



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

**SECOND REPORT OF KSV RESTRUCTURING INC.
AS CCAA MONITOR**

April 19, 2024

Contents		Page
1.0	Introduction	1
1.1	Purposes of The Second Report	3
1.2	Restrictions	4
1.3	Currency	4
2.0	Background	4
3.0	Activities of the Monitor	4
4.0	Sale Process	5
4.1	Marketing	5
4.2	Sale Process Results	6
5.0	Omicron Transaction	7
5.1	Transaction Recommendation	9
6.0	Other Matters Related to the Transaction	10
6.1	Additional Petitioners	10
6.2	Name Change of the Vendors	10
6.3	Assignment Order	11
7.0	Proposed Distributions	12
8.0	Cash Flow	12
9.0	DIP Extension.....	13
10.0	Stay Extension and Related Relief	13
11.0	Conclusion and Recommendation	14

Appendices

Appendix	Tab
Tucker Affidavit.....	A
Sale Process	B
Sale Agreement.....	C
Cash Flow Forecast and Management's Report on same.....	D
Monitor's Report on the Cash Flow Forecast.....	E

1.0 Introduction

1. Pursuant to an order (the “Initial Order”) issued by the Supreme Court of British Columbia (the “Court”) on January 11, 2024 (the “Filing Date”), Nexii Building Solutions Inc. (“NBSI”) and its wholly-owned direct and indirect subsidiaries, Nexii Construction Inc. (“Nexii Construction”), NBS IP Inc. (“NBS IP”), and Nexii Holdings Inc. (“Nexii US” and together with NBSI, Nexii Construction and NBS IP, the “Petitioners” or the “Company”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”, and the Petitioners’ proceedings thereunder, the “CCAA Proceedings”). KSV Restructuring Inc. was appointed monitor of the Petitioners (in such capacity, the “Monitor”).
2. The Petitioners are engaged in the business of developing, constructing and designing building projects using a low-carbon alternative concrete material.
3. The Petitioners are related to, but operate independently from, Omicron Canada Inc., Omicron Construction Management Ltd., Omicron Consulting Ltd., Grant & Sinclair Architects Ltd., Omicron Interiors Ltd., and Omicron Construction Ltd. (collectively, the “Omicron Entities”). The Omicron Entities design, build, and manage the construction of large commercial and residential projects in Western Canada. Certain protections under the Initial Order were extended to the Omicron Entities due to NBSI’s direct and indirect ownership interest in these entities. The Petitioners and the Omicron Entities are collectively referred to as the “Nexii Group”.
4. Pursuant to the Initial Order, the Court, among other things:
 - a) granted a stay of proceedings (the “Stay of Proceedings”) in favour of the Nexii Group to and including January 22, 2024;
 - b) granted the following charges on all of the Petitioners’ current and future assets, property and undertaking (collectively, the “Property”):
 - i. up to the maximum amount of \$500,000 (the “Administration Charge”) to secure the fees and disbursements of the Petitioners’ legal counsel, the Monitor, and the Monitor’s independent legal counsel;
 - ii. up to the maximum amount of \$1,040,000 (the “Directors’ Charge”) in favour of the directors and officers of the Petitioners (the “Directors and Officers”); and
 - iii. up to the maximum amount of USD\$750,000, plus interest, fees and expenses thereon (the “Interim Lenders’ Charge”), in favour of Powerscourt Investments XXV Trust (“Powerscourt Investments”), Trinity Capital Inc. (“Trinity”), Horizon Technology Finance Corporation (“Horizon”) and Horizon Credit II LLC, as lenders (collectively, and in such capacity, the “Interim Lenders”), to secure advances to the Petitioners made following the granting of the Initial Order and prior to the Comeback Hearing (as defined below) pursuant to a debtor-in-possession (“DIP”) facility agreement dated January 10, 2024 (the “DIP Facility”);

- c) provided enhanced powers to the Monitor in the CCAA Proceedings; and
 - d) authorized the Petitioners to pay certain pre-filing obligations to essential suppliers, subject to first obtaining consent from the Monitor and the Interim Lenders.
5. On January 22, 2024, the Court issued the following orders:
- a) an order (the “Sale Process Approval Order”), among other things, approving the retention of Origin Merchant Partners (“Origin” or the “Financial Advisor”) pursuant to an agreement dated December 22, 2023 between the Nexii Group, the Omicron Entities and the Financial Advisor (the “Origin Engagement Letter”) and approving the sale process (the “Sale Process”) to be conducted by the Nexii Group, with the assistance of the Financial Advisor, and under the oversight of the Monitor;
 - b) an order approving a Key Employee Retention Plan (the “KERP”); and
 - c) an Amended and Restated Initial Order (the “ARIO”), which, among other things:
 - i. extended the Stay of Proceedings to and including April 30, 2024;
 - ii. granted charges on the Property in favour of the Financial Advisor to secure the payment of the Financial Advisor’s monthly fee and the transaction fee, respectively, payable under the Origin Engagement Letter (collectively, the “Financial Advisor Charges”);
 - iii. granted a charge on the Property for the benefit of the KERP beneficiaries to secure the payments thereunder (the “KERP Charge” and together with the Administration Charge, the Directors’ Charge, the Interim Lenders’ Charge and the Financial Advisor Charges, the “Charges”) in the maximum aggregate amount owed under the KERP;
 - iv. increased the quantum of the Administration Charge to \$1,500,000;
 - v. increased the quantum of the Directors’ Charge to \$1,315,000;
 - vi. increased the quantum of the Interim Lenders’ Charge to USD\$4,300,000, plus interest, fees and expenses; and
 - vii. provided the Petitioners with the right (but not the obligation) to pay rent to landlords in respect of leases that they are no longer using and intend to disclaim immediately.
6. On January 11, 2024, the Petitioners commenced proceedings in the United States Bankruptcy Court for the District of Delaware (the “US Court”) seeking recognition of the CCAA Proceedings as a foreign main proceeding under Chapter 15 of title 11 of the US Bankruptcy Code. On January 17, 2024, the US Court entered an order granting provisional relief in aid of these proceedings. Further, on February 9, 2024, the US Court entered an order recognizing the relief granted in the ARIO.

1.1 Purposes of The Second Report

1. The purpose of this report (the “Second Report”) is to:
 - a) provide the Court with an update on the Sale Process;
 - b) summarize the Transaction (as defined below), which is documented in, *inter alia*, the Asset Purchase Agreement dated April 19, 2024 (the “Sale Agreement”) between 15925347 Canada Inc., 1474480 B.C. Ltd., 1474737 B.C. Ltd., 1474741 B.C. Ltd., 1464115 B.C. Ltd., and 1474484 B.C. Ltd. (collectively, the “Purchasers”), the Omicron Entities, excluding Grant & Sinclair Architects Ltd. (the “Vendors”), and NBSI;
 - c) discuss and provide the Monitor’s views and recommendations regarding:
 - i. approval of an AVO being sought by the Petitioners, which, *inter alia*:
 - approves the Sale Agreement and the Transaction contemplated therein;
 - adds the Vendors as “Additional Petitioners” in these CCAA Proceedings with such rights, protections and obligations as are afforded to the Petitioners in these Proceedings;
 - following the Monitor’s delivery of the Monitor’s certificate, substantially in the form attached as Schedule “A” to the AVO, transfers and vests all of the Vendors’ right, title and interest in and to the Purchased Assets (as set out in the Sale Agreement) free and clear of and from any and all claims, liabilities, liens, and encumbrances (“Closing”); and
 - upon Closing, changes the names of the Additional Petitioners and the style of cause in the CCAA Proceedings as described in more detail below;
 - ii. approval of an order (the “Assignment Order”) assigning to the Purchasers certain contracts, which require counterparty consent to assign such contracts or purport to prohibit the assignment thereof, in connection with the Sale Agreement, subject to the payment of cure costs (if any);
 - iii. approval of an order (the “Ancillary Order”) which, *inter alia*:
 - extends the Stay of Proceedings from April 30, 2024 to and including June 30, 2024; and
 - authorizes the Monitor to make a distribution to Powerscourt Investment, Horizon, and Trinity (collectively, in such capacity, the “Senior Secured Lenders”) of the proceeds of the sale resulting from the Transaction;
 - d) discuss the extension of the DIP Facility maturity date;

- e) report on the Petitioners' cash flow projections for the period April 15, 2024 to June 30, 2024 (the "Cash Flow Forecast"); and
- f) discuss the reasons why the Monitor believes that it is appropriate to extend the Stay of Proceedings from April 30, 2024 to and including June 30, 2024.

1.2 Restrictions

1. In preparing this Second Report, the Monitor has relied upon the Nexii Group's unaudited financial information, books and records, information available in the public domain and discussions with the Petitioners' management, legal counsel and the Financial Advisor.
2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Second Report in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.
3. An examination of the Cash Flow Forecast (defined herein), as outlined in the Chartered Professional Accountants of Canada Handbook has not been performed. Future-oriented financial information relied upon in this Second Report is based upon the Petitioners' assumptions regarding future events; actual results achieved may vary from this information and these variations may be material.

1.3 Currency

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

2.0 Background

1. The Affidavit of Bill Tucker, Chief Executive Officer of NBSI and Omicron Canada Inc., sworn January 10, 2024 in support of the CCAA application (the "Tucker Affidavit"), provides background information concerning the Nexii Group's business, including reasons for the commencement of these CCAA Proceedings. Accordingly, that information is not repeated in this Second Report. A copy of the Tucker Affidavit (without exhibits) is appended as Appendix "A".
2. Court materials filed in these CCAA Proceedings are available on the Monitor's website at the following link: www.ksvadvisory.com/experience/case/nexii.

3.0 Activities of the Monitor

1. Since the filing of the first report of the Monitor dated January 18, 2024 (the "First Report"), the Monitor, with the support of its legal advisors, has engaged in various activities for the benefit of the Petitioners and their stakeholders including:
 - a) assisting the Petitioners and the Financial Advisor with the implementation of the SISP and the negotiation of the Transaction;

- b) providing financial and operational updates in respect of the Petitioners to the Interim Lenders and their counsel;
- c) assisting the Petitioners with the negotiation of agreements and alternative arrangements to complete certain projects for key customers who have provided incremental funding to complete such projects;
- d) corresponding with the Petitioner’s stakeholders and creditors and providing operational and other updates in connection with the CCAA Proceedings;
- e) monitored the Petitioners’ proceedings under chapter 15 of the Bankruptcy Code;
- f) monitored the Petitioners’ receipts and disbursements and worked with management to develop a daily cash management monitoring process;
- g) prepared court materials filed in support of approval of the Approval and Vesting Order, the Assignment Order and the Ancillary Order;
- h) attended multiple calls with the Monitor’s legal counsel, Bennett Jones LLP (“Bennett Jones”) regarding ad-hoc issues with certain critical vendors;
- i) corresponded with creditors, vendors, and sponsors regarding various matters on an as-needed basis;
- j) responded to service list addition requests; and
- k) drafted this Second Report.

4.0 Sale Process¹

4.1 Marketing

1. The Financial Advisor, under the supervision of the Monitor and with the assistance of the Petitioners, carried out the Sale Process in accordance with the Sale Process Approval Order. A copy of the Sale Process is attached as Appendix “B”. A summary of the salient aspects of the Sale Process is set out below:
 - a) following the issuance of the Sale Process Approval Order, the Petitioners and the Financial Advisor launched the Sale Process on January 24, 2024 by distributing an interest solicitation letter (the “Teaser”) detailing the acquisition opportunity (the “Opportunity”) to potential purchasers and investors (the “Interested Parties”);
 - b) the Teaser was sent to 188 Interested Parties. Interested Parties were comprised of Canadian and US operators in the construction industry, financial groups and other strategic parties, including certain parties that contacted the Monitor or the Financial Advisor directly following the commencement of these CCAA Proceedings. In compiling the list of Interested Parties, the Financial Advisor sought input from the Petitioners and the Monitor;

¹ Capitalized terms in this section have the meaning provided to them in the Sale Process unless otherwise defined herein.

- c) attached to the Teaser was a form of non-disclosure agreement (“NDA”) and the Sale Process Approval Order. Interested Parties that executed the NDA were provided with a confidential information memorandum and access to an online data room managed by the Financial Advisor (the “Dataroom”);
- d) the Dataroom contained certain historical and projected financial information and certain other relevant diligence information, including operational metrics, personnel information and material contracts and agreements in respect of the Nexii Group. An electronic copy of a template form of asset purchase agreement was also made available in the Dataroom;
- e) Qualified Bids were to be accompanied by payment of a deposit in the amount of 10% of the proposed purchase price, payable by wire transfer to the Monitor, in trust; and
- f) pursuant to the SISF, the deadline for Interested Parties to submit a binding Qualified Bid was 5:00 p.m. (Pacific Time) on March 7, 2024 (the “Bid Submission Deadline”).

4.2 Sale Process Results

1. A summary of the results of the Sale Process is provided below. 26 Interested Parties executed the NDA and were provided with access to the Dataroom. Of the 26 Interested Parties, 15 accessed the Dataroom to explore transaction opportunities with the Omicron Entities. A significant number of parties that accessed the Dataroom conducted extensive due diligence in respect of the Opportunity.
2. As at the Bid Submission Deadline, the Petitioners did not receive any Qualified Bids that were in a form for which Court approval could be sought. Accordingly, the Financial Advisor and the Monitor, with the consent of the Petitioners and the Interim Lenders, indefinitely extended the Bid Submission Deadline to further develop interest in the Nexii Group’s Property. Other than the extension of the Bid Submission Deadline, the Sale Process was conducted in accordance with all steps and timelines that were approved by the Court.
3. Following a period of negotiation, the Petitioners, in consultation with the Monitor and Interim Lenders, determined that the Purchasers’ bid was the Successful Bid under the Sale Process for the Property of the Vendors. The parties proceeded to finalize and enter into the Sale Agreement on April 19, 2024.
4. At the time of this Second Report, the Petitioners, the Monitor, the Financial Advisor and the Interim Lenders are engaged in negotiations with several parties who have expressed interest in acquiring the assets of the Petitioners, which are not being sold as part of the Transaction (the “Remaining Nexii Assets”). The Monitor expects to be back before the Court in the near term to summarize the results of those negotiations and seek approval of a transaction in respect of the Remaining Nexii Assets.

5.0 Omicron Transaction²

1. The following section provides a summary of the transaction in respect of the Sale Agreement (the “Transaction”). As this is an overview, interested parties are strongly encouraged to review the Sale Agreement in its entirety. A copy of the Sale Agreement is attached as Appendix “C”.
2. The key terms and conditions of the Sale Agreement are provided below:
 - **Vendors:** Omicron Canada Inc., Omicron Construction Management Ltd., Omicron Consulting Ltd., Omicron Interiors Ltd. and Omicron Construction Ltd.;³
 - **Purchasers:** 15925347 Canada Inc., 1474480 B.C. Ltd., 1474737 B.C. Ltd., 1474741 B.C. Ltd., 1464115 B.C. Ltd., and 1474484 B.C. Ltd. The Monitor notes that the Purchasers are entities that are controlled by existing senior management of the Nexii Group;
 - **Closing Consideration:** \$3,000,000 (the “Cash Consideration”);
 - **Purchased Assets:** consist of all of the Vendors’ right, title and interest in and to the business, assets, properties, contractual rights, goodwill, rights and claims of the Vendors related to the Business on Closing, wherever situated and of whatever kind and nature, real or personal, tangible or intangible, whether or not reflected on the books and records of the Vendors, in each case, other than the Excluded Assets;
 - **Assumed Contracts:** include the Contracts specifically and expressly designated by the Purchasers as excluded in Schedule “B” of the Sale Agreement;
 - **Excluded Assets:** include assets of the Vendors that are not Purchased Assets, including the Excluded Contracts;
 - **Assumed Liabilities:** include:
 - a) liabilities specifically and expressly designated as assumed in Schedule “C” of the Sale Agreement; and
 - b) all liabilities which relate to the Vendors’ business under any Assumed Contract;
 - **Excluded Liabilities:** include all liabilities of the Vendors that are not Assumed Liabilities;

² Capitalized terms in this section have the meaning provided to them in the Sale Agreement.

³ While NBSI is not a vendor under the Sale Agreement, it is a party to the Agreement and has certain obligations thereunder.

- **Conditional Payment:** If at any time during the five year period immediately following Closing:

- (i) any one or more of the Purchasers (or any successor corporations) holding all or substantially all of the Purchased Assets immediately prior to such transaction or series of transactions (the “Controlling Entities”) sells, leases, transfers, exclusively licenses, conveys or otherwise disposes, collectively, in one transaction or a series of transactions, all or substantially all of the interests in all or substantially all of the Purchased Assets (other than in connection with an internal reorganization of the one or more of the Controlling Entities where (i) the transferee or recipient of the some or all of the interests in the Purchased Assets in such internal reorganization (the “Transferee”) is an affiliate of one or more of the Controlling Entities and (ii) such Transferee has delivered a joinder to this Agreement, pursuant to which the Transferee agrees in favour of the DIP Lenders to become party to and bound by this Agreement as a “Purchaser” and as if an original party hereto and subject to the provisions of Section 1 and 2 of this Agreement; or
- (ii) there occurs a merger, amalgamation, sale, arrangement, take-over bid, reorganization, plan of arrangement, business combination, consolidation or other similar transaction or series of transactions as a result of which the beneficial owners of shares of the Controlling Entities do not own beneficial interests in a majority of the shares of the Controlling Entities outstanding immediately following such transaction or series of transactions

(either circumstance referred herein as a “Post-Closing Sale”),

the Purchasers shall pay to the Interim Lenders, within ten (10) Business Days of the closing of such Post-Closing Sale, a conditional payment in cash equal to, in the aggregate, 15% of the difference between: (i) the consideration provided to the Controlling Entities (or shareholders thereof) in connection with the Post-Closing Sale; and (ii) \$7,000,000, in accordance with an agreement to be entered into by the Purchasers and the Interim Lenders (the “Post-Closing Sale Agreement”);

- **Representations and Warranties:** Consistent with the terms of a standard insolvency transaction (i.e., on an “as is, where is” basis, with limited representations and warranties);
- **Material Conditions:** include that the following conditions, among other things, be satisfied, fulfilled or performed on or before Closing:
 - a) the Court shall have issued and entered the (i) AVO, which must provide for, among other things, the inclusion of the Vendors as petitioners in the CCAA Proceedings; and (ii) Assignment Order;
 - b) the granting of the Assignment Order;
 - c) the entry into a Services Agreement between the parties to the Sale Agreement, which must provide for, among other things, the provision of certain services by the Purchasers, their Affiliates and/or their principals to the Petitioners; and

- d) the entry into the Post-Closing Sale Agreement between the Interim Lenders and the Purchasers, a copy of which is appended to Schedule "F" to the Sale Agreement;
- **Outside Date:** May 30, 2024 or such later date as the Vendors, with the consent of the Monitor, and the Purchasers may agree to in writing; and
- **Closing:** the date that is seven business days after the date upon which the conditions set forth in Article 7 of the Sale Agreement have been satisfied or waived, other than any conditions set forth in Article 7 of the Sale Agreement that by their terms are to be satisfied or waived at Closing, provided that Closing shall be no later than the Outside Date.

5.1 Transaction Recommendation

1. The Monitor recommends that the Court issue the AVO approving the Transaction for the following reasons:
 - a) in the Monitor's view, the Sale Process, including with respect to the Vendors, was commercially reasonable and conducted in accordance with the Sale Process Approval Order and the timelines set forth therein. This allowed for the market to be broadly canvassed. While multiple parties performed due diligence, no closeable Qualified Bids were received for the Purchased Assets, other than the bid submitted by the Purchasers;
 - b) none of the Interested Parties expressed any concern that they did not have sufficient time to perform due diligence and no party requested further time to perform due diligence. In addition, the Financial Advisor advised the Interested Parties that it was open to receiving Qualified Bids after the Bid Submission Deadline. The Monitor does not believe that further time marketing the Omicron Entities' business and assets for sale would result in a superior transaction, regardless of whether that is undertaken in a bankruptcy or receivership. The Monitor is of the view that the Cash Consideration and other consideration to be provided by the Purchasers, including the Conditional Payment, represents the greatest possible recovery available in the circumstances;
 - c) the Transaction provides a going-concern solution for the Vendors. It contemplates the continuation of the Vendors' operations under the Purchasers' ownership and preserves employment for substantially all of the Vendors' employees; and
 - d) the Senior Secured Lenders, the parties with the sole economic interest left in the Vendors and who are likely to suffer a material shortfall on their secured claims, have been consulted during the negotiations and are supportive of the Transaction.

6.0 Other Matters Related to the Transaction

6.1 Additional Petitioners

1. To facilitate the Transaction, the Petitioners are seeking to have the Vendors added as Additional Petitioners in the CCAA Proceedings. The Vendors have assets in Canada, are insolvent, and are obligors under the Loan Agreement with the Senior Secured Lenders, and as a result, have claims against them vastly in excess of \$5 million. Accordingly, the Vendors all qualify for protection under the CCAA. The Monitor supports the inclusion of the Vendors as petitioners in the CCAA Proceedings for the following reasons:
 - a) adding the Vendors as Additional Petitioners in these proceedings is a condition and required to complete the Transaction;
 - b) courts, including Courts in British Columbia, have previously added petitioners or applicants to CCAA Proceedings where the additional petitioners or applicants qualify for relief under the CCAA, the objectives of the CCAA will be furthered by the addition of the petitioners or applicants and the addition of the petitioners or applicants is required to complete a value maximizing transaction; and
 - c) in the Monitor's view, no stakeholders of the Vendors are prejudiced by adding the Vendors as Additional Petitioners.
2. At the Filing Date, the Petitioners contemplated including the Omicron Entities as petitioners at the commencement of the CCAA Proceedings. However, the Omicron Entities were ultimately not included because they did not require funding from the DIP Facility and the Petitioners elected to avoid unnecessary disruption to the Omicron Entities' business.

6.2 Name Change of the Vendors

1. As described in the AVO, upon Closing of the Transaction and the delivery of the Monitor's Certificate, the legal names of the Vendors will be changed in order to avoid confusion with the Omicron business that will continue to be operated by the Purchasers. The Vendors names will be changed as follows:

Existing Name	Proposed Name Follow Closing of the Transaction
Omicron Canada Inc.	4540514 Canada Inc.
Omicron Construction Management Ltd.	1061660 B.C. Ltd.
Omicron Interiors Ltd.	0713447 B.C. Ltd.
Omicron Consulting Ltd.	0592286 B.C. Ltd
Omicron Construction Ltd.	0597783 B.C. Ltd.

2. The Monitor believes it is appropriate for the Vendors to proceed with the proposed legal name changes to facilitate the continuation of the Omicron business as a going concern (the "Name Change"). The AVO also includes approval to amend the style of cause in the CCAA Proceedings in order to reflect the Name Change.

6.3 Assignment Order

1. The Sale Agreement contemplates the assignment to the Purchasers of certain contracts that require counterparty consent to assign such contracts or purport to prohibit the assignment thereof, in respect of which the Assignment Order is sought. These contracts are listed in Schedules "C", "D", "E", "F", "G" and "H" to the proposed Assignment Order (the "Assigned Contracts"). The Assigned Contracts are an integral component of the Purchased Assets.
2. The Monitor has been advised by the Purchasers that the Purchasers are not prepared to proceed with the Sale Agreement without the proposed Assignment Order being made under section 11.3 of the CCAA. The Sale Agreement is conditional upon an Order from the Court pursuant to Section 11.3 of the CCAA, assigning to the Purchasers the rights and obligations of the Vendors under the Assigned Contracts for which a consent, approval or waiver necessary for the assignment has not been obtained.
3. The Monitor has been advised by counsel for the Purchasers that the Purchasers have, contemporaneously with or prior to this application, delivered request letters to each counterparty of the Assigned Contracts, requesting their consent to the proposed assignment. The Purchasers have advised the Monitor that they will update the Monitor as to which counterparties have provided their consent in advance of the hearing and any Assigned Contracts for which consent has been received will be removed from the Assignment Order.
4. The Monitor believes that the Purchasers will be able to perform the obligations under the Assigned Contracts based on the following:
 - a) the Purchasers are formed under the laws of British Columbia or Canada with their principal place of business in Vancouver, British Columbia;
 - b) the Purchaser entities to whom the Assigned Contracts are to be assigned are acquiring the Vendors' assets in substantially the same structure as such assets are currently held by the Vendors (i.e., the Assigned Contracts are not being assigned to entities that will have materially different assets; and
 - c) the Purchasers' principals will be the existing senior management of the Vendors, who are familiar with the Vendors' design, construction and engineering businesses and are best positioned to continue servicing the Assigned Contracts and keep them in good standing.
5. The Monitor believes that the proposed Assignment Order will be of material benefit to the counterparties to many of the Assigned Contracts. For example, the Purchasers intend to assume all liabilities and obligations under the Assigned Contracts.

