

April 11, 2025

Second Report to Court of KSV Restructuring Inc. as Receiver and Manager of certain real property, assets and undertakings of 759 Winston Churchill GP Inc., 759 Winston Churchill L.P., 688 Southdown GP Inc., 688 Southdown LP, 2226 Royal Windsor GP Inc. and 2226 Royal Windsor LP

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COURT FILE NUMBER: CV-24-00714543-00CL

ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)

BETWEEN:

KINGSETT MORTGAGE CORPORATION

APPLICANT

- AND -

759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688 SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP INC. AND 2226 ROYAL WINDSOR LP

RESPONDENTS

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED

SECOND REPORT OF KSV RESTRUCTURING INC. AS RECEIVER AND MANAGER

APRIL 11, 2025

1.0 Introduction

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on May 30, 2024 (the "Receivership Order"), as amended and restated on November 15, 2024 (the "A&R Receivership Order"), KSV Restructuring Inc. ("KSV") was appointed as receiver and manager (in such capacity, the "Receiver") of the real property described on Schedule "A" to the A&R Receivership Order (collectively, the "Real Property") and all present and future assets, undertakings and personal property of 759 Winston Churchill GP Inc. ("Churchill GP"), 759 Winston Churchill L.P. ("Churchill LP" and, together with Churchill GP, "Churchill"), 688 Southdown GP Inc. ("Southdown GP"), 688 Southdown LP ("Southdown LP" and, together with Southdown GP, "Southdown"), 2226 Royal Windsor GP Inc. ("Royal Windsor GP") and 2226 Royal Windsor LP ("Royal Windsor LP" and, together with Royal Windsor GP, "Royal Windsor") (collectively, the "Debtors"), including all permits and deposits paid and obtained on behalf of a

Debtor, located at, related to, used in connection with or arising from or out of the Real Property or which is necessary to the use and operation of the Real Property, including all proceeds therefrom, excluding all security granted by Churchill GP to The Toronto-Dominion Bank in connection with certain letters of credit (collectively with the Real Property, the "**Property**"). A copy of the A&R Receivership Order is attached as **Appendix "A"**.

2. This report (the "**Report**") is filed by KSV in its capacity as Receiver and addresses the Receiver's recommendations in respect of the Churchill Project (as defined below) and a claims process (the "**Claims Process**") to determine Construction Priority Claims (as defined below).

1.1 Purposes of this Report

- 1. The purposes of this Report are to, among other things:
 - a) provide an update on the Debtors and the Property, including anticipated next steps in these receivership proceedings;
 - b) summarize the key terms of a letter of intent (the "Churchill Construction LOI") between Churchill LP and Leeswood Design Build (Alberta) Ltd. ("Leeswood") dated April 7, 2025 and executed on April 9, 2025. A copy of the Churchill Construction LOI (without attachments 1 and 2 thereto, which are subject to a request for a sealing order, as described below) is attached as Appendix "B";
 - c) summarize the key terms of a construction financing facility ("Churchill Construction Facility") to be provided by KingSett Mortgage Corporation pursuant to a commitment letter dated as of April 10, 2025 (the "Churchill Commitment Letter") between the Receiver and KingSett Mortgage Corporation ("KingSett"). A copy of the Churchill Commitment Letter is attached as Appendix "C";
 - d) provide the rationale for recommending that this Court issue the proposed second amended and restated Receivership Order (the "Second A&R Receivership Order"):
 - approving the Churchill Construction LOI and authorizing the subsequent execution of the Second Churchill CM Contract (as defined below), and granting certain related relief;
 - sealing attachments 1 and 2 to the Churchill Construction LOI; and
 - authorizing the Receiver to borrow up to an aggregate principal amount of \$90,250,000 (plus a \$2,000,000 letter of credit facility) pursuant to the Churchill Commitment Letter and granting a \$92,250,000 charge (the "Receiver's WC Borrowings Charge") against the Property of Churchill GP and Churchill LP as security for the payment of the monies borrowed under the Churchill Construction Facility, to rank subordinate to the Receiver's Charge and pari passu with the Receiver's General Borrowings Charge (each as defined in the proposed Second A&R Receivership Order);

- e) discuss the need for the Claims Process; and
- f) recommend that the Court issue a Claims Process Order (the "CPO"), among other things, approving the Claims Process and authorizing the Receiver to carry out same in accordance with the terms therein.

1.2 Currency

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

1.3 Restrictions

- 1. In preparing this Report, the Receiver has relied upon: (i) the books and records of the Debtors; (ii) discussions with various suppliers, tradespeople and consultants to the Debtors; (iii) discussions with the management of the South Shore Group (as defined below); and (iv) the receivership application materials (collectively, the "Information").
- 2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party wishing to place reliance on the Information should perform its own diligence and the Receiver accepts no responsibility for any reliance placed on the Information in this Report by any party.
- 3. Additional background information regarding the Debtors and the reasons for the appointment of the Receiver are provided in the application materials of KingSett. Copies of the Court materials filed to-date in these proceedings are available on the Receiver's case website: https://www.ksvadvisory.com/experience/case/winston-churchill.

2.0 Background and Update

2.1 The Debtors

- 1. The Debtors are privately held real estate development entities and are each part of the larger South Shore Group of companies (the "**South Shore Group**").
- 2. Churchill GP, Southdown GP and Royal Windsor GP are the registered owners of the Real Property, and hold such property in trust for, and for the benefit of, Churchill LP, Southdown LP and Royal Windsor LP, respectively.
- 3. The Debtors intended to develop three real estate development projects on their respective Real Property (collectively, the "**Projects**" and each a "**Project**"), which are all located in Mississauga, Ontario.
- 4. The Receiver understands that the Debtors do not have employees.

