers and submit revised and final offers by April 3, 2019.
2. TD prepared a summary of the offers for the Anglin Properties and Wilson Property (the "Offer Summary"), a copy of which is attached as Confidential Appendix "2". For the reasons detailed in Section 4.1 of this Report, the Monitor is also seeking to have the Offer Summary sealed pending further order of the Court.
3. Immediately following the offer deadline, it became clear to the Monitor that there would be a shortfall on certain of the mortgages on both the Anglin Properties and the Wilson Property. Accordingly, on or around March 28, 2019, the Monitor commenced discussions with counsel to 260 Ontario, in the case of the Anglin Properties, and DX Financial and its counsel, in the case of the Wilson Property. In this regard:
- a) the Monitor advised these mortgagees that there would be a shortfall and that paragraph 45 of the Initial Order reserves a mortgagee's right, to the extent that such mortgagee would not be paid in full through the bids received in the Sale Process, to credit bid its indebtedness and purchase the property over which it has a mortgage provided that such mortgagee pays, or otherwise satisfies, any prior ranking indebtedness in full;

³ This represents the total number of CAs signed in the process. Interested parties were not required to identify the sites of interest to them when executing the CA.

- b) the Monitor advised that it was continuing to try to improve the offers received in the Sale Process, that it was probable that all mortgagees would not be paid in full and that once an offer was accepted, it intended to recommend it for Court approval notwithstanding paragraph 45 of the Initial Order;
 - c) following the second bid deadline of April 3, 2019, as binding agreements for both the Anglin Properties and the Wilson Property were being negotiated with the Anglin Purchaser and the Wilson Purchaser, respectively, the Monitor provided routine updates to the applicable mortgagees regarding the status of the negotiations so that they had the most current information when considering whether to submit a credit bid;
 - d) in the case of the Wilson Property, DX Financial advised that it was supportive of the Wilson Transaction and, accordingly, would not be submitting a credit bid; and
 - e) in the case of the Anglin Properties, on April 10, 2019, the Monitor advised counsel to 260 Ontario that it would be seeking Court approval of the Anglin Transaction.
4. The Anglin Purchaser's offer was submitted substantially in the form of the Monitor's template agreement of purchase and sale and was the highest offer received. The offer is unconditional (except for Court approval) and it was accepted and executed by the Monitor on April 11, 2019.
 5. Similarly, the Wilson Purchaser's offer was submitted substantially in the form of the Monitor's template agreement of purchase and sale and was the highest offer received. The offer is unconditional (except for Court approval) and it was accepted and executed by the Monitor on April 18, 2019.

4.0 Recommended Transactions⁴

1. A summary of the Recommended Transactions is provided in the table below.

Description	Anglin Transaction	Wilson Transaction
Purchaser	An entity incorporated by Chang Yong Ding, who is arm's length to the Applicants.	An entity incorporated by Asif Karimov, who is arm's length to the Applicants.
Purchased Assets	<ul style="list-style-type: none"> a) the full benefit of all prepaid expenses and all deposits with any Person, public utility or Governmental Authority relating to the Real Property; b) the Real Property; c) the Plans; d) the Leases; e) the Permits and Contracts, but only to the extent transferable to the Purchaser or the Purchaser's permitted assignees; and 	

⁴ Capitalized terms in this section have the meaning provided to them in the Anglin APS or Wilson APS, as applicable, unless otherwise defined herein.

Description	Anglin Transaction	Wilson Transaction
	f) all intellectual property, if any, owned by the Owner Applicant with respect to the development to be completed on the Lands.	
Purchase Price	For the reasons detailed in Section 4.1 of this Report, the Monitor believes that the purchase prices should be sealed pending further order of the Court.	
Deposit	Both the Anglin Purchaser and the Wilson Purchaser have paid a deposit equal to 15% of the purchase price. The deposits are being held in a trust account of Bennett Jones LLP ("Bennett Jones"), the Monitor's counsel.	
Leases	The Anglin Purchaser has agreed to assume the existing lease in respect of the residential home on the Anglin Properties.	n/a
Excluded Assets	The right, title and interest of the Anglin Applicants and Wilson Applicant, as applicable, in any of their assets, other than the Purchased Assets, including: (i) books and records that do not exclusively or primarily relate to the Purchased Assets; and (ii) tax refunds relating to the period prior to the Closing Date.	
Representations and Warranties	Consistent with the standard terms of an insolvency transaction, i.e. on an "as is, where is" basis, with limited representations and warranties.	
Closing Date	May 22, 2019	June 14, 2019
Material Conditions	The only material condition precedent to the Recommended Transactions is Court approval.	

2. Copies of the redacted version of the Anglin APS and the Wilson APS are attached as Appendices "D" and "E", respectively. Unredacted copies are attached as Confidential Appendices "3" and "4", respectively.

4.1 Sealing

1. The Monitor recommends that the unredacted copies of the Anglin APS, the Wilson APS, the Offer Summary and the Sale Process Letter each be filed with the Court on a confidential basis and remain sealed pending further order of the Court as the availability of such information may negatively impact any future sale process for the Anglin Properties and Wilson Property if the Recommended Transactions do not close. In addition, the Offer Summary contains sensitive information, including the identity of bidders and the value of competing bids.
2. The Monitor does not believe that any stakeholder will be prejudiced if the information is sealed or redacted. Keeping this information sealed pending further order of the Court is beneficial to maximizing value.

4.2 Recommendation

1. For the following reasons, the Monitor recommends that the Court issue an order approving the Recommended Transactions:
 - a) the Sale Process was conducted in accordance with the terms approved under the Initial Order;
 - b) a reputable and experienced realtor, TD, was retained to conduct the Sale Process under the Monitor's supervision. TD is of the view that the Recommended Transactions are the best available in the circumstances;
 - c) the market was widely canvassed by TD using several strategies commonly used to sell real property, including, but not limited to, direct solicitation of investors and developers. As evidenced by the summary of its marketing campaign (provided in Confidential Appendix "1"), TD undertook a thorough canvassing of the market for both properties;
 - d) the Recommended Transactions provide for the greatest recovery available in the circumstances;
 - e) the opportunity to submit a credit bid was provided to mortgagees in accordance with the Initial Order. None of the mortgagees have submitted a credit bid as of the date of this Report;
 - f) in the Monitor's and TD's view, further time marketing the Anglin Properties and/or the Wilson Property is unlikely to enhance recoveries and would result in increased professional fees; and
 - g) the Recommended Transactions are contemplated to close on May 22, 2019 and June 14, 2019. Accordingly, further costs, including property taxes, insurance and professional fees, can be minimized if the Recommended Transactions are completed.
2. Pursuant to the Initial Order, the Monitor is authorized to execute and complete the Recommended Transactions on behalf of the Applicants. The Monitor has kept the Applicants apprised of the status of the Recommended Transactions and its intention to seek Court approval thereof.

5.0 Proposed Distribution of Sale Proceeds

1. Subject to Court approval, the Monitor intends to distribute the sale proceeds of the Recommended Transactions as follows:

Description	Anglin Transaction	Wilson Transaction
First	TD's commission, being 1.75% of the sale price	
Second	Payment in full of all property tax arrears	
Third	Balance to be distributed to Home Trust, which will incur a shortfall	Morrison, including interest and costs

Fourth	n/a	Professional fees incurred in connection with the administration of the CCAA proceedings for the Wilson Property, which largely relate to the Sale Process, as contemplated under paragraphs 32 and 33 of the Initial Order.
Fifth	n/a	Balance to be distributed to the mortgagee represented by DX Financial, which will incur a shortfall.

2. The Monitor believes the proposed distributions are appropriate as:
 - a) they are consistent with the terms of the applicable APS and the priorities of the Court-ordered charges created under the Initial Order; and
 - b) Bennett Jones provided opinions to the Monitor dated April 25, 2019 which, subject to standard assumptions and qualifications contained therein, concludes that the security granted by the Anglin Applicants and the Wilson Applicant to Home Trust, Morrison and DX Financial, as applicable, as registered on title to the applicable property by way of a mortgage, creates a valid and perfected security interest in the applicable real property subject to the Anglin APS or Wilson APS.

6.0 Status of the Applicants' Other Properties

1. At the commencement of the Sale Process, the Applicants owned a number of properties comprising seven developments that were to be marketed by TD. A transaction for the Applicants' properties in Niagara Falls, Ontario was approved pursuant to a Court order made on April 15, 2019. That transaction is scheduled to close on April 30, 2019. After the sale of the Anglin Properties and Wilson Property, the following four developments owned by the following Applicants will remain unsold: 3310 Kingston Development Inc., 1296 Kennedy Development Inc., 250 Danforth Development Inc. and 159/169/189 Carrville Development Inc. TD and the Monitor are continuing to advance the Sale Process for these properties.
2. The Monitor has previously reported on the status of the Applicants' Birchmount Gardens project. This is a 35 unit completed condominium development that is not subject to the Sale Process. All units in the development were sold and the units have been occupied by the purchasers since 2016. Closing of the sale of the units was delayed as a result of various issues which pre-date these CCAA proceedings, the most material of which at the date of the Initial Order was an outstanding work order issued by the City of Toronto in November, 2018.
3. In March, 2019, the City of Toronto confirmed that the work required under the work order had been completed. As at the date of this Report, sales of 28 of the 35 units have closed and all but two units are scheduled to close by the end of April 2019, with the remaining two scheduled to close by the end of May 2019. All of the mortgagees of the Birchmount project will be repaid in full. The surplus equity in the Birchmount project will remain on deposit in the Monitor's trust account pending the outcome of a claims process to be carried out by the Monitor in the near term, subject to Court approval.

7.0 Cash Flow Forecast

1. The Cash Flow Forecast and the Applicants' statutory report on the cash flow prepared pursuant to Section 10(2)(b) of the CCAA is attached as Appendix "F".
2. Based on the Monitor's review of the Cash Flow Forecast, the assumptions appear reasonable. The Monitor's statutory report on the Cash Flow Forecast is attached as Appendix "G".

8.0 Stay Extension

1. The Monitor supports an extension of the stay of proceedings from May 17, 2019 to July 31, 2019 for the following reasons:
 - a) as "super" Monitor in these proceedings, it is the Monitor's view that the good faith and due diligence standard should focus on the Monitor's conduct. In this regard, the Monitor is discharging its duties and obligations under the Initial Order and other orders made in these proceedings in good faith and with due diligence;
 - b) the Cash Flow Forecast reflects there is sufficient funding in place for the extension period;
 - c) the Sale Process for the Remaining Properties is ongoing. The Monitor and TD are dealing with prospective purchasers and/or mortgagees in an effort to enter into transactions, which will then be subject to Court approval. The extension will allow the Sale Process for the Remaining Properties to be completed, as contemplated by the Initial Order;
 - d) an extension will enable the Monitor to seek Court approval of a claims process, which the Monitor intends to seek by the end of May 2019; and
 - e) no creditor will be prejudiced if the extension is granted.

9.0 Conclusion and Recommendation

1. Based on the foregoing, the Monitor respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(i) of this Report.

* * *

All of which is respectfully submitted,



**KSV KOFMAN INC.
SOLELY IN ITS CAPACITY AS MONITOR OF
FORME DEVELOPMENT GROUP INC. AND
THE AFFILIATED ENTITIES LISTED ON APPENDIX "A"
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”

2358825 Ontario Ltd.

27 Anglin Development Inc.

29 Anglin Development Inc.

250 Danforth Development Inc.

3310 Kingston Development Inc.

1296 Kennedy Development Inc.

1326 Wilson Development Inc.

189 Carrville Development Inc.

169 Carrville Development Inc.

159 Carrville Development Inc.

5507 River Development Inc.

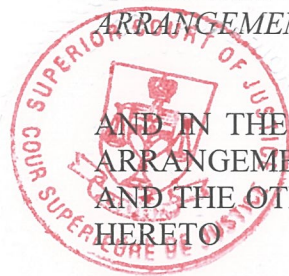
4439 John Development Inc.

Appendix “B”

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) FRIDAY, THE 30TH
JUSTICE HAINEY) DAY OF NOVEMBER, 2018

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



AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO

APPLICATION UNDER THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by Forme Development Group Inc. and those other parties listed on Schedule "A" (collectively, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Yuan Hua Wang sworn November 5, 2018 and the Exhibits thereto (the "**Wang Affidavit**"), the affidavit of Katie Parent sworn November 6, 2018 and the Exhibit thereto (the "**Parent Affidavit**"), and on reading the consent of KSV Kofman Inc. ("**KSV**") to act as the Monitor (in such capacity, the "**Monitor**"), and upon reading the pre-filing report of KSV dated November 6, 2018 (the "**Report**"), in its capacity as Proposal Trustee and the proposed Monitor, the supplemental report of KSV dated November 7, 2018 (the "**Supplemental Report**"), the second supplemental report of KSV dated November 7, 2018 (the

“**Second Supplemental Report**”), and the third supplemental report of KSV dated November 29, 2018 (the “**Third Supplemental Report**”), and on hearing the submissions of counsel for the Applicants, the proposed Monitor and those other parties present, no one appearing for any other party although duly served as appears from the affidavits of service of Katie Parent sworn November 6, 2018, November 7, 2018 and November 29, 2018.

SERVICE

1. **THIS COURT ORDERS** that the time for service of each of the Notice of Application, the Application Record, the Parent Affidavit, the Report, the Supplemental Report, the Second Supplemental Report and the Third Supplemental Report is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that the proposal proceedings (the “**Proposal Proceedings**”) of each of 9500 Dufferin Development Inc. (Estate No. 31-2438977), 250 Danforth Development Inc. (Estate No. 31-2439433), 3310 Kingston Development Inc. (Estate No. 31-2439448), 1296 Kennedy Development Inc. (Estate No. 31-2439440), ¹⁵⁹ and Carrville Development Inc. (Estate No. 31-2440234) ~~and 58 Old Kennedy Development Inc. (Estate No. 31-2436538)~~ (collectively the “**NOI Entities**”) commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), be taken up and continued under the CCAA and that the provisions of Part III of the BIA shall have no further application to the NOI Entities.

TITLE OF PROCEEDINGS

4. **THIS COURT ORDERS** that the title of proceedings in this matter be amended as follows:

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FORME DEVELOPMENT GROUP INC. AND THE OTHER COMPANIES LISTED ON SCHEDULE "A" HERETO

APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

PLAN OF ARRANGEMENT

5. **THIS COURT ORDERS** that, subject to paragraph 24 of this Order, the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan or plans of compromise or arrangement (hereinafter referred to as the "**Plan**" or "**Plans**").

POSSESSION OF PROPERTY AND OPERATIONS

6. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (including, without limitation, those properties listed on Schedule "B" hereto, which together with the Elm Avenue Properties (defined below) are hereinafter referred to as the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order. For greater certainty, the retention of TD Cornerstone Commercial Realty Inc. ("**TD**") is hereby approved substantially on the terms of the listing agreement appended to the Third Supplemental Report.

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

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; provided that no such amounts shall be paid to Mr. Wang (as defined below) or any known relative of Mr. Wang without further Order of this Court; and
- (b) subject to paragraph 30 below, the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

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

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

9. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of
 - (i) employment insurance, (ii) Canada Pension Plan and (iii) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

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

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants 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 Applicants to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that, subject to paragraph 24 of this Order, the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding, in the aggregate \$200,000, in any one or more transactions; and
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate,

provided however, and without limiting the provisions of paragraphs 24 and 25, all disbursements shall require the advance consent of the Monitor, and all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

13. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants’ intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants’ entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants’ claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours’ prior written notice, and (b)

at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. **THIS COURT ORDERS** that until and including December 28, 2018 or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court. Notwithstanding the foregoing, no stay shall apply to Forme Development Group Inc. with respect to the enforcement of mortgages on properties not included in these CCAA proceedings.

16. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicants and the Monitor, or with leave of this Court, no Proceedings shall be commenced or continued against or in respect of Yuan Hua Wang (“**Mr. Wang**”) or any of his current and future assets, businesses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (collectively, the “**Wang Property**”), arising upon or as a result of any default under the terms of any document entered into in connection with any of Mr. Wang’s guarantees of any of the commitments or loans of any of the Applicants or default by Mr. Wang or Hua Zhang (collectively, the “**Wangs**”) on the mortgage obligations on the Elm Avenue Properties (collectively, the “**Wang Default Events**”). Without limitation, the operation of any provision of a contract or agreement between Mr. Wang and any other Person (as hereinafter defined) that purports to effect or cause a termination or cessation of any rights of Mr. Wang, or to accelerate, terminate, discontinue, alter, interfere with, repudiate, cancel, suspend, amend or modify such contract or agreement, in each case as a result of one or more Wang Default Events, is hereby stayed and restrained during the Stay Period.

16A. THIS COURT ORDERS that during the Stay Period, except with the written consent of the Wangs and the Monitor, no Proceedings shall be commenced or continued against or in respect of Mr. Wang or Hua Zhang in connection with the properties known as 59 Elm Avenue and 63 Elm Avenue (the “**Elm Avenue Properties**”).

NO EXERCISE OF RIGHTS OR REMEDIES

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants 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 security interest, or (iv) prevent the registration of a claim for lien.

18. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of the Wangs, or affecting the Elm Avenue Properties or Wang Property, as a result of a Wang Default Event are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Wangs to carry on any business which the Wangs 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 security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

19. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right,

contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

20. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any other party as a result of a Wang Default Event, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

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

NON-DEROGATION OF RIGHTS

22. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

23. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

APPOINTMENT OF MONITOR

24. **THIS COURT ORDERS** that KSV Kofman Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and its shareholders, officers, directors, and Assistants shall not take any steps with respect to the Applicants, the Business or the Property save and except at the direction of the Monitor pursuant to paragraph 25 of 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.