6. After reviewing the nature of the proposed assignments, the Monitor:
 - a) approves of the proposed assignments;
 - b) believes that the Purchasers (whose management is best suited to continue performing obligations under the Assigned Contracts) will be able to perform the obligations if the Assignment Order is granted; and
 - c) believes it would be appropriate to grant the assignments, including because the assignments are central to the successful outcome of the Transaction. The Monitor does not believe that the requested assignments will create an unfair imposition upon or interference with third-party rights. Without the assignments, the Vendors would no longer be in a position to perform a number of the Assigned Contracts and the proposed assignments to known, operating industry players in construction management will be of benefit to the counter-parties.

7.0 Proposed Distributions

1. As detailed further in the Pre-Filing Report, the Petitioners are obligors under an amended and restated venture loan and security agreement with the Senior Secured Lenders dated August 27, 2021 (the “Loan Agreement”). The Petitioners and the Vendors have granted security in favour of the Senior Secured Lenders for the amounts owing. As of January 4, 2024, approximately USD\$79 million was outstanding under the Loan Agreement.
2. The proposed Ancillary Order seeks approval for the Petitioners or the Monitor to make certain distributions from the net proceeds resulting from the Transaction to the Senior Secured Lenders.
3. Bennett Jones has provided the Monitor with an opinion that, subject to the usual and customary assumptions and qualifications contained in such opinions, the Senior Secured Lenders have valid and enforceable first-ranking security against the assets of the Vendors.
4. The Monitor is supportive of the proposed distribution to the Senior Secured Lenders. As reflected below, the DIP Facility will provide sufficient liquidity to extend these proceedings until June 30, 2024, by which time the Monitor is hopeful to complete a transaction for the Remaining Nexii Assets.

8.0 Cash Flow

1. The Petitioners, with the assistance of the Monitor, have prepared a cash flow forecast (the “Cash Flow Forecast”) for the period April 15, 2024 to June 30, 2024 (the “Forecast Period”). The Cash Flow Forecast and the Petitioners’ statutory report on the cash flow pursuant to Section 10(2)(b) of the CCAA is attached as Appendix “D”.
2. The Cash Flow Forecast reflects that the Petitioners have sufficient liquidity to continue operating during the Cash Flow Forecast period.

3. As of the date of this Report, the Petitioners have approximately US\$900,000 of remaining availability under the DIP Facility and approximately \$1.7 million in cash on hand.
4. Based on the Monitor's review of the Cash Flow Forecast, the cash flow assumptions appear reasonable. The Monitor's statutory report on the Cash Flow Forecast is attached as Appendix "E".

9.0 DIP Extension⁴

1. A detailed description of the DIP Facility is set out in the Monitor's Pre-Filing Report. Accordingly, details of the DIP Facility are not repeated herein.
2. The DIP Facility's maturity date was originally outlined as the earlier of (the "Maturity Date"):
 - a) April 30, 2024 (or such later date as the Interim Lenders in their sole discretion may agree to in writing with the Borrowers);
 - b) the date on which (i) the Stay of Proceedings under the CCAA Proceeding is lifted without the consent of the Interim Lenders, or (ii) the CCAA Proceedings are terminated for any reason;
 - c) the closing of a sale or similar transaction for all or substantially all of the assets and business of the Borrowers pursuant to the Sale Process, which has been approved by an order entered by this Court;
 - d) the implementation of a plan approved by an order entered by this Court;
 - e) the conversion of the CCAA Proceedings into a proceeding under the BIA; or
 - f) the occurrence of an event of default.
3. On April 18, 2024, given the results of the Sale Process and the additional time required to close the Transaction and finalize a transaction in respect of the Remaining Nexii Assets, the Interim Lenders agreed to extend the Maturity Date to June 30, 2024.

10.0 Stay Extension and Related Relief

1. Pursuant to the ARIO, the Court granted the Stay of Proceedings to and including April 30, 2024. The Petitioners are requesting an extension of the Stay of Proceedings to and including June 30, 2024, to provide time to, among other things: (i) close the Transaction; and (ii) negotiate and finalize a transaction in respect of the Remaining Nexii Assets.

⁴ Capitalized terms in this section have the meaning provided to them in the DIP Facility.

2. The Monitor supports the request for an extension of the Stay of Proceedings and believes that it is appropriate in the circumstances for the following reasons:
 - a) the Monitor does not believe that any creditor will be materially prejudiced by the proposed extension of the Stay of Proceedings;
 - b) the Petitioners have been acting in good faith and with due diligence throughout the course of the CCAA Proceedings;
 - c) the Interim Lenders support the extension of the Stay of Proceedings;
 - d) as of the date of this Second Report, the Monitor is not aware of any party opposed to an extension of the Stay of Proceedings; and
 - e) the Cash Flow Forecast reflects that the remaining funds available under the DIP Facility will provide the Petitioners with sufficient liquidity to fund their operations and the costs of these CCAA Proceedings through the proposed extension period.

11.0 Conclusion and Recommendation

1. Based on the foregoing, the Monitor respectfully recommends that this Honourable Court grant the relief sought pursuant to the Approval and Vesting Order, the Assignment Order and the Ancillary Order.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS MONITOR OF
NEXII BUILDING SOLUTIONS INC.,
NEXII CONSTRUCTION INC, NBS IP INC., AND
NEXII HOLDINGS INC.**

AND

**PROPOSED MONITOR OF
OMICRON CANADA INC.,
OMICRON CONSTRUCTION MANAGEMENT LTD.,
OMICRON CONSULTING LTD.,
OMICRON INTERIORS LTD., AND
OMICRON CONSTRUCTION LTD**

AND NOT IN ITS PERSONAL CAPACITY

Appendix “A”

This is the 1st Affidavit
of William Tucker in this case
and was made on January 10, 2024

No. _____
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/AFFIRM THAT:

1. I am the Acting Chief Executive Officer of the Petitioner Nexii Building Solutions Inc. (“**NBSI**”) 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. This Affidavit is sworn in support of the Petitioners’ application for an order (the “**Initial Order**”) and related relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”). I am authorized to swear this Affidavit on behalf of all the Petitioners.

I. OVERVIEW

3. The Petitioners (or, collectively, “**Nexii**”) face significant liquidity constraints and are in default to their creditors, including suppliers and their primary secured creditors (the Senior Secured Lenders, defined below), all of whom are collectively owed more than US\$80

million. Nexii intends to undertake a restructuring transaction in the context of these CCAA proceedings, but, more importantly, Nexii requires immediate additional funding to meet operating expenses, including its next payroll, which is paid in arrears and scheduled to be paid on January 12, 2024.

4. Nexii's only available source of funding is the Senior Secured Lenders, who have advised that they are unwilling to advance further funds without a clear path to a sale of Nexii's business. Accordingly, with the support of the Senior Secured Lenders, Nexii seeks to commence these proceedings (the "**CCAA Proceedings**") to obtain financing to meet critical expenses and to conduct a process for the sale of the Group's business as a going concern (the "**Sale Process**").
5. Senior Management (as defined below) and I believe that the CCAA Proceedings and the proposed Sale Process will preserve value and, to the extent possible, ensure Nexii's business operates as a going concern, to the benefit of stakeholders in Canada and the US, including employees, customers, suppliers and contracting parties.
6. Nexii uses its proprietary material, Nexiite, to manufacture high performance cladding and structural wall panels which are used in the construction of high-performance buildings. The Nexii panels and construction configurations are desirable because they are lightweight, more sustainable than concrete (lower embodied carbon) and result in buildings that are recyclable, energy efficient and resistant to fire, water and mold. The entire wall and cladding system is premanufactured, which allows for very quick and efficient assembly of buildings on construction sites. The system is also manufactured in a zero-waste certified manufacturing environment (the first of its kind in North America).
7. Since 2010, Nexiite has been installed in numerous buildings, including new-builds and retrofits in both commercial and industrial structures. Nexii believes that its business, including Nexiite and the Nexii building system, has significant value, in addition to offering sustainable construction options.
8. Currently, Nexii Construction Inc. and NBS IP Inc. have no assets or operations. They are, however, borrowers under various agreements with the Senior Secured Lenders.

9. NBSI is also the ultimate parent company of Omicron Canada Inc. (“**OCI**”) and its subsidiaries, Omicron Consulting Ltd., Grant & Sinclair Architects Ltd., Omicron Interiors Ltd., Omicron Construction Ltd., as well as Omicron Construction Management Ltd. (collectively, the “**Omicron Entities**”). The Omicron Entities are in the business of design, building and construction of large commercial and residential projects in Western Canada. The Omicron Entities were founded in 1998, and NBSI acquired the Omicron Entities in 2021. I have been involved with the Omicron Entities since 2000, and I have been the chief executive officer of OCI since 2006.
10. The Omicron Entities are operated separately from Nexii, including keeping separate management (other than myself), and separate books and accounting records. The Omicron Entities have different creditors than Nexii, although they have shared debt owing to the Senior Secured Lenders and to a bonding company.
11. The Omicron Entities are self-funding and profitable. Over the past year the Omicron Entities made cash advances to assist Nexii in making payroll obligations and covered costs that would otherwise be the responsibility of the Nexii. Nexii owes the Omicron Entities, without security, approximately \$4 million to Nexii for these amounts.

II. THE PETITIONERS

A. Corporate Structure

12. NBSI, Nexii Construction Inc. and NBS IP Inc. are each incorporated in British Columbia. NBSI has a head office in Vancouver and a manufacturing facility in Squamish, BC.
13. Nexii Holdings Inc. (“**Nexii US**”) is a company incorporated pursuant to the laws of Delaware. Nexii US employs Nexii’s US-based employees, but it does not have significant assets and all US contracts are with NBSI.
14. NBSI is the ultimate parent company and direct or indirect shareholder of the other Petitioners and the Omicron Entities (collectively, the “**Group**”). Attached and marked as **Exhibit “A”** is a true copy of the Group’s organization chart.

15. Historically, NBSI's board of directors was composed of individuals with extensive practical knowledge and skills in the building and technology industries. As NBSI's business grew, so did its board of directors, which currently includes several individuals with experience at multi-billion dollar companies having diverse expertise across a wide array of industries.
16. Given the anticipated reduction in operations in connection with the proposed restructuring proceedings, NBSI's board has determined that a smaller and more streamlined board of directors, consisting primarily of members having expertise in the building and technology industries, should remain in place to efficiently assist the company during its restructuring and the Sale Process. Accordingly, it is expected that several members of NBSI's board will resign their positions in the coming days.

B. Operational Overview

17. Nexii is a green construction company. Its distinguishing features and assets are the Nexii building system and associated intellectual property.
18. Although NBSI is not publicly traded, its shares are widely held. Since 2019, it has raised over \$125 million from shareholders. These funds were used to pursue growth, including investments in its technology.
19. Nexii's costs have been high relative to revenue, resulting in negative gross margins, including, for 2022, \$23 million (-335%). Over the past year, Nexii has taken steps to significantly reduce expenses.
20. For 2023, Nexii anticipates revenue of approximately \$14 million (an increase of \$7.1 million from 2022). As of September 30, 2023, Nexii achieved its first positive gross margin (approximately 5%).
21. Nexii has four (4) ongoing construction projects that are nearing completion, and six (6) projects under contract where work has not yet begun.
22. For the ongoing projects, Nexii expects to receive additional revenue of approximately \$8.3 million.

23. For the six projects where work has not yet begun, Nexii would require labour and material bonds. Nexii is not able to obtain bonding without cash collateral. Nexii is exploring alternatives and options, but if it is unable to secure bonding, these projects will be cancelled, which would significantly reduce Nexii's operating expenses and overhead. To minimize funding requirements in these proceedings, Nexii, with the assistance of KSV, has estimated funding requirements on the assumption that only the four ongoing projects will continue if NBSI is able to reach agreements with the project owners to fund operating costs.
24. Nexii requires additional funding to pursue its growth and business strategy. Historically, Nexii had funded growth through equity, and some debt financing (described further below). Currently, Nexii is not able to raise additional capital through equity and the Senior Secured Lenders are not prepared to advance additional funds without a clear path to the sale of Nexii's business.

The Omicron Entities

25. The Omicron Entities' business has two components: designing buildings and managing construction. The Omicron Entities are currently overseeing the construction of several large projects in BC. In connection with ongoing and upcoming projects, the Omicron Entities contract with various vendors and subtrades.
26. The Omicron Entities' primary assets are their contracts for building design and construction. OCI currently has 67 contracts that are in-progress (with total value of approximately CA\$150 million, before costs) and numerous other contracts for which construction has not yet begun (total value of approximately CA\$110 million before costs).
27. As noted above, the Omicron Entities share some debt with Nexii, but are otherwise independent and the Omicron Entities are able to meet their expenses as they come due. I believe that the Omicron Entities have significant potential value, including to NBSI as their ultimate parent company.

Value and potential of the Nexii business

28. Despite its liquidity challenges and operating losses, I believe that Nexii has significant potential value. Its technology and Nexiite are proprietary, and Nexii customers include established companies: the State of New York, WalMart, Chase Bank and Prologis, among others. The underlying business opportunity is strong, and is particularly desirable in the current market since there is a premium placed on sustainable and environmentally conscious building practices.
29. To respond to its challenges and financial difficulty, Nexii has been working to reduce its costs and pursue other strategic alternatives. To assist with those efforts, Nexii engaged a financial advisor in or about July 2023.
30. In August 2023, NBSI obtained a \$5 million investment from Investcorp Green Limited (“**Investcorp**”). Nexii has also explored other options, including raising funds from strategic investors in the Middle East. In that regard, in November 2023, NBSI entered into a term sheet for a substantial investment (approximately \$18 million). Unfortunately, shortly before closing, one of the investors terminated its involvement and the investment did not proceed. Losing access to these funds significantly limited the Petitioners’ options.

C. Current Management

31. The current members of senior management are:

Name	Office/Title	Entity	Location
William (Bill) Tucker	Acting Chief Executive Officer	NBSI (officer role only)	Vancouver, BC
David Bryant	Senior Executive Advisor	NBSI	Chicago, Illinois

(collectively “**Senior Management**”).

32. Since November 2023, I have had primary responsibility for the direction of Nexii’s corporate, management and strategic functions, including overseeing the team that manages Nexii’s bank accounts and accounting functions (which are managed from the Vancouver head office). Nexii’s only finance personnel are based in Vancouver.

33. In the months leading up to these proceedings, Nexii has had a number of senior management changes, including the departures of Brian Carter (former executive VP manufacturing) in August 2023, Stephen Sidwell (former chief executive officer) in October 2023, Todd Buchanan (former VP investor relations) in December 2023 and Bonnie Dawe (former VP finance) at the end of December 2023.
34. Since Mr. Sidwell's departure, in addition to my role with OCI, and although I am not an employee of any Nexii entity, I have been acting CEO of NBSI in order to support the restructuring and ongoing operation of the business.

D. Employees

35. As of December 20, 2023, NBSI has 137 employees, of which, 75 work in the Squamish facilities and 62 work at the Vancouver head office. Nexii US has five employees in the United States, all working remotely.
36. Nexii Construction Inc. and NBS IP Inc. have no employees or contractors.
37. A third party payroll processing company administers payroll for NBSI and Nexii US.
38. NBSI sponsors certain employee benefit plans, including, among other things, health care, dental and life and disability benefits for each employee.
39. Nexii does not sponsor a pension plan.
40. NBSI and Nexii US are each current on their respective employee payroll and remittance obligations.

E. Owned and Leased Real Property

41. Nexii does not own any real property.
42. NBSI has leases for a manufacturing facility in Squamish, head office space in Vancouver, a research and development facility in Squamish and a manufacturing facility in Moose Jaw, Saskatchewan. Other than the manufacturing premises in Squamish, Nexii no longer requires these premises as Nexii no longer performs active operations there.

43. NBSI obtained the manufacturing facility lease pursuant to an assignment in 2019. The lease term ends in November 2027. The monthly rent is approximately CA\$39,000 plus taxes, utilities and other fees associated with the facility. NBSI has rent arrears owing under manufacturing facility lease. In May of 2023, the landlord for the manufacturing facility agreed to defer all payments owing under the lease until the end of December 2023. The deferral period has now lapsed. NBSI was unable to make its rent payment for January, and will be unable to pay its rent owing under this lease without funds from the Interim Loan (defined below).
44. The head office lease is for a 5-year term, ending August 2027. The monthly base rent is approximately CA\$47,500, increasing to approximately CA\$52,400 by the end of the lease term. NBSI has rent arrears owing with respect to the Vancouver office lease, having not paid rent since October, 2023.
45. NBSI leases a research and development facility in Squamish. The lease term ends November 30, 2027. The monthly rent is approximately CA\$41,000, plus taxes. NBSI has rent arrears owing with respect to the Squamish research and development facility, having not paid rent since December, 2023.
46. NBSI also has a lease for a manufacturing facility in Moose Jaw, Saskatchewan, which was closed to reduce operating costs in May 2023. The lease term ends May 2029. The monthly rent is CA\$19,205, plus taxes. NBSI stopped making rent payments for this facility in October, 2023.
47. NBSI has been unable to pay rent for several months, and currently owes approximately CA\$950,000 for unpaid rent.

III. THE SENIOR SECURED LENDERS

A. Loans and Security

48. The Group's primary secured creditors are Powerscourt Investments XXV, LP ("PC LP") as lender, Powerscourt Investments XXV Trust as assignee of PC LP as lender, Trinity Capital Inc. as lender, Horizon Technology Finance Corporation ("Horizon") as lender, Horizon Credit II LLC as assignee of Horizon as lender, Horizon Funding I LLC as

assignee of Horizon as lender and Horizon Funding Trust 2022-1 as assignee of Horizon as lender (collectively, the “**Senior Secured Lenders**”).

49. The Group debt to the Senior Secured Lenders is for loans and credit facilities (collectively, the “**Loans**”) made available pursuant to, among other things, an Amended and Restated Venture Loan and Security Agreement dated as of June 8, 2022 (as amended from time to time, the “**Loan Agreement**”) entered into between Horizon, as collateral agent for and on behalf of the Senior Secured Lenders, and each of the Senior Secured Lenders and the Group entities.
50. The Group is also indebted to the Senior Secured Lenders pursuant to an Accommodation Agreement dated June 21, 2023 (the “**Accommodation Agreement**”) and an Amended and Restated Accommodation Agreement dated December 15, 2023 (the “**A&R Accommodation Agreement**”). A copy of the Accommodation Agreement is attached and marked as **Exhibit “B”**. A copy of the A&R Accommodation Agreement is attached and marked as **Exhibit “C”**.
51. The Senior Secured Lenders advanced nine loans (collectively, the “**Loans**”) to the Group under the Loan Agreement in the combined principal amount of US\$60 million. Each of the Senior Secured Lenders have advanced Loans, documented in promissory notes. As among the Senior Secured Lenders, there have been various assignments of the right, title and interest in and to the Loans.
52. Under the Accommodation Agreement, the Senior Secured Lenders agreed to make funds available in tranches, up to US\$5 million, but ultimately advanced US\$7 million pursuant to promissory notes (the “**Accommodation Notes**”) drawn between June 21, 2023 and December 15, 2023.
53. The key terms of the Loan Agreement and the Accommodation Agreement include:
 - (a) interest accrues at a rate of the prime rate published in the Wall Street Journal, plus 7.00% per annum (with a minimum rate of 10.25% per annum);
 - (b) upon an event of default, the interest rate increases by 5.00% per annum;

- (c) upon an event of default under the Loan Agreement or the Accommodation Agreement, all amounts owing become immediately due and payable; and
 - (d) each entity of the Group is joint and severally liable for all obligations owing under the Loan Agreement.
54. The Group's obligations to the Senior Secured Lenders are secured by:
- (a) a general security agreement dated August 27, 2021, which is attached and marked as **Exhibit "D"**;
 - (b) a Grant of Security Interest – Patents dated August 27, 2021, executed by each of NBSI, which is attached and marked as **Exhibit "E"**
 - (c) a Grant of Security Interest – Patents dated August 27, 2021 executed by Nexii Holdings Inc. which is attached and marked as **Exhibit "F"**; and
 - (d) a Grant of Security Interest – Trademarks dated August 27, 2021, executed by NBSI, which is attached and marked as **Exhibit "G"**
- (collectively, the "Security").

B. Defaults and Demands for Payment

55. Beginning in April, 2023, the Group began to fail to pay the amounts owing to the Senior Secured Lenders.
56. The Senior Secured Lenders made formal demand for payment in a letter dated June 21, 2023 (the "**Demand**") and delivered notice of intention to enforce security. Copies of the Demand and enclosures are attached as **Exhibit "H"**.
57. As of January 2, 2024, the Group owes the Senior Secured Lenders approximately US\$79 million and is in default under agreements with the Senior Secured Lenders, including:
- (a) since April 2023, failing to pay amounts owing under the Loan Agreement; and
 - (b) granting unpermitted liens on the Group's property.

C. ASSETS AND OTHER LIABILITIES

A. Financial Statements

Attached and marked as **Exhibit “I”** is a true copy of Nexii’s consolidated, unaudited financial statements dated as of December 31, 2022 and November 30, 2023. The Nexii entities do not prepare individual financial statements, and these are the most recent financial statements available.

B. Assets

58. Nexii’s assets through operations are described above. Nexii’s other assets include intellectual property and various contracts for projects, including use of Nexiite. As of November 30, 2023, Nexii’s assets had a total estimated book value of approximately \$69 million. Below is the summary from Nexii’s November 30, 2023 (being its most recent balance sheet):

Description	Book Value (CAD, \$000s)
Cash	3,163
Accounts receivable	4,579
Inventory	2,595
Prepaid expenses and deposits	2,405
Property, plant and equipment	25,373
Intangible assets	895
Investment	30,662
Other assets	320
Total Assets	69,992
Accounts payable and accrued liabilities	15,416
Contract liabilities, refundable deposits and provisions	4,031
Lease obligations	13,297
Long-term debt	96,173
Net Due to Intercompany	1,462
Preferred shares and subscription deposits	12,930
Derivative liabilities	4,921
Due to related parties	4,408
Total Liabilities	152,638
Equity	(82,646)
Total Liabilities & Equity	69,992

59. As of November 30, 2023, Nexii's accounts receivable were valued at approximately \$2.6 million.

60. Nexii also owns various equipment, with book value of approximately \$25 million.

B. Other Secured Liabilities

61. In addition to the indebtedness owing to the Senior Secured Lenders, Nexii also has various leased equipment, including vehicles, office equipment, software licencing and industrial machinery. Approximately CA\$625,000 remains owing to those creditors.

62. For certain projects, Nexii is required to obtain project bonding. Accordingly, in March 2023, the Group entered into an indemnity agreement in favour of Tokio Marine Canada ("TMC") in connection with bonds issued by TMC. The indemnity agreement included a security interest in favour of TMC.

63. NBSI has also executed an indemnity agreement in favour of Trisura Guarantee Insurance Company (“**Trisura**”) for bonds issued by Trisura.
64. If Nexii is unable to continue its operations, I expect that the bonds would be drawn, triggering corresponding liability under the bonding and indemnity agreements. I estimate that the potential current exposure regarding bonds to be approximately \$2 million.