2.2 The Projects

- 1. The Real Property and the related Projects are comprised of the following:
 - a) a property located at 759 Winston Churchill Boulevard, Mississauga, Ontario (the "Churchill Lands", and the Project being developed thereon, the "Churchill Project"). The Churchill Lands are approximately 47.15 acres and were intended to be developed into 750,354 square feet of industrial facilities, comprised of three industrial buildings. Currently, one building is complete and fully leased (the "Completed WC Building"), one is partially constructed and construction has not commenced on the third (together, the "Remaining WC Buildings");
 - b) a property located at 688 Southdown Road, Mississauga, Ontario (the "Southdown Lands" and the Project being developed thereon, the "Southdown Project"). The Southdown Lands are approximately 91 acres, of which 80 acres are developable and are currently zoned for industrial use. There is no active construction on the Southdown Lands; and
 - c) a property located at 2226 Royal Windsor Drive, Mississauga, Ontario (the "Royal Windsor Lands" and the Project being contemplated thereon, the "Royal Windsor Project"). The Royal Windsor Lands are comprised of approximately 74.5 acres of industrial zoned land. The Royal Windsor Lands were to be re-zoned for residential use, however, such re-zoning efforts have not yet commenced or have not materially advanced. There is no active construction on the Royal Windsor Lands.

2.3 Prior Sale Efforts

- Since the commencement of the receivership proceedings, the Receiver has been assessing options for maximizing realizations from the Property. As described in the First Report, given the status of the Projects and the lack of available financing to date, the Receiver's efforts have primarily been focused on the pursuit of sale transactions. These efforts resulted in the Receiver negotiating and executing confidential, non-binding letters of intent ("Project Sale LOIs") for the sale of each of the Projects.
- 2. However, since the filing of the First Report, the Project Sale LOIs were terminated in accordance with their terms as the counterparties determined it was not feasible to proceed with the transactions contemplated therein. It became apparent to the Receiver during discussions with the counterparties to the Project Sale LOIs (as well as other potential buyers) that:
 - a) in respect of the Churchill Project, completion of the Remaining WC Buildings would materially increase the Churchill Project's value in any sales process and expand the pool of potentially interested acquirors; and
 - b) for all Projects, the identification and quantification of Construction Priority Claims may facilitate a sale transaction, as this will allow the Receiver to canvass a broader pool of potential transaction structures, such as an assumption of mortgage debt and/or credit bid, where the payment of Construction Priority Claims may be required in connection therewith.

3. In light of the foregoing, the Receiver engaged in discussions with KingSett regarding a potential Churchill Construction Facility to fund the construction of the Remaining WC Buildings, which culminated in the Churchill Commitment Letter. The key terms of the Churchill Commitment Letter are summarized further below. The Receiver continues to assess value maximizing alternatives for the Southdown Project and Royal Windsor Project.

3.0 Development of the Churchill Project

3.1 Background and Extension Update

- As described further in the Receiver's First Report dated November 11, 2024 (the "First Report"), the Receiver understands that, prior to the commencement of these receivership proceedings, vehicular and pedestrian access to the Completed WC Building was intended to be provided by way of an extension of Hazelhurst Road to Winston Churchill Blvd. (the "Extension").
- 2. The tenant of the Completed WC Building had raised concerns that, without the Extension, the current alternative access to the Completed WC Building from Hazelhurst Road (rather than from Winston Churchill Blvd.) was resulting in significant delays, additional costs and staffing issues.
- 3. The Receiver, in consultation with KingSett, assessed the benefits and costs associated with completing the Extension and determined that its completion would materially increase the value of the Churchill Project given that improved access to the Completed WC Building via the Extension is expected to benefit both the Completed WC Building landlord and any future tenant, thereby enhancing the property's marketability.
- 4. On November 15, 2024, the Court issued the A&R Receivership Order which approved, among other things, the retention of Leeswood as the construction manager to oversee completion of the Extension pursuant to a CCDC 5A Construction Management Contract for Services (2010) contract (the "First Churchill CM Contract").
- 5. As of the date of this Report, the Receiver is advised by Leeswood that completion of the Extension is on-budget, is substantially advanced, and is scheduled to be completed by late spring-2025.

3.2 Churchill Construction LOI

1. The Receiver, in consultation with KingSett following termination of the Project Sale LOI in respect of the Churchill Project, evaluated the viability associated with completing the Remaining WC Buildings and determined that their completion would be accretive to any sales process.

- 2. Given their prior involvement in the Churchill Project, the Receiver engaged in discussions with Leeswood regarding a possible expansion of its scope of work to include completion of the Remaining WC Buildings. As a result of these discussions, Leeswood submitted a formal letter of intent setting out its proposal for key terms to be included in a definitive CCDC 5A Construction Management Contract for Services (2010) (or other similar form of construction management contract) as well as related early works.
- 3. Based on its extensive real estate experience, the Receiver considers the key terms included in the Churchill Construction LOI, including proposed fees and timelines, to be both favorable and reasonable. Accordingly, the Receiver, with KingSett's support, executed the Churchill Construction LOI.
- 4. A summary of the key terms of the Churchill Construction LOI is as follows:
 - a) Construction Manager: Leeswood.
 - b) <u>Negotiation of Definitive Contract</u>: The parties agree to negotiate in good faith a definitive CCDC-5A (Construction Management Contract for Services) along with owner's supplementary conditions (the "Second Churchill CM Contract") reflecting the key terms of the Churchill Construction LOI.
 - c) Project Budget: The Churchill Construction LOI attaches a budget of \$20,792,992 for Building 1 and a budget of \$16,977,445 for Building 2. These budgets (the "Confidential WC Budgets") are subject to a request for a sealing order.
 - d) <u>Project Schedule</u>: The project schedule contemplates substantial completion in or around March 2026.
 - e) Scope of Work and Services: Construction of Building 1, construction of Building 2, and completion of all civil works relating thereto, including landscaping and stormwater pond work. Leeswood will also provide value engineering services and assist in minimizing costs, including through the use of materials already located at the site.
 - f) <u>Early Works</u>: Leeswood is authorized to proceed with work and services in connection with the Churchill Project as required to maintain the project schedule. Such works will be performed in accordance with the standard terms and conditions of the CCDC 5A form of construction manager contract, subject to the terms of the Churchill Construction LOI.
 - g) <u>Fees</u>: Leeswood shall be paid: (i) a construction management fee of 2.8% (inclusive of all offsite overheads), (ii) a bonus of 15% of any cost savings relative to the overall construction budget, and (iii) bonuses if the following milestone schedules are met: (A) \$50,000 if Building 2 is completed within 6 months from the date of the Churchill Construction LOI; and (B) \$50,000 if Building 1 is completed within 11 months from the date of the Churchill Construction LOI.