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

- (a) cause the Applicants, or any one or more of them, to exercise rights under and observe its obligations under this Order;
- (b) cause the Applicants to perform such functions or duties as the Monitor considers necessary or desirable in order to facilitate or assist the Applicants in dealing with the Property;

- (c) monitor the Applicants' receipts and disbursements, and if necessary or convenient, in the Monitor's sole discretion, take control of the Applicants' receipts and disbursements;
- (d) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (e) if applicable, reporting to the DIP Lender (as defined below) on a basis to be agreed with the DIP Lender;
- (f) report to and advise mortgagees and other stakeholders of the Applicants as to the status of the sale process and, to the extent requested by mortgagees, convene a bi-weekly conference call with mortgagees, to report on the status of the Property;
- (g) advise the Applicants in its preparation of the Applicants' cash flow statements;
- (h) borrow funds in accordance with the terms of this Order;
- (i) conduct and carry out a sale process or sales processes for all of the Applicants' Property in accordance with the sale process described in the Third Supplemental Report provided that, in the case of the Elm Avenue Properties, the listing agent shall be chosen in consultation with the first mortgagee on those Properties, and retain or consult with the agents, consultants or other parties;
- (j) propose or cause the Applicants to propose one or more Plans in respect of the Applicants or any one or more of them;
- (k) provide any consents that are contemplated by this Order;
- (l) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (m) 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

Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

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

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

27. **THIS COURT ORDERS** that without limiting the provisions herein, each employee of an Applicant shall remain an employee of that Applicant until such time as the applicable Applicant may terminate the employment of such employee. Nothing in this Order shall, in and of itself, cause the Monitor to be liable for any employee-related liabilities or duties, including,

without limitation, wages, severance pay, termination pay, vacation pay and pension or benefit amounts, as applicable.

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

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

30. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants' counsel, the Monitor and the Monitor's counsel shall be entitled to invoice on a monthly or other periodic basis in their discretion provided that such fees and disbursements shall be paid out of sale proceeds of the Property in accordance with the priority set out below.

31. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

32. **THIS COURT ORDERS** that as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order in respect of these proceedings ("**Administration Fees**"), the Monitor, counsel to the Monitor and

the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on all of the Property on the following terms:

- (a) the maximum amount of the Administration Charge per Property shall only be for security of the applicable Administration Fees that constitute Property Specific Costs (as defined below) for that particular Property and any pro rata portion of General Costs (as defined below) attributable to such Property in accordance with paragraph 34(b) below; and
- (b) the Administration Charge shall automatically attach to any Property that is unencumbered or not fully secured.

33. **THIS COURT ORDERS** that the Administration Charge shall rank in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, other than (a) any first mortgagee on a Property (in respect of the first mortgage registered on the Property only); (b) the DIP Lender's Charge (as defined below, and to the extent applicable); and (c) the second mortgagee on the Property owned by 2358825 Ontario Ltd. (1483 Birchmount Road).

FUNDING

34. **THIS COURT ORDERS** that these CCAA Proceedings shall be funded in the following manner:

- (a) With respect to costs related to a specific Property (a "**Property Specific Cost**"),
 - (i) the first mortgagee on such Property will have the right (but not the obligation) to fund such amount as an advance under its mortgage at an interest rate accruing at a rate that is the higher of (i) the applicable rate under its mortgage; and (ii) 9.5% per annum, calculated in arrears;
 - (ii) if the first mortgagee does not fund such amount, the second mortgagee will have the right (but not the obligation) to fund such amount as an advance under its mortgage at an interest rate accruing at a rate that is the of the higher of (i) the applicable rate under its mortgage; and (ii) 9.5% per annum, calculated in arrears. The amount advanced will have a first-ranking super-priority charge over the applicable Property only. If necessary, this process

will continue until all mortgagees on a Property have been given the opportunity to fund;

- (iii) where no mortgagee funds such amount, the Monitor shall draw such amount on the Standby DIP (defined below);
- (b) with respect to costs not specific to a particular Property (“**General Costs**”) in an amount up to \$400,000 in the aggregate, if there is not sufficient funding through the Applicant’s cash on hand or cash immediately available generated by the sale of any Properties (after repayment of all known debts):
- (i) each first mortgagee shall have the right (but not the obligation) to fund its pro-rated estimated share of such funding based on the principal amount of its first mortgage as an advance under its mortgage at an interest rate accruing at a rate that is the of the higher of (i) the applicable rate under its mortgage; and (ii) 9.5% per annum, calculated in arrears;
 - (ii) if the first mortgagee does not fund such amount, the second mortgagee will have the right (but not the obligation) to fund such amount as an advance under its mortgage at an interest rate accruing at a rate that is the of the higher of (i) the applicable rate under its mortgage; and (ii) 9.5% per annum, calculated in arrears. The amount advanced will have a first-ranking super-priority charge over the applicable Property only. If necessary, this process will continue until all mortgagees on a Property have been given the opportunity to fund;
 - (iii) where no mortgagee funds such amount, the Monitor shall draw such amount on the Standby DIP.

35. **THIS COURT ORDERS** that the Monitor shall be at liberty and it is hereby empowered to cause any Applicant to borrow by way of a revolving credit or otherwise (the “**Standby DIP**”) from such lender as it may arrange in accordance with paragraph 34 (whether an existing mortgagee or otherwise, a “**DIP Lender**”), such monies from time to time as it may consider necessary or desirable to fund Project Specific Costs and General Costs in accordance with paragraph 34.

36. **THIS COURT ORDERS** that the Monitor is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “C” hereto (the “**DIP Certificates**”) for any amount borrowed pursuant to paragraph 35 and, for greater certainty, each DIP

Certificate shall indicate the Property to be charged and the amount to be charged pursuant to the DIP Certificate.

37. **THIS COURT ORDERS** that any DIP Lender shall be entitled to the benefit of and is hereby granted a fixed and specific charge on the Property identified in a DIP Certificate (the “**DIP Lender's Charge**”) as security for the payment of the principal amount set out in any DIP Certificate, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, including, without limitation, the Administration Charge, provided however, that the amount of any DIP Lender’s Charge shall attach only to the Property identified in a DIP Certificate with respect to that borrowing.

38. **THIS COURT ORDERS** that the monies from time to time borrowed pursuant to paragraph 35 and any and all DIP Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis per Property, unless otherwise agreed to by the holders of any prior issued DIP Certificates.

VALIDITY OF CHARGES CREATED BY THIS ORDER

39. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge and DIP Lender’s Charge (collectively, the “**Charges**”) shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

40. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the beneficiaries of the applicable Charges or further Order of this Court.

41. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) thereunder shall not otherwise be limited or impaired in any way

by (a) the pendency of these proceedings and the declarations of insolvency made herein or by the Proposal Proceedings and the declarations of insolvency made therein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicants, 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 in connection thereof shall create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;
- (b) the payments made by the Applicants pursuant to this Order 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.

42. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants’ interest in such real property leases.

SALE PROCESS

43. **THIS COURT ORDERS** that the sale process (the “**Sale Process**”), as described in Section 3.0 of the Third Supplemental Report be and is hereby approved.

44. **THIS COURT ORDERS** that the Monitor and TD be and are hereby authorized and directed to perform their obligations under and in accordance with the Sale Process, and to take such further steps as they consider necessary or desirable in carrying out the Sale Process as described in the Third Supplemental Report, subject to prior approval of this Court being obtained before completion of any transactions under the Sale Process.

45. **THIS COURT ORDERS** that without limiting the terms of the Sale Process as set out in the Third Supplemental Report, to the extent that a mortgagee will not be paid in cash in full through bids received through the Sale Process, such mortgagee will be entitled to credit bid its indebtedness and purchase the Property over which it has a mortgage provided that such mortgagee pays any prior ranking indebtedness in full in cash (or such other arrangement to which a prior ranking creditor may in its sole discretion agree).

46. **THIS COURT ORDERS** that the Monitor, and its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of performing its obligations under the Sale Process, except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Monitor in performing its obligations under the Sale Process (as determined by this Court).

47. **THIS COURT ORDERS** that in connection with the Sale Process and pursuant to clause 7(3)(c) of the *Personal Information and Electronic Documents Act (Canada)*, the Monitor, the Applicants and TD are authorized and permitted to disclose personal information of identifiable individuals to prospective purchasers or offerors and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more transactions (each, a "**Transaction**"). Each prospective purchaser or offeror to whom such information is disclosed shall maintain and protect the privacy of such information and shall limit the use of such information to its evaluation of the Transaction, and if it does not complete a Transaction, shall: (i) return all such information to the Monitor, the Applicants or TD, as applicable; (ii) destroy all such information; or (iii) in the case of such information that is electronically stored, destroy all such information to the extent it is reasonably practical to do so. The transacting party with respect to any Property shall be entitled to continue to use the Personal Information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Monitor, the Applicants, or TD, as applicable, or ensure that all other personal information is destroyed.

48. **THIS COURT ORDERS** that to the extent there is equity available in any project of the Applicants (each of the projects is set out in Section 3.0(3) of the Report) or either or both of the Elm Avenue Properties after payment of all debts, fees and costs owing or incurred in respect of that project or either or both of the Elm Avenue Properties (in each case, the “**Project Equity**”), each mortgagee of that project will be entitled to receive in cash an amount equal to 10% of the principal amount of its mortgage prior to any payment to the project's or either or both of the Elm Avenue Properties' shareholder (the “**Equity Kicker**”); provided that to the extent there is insufficient Project Equity to pay the Equity Kicker in full, each such mortgagee shall be entitled to its *pro-rata* share of the Equity Kicker based on the principal amount of its mortgage; and further provided that any mortgagee with a collateral mortgage will be entitled to collect its Equity Kicker in respect of any Property where it has a mortgage, provided that (i) in no event will such mortgagee receive in the aggregate an Equity Kicker that is greater than 10% of the principal amount of its mortgage owed by the primary mortgagor, and (ii) the advances it provided were used either for the property subject to the mortgage or for another property in the same project.

SERVICE AND NOTICE

49. **THIS COURT ORDERS** that 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 date of this Order, (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 Applicants 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.

50. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to

Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<http://www.ksvadvisory.com/insolvency-cases/forme-development-group/>'.

51. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute 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 facsimile transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile 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.

GENERAL

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

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

54. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

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

56. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

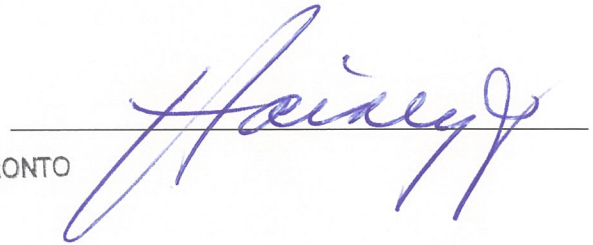
57. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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

DEC 06 2018

PER / PAR:

UM



Schedule "A" – List of Applicants

3310 Kingston Development Inc.

1296 Kennedy Development Inc.

1326 Wilson Development Inc.

376 Derry Development Inc.

5507 River Development Inc.

4439 John Development Inc.

9500 Dufferin Development Inc.

2358825 Ontario Ltd.

250 Danforth Development Inc.

159 Carrville Development Inc.

169 Carrville Development Inc.

189 Carrville Development Inc.

27 Anglin Development Inc.

29 Anglin Development Inc.

~~58 Old Kennedy Development Inc.~~



SCHEDULE "B" – LIST OF PROPERTIES

250 Danforth Rd. E Block 55 - Dairy Dr., Toronto, ON (PIN 06449-0741) Block 53 - Bamblett Dr., Toronto, ON (PIN 06449-0739) Block 54 - Bamblett Dr., Toronto, ON (PIN 06449-0740)
3314 Kingston Rd., Toronto, ON
1296 Kennedy Rd., Toronto, ON
1326 Wilson Ave, Toronto, ON
1328 Wilson Ave, Toronto, ON
376 Derry Rd. W., Mississauga, ON
4439 John St., Niagara Falls, ON
4407 John St., Niagara Falls, ON
4413 John St., Niagara Falls, ON
4427 John St., Niagara Falls, ON
5507 River Rd. Niagara Falls, ON
5471 River Rd., Niagara Falls, ON
5491 River Rd., Niagara Falls, ON
9500 Dufferin St., Maple, ON
1483 Birchmount Rd., Toronto, ON
159 Carrville Road, Richmond Hill, ON
169 Carville Road, Richmond Hill, ON
177 Carrville Road, Richmond Hill, ON
181 Carrville Road, Richmond Hill, ON

189 Carrville Road, Richmond Hill, ON
27 Anglin Drive, Richmond Hill, ON
29 & 31 Anglin Drive, Richmond Hill, ON
58 Old Kennedy Road and 20 Thelma Ave., Markham, ON



SCHEDULE "C" – FORM OF DIP CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

AFFECTED PROPERTY _____ (the "**Charged Property**")

1. THIS IS TO CERTIFY that KSV Kofman Inc., the monitor (the "**Monitor**") in the CCAA proceedings of Forme Development Group Inc. and certain of its affiliates (the "**Applicants**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ___ day of _____, 2018 (the "**Initial Order**") made in an action having Court file number CV-18-608313-00CL, has received as such Monitor from the holder of this certificate (the "**DIP Lender**") the principal sum of \$_____.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the first day of each month after the date hereof at a notional rate of _____ per annum equal.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Monitor pursuant to the Initial Order or to any further order of the Court, a charge upon the Charged Property which charge shall have the priority set out in the Initial Order.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate on the Charge Property shall be issued by the Monitor to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Monitor to deal with the Charged Property as authorized by the Initial Order and as authorized by any further or other order of the Court.

7. The Monitor does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

KSV KOFMAN INC., solely in its capacity
as Monitor in the CCAA proceedings of Forme
Development Group Inc. and the other parties
therein, and not in its personal capacity

Per: _____
Name:
Title:

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

Court File No. CV-18-608313-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FORME
DEVELOPMENT GROUP INC. AND THE OTHER COMPANIES LISTED ON SCHEDULE
"A" HERETO

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2
Fax: 416-597-6477

Mario Forte (LSUC#: 27293F)
Tel: 416.597.6477
Email: forte@gsnh.com

Jennifer Stam (LSUC#: 46735J)
Tel: 416.597.5017
Email: stam@gsnh.com

Lawyers for the Applicants

Appendix “C”



TD Securities

TD Securities Inc.
TD Tower
66 Wellington Street West, 9th Floor
Toronto, Ontario M5K 1A2

April 2, 2019

Attn: Bobby Kofman (MD) / David Sieradzki (MD)

KSV Advisors
150 King St. W. (2308),
Toronto, ON, M5H 1J9

RE: PROCESS OVERVIEW AND MARKET FEEDBACK

All –

As requested, please find below an overview of the FORME Development CCAA process for your reference:

The marketing program was launched on February 6th, 2019, with the marketing Teaser and Confidentiality Agreement ("CA") being distributed by email to TD's subscriber list of approximately 2,000 market participants. In addition, to ensure that the offering received the highest visibility to the market, TD completed the following: 1) each project was listed on the Toronto Multiple Listing Service ("MLS") system (Niagara Falls was also posted to the Niagara Region's MLS system); 2) print advertisements were placed in the Globe and Mail; and, 3) advertisements were placed in two online development focused publications - Novae Res Urbis GTA and Toronto editions as well as Urban Toronto. We also understand that KSV posted the Teaser on its web site for those accessing the insolvency case materials.

In advance of the process launch, TD prepared a comprehensive marketing package, providing an in-depth description of each site, the proposed development and where each project stood within its respective re-entitlement process, which was made available to potential purchasers who signed a CA. TD also compiled an online Data Room with all available information on the sites, which was made available to prospective purchasers to assist them with their diligence.

The launch was well received with approximately 120 potential purchasers submitting CAs. The interested parties comprised a broad spectrum of buyer profiles including local developers, private investors, large scale regional developers, investment conglomerates and purchaser representatives. TD followed up with personal calls or emails to all interested parties and provided additional support to assist with their respective pre-bid due diligence.

Initial feedback was generally positive, however, as the process progressed, the reoccurring commentary received was that the offering comprised a mix of good locations, along with "B" / "C" class locations. Additional soundbites from purchasers were focused on market softening in the GTA residential sector and the resulting shift in purchasers' appetite for addition risk on sites without solid fundamentals. Nevertheless, TD responded to numerous inquiries from interested parties regarding the site specific diligence information, which was made available in the online Data Room for the process.

Interested parties conducted in-depth diligence on the properties, reviewing the documentation provided in the Data Room, reaching out to city planners, and in some cases, commissioning their own third party consultants to verify the viability of the proposed projects. Upon further diligence, several parties identified functional deficiencies with two of the development site plans [REDACTED] which, in their view, may require amendments to the development plans and could result in a decrease in total units for both projects. Additionally, parties spent considerable effort understanding the impact of contamination at several of the sites, which added an additional layer



TD Securities

of complexity to the process. Other general comments related to the appropriateness of some of the proposed built-forms and status with respect to the re-entitlement process.

Bids were received for all properties with multiple offers being registered for each project. Multiple competitive bids were received for [REDACTED]

[REDACTED]. TD has provided top bidders for [REDACTED] with invitations to a Round Two submission, with the intent to maximize pricing and minimize conditionality. A deal has been negotiated with the top bidder for Niagara who submitted a strong firm offer.

If you have any questions regarding the above or would like to discuss in further detail, please let us know.