C. Unsecured Creditors

65. Nexii is behind on amounts (collectively, approximately \$5.6 million) owing to various trade creditors and service providers.
66. NBSI is in default of amounts owing to its landlords, with approximately CA\$950,000 owing, collectively, for base rent in arrears.
67. As noted above, NBSI is not occupying most of its leased space, and it has been unable to pay rent for several months.
68. NBSI is a defendant in some ongoing litigation. As of January 2, 2024, these include claims in British Columbia to collect unpaid amounts:
 - (a) Verigo Logistics Ltd., commenced in the BC Supreme Court in December 2023;
 - (b) Goldbeck Recruiting Inc., commenced in the BC Provincial Court in December 2023; and
 - (c) McKercher LLP, commenced in the BC Provincial Court in December 2023, to enforce a Saskatchewan Provincial Court judgment.
69. As of January, 2024, NBSI is a party to litigation in Ontario, including:
 - (a) an action commenced in Ontario by Symphony Advanced Building Technologies asserting breach of contract in respect of a manufacturing license agreement; and
 - (b) an action commenced in Ontario by Advance Building Systems Ltd. (in January 2024) to collect unpaid amounts.

70. NBSI is also a party to litigation in the United States, including as the plaintiff in an action in Delaware against NexUS1 LLC, and as the defendant in an action in Pennsylvania by NexUS1 LLC, both in respect to the licencing agreement described below.

IV. FINANCIAL DIFFICULTY AND RESTRUCTURING

71. Beginning in 2021, Nexii pursued aggressive growth, including expansion of its facilities and operations. The financing from investors and the Senior Secured Lenders funded this expansion.
72. Nexii's expansion included a Nexii Certified Manufacturing Agreement (licencing) for a manufacturing facility in Pennsylvania. The counterparty under this agreement did not pay their initial licencing fee (\$5 million) and was unable to perform due to lack of working capital. The agreement ultimately came at significant cost to Nexii. Nexii worked, with no compensation, for over a year, to assist in delivering the contracted business under the Certified Manufacturing Agreement in order to protect the Nexii brand from potential project defaults.
73. Following this expansion effort, Nexii's business grew, but not to the extent anticipated, and the costs were high relative to revenue. The Group was also unable to service its obligations under the Loan Agreement.
74. In 2021, Nexii realized that the product cost structure required significant rework to achieve a competitive price position in the marketplace. Over the past two years, Nexii has preformed extensive redesign and testing necessary to reengineer the product so that it was competitive and profitable in the marketplace. Although the company was successful in the reengineering, and the product demonstrated strong profitability in late in 2023, Nexii had consumed significant capital over the prior 24 months.
75. Despite these challenges, Senior Management and I believe that Nexii has significant value, and the underlying business has strong potential now that the product has been successfully reengineered. In particular, Senior Management and I believe that the proprietary materials and technology has value in today's market, where a premium is being placed on sustainable and environmentally conscious building practices.

76. In response to its financial challenges, Nexii reduced its costs, and began discussions with the Senior Secured Lenders, including to develop a strategy to preserve value.
77. Cost reduction steps included:
- (a) two staff-level adjustments (in January 2023 and fall 2023) that resulted in the termination of over 40% of NBSI's staff;
 - (b) shutting down operations at a NBSI facility in Moose Jaw, Saskatchewan; and
 - (c) significantly reducing selling, general and administrative expenses.
78. Despite these steps, in or about April 2023, and as described above, NBSI (along with the other Petitioners) failed to make the scheduled payment owing under the Loan Agreement, and these defaults have continued in the following months.
79. As mentioned above, following these missed payments, the Senior Secured Lenders issued the Demands in June 2023.
80. Nexii has been in ongoing discussions with the Senior Secured Lenders regarding the appropriate next steps and funding requirements. As detailed above, the Senior Secured Lenders have made incremental funding available and entered into the Accommodation Agreement in June 2023 and the A&R Accommodation Agreement in December 2023.
81. Nexii requires additional funding to meet critical obligations (including payroll), which, at this time, will only be available in these proceedings through an interim financing facility (the "**Interim Loan**"), secured by a charge in these CCAA Proceedings.
82. The Group and the Senior Secured Lenders entered into a restructuring support term sheet (the "**Support Term Sheet**"), pursuant to which the Senior Secured Lenders agreed to support Nexii in commencing these CCAA Proceedings. Attached and marked as **Exhibit "J"** is a true copy of the Support Term Sheet. The Support Term Sheet contemplates, among other things, commencing the CCAA Proceedings and the Senior Secured Lenders providing the Interim Loan.

83. If the Senior Secured Lenders were to enforce their rights under the Loan Agreement, I believe that it would be destructive to the business and value of the Group. In particular, the value and continuity of the Group's contracts (which represents most of its value) would be jeopardized and at risk in enforcement proceedings.
84. If granted, the Initial Order will stabilize its business (avoiding termination of contracts that would be detrimental to operations and value) and allow Nexii to pursue a sale process to identify a buyer (or buyers) so that the value can be preserved as a going-concern. Nexii's business includes a proprietary process that requires specific engineering and manufacturing expertise but has significant value and potential.
85. Nexii will also continue to consider cost-reduction options so that it can right-size its operations and expenses. I expect that this will include, at the earliest opportunity, terminating leases for premises that are not required for Nexii's operations (and for which Nexii is not currently paying rent).
86. Nexii expects to seek recognition of these proceedings in the United States to preserve and protect the value of the assets and operations in the US. All but one of Nexii's contracts are for projects in the US, and the Canadian project is one of the forthcoming projects that cannot proceed without bonding.
87. Although Nexii's contracts are in the US, the head office and chief place of business for Nexii is British Columbia, all strategic and key operational decisions, including for Nexii US, are made by senior management located in Vancouver. The vast majority of Nexii's employees are located in British Columbia, as are the majority of Nexii's physical assets.

V. RELIEF SOUGHT AT INITIAL APPLICATION

A. Appointment of Monitor and Enhanced Powers

88. KSV has, subject to court approval, consented to be appointed Monitor in these proceedings. A copy of KSV's consent to act will be attached to a report to be filed by KSV in its capacity as proposed monitor (the "**Report**").

89. At no time in the past two years has KSV or any of its partners or managers been the auditor, accountant or employee of the Group.
90. KSV was engaged by the Senior Secured Lenders in September 2023 to provide financial advisory services in respect of the Group, and has accumulated significant knowledge regarding Nexii, its background and financial difficulties.
91. Nexii seeks to enhance the Monitor's powers to include, among other things, the ability to exercise any powers of Nexii's board of directors and to cause Nexii to perform such functions as the Monitor considers necessary for the Sale Process and the restructuring and the sale of the business and assets.
92. These enhanced powers are a condition of the Senior Secured Lenders supporting these proceedings, including providing the Interim Loan, but they will also assist Nexii (and the efficient conduct of these proceedings) since, as noted above, there have been significant management changes prior to these proceedings. Senior Management support enhancing the Monitor's powers to assist with these proceedings and to ensure access to the Interim Loan.

B. Stay of Proceedings

93. Nexii requires a stay of proceedings in light of their financial circumstances and the defaults under the Loan Agreement. Without a stay of proceedings, Senior Management and I are concerned that there will be an immediate and significant erosion of value. In particular, Senior Management and I are mindful of the following risks: (a) suppliers ceasing to supply or tightening payment terms in a manner that further exacerbates liquidity challenges; (b) suppliers and creditors commencing legal action to recover amounts owing to them; (c) customers terminating agreements or exploring alternative suppliers; and (d) potential termination of other agreements that are critical to Nexii's operations and business. Specifically in respect of actions by creditors, I note that in December 2023, multiple creditors commenced actions to collect amounts owing.
94. Nexii seeks to extend the benefits of the stay of proceedings to the Omicron Entities, even though they are not Petitioners in these CCAA Proceedings. As noted above, the Omicron

Entities operate independently and are able to meet their obligations as they come due. However, I am concerned that Nexii commencing these proceedings may expose the Omicron Entities to risk, including potential termination of contracts or agreements that are critical to the Omicron Entities' operations and business. Extending the stay of proceedings to the Omicron Entities is intended to preserve the value of the Omicron Entities by preventing enforcement attempts and disruption of their business. Since Nexii owns the shares of OCI, I believe that preserving the Omicron Entities' value is necessary to preserve and maximize value for stakeholders, including the Senior Secured Lenders (the primary secured creditor of Nexii and the Omicron Entities).

95. I understand that KSV, as proposed monitor, supports the stay of proceedings, including its extension to the Omicron Entities.

C. Cash management system

96. Nexii's cash management system (the "**Cash Management System**"), including the collection, transfer and disbursements of funds, is administered from its head office in Vancouver.
97. NBSI has seven bank accounts, five with Bank of Montreal ("**BMO**"), one with Royal Bank of Canada ("**RBC**"), and one with Cannacord Genuity Corp. ("**Cannacord**"), although the account held with Cannacord currently (and typically) carries a zero-balance.
98. NBSI's accounts at BMO are two USD accounts and three CAD accounts. These accounts are primarily used for chequing/operations, and there are two savings accounts (one USD and one CAD). More specifically:
- (a) NBSI's CAD chequing account is used to receive income on Canadian-based projects and pay operating expenses, including payroll, and vendors. The account also transfers funds to, and receives funds from, NBSI's USD operating account described below on an as-needed basis;
 - (b) NBSI's USD chequing account is used to receive income in USD from US-based projects, loan draws and capital raises, and to pay vendor invoices in USD. The

account also transfers funds to, and receives funds from, NBSI's CAD operating account on an as-needed basis;

(c) NBSI's other bank accounts typically have minimal transactions.

99. NBSI's account at RBC is a CAD account used for the corporate credit cards provided by RBC and issued to NBSI's management for business expenses. The RBC account receives funds monthly from NBSI's CAD operating account described above. The amounts transferred are variable based on amounts incurred on the credit cards and liquidity.
100. Nexii US has one bank account in the United States with BMO Harris Bank N.A., which is a USD account that receives income for US projects and pay payroll for US-based employees. The account also transfers funds to, and receives funds from, NBSI's USD account described above on an as-needed basis. Nexii US is in the process of opening a bank account in Canada.
101. In connection with the CCAA Proceedings, Nexii seeks to continue to operate the Cash Management System to fund its obligations and to maintain its existing banking arrangements. Continuing the Cash Management System will minimize disruption to Nexii's operations and avoid the need to negotiate and implement alternative banking arrangements. The Cash Management System includes the necessary accounting controls to enable Nexii and the proposed Monitor to trace funds and ensure that all transactions are adequately documented and readily ascertainable.

D. Cash Flow Forecast and the Interim Loan

102. A cash flow forecast, which was prepared with the assistance of KSV (the "**Cash Flow Forecast**") will be attached to the Report, shows that Nexii will require access to additional funding while undertaking the Sale Process and working to implement a transaction. Nexii's principal use of cash during these CCAA Proceedings will be operating costs, including, among other things, payroll, supplier payments, lease payments and general administrative expenses. In addition to these normal course operating expenditures, Nexii will also incur professional fees and disbursements in connection with these CCAA Proceedings and the Sale Process.

103. Although Nexii has significant potential value, the entities have few tangible assets and a tenuous financial position, as a result of which there is a limited pool of potential lenders in the context of a restructuring proceeding. In discussions with the Senior Secured Lenders in connection with the preparation for the initiation of these proceedings, those entities advised that they were prepared to advance sufficient funds to Nexii in order for it to carry on business while it undertakes the Sale Process. After consultation with, among others, KSV, Nexii determined that the Senior Secured Lenders were the best (if not the only) option for interim financing. Apart from the fact that the terms of the proposed financing is, in my view, exceedingly fair, the Senior Secured Lenders are the Group's primary financial stakeholder and I understand that they would oppose a third-party obtaining priority over their position.
104. Accordingly, Nexii, as borrowers, have negotiated a term sheet with the Senior Secured Lenders (in their capacity as lenders under this term sheet, the "**Interim Lenders**") dated January 9, 2024 (the "**Interim Facility Term Sheet**"), pursuant to which the Interim Lenders will fund the Interim Loan in a maximum principal amount of US\$4,300,000. The Interim Facility Term Sheet provides for an initial authorized advance of up to the maximum amount of US\$750,000 for use during the initial stay of proceedings, with the remaining amount to be available if such borrowing is authorized by the Court at the subsequent application (the "**Comeback Hearing**"), subject to the terms of the Interim Facility Term Sheet and the Cash Flow Forecast.
105. The Interim Loan is expected to provide Nexii with sufficient liquidity to continue its business operations during these CCAA Proceedings while conducting the Sale Process for the benefit of Nexii and its stakeholders.
106. As noted above, the Omicron Entities are financially self-sufficient and the Interim Facility Term Sheet prohibits advances to the Omicron Entities from the interim financing facility.
107. The Interim Facility Term Sheet contemplates the granting of a super-priority, Court-ordered charge over Nexii's property (the "**Interim Lenders' Charge**") to secure the obligations outstanding in connection with the Interim Loan. The Interim Lenders' Charge will not secure any obligation that existed prior to the date of the Initial Order. Given

Nexii’s current financial circumstances, the Interim Lenders have indicated that they are not prepared to advance additional funds without the security of the Interim Lenders’ Charge.

108. The material terms of the Interim Facility Term Sheet are summarized in the below table. Capitalized terms used in the below table that are not otherwise defined herein have the meaning given to such terms in the Interim Facility Term Sheet, a copy of which is attached and marked as **Exhibit “K”**.

Summary of Certain Key Terms of the DIP Loan (all amounts in US\$)	
Lenders	Powerscourt Investments XXV, LP, Trinity Capital Inc. and Horizon Technology Finance Corporation
Borrowers	The Petitioners, jointly and severally.
Maximum Availability	Maximum Amount: US\$4,300,000 (non-revolving) Initial Advance: US\$750,000
Interest	15.5% per annum, compounded and calculated weekly; added to the principal amount on the first day of each month
Fees	2% of the Maximum Amount (US\$86,000) Payable: US\$15,000 from the Initial Advance, and the balance payable from the first advance after the Amended and Restated Initial Order is made authorizing the Maximum Amount
Costs and Expenses	All reasonable and documented fees, costs and expenses of the Interim Lenders, including legal fees and financial advisor, that are incurred in connection with these CCAA proceedings.
Use of Funds	In accordance with cash flow projections, and include costs of the CCAA proceedings, operating expenses and amounts payable under the Interim Facility Term Sheet.
Maturity	April 30, 2024, unless extended by the Interim Lenders (in their discretion) or terminated earlier because of, among other things, an Event of Default, closing of a transaction for all or substantially all of the assets and business of the Borrowers.
Certain Key Conditions Precedent to Initial Advance	<ul style="list-style-type: none"> • Bringing the application for the Initial Order no later than January 11, 2024 • KSV Restructuring Inc. being appointed as Monitor, with powers as are acceptable to the Interim Lenders (in their sole discretion) • The Borrowers engaging the IB prior to the Initial Order to assist in the Sale Process • The Initial Order is made and approves the Initial Advance and grants a charge for the Initial Advance • The Interim Lenders’ Charge has priority over all Liens, except the Charges • The Initial Cash Flow Projections shall be acceptable to the Interim Lenders

Summary of Certain Key Terms of the DIP Loan (all amounts in US\$)		
Certain Conditions Precedent to Subsequent Advances	Key to	<ul style="list-style-type: none"> • Bringing the application for the Amended and Restated Initial Order no later than January 22, 2024 • The Amended and Restated Initial Order is made and approves the Maximum Advance and increased the charge to secure all amounts owing under the Interim Facility Term Sheet • The Interim Lenders' Charge shall have priority over all Liens, except for the Charges • The amounts requested are consistent with the Updated Cash Flow Projects, unless otherwise agreed by the Interim Lenders in advance • The Sale Process terms and conditions, including milestones, are approved by the Court in form and substance satisfactory to the Monitor and the Interim Lenders • All representations and warranties are true, and there are no events of default • The Borrowers bring a motion to obtain Chapter 15 Recognition of the CCAA proceedings no later than February 2, 2024
Events of Default		<p>Events of Default include:</p> <ol style="list-style-type: none"> 1. Failure to pay amounts when due under the Interim Facility Term Sheet or any other breach of covenants 2. If an order approving the Sale Process is not made by January 22, 2024 3. If I resign as CEO of Nexii prior to the Maturity Date 4. If the cumulative disbursements and receipts have a variance of greater than 15% of the cumulative budget, measured on a weekly basis 5. If the Interim Facility Term Sheet or related documents cease to be effective or are contested by a Borrower 6. The CCAA Proceedings are terminated or converted into proceedings under the BIA, or an order is made granting relief from the stay of proceedings (unless agreed by the Interim Lenders) 7. The Borrowers make material payments that aren't permitted under the Interim Facility Term Sheet, the Cash Flow Projections or any Court order 8. The Borrowers make any distributions or payments to the Omicron Entities
Security and Interim Lenders' Charge		The Interim Lenders' Charge, covering all the Borrowers' present and future assets, property and undertaking.
Priority of the Interim Lenders' Charge		In priority to all other security interests, encumbrances and charges except for (i) the Administration Charge, (ii) the Directors' Charge, (iii) the KERP Charge, and (iv) the IB Charge.

109. Based on discussions with KSV, I believe that the economic terms of the Interim Facility Term Sheet are reasonable and that the interest rates are consistent with current market

terms, and is the same as currently provided under the existing loan facilities. The structure and terms of the Interim Facility Term Sheet otherwise provide significant flexibility to allow Nexii to continue operations and conduct the Sale Process.

E. Administration Charge

110. Nexii's counsel, the Monitor and the Monitor's counsel are essential to Nexii's restructuring. They have each advised that they are prepared to provide or continue professional services to Nexii only if they are protected by a charge over Nexii's assets. Accordingly, Nexii seeks a priority charge over their assets in favour of their counsel, the Monitor and the Monitor's counsel (the "**Administration Charge**") of CAD\$1,500,000 (with CAD\$500,000 being sought on the first hearing in these proceedings).
111. Nexii believes the Administration Charge is necessary in the circumstances. Specifically, Nexii requires the expertise, knowledge and continuing participation of their counsel, the Monitor and the Monitor's counsel in the CCAA Proceedings and I believe that the professionals who benefit from the Administration Charge are unlikely to continue providing essential services without the benefit of it.
112. I understand that the Senior Secured Lenders support the Administration Charge.

F. Directors' Charge

113. The directors and officers of Nexii (collectively the "**Directors and Officers**") have been actively involved in efforts to address Nexii's challenging circumstances, including through: (i) overseeing liquidity management, reviewing and exploring strategic options and alternatives in connection with its financial challenges; and (ii) communicating with key creditors and preparing for the CCAA Proceedings.
114. The continued participation of the Directors and Officers is essential to preserving value of Nexii. The Directors and Officers have considerable industry and operational knowledge regarding Nexii's businesses, which will assist in maximizing value in the Sale Process.
115. NBSI maintains insurance policies in respect of potential liabilities of the Directors and Officers (the "**D&O Policy**"). However, I understand that the D&O Policy contains certain

retentions, limitations and exclusions to the coverage provided, and there is the potential for there to be insufficient coverage in respect of claims against the Directors and Officers.

116. Nexii requests a Court-ordered charge in the amount of CA\$1,315,000 (CA\$1,040,000 on the first hearing) over Nexii's property (the "**Directors' Charge**") to secure Nexii's indemnity of the obligations and liabilities that the Directors and Officers may incur, during the CCAA Proceedings, in their capacities as Directors and Officers.
117. With the assistance of KSV, Nexii calculated the size of the proposed Directors' Charge based on the estimated exposure of the Directors and Officers for unremitted employee wages, source deductions, GST, and PST, which may be incurred during the CCAA Proceedings. The proposed Directors' Charge would apply only to the extent that there is insufficient coverage under the D&O Policy.

G. *US Recognition of the CCAA Proceedings*

118. As noted above, NBSI has operations and assets in the US, including equipment (owned by NBSI) and ongoing contracts (between NBSI and third parties). If the Initial Order is granted, Nexii intends to seek recognition of these proceedings in the United States pursuant to Chapter 15 of the US Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "**Chapter 15 Proceedings**").

VI. RELIEF TO BE SOUGHT AT THE COMEBACK HEARING

A. *Key Employee Retention Plan*

119. The retention of key employees is of vital importance to Nexii during the CCAA Proceedings, including in connection with maintaining ongoing business operations, pursuing the Sale Process and completing a transaction for Nexii. This is particularly important in these proceedings given recent senior management departures.
120. Accordingly, Nexii has developed a key employee retention plan (the "**KERP**") with the assistance of KSV and the Senior Secured Lenders. The individuals identified in the KERP (the "**Key Employees**") were identified by me, in consultation with KSV and the Senior Lenders, as individuals that are essential to the Sale Process, specifically in respect of Nexii, and to maintaining value during the CCAA Proceedings. Certain of the Key

Employees are not employed by Nexii, but rather by OCI. These employees will provide significant value to Nexii by assisting Nexii and the Omicron Entities in the Sales Process. Their continued involvement with OCI during the CCAA Proceeding will preserve the value of the Omicron Entities to Nexii's benefit.

121. The KERP is intended to incentivize the Key Employees remain in their employment and assist with Nexii's restructuring and the Sale Process during the CCAA proceeding,s and is designed to align the interests of Nexii, its stakeholders and the Key Employees, as beneficiaries of the KERP.
122. The KERP will provide a pool of funds to be distributed among the Key Employees (the "**KERP Pool**"). The KERP Pool will be a minimum of CA\$200,000 (the "**Retention Amount**"), even if no transaction is completed. In the event of a successful transaction, the KERP Pool will include, in addition to the CA\$200,000 Retention Amount, a percentage of the transaction value, which increases incrementally based on the dollar amount of a transaction (the "**Incentive Amount**" together, the "**KERP Amounts**").
123. It is contemplated that the KERP Amounts would be secured by a court-ordered charge, which will be sought on the Comeback Hearing, along with approval of the KERP.
124. The Key Employees have significant knowledge and responsibility with respect to Nexii and their operations, and their commitment is key to Nexii's restructuring efforts and to an effective Sale Process. All the Key Employees will be actively involved in the Sale Process, including gathering information to support the process and participating in management meetings.
125. The KERP is designed to encourage the Key Employees to continue their employment through to the completion of a transaction. Without the KERP, the Key Employees may seek alternative employment which would be detrimental to the business and the Sale Process, both since Nexii would lose the benefit of their experience and expertise, and because it would be difficult and disruptive to find replacement employees during this critical time.

126. The KERP is also designed to recognize the significant importance of the Key Employees to the pursuit and implementation of a transaction, and the significant amount of additional work and effort required to advance and assist with Nexii's efforts in these CCAA Proceedings.
127. I understand that further details in respect of the proposed KERP, including a confidential schedule with further details in respect of the roles of the Key Employees and the proposed KERP payments, will be provided in a report from the Monitor. Nexii intends to seek approval of the KERP and associated charge at the Comeback Hearing.

B. Approval of Financial Advisor

128. In considering and discussing the Sale Process, Senior Management and I, in consultation with the Senior Secured Lenders and KSV, determined that it was necessary and appropriate to engage a financial advisor to assist with the Sale Process. NBSI, KSV and the Senior Secured Lenders met with various candidates and have identified Origin Merchant Partners (the "**IB**") as the preferred advisor.
129. Origin provided NBSI with an engagement letter dated December 23, 2023 (the "**IB Engagement Letter**"). The IB Engagement Letter includes sensitive information that may impact the Sale Process and, accordingly, Nexii proposes to keep the specific terms confidential.
130. The IB Engagement Letter provides:
- (a) that Nexii will seek a court-ordered charge to secure the fees payable to the IB under the IB Engagement Letter;
 - (b) the IB is entitled to a work fee of CA\$50,000 per month beginning in January 2024; and
 - (c) in the event of a successful transaction, the IB is entitled to a transaction fee (against which the monthly work fees paid will be credited), calculated based on transaction value.

