



This is the 2nd Affidavit
of William Tucker in this case
and was made on January 17, 2024

No. S240195
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS*
***ARRANGEMENT ACT*, RSC 1985, c. C-36, as amended**

and

IN THE MATTER OF NEXII BUILDING SOLUTIONS INC.,
NEXII CONSTRUCTION INC, NBS IP INC. and NEXII HOLDINGS INC.

PETITIONERS

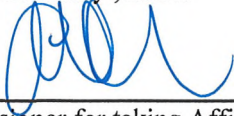
AFFIDAVIT

I, William Tucker, of Suite 500 – 595 Burrard Street, Vancouver, BC, businessperson
SWEAR THAT:

1. I am the Acting Chief Executive Officer of the Petitioner Nexii Building Solutions Inc. and as such I have personal knowledge of the facts deposed to in this affidavit except where stated to be on information and belief, in which case I verily believe the information and the resulting statements to be true. In preparing this Affidavit, I have also consulted with the other members of the Petitioners' senior management.
2. Capitalized terms used in this Affidavit and not otherwise defined have the meanings set out in my affidavit #1 made January 10, 2024 (the "**First Affidavit**").
3. Since the Initial Order was made on January 11, 2024, the Petitioners (collectively, "**Nexii**") have sought to stabilize their business and advance these proceedings by, among other things:

- (a) communicating with stakeholders with the assistance of the Monitor, including a meeting with the Monitor and Nexii's employees to explain these proceedings and answer any questions;
 - (b) seeking recognition of these proceedings in the United States Bankruptcy Court for the District of Delaware, including obtaining provisional relief on January 16, 2024;
 - (c) finalizing the terms of the Sale Process;
 - (d) working with the Monitor and Origin Merchant Partners ("**Origin**") to advance the Sale Process by developing a list of potential bidders and confidential information memorandum, and gathering information necessary to prepare documents and information for potential bidders; and
 - (e) finalizing the terms of a key employee retention plan (the "**KERP**").
4. Attached and marked as **Exhibit "A"** is a redacted copy of the engagement letter with Origin. These redactions are required to prevent public disclosure of information that may impact the Sale Process (since it includes transaction ranges) and information that is commercially sensitive to Origin, specifically the fee structure it has negotiated in these proceedings. As noted in my First Affidavit, I believe that public disclosure of this information may be detrimental to the Sale Process and, accordingly, filing this information under seal is in the best interests of Nexii's stakeholders.
5. My First Affidavit includes additional information regarding the IB Engagement Letter, including the material terms regarding the fees payable to Origin.
6. Nexii seeks court approval of Origin's engagement and charges to secure amounts owing to Origin under the engagement letter. As noted in my First Affidavit, Nexii proposes that a charge securing the monthly work fee attach to all of its property and assets, and that a charge securing the transaction fee, which is based on the outcome of the sale process, attach to the proceeds of the transaction.
7. Engaging Origin will facilitate and enhance the Sale Process, and I believe is in the best interests of the Petitioners' stakeholders. Among other things, the Petitioners require

This is **Exhibit A** referred to in the 2nd Affidavit of William Tucker sworn before me at Vancouver, this 17th day of January , 2024.

A handwritten signature in blue ink, consisting of several loops and a final flourish.

(Commissioner for taking Affidavits for British Columbia)



220 Bay Street, Suite 1500
PO Box 23
Toronto, Ontario M5J 2W4
416-800-0850
www.originmerchant.com

STRICTLY PRIVATE AND CONFIDENTIAL

December 23, 2023

Nexii Building Solutions Inc.
200-1455 West Georgia Street
Vancouver, BC V6G 2T3
Canada
Attn: Mr. Bill Tucker, Chief Executive Officer

Omicron Canada Inc.
Fifth Floor, Three Bentall Centre 595 Burrard Street
Vancouver, BC V7X 1L4
Canada
Attn: Mr. Bill Tucker, Chief Executive Officer

Dear Bill:

We understand that Nexii Building Solutions Inc. and certain of its subsidiaries and affiliates (collectively, the "**Petitioners**") intend to obtain an initial order under the *Companies' Creditors Arrangement Act* (the "**CCAA**" and the Company's proceedings thereunder, the "**CCAA Proceedings**") from the Supreme Court of British Columbia (the "**Court**"). Amongst other relief, the Company intends to seek an order from the Court (i) extending the stay of proceedings to Omicron Canada Inc. and certain its subsidiaries and affiliates (collectively, "**Omicron Entities**", and together with the Petitioners, the "**Company**"), and (ii) approving a process (the "**Sale Process**") within the CCAA Proceedings to market the Company's business and its assets (collectively, the "**Assets**"). It is expected that KSV Restructuring Inc. will be appointed Monitor of the Petitioners in its CCAA Proceedings (in such capacity the "**Monitor**"). The Company wishes to engage Origin Merchant Partners ("**Origin Merchant**", or "**we**") to serve as its financial advisor in connection with the Sale Process with the objective of entering into one or more Transactions (as defined below). It is intended that the Monitor will have full oversight and authority with respect to the terms and conduct of the Sale Process.