Sincerely,

TD Securities

Appendix “D”

AGREEMENT OF PURCHASE AND SALE

BETWEEN

KSV KOFMAN INC.

solely in its capacity as court-appointed monitor of
27 Anglin Development Inc. and 29 Anglin Development Inc., and not in its personal capacity
or in any other capacity

- and -

2331258 ONTARIO INC.

Dated: April 11, 2019

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AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made this 11th day of April, 2019.

BETWEEN:

KSV KOFMAN INC. ("KSV"), solely in its capacity as court-appointed monitor of 27 Anglin Development Inc. and 29 Anglin Development Inc., and not in its personal capacity or in any other capacity

(in such capacity, the "**Monitor**")

- and -

2331258 ONTARIO INC.

(the "**Purchaser**")

RECITALS

- A. **WHEREAS** on November 30, 2018, Forme Development Group Inc., 27 Anglin Development Inc. and 29 Anglin Development Inc., (collectively the "**Owner Applicant**") and the other companies on Schedule "A" hereto (collectively, the "**Applicants**"), were granted creditor protection pursuant to an Initial Order granted by the Honorable Mr. Justice Hainey (the "**Initial Order**") under the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 (the "**CCAA**");
- B. **AND WHEREAS** pursuant to the Initial Order, KSV Kofman Inc. ("**KSV**") was appointed as monitor (the "**Monitor**") of the Applicants;
- C. **AND WHEREAS** pursuant to the Initial Order, the Monitor was authorized to, among other things, market the Purchased Assets (as defined hereafter) and apply for an order of the Court approving the sale of the Purchased Assets and vesting in and to a purchaser all the Owner Applicant's right, title and interest in and to the Purchased Assets;
- D. **AND WHEREAS** pursuant to the Initial Order, a sales process was approved by the Court and implemented by the Monitor;
- E. **AND WHEREAS** the Purchaser wishes to purchase and the Monitor wishes to sell the Purchased Assets upon the terms and subject to the conditions set out herein.

NOW THEREFORE, in consideration of the promises, mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are each hereby acknowledged by the Parties (as defined hereafter), the Parties agree as follows:

ARTICLE 1
DEFINED TERMS

1.1 Definitions

In this Agreement:

"**Acceptance Date**" means the date that this Agreement is executed by and delivered to all Parties hereunder;

"**Accounts Payable**" means all amounts relating to the Business owing to any Person which are incurred in connection with the purchase of goods or services in the ordinary course of business;

"**Agreement**" means this agreement of purchase and sale, including all schedules and all amendments or restatements, as permitted, and references to "**article**", "**section**" or "**schedule**" mean the specified article, section of, or schedule to this Agreement and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement;

"**Applicable Law**" means, with respect to any Person, property, transaction, event or other matter, all applicable laws, statutes, regulations, rules, by-laws, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments and decrees of any Governmental Authority;

"**Applicants**" has the meaning set out in the recitals hereof;

"**Approval and Vesting Order**" means the approval and vesting order issued by the Court approving this Agreement and the transactions contemplated by this Agreement, and authorizing and directing the Monitor to complete the Transaction and conveying to the Purchaser all of the Owner Applicant's right, title and interest, if any, in and to the Purchased Assets free and clear of all Encumbrances other than the Permitted Encumbrances, and which order shall be in a form and substance substantively similar to the draft order attached as Schedule "B" hereto;

"**Books and Records**" means the files, documents, instruments, surveys, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise) pertaining to the Purchased Assets in the possession or control of the Owner Applicant and that have been or will be delivered by the Monitor to the Purchaser at or before Closing; provided, however, that "Books and Records" shall not include any bank or accounting records;

"**Business**" means the business' carried on by the Owner Applicant with respect to the Real Property;

"**Business Day**" means a day on which banks are open for business in the City of Toronto but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario;

"**Claims**" means any and all claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, charges, indictments, prosecutions or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses,

contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including solicitor and client costs and disbursements, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing, related to the Owner Applicant or the Real Property, and "**Claim**" means any one of them;

"**Closing**" means the successful completion of the Transaction;

"**Closing Date**" means the later of May 22, 2019 and the first Business Day which is Two (2) Business Days after receipt of the Approval and Vesting Order;

"**Closing Time**" means 4:00 p.m. (Toronto time) on the Closing Date or such other time as agreed in writing by the Parties;

"**Confidential Information**" has the meaning given in Section 6.1 herein;

"**Contracts**" means all of the contracts, licences, leases, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements and engagements to which the Owner Applicant is a party and which relate to the Business;

"**Court**" has the meaning set out in the recitals hereof;

"**Deposit**" has the meaning given in Section 4.2 herein;

"**Encumbrances**" means all liens, charges, security interests (whether contractual, statutory or otherwise), pledges, leases, offers to lease, title retention agreements, mortgages, restrictions on use, development or similar agreements, easements, rights-of-way, title defects, options or adverse claims or encumbrances of any kind or character whatsoever;

"**ETA**" means the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended;

"**Excluded Assets**" means the Owner Applicant's right, title and interest in and to any asset of the Owner Applicant other than the Purchased Assets, which Excluded Assets include the Owner Applicant's right, title and interest in and to the following:

- (a) original tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Owner Applicant that do not relate exclusively or primarily to any of the Purchased Assets; and
- (b) the benefit of any refundable Taxes payable or paid by the Owner Applicant in respect of the Purchased Assets and applicable to the period prior to the Closing Date net of any amounts withheld by any taxing authority, and any claim or right of the Owner Applicant to any refund, rebate, or credit of Taxes for the period prior to the Closing Date.

"**Excluded Liabilities**" has the meaning given in Section 3.3 herein;

"**Governmental Authority**" means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, republic, territory, state or other geographic or political subdivision thereof; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power, and "**Governmental Authority**" means any one of them;

"**HST**" means harmonized sales tax imposed under Part IX of the ETA;

"**Initial Order**" has the meaning set out in the recitals hereof;

"**ITA**" means the *Income Tax Act*, R.S.C. 1985, c.1, as amended;

"**Lands**" means, those certain parcels or tracts of land and premises situate, lying and being in the City of Toronto in the Province of Ontario, as legally described in Schedule "D" hereto, and includes all rights and benefits appurtenant thereto;

"**Leases**" means those leases set out in Schedule "E" attached hereto;

"**LRO**" means the Land Registry Office for the Land Titles Division of York Region (No. 65);

"**Monitor's Certificate**" means the certificate referred to in the Approval and Vesting Order, which, when delivered to the Purchaser, has the effect of invoking the foreclosure and vesting out provisions contained in the Approval and Vesting Order;

"**Monitor's Solicitors**" means Bennett Jones LLP;

"**Notice**" has the meaning given in Section 16.3 herein;

"**Owner Applicant**" has the meaning set out in the recitals hereof;

"**Parties**" means the Monitor and the Purchaser;

"**Permits**" means all the authorizations, registrations, permits, certificates of approval, approvals, consents, commitments, rights or privileges issued, granted or required by any Governmental Authority in respect of the Real Property;

"**Permitted Encumbrances**" means all those Encumbrances described in Schedule "C" hereto;

"**Person**" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted;

"**Plans**" means all plans, designs and specification in connection with the Real Property which are in the possession or control of the Monitor (it being acknowledged that the Monitor is under no obligation to incur additional expense to obtain such plans, designs and specifications);

"**Purchase Price**" has the meaning set out in Section 4.1 herein;

"**Purchased Assets**" means all of the Owner Applicant's right, title and interest in and to the following:

- (a) the full benefit of all prepaid expenses and all deposits with any Person, public utility or Governmental Authority relating to the Real Property;
- (b) the Real Property;
- (c) the Plans;
- (d) the Leases;
- (e) the Permits and Contracts, but only to the extent transferable to the Purchaser or the Purchaser's permitted assignees; and
- (f) all intellectual property, if any, owned by the Owner Applicant with respect to the development to be completed on the Lands,

provided, however, that the Purchased Assets shall not include the Excluded Assets or the Excluded Liabilities;

"**Purchaser**" means 2331258 Ontario Inc.;

"**Purchaser Representatives**" has the meaning given in Section 6.1 herein;

"**Real Property**" means the Lands, together with all buildings, improvements and structures thereon) and the fixtures affixed thereto;

"**Rights**" has the meaning given in Section 3.1(c) herein, but only has such meaning in such Section;

"**Taxes**" means all taxes, HST, land transfer taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, excise, real property and personal property taxes, and any related interest, fines and penalties, imposed by any Governmental Authority, and whether disputed or not;

"**Tenants**" means all persons having a right to occupy any rentable area of the Real Property pursuant to the Leases and "**Tenant**" means any one of them; and

"**Transaction**" means the transaction of purchase and sale of the Purchased Assets as contemplated by this Agreement.

ARTICLE 2
SCHEDULES

2.1 Schedules

The following schedules are incorporated in and form part of this Agreement:

<u>Schedule</u>	<u>Description</u>
Schedule "A"	List of Applicants
Schedule "B"	Approval and Vesting Order
Schedule "C"	Permitted Encumbrances
Schedule "D"	Legal Description of Lands
Schedule "E"	List of Existing Leases

ARTICLE 3
AGREEMENT TO PURCHASE

3.1 Purchase and Sale of Purchased Assets

- (a) Relying on the representations and warranties herein, the Monitor hereby agrees to sell, assign, convey and transfer to the Purchaser, and the Purchaser hereby agrees to purchase, all right, title and interest of the Owner Applicant in and to the Purchased Assets free and clear of all Encumbrances, other than the Permitted Encumbrances.
- (b) Subject to the Closing, the Monitor hereby remises, releases and forever discharges to, and in favour of, the Purchaser, all of its rights, claims and demands whatsoever in the Purchased Assets.
- (c) This Agreement or any document delivered in connection with this Agreement shall not constitute an assignment of any rights, benefits or remedies (in this Section 3.1(c), collectively, the "**Rights**") under any Contracts or Permits that form part of the Purchased Assets and which are not assignable by the Monitor to the Purchaser without the required consent of the other party or parties thereto (collectively, the "**Third Party**"). To the extent any such consent is required and not obtained by the Monitor prior to the Closing Date, then, to the extent permitted by Applicable Law:
 - (i) the Monitor will, at the request, direction and cost of the Purchaser, acting reasonably, assist the Purchaser, in a timely manner and using commercially reasonable efforts, in applying for and obtaining all consents or approvals required under the applicable Contracts and/or Permits in a form satisfactory to the Monitor and the Purchaser, acting reasonably;
 - (ii) the Monitor will only deal with or make use of such Rights in accordance with the directions of the Purchaser;

- (iii) at the Purchaser's cost, the Monitor will use its commercially reasonable efforts to take such actions and do such things as may be reasonably and lawfully designed to provide the benefits of the Contracts and/or the Permits to the Purchaser, including holding those Contracts and/or Permits in trust for the benefit of the Purchaser or acting as agent for the Purchaser pending such assignment; and
- (iv) in the event that the Monitor receives funds with respect to those Contracts and/or Permits, the Monitor will promptly pay over to the Purchaser all such funds collected by the Monitor, net of any outstanding costs directly related to the assignment in respect of such Contracts and/or Permits.

The provisions of this Section 3.1 shall not merge but shall survive the completion of the Transaction. Notwithstanding the forgoing, nothing herein shall prohibit the Monitor, in its sole, absolute and unfettered discretion, from seeking to be discharged as monitor of the Owner Applicant at any time after Closing. The parties hereto hereby acknowledge and agree that the covenants of the Monitor contained in this Section 3.1 shall terminate concurrently with the discharge of the Monitor as monitor of the Owner Applicant.

3.2 Excluded Assets

Notwithstanding anything else in this Agreement, the Purchased Assets shall not include the Excluded Assets.

3.3 Excluded Liabilities

The Purchaser is not assuming, and shall not be deemed to have assumed any liabilities, obligations or commitments of the Owner Applicant or of any other Person, whether known or unknown, fixed or contingent or otherwise, including any debts, obligations, sureties, positive or negative covenants or other liabilities directly or indirectly arising out of or resulting from the conduct or operation of the Business or the Owner Applicant's ownership or interest therein, whether pursuant to this Agreement or as a result of the Transaction (collectively, the "**Excluded Liabilities**"). For greater certainty, the Excluded Liabilities shall include, but not be limited to, the following:

- (a) except as otherwise agreed in this Agreement, all Taxes payable by the Owner Applicant arising with respect to any period prior to the Closing Date and all Taxes payable relating to any matters or assets other than the Purchased Assets arising with respect to the period from and after the Closing Date;
- (b) any liability, obligation or commitment associated with: (i) the Accounts Payable and incurred prior to Closing; or (ii) any employees of the Owner Applicant;
- (c) any liability, obligation or commitment resulting from an Encumbrance that is not a Permitted Encumbrance;

- (d) any liability, obligation or commitment associated with any of the Excluded Assets; and
- (e) any liability, obligation or commitment in respect to Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Date.

ARTICLE 4

PURCHASE PRICE AND SATISFACTION OF PURCHASE PRICE

4.1 Purchase Price

The purchase price for the Purchased Assets shall be the aggregate of [REDACTED] dollars (the "**Purchase Price**"), plus all applicable Taxes payable in respect of the Transaction.

4.2 Deposit

Within two (2) Business Days after the Acceptance Date, the Purchaser shall pay to the Monitor's Solicitors, in trust, a deposit by wire or certified cheque of [REDACTED] dollars (the "**Deposit**"), which Deposit shall be held by the Monitor's Solicitors in accordance with the provisions of this Agreement pending completion or other termination of this Agreement and shall be applied against and towards the Purchase Price due on completion of the Transaction on the Closing Date.

4.3 Satisfaction of Purchase Price

The Purchaser shall indefeasibly pay and satisfy the Purchase Price as follows:

- (a) the Deposit shall be applied against the Purchase Price; and
- (b) the balance of the Purchase Price, subject to adjustments contained in this Agreement, shall be paid by wire or certified cheque on Closing by the Purchaser to the Monitor's Solicitors or as the Monitor's Solicitors may otherwise direct in writing.

4.4 Allocation of Purchase Price

The Parties, acting reasonably and in good faith, covenant to use commercially reasonable efforts to agree to allocate the Purchase Price among the Purchased Assets in a mutually agreeable manner on or prior to the Closing Time, provided that failure of the Parties to agree upon an allocation shall not result in the termination of this Agreement but rather shall result in the nullity of the application of this Section 4.4 of the Agreement such that each of the Parties shall be free to make its own reasonable allocation.

4.5 Adjustment of Purchase Price

The Purchase Price shall be adjusted as of the Closing Time for any realty taxes and local improvement rates and charges (including interest thereon), utilities and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets as contemplated by this Agreement. The Monitor shall prepare a statement of adjustments and deliver same with all supporting documentation to the Purchaser for its approval no later than five (5) Business Days prior to the Closing Date. If the amount of any adjustments required to be made pursuant to this Agreement cannot be reasonably determined as of the Closing Date, an estimate shall be agreed upon by the Parties as of the Closing Date based upon the best information available to the Parties at such time, each Party acting reasonably, and such estimate shall serve as a final determination. Notwithstanding any other term in this Agreement, in no event shall the Purchaser be responsible for any charges, fees, Taxes, costs or other adjustments in any way relating to the period prior to the Closing Date or relating to the Excluded Liabilities or to any matters or assets other than the Purchased Assets for the period from and after the Closing Date. Other than as provided for in this Section 4.5, there shall be no adjustments to the Purchase Price.

ARTICLE 5 TAXES

5.1 Taxes

In addition to the Purchase Price, the Purchaser shall be responsible for all federal and provincial sales taxes, land transfer tax, goods and services, HST and other similar taxes and duties and all registration fees payable upon or in connection with the conveyance or transfer of the Purchased Assets to the Purchaser. If the sale of the Purchased Assets is subject to HST, then such tax shall be in addition to the Purchase Price. The Monitor will not collect HST if the Purchaser provides to the Monitor a warranty that it is registered under the ETA, together with a copy of the required ETA registration at least five (5) Business Days prior to Closing, a warranty that the Purchaser shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Monitor in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the Transaction.

ARTICLE 6 ACCESS AND CONFIDENTIALITY

6.1 Confidentiality

Prior to Closing, the Purchaser shall maintain in confidence and not disclose to any Person this Agreement or the terms thereof or any information or documentation obtained, prepared or summarized by the Purchaser or its representatives (collectively, the "**Confidential Information**"), except, on a need to know basis, to those individuals employed by the Purchaser, its professional consultants, including the Purchaser's legal counsel, and to those Persons who have agreed in writing in favour of the Monitor and Purchaser not to disclose any Confidential Information (collectively, the "**Purchaser Representatives**"). The Purchaser will ensure that

each Purchaser Representative treats the Confidential Information as confidential and any failure of a Purchaser Representative to do so will be a breach of this Agreement by the Purchaser.

6.2 Authorizations

Upon request, the Monitor shall provide the Purchaser with authorizations executed by the Monitor and addressed to the appropriate municipal building department, zoning department and fire department and to any other Governmental Authority, authorizing the release of any and all information on file in respect of the Purchased Assets, but such authorization shall not authorize any inspections by any Governmental Authority.

ARTICLE 7

CLOSING ARRANGEMENTS

7.1 Closing

Closing shall take place at the Closing Time at the offices of the Monitor's Solicitors, located in Toronto or at such other time or at such other place as the Parties may agree in writing.