131. On the Comeback Hearing, Nexii intends to seek relief in respect of the IB Engagement Letter including:
- (a) a sealing order to ensure the specific terms of the engagement are not publicly disclosed (which I believe may be detrimental to the Sale Process);
 - (b) approval of the IB Engagement Letter; and
 - (c) charges to secure the amounts owing. The work fee described at 130(b) will be secured over all of Nexii's property and assets. The transaction fee described at paragraph 130(c) will be secured against the sale proceeds of a transaction(s). Any transaction fee payable in respect of the Omicron Entities shall only be against the sale proceeds attributed to that transaction.

C. *Sale Process*

132. As noted above, the Sale Process is a critical component of the CCAA Proceedings and a condition to funding under the Interim Facility Term Sheet.
133. Accordingly, Nexii is drafting the proposed procedures for the Sale Process with the assistance of the IB, KSV and the Senior Secured Lenders, which includes the dates on which bids must be submitted, and the requirements for bids to be considered "Qualified Bids" and ultimately presented to the Court for approval.
134. I understand that the Sale Process terms will be attached to a report to be filed by the Monitor. Nexii proposes to seek approval of these procedures at the Comeback Hearing.

Appendix “B”

SALE PROCEDURES
Nexii Building Solutions Inc., Omicron Canada Inc. and others

INTRODUCTION

1. Nexii Building Solutions Inc., Nexii Construction Inc., NBS IP Inc. and Nexii Holdings Inc. (collectively, the "**Petitioners**") obtained protection under the *Companies' Creditors Arrangement Act* (the "**CCAA**" and the Petitioners' proceedings thereunder, the "**CCAA Proceedings**") pursuant to an order (the "**Initial Order**") made by the Supreme Court of British Columbia (the "**CCAA Court**") on January 11, 2024. The benefits of the stay of proceedings granted in favour of the Petitioners pursuant to the Initial Order was extended to Omicron Canada Inc., Omicron Construction Management Ltd., Omicron Consulting Ltd., Omicron Interiors Ltd., Grant & Sinclair Architects Ltd and Omicron Construction Ltd. (collectively, the "**Non-Petitioner Stay Parties**" and together with the Petitioners, the "**Group**").
2. Pursuant to the Initial Order, KSV Restructuring Inc. was appointed as monitor (in such capacity, the "**Monitor**") of the Petitioners in the CCAA Proceedings with certain enhanced powers.
3. Pursuant to proceedings commenced in the United States Bankruptcy Court for the District of Delaware (the "**US Bankruptcy Court**") under Chapter 15, Title 11, of the United States Code, on January 16, 2024, the Petitioners obtained, among other things, recognition of the CCAA Proceedings.
4. On January 22, 2024, the CCAA Court granted: (i) an order amending and restating the Initial Order (the "**ARIO**"), and (ii) an order (the "**Sale Process Order**") authorizing the Monitor to implement a sale process in respect of the Group and their Business and Property (each as defined below) in accordance with the terms hereof (the "**Sale Process**"). Copies of the ARIO and the Sale Process Order can be found at: www.ksvadvisory.com/experience/cases/Nexii.
5. Powerscourt Investments XXV, LP, Trinity Capital Inc. and Horizon Technology Finance Corporation (collectively, the "**Interim Lenders**") have agreed to provide certain interim financing to the Petitioners pursuant to, and in accordance with, a DIP Facility Term Sheet dated January 9, 2024, between the Interim Lenders and the Petitioners and approved by the CCAA Court (the "**Interim Loan**").
6. The Group have retained Origin Merchant Partners ("**Origin**") to, among other things, carry out the Sale Process with the assistance and under the oversight of the Monitor.
7. The purpose of the Sale Process is to solicit interest in one or more sales of all, substantially all, or components of the Group's assets (the "**Property**"), and/or the Group's business operations (the "**Business**"), as a going concern or otherwise. For greater clarity, this may include separate transactions in respect of the assets or business operations of the Petitioners and the Non-Petitioner Stay Parties.
8. As described below, the various deadlines herein may be extended by Origin and the Monitor with the consent of the Interim Lenders. The Monitor will consider extending

such deadlines in the event that the Monitor determines that such an extension will generally benefit the Group's creditors and other stakeholders.

"AS IS, WHERE IS" BASIS

9. Any transaction involving the Property, the Business or the Group (in each case, a "**Transaction**") will be subject only to such representations, warranties, covenants, or indemnities as are expressly included in a Binding Final Agreement (as defined in paragraph 20), but will otherwise be on an "as is, where is" basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Group, the Monitor or any of their respective agents, estates, advisors, professionals, employees, directors, partners, or otherwise, including, without limitation, Origin.

TIMELINE

10. The Sale Process shall commence immediately following the issuance of the Sale Process Order. The table below sets out subsequent key deadlines in the Sale Process that interested parties should note:

MILESTONE	DATE
Distribution of the Teaser Letter and Confidentiality Agreement (as defined in paragraphs 11 and 12, respectively)	By no later than 5:00 p.m. (Pacific Time) on January 24, 2024
Distribution of CIM (as defined in paragraph 14)	By no later than 5:00 p.m. (Pacific Time) on January 29, 2024
Bid Submission Deadline	By no later than 5:00 p.m. (Pacific Time) on March 7, 2024,
Selection of Successful Bid(s)	By no later than 5:00 p.m. (Pacific Time) on March 18, 2024
Approval Order (as defined below) - <i>required for all bids involving the Petitioners' Property or Business</i>	As soon as practical after selection of Successful Bid(s) and the execution of the Binding Final Agreement
Closing Date(s)	As soon as practical after receipt of Approval Order (if required), but in any event no later than April 30, 2024

SOLICITATION OF INTEREST

11. Prior to the issuance of the Sale Process Order, in consultation with the Group, the Monitor and the Interim Lenders, Origin will prepare a list of potential bidders (the "**Known Potential Bidders**") who may have interest in a Transaction. Such list will

include both strategic and financial parties who may be interested in acquiring an interest in the Group and/or their assets pursuant to an asset purchase transaction. Concurrently, Origin, in consultation with the Group, the Monitor and the Interim Lenders, will prepare an initial offering summary (the "**Teaser Letter**") notifying the Known Potential Bidders and inviting the Known Potential Bidders to express interest in making a binding bid to acquire an interest in the Group and/or their assets (a "**Binding Bid**").

12. By no later than 5:00 p.m. (Pacific Time) on January 24, 2024, Origin shall distribute to the Known Potential Bidders and any other person that, to the best of Origin's knowledge, has expressed interest in a Transaction, the Teaser Letter, as well as a draft form of confidentiality agreement (the "**Confidentiality Agreement**") that shall inure to the benefit of the person(s) who make(s) a Successful Bid (as defined below) pursuant to the Sale Process. Copies of the Teaser Letter and Confidentiality Agreement shall be provided to any appropriate persons who become known to the Monitor, Origin or the Group after the initial distribution of such documents.
13. Any person (a) who executes a Confidentiality Agreement in form and substance satisfactory to the Monitor and Origin, and (b) whom the Monitor and Origin are satisfied has the financial capabilities and technical expertise to make a viable Binding Bid, shall be deemed to be a qualified bidder (each, a "**Qualified Bidder**").

DUE DILIGENCE

14. Origin will prepare a confidential information memorandum ("**CIM**") by no later than 5:00 p.m. (Pacific Time) on January 29, 2024, describing the opportunity to make a Binding Bid and shall deliver the CIM to each Qualified Bidder as soon as practicable after such person is deemed to be a Qualified Bidder in accordance with the Sale Process.
15. Origin shall provide each Qualified Bidder with information, which may include management presentations, access to an electronic data room, on-site inspections, and other matters or information which a Qualified Bidder may reasonably request from Origin in order to submit a Binding Bid. Origin may designate a representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders and the manner in which such requests must be communicated. Origin, the Monitor and the Group are not obliged to furnish any information relating to the Group, the Property or the Business to any person other than to Qualified Bidders. Further, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Qualified Bidders if the Monitor, in consultation with the Group, determines such information to represent proprietary or sensitive competitive information that should not be disclosed.

SUBMISSION OF BINDING BIDS

16. Any Qualified Bidder may submit a Binding Bid to Origin and the Monitor at the addresses specified in Schedule "A" on or before 5:00 p.m. (Pacific Time) on March 7, 2024, or such later time and date that Origin and the Monitor may determine, with the prior written consent of the Interim Lenders (the "**Bid Submission Deadline**"). Origin and the Monitor shall forthwith provide copies of any Binding Bids received to the Interim Lenders, subject to paragraph 30.

17. A Binding Bid shall be a "**Qualified Bid**" in the event that:

- (a) for bids requiring Court approval, it includes a letter stating that the bid is irrevocable until the earlier of (i) approval by the CCAA Court and recognition of such approval by the US Bankruptcy Court (if required), and (ii) forty-five (45) days following the Bid Submission Deadline; provided, however, that if such bid is selected as a Successful Bid or the Backup Bid (each as defined below), it shall remain irrevocable until the closing of the Successful Bid or the Backup Bid, as the case may be;
- (b) it includes a duly authorized and executed purchase and sale agreement specifying all consideration payable (including any liabilities to be assumed by the Qualified Bidder), together with all exhibits and schedules, and such ancillary agreements as may be required by the Qualified Bidder with all exhibits and schedules;
- (c) it does not include any request or entitlement to any break fee, expense reimbursement or similar type of payment;
- (d) it indicates the Property included, any of the Property expected to be excluded, and/or any additional assets desired to be included in the Transaction;
- (e) it includes written evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution to consummate the proposed Transaction, or other evidence of ability to consummate the proposed Transaction that will allow Origin and the Monitor to make a reasonable determination as to the Qualified Bidder's (and its direct and indirect owners and their principals) financial and other capabilities to consummate the Transaction contemplated by the bid;
- (f) is not conditional on (i) the outcome of unperformed due diligence by the Qualified Bidder and/or (ii) obtaining any financing capital and includes an acknowledgment and representation that the Qualified Bidder has had an opportunity to conduct any and all required due diligence prior to making its bid;
- (g) it is not conditional upon any governmental or regulatory approval;
- (h) it fully discloses the identity of each person that is bidding or otherwise that will be sponsoring or participating in the bid, including the identification of the Qualified Bidder's direct and indirect owners and their principals, and the complete terms of any such participation;
- (i) it is accompanied by a refundable cash deposit (the "**Deposit**") in the form of a wire transfer (to a trust account specified by the Monitor), in an amount equal to ten percent (10%) of the consideration to be paid in respect of the bid, to be held and dealt with in accordance with the Sale Process;
- (j) it contains an allocation of the consideration payable;
- (k) it includes a closing date of no later than April 30, 2024 (subject to the Approval Order having been obtained, if required);

- (l) it contains other information that may be reasonably requested by Origin or the Monitor;
 - (m) it includes an acknowledgement that the bid is made on an "as-is, where- is" basis and that the bidder has had an opportunity to conduct any due diligence it considers necessary or desirable prior to making its bid and has relied solely on its own independent review, investigation and inspection of the documents, assets to be acquired and the liabilities to be assumed; and
 - (n) it is received by no later than the Bid Submission Deadline.
18. Origin may, with the consent of the Monitor, in consultation with the Interim Lenders, waive strict compliance with one or more of the requirements specified in section 17 and deem any Binding Bid(s) to be a Qualified Bid notwithstanding any non-compliance with the terms and conditions of the Sale Process.

REVIEW OF BINDING BIDS AND SELECTION OF SUCCESSFUL BID(S) AND BACKUP BID(S)

19. Binding Bids will be valued based upon numerous factors, including, without limitation, items such as purchase price and the net value provided by such offer, the claims likely to be created by such offer in relation to other offers, the identity, circumstances and ability of the bidder to successfully complete such transactions, the proposed transaction documents, the effects of the bid on the stakeholders of the Group, factors affecting the speed, certainty and value of the transaction (including, but not limited to, third party contractual arrangements or other consents required to close the transaction), the assets included or excluded from the offer, any related restructuring costs, and the likelihood and timing of consummating such transactions, each as determined by the Monitor, in consultation with the Group and the Interim Lenders.
20. Origin and the Monitor, in consultation with the Group and the Interim Lenders, shall review all Qualified Bids and may select: (i) one or more highest, best or otherwise most favourable Qualified Bids (each, a "**Successful Bid**"), and (ii) the next highest, best or otherwise most favourable Qualified Bid (each, a "**Backup Bid**"). Subject to the prior written consent of the Monitor and, provided the Successful Bid does not provide for payment in full of the Senior Secured Debt (as defined below), the Interim Lenders, the Group may enter into a definitive agreement or agreements (each a "**Binding Final Agreement**") with the person or persons who submitted Successful Bid(s).
21. Any Qualified Bidder that makes a Successful Bid shall be a "**Successful Bidder**" and any Qualified Bidder that makes a Backup Bid shall be a "**Backup Bidder**". Origin or the Monitor will notify each Successful Bidder and Backup Bidder as soon as reasonably practical of the Group's intention to enter into the Binding Final Agreement and the Backup Bid shall remain open until the consummation of the transaction contemplated by the Successful Bid (and, for greater certainty, the Monitor shall be entitled to continue to hold the Deposit in respect of the Backup Bid until such time as the transaction contemplated by the Successful Bid is consummated).

22. The implementation of any Successful Bid involving the Petitioners' Property or Business shall be subject to approval by the CCAA Court and recognition of such approval by the US Bankruptcy Court (if required).
23. The implementation of any Successful Bid involving the Non-Petitioner Stay Parties' Property or Business may be subject to approval by the CCAA Court.
24. Origin and the Monitor may, provided the proposed Successful Bid does not provide for payment in full of the Senior Secured Debt and with the written consent of the Interim Lenders, aggregate separate Qualified Bids to create one "Successful Bid".
25. The Group, acting through the Monitor, shall have no obligation to enter into a Successful Bid, and may, with the consent of the Monitor and the Interim Lenders, reject any or all Qualified Bids.

SALE APPROVAL

26. Upon execution of a Binding Final Agreement in respect of a Successful Bid, the Petitioners, acting through the Monitor, shall bring an application as soon as reasonably practicable to obtain an order from the CCAA Court approving the Binding Final Agreement (the "**Approval Order**") and may seek recognition of such Sale Process Order from the US Bankruptcy Court (if required). All Qualified Bids, other than the Successful Bid(s), if any, shall be deemed rejected as of the date of approval of the Successful Bid(s) pursuant to the Approval Order and seeking recognition of such Sale Process Order from the US Bankruptcy Court (if required).

CONFIDENTIALITY STAKEHOLDER/BIDDER COMMUNICATION AND ACCESS TO INFORMATION

27. All discussions regarding the Sale Process should be directed through Origin or the Monitor. Under no circumstances should management of the Group or any stakeholder of the Group be contacted directly without the prior written consent of the Monitor. Any such unauthorized contact or communication could result in exclusion of the interested party from the Sale Process. For greater certainty, nothing herein shall preclude a stakeholder from contacting potential bidders, with the agreement of Origin and the Monitor, to advise that the Group have commenced the Sale Process and that they should contact Origin if they are interested in participating in the Sale Process.
28. If it is determined by Origin, in consultation with the Monitor and the Group, that it would be worthwhile to facilitate a discussion between one or more Qualified Bidders and a stakeholder or other third party as a consequence of a condition to closing or potential closing condition identified by such Qualified Bidder, Origin may provide such Qualified Bidder with the opportunity to meet with the relevant stakeholder or third party to discuss such condition or potential condition, with a view to enabling such bidder to seek to satisfy the condition or assess whether the condition is not required or can be waived. Any such meetings or other form of communication will take place on terms and conditions considered appropriate by Origin and the Monitor. Origin and the Monitor must be provided with the opportunity to be present at all such communications or meetings.

ACCESS TO INFORMATION AND CREDIT BIDDING BY INTERIM LENDERS

29. Following the Bid Submission Deadline, copies of the Binding Bids shall be shared by Origin and the Monitor with the Interim Lenders. Should none of the Binding Bids received be acceptable to the Interim Lenders, including because such Binding Bids do not provide for the immediate repayment in cash of all outstanding amounts owing in respect of the senior debt owed to the Interim Lenders, the Monitor and Origin, with the consent of the Interim Lenders, may terminate the Sale Process and accept a credit bid (or such other bid) from the Interim Lenders for any part of the Business and/or the Property.
30. Notwithstanding anything contained herein, Origin, the Monitor and the Group, shall not provide the Interim Lenders with any information relating to the Binding Bids, other than the Subject Information (as defined below), unless and until the Interim Lenders confirm to Origin, the Group and the Monitor in writing that if they submit a credit bid in the Sale Process, such bid shall not be for an amount greater than the Senior Secured Debt. For the purposes of this paragraph, "**Subject Information**" shall mean, subject to the Monitor's determination of whether it is appropriate to disclose: (i) the amount and form of consideration payable in respect of the Senior Secured Debt; (ii) the transaction structure and the material conditions to closing contemplated in any Binding Bid; and (iii) any other information the Monitor considers appropriate.
31. The Group's directors and senior management ("**Management**") shall each confirm to the Monitor that they are not, directly or indirectly (including through affiliates or companies in which they control or have a majority ownership interest) participating in the preparation or submission of any bid pursuant to this Sale Process (the "**Independence Confirmation**"). Members of Management that do not provide the Independence Confirmation are deemed to be potential bidders and are not entitled to receive information under this Sale Process, and shall not to attend meetings with, or otherwise communicate with, Qualified Bidders except with the written consent of the Monitor (which maybe provided by email), which consent may be subject to conditions, including requiring Origin and/or the Monitor to attend such meetings or communications.

DEPOSITS

32. All Deposits paid pursuant to this Sale Process shall be held in trust by the Monitor in a non-interest-bearing account. The Monitor shall hold Deposits paid by each Successful Bidder and Backup Bidder in accordance with the terms of the Binding Final Agreement with the Successful Bidder and the Backup Bidder.
33. If a Deposit is paid pursuant to this Sale Process, and the Group, acting through the Monitor, elect not to proceed to negotiate and settle the terms and conditions of a definitive agreement with the person that paid such Deposit, subject to section 34, the Monitor shall return the Deposit to that person.
34. If a Qualified Bidder: (i) breaches any of its obligations under its Qualified Bid, any Binding Final Agreement or the terms of the Sale Process (including the Confidentiality Agreement); or (ii) breaches its obligations under the terms of the Sale Process (including the Confidentiality Agreement) or under the terms of its Qualified Bid if required by the Group to complete such transaction contemplated by its Qualified Bid, then, in each case,

such Qualified Bidder's Deposit will be forfeited as liquidated damages and not as a penalty.

OTHER MATTERS

35. The Sale Process does not, and will not be interpreted to, create any contractual or other legal relationship between the Group, the Monitor or Origin and any Qualified Bidder or any other party, other than as specifically set forth in a Confidentiality Agreement or a definitive agreement that may be signed with the Group.
36. Participants in the Sale Process are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Binding Bid, due diligence activities, and any other negotiations or other actions, whether or not they lead to the consummation of a transaction.
37. Notwithstanding the process and deadlines outlined above with respect to the Sale Process, with the prior consent of the Interim Lenders and the assistance of Origin, the Monitor may, at any time: (i) pause, terminate, amend or modify the Sale Process; (ii) remove any portion of the Business and the Property from the Sale Process; (iii) bring an application to the CCAA Court to seek approval of a sale of, or investment in, all or part of the Property or the Business whether or not such sale or investment is in accordance with the terms or timelines set out in the Sale Process; and (iv) establish further or other procedures for the Sale Process, provided that the service list in the CCAA Proceedings shall be advised of any substantive modification to the procedures set forth herein.

SCHEDULE "A"

Addresses for Deliveries

Any delivery made to Origin pursuant to this Sale Process shall be made to:

Origin Merchant Partners
200 Bay Street, Suite 1300
Toronto, Ontario M5J 2W4

Attention: Andrew Muirhead
Email: andrew.muirhead@originmerchant.com

Any delivery made to the Monitor pursuant to this Sale Process shall be made to:

KSV Restructuring Inc.
220 Bay Street, 13th Floor, PO Box 20,
Toronto, Ontario, M5J 2W4

Attention: Noah Goldstein / Ross Graham
Email: ngoldstein@ksvadvisory.com / rgraham@ksvadvisory.com

With a copy to the Monitor's counsel:

Bennett Jones LLP
100 King Street West, Suite 3400
Toronto, Ontario M5X 1A4

Attention: Sean Zweig / Mike Shakra
Email: zweigs@bennettjones.com / shakram@bennettjones.com

Deliveries pursuant to this Sale Process by email shall be deemed to be received when sent. In all other instances, deliveries made pursuant to this Sale Process shall be deemed to be received when delivered to the address as identified above.

55452780.3

Appendix “C”

ASSET PURCHASE AGREEMENT

This Agreement is made as of the 19th day of April, 2024 (the “**Effective Date**”)

AMONG:

NEXII BUILDING SOLUTIONS INC., a corporation incorporated pursuant to the laws of British Columbia (“**Nexii**”)

– and –

THE ENTITIES LISTED IN SCHEDULE “A”, ATTACHED HERETO (collectively, the “**Vendors**” and each a “**Vendor**”)

– and –

15925347 CANADA INC., a corporation incorporated pursuant to the laws of Canada (“**New OCI**”)

1474480 B.C. LTD., a corporation incorporated pursuant to the laws of British Columbia (“**New OCML**”)

1474737 B.C. LTD., a corporation incorporated pursuant to the laws of British Columbia (“**New OCon**”)

1474741 B.C. LTD., a corporation incorporated pursuant to the laws of British Columbia (“**New OI**”)

1464115 B.C. LTD., a corporation incorporated pursuant to the laws of British Columbia (“**New Consulting**”)

1474484 B.C. LTD., a corporation incorporated pursuant to the laws of British Columbia (“**1474484**” and together with New OCI, New OCML, New OCon, New OI and New Consulting, the “**Purchasers**” and each a “**Purchaser**”)

WHEREAS:

- A. Pursuant to the Order of the Honourable Justice Stephens of the Supreme Court of British Columbia (the “**Court**”) issued January 11, 2024 (as may be further amended or amended and restated from time to time, the “**Initial Order**”), Nexii, Nexii Construction Inc., NBS IP Inc. and Nexii Holdings Inc. (collectively the “**Petitioners**”) were granted, among other things, creditor protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. was appointed as Monitor of the Petitioners, with certain enhanced powers (in such capacity, the “**Monitor**”).
- B. The Initial Order extended certain protections of the Initial Order to Omicron Canada Inc., Omicron Construction Management Ltd., Omicron Consulting Ltd., Grant & Sinclair Architects Ltd., Omicron Interiors Ltd., and Omicron Construction Ltd. (collectively, the “**Omicron Group**”).
- C. In connection with the proceedings initiated by the Initial Order (the “**CCAA Proceedings**”), on January 22, 2024, the Petitioners sought and obtained an order of the Court (the “**Sale Process Order**”), among other things, approving a sale process (the “**Sale Process**”) to be conducted by Origin Merchant Partners (“**Origin**”), under the oversight and with the assistance of the Monitor, to solicit interest in, and opportunities for, one or more or any combination of

executable transactions involving the Petitioners and the Omicron Group and/or the Petitioners' and Omicron Groups' business operations as a going concern or otherwise.

- D. In accordance with the terms of the Sale Process, the Purchasers have submitted an offer to purchase the Purchased Assets (as defined herein) from the Vendors.
- E. The Vendors wish to sell to the Purchasers, and the Purchasers wish to purchase from the Vendors, the Purchased Assets, subject to, and in accordance with, the terms and conditions set out in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the parties hereto (collectively, the "**Parties**", and each, a "**Party**") hereby acknowledge and agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

Unless something in the subject matter or context is inconsistent therewith, the terms defined herein shall have the following meanings:

"Affiliate" has the meaning given to the term "affiliate" in the *Business Corporations Act* (British Columbia).