- h) Receiver's Right to Termination: The Receiver may terminate the Churchill Construction LOI upon written notice. Upon such termination, Leeswood will be entitled to: (i) its direct out-of-pocket costs incurred and for the reasonable overhead and fee for the work, plus (ii) work performed, and for other materials and services ordered with written approval prior to the date of receipt by Leeswood of such written termination, along with reasonable sum for overhead and fees for such work.
- i) Occupational Health & Safety: Leeswood shall act as "constructor" in connection with any construction work on the project and shall file "Notice of Project" as required by applicable laws.
- j) <u>Insurance</u>: Leeswood is required to maintain appropriate insurance in respect of the Churchill Project and the services and work to be provided, which shall include at a minimum: (i) automobile insurance, (ii) equipment insurance, (iii) commercial general liability insurance, (iv) pollution liability insurance, and (v) Builder's Risk insurance.
- k) Governing Law: Ontario.

3.3 Recommendation re: Approval of the Churchill Construction LOI

- For the following reasons, the Receiver recommends that the Court approve the Churchill Construction LOI and subsequent execution of the Second Churchill CM Contract:
 - a) Leeswood is an experienced and reputable construction manager that is already familiar with, and engaged on, the Churchill Project;
 - b) the Receiver, in consultation with KingSett, is of the view that conducting a request for proposal in respect of the applicable scope of work would result in further delays and likely yield the same result;
 - c) the Receiver views the key terms of the Churchill Construction LOI to be favourable and reasonable:
 - d) completing the Remaining WC Buildings is intended to enhance value for the Debtors' stakeholders, and engagement of a construction manager will be required for same;
 - e) if the Churchill Construction LOI and subsequent execution of the Second Churchill CM Contract are not approved, the Receiver would be required to negotiate a separate construction management contract with another party, which the Receiver anticipates would be on less favourable terms and cause further delay, including that any alternative construction manager will have limited familiarity with the Churchill Project and the associated risks; and
 - f) KingSett, the primary economic stakeholder in these receivership proceedings and the party providing funding in these receivership proceedings (including the Churchill Construction Facility), supports the retention of Leeswood and the terms of the Churchill Construction LOI.

3.4 Sealing

- 1. The Receiver recommends that the Confidential WC Budgets (filed as **Confidential Appendix "1"** to this Report), which are attachments 1 and 2 to the Churchill Construction LOI, be filed with the Court on a confidential basis and remain sealed pending the earlier of (i) the completion of the Churchill Project; and (ii) further Order of the Court.
- 2. The Confidential WC Budgets contain sensitive financial information regarding the Churchill Project's economics, which, if disclosed to the public, could negatively impact ongoing negotiations with construction trade vendors and financial stakeholders. Public disclosure of this information may pose a significant risk to the successful completion of the Churchill Project, as it could undermine negotiations.
- 3. The salutary effects of sealing such information from the public record greatly outweigh the deleterious effects of doing so under the circumstances. The sealing of the Confidential WC Budgets is in the best interest of Churchill's stakeholders generally. The Receiver is not aware of any party that will be prejudiced if the information is sealed or any public interest that will be served if such details are disclosed in full. Additionally, the sealing relief is appropriately limited in time and scope. The Receiver is of the view that the sealing of the Confidential WC Budgets is consistent with the decision in *Sherman Estate v. Donovan*, 2021 SCC 25. Accordingly, the Receiver believes the proposed sealing of the Confidential WC Budgets is appropriate in the circumstances.

4.0 Churchill Construction Facility

4.1 Churchill Commitment Letter¹

- 1. As noted above, KingSett has agreed to fund the construction and related work performed under the Churchill Construction LOI and subsequent Second Churchill CM Contract. Certain key terms of the Churchill Commitment Letter are summarized below. A copy of the Churchill Commitment Letter is attached as **Appendix "C"**.
 - a) **Borrower**: the Receiver.
 - b) <u>Lender</u>: KingSett.
 - c) **Loan Amount**: \$90,250,000.
 - d) <u>Interest Rate</u>: initially, the interest rate will be the Prime Rate + 6.50% per annum. Upon any syndication, the interest rate will be adjusted to a lower amount, which will be a blend of the interest rates charged by the syndicate partners, yet to be determined, but the interest rate may not be increased.
 - e) Letter of Credit: \$2,000,000 Letter of Credit Facility.

¹ Capitalized terms in this section have the meaning provided to them in the Churchill Commitment Letter unless otherwise defined herein

- f) <u>Letter of Credit Fee</u>: 2.25% per annum payable annually in advance, subject to a minimum fee of \$500 annually per Letter of Credit.
- g) <u>Maturity Date</u>: the date that is 24 months after the first calendar day of the month next following the date of the initial advance of the loan.