7.2 Tender

Any tender of documents or money under this Agreement may be made upon the Parties or their respective lawyers, and money shall be tendered by wire transfer of immediately available funds to the account specified by the receiving Party. The Monitor and the Purchaser acknowledge and agree that insofar as the tender of any documents to be electronically registered is concerned, the tender of same will be deemed to be effective and proper when the solicitor for the party tendering has completed all steps required by Teraview in order to complete the Transaction that can be performed or undertaken by the tendering party's solicitor without the cooperation or participation of the other party's solicitor, and specifically when the tendering party's solicitor has electronically "signed" the transfer/deed and any other Closing document, if any, to be electronically registered for completeness and granted access to the other party's solicitor to same, but without the necessity of the tendering party's solicitor actually releasing such document(s) to the other party's solicitor for registration.

7.3 Monitor's Closing Deliverables

The Monitor covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date as expressly provided herein:

- (a) a copy of the issued and entered Approval and Vesting Order and the attached Monitor's Certificate;
- (b) a statement of adjustments prepared in accordance with Section 4.5 hereof, to be delivered not less than five (5) Business Days prior to Closing;
- (c) to the extent applicable, an assignment and assumption agreement with respect to all Permits and Contracts and to the extent not assignable, an agreement that the

Monitor will hold same in trust for the Purchaser in accordance with the provisions of Section 3.1(c);

- (d) an assignment and assumption agreement with respect to all Leases;
- (e) a certificate signed by the Monitor confirming that, to the best of the Monitor's knowledge, the Owner Applicant is not a non-resident of Canada within the meaning of the said section 116;
- (f) a certificate from the Monitor, dated as of the Closing Date, certifying that all representations, warranties and covenants of the Monitor contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time;
- (g) an acknowledgement, dated as of the Closing Date, that each of the conditions in Section 8.1 hereof have been fulfilled, performed or waived as of the Closing Time; and
- (h) such further documentation relating to the completion of the Transaction as shall be otherwise referred to herein or required by the Purchaser, acting reasonably, or by Applicable Law or any Governmental Authority.

7.4 Purchaser's Closing Deliverables

The Purchaser covenants to execute, where applicable, and deliver the following to the Monitor at Closing or on such other date as expressly provided herein:

- (a) the indefeasible payment and satisfaction in full of the Purchase Price according to Section 4.3 hereof;
- (b) an assignment and assumption agreement with respect to all Permits and Contracts pertaining to the Real Property (to the extent assignable) and to the extent not assignable, an agreement that the Monitor will hold same in trust for the Purchaser in accordance with the provisions of Section 3.1(c);
- (c) an assignment and assumption agreement with respect to all Leases;
- (d) a certificate from the Purchaser, dated as of the Closing Date, certifying that all representations, warranties and covenants of the Purchaser contained in Article 10 are true as of the Closing Time, with the same effect as though made on and as of the Closing Time;
- (e) if necessary, payment or evidence of payment of HST applicable to the Purchased Assets or, if applicable, appropriate tax exemption certificates with respect to HST in accordance with Article 5 hereof;
- (f) if desired, a direction directing the Monitor to convey title to any of the Purchased Assets to an entity other than the Purchaser; and

- (g) such further documentation relating to the completion of the Transaction as shall be otherwise referred to herein or required by the Monitor, acting reasonably, or by Applicable Law or any Governmental Authority.

7.5 Monitor's Certificate

Upon receipt of written confirmation from the Purchaser that all of the conditions contained in Section 8.3 have been satisfied or waived by the Purchaser, and upon satisfaction or waiver by the Monitor of all of the conditions contained in Section 8.1, the Monitor shall forthwith deliver to the Purchaser the Monitor's Certificate comprising Schedule "A" of the Approval and Vesting Order, and shall file same with the Court.

ARTICLE 8 **CONDITIONS PRECEDENT TO CLOSING**

8.1 Conditions in Favour of the Monitor

The obligation of the Monitor to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date:

- (a) all the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Purchaser contained in Article 10 to be performed on or before the Closing Date shall have been duly performed by the Purchaser;
- (c) there shall be no order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets enjoining, preventing or restraining the completion of the Transaction; and
- (d) the Court shall have issued the Approval and Vesting Order.

8.2 Conditions in Favour of Monitor Not Fulfilled

If any of the conditions contained in Section 8.1 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Monitor, then the Monitor may, at its sole discretion (other than as stipulated below) and without limiting any rights or remedies available to it at law or in equity:

- (a) terminate this Agreement by notice to the Purchaser, in which event the Monitor shall be released from its obligations under this Agreement to complete the Transaction, provided that if this Agreement is so terminated because of the conditions set out in Section 8.1(a) or Section 8.1(b) not being satisfied or waived, the Purchaser shall forfeit the Deposit to the Owner Applicants; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

8.3 Conditions in Favour of the Purchaser

The obligation of the Purchaser to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date, which conditions are inserted for the sole benefit of the Purchaser and may be waived in whole or in part at the Purchaser's sole option:

- (a) all the representations and warranties of the Monitor contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Monitor under this Agreement to be performed on or before the Closing Date shall have been duly performed by the Monitor;
- (c) there shall be no order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets enjoining, preventing or restraining the completion of the Transaction;
- (d) from the Acceptance Date to Closing, there shall have been no new work orders, deficiency notices, notices of violation or non-compliance or similar orders, and no new Encumbrances registered on title to the Lands or matters affecting the title to the Lands arising or registered after the Acceptance Date, in each case which are not otherwise vested-out pursuant to the Approval and Vesting Order; and
- (e) the Court shall have issued the Approval and Vesting Order.

8.4 Conditions in Favour of Purchaser Not Fulfilled

If any of the conditions contained in Section 8.3 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Purchaser, then the Purchaser may, in its sole discretion and without limiting its rights or remedies available at law or in equity:

- (a) terminate this Agreement by notice to the Monitor, in which event the Purchaser and the Monitor shall be released from their obligations under this Agreement to complete the Transaction and the Deposit and all interest accrued thereon shall be immediately returned to the Purchaser without deduction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

ARTICLE 9

REPRESENTATIONS & WARRANTIES OF THE MONITOR

The Monitor represents and warrants to the Purchaser as follows, with the knowledge and expectation that the Purchaser is placing complete reliance thereon and, but for such representations and warranties, the Purchaser would not have entered into this Agreement:

- (a) the Monitor has all necessary power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary action on the part of the Monitor, subject to the Approval and Vesting Order. This Agreement is a valid and binding obligation of the Monitor enforceable in accordance with its terms;
- (b) the Monitor has been duly appointed as the monitor of the Applicants by the Initial Order and such Initial Order is in full force and effect and has not been stayed, and, subject to obtaining the Approval and Vesting Order, the Monitor has the full right, power and authority to enter into this Agreement, perform its obligations hereunder and convey all right, title and interest of the Owner Applicant in and to the Purchased Assets;
- (c) to the best of the Monitor's knowledge, the Owner Applicant is not a non-resident of Canada for the purposes of the ITA; and
- (d) subject to any charges created by the Initial Order, the Monitor has done no act itself to encumber or dispose of the Purchased Assets and is not aware of any action or process pending or threatened against the Owner Applicant that may affect its ability to convey any of the Purchased Assets as contemplated herein.

ARTICLE 10
REPRESENTATIONS & WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Monitor as follows, with the knowledge and expectation that the Monitor is placing complete reliance thereon and, but for such representations and warranties, the Monitor would not have entered into this Agreement:

- (a) the Purchaser is a corporation duly formed and validly subsisting under the laws of the Province of Ontario;
- (b) the Purchaser has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. Neither the execution of this Agreement nor the performance by the Purchaser of the Transaction will violate the Purchaser's constating documents, any agreement to which the Purchaser is bound, any judgment or order of a court of competent jurisdiction or any Governmental Authority, or any Applicable Law. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary corporate action on the part of the Purchaser. This Agreement is a valid and binding obligation of the Purchaser enforceable in accordance with its terms;
- (c) the Purchaser is or will be a registrant under Part IX of the ETA on the Closing Date; and
- (d) the Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any

application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property.

ARTICLE 11 **COVENANTS**

11.1 Mutual Covenants

Each of the Monitor and the Purchaser hereby covenants and agrees that, from the date hereof until Closing, each shall take all such actions as are necessary to have the Transaction approved in the Approval and Vesting Order on substantially the same terms and conditions as are contained in this Agreement, and to take all commercially reasonable actions as are within its power to control, and to use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with each of the conditions set forth in Article 8 hereof.

11.2 Monitor Covenants

The Monitor hereby covenants and agrees that, from the date hereof until Closing, it shall use commercially reasonable efforts to provide to the Purchaser all necessary information in respect of the Owner Applicant and the Purchased Assets reasonably required to complete the applicable tax elections in accordance with Article 5 hereof and to execute all necessary forms related thereto.

ARTICLE 12 **POSSESSION AND ACCESS PRIOR TO CLOSING**

12.1 Possession of Purchased Assets

The Monitor shall remain in possession of the Purchased Assets until the Closing Time, at which time the Purchaser shall take possession of the Purchased Assets where situated. In no event shall the Purchased Assets be sold, assigned, conveyed or transferred to the Purchaser until all the conditions set out in this Agreement and the Approval and Vesting Order have been satisfied or waived and the Purchaser has satisfied or the Monitor has waived all the delivery requirements outlined in Section 8.1 hereof.

12.2 Risk

- (a) The Purchased Assets shall be and remain at the risk of the Monitor until Closing and at the risk of the Purchaser from and after Closing.
- (b) If, prior to the Closing Date, all or a material part of any of the Real Property is expropriated or a notice of expropriation or intent to expropriate all or a material part of any of the Real Property is issued by any Governmental Authority, the Monitor shall immediately advise the Purchaser thereof by Notice in writing. The

Purchaser shall, by Notice in writing given within three (3) Business Days after the Purchaser receives Notice in writing from the Monitor of such expropriation, elect to either (i) complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price, and all compensation for expropriation of any of the Real Property shall be payable to the Purchaser and all right, title and interest of the Owner Applicant to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis, or (ii) terminate this Agreement as it relates solely to the Purchased Assets with respect to such Real Property and not complete the Transaction, in which case all rights and obligations of the Monitor and the Purchaser (except for those obligations which are expressly stated to survive the termination of this Agreement) shall terminate, and the Deposit shall be returned to the Purchaser forthwith, provided that where the Purchased Assets include Real Property other than the Real Property subject to the expropriation for which the Purchaser has elected to terminate this Agreement, this Agreement may only be terminated with respect to the Purchased Assets with respect to the expropriated Real Property, this Agreement shall remain in full force and effect with respect to the Purchased Assets with respect to all other Real Property.

- (c) If, prior to Closing, the Purchased Assets are substantially damaged or destroyed by fire, casualty or otherwise, then, at its option, the Purchaser may decline to complete the Transaction. Such option shall be exercised within fifteen (15) calendar days after notification to the Purchaser by the Monitor of the occurrence of such damage or destruction (or prior to the Closing Date if such occurrence takes place within fifteen (15) calendar days of the Closing Date), in which event this Agreement shall be terminated automatically. If the Purchaser does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. Where any damage or destruction is not substantial, the Purchaser shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. For the purposes of this Section 12.2(c), substantial damage or destruction shall be deemed to have occurred if the loss or damage to the Purchased Assets exceeds fifteen percent (15%) of the total Purchase Price.

ARTICLE 13 **AS IS, WHERE IS**

13.1 Condition of the Purchased Assets

The Purchaser acknowledges that the Monitor is selling and the Purchaser is purchasing the Purchased Assets on an "*as is, where is*" and "*without recourse*" basis as the Purchased Assets shall exist on the Closing Date, including, without limitation, whatever defects, conditions, impediments, hazardous materials or deficiencies exist on the Closing Date, whether patent or latent. The Purchaser further acknowledges and agrees that it has entered into this Agreement on the basis that neither the Monitor nor the Owner Applicant has guaranteed or will guarantee title to or marketability, use or quality of the Purchased Assets, that the Purchaser will conduct such

inspections of the condition and title to the Purchased Assets as it deems appropriate and will satisfy itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Monitor to sell, assign, convey or transfer same, save and except as expressly provided in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act*, R.S.O. 1990, c. S.1, do not apply hereto and/or have been waived by the Purchaser. The description of the Purchased Assets contained in this Agreement is for the purpose of identification only and no representation, warranty or condition has or will be given by the Monitor concerning the accuracy of such description.

ARTICLE 14 **POST-CLOSING MATTERS**

14.1 Books and Records

The Purchaser shall keep and maintain the Books and Records for a period of two (2) years from the Closing Date, or for any longer period as may be required by Applicable Law or Governmental Authority or as requested by the Monitor, the Owner Applicant or the Owner Applicant's trustee in bankruptcy (the "**Retention Period**"). Upon reasonable advance notice, during such two (2) year period after the Closing Date, the Purchaser will grant the Monitor and the Owner Applicant and, in the event the Owner Applicant is adjudged bankrupt, any trustee of the estate of the Owner Applicant and their respective representatives, reasonable access during normal business hours to use and copy the Books and Records at the sole cost of the Monitor, Owner Applicant or bankruptcy trustee of the estate of the Owner Applicant, as the case may be, and at no cost to the Purchaser. After the Retention Period, the Purchaser shall give the Monitor, the Owner Applicant or bankruptcy trustee of the estate of the Owner Applicant, as the case may be, thirty (30) days' prior written notice of its intent to destroy the Books and Records. The Parties agree that the covenants of the Purchaser in this Section 14.1 shall survive the closing of the Transaction.

ARTICLE 15 **TERMINATION**

15.1 Termination of this Agreement

This Agreement may be validly terminated:

- (a) upon the mutual written agreement of the Parties;
- (b) pursuant to Section 8.2 hereof by the Monitor;
- (c) pursuant to Section 8.4 hereof by the Purchaser; or
- (d) pursuant to Section 12.2 hereof.

15.2 Remedies for Breach of Agreement

Notwithstanding any other term or condition of this Agreement, if this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Monitor, the Purchaser shall be entitled to the return of the Deposit without deduction, which shall be returned to the Purchaser forthwith, and this shall be the Purchaser's sole right and remedy pursuant to this Agreement or at law as a result of the Monitor's breach. If this Agreement is terminated as a result of a breach of a representation, warranty, covenant or obligation of the Purchaser, the Deposit shall be forfeited to the Monitor as liquidated damages and not as a penalty, which Deposit the Parties agree is a genuine estimate of the liquidated damages that the Monitor would suffer in such circumstances, and this shall be the Monitor's sole right and remedy pursuant to this Agreement or at law as a result of the Purchaser's breach.

15.3 Termination If No Breach of Agreement

If this Agreement is terminated other than as a result of a breach of a representation, warranty, covenant or obligation of a Party, then the parties hereto shall be released from all obligations and liabilities hereunder, other than their obligations under Article 6, and the Deposit shall be forthwith returned to the Purchaser without deduction.

ARTICLE 16 **GENERAL CONTRACT PROVISIONS**

16.1 Further Assurances

From time to time after Closing, each of the Parties shall execute and deliver such further documents and instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and which are not inconsistent with the terms hereof, including, at the Purchaser's request and expense, the Monitor shall execute and deliver such additional conveyances, transfers and other assurances as may, in the opinion of the Parties or their counsel, acting reasonably, be reasonably required to effectually carry out the intent of this Agreement and transfer the Purchased Assets to the Purchaser.

16.2 Survival Following Completion

Notwithstanding any other provision of this Agreement, Article 9, Article 10, Section 15.2 and Section 15.3 shall survive the termination of this Agreement and the completion of the Transaction, provided, however, that upon the discharge of the Monitor, the Parties' respective obligations by reason of this Agreement shall end completely and they shall have no further or continuing obligations by reason thereof.

16.3 Notice

All notices, requests, demands, waivers, consents, agreements, approvals, communications or other writings required or permitted to be given hereunder or for the purposes hereof (each, a "Notice") shall be in writing and be sufficiently given if personally delivered, sent by prepaid registered mail or transmitted by email, addressed to the Party to whom it is given, as follows:

(a) to the Monitor:

KSV Kofman Inc.
150 King Street West, Suite 2308
Toronto, ON M5H 1J9

Attention: Robert Kofman and David Sieradzki
Tel: (416) 932-6228 / (416) 932-6030
Email: bkofman@ksvadvisory.com / dsieradzki@ksvadvisory.com

and a copy to the Monitor's counsel to:

Bennett Jones LLP
3400 One First Canadian Place
Toronto, ON M5X 1A5

Attention: Sean Zweig and John van Gent
Tel: (416) 777-6254 / (416) 777-6522
Email: zweigs@bennettjones.com / vangentj@bennettjones.com

(b) to the Applicants

c/o Goldman Sloan Nash & Haber LLP
480 University Avenue, Suite 1600
Toronto, ON M5G 1V2

Attention: Mario Forte/Jennifer Stam
Tel: (416) 597-6477/(416) 597-5017
Email: forte@gsnh.com/stam@gsnh.com

(c) to the Purchaser:

930 Progress Avenue
Scarborough, ON M1G 3T5

Attention: David Ding (Chang Yong Ding)
Tel: (416) 839-7608
Email: davidd@scbt.ca

and a copy to the Purchaser's counsel to:

150 Ferrand Drive
Suite 800
Toronto, ON M3C 3E5

Attention: Shirley Bai

Tel: (416) 496-3340 ext. 155
Email: sb@friedmans.ca

or such other address of which Notice has been given. Any Notice mailed as aforesaid will be deemed to have been given and received on the third (3rd) Business Day following the date of its mailing. Any Notice personally delivered will be deemed to have been given and received on the day it is personally delivered, provided that if such day is not a Business Day, the Notice will be deemed to have been given and received on the Business Day next following such day. Any Notice transmitted by email will be deemed given and received on the first (1st) Business Day after its transmission.