"Agreement" means this asset purchase agreement, including any schedules or exhibits appended to this asset purchase agreement, in each case as may be supplemented, amended or amended and restated from time to time in accordance with the terms hereof, with the consent of the Monitor, and **"Article"** and **"Section"** mean and refer to the specified article, section and subsection of this Agreement.

"Applicable Law" means, in respect of any Person, property, transaction or event, any: (i) domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code, directive, decree or guideline, by-law or order; (ii) judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, instruments or awards of any Governmental Authority; and (iii) policies, practices, standards, guidelines and protocols having the force of law, that applies in whole or in part to such Person, property, transaction or event.

"Approval and Vesting Order" means an order of the Court, in form and substance satisfactory to the Purchasers, Nexii, the DIP Lenders, the Vendors and the Monitor, each acting reasonably, among other things, approving and authorizing this Agreement and the Transaction and vesting in the Purchasers (or as they may direct) all the right, title and interest of Vendors in and to the Purchased Assets owned by the Vendors, free and clear of all Encumbrances, other than Permitted Encumbrances`.

"Assignment and Assumption Agreement" means an assignment and assumption agreement evidencing the assignment to the applicable Purchasers of the Vendors' interest in, to and under the Assumed Contracts and the assumption by the applicable Purchasers of all of the Assumed Liabilities, in form and substance satisfactory to the Parties, acting reasonably.

"Assignment Order" means an order of the Court pursuant to section 11.3 of the CCAA, in form and substance satisfactory to the Purchasers, Nexii, the Vendors and the Monitor, each acting

reasonably, assigning to the applicable Purchasers the rights and obligations of the Vendors under the Assumed Contracts to which the Vendors are a party for which a consent, approval or waiver necessary for the assignment of such Assumed Contracts has not been obtained, and which will include, if necessary, a mechanism for the resolution of any disputed Cure Costs.

“Assumed Contracts” means the Contracts listed in Schedule “B” (including as such Assumed Contracts may be amended, restated, supplemented or otherwise modified from time to time), as modified in accordance with Section 2.3(a).

“Assumed Liabilities” means: (a) Liabilities specifically and expressly designated as assumed Liabilities in Schedule “C”; and (b) all Liabilities which relate to the Business under any Assumed Contracts; in each case, solely in respect of the period from and after the Closing Time and not relating to any default existing prior to or as a consequence of Closing.

“Authorization” means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Authority having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person’s property or business and affairs or from any Person in connection with any easements, contractual rights or other matters.

“Books and Records” means all files, documents, instruments, papers, emails, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including Tax and accounting books and records, used or intended for use by, and in the possession of the Vendors or any of their respective Affiliates solely in connection with the Business or ownership or operation of the Purchased Assets, including information, documents and records relating to the Assumed Contracts, the Assumed Liabilities, current and previously completed projects, customer lists, customer information and account records, sales records, computer files, data processing records, employment and personnel records, sales literature, advertising and marketing data and records, cost and pricing information, production reports and records, equipment logs, operating guides and manuals, credit records, records relating to present and former suppliers and contractors, plans and projections and all other records, data and information stored electronically, digitally or on computer-related media, excluding the minute books and corporate records.

“Business” means the businesses carried on by the Vendors, including the design and construction of all types of projects, and does not include, for the avoidance of doubt, the business of Nexii that is not carried on by the Vendors.

“Business Day” means a day on which banks are open for business in Vancouver, British Columbia, but does not include a Saturday, Sunday or statutory holiday in the Province of British Columbia.

“Cash Payment” has the meaning set out in Section 3.1.

“Cash Purchase Price” has the meaning set out in Section 3.3(b).

“CCAA” has the meaning set out in the recitals hereto.

“CCAA Proceedings” has the meaning set out in the recitals hereto.

“Claims” means any civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, audit, chose in or cause of action, suit, default, assessment or reassessment, litigation, prosecution, third party action, arbitral proceeding or

proceeding, complaint or allegation, by or before any Person, complaints, grievance, petition, application, charge, investigation, indictment, prosecution, judgement, debt, liability, damage, or loss, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, known or unknown, disputed or undisputed, contractual, legal or equitable.

“**Closing**” means the closing and consummation of the Transaction.

“**Closing Date**” means the date that is seven (7) Business Days after the date upon which the conditions set forth in ARTICLE 7 have been satisfied or waived, other than any conditions set forth in ARTICLE 7 that by their terms are to be satisfied or waived at the Closing (or such other earlier or later date as may be agreed by the Vendors and the Purchasers in writing, each acting reasonably); provided that the Closing Date shall be no later than the Outside Date.

“**Closing Time**” means 12:01 a.m. (Vancouver time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

“**Contracts**” means all pending and executory contracts, agreements, deeds, leases, understandings and arrangements (whether oral or written) to which any Vendor is a party or by which such entity is bound or in which such entity has, or will at Closing have, any rights or by which any of its property or assets are or may be affected.

“**Court**” has the meaning set out in the recitals hereto.

“**Cure Costs**” means, in respect of an Assumed Contract, all amounts, costs, fees and expenses required to be paid: (a) to remedy all of the Vendors’ monetary defaults in relation to such Assumed Contract, other than those arising by reason only of the Vendors’ bankruptcy, insolvency or failure to perform a non-monetary obligation; or (b) pursuant to the Approval and Vesting Order or the Assignment Order, as applicable, and which for greater certainty, may be an amount agreed to by the applicable Purchaser and the counterparty to such Assumed Contract.

“**Deposit**” has the meaning set out in Section 3.3(a).

“**DIP Lenders**” has the meaning set out in Section 3.3(d).

“**Effective Date**” has the meaning set out in the preamble hereto.

“**Employee**” means any individual who is employed by a Vendor and in such capacity provided services to any of the Vendors immediately prior to the Closing Date.

“**Encumbrance**” means any security interest, debenture, lien, Claim, charge, right of retention, trust, deemed trust, judgement, writ of seizure, writ of execution, notice of seizure, notice of execution, notice of sale, hypothec, reservation of ownership, pledge, encumbrance, assignment (as security), royalty interest, defect of title or adverse claim of any nature or kind, mortgage or right of a third party (including any contractual right, such as a purchase option, call or similar right of a third party in respect of securities, right of first refusal, right of first offer or any other pre-emptive contractual right) or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease).

“**Excise Tax Act**” means the *Excise Tax Act*, RSC, 1985, c. E-15.

“**Excluded Assets**” means those assets of the Vendors that are not Purchased Assets, including the Excluded Contracts and including any shares a Vendor holds of another Vendor.

“**Excluded Contracts**” means those contracts and other agreements of the Vendors that are not Assumed Contracts.

“**Excluded Liabilities**” means those Liabilities of the Vendors that are not Assumed Liabilities.

“**General Conveyance**” means a general conveyance evidencing the conveyance to the applicable Purchasers of the Vendors’ interest in and to the Purchased Assets, in form and substance satisfactory to the Parties, acting reasonably.

“**Governmental Authority**” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), judicial body, regulatory authority, tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation having jurisdiction over the Vendors, the Purchasers, the Purchased Assets or the Assumed Liabilities.

“**GST/HST**” means all goods and services tax and harmonized sales tax imposed under Part IX of the *Excise Tax Act*, and any provincial, territorial or foreign legislation imposing a similar value added or multi-staged tax.

“**Income Tax Act**” means the *Income Tax Act*, RSC, 1985, c. 1 (5th Supp.).

“**Initial Order**” has the meaning set out in the recitals hereto.

“**Interim Period**” means the period beginning on the Effective Date and ending at the Closing Time.

“**Liability**” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“**Monitor**” has the meaning set out in the recitals hereto.

“**Monitor’s Certificate**” means the certificate of the Monitor contemplated by the Approval and Vesting Order certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties and that the Monitor has received the Deposit and the Cash Purchase Price.

“**Omicron Group**” has the meaning set out in the recitals hereto.

“**Organizational Documents**” means any trust document, charter, certificate or articles of incorporation or amalgamation, articles of amendment, articles of association, articles of organization, articles of continuance, bylaws, partnership agreement or similar formation or governing documents of a Person (excluding individuals).

“**Origin**” has the meaning set out in the recitals hereto.

“**Outside Date**” means 11:59 pm (Vancouver time) on May 30, 2024 or such later date and time as the Vendors, with the consent of the Monitor, and the Purchasers may agree to in writing.

“**Parties**” has the meaning set out in the recitals hereto.

“**Party**” has the meaning set out in the recitals hereto.

“**Permitted Encumbrances**” means all security interests and other interests arising exclusively under the Assumed Contracts, if any.

“**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.

“**Petitioners**” has the meaning set out in the recitals hereto.

“**Post-Closing Sale**” has the meaning set out in Section 3.3(d).

“**Post-Closing Sale Agreement**” has the meaning set out in Section 3.3(d).

“**Purchased Assets**” means all of the Vendors’ right, title and interest in and to the business, assets, properties, contractual rights, goodwill, rights and claims of the Vendors related to the Business on the Closing Date, wherever situated and of whatever kind and nature, real or personal, tangible or intangible, whether or not reflected on the Books and Records of the Vendors, in each case, other than the Excluded Assets, and for certainty, including the Assumed Contracts and each of the assets listed at Schedule “E” hereto.

“**Purchase Price**” has the meaning set out in Section 3.1.

“**Purchaser**” has the meaning set out in the recitals hereto.

“**Sale Process**” has the meaning set out in the recitals hereto.

“**Sale Process Order**” has the meaning set out in the recitals hereto.

“**Services Agreement**” has the meaning set out in Section 5.10.

“**Taxes**” means, with respect to any Person, all national, federal, provincial, local or other taxes, including income taxes, capital gains taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, license taxes, excise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, workers’ compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties, fees, assessments, imposts, levies and other charges of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, fines, or additions with respect thereto and any interest in respect of such additions or penalties and any Liability for the payment of any amounts of the type described in this paragraph as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any Person.

“**Transaction**” means, collectively, all of the transactions contemplated by this Agreement, including the purchase and sale of the Purchased Assets.

“**Transfer Taxes**” means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, conveyance fees, security interest filing or recording fees and any other similar or like taxes or charges imposed by a Governmental Authority, including any related penalties and interest, in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including GST/HST, but excluding, for certainty, income tax.

“**Transferred Employees**” means those Employees who accept an offer of employment from a Purchaser (or one of its Affiliates), made pursuant to Section 5.5.

“**Vendors**” has the meaning set out in the recitals hereto.

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3 General Construction

The terms “this Agreement”, “hereof”, “herein” and “hereunder” and similar expressions refer to this Agreement as a whole and not to any particular section hereof. 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.

1.4 Extended Meanings

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings and the term “third party” means any other Person other than the Vendors or the Purchasers, or any Affiliates thereof.

1.5 Currency

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

1.6 Statutes

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules, regulations and interpretations made under it, as it or they may have been or may from time to time be modified, amended or re-enacted.

1.7 Schedules & Amendments to Schedules

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

SCHEDULES

Schedule “A”	-	Vendors
Schedule “B”	-	Assumed Contracts
Schedule “C”	-	Assumed Liabilities
Schedule “D”	-	Allocation Schedule

Schedule "E"	-	Purchased Assets
Schedule "F"	-	Form of Post-Closing Sale Agreement
Schedule "G"	-	Allocation of Purchase of Purchased Assets and Assumption of Assumed Liabilities Among the Purchasers

Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Exhibits and Schedules and the interpretation provisions set out in this Agreement will apply to the Exhibits and Schedules. Unless the context otherwise requires, references in the Exhibits and Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement.

ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS

2.1 Purchase and Sale of Purchased Assets

At the Closing Time, subject to the terms and conditions of this Agreement, the Vendors shall, in accordance with Schedule "G", sell, assign, transfer and convey to the Purchasers, and the Purchasers shall, in accordance with Schedule "G", purchase and assume from the Vendors, all of the Vendors' right, title and interest in, to and under the Purchased Assets, free and clear of all Encumbrances, other than Permitted Encumbrances.

2.2 Transfer of Purchased Assets and Assumption of Liabilities

Provided that Closing occurs and subject to the terms and conditions of this Agreement, possession, risk, legal and beneficial ownership of the Purchased Assets shall transfer from the Vendors to the Purchasers upon Closing in accordance with Schedule "G", and the Purchasers agree to, in accordance with Schedule "G", assume, discharge, perform and fulfill all of the Assumed Liabilities from and after the Closing Date.

2.3 Assumed Contracts

- (a) From and after the date hereof until the date that is ten days prior to the date upon which the motion for the granting of the Assignment Order is scheduled to be heard by the Court, the Purchasers shall be entitled to make additions, deletions and modifications to the Contracts classified as "Assumed Contracts", in its sole discretion, following consultation with the Vendors and the Monitor. For greater certainty: (i) any Assumed Contract subsequently designated by a Purchaser as an Excluded Contract after the date of this Agreement shall be deemed to no longer be an Assumed Contract, and shall be an Excluded Contract; and (ii) any Contract subsequently designated by a Purchaser as an Assumed Contract after the date of this Agreement shall be deemed an Assumed Contract for the purposes of this Agreement.
- (b) From and after the date hereof until the Closing Date, each of the Parties shall use reasonable commercial efforts to obtain, as may be required by the terms of such Assumed Contracts, all consents and approvals required to assign to the applicable Purchaser the Assumed Contracts that are material to the Business, as determined by the Purchasers and the Vendors, each acting reasonably.
- (c) To the extent that any Assumed Contract is not assignable without the consent or approval of the counterparty or any other Person, and such consent or approval has not been obtained by the date that is ten days prior to the Closing Date: (i) the Vendors' interest in, to and under such Assumed Contract may be conveyed to the applicable Purchaser pursuant to an Assignment Order; (ii) Nexii and the Vendors will use commercially reasonable efforts to

obtain an Assignment Order in respect of such Assumed Contract on or prior to the Closing Date; and (iii) if an Assignment Order is obtained in respect of such Assumed Contract, the applicable Purchaser shall accept the assignment of such Assumed Contract pursuant to the terms of the Assignment Order.

- (d) To the extent that any Cure Costs are payable with respect to any Assumed Contract, the applicable Purchaser shall be responsible for and shall pay all such Cure Costs, which shall be paid directly to the applicable counterparty, which Cure Costs shall be in addition to and shall not form part of the Purchase Price. Unless the Parties otherwise agree, to the extent that any Cure Cost is payable with respect to any Assumed Contract, where such Assumed Contract is assigned pursuant to an Assignment Order, the applicable Purchaser shall pay such Cure Costs in accordance with such Assignment Order, and where such Assumed Contract is not assigned pursuant to an Assignment Order, the applicable Purchaser shall pay such Cure Costs in the manner set out in the consent of the applicable counterparty or as otherwise may be agreed to by the applicable Purchaser and such counterparty.
- (e) The Vendors shall be entitled to disclaim or seek to disclaim any Excluded Contracts at any time.

It shall be the sole obligation of the Purchasers, at the Purchasers' sole cost and expense, to provide any and all financial assurances, deposits or security, including without limitation any Cure Costs to permit the transfer of the Purchased Assets, including the Assumed Contracts, to the Purchasers, as applicable.

2.4 Excluded Liabilities

No Purchaser shall assume or be liable, directly or indirectly, or otherwise responsible for any Excluded Liabilities.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

The aggregate consideration payable by the Purchasers for the Purchased Assets shall be \$3,000,000 in cash at Closing (the "**Cash Payment**"), plus the assumption of the Assumed Liabilities and payment of the Conditional Payment in accordance with Section 3.3(d)(the "**Purchase Price**"). The Purchase Price shall be satisfied in accordance with Section 3.3. The Purchase Price shall not be subject to any claim for set off, reduction or adjustment or any similar claim or mechanism of any kind whatsoever.

3.2 Allocation of the Purchase Price

The Purchasers and the Vendors agree that the Purchase Price shall be allocated among the Purchased Assets for all purposes (including Tax and financial accounting) in accordance with Schedule "D" and Schedule "G". To the extent the precise amount of any component of such allocation cannot be finally determined as at Closing, the Parties shall determine such amount forthwith following Closing in accordance with Schedule "D" and Schedule "G". The Parties shall timely file all Tax returns (including amended returns and claims for refund) in a manner consistent with such allocation.

3.3 Satisfaction of Purchase Price

The Purchasers shall pay the Purchase Price in accordance with the following:

- (a) Deposit. The Parties acknowledge that the Purchasers have paid a deposit in the amount of \$300,000 (the “**Deposit**”), which Deposit is being held by the Monitor in trust, and, subject to Section 8.2, shall (inclusive of all interest earned thereon, if any) be credited against the Cash Payment at Closing;
- (b) Balance of the Cash Payment. An amount equal to the Cash Payment less the Deposit (the “**Cash Purchase Price**”) shall be paid in cash by the Purchasers to the Monitor on the Closing Date, by wire transfer of immediately available funds; and
- (c) Assumed Liabilities. An amount equal to the value of the Assumed Liabilities, which the Purchasers shall assume, in accordance with Schedule “G”, on the Closing Date, shall be satisfied by the applicable Purchasers paying, performing, and/or discharging such Assumed Liabilities as and when they become due; and
- (d) Conditional Payment. If at any time during the five year period immediately following Closing: (i) any one or more of the Purchasers (or any successor corporations) holding all or substantially all of the Purchased Assets immediately prior to such transaction or series of transactions (the “**Controlling Entities**”) sells, leases, transfers, exclusively licenses, conveys or otherwise disposes, collectively, in one transaction or a series of transactions, all or substantially all of the interests in all or substantially all of the Purchased Assets (other than in connection with an internal reorganization of the one or more of the Controlling Entities where (i) the transferee or recipient of the some or all of the interests in the Purchased Assets in such internal reorganization (the “**Transferee**”) is an affiliate of one or more of the Controlling Entities and (ii) such Transferee has delivered a joinder to this Agreement, pursuant to which the Transferee agrees in favour of the DIP Lenders to be become party to and bound by the Post-Closing Sale Agreement as a “Purchaser” and as if an original party thereto and subject to the provisions of Section 1 and 2 of the Post-Closing Sale Agreement); or (ii) there occurs a merger, amalgamation, sale, arrangement, take-over bid, reorganization, plan of arrangement, business combination, consolidation or other similar transaction or series of transactions as a result of which the beneficial owners of shares of the Controlling Entities do not own beneficial interests in a majority of the shares of the Controlling Entities outstanding immediately following such transaction or series of transactions ((i) and (ii) collectively, a “**Post-Closing Sale**”), the Purchasers shall pay to one or more of Powerscourt Investments XXV, LP, Trinity Capital Inc. and Horizon Technology Finance Corporation (collectively, the “**DIP Lenders**”), as directed by the DIP Lenders, within ten (10) Business Days of the closing of such Post-Closing Sale, a contingent payment in cash equal to, in aggregate, 15% of the difference between (i) the consideration provided to the Controlling Entities (or shareholders thereof) in connection with the Post-Closing Sale and (ii) \$7,000,000, in accordance with an agreement to be entered into by the Purchasers and the DIP Lenders prior to Closing in the form attached as Schedule “F” (the “**Post-Closing Sale Agreement**”). In the event the Post-Closing Sale Agreement is assigned by any of Purchasers in accordance with its terms, any such assignee shall be party to the Post-Closing Sale Agreement and this Section 3.3(d) shall apply, *mutatis mutandis*, to any transaction described in (i) or (ii) above that involves such assignee.

3.4 Transfer Taxes; Tax Elections

The Parties agree that:

- (a) The Purchase Price does not include Transfer Taxes and the Purchasers shall be liable for and shall pay any and all Transfer Taxes pertaining to the Purchasers' acquisition of the Purchased Assets.
- (b) Where the Vendors are required under Applicable Law to collect or pay Transfer Taxes, the Purchasers will pay the amount of such Transfer Taxes to the Monitor (on behalf of the Vendors) at Closing.
- (c) Except where the Vendors are required under Applicable Law to collect or pay such Transfer Taxes, the Purchasers shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due. The Vendors will do and cause to be done such things as are reasonably requested to enable the Purchasers to comply with such obligation in a timely manner. If the Vendors are required under Applicable Law to pay any such Transfer Taxes which are not paid by a Purchaser at Closing, the Purchasers shall promptly reimburse the Vendors the full amount of such Transfer Taxes upon delivery to the Purchasers of copies of receipts showing payment of such Transfer Taxes.
- (d) The Purchasers shall indemnify the Vendors and the Monitor for, from and against any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) that the Vendors may pay or for which the Vendors or the Monitor may become liable as a result of any failure by the Purchasers to pay or remit such Transfer Taxes.
- (e) Notwithstanding the foregoing, if available, the Purchasers and the Vendors (or the Monitor on their behalf) shall jointly execute an election or elections under section 167 of the *Excise Tax Act* in connection with the transfer of the Purchased Assets contemplated herein, and the Purchasers, as applicable, shall file such election(s) with their applicable Tax returns for the reporting period in which the sale of the Purchased Assets takes place. Any GST/HST incurred in connection with the purchase and sale of the Purchased Assets contemplated by this Agreement, including where an election pursuant to subsection 167(1) of the *Excise Tax Act* is not or cannot be validly made in respect of the Purchased Assets, shall be borne by Purchasers, as applicable.
- (f) The Purchasers and the Vendors (or the Monitor on their behalf) agree to, at the option of the Purchasers, elect jointly in the prescribed form under Section 22 of the *Income Tax Act* as to the sale of the accounts receivable of the Vendors and other assets that are described in section 22 of the Tax Act and to designate in such election an amount equal to the portion of the Purchase Price allocated to such assets pursuant to Section 3.2 as the consideration paid by the applicable Purchaser(s) therefor.
- (g) The Vendors and the Purchasers acknowledge that the Purchasers have agreed to assume the Assumed Liabilities in accordance with Schedule "G". To the extent that the Vendors have received amounts in respect of services not rendered or goods not delivered in respect of the Assumed Liabilities, in each case prior to the Closing, the Purchased Assets having a fair market value equal to those amounts are transferred to the applicable Purchaser as payment for such Purchaser's agreement to assume a corresponding amount of the Assumed Liabilities relating to those services or goods, and the Purchasers and the Vendors (or the Monitor on their behalf), as applicable, shall jointly elect pursuant to subsection 20(24) of the *Income Tax Act* and under any similar provision of any applicable

provincial legislation. The applicable Vendors and Purchasers shall file such election, along with any documentation necessary or desirable to give effect to such election, with the Canada Revenue Agency and any other appropriate taxation authority within the prescribed time periods.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of the Vendors

Nexii and the Vendors hereby represent and warrant as of the date hereof and as of the Closing Time as follows, and acknowledge that the Purchasers are relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) Incorporation and Status. The Vendors other than Omicron Canada Inc. are corporations incorporated and existing under the *Business Corporations Act* (British Columbia), and are in good standing under such statute. Omicron Canada Inc. is a corporation incorporated and existing under the *Canada Business Corporations Act*, and is in good standing under such statute. Each Vendor has the power and authority to enter into, deliver and perform their obligations under this Agreement.
- (b) Corporate Authorization. The execution, delivery and, subject to obtaining of the Approval and Vesting Order in respect of the matters to be approved therein, performance by the Vendors of this Agreement has been authorized by all necessary corporate action on the part of the Vendors.
- (c) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Vendors and constitutes a legal, valid and binding obligation of the Vendors, enforceable against them in accordance with its terms, subject only to obtaining the Approval and Vesting Order and except as such enforceability may be limited by general principles of equity.
- (d) Residence of Vendors. No Vendor is a non-resident of Canada within the meaning of the Income Tax Act.
- (e) No Consents or Authorizations. Subject only to obtaining the Approval and Vesting Order, and any consents, approvals, waivers, or Assignment Order(s) required in connection with the assignment of the Assumed Contracts, no consent, approval, waiver or other Authorization is required from any Governmental Authority or any other Person, in connection with the Vendors' execution, delivery or performance of this Agreement and each of the agreements to be executed and delivered by the Vendors hereunder, or the sale of the Purchased Assets hereunder, except for any Authorizations, consents, approvals, filings or notices of any Governmental Authority, court or Person that: (i) have already been obtained; or (ii) the absence of which would not, individually or in the aggregate, have a material and adverse effect on the Purchased Assets or materially delay or impair the ability of the Vendors to consummate the Transaction.
- (f) Brokers' or Finders' Fees. Neither Nexii nor any Vendor has incurred any obligation or liability, contingent or otherwise, for any broker's or finder's fees or commissions in respect of this Transaction for which a Purchaser shall have any obligation or liability to pay.
- (g) No Proceedings. There are no proceedings pending or, to the knowledge of the Vendors or Nexii, threatened against the Vendors or Nexii before any Governmental Authority, which

prohibit or seek to enjoin, delay, restrict or prohibit the Closing of the Transaction, as contemplated by this Agreement, or that would reasonably be expected to delay, restrict or prevent the Vendors or Nexii from fulfilling any of their obligations set forth in this Agreement.