This Engagement Agreement sets out the terms of engagement (the "**Engagement**") between Origin Merchant and the Company.

1. **Appointment and Engagement.** By its acceptance of this Engagement Agreement, the Company hereby appoints Origin Merchant, and we agree to act, as financial advisor to the Company in connection with the Sale Process on the terms and subject to the conditions as set forth below. In the event that the Petitioners commence the CCAA Proceedings, the Petitioners



agree they will seek approval of this Engagement Agreement by the Court and a Court-ordered charge (or similar analogous protection) to secure the fees payable hereunder, such charge to rank junior to charges in favour of the administrative professionals in the CCAA Proceedings and any key employees, but shall rank senior to any other encumbrance on the Company's property.

2. **Services to be Rendered by Origin Merchant.** Origin Merchant will provide the following services to the Company in connection with the Engagement:

- (a) review the Company's business plans, budgets and financial projections;
- (b) develop and maintain a list of suitable potential buyers who will be contacted for the Sale Process after approval by the Company and the Monitor;
- (c) assist the Monitor to prepare for the Sale Process, including but not limited to, preparation of a "teaser", confidential information memorandum, financial model, management presentation and potential buyers list;
- (d) coordinate the execution of confidentiality agreements for potential acquirors wishing to review the information memorandum and participate in the Sale Process;
- (e) assist the Company and the Monitor in coordinating site visits for interested acquirors and work with the management team to develop appropriate presentations for such visits;
- (f) provide on-going tactical advice to the Company and the Monitor regarding potential Transaction alternatives and structures, including the monetization of any tax attributes;
- (g) assist the Monitor in its determination of appropriate values to be paid in a Transaction(s);
- (h) advise with respect to the material terms and conditions of a Transaction, including deal structure to monetize the Company's tax attributes;
- (i) assist the Monitor, the Company and their respective legal advisors to identify and assemble the contents of a data room and generally to supervise the due diligence activities conducted by potential acquirors in the Sale Process;
- (j) evaluate and assess from a financial and market point of view any offer for the business and/or the Assets received in the Sale Process;
- (k) assist in all aspects of due diligence and negotiations with potential acquirors including participating directly in such negotiations;



- (l) advise and assist the Company's management in making presentations about a proposed Transaction;
- (m) in conjunction with the Company and its legal and accounting advisors, assist in the preparation of appropriate documentation for \ the Court as part of the Sale Process;
- (n) assuming an agreement in principle is reached for a Transaction(s), advise and assist the Company and the Monitor in negotiating a definitive acquisition agreement(s);
- (o) preparing a summary of the sale process and the reasons Origin supports a Transaction, in the event requested by the Monitor; and
- (p) provision of such other advice and assistance as may reasonably be requested by the Company with respect to the Sale Process.

Any of the above services may be provided to Horizon Technology Finance Management LLC, and Trinity Capital Inc. (collectively., the "**Lenders**") and the Monitor.

3. **Additional Services.** The engagement of Origin Merchant to perform any services in addition to those described above (including in connection with the preparation and delivery of any formal valuation or any fairness or other opinion) shall be set forth in, and subject to the terms and conditions of, a separate letter agreement and the fees for such services will be negotiated separately in good faith and will be consistent with fees paid to investment bankers in North America for similar services in similar circumstances, which fees shall be in addition to, and not in substitution for, the fees payable hereunder.

4. **Opinion Qualifications.** Any oral or written opinions or advice provided by Origin Merchant to the Company will be made subject to and will be based upon any assumptions, limitations, qualifications and reservations as we, in our professional judgment, deem necessary or prudent in the circumstances.