If a Notice is mailed and regular mail service is interrupted by strike or other irregularity on or before the fourth (4th) Business Day after the mailing thereof, such Notice will be deemed to have not been received unless otherwise personally delivered or transmitted by email.

16.4 Waiver

No Party will be deemed or taken to have waived any provision of this Agreement unless such waiver is in writing and such waiver will be limited to the circumstance set forth in such written waiver.

16.5 Consent

Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit or the requirement for such consent is not required pursuant to the terms of the Approval and Vesting Order, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

16.6 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties irrevocably attorn to the jurisdiction of the courts of the Province of Ontario sitting in Toronto. The Parties consent to the exclusive jurisdiction and venue of the Court for the resolution of any disputes among them, regardless of whether or not such disputes arose under this Agreement.

16.7 Entire Agreement

This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings between the Parties. There are not and will not be any verbal statements, representations, warranties, undertakings or agreements between the Parties. This Agreement may not be amended or modified in any respect except by written instrument signed by the Parties. The recitals herein are true and accurate, both in substance and in fact.

16.8 Time of the Essence

Time will be of the essence, provided that if the Parties establish a new time for the performance of an obligation, time will again be of the essence of the new time established.

16.9 Time Periods

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

16.10 Assignment

This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, legal and personal administrators, successors and permitted assigns. The Purchaser may not assign this Agreement without the Monitor's prior written approval, which approval shall be in the Monitor's sole, absolute and unfettered discretion. Notwithstanding the foregoing, up until Closing, the Purchaser shall have the right to direct that title to the Lands be taken in the name of another person, entity, joint venture, partnership or corporation (presently in existence or to be incorporated) that is an affiliate of the Purchaser, provided that the Purchaser shall not be released from any and all obligations and liabilities hereunder until after the Closing of the transaction. The foregoing right may only be exercised once by the Purchaser. Any other requested direction of title shall require the Monitor's prior written approval, which approval shall be in the Monitor's sole, absolute and unfettered discretion.

16.11 Expenses

Except as otherwise set out in this Agreement, all costs and expenses (including, without limitation, the fees and disbursements of legal counsel) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses.

16.12 Severability

If any portion of this Agreement is prohibited in whole or in part in any jurisdiction, such portion shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining portions of this Agreement and shall, as to such jurisdiction, be deemed to be severed from this Agreement to the extent of such prohibition.

16.13 No Strict Construction

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

16.14 Cumulative Remedies

Unless otherwise expressly stated in this Agreement, no remedy conferred upon or reserved to one or both of the Parties is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

16.15 Currency

All references to dollar amounts contained in this Agreement shall be deemed to refer to lawful currency of Canada.

16.16 Monitor's Capacity

It is acknowledged by the Purchaser that the Monitor is entering into this Agreement solely in its capacity as Court-appointed monitor and that the Monitor shall have absolutely no personal or corporate liability under or as a result of this Agreement in any respect.

16.17 No Third Party Beneficiaries

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns. No other person or entity shall be regarded as a third party beneficiary of this Agreement.

16.18 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation".

16.19 Counterparts

This Agreement may be executed in counterparts and by facsimile or PDF, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF the Monitor has duly executed this Agreement as of the date first above written.

KSV KOFMAN INC., solely in its capacity as court appointed monitor of 27 Anglin Development Inc. and 29 Anglin Development Inc., and not in its personal capacity or in any other capacity

Per: 

Name: Robert Kofman

Title: President and Managing Director

ACCEPTED by the Purchaser this 12th day of April, 2019

2331258 ONTARIO INC.

Per: 

Name: Chang Yong Ding

Title: Authorized Signing Officer

SCHEDULE "A"
APPLICANTS

3310 Kingston Development Inc.
1296 Kennedy Development Inc.
1326 Wilson Development Inc.
5507 River Development Inc.
4439 John Development Inc.
2358825 Ontario Ltd.
250 Danforth Development Inc.
159 Carrville Development Inc.
169 Carrville Development Inc.
189 Carrville Development Inc.
27 Anglin Development Inc.
29 Anglin Development Inc.

purchase and sale between the Monitor, as vendor, and <*> (the "**Purchaser**"), as purchaser, dated <*>, 2019 (the "**Sale Agreement**"), a copy of which is attached as Confidential Appendix "<*>" to the <*> Report of the Monitor dated <*>, 2019 (the "<*> **Report**"), and vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, all of the Owner Applicant's right, title and interest in and to the property described as the "Purchased Assets" in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the <*> Report and appendices thereto, and on hearing the submissions of counsel for the Monitor and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of <*> sworn <*>, 2019, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Monitor is hereby authorized and approved, with such minor amendments as the Monitor may deem necessary. The Monitor is hereby authorized to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, or as it may direct.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as **Schedule "B"** hereto (the "**Monitor's Certificate**"), all of the Owner Applicant's right, title and interest in and to the Purchased Assets, including without limitation the subject real property identified in **Schedule "C"** hereto (the "**Real Property**"), shall vest absolutely in the Purchaser, or as it may direct, free

and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, leases, notices of lease, subleases, licences, restrictions, contractual rights, options, judgments, liabilities (direct, indirect, absolute or contingent), obligations, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Amended and Restated Order of the Honorable Justice Hainey dated November 30, 2018; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "D"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "E"**) and, for greater certainty, this Court orders and declares that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets and are non-enforceable and non-binding as against the Purchaser.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of York Region (No. 65) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser, or as it may direct, as the owner of the subject real property identified in **Schedule "C"** hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule "D"** hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Owner Applicant and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Owner Applicant,

the vesting of the Purchased Assets in the Purchaser, or as it may direct, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Owner Applicant and shall not be void or voidable by creditors of the Owner Applicant, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute

oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Monitor and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

SCHEDULE "A"
APPLICANTS

3310 Kingston Development Inc.
1296 Kennedy Development Inc.
1326 Wilson Development Inc.
5507 River Development Inc.
4439 John Development Inc.
2358825 Ontario Ltd.
250 Danforth Development Inc.
159 Carrville Development Inc.
169 Carrville Development Inc.
189 Carrville Development Inc.
27 Anglin Development Inc.
29 Anglin Development Inc.

SCHEDULE "B"
FORM OF MONITOR'S CERTIFICATE

Court File No. CV-18-608313-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO

APPLICATION UNDER THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

MONITOR'S CERTIFICATE

RECITALS

I. Pursuant to an Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated November 30, 2018 (as amended, the "**Initial Order**"), KSV Kofman Inc. was appointed as monitor (in such capacity, the "**Monitor**") of 27 Anglin Development Inc. and 29 Anglin Development Inc. Pursuant to the Initial Order the Monitor was granted certain expanded powers.

II. Pursuant to an Order of the Court dated <*>, 2019, the Court approved the agreement of purchase and sale between the Monitor, as vendor, and <*> (the "**Purchaser**"), as purchaser, dated <*>, 2019 (the "**Sale Agreement**"), and provided for the vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, of all of 27 Anglin Development Inc. and 29 Anglin Development Inc.'s (collectively, the "**Owner Applicant**") right, title and interest in and

to the Purchased Assets (as defined in the Sale Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Monitor.

III. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Monitor has received, the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser in accordance with their terms;
3. The transaction has been completed to the satisfaction of the Monitor; and

4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

KSV KOFMAN INC., solely in its capacity as court appointed monitor of 27 Anglin Development Inc. and 29 Anglin Development Inc., and not in its personal capacity or in any other capacity

Per: _____
Name:
Title:

SCHEDULE "A"
APPLICANTS

3310 Kingston Development Inc.
1296 Kennedy Development Inc.
1326 Wilson Development Inc.
5507 River Development Inc.
4439 John Development Inc.
2358825 Ontario Ltd.
250 Danforth Development Inc.
159 Carrville Development Inc.
169 Carrville Development Inc.
189 Carrville Development Inc.
27 Anglin Development Inc.
29 Anglin Development Inc.

SCHEDULE "C"
LEGAL DESCRIPTION OF THE REAL PROPERTY

27, 29 & 31 Anglin Drive, Richmond Hill, Ontario

FIRSTLY: PIN 03193-0008 (LT)

PCL 6-1 SEC 65M2075; LT 6 PL 65M2075; S/T LT77841 RICHMOND HILL

SECONDLY: PIN 03193-1709 (LT)

PCL 5-1 SEC 65M2075; PT LT 5 PL 65M2075 PT 2 ON 65R36065; TOWN OF RICHMOND HILL

THIRDLY: PIN 03193-1711 (LT)

PART OF LOT 5, PLAN 65M-2075, PARCEL 5-1, SECTION 65M-2075, DESIGNATED AS PART 3, ON PLAN 65R-36065, TOWN OF RICHMOND HILL

SCHEDULE "D"
INSTRUMENTS TO BE DELETED FROM PIN NO. 03193-0008 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2630222	2017/02/24	Charge	\$2,302,500	27 Anglin Development Inc.	Home Trust Company
YR2680866	2017/06/06	Charge	\$2,695,000	27 Anglin Development Inc.	Home Trust Company
YR2680882	2017/06/06	Charge	\$2,695,000	27 Anglin Development Inc.	Home Trust Company
YR2763839	2017/11/24	Charge	\$2,500,000	27 Anglin Development Inc.	2603616 Ontario Inc.
YY2763840	2017/11/24	Notice of Assignment of Rents – General	N/A	27 Anglin Development Inc.	2603616 Ontario Inc.

INSTRUMENTS TO BE DELETED FROM PIN NOS. 03193-1709 (LT) AND 03193-1711 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
YR2660833	2017/04/28	Charge	\$2,121,000	29 Anglin Development Inc.	Home Trust Company
YR2763841	2017/11/24	Charge	\$2,500,000	29 Anglin Development Inc.	2603616 Ontario Inc.
YY2763842	2017/11/24	Notice of Assignment of Rents – General	N/A	29 Anglin Development Inc.	2603616 Ontario Inc.

SCHEDULE "E"
PERMITTED ENCUMBRANCES FROM PIN NOS. 03193-0008 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
LT69482	1981/12/17	Notice of Subdivision Agreement	N/A		The Corporation of the Town of Richmond Hill
LT77841	1982/03/26	Transfer Easement	N/A		The Corporation of the Town of Richmond Hill

PERMITTED ENCUMBRANCES FROM PIN NOS. 03193-1709 (LT) AND 03193-1711 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
LT69482	1981/12/17	Notice of Subdivision Agreement	N/A		The Corporation of the Town of Richmond Hill
YR2412249	2016/01/06	Application to Annex Restrictive Covenant	N/A	Leonardi, Anna Leonardi, Filippo Antonio	
YR2432421	2016/02/18	Bylaw	N/A	The Corporation of the Town of Richmond Hill	

SCHEDULE "C"
PERMITTED ENCUMBRANCES

PART I: GENERAL PERMITTED ENCUMBRANCES

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates to the extent adjusted for under this Agreement;
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes;
3. Registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including without limitation, subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements; provided same have been complied with or security has been posted to ensure compliance and completion as evidenced by a letter from the relevant Authority or regulated utility;
4. Any unregistered easement, right-of-way, agreements or other unregistered interest of claims not disclosed by registered title provided same does not materially impact the Purchaser's intended use of the Real Property;
5. Any encroachments or other discrepancies that might be revealed by an up-to-date plan of survey of the Real Property;
6. Such other minor encumbrances or defects in title which do not, individually or in the aggregate, materially affect the use, enjoyment or value of the Real Property or any part thereof, or materially impair the value thereof;
7. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute; and
8. The following exceptions and qualifications contained in Section 44(1) of the Land Titles Act: paragraphs 7, 8, 9, 10, 12 and 14.

PART II: SPECIFIC PERMITTED ENCUMBRANCES

PIN NOS. 03193-0008 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
LT69482	1981/12/17	Notice of Subdivision Agreement	N/A		The Corporation of the Town of Richmond Hill
LT77841	1982/03/26	Transfer Easement	N/A		The Corporation of the Town of Richmond Hill

PIN NOS. 03193-1709 (LT) AND 03193-1711 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
LT69482	1981/12/17	Notice of Subdivision Agreement	N/A		The Corporation of the Town of Richmond Hill
YR2412249	2016/01/06	Application to Annex Restrictive Covenant	N/A	Leonardi, Anna Leonardi, Filippo Antonio	
YR2432421	2016/02/18	Bylaw	N/A	The Corporation of the Town of Richmond Hill	

SCHEDULE "D"
LEGAL DESCRIPTION OF LANDS

27, 29 & 31 Anglin Drive, Richmond Hill, Ontario

FIRSTLY: PIN 03193-0008 (LT)

PCL 6-1 SEC 65M2075; LT 6 PL 65M2075; S/T LT77841 RICHMOND HILL

SECONDLY: PIN 03193-1709 (LT)

PCL 5-1 SEC 65M2075; PT LT 5 PL 65M2075 PT 2 ON 65R36065; TOWN OF RICHMOND HILL

THIRDLY: PIN 03193-1711 (LT)

PART OF LOT 5, PLAN 65M-2075, PARCEL 5-1, SECTION 65M-2075, DESIGNATED AS PART 3, ON PLAN 65R-36065, TOWN OF RICHMOND HILL

SCHEDULE "E"
LIST OF EXISTING LEASES

Lease dated October 3, 2017 and amended October 12, 2018 between 27 Anglin Dr Development Inc. and Sesay Ansu and Fatmata Dulleh for the property municipally known as 27 Anglin Drive, Richmond Hill, Ontario

Appendix “E”

AGREEMENT OF PURCHASE AND SALE

BETWEEN

KSV KOFMAN INC.

solely in its capacity as court-appointed monitor of
1326 Wilson Development Inc., and not in its personal capacity or in any other capacity

- and -

8570442 CANADA INCORPORATED

Dated: April 18, 2019

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AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made this 18th day of April, 2019.

BETWEEN:

KSV KOFMAN INC. ("KSV"), solely in its capacity as court-appointed monitor of 1326 Wilson Development Inc., and not in its personal capacity or in any other capacity

(in such capacity, the "**Monitor**")

- and -

8570442 CANADA INCORPORATED

(the "**Purchaser**")

RECITALS

- A. **WHEREAS** on November 30, 2018, Forme Development Group Inc., 1326 Wilson Development Inc. (the "**Owner Applicant**") and the other companies on Schedule "A" hereto (collectively, the "**Applicants**"), were granted creditor protection pursuant to an Initial Order granted by the Honorable Mr. Justice Hainey (the "**Initial Order**") under the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 (the "**CCAA**");
- B. **AND WHEREAS** pursuant to the Initial Order, KSV Kofman Inc. ("KSV") was appointed as monitor (the "**Monitor**") of the Applicants;
- C. **AND WHEREAS** pursuant to the Initial Order, the Monitor was authorized to, among other things, market the Purchased Assets (as defined hereafter) and apply for an order of the Court approving the sale of the Purchased Assets and vesting in and to a purchaser all the Owner Applicant's right, title and interest in and to the Purchased Assets;
- D. **AND WHEREAS** pursuant to the Initial Order, a sales process was approved by the Court and implemented by the Monitor;
- E. **AND WHEREAS** the Purchaser wishes to purchase and the Monitor wishes to sell the Purchased Assets upon the terms and subject to the conditions set out herein.

NOW THEREFORE, in consideration of the promises, mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are each hereby acknowledged by the Parties (as defined hereafter), the Parties agree as follows:

ARTICLE 1
DEFINED TERMS

1.1 Definitions

In this Agreement:

"**Acceptance Date**" means the date that this Agreement is executed by and delivered to all Parties hereunder;

"**Accounts Payable**" means all amounts relating to the Business owing to any Person which are incurred in connection with the purchase of goods or services in the ordinary course of business;

"**Agreement**" means this agreement of purchase and sale, including all schedules and all amendments or restatements, as permitted, and references to "**article**", "**section**" or "**schedule**" mean the specified article, section of, or schedule to this Agreement and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular section or other portion of this Agreement;

"**Applicable Law**" means, with respect to any Person, property, transaction, event or other matter, all applicable laws, statutes, regulations, rules, by-laws, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments and decrees of any Governmental Authority;

"**Applicants**" has the meaning set out in the recitals hereof;

"**Approval and Vesting Order**" means the approval and vesting order issued by the Court approving this Agreement and the transactions contemplated by this Agreement, and authorizing and directing the Monitor to complete the Transaction and conveying to the Purchaser all of the Owner Applicant's right, title and interest, if any, in and to the Purchased Assets free and clear of all Encumbrances other than the Permitted Encumbrances, and which order shall be in a form and substance substantively similar to the draft order attached as Schedule "B" hereto;

"**Books and Records**" means the files, documents, instruments, surveys, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise) pertaining to the Purchased Assets in the possession or control of the Owner Applicant and that have been or will be delivered by the Monitor to the Purchaser at or before Closing; provided, however, that "Books and Records" shall not include any bank or accounting records;

"**Business**" means the business' carried on by the Owner Applicant with respect to the Real Property;

"**Business Day**" means a day on which banks are open for business in the City of Toronto but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario;

"**Claims**" means any and all claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, charges, indictments, prosecutions or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or

otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including solicitor and client costs and disbursements, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing, related to the Owner Applicant or the Real Property, and "**Claim**" means any one of them;

"**Closing**" means the successful completion of the Transaction;

"**Closing Date**" means the later of June 14, 2019 and the first Business Day which is Two (2) Business Days after receipt of the Approval and Vesting Order;

"**Closing Time**" means 4:00 p.m. (Toronto time) on the Closing Date or such other time as agreed in writing by the Parties;

"**Confidential Information**" has the meaning given in Section 6.1 herein;

"**Contracts**" means all of the contracts, licences, leases, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements and engagements to which the Owner Applicant is a party and which relate to the Business;

"**Court**" has the meaning set out in the recitals hereof;

"**Deposit**" has the meaning given in Section 4.2 herein;

"**Encumbrances**" means all liens, charges, security interests (whether contractual, statutory or otherwise), pledges, leases, offers to lease, title retention agreements, mortgages, restrictions on use, development or similar agreements, easements, rights-of-way, title defects, options or adverse claims or encumbrances of any kind or character whatsoever;

"**ETA**" means the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended;

"**Excluded Assets**" means the Owner Applicant's right, title and interest in and to any asset of the Owner Applicant other than the Purchased Assets, which Excluded Assets include the Owner Applicant's right, title and interest in and to the following:

- (a) original tax records and books and records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of the Owner Applicant that do not relate exclusively or primarily to any of the Purchased Assets; and
- (b) the benefit of any refundable Taxes payable or paid by the Owner Applicant in respect of the Purchased Assets and applicable to the period prior to the Closing Date net of any amounts withheld by any taxing authority, and any claim or right of the Owner Applicant to any refund, rebate, or credit of Taxes for the period prior to the Closing Date.