The term of the loan can be extended by two extensions of three months each (total of six months) upon written request by the Borrower, which extensions are at the sole discretion of the Lender.

h) **Project Budget**: the Lender has approved a Project Budget (included as Schedule "G" to the Churchill Commitment Letter) which shall be no greater than \$266,578,380. The Project Budget may be amended or modified from time to time subject to the prior written consent of the Lender.

The Receiver notes that the Project Budget includes costs that have been already incurred to date (e.g., the land acquisition and construction costs).

i) <u>Project Monitor</u>: Finnegan Marshall, an independent project monitor (in such capacity, the "**Project Monitor**"), will be engaged to act on behalf of the Lender throughout the duration of the Churchill Project, at the Borrower's expense.

The scope of the Project Monitor's mandate is outlined in Schedule "C" of the Churchill Commitment Letter. The Lender shall have the right to expand or vary the scope of the Project Monitor or to require the replacement of the Project Monitor at any time, in its discretion, acting reasonably.

- j) <u>Security</u>: the obligations of the Borrower under the Churchill Construction Facility are to be secured by a priority charge on all the Property of Churchill GP and Churchill LP, being the "Receiver's WC Borrowings Charge".
- k) <u>Conditions</u>: a fulsome list of the conditions precedent to the initial and subsequent advances is provided in Sections "C" and "D" of the Churchill Commitment Letter and includes, among other things, that the Court shall have granted the Second A&R Receivership Order.
- I) <u>Events of Default</u>: the Events of Default under the Churchill Construction Facility are provided in Schedule "D" to the Churchill Commitment Letter, and include, among other things:
 - i. a failure to pay any amount of the principal of the Loan when due;
 - ii. a failure to pay any interest, fees or other obligations of the Borrower to the Lender under the Churchill Commitment Letter (other than any principal amount of the Loan) when due and such default continues for three business days after notice of such default has been given by the Lender to the Borrower:

- iii. a material breach by the Borrower of the covenants under the Churchill Commitment Letter, if not remedied within 15 days of becoming aware of such breach:
- iv. if construction at the Churchill Project ceases for a single period of 20 days or more, once commenced, except as the result of force majeure, provided that upon completion of any building on the Property, construction of the Project may cease until construction of another building commences;
- v. if any Material Adverse Change (as defined in the Churchill Commitment Letter) occurs; and
- vi. if any delay in construction on the Churchill Project of 120 days or more occurs as a result of strikes of employees, contractors or subcontractors.
- m) Reporting: the Reporting requirements are set out in Schedule "E" of the Churchill Commitment Letter, and include, among other things, that the Borrower shall provide the Lender with:
 - i. information regarding the insurance policies, including renewals and amendments;
 - ii. ongoing information regarding the Churchill Project;
 - iii. evidence of payment of property taxes and local improvement rates and charges with respect to the Churchill Project; and
 - iv. updates regarding Project leasing.

4.2 Recommendation re: Churchill Construction Facility and Receiver's WC Borrowings Charge

- 1. For the following reasons, the Receiver recommends that the Court approve the Churchill Construction Facility and grant the Receiver's WC Borrowings Charge to secure the obligations thereunder:
 - a) the terms of the Churchill Construction Facility are reasonable;
 - b) the Receiver compared the effective annualized interest rate of the loans (estimated to be currently 11.45%) to other debtor-in-possession facilities approved by the Canadian courts in similar insolvency proceedings commenced between 2022 and 2024. Based on this review and based on the Receiver's recent experience, including its extensive real estate experience, the Receiver is of the view that the interest rate is consistent with or lower than market for a loan of this nature;
 - the Churchill Construction Facility is required for construction of the Remaining WC Buildings and other aspects of the Churchill Project, which is in the interest of maximizing recoveries for all stakeholders;

- the Churchill Construction Facility is to be provided by KingSett, who is the existing primary financial stakeholder in these receivership proceedings, and is supportive of resuming construction of the Churchill Project in these receivership proceedings;
- e) KingSett requires the Receiver's WC Borrowings Charge in order to fund the Churchill Construction Facility; and
- f) if the Receiver does not obtain additional funding, it will be unable to complete the Churchill Project, which will impair value to the detriment of Churchill's stakeholders.

5.0 Determination of Construction Priority Claims

5.1 Construction Lien Claims

- 1. According to searches of title to the Real Property conducted and reviewed by Receiver's counsel, Osler, Hoskin & Harcourt LLP ("Osler"), from the Land Registry Office #43:
 - a) seven lien claimants (the "Churchill Lien Claimants") have registered nine construction liens on title to some or all of the Churchill Lands;
 - b) two lien claimants (the "**Southdown Lien Claimants**" and together with the Churchill Lien Claimants, the "**Lien Claimants**") have registered two construction liens on title to some or all of the Southdown Lands; and
 - c) there are no liens registered on the Royal Windsor Lands.
- 2. A summary of such liens prepared by Osler is attached at **Appendix "D"**. The Receiver intends to serve this motion on all Lien Claimants (or their counsel).
- 3. The Receiver understands, and has confirmed with management of the South Shore Group, that the Debtors are not holding any funds for the statutory holdback that the Debtors were required to retain pursuant to the *Construction Act* from payments to parties that supplied services or materials to the Projects being developed on the Real Property.
- 4. Osler has advised the Receiver that the Construction Act (Ontario) provides that (i) in certain circumstances, valid liens arising from an improvement may have certain priority over mortgages, and (ii) various trusts claims may be advanced by potential claimants in relation to development projects (any such claim under (i) or (ii), a "Construction Priority Claim"). In light of the foregoing priority or rights afforded to Construction Priority Claims, the Receiver is seeking the CPO, among other things, for the purposes of identifying and quantifying same.