5. **Disclosure of Our Advice and this Engagement.** The opinions, advice and materials to be provided by Origin Merchant in carrying out the Engagement are to be used solely by the Company, the Lenders and the Monitor in connection with Sale Process. The Company agrees not to disclose to any third party (other than the Lenders and the Company's legal, accounting, financial and other advisors, agents and consultants from time to time) the existence or contents of this Engagement Agreement or any written or oral opinions, advice or materials provided by Origin Merchant without the prior written consent of Origin Merchant, which consent shall not be unreasonably withheld; provided, however, that (a) this Engagement Agreement and a summary of its material terms may be disclosed to the Court by the Petitioners, and the Lenders and the Monitor and their respective legal counsel; and (b) our advice (i) may be reproduced in any public disclosure document of the Company or the Monitor relating to any Transaction if such



disclosure is required by applicable law and has been reviewed and approved by Origin Merchant; (ii) may be referred to in the Company’s minutes; and (iii) otherwise may be disclosed by the Company or the Monitor to the extent required by applicable law (in which case prior notice will be given by the Company to us) or in connection with any Court approval of a Transaction.

Origin Merchant expressly disclaims any liability or responsibility to any and all persons, including without limitation, the Company, its board, any special committee of the board of the Company and any shareholder or other stakeholder of the Company, by reason of any unauthorized use, reliance, publication, distribution of or reference to any oral or written opinions, advice or materials provided by us or any unauthorized reference to Origin Merchant or this Engagement Agreement.

6. **Fees.** For our services hereunder, the Company will pay to Origin Merchant the following fees:

- (a) a work fee of CAD\$50,000 per month commencing for the month of January, 2024 on signing of this Engagement Agreement, thereafter payable on the 15th of each month during the pendency of the term of the Engagement. The work fee will be 100% credited against any Transaction Fee (as defined below) which becomes payable under this Engagement Agreement; and
- (b) if a Transaction (or series of Transactions) is agreed to by the Company during the term of this engagement, a transaction fee (a “**Transaction Fee**”) calculated by reference to the Transaction Value (as defined below), provided that, in any event the total Transaction Fee payable under all Transactions agreed to by the Company during the term of this engagement shall not be less than [REDACTED] in total, whether a single or multiple Transactions are concluded. Any Transaction Fee payable shall be payable in cash on closing(s) and any additional payment required to make the [REDACTED] minimum Transaction Fee shall be payable upon termination of this engagement:
 - (i) the Transaction Fee shall be a minimum of [REDACTED] (the “**Minimum Fee**”), plus:
 - (ii) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

provided that, in the event of a Credit Bid (as defined below), Origin Merchant shall be entitled to a Transaction Fee equal to [REDACTED]
[REDACTED]
[REDACTED]

In the event that, within a period of 3 months after the termination of this engagement (a) a Transaction is consummated or (b) the Company enters into an agreement with any person which subsequently results in a Transaction, the Company will pay a Transaction Fee, as appropriate, calculated in accordance with 6(b) or 6(c) above, as appropriate, which fee will be payable concurrently with the completion or effectiveness of the Transaction.

For the purposes of this letter agreement:

- (c) **“Transaction”** means any merger, consolidation, joint venture, partnership, spin-off, split-off, business combination, tender or exchange offer, acquisition, sale, distribution, transfer or other disposition of Assets, including any tax attributes, or equity interests of the Company, or similar transaction, involving all or substantially all of the Company or the Assets, in one or more transactions, whether in connection with a plan of arrangement, plan of compromise, reverse vesting transaction, or similar restructuring plan pursuant to the CCAA, or any other federal or provincial law providing for court approval of such a plan or otherwise providing for such a sale. Notwithstanding the foregoing, a Transaction shall not include any of the foregoing if implemented by the Lenders pursuant to a “credit-bid” or otherwise (a **“Credit Bid”**).
- (d) **“Transaction Value”** shall be an amount equal to:
 - (i) in the case of any Transaction involving a change of control of the Company an amount equal to the aggregate value of all voting and non-voting equity of the Company, calculated on a fully issued diluted basis, and based upon the Purchase Price at which the Transaction takes place plus the aggregate amount of (i) any indebtedness for borrowed money of the Company outstanding at the date of the Transaction and (ii) any dividend or other distribution paid to shareholders of the Company after the date of this agreement and prior to completion of the Transaction whether or not such dividend or other distribution is made in contemplation of or in connection with the particular Transaction, or
 - (ii) in the case of any other Transaction (excluding a Credit Bid), including but not limited to a partial sale, licensing or sale of the Assets, Transaction Value will be the Purchase Price at which the Transaction takes place calculated, in the case of a sale of less than all of the Company’s interest in the assets being sold, as if the Transaction involved the sale of 100% of the Company’s interest in its assets being sold based upon the value of the Company’s interest in the assets which are sold in the Transaction.
- (e) **“Purchase Price”** means an amount equal to the sum of the aggregate fair market value of any securities issued and all other consideration (including, without limitation, any joint venture interest delivered to, or retained by, the Company)