"**Excluded Liabilities**" has the meaning given in Section 3.3 herein;

"**Governmental Authority**" means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, republic, territory, state or other geographic or political subdivision thereof; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power, and "**Governmental Authority**" means any one of them;

"**HST**" means harmonized sales tax imposed under Part IX of the ETA;

"**Initial Order**" has the meaning set out in the recitals hereof;

"**ITA**" means the *Income Tax Act*, R.S.C. 1985, c.1, as amended;

"**Lands**" means, those certain parcels or tracts of land and premises situate, lying and being in the City of Toronto in the Province of Ontario, as legally described in Schedule "D" hereto, and includes all rights and benefits appurtenant thereto;

"**Leases**" means those leases set out in Schedule "E" attached hereto;

"**LRO**" means the Land Registry Office for the Land Titles Division of Toronto (No. 66);

"**Monitor's Certificate**" means the certificate referred to in the Approval and Vesting Order, which, when delivered to the Purchaser, has the effect of invoking the foreclosure and vesting out provisions contained in the Approval and Vesting Order;

"**Monitor's Solicitors**" means Bennett Jones LLP;

"**Notice**" has the meaning given in Section 16.3 herein;

"**Owner Applicant**" has the meaning set out in the recitals hereof;

"**Parties**" means the Monitor and the Purchaser;

"**Permits**" means all the authorizations, registrations, permits, certificates of approval, approvals, consents, commitments, rights or privileges issued, granted or required by any Governmental Authority in respect of the Real Property;

"**Permitted Encumbrances**" means all those Encumbrances described in Schedule "C" hereto;

"**Person**" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted;

"Plans" means all plans, designs and specification in connection with the Real Property which are in the possession or control of the Monitor (it being acknowledged that the Monitor is under no obligation to incur additional expense to obtain such plans, designs and specifications);

"Purchase Price" has the meaning set out in Section 4.1 herein;

"Purchased Assets" means all of the Owner Applicant's right, title and interest in and to the following:

- (a) the full benefit of all prepaid expenses and all deposits with any Person, public utility or Governmental Authority relating to the Real Property;
- (b) the Real Property;
- (c) the Plans;
- (d) the Leases;
- (e) the Permits and Contracts, but only to the extent transferable to the Purchaser or the Purchaser's permitted assignees; and
- (f) all intellectual property, if any, owned by the Owner Applicant with respect to the development to be completed on the Lands,

provided, however, that the Purchased Assets shall not include the Excluded Assets or the Excluded Liabilities;

"Purchaser" means 8570442 Canada Incorporated;

"Purchaser Representatives" has the meaning given in Section 6.1 herein;

"Real Property" means the Lands, together with all buildings, improvements and structures thereon) and the fixtures affixed thereto;

"Rights" has the meaning given in Section 3.1(c) herein, but only has such meaning in such Section;

"Taxes" means all taxes, HST, land transfer taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, excise, real property and personal property taxes, and any related interest, fines and penalties, imposed by any Governmental Authority, and whether disputed or not;

"Tenants" means all persons having a right to occupy any rentable area of the Real Property pursuant to the Leases and **"Tenant"** means any one of them; and

"Transaction" means the transaction of purchase and sale of the Purchased Assets as contemplated by this Agreement.

ARTICLE 2
SCHEDULES

2.1 Schedules

The following schedules are incorporated in and form part of this Agreement:

<u>Schedule</u>	<u>Description</u>
Schedule "A"	List of Applicants
Schedule "B"	Approval and Vesting Order
Schedule "C"	Permitted Encumbrances
Schedule "D"	Legal Description of Lands
Schedule "E"	List of Existing Leases

ARTICLE 3
AGREEMENT TO PURCHASE

3.1 Purchase and Sale of Purchased Assets

- (a) Relying on the representations and warranties herein, the Monitor hereby agrees to sell, assign, convey and transfer to the Purchaser, and the Purchaser hereby agrees to purchase, all right, title and interest of the Owner Applicant in and to the Purchased Assets free and clear of all Encumbrances, other than the Permitted Encumbrances.
- (b) Subject to the Closing, the Monitor hereby remises, releases and forever discharges to, and in favour of, the Purchaser, all of its rights, claims and demands whatsoever in the Purchased Assets.
- (c) This Agreement or any document delivered in connection with this Agreement shall not constitute an assignment of any rights, benefits or remedies (in this Section 3.1(c), collectively, the "**Rights**") under any Contracts or Permits that form part of the Purchased Assets and which are not assignable by the Monitor to the Purchaser without the required consent of the other party or parties thereto (collectively, the "**Third Party**"). To the extent any such consent is required and not obtained by the Monitor prior to the Closing Date, then, to the extent permitted by Applicable Law:
 - (i) the Monitor will, at the request, direction and cost of the Purchaser, acting reasonably, assist the Purchaser, in a timely manner and using commercially reasonable efforts, in applying for and obtaining all consents or approvals required under the applicable Contracts and/or Permits in a form satisfactory to the Monitor and the Purchaser, acting reasonably;
 - (ii) the Monitor will only deal with or make use of such Rights in accordance with the directions of the Purchaser;

- (iii) at the Purchaser's cost, the Monitor will use its commercially reasonable efforts to take such actions and do such things as may be reasonably and lawfully designed to provide the benefits of the Contracts and/or the Permits to the Purchaser, including holding those Contracts and/or Permits in trust for the benefit of the Purchaser or acting as agent for the Purchaser pending such assignment; and
- (iv) in the event that the Monitor receives funds with respect to those Contracts and/or Permits, the Monitor will promptly pay over to the Purchaser all such funds collected by the Monitor, net of any outstanding costs directly related to the assignment in respect of such Contracts and/or Permits.

The provisions of this Section 3.1 shall not merge but shall survive the completion of the Transaction. Notwithstanding the forgoing, nothing herein shall prohibit the Monitor, in its sole, absolute and unfettered discretion, from seeking to be discharged as monitor of the Owner Applicant at any time after Closing. The parties hereto hereby acknowledge and agree that the covenants of the Monitor contained in this Section 3.1 shall terminate concurrently with the discharge of the Monitor as monitor of the Owner Applicant.

3.2 Excluded Assets

Notwithstanding anything else in this Agreement, the Purchased Assets shall not include the Excluded Assets.

3.3 Excluded Liabilities

The Purchaser is not assuming, and shall not be deemed to have assumed any liabilities, obligations or commitments of the Owner Applicant or of any other Person, whether known or unknown, fixed or contingent or otherwise, including any debts, obligations, sureties, positive or negative covenants or other liabilities directly or indirectly arising out of or resulting from the conduct or operation of the Business or the Owner Applicant's ownership or interest therein, whether pursuant to this Agreement or as a result of the Transaction (collectively, the "**Excluded Liabilities**"). For greater certainty, the Excluded Liabilities shall include, but not be limited to, the following:

- (a) except as otherwise agreed in this Agreement, all Taxes payable by the Owner Applicant arising with respect to any period prior to the Closing Date and all Taxes payable relating to any matters or assets other than the Purchased Assets arising with respect to the period from and after the Closing Date;
- (b) any liability, obligation or commitment associated with: (i) the Accounts Payable and incurred prior to Closing; or (ii) any employees of the Owner Applicant;
- (c) any liability, obligation or commitment resulting from an Encumbrance that is not a Permitted Encumbrance;
- (d) any liability, obligation or commitment associated with any of the Excluded Assets; and

- (e) any liability, obligation or commitment in respect to Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Date.

ARTICLE 4
PURCHASE PRICE AND SATISFACTION OF PURCHASE PRICE

4.1 Purchase Price

The purchase price for the Purchased Assets shall be the aggregate of [REDACTED] dollars (the "**Purchase Price**"), plus all applicable Taxes payable in respect of the Transaction.

4.2 Deposit

Within two (2) Business Days after the Acceptance Date, the Purchaser shall pay to the Monitor's Solicitors, in trust, a deposit by wire or certified cheque of [REDACTED] dollars (the "**Deposit**"), which Deposit shall be held by the Monitor's Solicitors in accordance with the provisions of this Agreement pending completion or other termination of this Agreement and shall be applied against and towards the Purchase Price due on completion of the Transaction on the Closing Date.

4.3 Satisfaction of Purchase Price

The Purchaser shall indefeasibly pay and satisfy the Purchase Price as follows:

- (a) the Deposit shall be applied against the Purchase Price; and
- (b) the balance of the Purchase Price, subject to adjustments contained in this Agreement, shall be paid by wire or certified cheque on Closing by the Purchaser to the Monitor's Solicitors or as the Monitor's Solicitors may otherwise direct in writing.

4.4 Allocation of Purchase Price

The Parties, acting reasonably and in good faith, covenant to use commercially reasonable efforts to agree to allocate the Purchase Price among the Purchased Assets in a mutually agreeable manner on or prior to the Closing Time, provided that failure of the Parties to agree upon an allocation shall not result in the termination of this Agreement but rather shall result in the nullity of the application of this Section 4.4 of the Agreement such that each of the Parties shall be free to make its own reasonable allocation.

4.5 Adjustment of Purchase Price

The Purchase Price shall be adjusted as of the Closing Time for any realty taxes and local improvement rates and charges (including interest thereon), utilities and any other items which are usually adjusted in purchase transactions involving assets similar to the Purchased Assets as contemplated by this Agreement. The Monitor shall prepare a statement of adjustments and deliver

same with all supporting documentation to the Purchaser for its approval no later than five (5) Business Days prior to the Closing Date. If the amount of any adjustments required to be made pursuant to this Agreement cannot be reasonably determined as of the Closing Date, an estimate shall be agreed upon by the Parties as of the Closing Date based upon the best information available to the Parties at such time, each Party acting reasonably, and such estimate shall serve as a final determination. Notwithstanding any other term in this Agreement, in no event shall the Purchaser be responsible for any charges, fees, Taxes, costs or other adjustments in any way relating to the period prior to the Closing Date or relating to the Excluded Liabilities or to any matters or assets other than the Purchased Assets for the period from and after the Closing Date. Other than as provided for in this Section 4.5, there shall be no adjustments to the Purchase Price.

In addition to the forgoing, the Purchaser shall receive a credit on the Statement of Adjustments in an amount equal to one (1%) percent of the Purchase Price on account of the cooperating brokerage fee payable to Brixton Commercial Real Estate Corporation. For greater certainty, the Monitor confirms that it shall pay any and all commissions payable to TD Cornerstone Realty.

ARTICLE 5 **TAXES**

5.1 Taxes

In addition to the Purchase Price, the Purchaser shall be responsible for all federal and provincial sales taxes, land transfer tax, goods and services, HST and other similar taxes and duties and all registration fees payable upon or in connection with the conveyance or transfer of the Purchased Assets to the Purchaser. If the sale of the Purchased Assets is subject to HST, then such tax shall be in addition to the Purchase Price. The Monitor will not collect HST if the Purchaser provides to the Monitor a warranty that it is registered under the ETA, together with a copy of the required ETA registration at least five (5) Business Days prior to Closing, a warranty that the Purchaser shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Monitor in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the Transaction.

ARTICLE 6 **ACCESS AND CONFIDENTIALITY**

6.1 Confidentiality

Prior to Closing, the Purchaser shall maintain in confidence and not disclose to any Person this Agreement or the terms thereof or any information or documentation obtained, prepared or summarized by the Purchaser or its representatives (collectively, the "**Confidential Information**"), except, on a need to know basis, to those individuals employed by the Purchaser, its professional consultants, including the Purchaser's legal counsel, and to those Persons who have agreed in writing in favour of the Monitor and Purchaser not to disclose any Confidential Information (collectively, the "**Purchaser Representatives**"). The Purchaser will ensure that each Purchaser Representative treats the Confidential Information as confidential and any failure of a Purchaser Representative to do so will be a breach of this Agreement by the Purchaser.

6.2 Authorizations

Upon request, the Monitor shall provide the Purchaser with authorizations executed by the Monitor and addressed to the appropriate municipal building department, zoning department and fire department and to any other Governmental Authority, authorizing the release of any and all information on file in respect of the Purchased Assets, but such authorization shall not authorize any inspections by any Governmental Authority.

ARTICLE 7

CLOSING ARRANGEMENTS

7.1 Closing

Closing shall take place at the Closing Time at the offices of the Monitor's Solicitors, located in Toronto or at such other time or at such other place as the Parties may agree in writing.

7.2 Tender

Any tender of documents or money under this Agreement may be made upon the Parties or their respective lawyers, and money shall be tendered by wire transfer of immediately available funds to the account specified by the receiving Party. The Monitor and the Purchaser acknowledge and agree that insofar as the tender of any documents to be electronically registered is concerned, the tender of same will be deemed to be effective and proper when the solicitor for the party tendering has completed all steps required by Teraview in order to complete the Transaction that can be performed or undertaken by the tendering party's solicitor without the cooperation or participation of the other party's solicitor, and specifically when the tendering party's solicitor has electronically "signed" the transfer/deed and any other Closing document, if any, to be electronically registered for completeness and granted access to the other party's solicitor to same, but without the necessity of the tendering party's solicitor actually releasing such document(s) to the other party's solicitor for registration.

7.3 Monitor's Closing Deliverables

The Monitor covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date as expressly provided herein:

- (a) a copy of the issued and entered Approval and Vesting Order and the attached Monitor's Certificate;
- (b) a statement of adjustments prepared in accordance with Section 4.5 hereof, to be delivered not less than five (5) Business Days prior to Closing;
- (c) to the extent applicable, an assignment and assumption agreement with respect to all Permits and Contracts and to the extent not assignable, an agreement that the Monitor will hold same in trust for the Purchaser in accordance with the provisions of Section 3.1(c);

- (d) an assignment and assumption agreement with respect to all Leases;
- (e) a certificate signed by the Monitor confirming that, to the best of the Monitor's knowledge, the Owner Applicant is not a non-resident of Canada within the meaning of the said section 116;
- (f) a certificate from the Monitor, dated as of the Closing Date, certifying that all representations, warranties and covenants of the Monitor contained in this Agreement are true as of the Closing Time, with the same effect as though made on and as of the Closing Time;
- (g) an acknowledgement, dated as of the Closing Date, that each of the conditions in Section 8.1 hereof have been fulfilled, performed or waived as of the Closing Time; and
- (h) such further documentation relating to the completion of the Transaction as shall be otherwise referred to herein or required by the Purchaser, acting reasonably, or by Applicable Law or any Governmental Authority.

7.4 Purchaser's Closing Deliverables

The Purchaser covenants to execute, where applicable, and deliver the following to the Monitor at Closing or on such other date as expressly provided herein:

- (a) the indefeasible payment and satisfaction in full of the Purchase Price according to Section 4.3 hereof;
- (b) an assignment and assumption agreement with respect to all Permits and Contracts pertaining to the Real Property (to the extent assignable) and to the extent not assignable, an agreement that the Monitor will hold same in trust for the Purchaser in accordance with the provisions of Section 3.1(c);
- (c) an assignment and assumption agreement with respect to all Leases;
- (d) a certificate from the Purchaser, dated as of the Closing Date, certifying that all representations, warranties and covenants of the Purchaser contained in Article 10 are true as of the Closing Time, with the same effect as though made on and as of the Closing Time;
- (e) if necessary, payment or evidence of payment of HST applicable to the Purchased Assets or, if applicable, appropriate tax exemption certificates with respect to HST in accordance with Article 5 hereof;
- (f) if desired, a direction directing the Monitor to convey title to any of the Purchased Assets to an entity other than the Purchaser; and

- (g) such further documentation relating to the completion of the Transaction as shall be otherwise referred to herein or required by the Monitor, acting reasonably, or by Applicable Law or any Governmental Authority.

7.5 Monitor's Certificate

Upon receipt of written confirmation from the Purchaser that all of the conditions contained in Section 8.3 have been satisfied or waived by the Purchaser, and upon satisfaction or waiver by the Monitor of all of the conditions contained in Section 8.1, the Monitor shall forthwith deliver to the Purchaser the Monitor's Certificate comprising Schedule "A" of the Approval and Vesting Order, and shall file same with the Court.