5. In connection with the Claims Process, the Receiver requested that Osler, as independent legal counsel, conduct a review of the security granted by the Debtors in respect of the indebtedness owing to KingSett secured by mortgages registered on the Property. Osler has confirmed to the Receiver that, subject to standard assumptions and qualifications, pursuant to the applicable security documentation, the mortgages registered on the Property create charges against the Property securing the Indebtedness.

5.2 Claims Process

- 1. The terms of the proposed Claims Process are summarized below. Interested parties are strongly encouraged to read the CPO in its entirety. To the extent there are any inconsistencies between this Report and the CPO, the CPO shall prevail. The full details of the Claims Process have not been reproduced in this Report.
- 2. The following is an overview of the proposed Claims Process. The Claims Process is intended to only solicit Construction Priority Claims.

5.3 Proofs of Claim

- 1. Any Lien Claimant who wishes to assert a Construction Priority Claim must deliver a completed proof of claim ("**Proof of Claim**") to the Receiver on or before the claims bar date of 5:00 p.m. (Toronto time) on May 19, 2025 (the "**Claims Bar Date**").
- 2. Any Lien Claimant who does not file a Proof of Claim in accordance with the CPO with the Receiver by the Claims Bar Date shall be extinguished and forever barred from asserting a Construction Priority Claim.

5.4 Determination of Claims

- 1. The Receiver will review the Construction Priority Claims filed. If the Receiver disputes, revises or disallows any asserted Construction Priority Claim, in whole or in part, the Receiver will notify the applicable Lien Claimant of such revision or disallowance and the basis for same in writing ("Notice of Revision or Disallowance").
- 2. If a Lien Claimant disputes a Notice of Revision or Disallowance, then such Lien Claimant shall deliver a notice of dispute to the Receiver ("Notice of Dispute") by no later than 5:00 p.m. (Toronto time) on the business day which is seven (7) days after the delivery of the Notice of Revision or Disallowance or such later date as the Receiver may agree in writing.
- 3. If a Lien Claimant who received a Notice of Revision or Disallowance fails to file a Notice of Dispute with the Receiver within the prescribed time, the Construction Priority Claim shall be deemed to be as set out in the Notice of Revision or Disallowance and such amount and status, if any, shall constitute such Lien Claimant's proven Construction Priority Claim.

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5.5 Recommendation re: Claims Process

- 1. The Receiver believes the Claims Process is reasonable and appropriate for the following reasons:
 - a) as described further above, the Receiver anticipates that crystalizing the quantum of the Construction Priority Claims will facilitate the sale of the Property;
 - b) notwithstanding that the Receiver has not sought the approval of a transaction for the Property to date, crystalizing the dollar value of the Construction Priority Claims will be required in order to affect future distributions from any potential transactions:
 - c) the proposed notices, dispute resolution provisions and timelines set out in the CPO are consistent with those commonly approved by Canadian courts and are sufficient to allow Lien Claimants to assert and establish Construction Priority Claims in these receivership proceedings; and
 - d) in the Receiver's view, the Claims Bar Date, being approximately 30 days from the date scheduled for this motion, is sufficient for Lien Claimants to file a Proof of Claim with the Receiver.

6.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court grant the Second A&R Receivership Order and the CPO.

* * *

All of which is respectfully submitted,

Bestructuring Inc.

KSV RESTRUCTURING INC.,

SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF CERTAIN REAL PROPERTY, ASSETS AND UNDERTAKINGS

OF 759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL LP INC.,

688 SOUTHDOWN GP INC., 688 SOUTHDOWN LP,

2226 ROYAL WINDSOR GP INC. AND 2226 ROYAL WINDSOR LP

AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY

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APPENDIX A



Court File No.: CV-24-00714543-00CL

ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)

THE HONOURABLE)	FRIDAY, THE 15 th
JUSTICE KIMMEL)	DAY OF NOVEMBER, 2024
BETWEEN:		

KINGSETT MORTGAGE CORPORATION

Applicant

- and -

759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688 SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP INC. and 2226 ROYAL WINDSOR LP

Respondents

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

AMENDED AND RESTATED ORDER

(Amending the Order Appointing Receiver dated May 30, 2024)

THIS APPLICATION made by KingSett Mortgage Corporation (the "Applicant") for an Order pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing KSV Restructuring Inc. ("KSV") as receiver and manager (in such capacities, the "Receiver") without security, of the real property legally described in Schedule "A" to this Order (the "Real Property") and all present and future assets, undertakings and personal property of 759 Winston Churchill GP Inc. ("Churchill GP"), 759 Winston Churchill L.P. ("Churchill LP"), 688 Southdown GP Inc. ("Southdown GP"), 688 Southdown LP ("Southdown LP"), 2226 Royal Windsor GP Inc. ("Royal Windsor GP") and 2226 Royal Windsor LP ("Royal Windsor LP" and together with Churchill GP, Churchill LP, Southdown

GP, Southdown LP and Royal Windsor GP, the "**Debtors**" and each a "**Debtor**"), including all permits and deposits paid or obtained on behalf of a Debtor, located at, related to, used in connection with or arising from or out of the Real Property or which is necessary to the use and operation of the Real Property, including all proceeds therefrom, and excluding all security granted by Churchill GP to The Toronto-Dominion Bank in connection with the four (4) letters of credit issued by The Toronto-Dominion Bank with Churchill GP as Applicant (collectively with the Real Property, the "**Property**") was heard this day via Zoom videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Daniel Pollack sworn February 12, 2024 and the Exhibits thereto (the "First Pollack Affidavit"), the affidavit of Daniel Pollack sworn April 23, 2024 and the Exhibits thereto, the Responding Affidavit of Michael Moldenhauer sworn February 15, 2024 and the Exhibits thereto, the Affidavit of Kathryn Furfaro sworn February 26, 2024 and the Exhibits thereto and the First Report of the Receiver dated November 11, 2024 (the "First Report"), and on hearing the submissions of counsel for the Applicant, the Debtors, the Receiver and such other parties listed on the Participant Information Form, no one appearing for any other party although duly served as appears from the affidavit of service sworn and filed, and on reading the consent of KSV to act as the Receiver, and on being advised that the Debtors consent to this Order on terms agreed with the Applicant,

SERVICE AND DEFINITIONS

- 1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.
- 2. THIS COURT ORDERS that all terms not otherwise defined herein shall have the meaning ascribed to them in the First Pollack Affidavit.