paid to or received by, or to be paid to or received by, the Company or any of the Company's security holders in respect of the Transaction, determined immediately prior to the closing of the Transaction, including, for greater certainty, the principal amount of any indebtedness of the Company assumed by the purchaser, or paid off or otherwise discharged or extinguished, in connection with the Transaction. The fair market value of any securities issued and any non-cash consideration paid or received will be determined for the purposes of calculating the Transaction Value by Origin Merchant and the Company and the Monitor as of the date of completion of the Transaction. Any delayed or subsequent payments forming part of the consideration and/or any contingent consideration forming part of the purchase price paid to the Company or any other party shall be discounted to and valued at the applicable date in a manner agreed to by the Company and Origin Merchant.

7. **Expenses.** The Company will also reimburse Origin Merchant for all documented reasonable out-of-pocket expenses incurred by Origin Merchant, other than legal fees, in connection with the Engagement. Such reimbursable expenses will be payable by the Company upon receipt of Origin Merchant's invoices whether or not a Transaction is completed.

8. **Taxes.** All or part of any of the fees and other expenses contemplated to be paid to Origin Merchant under this Engagement Agreement may be subject to Federal Goods and Services Tax and/or Harmonized Sales Tax and any other applicable sales tax in which event a corresponding additional amount will be payable by the Company to Origin Merchant.

9. **Access to Information.** The Company and the Monitor will arrange for Origin Merchant to have such timely access to the directors, officers, employees, counsel and other consultants and advisors and corporate information of the Company as we may reasonably require or deem appropriate in carrying out our engagement hereunder. The Company will disclose to us on a timely basis the existence and content of, and will furnish us with, or arrange that we be furnished with, all information and documentation (financial or otherwise), data, opinions, appraisals, valuations and other information and materials of whatsoever nature or kind within the Company's possession, control or direction or in respect of which the Company can, using all reasonable best efforts, obtain possession, control or direction relating to the Company, the proposed purchaser or any of its/their respective subsidiaries and other affiliates and the Transaction ("**Information**") and which we may reasonably require or deem appropriate or relevant in carrying out our engagement hereunder.

10. **Accuracy of Information.** The Company represents and warrants to Origin Merchant, and will ensure, that all Information provided to us, directly or indirectly, orally or in writing, by the Company, any of its subsidiaries and other affiliates or any of their respective agents and advisors in connection with our engagement hereunder will to the best of its knowledge be true, accurate and complete in all material respects and will not be misleading in any material respect and will not omit to state any fact or information which might reasonably be considered material to any



matter contained in any oral or written opinions or advice provided by Origin Merchant or to our engagement hereunder.

In carrying out services hereunder, Origin Merchant will necessarily be relying on publicly available information and representations (oral or written), data and information prepared or supplied by the Company, its subsidiaries and other affiliates and their respective agents and advisors. We will be entitled to rely on, and are under no obligation to verify independently, the accuracy or completeness of such representations, data or information. Further, we are under no obligation to investigate any changes which may occur in such information subsequent to the date thereof.

11. **Update to Information.** The Company will advise us promptly of any material change or change in material fact of which it is or becomes aware, actual or contemplated, relating to the securities, assets, business or affairs of the Company or any Transaction or the Information provided to us that might reasonably be considered relevant to our engagement hereunder or which puts into question the accuracy, completeness or reasonableness of information previously provided to us. The Company agrees to comply promptly with all applicable requirements of regulatory authorities in respect of the occurrence of such material change or change in material fact.

The Company will ensure that, until completion of the Sale Process (including any Transaction), Origin Merchant is informed on a prompt and timely basis of any hearing, proceeding, litigation or investigation or any communication to or request made of the Company or, if within the Company's knowledge, of any other person from any securities commission, stock exchange or regulatory authority, domestic or foreign, which might reasonably be considered relevant to this engagement, in each case relating to the Company and any of its subsidiaries and other affiliates, any Transaction or any other transaction.