ARTICLE 8

CONDITIONS PRECEDENT TO CLOSING

8.1 Conditions in Favour of the Monitor

The obligation of the Monitor to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date:

- (a) all the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Purchaser contained in Article 10 to be performed on or before the Closing Date shall have been duly performed by the Purchaser;
- (c) there shall be no order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets enjoining, preventing or restraining the completion of the Transaction; and
- (d) the Court shall have issued the Approval and Vesting Order.

8.2 Conditions in Favour of Monitor Not Fulfilled

If any of the conditions contained in Section 8.1 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Monitor, then the Monitor may, at its sole discretion (other than as stipulated below) and without limiting any rights or remedies available to it at law or in equity:

- (a) terminate this Agreement by notice to the Purchaser, in which event the Monitor shall be released from its obligations under this Agreement to complete the Transaction, provided that if this Agreement is so terminated because of the conditions set out in Section 8.1(a) or Section 8.1(b) not being satisfied or waived, the Purchaser shall forfeit the Deposit to the Owner Applicants; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

8.3 Conditions in Favour of the Purchaser

The obligation of the Purchaser to complete the Transaction is subject and conditional to the satisfaction of the following conditions on or before the Closing Date, which conditions are inserted for the sole benefit of the Purchaser and may be waived in whole or in part at the Purchaser's sole option:

- (a) all the representations and warranties of the Monitor contained in this Agreement shall be true and correct in all material respects on the Closing Date;
- (b) all the covenants of the Monitor under this Agreement to be performed on or before the Closing Date shall have been duly performed by the Monitor;
- (c) there shall be no order issued by a Governmental Authority against either of the Parties, or involving any of the Purchased Assets enjoining, preventing or restraining the completion of the Transaction;
- (d) from the Acceptance Date to Closing, there shall have been no new work orders, deficiency notices, notices of violation or non-compliance or similar orders, and no new Encumbrances registered on title to the Lands or matters affecting the title to the Lands arising or registered after the Acceptance Date, in each case which are not otherwise vested-out pursuant to the Approval and Vesting Order; and
- (e) the Court shall have issued the Approval and Vesting Order.

8.4 Conditions in Favour of Purchaser Not Fulfilled

If any of the conditions contained in Section 8.3 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the Purchaser, then the Purchaser may, in its sole discretion and without limiting its rights or remedies available at law or in equity:

- (a) terminate this Agreement by notice to the Monitor, in which event the Purchaser and the Monitor shall be released from their obligations under this Agreement to complete the Transaction and the Deposit and all interest accrued thereon shall be immediately returned to the Purchaser without deduction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

ARTICLE 9

REPRESENTATIONS & WARRANTIES OF THE MONITOR

The Monitor represents and warrants to the Purchaser as follows, with the knowledge and expectation that the Purchaser is placing complete reliance thereon and, but for such representations and warranties, the Purchaser would not have entered into this Agreement:

- (a) the Monitor has all necessary power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary action on the part of the Monitor, subject to the Approval and Vesting Order. This Agreement is a valid and binding obligation of the Monitor enforceable in accordance with its terms;
- (b) the Monitor has been duly appointed as the monitor of the Applicants by the Initial Order and such Initial Order is in full force and effect and has not been stayed, and, subject to obtaining the Approval and Vesting Order, the Monitor has the full right, power and authority to enter into this Agreement, perform its obligations hereunder and convey all right, title and interest of the Owner Applicant in and to the Purchased Assets;
- (c) to the best of the Monitor's knowledge, the Owner Applicant is not a non-resident of Canada for the purposes of the ITA; and
- (d) subject to any charges created by the Initial Order, the Monitor has done no act itself to encumber or dispose of the Purchased Assets and is not aware of any action or process pending or threatened against the Owner Applicant that may affect its ability to convey any of the Purchased Assets as contemplated herein.

ARTICLE 10
REPRESENTATIONS & WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Monitor as follows, with the knowledge and expectation that the Monitor is placing complete reliance thereon and, but for such representations and warranties, the Monitor would not have entered into this Agreement:

- (a) the Purchaser is a corporation duly formed and validly subsisting under the federal laws of Canada;
- (b) the Purchaser has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. Neither the execution of this Agreement nor the performance by the Purchaser of the Transaction will violate the Purchaser's constating documents, any agreement to which the Purchaser is bound, any judgment or order of a court of competent jurisdiction or any Governmental Authority, or any Applicable Law. The execution and delivery of this Agreement and the consummation of the Transaction have been duly authorized by all necessary corporate action on the part of the Purchaser. This Agreement is a valid and binding obligation of the Purchaser enforceable in accordance with its terms;
- (c) the Purchaser is or will be a registrant under Part IX of the ETA on the Closing Date; and
- (d) the Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and

no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property.

ARTICLE 11 **COVENANTS**

11.1 Mutual Covenants

Each of the Monitor and the Purchaser hereby covenants and agrees that, from the date hereof until Closing, each shall take all such actions as are necessary to have the Transaction approved in the Approval and Vesting Order on substantially the same terms and conditions as are contained in this Agreement, and to take all commercially reasonable actions as are within its power to control, and to use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with each of the conditions set forth in Article 8 hereof.

11.2 Monitor Covenants

The Monitor hereby covenants and agrees that, from the date hereof until Closing, it shall use commercially reasonable efforts to provide to the Purchaser all necessary information in respect of the Owner Applicant and the Purchased Assets reasonably required to complete the applicable tax elections in accordance with Article 5 hereof and to execute all necessary forms related thereto.

ARTICLE 12 **POSSESSION AND ACCESS PRIOR TO CLOSING**

12.1 Possession of Purchased Assets

The Monitor shall remain in possession of the Purchased Assets until the Closing Time, at which time the Purchaser shall take possession of the Purchased Assets where situated. In no event shall the Purchased Assets be sold, assigned, conveyed or transferred to the Purchaser until all the conditions set out in this Agreement and the Approval and Vesting Order have been satisfied or waived and the Purchaser has satisfied or the Monitor has waived all the delivery requirements outlined in Section 8.1 hereof.

12.2 Risk

- (a) The Purchased Assets shall be and remain at the risk of the Monitor until Closing and at the risk of the Purchaser from and after Closing.
- (b) If, prior to the Closing Date, all or a material part of any of the Real Property is expropriated or a notice of expropriation or intent to expropriate all or a material part of any of the Real Property is issued by any Governmental Authority, the Monitor shall immediately advise the Purchaser thereof by Notice in writing. The Purchaser shall, by Notice in writing given within three (3) Business Days after the Purchaser receives Notice in writing from the Monitor of such expropriation, elect to either (i) complete the Transaction contemplated herein in accordance with the

terms hereof without reduction of the Purchase Price, and all compensation for expropriation of any of the Real Property shall be payable to the Purchaser and all right, title and interest of the Owner Applicant to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis, or (ii) terminate this Agreement as it relates solely to the Purchased Assets with respect to such Real Property and not complete the Transaction, in which case all rights and obligations of the Monitor and the Purchaser (except for those obligations which are expressly stated to survive the termination of this Agreement) shall terminate, and the Deposit shall be returned to the Purchaser forthwith, provided that where the Purchased Assets include Real Property other than the Real Property subject to the expropriation for which the Purchaser has elected to terminate this Agreement, this Agreement may only be terminated with respect to the Purchased Assets with respect to the expropriated Real Property, this Agreement shall remain in full force and effect with respect to the Purchased Assets with respect to all other Real Property.

- (c) If, prior to Closing, the Purchased Assets are substantially damaged or destroyed by fire, casualty or otherwise, then, at its option, the Purchaser may decline to complete the Transaction. Such option shall be exercised within fifteen (15) calendar days after notification to the Purchaser by the Monitor of the occurrence of such damage or destruction (or prior to the Closing Date if such occurrence takes place within fifteen (15) calendar days of the Closing Date), in which event this Agreement shall be terminated automatically. If the Purchaser does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. Where any damage or destruction is not substantial, the Purchaser shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. For the purposes of this Section 12.2(c), substantial damage or destruction shall be deemed to have occurred if the loss or damage to the Purchased Assets exceeds fifteen percent (15%) of the total Purchase Price.

ARTICLE 13 **AS IS, WHERE IS**

13.1 Condition of the Purchased Assets

The Purchaser acknowledges that the Monitor is selling and the Purchaser is purchasing the Purchased Assets on an "*as is, where is*" and "*without recourse*" basis as the Purchased Assets shall exist on the Closing Date, including, without limitation, whatever defects, conditions, impediments, hazardous materials or deficiencies exist on the Closing Date, whether patent or latent. The Purchaser further acknowledges and agrees that it has entered into this Agreement on the basis that neither the Monitor nor the Owner Applicant has guaranteed or will guarantee title to or marketability, use or quality of the Purchased Assets, that the Purchaser will conduct such inspections of the condition and title to the Purchased Assets as it deems appropriate and will satisfy itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental

compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Monitor to sell, assign, convey or transfer same, save and except as expressly provided in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act*, R.S.O. 1990, c. S.1, do not apply hereto and/or have been waived by the Purchaser. The description of the Purchased Assets contained in this Agreement is for the purpose of identification only and no representation, warranty or condition has or will be given by the Monitor concerning the accuracy of such description.

ARTICLE 14 **POST-CLOSING MATTERS**

14.1 Books and Records

The Purchaser shall keep and maintain the Books and Records for a period of two (2) years from the Closing Date, or for any longer period as may be required by Applicable Law or Governmental Authority or as requested by the Monitor, the Owner Applicant or the Owner Applicant's trustee in bankruptcy (the "**Retention Period**"). Upon reasonable advance notice, during such two (2) year period after the Closing Date, the Purchaser will grant the Monitor and the Owner Applicant and, in the event the Owner Applicant is adjudged bankrupt, any trustee of the estate of the Owner Applicant and their respective representatives, reasonable access during normal business hours to use and copy the Books and Records at the sole cost of the Monitor, Owner Applicant or bankruptcy trustee of the estate of the Owner Applicant, as the case may be, and at no cost to the Purchaser. After the Retention Period, the Purchaser shall give the Monitor, the Owner Applicant or bankruptcy trustee of the estate of the Owner Applicant, as the case may be, thirty (30) days' prior written notice of its intent to destroy the Books and Records. The Parties agree that the covenants of the Purchaser in this Section 14.1 shall survive the closing of the Transaction.

ARTICLE 15 **TERMINATION**

15.1 Termination of this Agreement

This Agreement may be validly terminated:

- (a) upon the mutual written agreement of the Parties;
- (b) pursuant to Section 8.2 hereof by the Monitor;
- (c) pursuant to Section 8.4 hereof by the Purchaser; or
- (d) pursuant to Section 12.2 hereof.

15.2 Remedies for Breach of Agreement

Notwithstanding any other term or condition of this Agreement, if this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of the Monitor, the Purchaser shall be entitled to the return of the Deposit without deduction, which shall be returned

to the Purchaser forthwith, and this shall be the Purchaser's sole right and remedy pursuant to this Agreement or at law as a result of the Monitor's breach. If this Agreement is terminated as a result of a breach of a representation, warranty, covenant or obligation of the Purchaser, the Deposit shall be forfeited to the Monitor as liquidated damages and not as a penalty, which Deposit the Parties agree is a genuine estimate of the liquidated damages that the Monitor would suffer in such circumstances, and this shall be the Monitor's sole right and remedy pursuant to this Agreement or at law as a result of the Purchaser's breach.

15.3 Termination If No Breach of Agreement

If this Agreement is terminated other than as a result of a breach of a representation, warranty, covenant or obligation of a Party, then the parties hereto shall be released from all obligations and liabilities hereunder, other than their obligations under Article 6, and the Deposit shall be forthwith returned to the Purchaser without deduction.

ARTICLE 16 **GENERAL CONTRACT PROVISIONS**

16.1 Further Assurances

From time to time after Closing, each of the Parties shall execute and deliver such further documents and instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and which are not inconsistent with the terms hereof, including, at the Purchaser's request and expense, the Monitor shall execute and deliver such additional conveyances, transfers and other assurances as may, in the opinion of the Parties or their counsel, acting reasonably, be reasonably required to effectually carry out the intent of this Agreement and transfer the Purchased Assets to the Purchaser.

16.2 Survival Following Completion

Notwithstanding any other provision of this Agreement, Article 9, Article 10, Section 15.2 and Section 15.3 shall survive the termination of this Agreement and the completion of the Transaction, provided, however, that upon the discharge of the Monitor, the Parties' respective obligations by reason of this Agreement shall end completely and they shall have no further or continuing obligations by reason thereof.

16.3 Notice

All notices, requests, demands, waivers, consents, agreements, approvals, communications or other writings required or permitted to be given hereunder or for the purposes hereof (each, a "**Notice**") shall be in writing and be sufficiently given if personally delivered, sent by prepaid registered mail or transmitted by email, addressed to the Party to whom it is given, as follows:

(a) to the Monitor:

KSV Kofman Inc.
150 King Street West, Suite 2308
Toronto, ON M5H 1J9

Attention: Robert Kofman and David Sieradzki
Tel: (416) 932-6228 / (416) 932-6030
Email: bkofman@ksvadvisory.com / dsieradzki@ksvadvisory.com

and a copy to the Monitor's counsel to:

Bennett Jones LLP
3400 One First Canadian Place
Toronto, ON M5X 1A5

Attention: Sean Zweig and John van Gent
Tel: (416) 777-6254 / (416) 777-6522
Email: zweigs@bennettjones.com / vangentj@bennettjones.com

(b) to the Applicants

c/o Goldman Sloan Nash & Haber LLP
480 University Avenue, Suite 1600
Toronto, ON M5G 1V2

Attention: Mario Forte/Jennifer Stam
Tel: (416) 597-6477/(416) 597-5017
Email: forte@gsnh.com/stam@gsnh.com

(c) to the Purchaser:

8570442 Canada Incorporated

Attention: Asif Karimov
Tel: (647) 298-9737
Email: asifkerim@yahoo.com

and a copy to the Purchaser's counsel to:

Mahoon Law Professional Corporation
405 Britannia Road East
Unit 101B
Mississauga, ON L4Z 3E6

Attention: Feher M. Mansoor
Tel: (416) 320-6008
Email: info@mahoonlaw.com

or such other address of which Notice has been given. Any Notice mailed as aforesaid will be deemed to have been given and received on the third (3rd) Business Day following the date of its mailing. Any Notice personally delivered will be deemed to have been given and received on the day it is personally delivered, provided that if such day is not a Business Day, the Notice will be deemed to have been given and received on the Business Day next following such day. Any Notice transmitted by email will be deemed given and received on the first (1st) Business Day after its transmission.

If a Notice is mailed and regular mail service is interrupted by strike or other irregularity on or before the fourth (4th) Business Day after the mailing thereof, such Notice will be deemed to have not been received unless otherwise personally delivered or transmitted by email.

16.4 Waiver

No Party will be deemed or taken to have waived any provision of this Agreement unless such waiver is in writing and such waiver will be limited to the circumstance set forth in such written waiver.

16.5 Consent

Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit or the requirement for such consent is not required pursuant to the terms of the Approval and Vesting Order, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

16.6 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties irrevocably attorn to the jurisdiction of the courts of the Province of Ontario sitting in Toronto. The Parties consent to the exclusive jurisdiction and venue of the Court for the resolution of any disputes among them, regardless of whether or not such disputes arose under this Agreement.

16.7 Entire Agreement

This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings between the Parties. There are not and will not be any verbal statements, representations, warranties, undertakings or agreements between the Parties. This Agreement may not be amended or modified in any respect except by written instrument signed by the Parties. The recitals herein are true and accurate, both in substance and in fact.

16.8 Time of the Essence

Time will be of the essence, provided that if the Parties establish a new time for the performance of an obligation, time will again be of the essence of the new time established.

16.9 Time Periods

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

16.10 Assignment

This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, legal and personal administrators, successors and permitted assigns. The Purchaser may not assign this Agreement without the Monitor's prior written approval, which approval shall be in the Monitor's sole, absolute and unfettered discretion. Notwithstanding the foregoing, up until Closing, the Purchaser shall have the right to direct that title to the Lands be taken in the name of another person, entity, joint venture, partnership or corporation (presently in existence or to be incorporated) that is an affiliate of the Purchaser, provided that the Purchaser shall not be released from any and all obligations and liabilities hereunder until after the Closing of the transaction. The foregoing right may only be exercised once by the Purchaser. Any other requested direction of title shall require the Monitor's prior written approval, which approval shall be in the Monitor's sole, absolute and unfettered discretion.

16.11 Expenses

Except as otherwise set out in this Agreement, all costs and expenses (including, without limitation, the fees and disbursements of legal counsel) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such costs and expenses.

16.12 Severability

If any portion of this Agreement is prohibited in whole or in part in any jurisdiction, such portion shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining portions of this Agreement and shall, as to such jurisdiction, be deemed to be severed from this Agreement to the extent of such prohibition.

16.13 No Strict Construction

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

16.14 Cumulative Remedies

Unless otherwise expressly stated in this Agreement, no remedy conferred upon or reserved to one or both of the Parties is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

16.15 Currency

All references to dollar amounts contained in this Agreement shall be deemed to refer to lawful currency of Canada.

16.16 Monitor's Capacity

It is acknowledged by the Purchaser that the Monitor is entering into this Agreement solely in its capacity as Court-appointed monitor and that the Monitor shall have absolutely no personal or corporate liability under or as a result of this Agreement in any respect.

16.17 No Third Party Beneficiaries

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns. No other person or entity shall be regarded as a third party beneficiary of this Agreement.

16.18 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation".