APPOINTMENT

3. THIS COURT ORDERS that pursuant to subsection 243(1) of the BIA and section 101 of the CJA, KSV is hereby appointed Receiver, without security, of the Property.

RECEIVER'S POWERS

- 4. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of the Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - to manage, operate, and carry on the business of the Debtors, or any of them, in connection with the Property, including the powers to enter into any agreements or incur any obligations in the ordinary course of business in connection with the Property, cease to carry on all or any part of the business of the Debtors in connection with the Property, or any of them, or cease to perform or disclaim (unless such contract is a lease of real property or of an immovable if a Debtor is the lessor) any contracts of any of the Debtors in respect of the Property;
 - (d) to engage construction managers, project managers, contractors, subcontractors, trades, engineers, quantity surveyors, consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other Persons (as defined below) from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

- (e) to undertake any construction or other work at the Property in connection with the exercise of the Receiver's powers and duties conferred pursuant to this Order, including, without limitation, as contemplated by the Churchill CM Contract (as defined below), and/or as necessary to bring the Property into compliance with applicable laws and building codes;
- (f) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors, or any of them, in connection with the Property or any part or parts thereof;
- (g) to receive and collect all monies and accounts now owed or hereafter owing to any of the Debtors in connection with the Property (including, without limitation, any rent payments in respect of the Real Property) and to exercise all remedies of any of the Debtors in collecting such monies and accounts, including, without limitation, to enforce any security held by any of the Debtors;
- (h) to settle, extend or compromise any indebtedness owing to any of the
 Debtors in connection with the Property;
- (i) to deal with any lien claims, trust claims, and trust funds that have been or may be registered (as the case may be) or which arise in respect of the Property, including any part or parts thereof, and, with approval of this Court on notice to the Debtors, to make any required distribution(s) to any contractor or subcontractor of the Debtors or to or on behalf of any beneficiaries of such trust funds pursuant to section 85 of the *Construction Act*, R.S.O. 1990, c. C.30;
- (j) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, including, without limitation, in respect of construction permits and any requirements related thereto, whether in the Receiver's name or in the name and on behalf of any of the Debtors, for any purpose pursuant to this Order;

- (k) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to any of the Debtors (as such proceedings relate to the Property or any portion thereof), the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (l) to undertake environmental or worker's health and safety assessments of the Property and the operations of the Debtors thereon;
- (m) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion, and with the Applicant's consent, may deem appropriate;
- (n) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act* as the case may be, shall not be required;

(o) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

- (p) to report to, meet with and discuss with such affected Persons as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (q) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (r) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of any of the Debtors and to meet with and discuss with such governmental authority and execute any agreements required in connection with or as a result of such permits, licenses, approvals or permissions (but solely in its capacity as Receiver and not in its personal or corporate capacity);
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of any of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any of the Debtors;
- (t) to exercise any shareholder, partnership, joint venture or other rights which any of the Debtors may have; and
- to take any steps reasonably incidental to the exercise of these powers or the
 performance of any statutory obligations, including opening any mail or
 other correspondence addressed to any of the Debtors,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including each of the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

- 5. THIS COURT ORDERS that (i) each of the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, (iii) all construction managers, project managers, contractors, subcontractors, trades, engineers, quantity surveyors, consultants and service providers, and all other persons acting on their instructions or behalf, and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.
- 6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records, information and cloud-based data of any kind related to the business or affairs of any of the Debtors or the Property, and any computer programs, computer tapes, computer disks, cloud or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software, cloud and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
- 7. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer, in a cloud or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy

any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph 7, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer, cloud or other system and providing the Receiver with any and all access codes, account names, account numbers and account creating credentials that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

9. THIS COURT ORDERS that no Proceeding against or in respect of any of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of any of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph 10 shall: (i) empower the Receiver or any of the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or any of the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

- 12. THIS COURT ORDERS that all Persons having oral or written agreements with any of the Debtors or contractual, statutory or regulatory mandates for the supply of goods and/or services to the Debtors or in respect of the Debtors' Property, construction and development projects, including without limitation, all computer software, communication and other data services, subcontracts, trade suppliers, accounting services, centralized banking services, payroll services, insurance, transportation services, utility or other services to any of the Debtors, or in respect of the Debtors' Property, construction and development projects, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of any of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of each of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.
- 13. THIS COURT ORDERS that in the event that an account for the supply of goods and/or services is transferred from any of the Debtors to the Receiver, or is otherwise established in the Receiver's name, no Person, including but not limited to a utility service provider, shall assess or otherwise require the Receiver to post a security deposit as a condition to the transfer/establishment of the account.

RECEIVER TO HOLD FUNDS

14. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the

collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

15. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the applicable Debtor until such time as the Receiver, on the applicable Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in subsection 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the Wage Earner Protection Program Act.