12. **Confidentiality.** We will keep and cause each of our partners, directors, officers, employees, agents and advisors to keep strictly confidential and will use only for the purpose of performing our obligations hereunder all information, whether written or oral, acquired from the Company, its agents and advisors in connection with our work hereunder (collectively "**Confidential Information**") except information that (i) is or becomes generally available to the public (other than as a result of a disclosure by Origin Merchant contrary to the terms hereof), (ii) was in the possession of Origin Merchant on a non-confidential basis prior to its disclosure by the Company, (iii) becomes available to Origin Merchant on a non-confidential basis from a person other than the Company who, to the knowledge of Origin Merchant, is not bound by a confidentiality agreement with the Company or otherwise prohibited from transferring such information to Origin Merchant, (iv) the Company agrees may be disclosed, (v) Origin Merchant is requested pursuant to, or required by, law, regulation, legal process or regulatory authority to disclose or (vi) Origin Merchant independently develops. If we are required by legal process or otherwise requested to disclose any Confidential Information, we will, if not legally prohibited from doing so, provide the Company and the Monitor with prompt notice of such request or requirement, so that the Company may seek an appropriate protective order or waive compliance



with this requirement. In the event such protective order is not obtained or compliance with such requirement is waived, the Company agrees that such disclosure may be made without liability hereunder.

13. **Indemnification.** The Company hereby agrees to indemnify Origin Merchant and certain other parties in accordance with Schedule "A" hereto, which Schedule forms part of this letter agreement and the consideration for which is the entering into of this letter agreement. Such indemnity (the "**Indemnity**") shall be in addition to, and not in substitution for, any liability which the Company or any other party may have to us or the other parties indemnified thereby apart from such Indemnity. The Indemnity shall apply to all services provided in connection with this letter agreement, irrespective of the formal date of this letter agreement.

14. **Advertisements or Announcements.** Following completion of a Transaction(s) and termination of the CCAA Proceedings, Origin Merchant may, at its own expense, place advertisements or announcements in any newspapers, periodicals or other publications, or otherwise disclose to third parties, that Origin Merchant has acted as financial advisor to the Company in connection with the matters contemplated hereby.

15. **Term, Termination and Survival of Terms.** This engagement of Origin Merchant shall be for a period commencing on the date of this letter and shall continue until the earlier of the date the Transaction is completed and the date upon which the engagement is terminated by either party hereto by written notice of termination delivered to the other party.

Notwithstanding any termination of this letter agreement, the Company will be responsible to pay to Origin Merchant any amounts payable under paragraphs 6, 7 and 8.

The terms and conditions of this letter agreement and the Indemnity shall survive the completion of our engagement hereunder, any withdrawal or termination of any Transaction or decision not to proceed with any Transaction and any termination or purported termination of this letter agreement.

16. **Relationship.** The Company agrees that Origin Merchant has been retained to act solely as financial advisor to the Company. In such capacity Origin Merchant shall act as an independent contractor and any duties of Origin Merchant arising out of its engagement pursuant to this letter agreement shall be owed solely to the Company. Nothing in this letter agreement is intended to create duties to the Company beyond those expressly provided for in this letter agreement, and Origin Merchant and the Company expressly disclaim the creation of any partnership, joint venture, fiduciary, agency or non-contractual relationship between, or the imposition of any partnership, joint venture, fiduciary, agency or non-contractual duties on, the parties.

17. **Other Matters.** This letter agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. This letter agreement shall not be assignable by either party without the prior written consent of the other party. The agreement resulting from this Engagement Agreement shall be governed by and construed in accordance with

the laws of the Province of British Columbia and the federal laws of Canada applicable therein, and the parties hereby irrevocably attorn to the jurisdiction of the courts of the Province of British Columbia. All financial references in this letter agreement are to Canadian dollars unless otherwise expressly indicated. Headings used herein are for ease of reference only and shall not affect the interpretation or construction of this letter agreement. No waiver, amendment or other modification of this letter agreement shall be effective unless in writing and signed by each party bound hereto. Time shall be of the essence of this agreement. This agreement, including the schedules hereto, constitutes the entire agreement between the parties relating to the subject matter hereof, and supersedes any and all prior agreements between the Company. This agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument. Delivery of an executed copy of this agreement by electronic means shall be as effective as delivery of a manually executed copy of this agreement.

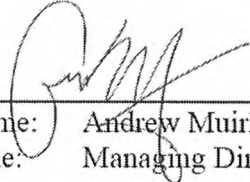
18. **Notices.** Any notice or other communication required or permitted to be given under this letter agreement shall be in writing and shall be sufficiently given or made by personal delivery or by email (receipt confirmed) to the respective parties at the addresses set forth in this letter (in the case of Origin Merchant to the attention of the person executing this letter agreement). Any notice so given shall be deemed conclusively to have been given and received when so personally delivered or so transmitted.



If the foregoing is in accordance with your understanding, please indicate your agreement to the above terms and conditions by signing the enclosed copies of this letter and returning the executed copies to us.