- (h) GST/HST Registration. The Vendors are registrants for purposes of GST/HST, and their registration numbers are:

Entity	Registration #
Omicron Canada Inc.	836919068 RT0001 (GST)
Omicron Construction Management Ltd.	788409290 RT0001 (GST)
Omicron Consulting Ltd.	888711520 RT0001 (GST)
Omicron Interiors Ltd	857756431 RT0001 (GST_
Omicron Construction Ltd.	878855923 RT0001 (GST)

4.2 Representations and Warranties of the Purchasers

The Purchasers hereby represent and warrant to and in favour of Nexii and the Vendors as of the date hereof and as of the Closing Time, and acknowledge that, the Vendors are relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) Incorporation and Status. The Purchasers are corporations incorporated and existing under the *Business Corporations Act* (British Columbia) or the *Canada Business Corporations Act*, as indicated on the first page of this Agreement, are in good standing under such statutes and have the power and authority to enter into, deliver and perform their obligations under this Agreement.
- (b) Corporate Authorization. The execution, delivery and performance by the Purchasers of this Agreement has been authorized by all necessary corporate action on the part of the Purchasers.
- (c) No Conflict. The execution, delivery and performance by the Purchasers of this Agreement does not (or would not with the giving of notice, the lapse of time, or both) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of a Purchaser.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchasers and constitutes a legal, valid and binding obligation of the Purchasers, enforceable against them in accordance with its terms subject only to the Approval and Vesting Order and except as such enforceability may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium or similar Applicable Laws affecting creditors' rights generally and by general principles of equity.
- (e) No Proceedings. There are no proceedings pending, or to the knowledge of the Purchasers, threatened, against a Purchaser before any Governmental Authority, which prohibit or seek to enjoin delay, restrict or prohibit the Closing of the Transaction, as contemplated by this

Agreement, or which would reasonably be expected to delay, restrict or prevent a Purchaser from fulfilling any of its obligations set forth in this Agreement.

- (f) No Consents or Authorizations. Subject only to obtaining the Approval and Vesting Order, and any consents, approvals, waivers, or Assignment Order(s) required in connection with the assignment of the Assumed Contracts, no consent, approval, waiver or other Authorization is required from any Governmental Authority or any other Person, in connection with the Purchasers' execution, delivery or performance of this Agreement and each of the agreements to be executed and delivered by the Purchasers hereunder, or the purchase of any of the Purchased Assets hereunder, except for any Authorizations, consents, approvals, filings or notices of any Governmental Authority, court or Person that: (i) have already been obtained; or (ii) the absence of which would not, individually or in the aggregate have a material effect on or materially delay or impair the ability of the Purchasers to consummate the Transaction.
- (g) Brokers' or Finders' Fees. No Purchaser has incurred any obligation or liability, contingent or otherwise, for any broker's or finder's fees or commissions in respect of this Transaction for which Nexii or the Vendors shall have any obligation or liability to pay.
- (h) Solvency. No Purchaser has committed an act of bankruptcy, is insolvent, has proposed a compromise or arrangement to its creditors generally, has had any application for a bankruptcy or similar creditor enforcement order filed against it, has taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has had an encumbrancer take possession of any of its property, or has had any execution or distress become enforceable or levied against any of its property.
- (i) GST/HST Registration. The Purchasers are a registrants for purposes of GST/HST, and their registration numbers are:

Entity	Registration #
New OCI	745886358 RT0001
New OCML	746199553 RT0001
1474484	783814429 RT0001
New OCon	745853556 RT0001
New OI	783463821 RT0001
New Consulting	798234027 RT0001

4.3 As is, Where is

The Purchasers acknowledge, agree and confirm that, at the Closing Time, the Purchased Assets shall be sold and delivered to the applicable Purchasers, and the Assumed Liabilities shall be assumed by the applicable Purchasers, on an "as is, where is" basis, subject only to the representations and warranties contained herein. Other than those representations and warranties contained herein, the Purchasers acknowledge and agree that: (a) no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition or quality or in respect

of any other matter or thing whatsoever in connection with the Transaction, including with respect to the Purchased Assets or the Assumed Liabilities; and (b) the Monitor has not provided any representations and warranties in respect of any matter or thing whatsoever in connection with the Transaction, including with respect to the Purchased Assets or the Assumed Liabilities. The disclaimer in this Section 4.3 is made notwithstanding the delivery or disclosure to the Purchasers or their directors, officers, employees, agents or representatives of any documentation or other information (including financial projections or supplemental data not included in this Agreement). Without limiting the generality of the foregoing and unless and solely to the extent expressly set forth in this Agreement or in any documents required to be delivered pursuant to this Agreement, any and all conditions, warranties or representations, expressed or implied, pursuant to Applicable Law cannot be relied on by the Purchasers and are hereby expressly waived by the Purchasers. The Purchasers further acknowledge, agree and confirm that they have conducted their own investigations, due diligence and analysis in satisfying themselves as to all matters relating to Nexii, the Vendors and their assets, liabilities and Business, including without limitation, the Purchased Assets and the Assumed Liabilities. Until Closing, the Purchased Assets shall remain at the risk of the Vendors. After Closing occurs, the Purchased Assets shall be at the sole risk of the Purchasers regardless of the location of the Purchased Assets.

ARTICLE 5 COVENANTS

5.1 Closing Date

The Parties shall cooperate with each other and shall use their commercially reasonable efforts to effect the Closing on or before the Outside Date.

5.2 Motion for Approval and Vesting Order

As soon as practicable after the Parties' execution of this Agreement, Nexii, the Vendors or the Monitor shall serve and file with the Court for a motion seeking the issuance of the Approval and Vesting Order (and, if applicable, the Assignment Order) seeking relief that will, *inter alia*, approve this Agreement and the Transaction. The Purchasers shall cooperate with Nexii, the Vendors and/or the Monitor, as applicable, in their efforts to obtain the issuance and entry of the Approval and Vesting Order.

5.3 Interim Period

During the Interim Period, except (a) as otherwise expressly contemplated or permitted by this Agreement (including the Approval and Vesting Order), (b) as necessary in connection with the CCAA Proceedings, (c) as otherwise provided in the Initial Order and any other Court orders prior to the Closing Time, or (d) as consented to by the Purchasers and the Vendors, such consent not to be unreasonably withheld, conditioned or delayed, the Vendors shall use commercially reasonable efforts to continue to maintain the Purchased Assets in substantially the same manner as on the Effective Date, and shall not take any material action with respect to the Business, the Purchased Assets or the Assumed Liabilities without the consent of the Purchasers (such consent not to be unreasonably withheld, delayed or conditioned). Without limiting the generality of the foregoing, all cash and cash equivalents of the Vendors shall be maintained by the Vendors and not distributed or otherwise used, other than to fulfill ongoing obligations to employees or under the Assumed Contracts, in each case in the ordinary course. During the Interim Period, upon not less than 2 Business Days' notice and subject at all times to the workplace rules, policies, procedures, standards and supervision of the Vendors, the Vendors shall give to the Purchasers and their representatives, at the sole cost, expense and risk of the Purchasers and their representatives (as applicable), reasonable access during normal business hours to the records and personnel of the Vendors, to conduct such investigations and inspections as the Purchasers reasonably deem necessary or desirable and the Vendors shall co-operate reasonably in facilitating such investigations and inspections and shall furnish copies of all such documents and materials relating to such matters as may be reasonably requested by or on behalf of the Purchasers.

During the Interim Period, the Vendors shall provide the Purchasers with notice of any contracts proposed to be entered into by the Vendors and, if any such Contract is entered into, the Purchasers may elect to have any such contracts become “Assumed Contracts” hereunder.

5.4 Insurance Matters

Until Closing, the Vendors shall keep in full force and effect all existing insurance policies in relation to the Purchased Assets (if any) and give any notice or present any Claim under any such insurance policies consistent with past practice of the applicable Vendor in the ordinary course of business.

5.5 Employee Matters

- (a) The Vendors will provide to the Purchasers such information with respect to the Employees as may be reasonably required for the Purchasers to comply with their obligations under this Section 5.5.
- (b) One or more (at the discretion of the Purchasers) Purchasers shall, or shall cause an Affiliate to, make written offers of employment (in a form agreed by the Vendor and in compliance with applicable law) to any Employees that the Purchasers wish to employ no later than seven Business Days before the Closing Date, which shall be (i) conditional upon Closing and effective as of the Closing Time, and (ii) on terms and conditions that are substantially similar and no less favourable in the aggregate to those terms and conditions of employment currently available to each such Employee immediately prior to the Closing Date, including plans that are for the benefit of Employees (or any spouses, dependents, survivors or beneficiaries of such Employees).
- (c) The applicable Purchasers or their Affiliates, as applicable, shall assume and be responsible for all Liabilities and obligations with respect to the Transferred Employees on and after the Closing Time, including but not limited to:
 - (i) all liabilities for salary, wages, bonuses, commissions, vacation pay, benefits and other compensation related to the employment of Transferred Employees after the Closing Time;
 - (ii) all termination costs, including termination costs relating to service of Transferred Employees prior to the Closing Time, resulting from or relating to the termination of Transferred Employees after the Closing Time;
 - (iii) all liabilities for Claims for injury, disability, death or workers’ compensation arising from or related to the employment of Transferred Employees after the Closing Time; and
 - (iv) all employment-related Claims, penalties and assessments in respect of Transferred Employees arising from or related to matters that occur after the Closing Time, including without limitation Claims, penalties and assessments in respect of occupational health and safety.

5.6 Actions to Satisfy Closing Conditions

- (a) Nexii and the Vendors agree to take all commercially reasonable actions so as to ensure that the conditions set forth in Section 7.1 and Section 7.2 are satisfied on or prior to the Closing Date; and

- (b) The Purchasers agree to take all commercially reasonable actions so as to ensure that the conditions set forth in Section 7.1 and Section 7.3 are satisfied on or prior to the Closing Date.

5.7 Change of Vendors' Names

The Vendors shall, and Nexii shall take all action required to cause the Vendors to, immediately following Closing, change their names to names which do not include the words "Omicron", or any derivative thereof and shall seek approval of such name changes in the Approval and Vesting Order.

5.8 Office 365

During the Interim Period (and, if necessary, following Closing), the parties shall take such actions as may be required to separate from Nexii's Microsoft Office 365 software platform the portion thereof used by the Omicron Group (the "**Omicron Office 365 Software**"), such that the Purchasers will have full use of the Omicron Office 365 Software from and after Closing, with any associated third party fees to be borne equally by the Purchasers, on one hand, and Nexii on the other.

5.9 Cash Received Post-Closing

Following Closing, if the Vendors or Nexii receive any payments earned by the Vendors under an Assumed Contract, they shall promptly pay such amounts over to the applicable Purchaser.

5.10 Services Agreement

During the Interim Period, the Parties shall negotiate in good faith a services agreement acceptable to the Purchasers and the DIP Lenders, each acting reasonably, for the provision of certain services by the Purchasers, their Affiliates and/or their principals to Nexii following Closing (the "**Services Agreement**").

ARTICLE 6 CLOSING ARRANGEMENTS

6.1 Closing

Closing shall take place electronically on the Closing Date effective as of the Closing Time (or as otherwise determined by mutual agreement of the Parties in writing), by the exchange of deliverables (in counterparts or otherwise) by electronic transmission in PDF format.

6.2 Vendors' Closing Deliveries

At the Closing Time, the Vendors shall deliver or cause to be delivered to the Purchasers the following:

- (a) the Purchased Assets, which shall be delivered *in situ* wherever located as of the Closing;
- (b) a true copy of the Approval and Vesting Order, as issued and entered by the Court;
- (c) a true copy of all Assignment Orders required by the Purchasers for Closing, if any, as issued and entered by the Court;
- (d) the Tax election(s) contemplated by Section 3.4(e), duly executed by the Vendors, as applicable;
- (e) resolutions of the directors of each Vendor authorizing the Transaction;
- (f) the General Conveyance, duly executed by the Vendors;

- (g) the Assignment and Assumption Agreement, duly executed by the Vendors;
- (h) the Post-Closing Sale Agreement, duly executed by the DIP Lenders;
- (i) the Services Agreement, duly executed by Nexii;
- (j) evidence acceptable to the Purchasers, acting reasonably, that the Omicron Office 365 Software has been, or will, promptly following Closing be, separated from Nexii's Microsoft Office 365 software platform in accordance with Section 5.8 and will be available for use by the Purchasers from and after Closing.
- (k) a certificate of an officer of each Vendor dated as of the Closing Date confirming that all of the representations and warranties of such Vendor contained in this Agreement are true (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date, and that such Vendor has performed in all material respects the covenants to be performed by it prior to the Closing Time; and
- (l) such other agreements, documents and instruments as may be reasonably required by the Purchasers to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

6.3 Purchaser's Closing Deliveries

At or before the Closing, the Purchasers shall deliver or cause to be delivered to the Vendors (or to the Monitor, as applicable), the following:

- (a) the Cash Payment;
- (b) if applicable, payment to the Monitor (or evidence of payment by the Purchasers to the relevant Governmental Authorities) of all Transfer Taxes required by Applicable Law to be collected on Closing, in accordance with Section 3.4;
- (c) the Tax election(s) contemplated by Section 3.4(e), duly executed by the Purchasers, as applicable;
- (d) resolutions of the directors of each Purchaser authorizing the Transaction;
- (e) the General Conveyance, duly executed by the Purchasers;
- (f) the Assignment and Assumption Agreement, duly executed by the Purchasers;
- (g) the Post-Closing Sale Agreement, duly executed by the Purchasers;
- (h) the Services Agreement, duly executed by the Purchasers, their Affiliates and/or their principals, as applicable;
- (i) a certificate of an officer of each Purchaser dated as of the Closing Date confirming that all of the representations and warranties of such Purchaser contained in this Agreement are true: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date, and that such Purchaser has performed in all material respects the covenants to be performed by it prior to the Closing Time; and
- (j) such other agreements, documents and instruments as may be reasonably required by the Vendors to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

ARTICLE 7 CONDITIONS OF CLOSING

7.1 Conditions Precedent in Favour of the Parties

The obligation of the Parties to complete the Transaction is subject to the following joint conditions being satisfied, fulfilled or performed on or prior to the Closing Date:

- (a) Approval and Vesting Order. The Court shall have issued and entered the Approval and Vesting Order, which Approval and Vesting Order shall not have been stayed, set aside, or vacated and no application, motion or other proceeding shall have been commenced seeking the same, in each case which has not been fully dismissed, withdrawn or otherwise resolved in a manner satisfactory to the Parties, each acting reasonably. The Approval and Vesting Order shall, among other things add the Vendors as “Petitioners” in the CCAA Proceedings.
- (a) No Order. No Applicable Law and no final or non-appealable judgment, injunction, order or decree shall have been issued by a Governmental Authority or otherwise in effect that restrains or prohibits the completion of the Transaction.
- (b) No Restraint. No motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.
- (c) Monitor’s Certificate. The Monitor shall have provided an executed copy of the Monitor’s Certificate confirming that all conditions to Closing have either been satisfied or waived by both the Purchasers and the Vendors.

The foregoing conditions are for the mutual benefit of the Parties. If any condition set out in this Section 7.1 is not satisfied, performed or mutually waived on or prior to the Outside Date, any Party may elect on written notice to the other Parties to terminate this Agreement.

7.2 Conditions Precedent in Favour of the Purchasers

The obligation of the Purchasers to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Vendors’ Deliverables. The Vendors shall have executed and delivered or caused to have been executed and delivered to the Purchasers at the Closing all the documents contemplated in Section 6.2.
- (b) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 4.1 shall be true and correct: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (c) No Breach of Covenants. The Vendors and Nexii shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendors or Nexii on or before the Closing Date.

The foregoing conditions are for the exclusive benefit of the Purchasers. Any condition in this Section 7.2 may be waived by the Purchasers in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchasers only if made in writing. If any condition set out in this Section 7.2 is not satisfied or performed on or prior to the Outside Date, the Purchasers may elect on written notice to the Vendors to terminate this Agreement.

7.3 Conditions Precedent in Favour of the Vendors

The obligation of the Vendors to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed on or prior to the Closing Date:

- (a) Purchaser's Deliverables. The Purchasers shall have executed and delivered or caused to have been executed and delivered to the Vendors at the Closing all the documents and payments contemplated in Section 6.3.
- (b) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 4.2 shall be true and correct: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (c) No Breach of Covenants. The Purchasers shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchasers on or before the Closing.

The foregoing conditions are for the exclusive benefit of the Vendors. Any condition in this Section 7.3 may be waived by the Vendors in whole or in part, save and except for delivery of the Services Agreement in accordance with Section 6.3(h), which condition may only be waived with the written consent of the DIP Lenders, without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition. Any such waiver shall be binding on the Vendors only if made in writing. If any condition set forth in this Section 7.3 is not satisfied or performed on or prior to the Outside Date, the Vendors may elect on written notice to the Purchasers to terminate the Agreement.

ARTICLE 8 TERMINATION

8.1 Grounds for Termination

This Agreement may be terminated on or prior to the Closing Date:

- (a) by the mutual written agreement of the Vendors (with the written consent of the Monitor) and the Purchasers; or
- (b) by the Vendors (with the written consent of the Monitor) or the Purchasers upon written notice to the other Parties if: (i) the Closing has not occurred on or prior to the Outside Date; or (ii) the Approval and Vesting Order is not obtained on or before April 26, 2024 (subject to availability of the Court); provided in each case that the failure to close or obtain such order, as applicable, by such deadline is not caused by a breach of this Agreement by the Party proposing to terminate the Agreement; or
- (c) by written notice from the Purchasers to the Vendors:
 - (i) in accordance with Section 7.1 or Section 7.2; or
 - (ii) if there has been a breach by a Vendor or Nexii of any representation or warranty, or material breach of any covenant, contained in this Agreement, which breach has not been waived by the Purchasers, and: (i) such breach is not curable and has rendered the satisfaction of any condition in Section 7.1 or Section 7.2 impossible by the Outside Date; or (ii) if such breach is curable, the Purchasers have provided prior written notice of such breach to the Vendors, and such breach has not been cured within ten (10) days following the date upon which the Vendors received such notice, unless any one or more of the Purchasers is in material breach of its obligations under this Agreement; and

- (d) by written notice from the Vendors (with the written consent of the Monitor) to the Purchasers:
 - (i) in accordance with Section 7.1 or Section 7.3; or
 - (ii) if there has been a breach by a Purchaser of any representation or warranty, or material breach of any covenant, contained in this Agreement, which breach has not been waived by the Vendors, and: (A) such breach is not curable and has rendered the satisfaction of any condition in Section 7.1 or Section 7.3 impossible by the Outside Date; or (B) if such breach is curable, the Vendors have provided prior written notice of such breach to the Purchasers, and such breach has not been cured within ten (10) days following the date upon which the Purchasers received such notice, unless any one or more of the Vendors or Nexii are in material breach of their obligations under this Agreement.

8.2 Effect of Termination.

If this Agreement is terminated pursuant to Section 8.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder; except for the provisions of this Agreement that by their nature are intended to survive termination, including this Section 8.2 (Effects of Termination) and Section 9.8 (Governing Law), each of which will survive termination; provided that if this Agreement is terminated:

- (a) in accordance with Section 8.1(d)(ii), the Monitor (on behalf of the Vendors) shall be entitled to retain the Deposit and the full amount of the Deposit shall be forfeited to the Vendors; or
- (b) for any other reason, the Deposit shall be promptly returned to the Purchasers.

In the event of termination of this Agreement under Section 8.1(d)(ii) pursuant to which the Monitor (on behalf of the Vendors) shall be entitled to retain the Deposit, the Parties agree that the amount of the Deposit constitutes a genuine pre-estimate of liquidated damages representing the Vendors' losses and Liabilities as a result of Closing not occurring and agree that the Vendors shall not be entitled to recover from the Purchasers any amounts that are in excess of the Deposit as a result of Closing not occurring. The Purchasers hereby waive any claim or defense that the amount of the Deposit is a penalty or is otherwise not a genuine pre-estimate of the Vendors' damages.

ARTICLE 9 GENERAL

9.1 Access to Books and Records; Tax Co-Operation

For a period of six years from the Closing Date or for such longer period as may be required for the Vendors (or any trustee in bankruptcy of the estate of any of the Vendors) to comply with any Applicable Law, the Purchasers shall:

- (a) retain all original Books and Records that are transferred to the Purchasers under this Agreement. So long as any such Books and Records are retained by the Purchasers pursuant to this Agreement, the Monitor and the Vendors (and any representative, agent, former director or officer or trustee in bankruptcy of the estate of the Vendors) have the right to inspect and to make copies (at their own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of a Purchaser; and

- (b) use commercially reasonable efforts to assist the Vendors, including providing any reasonable information requested by the Vendors, with respect to any queries or questions that the Vendors may have in order to facilitate any Tax filings or Tax related questions or disputes that may arise following the Closing Date.

9.2 Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered by same-day courier or by read-receipted email, addressed:

- (a) in the case of the Purchasers, as follows:

George Sawatzky
8970 Nash Street
Fort Langley, BC V1M 2R4

Email: GSawatzky@omicronaec.com

with a copy to:

Lawson Lundell LLP
925 W Georgia Street #1600
Vancouver, BC V6C 3L2

Attention: Chat Ortved and Alexis Teasdale
Email: cortved@lawsonlundell.com and ateasdale@lawsonlundell.com

- (b) in the case of the Nexii or the Vendor, as follows:

Nexii Building Solutions Inc.

Attention: David Bryant
Email: dbryant@nexii.com

- (c) in each case, with a further copy to the Monitor as follows:

KSV Restructuring Inc.
220 Bay Street, Suite 1300
Toronto, ON M5J 2W3

Attention: Noah Goldstein and Ross Graham
Email: ngoldstein@ksvadvisory.com and rgraham@ksvadvisory.com

with a copy to:

Bennett Jones LLP
1 First Canadian Place, Suite 3400
Toronto, ON M5X 1A4

Attention: Sean Zweig and Mike Shakra
Email: zweigs@bennettjones.com and shakram@bennettjones.com

Any such notice or other communication, if transmitted by email before 5:00 p.m. (Vancouver time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Vancouver time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission. In the case of a communication by email or other electronic means, if an autoreply is received indicating that the email is no longer monitored or in use, delivery must be followed by the dispatch of a copy of such communication pursuant to one of the other methods described above; provided however that any communication originally delivered by electronic means shall be deemed to have been given on the date stipulated above for electronic delivery.

Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party. A Person may change its address for service by notice given in accordance with the foregoing and any subsequent communication must be sent to such Person at its changed address.

9.3 Public Announcements

The Vendors and the Monitor shall be entitled to disclose this Agreement to the Court and parties in interest in the CCAA Proceedings and this Agreement may be posted on the Monitor's website maintained in connection with the CCAA Proceedings. In addition, Nexii and the Vendors may disclose the existence of the potential Transaction to their current and prospective customers and clients following execution of this Agreement. Subject to the foregoing, no press release or other announcement concerning the Transaction shall be made by the Purchasers or the Vendors without the prior consent of the other (such consent not to be unreasonably withheld, delayed or conditioned).