PIPEDA

16. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by each of the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, 1999, the Ontario Environmental Protection Act, the Ontario Water Resources Act or the Ontario Occupational Health and Safety Act and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

18. THIS COURT ORDERS that the Receiver shall incur no liability or obligation (including, without limitation, any personal liability or obligation under or in connection with (i) the performance, actions, errors, omissions or negligence by or of any construction manager, project manager, developer, contractor, subcontractor or other service provider, and all other persons acting on their behalf, or (ii) as a result of its appointment or the carrying out of the provisions of this Order), save and except for liability arising from any gross negligence or wilful misconduct on its part, as determined pursuant to a final order of this Court that is not subject to appeal or other review and all rights to seek any such appeal or other review shall have expired, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

- 19. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
- 20. THIS COURT ORDERS that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.
- 21. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

22. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow from KingSett Mortgage Corporation by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$2,000,000 (or such greater amount that is acceptable to the Applicant and as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security

interests, trusts (including, without limitation, deemed trusts), liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subordinate in priority to the Receiver's Charge and the charges as set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

- 23. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
- 24. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.
- 25. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

- 26. THIS COURT ORDERS that the E-Service Guide of the Commercial List (the "Guide") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website athttps://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website established in accordance with the Guide with the following URL: shall https://ksvadvisory.com/experience/case/winston-churchill.
- 27. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Guide is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to any

of the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

28. THIS COURT ORDERS that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtors' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

CONSTRUCTION MANAGEMENT CONTRACT

- 29. THIS COURT ORDERS that the CCDC 5A Construction Management Contract for Services (2010) contract between Churchill LP and Leeswood Design Build (Alberta) Ltd ("Leeswood") dated November 11, 2024, in the form attached as Appendix "B" to the First Report (the "Churchill CM Contract"), be and is hereby approved.
- 30. THIS COURT ORDERS that the parties to the Churchill CM Contract are authorized and directed to comply with the terms of the Churchill CM Contract, and the Receiver is authorized to take such steps and execute such additional documentation as may be necessary or desirable to give effect to the Churchill CM Contract.

CRITICAL PAYMENTS

31. THIS COURT ORDERS that the Receiver may, with the written consent of the Applicant, make payments owing by any of the Debtors to suppliers, contracts, subcontractors and other creditors in respect of amounts owing prior to the date of this Order that are reasonably required for the preservation of the Property.

GENERAL

32. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

Court File No./N° du dossier du greffe : CV-24-00714543-00CL

Electronically issued / Délivré par voie électronique : 18-Nov-2024 Toronto Superior Court of Justice / Cour supérieure de justice

33. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting

as a trustee in bankruptcy of any of the Debtors.

34. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal,

regulatory or administrative body having jurisdiction in Canada or in the United States to give

effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order.

All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to

make such orders and to provide such assistance to the Receiver, as an officer of this Court, as

may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in

carrying out the terms of this Order.

35. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and

empowered to apply to any court, tribunal, regulatory or administrative body, wherever located,

for the recognition of this Order and for assistance in carrying out the terms of this Order, and that

the Receiver is authorized and empowered to act as a representative in respect of the within

proceedings for the purpose of having these proceedings recognized in a jurisdiction outside

Canada.

36. THIS COURT ORDERS that the Applicant shall have its costs of this Application, up to

and including entry and service of this Order, provided for by the terms of the Applicant's security

or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid

by the Receiver from the net realizations from the Property with such priority and at such time as

this Court may determine.

37. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend

this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to

be affected by the order sought or upon such other notice, if any, as this Court may order.

38. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01

a.m. Toronto Time on the date of this Order, and are enforceable without the need for entry and

filing.

Digitally signed by Jessica Kimmel Date: 2024.11.18 08:56:40 -05'00'

Schedule "A"

REAL PROPERTY

Churchill

PIN: 13493-0213(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PARTS 2 & 3 PLAN 43R39986; CITY OF MISSISSAUGA

PIN: 13493-0226(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PARTS 5 & 6 PLAN 43R39986; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 3 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 4 PLAN 4R43R38482 AS IN PR1663804; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 5 PLAN 43R38482 AS IN PR1662397; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 6 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 7 PLAN 43R38482 AS IN PR823503; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR1021917; CITY OF MISSISSAUGA

PIN: 13493-0225(LT)

PART LOT 35, CONCESSION 3, SOUTH OF DUNDAS STREET, PART 1 PLAN 43R39884; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 3 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 4 PLAN 4R43R38482 AS IN PR1663804; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 5 PLAN 43R38482 AS IN PR1662397; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 6 PLAN 43R38482 AS IN PR782354; TOGETHER WITH AN EASEMENT OVER PART LOT 35, CONCESSION 2 SOUTH OF DUNDAS STREET, PART 7 PLAN 43R38482 AS IN PR823503; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR896377; TOGETHER WITH AN EASEMENT OVER PART LOT 34, CONCESSION 3 SOUTH OF DUNDAS STREET, PART 8 PLAN 43R38482 AS IN PR1021917; CITY OF MISSISSAUGA

Southdown

PIN: 13493-0044(LT)

PT LT 31 CON 3 SDS TORONTO; PT LT 32 CON 3 SDS TORONTO PTS 1 TO 6, 8, 43R13084; S/T TT129899; S/T TT103210, TT103804, TT153650, VS163947, VS42085, VS58563 MISSISSAUGA

Royal Windsor

PIN: 13493-0190 (LT)

PT LT 31, 32 CON 3 SDS DES PTS 1, 2 PL 43R11375 SAVE & EXCEPT PTS 1,2,3 PL 43R21957, EXCEPT PT 1 43R22260, EXCEPT PT 1 43R25470, EXCEPT PTS 1, 2, 3 PL 43R25635, EXCEPT PT 1 PL 43R28305 MISSISSAUGA.S/T EASEMENT IN FAVOUR OF INTERPROVINCIAL PIPE LINE COMPANY OVER PT LT 32 CON 3 SDS DES PT 2 PL 43R11375 EXCEPT PT 2 PL 43R21957 AS IN TT102320, TT104152.T/W EASEMENT OVER PT LT 32 CON 3 SDS DES PT 3 PL 43R21957 AS IN LT1712946

4.