Yours very truly,

ORIGIN MERCHANT PARTNERS

By: 
Name: Andrew Muirhead
Title: Managing Director


The foregoing is in accordance with our understanding and is accepted and agreed to by us this 23rdth day of December, 2023.

Nexii Building Solutions Inc.

By: 
Name: Bill Tucker
Title: Acting CEO

I have the authority to bind the corporation.

Omicron Canada Inc.

By: 
Name: Bill Tucker
Title: CEO

I have the authority to bind the corporation.



SCHEDULE "A" - Indemnification

The Company (the "**Indemnitor**") agrees to indemnify and hold harmless Origin Merchant Partners ("**Origin Merchant**"), each of its subsidiaries and affiliates and each of their respective directors, officers, employees, partners, agents, shareholders, advisors and each partner and each principal of Origin Merchant (collectively, the "**Indemnified Parties**" and individually, an "**Indemnified Party**") from and against any and all expenses, losses, claims, actions, costs, damages and liabilities of every nature and kind (including, without limitation, the aggregate amount paid in reasonable settlement of any actions, suits, proceedings, investigations or claims and the reasonable fees and expenses of their counsel that may be incurred in advising with respect to and/or defending any action, suit, proceeding, investigation or claim that may be made or threatened against any Indemnified Party or in enforcing this indemnity) (collectively, the "**Claims**") to which any Indemnified Party may become subject or otherwise involved in any capacity insofar as such Claims relate to, are caused by, result from, arise out of or are based upon, directly or indirectly, the attached letter agreement, the engagement of Origin Merchant thereunder, the performance of professional services rendered by Origin Merchant thereunder or otherwise in connection with the matters referred to therein.

Notwithstanding the foregoing, the Indemnitor shall not be obligated to indemnify an Indemnified Party in respect of a Claim to the extent that a court of competent jurisdiction in a final judgment that has become non-appealable shall determine that such Claim was primarily caused by the gross negligence or willful misconduct of such Indemnified Party.

If for any reason (other than a determination as to any of the events referred to in the second paragraph of this indemnity) the foregoing indemnification is unavailable to Origin Merchant or any other Indemnified Party or is insufficient to hold Origin Merchant or any other Indemnified Party harmless, the Indemnitor shall contribute to the amount paid or payable by Origin Merchant or any other Indemnified Party as a result of such Claims in such proportion as is appropriate to reflect not only the relative benefits received by the Indemnitor on the one hand and Origin Merchant or any other Indemnified Party on the other hand but also the relative fault of the Indemnitor, Origin Merchant or any other Indemnified Party as well as any relevant equitable considerations.

The Indemnitor agree that in case any action, suit, proceeding, claim or investigation shall be brought against the Indemnitor and/or any Indemnified Party and any Indemnified Party shall be required to testify in connection therewith or shall be required to respond to procedures designed to discover information regarding, in connection with or by reason of the attached letter agreement, the engagement of Origin Merchant thereunder, the performance of professional services by Origin Merchant thereunder or otherwise in connection with the matters referred to therein, such Indemnified Party shall have the right to employ its own counsel in connection therewith, and the reasonable fees and expenses of such counsel as well as the reasonable costs and out-of-pocket expenses incurred by such Indemnified Party and its personnel in connection therewith shall be paid by the Indemnitor as they occur.

Promptly after receiving notice of an action, suit, proceeding or claim against Origin Merchant or any other Indemnified Party or receipt of notice of the commencement of any investigation which is based, directly or indirectly, upon any matter in respect of which indemnification may be sought from the Indemnitor, an Indemnified Party will notify the Indemnitor in writing of the particulars thereof. The omission so to notify the Indemnitor shall not relieve the Indemnitor of any liability which the Indemnitor may have to any Indemnified Party except only to the extent that any delay in or failure to give notice as herein required



materially prejudices the defence of such action, suit, proceeding, claim or investigation or results in any material increase in the liability which the Indemnitor would otherwise have under this indemnity had an Indemnified Party not so delayed in or failed to give the notice required hereunder.

The Indemnitor shall have 30 days after receipt of the notice, at its own expense, to participate in and, to the extent it may wish to do so, assume the defence thereof, provided such defence is conducted by experienced and competent counsel. If such defence is assumed by the Indemnitor, the Indemnitor throughout the course thereof will provide copies of all relevant documentation to Origin Merchant, will keep Origin Merchant advised of the progress thereof and will discuss with Origin Merchant all significant actions proposed.