9.4 Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Parties.

9.5 Survival

The representations and warranties of the Parties contained in this Agreement shall merge on Closing, provided that the covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

9.6 Entire Agreement

This Agreement and the attached Schedules hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements with respect to the subject matter hereof. This Agreement may not be amended or modified in any respect except by written instrument executed by the Vendors (with the consent of the Monitor) and the Purchasers.

9.7 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

9.8 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court, and any appellate courts of the Province of British Columbia therefrom.

9.9 Assignment

The Purchasers cannot assign any of their rights or obligations under this Agreement without the prior written consent of the Vendors, the DIP Lenders and the Monitor. Notwithstanding the forgoing, this Agreement may be assigned by the Purchasers prior to the issuance of the Approval and Vesting Order, in whole or in part, without the prior written consent of the DIP Lenders, the Vendors or the Monitor, provided that: (i) such assignee is an Affiliate, related party or wholly-owned subsidiary of a Purchaser; (ii) the Purchasers provide prior notice of such assignment to the Vendors and the Monitor; and (iii) such assignee agrees in writing to be bound by the terms of this Agreement to the extent of the assignment and a copy of such assumption agreement is delivered to the Vendors and the Monitor forthwith after having been entered into; provided, however, that any such assignment shall not relieve the Purchasers of their obligations hereunder. Neither the Vendors nor Nexii can assign any of their rights or obligations under this Agreement without the prior written consent of the Purchasers. This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

9.10 Further Assurances

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

9.11 Counterparts

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

9.12 Severability

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

9.13 Non-Waiver

No waiver of any condition or other provision, in whole or in part, shall constitute a waiver of any other condition or provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in writing.

9.14 Expenses

Each of the Parties shall pay their respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant hereto and any other costs and expenses whatsoever and howsoever incurred.

9.15 Monitor's Certificate

The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the Purchasers, and file with the Court, the executed Monitor's Certificate without independent investigation, upon receiving written confirmation from the Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived (except for Section 7.1(c)), and the Monitor shall have no Liability to the Parties in connection therewith. The Parties further acknowledge and agree that upon written confirmation from the Parties that all conditions of Closing in favour of such Party have been satisfied or waived, and following receipt of the Cash Payment by the Monitor, the Monitor may deliver the executed Monitor's Certificate to the Purchasers' counsel, and the Closing shall be deemed to have occurred.

9.16 Monitor's Capacity

In addition to all of the protections granted to the Monitor under the CCAA, the Initial Order, the Sale Process Order, and any other order of the Court in this CCAA Proceeding, the Vendors and the Purchasers acknowledge and agree that the Monitor, acting in its capacity as Monitor of the Vendors and not in its personal capacity, will have no Liability, in its personal capacity or otherwise, in connection with this Agreement or the Transaction contemplated herein whatsoever.

9.17 Confidentiality.

From and after the Closing, Nexii and the Vendors shall, and shall cause their Affiliates and their respective representatives to, hold in confidence any and all information, whether written or oral, concerning the Purchased Assets or the Business, except to the extent they can show that such information (i) is generally available and known by the public through no fault of Nexii or a Vendor or any of their Affiliates or their respective representatives, (ii) is lawfully acquired by Nexii or a Vendor or any of their Affiliates or their respective representatives from and after the Closing from sources which are not prohibited from disclosing such information by a legal, contractual or fiduciary obligation, (iii) is required to be disclosed by judicial or administrative process, securities exchange or other requirements of Applicable Law; or (iv) is required to be disclosed in connection with the sale of the Petitioners' business, assets or operations (provided Nexii and Vendors ensure the recipients of such information maintain its confidentiality).

[Signature Page Follows]

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

NEXII BUILDING SOLUTIONS INC.

DocuSigned by:
David Bryant
By: 2BB4FDCE854F4B8
Name: David Bryant
Title: Senior Executive Advisor

I have authority to bind the Corporation.

OMICRON CANADA INC.

DocuSigned by:
David Bryant
By: 2BB4FDCE854F4B8
Name: David Bryant
Title: Senior Executive Advisor

I have authority to bind the Corporation.

**OMICRON CONSTRUCTION
MANAGEMENT LTD.**

DocuSigned by:
David Bryant
By: 2BB4FDCE854F4B8
Name: David Bryant
Title: Senior Executive Advisor

I have authority to bind the Corporation.

OMICRON CONSULTING LTD.

DocuSigned by:
David Bryant
By: 2BB4FDCE854F4B8
Name: David Bryant
Title: Senior Executive Advisor

I have authority to bind the Corporation.

OMICRON INTERIORS LTD.

By: DocuSigned by:
David Bryant
Name: David Bryant
Title: Senior Executive Advisor

I have authority to bind the Corporation.

OMICRON CONSTRUCTION LTD.

By: DocuSigned by:
David Bryant
Name: David Bryant
Title: Senior Executive Advisor

I have authority to bind the Corporation.

15925347 CANADA INC.

By: _____
Name:
Title:

I have authority to bind the Corporation.

1474480 B.C. LTD.

By: _____
Name:
Title:

I have authority to bind the Corporation.

1474737 B.C. LTD.

By: _____
Name:
Title:

I have authority to bind the Corporation.

OMICRON INTERIORS LTD.

By: _____

Name:

Title:

I have authority to bind the Corporation.

OMICRON CONSTRUCTION LTD.

By: _____

Name:

Title:

I have authority to bind the Corporation.

15925347 CANADA INC.

By: _____
DocuSigned by:
C41793634C984F8...

Name: George Sawatzky

Title: Director

I have authority to bind the Corporation.

1474480 B.C. LTD.

By: _____
DocuSigned by:
C41793634C984F8...

Name: George Sawatzky

Title: Director

I have authority to bind the Corporation.

1474737 B.C. LTD.

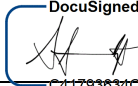
By: _____
DocuSigned by:
C41793634C984F8...

Name: George Sawatzky

Title: Director

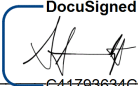
I have authority to bind the Corporation.

1474741 B.C. LTD.

By:  DocuSigned by:
C41783634C984F8...
Name: George Sawatzky
Title: Director

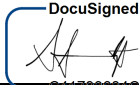
I have authority to bind the Corporation.

1474484 B.C. LTD.

By:  DocuSigned by:
C41793634C984F8...
Name: George Sawatzky
Title: Director

I have authority to bind the Corporation.

1464115 B.C. LTD.

By:  DocuSigned by:
C41793634C984F8...
Name: George Sawatzky
Title: Director

I have authority to bind the Corporation.

SCHEDULE "A"
VENDORS

Omicron Canada Inc.

Omicron Construction Management Ltd.

Omicron Consulting Ltd.

Omicron Interiors Ltd.

Omicron Construction Ltd.

**SCHEDULE “B”
ASSUMED CONTRACTS**

The following is an exhaustive list of the Assumed Contracts:

Software:

Sr. No.	Software	Num. of licenses
1	Adobe Creative Cloud	6
2	Adobe Photoshop CC	2
3	Adobe Photoshop CS2	6
4	Autodesk Architecture & Engineering Collection	80
5	Autodesk Build (Plangrid included)	10003
6	ASHRAE Thermal Comfort Tool	1
7	BIM Collaborate Pro	38
8	Bluebeam 2018	180
9	Building Connected Pro	15
10	CMBuilder	10 Projects
11	Elite Sprinkler Design	1
12	Microsoft New Commerce Experience (CSP) Office E3	172
13	Microsoft New Commerce Experience (CSP) PowerBI Pro	35
14	Microsoft New Commerce Experience (CSP) Teams with Calling Plan	119
15	Quickbooks 2018	3
16	ElumTools (Lighting Analysts)	1
17	Enscape	3
18	ETABS (Computer Structures Inc) Maintenance	1

19	ETAP Power System Simulation Software	1
20	Guardian	2
21	HAP	1
22	HVAC Solution	1
23	IES VE	2
24	ISNetworld	-
25	Lumion (SolidCAD)	2
26	Microsoft Product Software Assurance: SQL 2022 Standard	1
27	Microsoft Product Software Assurance: Windows Server 2022 Data Center	1
28	Microsoft Product Software Assurance: Remote Desktop Terminal Services	15
29	Replicon WebTimeSheet	165
30	Sketchup(Trimble)	3
31	Sophos Cloud	180 Desktop, 20 Sever
32	SpSlab, SpWall,SpColumn, spMATS (StructurePoint)	1
33	Sage 300 (Timberline)	1
34	ComplyWorks	1
35	Contractor Check	1
36	Ms Project 2010	35
37	Ms Project 2016	7
38	Ms Visio 2016	1
39	On Centre On-screen Takeoff	4
40	Print Boss subscription	-
41	S-Frame	5

42	TimberScan Support	1
43	Vice Versa	1
44	Veeam Cloud Connect Subscription	1
45	Veeam Software license	1
46	VMWare Subscription/Maintenance	1
47	Woodworks Sizer 2020	1

Vehicle Leases:

lease type	description	VIN	lessor
vehicle (truck)	FC18006 licence LJ1475	6728 6	Zeemac
vehicle (truck)	Ford Truck #60266877	0222 7	Ford Credit
vehicle (truck)	Ford Truck #60484000	0985 6	Ford Credit
vehicle (truck)	Ford Truck #61154498	2107 8	Ford Credit

Real Property and Other Leases:

lease type	description	lessor
equipment	computer servers	Jyske Lease Corp. (Softchoice)
equipment	Canon copier/printers	Meridian OneCap

1. Lease agreement dated May 12, 2021 between Omicron Construction Ltd. and Clutch Developments Ltd. in respect of property located at Unit #1, 2075 Brigantine Drive, Coquitlam, BC.
2. Lease agreement dated October 18, 2004 between Omicron Consulting Ltd. and BH Centre Head Corp. (as successor in interest to BTC Properties II Ltd. and The Great-West Life Assurance Company), in respect of property located at the 4th Floor of 595 Burrard Street, Vancouver, BC (as amended by lease expansion and amending agreement dated February 12, 2007, by partial surrender of lease and lease expansion agreement and modification of lease dated August 22, 2007, by lease extension and amending agreement dated November 19, 2013, by lease extension and amending agreement dated April 13, 2017, and by lease extension and amending agreement dated June 8, 2022).

3. Lease agreement dated July 1, 2018 between Omicron Canada Inc. and Eagle Creek Village I GP Ltd., in its capacity as general partner for and on behalf of Eagle Creek Village I Limited Partnership, in respect of property located at Suite 420, 29 Helmcken Road, Victoria.

Construction Contracts

1. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and TELUS Communications Inc. dated March 13, 2020, as amended from time to time. [20-20-009]
2. Design and Early Works Agreement for Design and Construction Management Services between Omicron Construction Ltd and Tsawwassen Independent School Society dba Southpointe Academy dated June 23, 2023, as amended from time to time. [20-23-005]
3. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated September 18, 2020, as amended from time to time. [23-14-019]
4. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and TELUS Communications Inc. dated April 16, 2021, as amended from time to time. [20-22-013, 20-21-014]
5. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and Coca Cola Canada Bottling Limited dated May 8, 2023, as amended from time to time. [20-23-001]
6. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and FW Enterprises dated March 15, 2023, as amended from time to time. [20-23-006]
7. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and Montrose Industries Ltd. dated September 22, 2023, as amended from time to time. [20-22-014]
8. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and Montrose Industries Ltd. dated June 8, 2022, as amended from time to time. [20-22-008]
9. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and Lululemon Athletica dated Nov 29, 2022, as amended from time to time. [20-23-003]
10. Construction Management Contract for Services between Omicron Construction Ltd. and Allendale LP dated July 14, 2021, as amended from time to time. [20-21-018]
11. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and BC Transit dated January 26, 2022, as amended from time to time. [20-22-005]
12. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated May 4, 2020, as amended from time to time. [23-18-010]
13. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated May 14, 2020, as amended from time to time. [23-18-011]
14. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated May 26, 2020, as amended from time to time. [23-20-007]
15. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated Jan 24, 2023, as amended from time to time. [23-21-003]

16. Construction Management Contract for Services between Omicron Construction Ltd. and Lotus Omicron East Broadway Development Inc. dated January 31, 2022, as amended from time to time. [20-22-002]
17. Construction Management Contract for Services between Omicron Construction Ltd. and Marine and Bewicke Project Ltd dated May 5, 2023, as amended from time to time. [20-22-010]
18. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and Lululemon Athletica dated Nov 29, 2022, as amended from time to time. [20-23-002]
19. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and Montrose Industries Ltd. dated July 21, 2022, as amended from time to time. [20-22-004]
20. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated August 30, 2022, as amended from time to time. [23-22-005]
21. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated October 30, 2023, as amended from time to time. [23-23-005]
22. Construction Preventative Maintenance Services Contracts between Omicron Construction Ltd. And Coastal Ford Sales dated June 16, 2021, as amended from time to time. [20-21-521,522,523]
23. Construction Management Contract for Services and Construction between Omicron Construction Ltd., and Victoria Ford Alliance dated January 4, 2023, as amended from time to time. [20-20-015]
24. Services Agreement between Omicron Construction Ltd. and Tabor Storage dated June 24, 2022 as amended from time to time. [20-22-006]
25. Consultant Agreement between Omicron Construction Ltd. and Hammersmith dated October 16, 2023 as amended from time to time. [20-23-007]
26. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and Davis Management Limited Partnership (DMLP) dated June 30, 2021, as amended from time to time. [20-21-022]
27. Omicron Construction Ltd. to provide on-demand services to Coastal Ford Sales Ltd. [20-23-501,502,503; 20-24-501,502,503]
28. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated August 9, 2022, as amended from time to time. [23-18-008]
29. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated July 30, 2020, as amended from time to time. [23-20-003]
30. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated March 11, 2022, as amended from time to time. [23-21-001]
31. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated February 10, 2022, as amended from time to time. [23-22-001]
- 32.
33. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and CNRL [20-12-125]
34. Construction Contract SOW between Omicron Construction Management Ltd. and British Columbia Hydro and Power Authority dated February 23, 2024, as amended from time to time. [23-24-001]

together with all work orders, change orders and other ancillary contracts, including all subcontracts, associated with the foregoing contracts listed under the heading “Construction Contracts”.

Nominee Agreements:

Nominee Agreement between Omicron Architecture Engineering Construction Ltd. and Omicron Consulting Group dated November 10, 2004, as subsequently assumed by Omicron Canada Inc.

Nominee Agreement between Omicron Architecture Engineering Ltd. and Omicron Consulting Group dated February 23, 2005, as subsequently assumed by Omicron Canada Inc.

Design contracts:¹

1. Canadian Standard Form of Contract for Architect’s Services between Omicron Architecture Engineering Construction Ltd. and TELUS Communications Inc. dated March 13, 2020, as amended from time to time. [10-20-035]
2. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Ltd. and Ecowaste Industries Ltd. dated August 10, 2016, as amended from time to time. [10-16-060]
3. Agreement between Omicron Architecture Engineering Construction Ltd. and Burnaby School District (SD#41) dated May 17, 2017, as amended from time to time. [10-21-058]
4. Standard Form of Agreement between Omicron Architecture Engineering Construction Ltd. and City of Burnaby dated October 7, 2014 as amended from time to time. [10-14-104]
5. General Service Agreement between Omicron Interiors Ltd. and Her Majesty the Queen in Right of the Province of British Columbia, as represented by the General Manager of the Liquor Distribution Branch and Administrator of the Cannabis Distribution Act, dated for reference September 8, 2020, as amended from time to time. [70-20-009,-010]
6. Canadian Standard Form of Contract for Architectural Services dated March 1, 2022 between TELUS Communications Inc. and Omicron Architecture Engineering Construction Ltd., as amended from time to time.[10-22-017]
7. Canadian Standard Form of Contract for Architectural Services dated October 1, 2023 between Coca-Cola Canada Bottling Limited and Omicron Architecture Engineering Construction Ltd., as amended from time to time.[10-19-109]
8. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and Nicola VA Allandale Limited Partnership and Allandale Ventures (Lot C) Limited Partnership Services dated July 26, 2021 as amended from time to time. [10-20-099]
9. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and Sherringham Holdings Ltd. Services dated October 12, 2021 as amended from time to time. [10-21-010]
10. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and Montrose Industries Ltd. Services dated August 8, 2021 as amended from time to time. [10-21-087]

¹ With respect to any Omicron Architecture Engineering Construction Ltd./Omicron Architecture Engineering Ltd. contracts listed below, those contracts will remain with Omicron Architecture Engineering Construction Ltd./Omicron Architecture Engineering Ltd., but the beneficial interest therein will be transferred to the applicable Purchaser in conjunction with the transfer of the Omicron Architecture Engineering Construction Ltd./Omicron Architecture Engineering Ltd. Nominee Agreements.

11. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and Montrose Industries Ltd. Services dated August 8, 2021 as amended from time to time. [10-21-088]
12. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and Vancouver Christian School Services dated April 4, 2022 as amended from time to time. [10-22-042]
13. Construction Management Contract for Services and Construction dated May, 2023 between Lululemon Athletica Inc. and Omicron Construction Ltd., as amended from time to time. [10-22-066]
14. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and Montrose Industries Ltd. Services dated November 17, 2022 as amended from time to time. [10-22-067]
15. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and Coca-Cola Canada Bottling Limited. Services dated August 28, 2023 as amended from time to time. [10-22-068]
16. Engineering Agreement between CBRE Limited and Omicron Architectural Engineering Construction Ltd. Dated June 23, 2022 as amended from time to time [10-22-082]
17. Engineering Agreement between CBRE Limited and Omicron Architectural Engineering Construction Ltd. Dated August 22, 2023 as amended from time to time [10-23-046]
18. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and BC Transit Corporation Services dated June 9, 2022 as amended from time to time. [10-22-088]
19. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and CBRE Limited Services dated August 12, 2022 as amended from time to time. [10-22-102]
20. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and CBRE Limited Services dated August 9, 2022 as amended from time to time. [10-22-110]
21. General Services Agreement for Architectural Services between Omicron Construction Ltd and Tsawwassen Independent School Society DBA Southpointe Academy services dated June 23, 2023 [10-22-103]
22. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and CBRE Services dated January 19, 2023 as amended from time to time. [10-23-003]
23. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and CBRE Services dated August 1, 2023 as amended from time to time. [10-23-038]
24. General Services Agreement for Architectural Services between Omicron Architecture Engineering Construction Ltd and Kwantlen Polytechnic University on August 23, 2023.[10-23-043]
25. Architect Agreement between Omicron Architecture Engineering Construction Ltd and City of Richmond services dated August 7, 2023 as amended from time to time [10-23-041]
26. Consulting Agreement between Omicron Architecture Engineering Construction Ltd and Canada Place Corporation serviced dated December 20, 2023 as amended from time to time [10-24-003]
27. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and Alexander College Services dated September 20, 2022 as amended from time to time. [70-22-011]

28. Contract for Services between Insurance Corporation of British Columbia and Omicron Architecture Engineering Construction Ltd services dated January 10 , 2024 as amended from time to time [10-24-005]
29. Agreement between Omicron Architecture Engineering Construction Ltd and Ministry of Citizens' Services dated February 7 2023 [10-23-004]
30. Purchase order #4829 issued by City of West Kelowna on April 19, 2023.[10-23-020]
31. Purchase order #4500625298 issued by City of Vancouver on May 24, 2023 [10-23-025]
32. Purchase order #4102238354 issued by Coca-Cola Canada Bottling Limited on July 16, 2020.
33. Purchase order #CITY-0000108738 issued by City of Richmond on October 12 2023. [10-23-064]
34. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and 1159613 BC c/o Lotus Pacific Services dated December 31, 2018 as amended from time to time. [10-18-094]
35. Services Contract between Omicron Architectural Engineering Construction Ltd. And British Columbia Ferry Services Inc. dated July 5, 2023 as amended from time to time [10-23-035]
36. Construction Management Contract for Services and Construction dated April 16, 2021 between TELUS Communications Inc. and Omicron Construction Ltd., as amended from time to time. [10-21-076]
37. Agreement between Omicron Architecture Engineering Construction Ltd. and Sherringham Holdings Ltd. in respect of Design Services at 681 Allandale Road.* services dated October 13 2022 [70-22-012]
38. Agreement between Omicron Architecture Engineering Construction Ltd and FW Enterprises Ltd. Dated May 18, 2023 [70-23-002]
39. Canadian Standard Form of Contract for Architectural Services between Omicron Architecture Engineering Construction Inc. and CBRE Services dated July 20, 2023 as amended from time to time. [70-23-005]
40. Agreement between Omicron Architecture Engineering Construction Ltd. And Cambie Street Properties Inc. dated October 23, 2017 amended from time to time.[10-17-083]
41. General Consulting Services Agreement between The Waterfront Limited Partnership and Omicron Architecture Engineering Construction Ltd. dated March 24, 2021 as amended from time to time [10-21-028, 10-23-016]
42. Consulting Agreement between Canada Place Corporation and Omicron Architecture Engineering Construction Ltd. Dated May 27, 2021, as amended from time to time [10-21-060]
43. General Services Agreement between Omicron Canada Inc. and Kwantlen Polytechnic University dated February 28 2022 as amended from time to time [10-21-128]
44. Agreement between Montrose Properties and Omicron Architecture Engineering Construction Ltd dated February 17, 2022, as amended from time to time [10-22-024]
45. Planning Management Agreement between Telus Communications Inc. and Omicron Architecture Engineering Construction Ltd dated March 1, 2022, as amended from time to time [10-22-039]
46. Terms of Engagement between Ecowaste Industries Inc. and Omicron Architecture Engineering Construction Ltd dated June 4, 2019, as amended from time to time [10-17-015]
47. Purchase Order #KPO000005610 issued by CBRE Limited dated xx [10-22-044]
48. Purchase Order #KPO000022160 issued by CBRE Limited dated February 20, 2024 [10-22-084]
49. Purchase Order #KPO000021925 issued by CBRE Limited dated January 31st 2024 [10-22-086]
50. Purchase Order #KPO000021924 issued by CBRE Limited dated January 31st 2024 [10-22-087]
51. Terms of Engagement between Canucks Sports and Entertainment and Omicron Architecture Engineering Construction Ltd. dated August 3 2022, as amended from time to time [10-22-108]