16.19 Counterparts

This Agreement may be executed in counterparts and by facsimile or PDF, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF the Monitor has duly executed this Agreement as of the date first above written.

KSV KOFMAN INC., solely in its capacity as court appointed monitor of 1326 Wilson Development Inc., and not in its personal capacity or in any other capacity

Per: 

Name: David Sieradzki

Title: Managing Director

ACCEPTED by the Purchaser this ___ day of April, 2019

8570442 CANADA INCORPORATED

Per: _____

Name: Asif Karimov

Title: Authorized Signing Officer

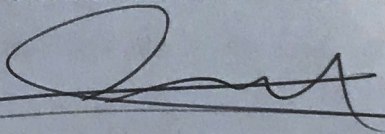
IN WITNESS WHEREOF the Monitor has duly executed this Agreement as of the date first above written.

KSV KOFMAN INC., solely in its capacity as court appointed monitor of 1326 Wilson Development Inc., and not in its personal capacity or in any other capacity

Per: _____
Name: David Sieradzki
Title: Managing Director

ACCEPTED by the Purchaser this 19 day of April, 2019

8570442 CANADA INCORPORATED

Per:  _____
Name: Asif Karimov
Title: Authorized Signing Officer

SCHEDULE "A"
APPLICANTS

3310 Kingston Development Inc.

1296 Kennedy Development Inc.

1326 Wilson Development Inc.

5507 River Development Inc.

4439 John Development Inc.

2358825 Ontario Ltd.

250 Danforth Development Inc.

159 Carrville Development Inc.

169 Carrville Development Inc.

189 Carrville Development Inc.


27 Anglin Development Inc.


29 Anglin Development Inc.

**SCHEDULE "B"
APPROVAL AND VESTING ORDER**

Court File No. CV-18-608313-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
)
JUSTICE)
) OF , 2019


) THE  DAY

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO

APPLICATION UNDER THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

**APPROVAL AND VESTING ORDER
(Wilson Avenue Properties)**

THIS MOTION, made by KSV Kofman Inc., in its capacity as Court-appointed monitor (in such capacity, the "**Monitor**") of 1326 Wilson Development Inc. (the "**Owner Applicant**") for an order, *inter alia*, approving the sale transaction (the "**Transaction**") with respect to all of the lands and premises municipally described as 1326-1328 Wilson Avenue, Toronto, Ontario (collectively, the "**Lands**") and all of the present and after-acquired assets, undertaking and properties of the Owner Applicant related thereto (collectively, together with the Lands, the "**Property**") contemplated by an agreement of purchase and sale between the Monitor, as vendor, and  (the "**Purchaser**"),

as purchaser, dated <*>, 2019 (the "**Sale Agreement**"), a copy of which is attached as Confidential Appendix "<*>" to the <*> Report of the Monitor dated <*>, 2019 (the "<*> **Report**"), and vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, all of the Owner Applicant's right, title and interest in and to the property described as the "Purchased Assets" in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the <*> Report and appendices thereto, and on hearing the submissions of counsel for the Monitor and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of <*> sworn <*>, 2019, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Monitor is hereby authorized and approved, with such minor amendments as the Monitor may deem necessary. The Monitor is hereby authorized to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, or as it may direct.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as **Schedule "B"** hereto (the "**Monitor's Certificate**"), all of the Owner Applicant's right, title and interest in and to the Purchased Assets, including without limitation the subject real property identified in **Schedule "C"** hereto (the "**Real Property**"), shall vest absolutely in the Purchaser, or as it may direct, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise),

hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, leases, notices of lease, subleases, licences, restrictions, contractual rights, options, judgments, liabilities (direct, indirect, absolute or contingent), obligations, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Amended and Restated Order of the Honorable Justice Hainey dated November 30, 2018; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "D"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "E"**) and, for greater certainty, this Court orders and declares that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets and are non-enforceable and non-binding as against the Purchaser.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Toronto (No. 66) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser, or as it may direct, as the owner of the subject real property identified in **Schedule "C"** hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule "D"** hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate, all Claims

and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Owner Applicant and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Owner Applicant,

the vesting of the Purchased Assets in the Purchaser, or as it may direct, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Owner Applicant and shall not be void or voidable by creditors of the Owner Applicant, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Monitor and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

SCHEDULE "A"
APPLICANTS

3310 Kingston Development Inc.

1296 Kennedy Development Inc.

1326 Wilson Development Inc.

5507 River Development Inc.

4439 John Development Inc.

2358825 Ontario Ltd.

250 Danforth Development Inc.

159 Carrville Development Inc.

169 Carrville Development Inc.

189 Carrville Development Inc.

27 Anglin Development Inc.

29 Anglin Development Inc.

SCHEDULE "B"
FORM OF MONITOR'S CERTIFICATE

Court File No. CV-18-608313-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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




AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF FORME DEVELOPMENT GROUP INC.
AND THE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO

APPLICATION UNDER THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

MONITOR'S CERTIFICATE

RECITALS

I. Pursuant to an Order of the Honourable Mr. Justice Haaney of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated November 30, 2018 (as amended, the "**Initial Order**"), KSV Kofman Inc. was appointed as monitor (in such capacity, the "**Monitor**") of 1326 Wilson Development Inc. Pursuant to the Initial Order the Monitor was granted certain expanded powers.

II. Pursuant to an Order of the Court dated , 2019, the Court approved the agreement of purchase and sale between the Monitor, as vendor, and  (the "**Purchaser**"), as purchaser, dated , 2019 (the "**Sale Agreement**"), and provided for the vesting in the Purchaser, or as it may direct in accordance with the Sale Agreement, of all of 1326 Wilson Development Inc.'s (the "**Owner Applicant**") right, title and interest in and to the Purchased Assets (as defined in the Sale

Agreement), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Monitor.

III. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Monitor has received, the purchase price for the Purchased Assets payable on the closing date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser in accordance with their terms;
3. The transaction has been completed to the satisfaction of the Monitor; and
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

KSV KOFMAN INC., solely in its capacity as court appointed monitor of 1326 Wilson Development Inc., and not in its personal capacity or in any other capacity

Per:

Name:

Title:

SCHEDULE "A"
APPLICANTS

3310 Kingston Development Inc.
1296 Kennedy Development Inc.
1326 Wilson Development Inc.
5507 River Development Inc.
4439 John Development Inc.
2358825 Ontario Ltd.
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159 Carrville Development Inc.
169 Carrville Development Inc.
189 Carrville Development Inc.
27 Anglin Development Inc.
29 Anglin Development Inc.

SCHEDULE "C"
LEGAL DESCRIPTION OF THE REAL PROPERTY

1326 Wilson Avenue, Toronto, Ontario

FIRSTLY: PIN 10267-0201 (LT)

LT 4 PL 3633 NORTH YORK EXCEPT PT 7 EXPROP PL 8137 (NY513159); TORONTO (IN YORK), CITY OF TORONTO

SECONDLY: PIN 10267-0202 (LT)

LT 5-6 PL 3633 NORTH YORK EXCEPT PT 6 EXPROP PL 8137 (NY513159); TORONTO (IN YORK), CITY OF TORONTO

SCHEDULE "D"
INSTRUMENTS TO BE DELETED FROM PIN NOS. 10267-0201 (LT) AND 10267-0202 (LT)

Reg. No.	Date	Instrument Type	Amount	Parties From	Parties To
AT4286038	2016/07/21	Charge	\$3,000,000	1326 Wilson Development Inc.	Morrison Financial Mortgage Corporation
AT4286039	2016/07/21	Notice of Assignment of Rents – General	N/A	1326 Wilson Development Inc.	Morrison Financial Mortgage Corporation
AT4631788	2017/07/19	Charge	\$3,000,000	1326 Wilson Development Inc.	2586614 Ontario Inc.
AT4789888	2018/01/26	Charge	\$5,000,000	1326 Wilson Development Inc.	2348793 Ontario Ltd. and JYR Real Capital Mortgage Investment Corporation
AT4791587	2018/01/30	Postponement	N/A	2586614 Ontario Inc.	2348793 Ontario Ltd. and JYR Real Capital Mortgage Investment Corporation

SCHEDULE "E"
PERMITTED ENCUMBRANCES FROM PIN NOS. 10267-0201 (LT) AND 10267-0202

None.

SCHEDULE "C"
PERMITTED ENCUMBRANCES

PART I: GENERAL PERMITTED ENCUMBRANCES

1. Any inchoate lien accrued but not yet due and payable for provincial taxes, municipal taxes, charges, rates or assessments, school rates or water rates to the extent adjusted for under this Agreement;
2. Any municipal by-laws or regulations affecting the Land or its use and any other municipal land use instruments including without limitation, official plans and zoning and building by-laws, as well as decisions of the Committee of Adjustment or any other competent authority permitting variances therefrom, and all applicable building codes;
3. Registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including without limitation, subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements; provided same have been complied with or security has been posted to ensure compliance and completion as evidenced by a letter from the relevant Authority or regulated utility;
4. Any unregistered easement, right-of-way, agreements or other unregistered interest of claims not disclosed by registered title provided same does not materially impact the Purchaser's intended use of the Real Property;
5. Any encroachments or other discrepancies that might be revealed by an up-to-date plan of survey of the Real Property;
6. Such other minor encumbrances or defects in title which do not, individually or in the aggregate, materially affect the use, enjoyment or value of the Real Property or any part thereof, or materially impair the value thereof;
7. Any reservations, limitations, provisos and conditions expressed in the original grant from the Crown as the same may be varied by statute; and
8. The following exceptions and qualifications contained in Section 44(1) of the Land Titles Act: paragraphs 7, 8, 9, 10, 12 and 14.

PART II: SPECIFIC PERMITTED ENCUMBRANCES

None.

SCHEDULE "D"
LEGAL DESCRIPTION OF LANDS

1326 Wilson Avenue, Toronto, Ontario

FIRSTLY: PIN 10267-0201 (LT)

LT 4 PL 3633 NORTH YORK EXCEPT PT 7 EXPROP PL 8137 (NY513159); TORONTO (IN YORK), CITY OF TORONTO

SECONDLY: PIN 10267-0202 (LT)

LT 5-6 PL 3633 NORTH YORK EXCEPT PT 6 EXPROP PL 8137 (NY513159); TORONTO (IN YORK), CITY OF TORONTO

SCHEDULE "E"
LIST OF EXISTING LEASES

Nil.

Appendix “F”

Forme Development Group Inc. and the other companies listed on Schedule "A"

Projected Cash Flow

For the Period Ending August 4, 2019

(Unaudited; C\$)

	Notes	Week Ending													Total	
		05-May-19	12-May-19	19-May-19	26-May-19	02-Jun-19	09-Jun-19	16-Jun-19	23-Jun-19	30-Jun-19	07-Jul-19	14-Jul-19	21-Jul-19	28-Jul-19		04-Aug-19
<i>Receipts</i>	1															
Collections	2	16,775	-	-	-	14,275	-	-	-	-	14,275	-	-	-	14,275	59,600
Sale proceeds	3	800,000	1,250,000	-	450,000	-	-	-	-	-	-	-	-	-	-	2,500,000
<i>Total Receipts</i>		816,775	1,250,000	-	450,000	14,275	-	-	-	-	14,275	-	-	-	14,275	2,559,600
<i>Disbursements</i>																
Insurance	4	1,000	-	-	-	-	-	-	1,300	-	-	-	-	-	-	2,300
Office and general expenses	5	-	-	-	-	-	-	-	-	-	1,550	800	1,550	800	1,550	6,250
Payroll costs	6	-	-	-	-	-	-	-	-	-	6,480	10,774	-	10,774	6,480	34,507
Property taxes	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Rent payments	8	-	-	-	-	-	-	-	-	-	2,850	-	-	-	2,850	5,700
Maintenance expenses	9	2,200	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	25,600
Utility payments		-	1,100	-	-	-	-	1,100	-	-	-	1,650	-	-	-	3,850
Miscellaneous		3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	42,000
<i>Total Disbursements</i>		6,200	5,900	4,800	4,800	4,800	4,800	5,900	6,100	4,800	15,680	18,024	6,350	16,374	15,680	120,207
<i>Net Cash Flow before the undernoted</i>		810,575	1,244,100	(4,800)	445,200	9,475	(4,800)	(5,900)	(6,100)	(4,800)	(1,405)	(18,024)	(6,350)	(16,374)	(1,405)	2,439,393
Professional fees re: restructuring	10	-	250,000	-	-	-	200,000	-	-	-	200,000	-	-	-	-	650,000
<i>Net Cash Flow</i>		810,575	994,100	(4,800)	445,200	9,475	(204,800)	(5,900)	(6,100)	(4,800)	(201,405)	(18,024)	(6,350)	(16,374)	(1,405)	1,789,393
Opening cash balance	11	21,000	831,575	1,825,675	1,820,875	2,266,075	2,275,550	2,070,750	2,064,850	2,058,750	2,053,950	1,852,545	1,834,522	1,828,172	1,811,798	21,000
Net cash flow		810,575	994,100	(4,800)	445,200	9,475	(204,800)	(5,900)	(6,100)	(4,800)	(201,405)	(18,024)	(6,350)	(16,374)	(1,405)	1,789,393
Closing cash balance		831,575	1,825,675	1,820,875	2,266,075	2,275,550	2,070,750	2,064,850	2,058,750	2,053,950	1,852,545	1,834,522	1,828,172	1,811,798	1,810,393	1,810,393

Forme Development Group Inc. and the other companies listed on Schedule "A"

Notes to Projected Statement of Cash Flow

For the Period Ending August 4, 2019

(Unaudited; \$C)

Purpose and General Assumptions

1. The purpose of the projection is to present a cash forecast of Forme Development Group Inc. and the companies listed on Schedule "A" (together, the "Applicants") for the period April 29, 2019 to August 4, 2019 (the "Period") in respect of their proceedings under the *Companies' Creditors Arrangement Act*.

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

Hypothetical Assumptions

2. Represents forecasted rent collections from the Applicants' tenants during the Period.
3. Represents the estimated net proceeds from closings of the Applicants' Birchmount Gardens development and Niagara Falls project.

Most Probable Assumptions

4. Represents annual insurance premiums payable during the Period.
5. Represents projected office supplies, IT expenses, photocopier lease expenses, postage and office cleaning costs. In May and June, 2019, these expenses are being paid by non-applicant entities that share common ownership with the Applicants (the "Non-Applicants"). The projections reflect that the Applicants and Non-Applicants split these costs evenly from July, 2019 onward. This assumption is under consideration.
6. Payroll is paid bi-weekly. Payroll includes source deductions and benefits. The Non-Applicants are paying these expenses until the end of June, 2019. The projections reflect that the Applicants and Non-Applicants split these costs evenly from July, 2019 onward. This assumption is under consideration.
7. No property taxes are assumed to be paid during the Period. Property taxes will be paid from the sale proceeds on each project.
8. Represents rent payments for the head office. The Non-Applicants are paying these expenses until the end of June, 2019. The projections reflect that the Applicants and Non-Applicants split these costs evenly from July, 2019 onward. This assumption is under consideration.
9. Includes housekeeping, inspection, garbage removal, yard maintenance and general repairs at certain of the Applicants' properties.
10. Represents the estimated fees of the Monitor, its counsel and the Applicants' counsel.
11. Represents the estimated opening cash balance in the Monitor's account as at April 29, 2019.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF FORME DEVELOPMENT GROUP INC. AND THE OTHER COMPANIES
LISTED ON SCHEDULE "A" HERETO
MANAGEMENT'S REPORT ON CASH FLOW STATEMENT
(paragraph 10(2)(b) of the CCAA)**

Forme Development Group Inc. and those other entities listed on Schedule "A" hereto (collectively, the "Applicants") have developed the assumptions and prepared the attached statement of projected cash flow as of the 24th day April, 2019 for the period April 29, 2019 to August 4, 2019 ("Cash Flow"). All such assumptions are disclosed in the notes to the Cash Flow.

The hypothetical assumptions are reasonable and consistent with the purpose of the Cash Flow as described in Note 1 to the Cash Flow, and the probable assumptions are suitably supported and consistent with the plans of the Applicants and provide a reasonable basis for the Cash Flow.

Since the Cash Flow is based on assumptions regarding future events, actual results will vary from the information presented and the variations may be material.

The Cash Flow has been prepared solely for the purpose outlined in Note 1 using a set of hypothetical and probable assumptions set out therein. Consequently, readers are cautioned that the Cash Flow may not be appropriate for other purposes.

Dated at Toronto, Ontario this 24th day of April, 2019.

A handwritten signature in blue ink that reads "KSV Kofman Inc".

**KSV KOFMAN INC.
IN ITS CAPACITY AS CCAA MONITOR OF
THE APPLICANTS
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “G”

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
FORME DEVELOPMENT GROUP INC. AND THE OTHER COMPANIES LISTED ON
SCHEDULE "A" HERETO
MONITOR'S REPORT ON CASH FLOW STATEMENT
(paragraph 23(1)(b) of the CCAA)**

The attached statement of projected cash-flow of Forme Development Group and those other entities listed on Schedule "A" hereto (collectively, the "Applicants"), as of the 24th day April, 2019, consisting of a weekly projected cash flow statement for the period April 29, 2019, to August 4, 2019 ("Cash Flow") has been prepared by the management of the Applicants 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 the management and employees of the Applicants. 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 management 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 developed by management are not suitably supported and consistent with the plans of the Applicants 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 and readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto this 24th day of April, 2019.



**KSV KOFMAN INC.
IN ITS CAPACITY AS CCAA MONITOR OF
THE APPLICANTS
AND NOT IN ITS PERSONAL CAPACITY**