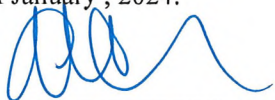
Notwithstanding the foregoing paragraph, any Indemnified Party shall have the right, at the Indemnitor's expense, to employ counsel of such Indemnified Party's choice, in respect of the defence of any action, suit, proceeding, claim or investigation if: (i) the employment of such counsel has been authorized by the Indemnitor; or (ii) the Indemnitor has not assumed the defence and employed counsel therefor within 30 days after receiving notice of such action, suit, proceeding, claim or investigation; or (iii) counsel retained by the Indemnitor or the Indemnified Party has advised the Indemnified Party that representation of both parties by the same counsel would be inappropriate because there may be legal defences available to the Indemnified Party which are different from or in addition to those available to the Indemnitor or that there is a conflict of interest between the Indemnitor and the Indemnified Party or the subject matter of the action, suit, proceeding, claim or investigation may not fall within the indemnity set forth herein (in any of which events the Indemnitor shall not have the right to assume or direct the defence on the Indemnified Party's behalf).

No admission of liability and no settlement of any action, suit, proceeding, claim or investigation shall be made without the consent of the Indemnified Parties affected, such consent not to be unreasonably withheld. No admission of liability shall be made and the Indemnitor shall not be liable for any settlement of any action, suit, proceeding, claim or investigation made without its consent, such consent not to be unreasonably withheld.

The Indemnitor hereby constitutes Origin Merchant as trustee for the other Indemnified Parties of the Indemnitor's covenants under this indemnity with respect to such persons and Origin Merchant agrees to accept such trust and to hold and enforce such covenants on behalf of such persons.

This indemnity and contribution obligations of the Indemnitor hereunder shall be in addition to any liability which the Indemnitor may otherwise have, shall extend upon the same terms and conditions to the Indemnified Parties and shall be binding upon and enure to the benefit of any successors, assigns, heirs and personal representatives of the Indemnitor, Origin Merchant and any other Indemnified Party. The foregoing provisions shall survive the completion of professional services rendered under the attached letter agreement or any termination of the authorization given by the attached letter agreement.

This is **Exhibit B** referred to in the 2nd Affidavit of William Tucker sworn before me at Vancouver, this 17th day of January, 2024.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

(Commissioner for taking Affidavits for British Columbia)

KEY EMPLOYEE RETENTION PLAN

This Key Employee Retention Plan (“**KERP**”) sets out the retention plan proposed for certain employees of Nexii Building Solutions Inc. (the “**Company**”) or Omicron Canada Inc. (“**Omicron**”).

By order (the “**Initial Order**”) made on January 11, 2024 in Supreme Court of British Columbia Action No. S240195, Vancouver Registry (the “**Restructuring Proceedings**”), the Company and three of its subsidiaries, Nexii Construction Inc., NBS IP Inc. and Nexii Holdings Inc. (collectively, the “**Petitioners**”) obtained an initial order granting them protection from their creditors under the *Companies’ Creditors Arrangement Act*. Under the Initial Order, KSV Restructuring Inc. (the “**Monitor**”) was appointed monitor of the Petitioners with enhanced authority to act for and on behalf of the Petitioners

KERP

The primary objective of the KERP is to incentivize key employees of the Company and Omicron (collectively, the “**Key Employees**”) who are vital to the ongoing operations of the Petitioners and of Omicron and its affiliates, Omicron Construction Management Ltd., Omicron Consulting Ltd., Grant & Sinclair Architects Ltd., Omicron Interiors Ltd. and Omicron Construction Ltd. (collectively, the “**Omicron Group**” and, together with the Petitioners, the “**Nexii Group**”) to continue in their current roles during the Restructuring Proceedings, and to aid in the consummation of a transaction through a sale process (the “**Sale Process**”) the Petitioners will seek to have approved by the Supreme Court of British Columbia (the “**Court**”) in the Restructuring Proceedings. The Key Employees are instrumental to the Nexii Group’s ongoing operations and efforts to market the Nexii Group, including their assets, during the Sale Process. The KERP has prepared with the assistance of and has been approved by the Monitor.

Amount of KERP

The aggregate amount available under the KERP to Key Employees (the “**KERP Payment**”) is dependent on the outcome of the Sale Process. The amount of the KERP Payment varies depending on the total sale price for the Nexii Group or their assets as follows:

- If: (i) there is no sale; or (ii) for any sale where: (x) some or all of the secured lenders to the Nexii Group (collectively, the “**Secured Lenders**”) acquire any of portion of the Nexii Group or their assets by way of credit bid, or (y) any of the current management or directors of the Nexii Group, or anyone related to them, acquire any of the Nexii Group or their assets, then the KERP Payment shall be \$200,000 without duplication (i.e. the maximum KERP Payment in connection with the occurrence of any of the foregoing shall be \$200,000); and
- for any transaction(s) other than those enumerated in the immediately preceding paragraph, the KERP Payment shall be \$200,000 plus:

- [REDACTED]
- [REDACTED]
- [REDACTED]

o [REDACTED]

provided that in calculating the gross sale price, the consideration payable under any of the transactions enumerated in the immediately preceding paragraph (if any) shall not be included.