52. Agreement between Top Down Investments and Omicron Architecture Engineering Construction Ltd. dated June 1st 2023, as amended from time to time. [10-22-117]
53. Purchase Order #OP 54866 000 issued by Port of Vancouver dated November 13, 2022 [10-22-119]
54. Subcontract Agreement between Omicron Construction Ltd. and Hammersmith Corporation Inc. dated December 14 2022 as amended from time to time [10-22-126]
55. Master Services Agreement between Lululemon Athletica Canada Inc. and Omicron Architecture Engineering Construction Ltd. dated October 23, 2023, as amended from time to time [10-23-006]
56. General Services Agreement between Kwantlen Polytechnic University and Omicron Canada Inc. dated March 14, 2023 as amended from time to time [10-23-010]
57. Purchase Order #KPO000014091 issued by CBRE Limited dated April 4th 2023 [10-23-012]
58. Change Order #33 issued by Wesbild Holdings to Omicron Canada Inc. and CDC Construction Ltd dated June 12, 2023 [10-23-016]
59. Purchase Order #7474 issued by Canada Place Corporation to Omicron Canada Inc. dated May 2 2023 [10-23-017]
60. Signed proposal between Dimensional Energy and Omicron Architecture Engineering Construction Ltd. dated June 2 2023 as amended time to time [10-23-027]
61. Purchase Order #KPO000015524 issued by CBRE Limited dated July 24 2023. [10-23-030]
62. Signed Proposal between Lululemon Athletica Inc. and Omicron Architecture Engineering Construction Ltd. dated Sept 5th 2023 [10-23-050]
63. Signed Proposal between Lululemon Athletica Inc. and Omicron Architecture Engineering Construction Ltd. dated August 31 2023 [10-23-049]
64. Purchase Order #KPO000022156 issued by CBRE Limited dated February 20 2024. [10-23-051]
65. Terms of Engagement between City of Burnaby and Omicron Architecture Engineering Construction Ltd dated August 21 2023, as amended from time to time. [10-23-061]
66. Letter of Commitment between Concert Properties and Omicron Architecture Engineering Construction Ltd dated May 6 2020 [10-18-001]
67. Letter of Commitment between Concert Properties and Omicron Architecture Engineering Construction Ltd dated October 1 2020 [10-20-067]
68. Purchase Order #252976 issued by NTE Energy Canada Ltd. dated November 1 2023 [10-23-066]
69. Terms of Engagement between Aspengrove School and Omicron Architecture Engineering Construction Ltd dated January 22 2023 [10-24-009]
70. Project Manager Agreement between Bureau Veritas Commodities Canada Ltd and Omicron Architecture Engineering Construction Ltd dated January 18 2024 [10-24-010].
71. Purchase Order #PO782627 issued by Metro Vancouver to Omicron Canada Inc. dated February 15 2024. [10-24-011]
72. Signed Proposal between Gustavson Wylie Architects Inc and Omicron Architecture Engineering Construction Ltd. dated February 21, 2024 [10-24-012]
73. Terms of Engagement between Claren Academy Society and Omicron Architecture Engineering Construction Ltd dated February 22 2024 [10-24-013]
74. Master Services Contract between WorkSafeBC and Avison Young Commercial Real Estate Services LP and Omicron Interiors Ltd. dated February 1st 2023 as amended from time to time [10-23-003]
75. Email Agreement between Blackwood Partners Management Corporation and Omicron Architecture Engineering Construction Ltd dated March 14, 2022. [10-22-030]
76. Work order #263603139 issued by Home Depot Canada Inc. Dated December 10, 2023 [10-23-067]

77. Work order #261562527 issued by Home Depot Canada Inc. Dated November 16 2023 [10-23-015]
78. Signed Proposal between Tung Lin Kok Yuen Canada Society and Omicron Architecture Engineering Construction Ltd dated November 16 2023, as amended from time to time. [10-24-007]
79. Email Agreement between Read Jones Christofferson Consulting Engineers Ltd and Omicron Architecture Engineering Construction Ltd dated April 19, 2022. [10-22-062]
80. Agreement between Tabor Storage Solutions and Omicron Architecture Engineering Construction Ltd dated December 18, 2023, as amended from time to time [10-24-001]
81. Email Agreement between Telus Communications Inc. and Omicron Architecture Engineering Construction Ltd dated September 16, 2022, as amended from time to time [10-22-093]
82. Signed Proposal between Home Depot of Canada Inc. and Omicron Architecture Engineering Construction Ltd dated January 19, 2024, as amended from time to time. [10-24-006]
83. Purchase Order #KPO000016189 issued by CBRE Limited dated September 11, 2023 [10-23-032]
84. Engineering Agreement between CBRE Ltd and Omicron Architecture Engineering Construction Ltd dated March 11 2024. [10-24-016]
85. PO issued by McRae Integration Ltd. to Omicron Canada Inc. for electrical service dated March 07 2024. [10-24-017]
86. Email Agreement between Morguard and Omicron Architecture Engineering Construction Ltd dated March 19th, 2024, as amended from time to time [10-24-018]
87. Email Agreement between Danny Guillaume and Omicron Architecture Engineering Construction Ltd dated April 2, 2024, as amended from time to time [10-24-019]

together with all work orders, change orders and other ancillary contracts, including all subcontracts, associated with the foregoing contracts listed under the heading “Design Contracts”.

Other:

Settlement and Mutual Release Agreement between Omicron Construction Ltd. and Canadian Natural Resources Limited May 11, 2015, including the entitlement to receipt of the “Indemnity Holdback” thereunder upon its payment (the “**CNRL Agreement**”).

Insurance/Benefits:

The insurance policies and benefit plans of the Vendors.

SCHEDULE "C"
ASSUMED LIABILITIES

Accounts payable and deferred revenue in connection with the Assumed Contracts.

Any obligation to pay the Trust Cash in connection with the Legal Proceedings (each as defined in Schedule E).

**SCHEDULE “D”
PURCHASE PRICE ALLOCATION**

The Vendors and the Purchasers agree that the Purchase Price shall be allocated for tax purposes amongst the Purchased Assets in a manner consistent with the following methodology, to be applied in respect of each Vendor and Purchaser in accordance with Schedule “G”:

Category	Methodology
Cash and cash equivalents	Book value
Accounts receivable	Book value
Prepaid expenses and other current assets	Book value
Short term investments	Fair market value
Tangible/depreciable assets	Net book value
Construction contracts	Remainder of purchase price, up to maximum of \$1,000,000 (in aggregate for all Purchasers).
Intangibles and goodwill	Remainder of purchase price (after the allocation to the Construction contracts above), if any

**SCHEDULE “E”
PURCHASED ASSETS**

The following is a non-exhaustive list of Purchased Assets:

- All rights, title (in respect of owned property) and interests in furniture, fixtures, furnishings, office equipment, computer hardware and accessories, communications and networking equipment, servers and other items of tangible personal property owned or leased by any of the Vendors located on or about the premises subject to the real property leases included in the Assumed Contracts or otherwise used in, held for use in or relating to the operation of the Business.
- All rights, title and interests in the following vehicles owned by a Vendor:

Chevy 2007 Suburban 2500	77111
Haulmark 2008 Com TLR (Trailer)	30275
Ford 2008 F150 XLT	63736
Ford 2008 F350 Super Duty	96373
Ford 2016 F150	68455
Ford 2017 F150	95299
Ford 2017 F150	95130
Ford 2017 F150	35942

- All rights and interests in the following vehicles leased by a Vendor:

FC18006 license LJ1475	67286
Ford Truck #60266877	02227
Ford Truck #60484000	09856
Ford Truck #61154498	21078

- The Books and Records.
- All creative, promotional, marketing or advertising materials (whether in hard copy or computer or other electronic format) of any Vendor used in, held for use in or relating to the operation of the Business.
- The names of the Vendors and all intellectual property rights of any Vendor used in, held for use in or relating to the operation of the Business, including all documentation, designs and other intellectual property rights associated with current and prior projects.
- All permits held by any Vendor and required for the operation of the Business.
- All insurance policies for the benefit of any Vendor.
- All benefit plans of any Vendor.
- All rights, claims, counterclaims, credits, causes of action or rights of set-off of any of the Vendors against third parties.

- All telephone numbers, facsimile numbers, directory listings, email addresses and other communications identifiers owned by any of the Vendors that are used in, held for use in or relating to the operation of the Business.
- All cash and cash equivalents of the Vendors as at the Closing Time.
- All current assets of the Vendors, including prepaid expenses and receivables.
- All interests of the Vendors in the cash held by Borden Ladner Gervais LLP in respect of certain ongoing litigation in relation to a prior project for Canadian Natural Resources Limited (the “**Legal Proceedings**”), including any interest accrued thereon (the “**Trust Cash**”).
- Any inventory of the Vendors
- The bank accounts (including the cash contained therein) and credit cards of the Vendors, including the following:

Bank	Bank Account	Legal entity	Currency
HSBC	270-750 703-001	Omicron Canada Inc.	CAD
HSBC	270-750 703-270	Omicron Canada Inc.	USD
HSBC	270-750-738-001	Omicron Construction Ltd.	CAD
HSBC	270-750-746-001	Omicron Construction Management Ltd.	CAD
HSBC	270-750-762-001	Omicron Interiors Ltd.	CAD

Bank	CC number	Legal entity	Currency	User name
RBC	4516076004716907	Omicron Canada Inc.	CAD	Hank Sam
RBC	4516070015485875	Omicron Canada Inc.	CAD	Caroline Tovey

SCHEDULE "F"
FORM OF POST-CLOSING SALE AGREEMENT

Attached.

CONTINGENT SALE AGREEMENT

This Contingent Sale Agreement (the “**Agreement**”) is made as of this 19th day of April, between:

THE ENTITIES LISTED IN SCHEDULE “A” ATTACHED HERETO
(collectively, the “**Purchasers**” and each a “**Purchaser**”)

- and -

THE ENTITIES LISTED IN SCHEDULE “B” ATTACHED HERETO (collectively,
the “**DIP Lenders**” and each a “**DIP Lender**”)

WHEREAS:

- A. Pursuant to the Order of the Honourable Justice Stephens of the Supreme Court of British Columbia (the “**Court**”) issued January 11, 2024 (as may be further amended or amended and restated from time to time, the “**Initial Order**”), Nexii Building Solutions Inc., Nexii Construction Inc., NBS IP Inc. and Nexii Holdings Inc. (collectively the “**Petitioners**”) were granted, among other things, creditor protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. was appointed as Monitor of the Petitioners, with certain enhanced powers (in such capacity, the “**Monitor**”).
- B. The Initial Order extended certain protections of the Initial Order to Omicron Canada Inc., Omicron Construction Management Ltd., Omicron Consulting Ltd., Grant & Sinclair Architects Ltd., Omicron Interiors Ltd., and Omicron Construction Ltd. (collectively, the “**Omicron Group**”).
- C. In connection with the proceedings initiated by the Initial Order, on January 22, 2024, the Petitioners sought and obtained an order of the Court, among other things, approving a sale process (the “**Sale Process**”) to be conducted by Origin Merchant Partners, under the oversight and with the assistance of the Monitor, to solicit interest in, and opportunities for, one or more or any combination of executable transactions involving the Petitioners and the Omicron Group and/or the Petitioners’ and Omicron Groups’ business operations as a going concern or otherwise.
- D. As a result of the Sale Process, Nexii Building Solutions Inc., the Omicron Group, apart from Grant & Sinclair Architects Ltd., and Purchasers entered into a binding Asset Purchase Agreement dated April 19, 2024 (the “**Purchase Agreement**”) for the Purchased Assets (as defined therein).
- E. Pursuant to section 3.3(d) of the Purchase Agreement, the DIP Lenders and Purchasers are to enter into a Post-Closing Sale Agreement (as defined therein) to apply to any Post-Closing Sale (as defined therein).
- F. Terms used but not defined herein shall have the meanings ascribed to them in the Purchase Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the parties hereto (collectively, the “**Parties**”, and each, a “**Party**”) hereby acknowledge and agree as follows:

1. Conditional Payment

If at any time during the five-year period immediately following Closing:

- (a) any one or more of the Purchasers (or any successor corporations) holding all or substantially all of the Purchased Assets immediately prior to such transaction or series of transactions (the “**Controlling Entities**”) sells, leases, transfers, exclusively licenses, conveys or otherwise disposes, collectively, in one transaction or a series of transactions, all or substantially all of the interests in all or substantially all of the Purchased Assets (other than in connection with an internal reorganization of the one or more of the Controlling Entities where (i) the transferee or recipient of the some or all of the interests in the Purchased Assets in such internal reorganization (the “**Transferee**”) is an affiliate of one or more of the Controlling Entities and (ii) such Transferee has delivered a joinder to this Agreement, pursuant to which the Transferee agrees in favour of the DIP Lenders to become party to and bound by this Agreement as a “**Purchaser**” and as if an original party hereto and subject to the provisions of Section 1 and 2 of this Agreement); or
- (b) there occurs a merger, amalgamation, sale, arrangement, take-over bid, reorganization, plan of arrangement, business combination, consolidation or other similar transaction or series of transactions as a result of which the beneficial owners of shares of the Controlling Entities do not own beneficial interests in a majority of the shares of the Controlling Entities outstanding immediately following such transaction or series of transactions

((a) and (b) collectively, a “**Post-Closing Sale**”);

the Purchaser or Purchasers who are party to such a Post-Closing Sale (collectively, the “**Post-Closing Sale Party**”) shall pay to the DIP Lenders, within ten (10) Business Days of the closing of such Post-Closing Sale, a cash payment equal to 15% of the difference between (a) the consideration provided to the Post-Closing Sale Party (or shareholders thereof) in connection with the Post-Closing Sale and (b) \$7,000,000. For certainty, the DIP Lenders are entitled to a single payment as between them (not a payment each) and this Agreement shall terminate following the completion of a Post-Closing Sale (provided any obligation of the Purchasers to make a payment in respect of such Post-Closing Sale to the DIP Lenders hereunder shall survive such termination).

2. Covenants of the Purchasers

The Purchasers will provide the DIP Lenders with not less than five (5) Business Days’ prior written notice of any proposed Post-Closing Sale and will provide the DIP Lenders at such time with excerpts of the portions of the then current drafts of the principal transaction documents for such Post-Closing Sale that establish the consideration to be provided to the Post-Closing Sale Party (or shareholders thereof) in connection with the proposed Post-Closing Sale. Promptly following closing of a Post-Closing Sale and in any event within two (2) Business Days’ following such closing, the Post-Closing Sale Party will provide the DIP Lenders with written confirmation of the closing of such Post-Closing Sale and confirmation of the total closing proceeds paid or payable to the Post-Closing Sale Party (or shareholders thereof), together with true and correct copies of the excerpts of the portions of the duly executed principal transaction documents for such Post-Closing Sale that establish the consideration to be provided to the Post-Closing

Sale Party (or shareholders thereof).

Within 90 days following each of the first five anniversaries of the date on which the Closing occurs, the Purchasers will deliver to the DIP Lenders a certificate duly executed by an officer of 15925347 Canada Inc. and any other Purchaser entity that is not then a subsidiary of 15925347 Canada Inc., certifying that other than as disclosed to the DIP Lenders in accordance with this Section 2 no Post-Closing Sale has occurred and attaching an estimate, prepared internally by the Purchasers in good faith, of the aggregate value of Purchased Assets as at the applicable anniversary, the confidentiality of which shall be maintained by the DIP Lenders.

3. Currency

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

4. Binding Agreement

The Parties acknowledge and confirm that all of the terms and conditions of this Agreement are binding on the Parties and their respective successors and assigns, following the Closing of the Transaction. Should the Transaction fail to close, the terms and conditions of this Agreement will be of no force and effect.

5. Entire Agreement

This Agreement sets forth the entire agreement of the Parties with respect to the subject matter hereof and supersedes in its entirety all prior agreements whether written or oral. Except as otherwise provided herein, nothing contained herein shall or is intended to affect, modify or otherwise alter the terms and conditions of the Purchase Agreement and the respective Parties' obligations thereunder.

6. Notices

Any notices, waivers or other communications from one Party to another pursuant hereto (hereinafter collectively referred to as "**Notices**") shall be in writing. Notices will be considered to have been sufficiently given when delivered by registered mail, by hand, by email or by other designated form of electronic communication to the applicable Party as set out below:

(a) in the case of the Purchasers, as follows:

15925347 Canada Inc.
c/o 8970 Nash Street
Fort Langley, BC V1M 2R4
Attention: George Sawatzky

Email: GSawatzky@omicronaec.com

with a copy to:

Lawson Lundell LLP
925 W Georgia Street #1600
Vancouver, BC V6C 3L2

Attention: Chat Ortved and Alexis Teasdale
Email: cortved@lawsonlundell.com and ateasdale@lawsonlundell.com

(b) in the case of the DIP Lenders, as follows:

Aird & Berlis LLP
Brookfield Place, 181 Bay Street, Suite 1800
Toronto, Canada, M5J 2T9

Attention: Kyle Plunkett
Email: kplunkett@airdberlis.com

7. No Amendment

This Agreement may only be amended by the written agreement of the duly authorized representatives of the Parties.

8. Assignment

No Party may assign this Agreement without the prior written consent of the other Parties (provided the Purchasers may assign this Agreement in conjunction with an assignment of the Purchase Agreement permitted thereunder).

9. Enurement

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

10. Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court, and any appellate courts of the Province of British Columbia therefrom.

11. Non-Waiver

No waiver of any condition or other provision, in whole or in part, shall constitute a waiver of any other condition or provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in writing.

12. Counterparts

This Agreement may be executed and delivered by Portable Document Format (PDF) or other electronic means and in any number of identical counterparts each of which may be deemed an original, and all of which taken together shall constitute one and the same agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the day and year first above written.

15925347 CANADA INC.

By: _____
Name:
Title:

I have authority to bind the Corporation.

1474480 B.C. LTD.

By: _____
Name:
Title:

I have authority to bind the Corporation.

1474737 B.C. LTD.

By: _____
Name:
Title:

I have authority to bind the Corporation.

1474741 B.C. LTD.

By: _____
Name:
Title:

I have authority to bind the Corporation.

1474484 B.C. LTD.

By: _____
Name:
Title:

I have authority to bind the Corporation.

1464115 B.C. LTD.

By: _____

Name:

Title:

I have authority to bind the Corporation.

POWERSCOURT INVESTMENTS XXV, LP

By: _____

Name:

Title:

I have authority to bind the Corporation.

TRINITY CAPITAL INC.

By: _____

Name:

Title:

I have authority to bind the Corporation.

**HORIZON TECHNOLOGY FINANCE
CORPORATION**

By: _____

Name:

Title:

I have authority to bind the Corporation.

Schedule “A”

Purchasers

15925347 Canada Inc.
1474480 B.C. Ltd.
1474737 B.C. Ltd.
1474741 B.C. Ltd.
1474484 B.C. Ltd.
1474484 B.C. Ltd.

Schedule “B”

DIP Lenders

Powerscourt Investments XXV, LP
Trinity Capital Inc.
Horizon Technology Finance Corporation

56826533.2

SCHEDULE “G”
ALLOCATION OF PURCHASE OF PURCHASED ASSETS AND ASSUMPTION OF ASSUMED
LIABILITIES AMONG THE PURCHASERS

Subject to and in accordance with the Agreement:

1. New OCI shall purchase the Purchased Assets, and assume the Assumed Liabilities, of Omicron Canada Inc.;
2. New OCML shall purchase the Purchased Assets, and assume the Assumed Liabilities, of Omicron Construction Management Ltd.;
3. New OI shall purchase the Purchased Assets, and assume the Assumed Liabilities, of Omicron Interiors Ltd.;
4. New Consulting shall purchase the Purchased Assets, and assume the Assumed Liabilities, of Omicron Consulting Ltd.; and
5. New OCon shall purchase the Purchased Assets, and assume the Assumed Liabilities, of Omicron Construction Ltd.,

with the following exceptions/qualifications:

1. 1474484 shall purchase and assume the CNRL Agreement and Trust Cash, along with any obligation to pay the Trust Cash in connection with the Legal Proceedings.
2. New OCML, as opposed to New OCon, shall assume the following Contracts:
 - a. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and Montrose Industries Ltd. dated September 22, 2023, as amended from time to time. [20-22-014]
 - b. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and Montrose Industries Ltd. dated June 8, 2022, as amended from time to time. [20-22-008]
 - c. Construction Management Contract for Services and Construction between Omicron Construction Ltd. and Montrose Industries Ltd. dated July 21, 2022, as amended from time to time. [20-22-004]
 - d. Construction Management Contract for Services between Omicron Construction Ltd. and Allendale LP dated July 14, 2021, as amended from time to time. [20-21-018]

Appendix “D”

Nexii Building Solutions

Actual + Projected Statement of Cash Flows

For the Period Ending June 30, 2024

(Unaudited; C\$000s)

		Week Ended										Total	
Notes:		21-Apr-24	28-Apr-24	05-May-24	12-May-24	19-May-24	26-May-24	02-Jun-24	09-Jun-24	16-Jun-24	23-Jun-24		30-Jun-24
	1												
Receipts													
	2	176	-	-	-	-	215	-	-	-	-	-	391
	3	-	240	-	324	-	240	-	324	-	240	-	1,367
		176	240	-	324	-	455	-	324	-	240	-	1,758
Disbursements													
	3	-	-	-	-	-	-	-	-	-	-	-	-
	4	356	33	356	33	356	33	356	33	356	33	356	2,304
	5	10	-	383	-	-	-	249	-	-	-	249	891
		25	25	25	25	25	25	25	25	25	25	25	275
		391	58	765	58	381	58	630	58	381	58	630	3,470
		(215)	182	(765)	266	(381)	397	(630)	266	(381)	182	(630)	(1,712)
	6	229	100	100	100	100	100	100	100	100	100	100	1,229
		(445)	82	(865)	166	(481)	297	(730)	166	(481)	82	(730)	(2,941)
		1,714	1,269	1,351	486	652	1,412	1,709	979	1,144	663	745	1,714
		(445)	82	(865)	166	(481)	297	(730)	166	(481)	82	(730)	(2,941)
	7	-	-	-	-	1,242	-	-	-	-	-	-	1,242
		1,269	1,351	486	652	1,412	1,709	979	1,144	663	745	14	14

Nexii Building Solutions

Notes to Projected Statement of Cash Flows

For the Period Ending June 30, 2024

(Unaudited; C\$000s)

1. The purpose of the projection is to present a forecast of the cash flow of Nexii Building Solutions Inc., Nexii Construction Inc, NBS IP Inc., and Nexii Holdings Inc. (collectively, the "Petitioners") for the period April 15, 2024 to June 30, 2024 (the "Period").
2. Includes the collection of refunds from federal excise tax payments and forecasted redemption of a GIC.
3. The projection includes reimbursements from project owners for payroll expenses incurred by the Petitioners for the completion of ongoing projects. The cash flow excludes any receipts and disbursements relating to other non-payroll-related costs for ongoing projects funded by the customers. The projection assumes these projects will only be completed if the project owners continue to fund ongoing costs. The Petitioners' current payroll will also proportionately reduce should the project owners stop funding for the ongoing projects.
4. Includes payroll and benefits for the Petitioners' employees. Projected payroll payments exclude amounts proposed under the KERP.
5. Represents general operating costs, including rent, sales and marketing, software, administrative costs, overhead costs, and other sundry items.
6. Professional fees reflect the fees incurred for the Monitor, its legal counsel, and the lenders' legal counsel.
7. Reflects projected DIP funding to be provided by the Interim Lenders, as defined and pursuant to the terms of the DIP Facility.

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.**

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

The management of Nexii Building Solutions Inc., Nexii Construction Inc, NBS IP Inc., and Nexii Holdings Inc. (collectively, the "Petitioners") have developed the assumptions and prepared the attached consolidated statement of projected cash flow as of the 19th day of April, 2024 for the period April 15, 2024 to June 30, 2024 ("Cash Flow Forecast"). All such assumptions are disclosed in the notes to the Cash Flow Forecast.

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

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

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

Dated at Vancouver, BC this 19th day of April, 2024.

**NEXII BUILDING SOLUTIONS INC., NEXII CONSTRUCTION INC, NBS IP INC., AND NEXII
HOLDINGS INC.**



Per: Bill Tucker

Appendix “E”

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.**

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

The attached consolidated statement of projected cash-flow of of Nexii Building Solutions Inc., Nexii Construction Inc, NBS IP Inc., and Nexii Holdings Inc. (collectively, the "Petitioners") as of the 19th day January, 2024, consisting of a weekly projected cash flow statement for the period April 15, 2024 to June 30, 2024 (the "Cash Flow Forecast") has been prepared by the management of the Petitioners for the purpose described in Note 1, using 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 of the Petitioners. We have reviewed the support provided by management for the probable and hypothetical assumptions and the preparation and presentation of the Cash Flow Forecast.

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 Forecast;
- 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 Petitioners or do not provide a reasonable basis for the Cash Flow Forecast, given the hypothetical assumptions; or
- c) the Cash Flow Forecast does not reflect the probable and hypothetical assumptions.

Since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material. Accordingly, we express no assurance as to whether the Cash Flow Forecast 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 Forecast 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, ON this 19th day of April, 2024.

KSV Restructuring Inc.

KSV RESTRUCTURING INC.,
solely in its capacity as the monitor of
Nexii Building Solutions Inc., Nexii Construction Inc,
NBS IP Inc., And Nexii Holdings Inc.