Key Employees

A list of the Key Employees can be found in Appendix "B" to this KERP along with the percentage of the KERP Payment (whatever it may be) to which each such Key Employee may be entitled (the "**Retention Fee**").

The Key Employees have the skills, knowledge and capabilities to continue the Petitioners' operations and effectively market the Nexii Group's assets and business under the Sale Process, maximizing the Nexii Group's value. The Key Employees have other employment options available to them. They are not replaceable in the near term due to their specialized skills, knowledge of business operations and the stringent deadlines the Petitioners must comply with in the Restructuring Proceedings.

Terms of Payment:

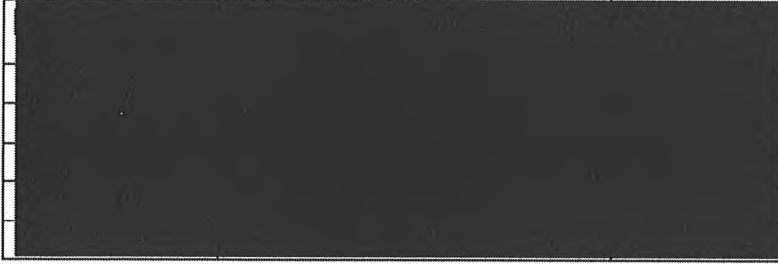
The Retention Fee is to be paid to each Key Employee in accordance with the terms and conditions hereof and immediately after the earlier of: (i) the closing of one or more transactions pursuant to which all or substantially all of the Nexii Group or their assets are acquired by a purchaser, which may include the Secured Lenders (a "**Transaction**"); and (ii) the date on which the Restructuring Proceedings are terminated by way of Court order therein (a "**Termination Order**").

The KERP and the Retention Fee are subject to the following terms and conditions:

1. The KERP is conditional upon the Court granting an order in the Restructuring Proceedings approving the KERP and the associated Retention Fees;
2. Subject to paragraph 6, below, the Key Employee must remain employed in their current position (or as otherwise assigned by the Company) through to either the closing of a Transaction or the granting of a Termination Order (either such date is hereafter referred to as the "**Vesting Date**");
3. If a Key Employee is terminated without cause at any time after the KERP is approved by the Court, they shall receive their Retention Fee as if they had been employed up to the Vesting Date, without pro-rating or adjustment;
4. The Key Employee must fulfil their performance expectations, and work a regular schedule through to the Vesting Date;
5. Unscheduled absences for any reason, for more than five (5) cumulative days, in any month, prior to the Vesting Date will result in a pro-rata reduction of the Retention Fee for the days that exceed the allowable five (5) days;

6. If, at any time before the Vesting Date, a Key Employee does not meet performance expectations, voluntarily resigns or retires, or involuntarily separates for any reason (other than total disability, death or termination without cause), they will not receive any Retention Fee, prorated or otherwise; and
7. If at any point prior to the Vesting Date the Petitioners decide to modify the KERP, such modification will be presented to the Key Employees by way of a revised retention letter which will be required to be signed by the recipient Key Employee. The Key Employee may choose to agree to the new terms by signing the revised letter or they may decide, without penalty, to continue under the terms of the original retention letter. Notwithstanding anything to the contrary herein, if a Key Employee continues under the terms of the original retention letter and no Transaction is consummated, the KERP will terminate and the Key Employee will not be entitled to any payment under any revised retention letter.

Appendix A

NAME	POSITION	BASE SALARY (CAD, unless otherwise specified)	% of KERP PAYMENT
			25
			25
			15
			15
			10
			10

No. S240195
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF NEXII BUILDING SOLUTIONS
INC., NEXII CONSTRUCTION INC., NBS IP INC., AND
NEXII HOLDINGS INC. PETITIONERS

AFFIDAVIT

FASKEN MARTINEAU DU MOULIN LLP

Barristers and Solicitors
2900 – 550 Burrard Street
Vancouver BC V6C 0A3
604-631-3131

Attention: Lisa Hiebert
Matter No: 320821.00009