CERTIFICATE NO. _____

SCHEDULE "B" RECEIVER CERTIFICATE

AMOUNT \$
1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver and manager (the
"Receiver") without security, of the real property legally described in Schedule "A" (the "Rea
Property") to the Order of the Ontario Superior Court of Justice (Commercial List) (the "Court"
dated May 30, 2024 (as amended and restated on November 15, 2024, the "Order") and all presen
and future assets, undertakings and personal property of 759 Winston Churchill GP Inc., 759
Winston Churchill L.P., 688 Southdown GP Inc., 688 Southdown LP, 2226 Royal Windsor Gl
Inc. and 2226 Royal Windsor LP (collectively, the "Debtors"), located at, related to, used in
connection with or arising from or out the Real Property or which is necessary to the use and
operation of the Real Property, including all proceeds therefrom (collectively with the Rea
Property, the "Property"), appointed by the Order made in an application having Court File
Number CV-24-00714543-00CL, has received as such Receiver from the holder of this certificate
(the "Lender") the principal sum of \$, being part of the total principal sum o
\$ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with
interest thereon calculated and compounded [daily][monthly not in advance on the day
of each month] after the date hereof at a notional rate per annum equal to the rate of pe
cent above the prime commercial lending rate of Bank of from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the
principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the
Order or to any further order of the Court, a charge upon the whole of the Property, in priority to
the security interests of any other person, but subject to the priority of the charges set out in the
Order and in the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, and the right of the Receive

to indemnify itself out of such Property in respect of its remuneration and expenses.

the main office of the Lender at Toronto, Ontario.

All sums payable in respect of principal and interest under this certificate are payable at

Court File No./N° du dossier du greffe : CV-24-00714543-00CL

Electronically issued / Délivré par voie électronique : 18-Nov-2024 Toronto Superior Court of Justice / Cour supérieure de justice

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

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

Court.						
7. The Receiver does not undertake, a	The Receiver does not undertake, and it is not under any personal liability, to pay any sum					
in respect of which it may issue certificate	s under the terms of the Order.					
DATED the day of	, 2024.					
	KSV Restructuring Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity					
	Per:					
	Name:					

Title:

Court File No./N° du dossier du greffe: CV-24-00714543-00CL

c. B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

and KINGSETT MORTGAGE CORPORATION

SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP 759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688

INC. and 2226 ROYAL WINDSOR LP

Applicant

Respondents

Court File No.: CV-24-00714543-00CL

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

Proceedings commenced in Toronto

AMENDED AND RESTATED APPOINTING ORDER

BENNETT JONES LLP

One First Canadian Place, Suite 3400 P.O. Box 130

Toronto, ON M5X 1A4

Sean Zweig (LSO# 57307I) Tel: (416) 777-6254

Email: zweigs@bennettjones.com

Tel: (416) 777-4642

Aiden Nelms (LSO#: 74170S)

Email: nelmsa@bennettjones.com

Lawyers for the Applicant

APPENDIX B



April 7, 2025

KSV Restructuring Inc., in its capacity as Receiver 220 Bay Street PO Box 20 Toronto, ON M5J 2W4

Attention: Noah Goldstein

Dear Mr. Noah Goldstein

Re: Letter of Intent ("LOI") for Winston Churchill Building 1 and 2 located at Building 1 – 795 Hazelhurst Road and Building 2 – 745 Hazelhurst Road (the "Project")

This will confirm that it is the intention of 759 Winston Churchill L.P. ("**Owner**") to negotiate and enter into a contract with Leeswood Design Build (Alberta) Ltd. ("**Leeswood**") pursuant to which Leeswood will construct the Project in accordance with the following:

- Winston Churchill Building 1 Budget \$20,792,992 (see attachment 1 for breakdown)
- Winston Churchill Building 2 Budget \$16,977,445 (see attachment 2 for breakdown)
- Completing the balance of all civil work shown on EMC's civil drawings, including remaining asphalt works to Building 3; but excluding any scope included in Leeswood's CCDC 5A "759 Winston Churchill Selected Works Road and Intersection" with the Receiver (as defined below) dated 11 November 2024
- Winston Churchill Project Schedule (see attachment 3)
- Winston Churchill List of Drawings (see attachment 4)

For greater clarity, any scope required to have the outstanding letters of credit tied to construction / site work released is included in Leeswood's scope.

It is the intention of Owner and Leeswood to negotiate in good faith and execute the contract for the Project (the "**Definitive Contract**") in the form of the CCDC 5A plus Owner's supplementary conditions, which at the Owner's sole and complete discretion may be converted into a GMP once the following major trades (Precast, Steel, Roofing, Civil and M&E) are awarded.

The fee structure for the Definitive Contract will be as follows:

1. CM fee of 2.8% (includes all offsite overheads);





- 2. Bonus of 15% of any cost savings relative to the overall budget, totalling \$37,870,437, including the landscaping and civil scope; and
- 3. Bonus if the following schedule milestones are achieved:
 - a. \$50,000 if Building 2 is completed in 6 months from the date of this LOI; and
 - b. \$50,000 if Building 1 is completed in 11 months from the date of this LOI.

Leeswood acknowledges these aforementioned bonuses have been proposed by the Owner in its sole and absolute discretion and that if the particulars of the proposed budget and / or schedule bonuses cannot be timely agreed and delay the signing of the LOI and Definitive Contract, the Owner may in its sole discretion elect to rescind them.

In order to expedite the Project, Owner authorizes Leeswood to proceed with work and services in connection with the Project as required to maintain the Project Schedule. Until such time as the Definitive Contract is executed, all work and services performed by Leeswood shall be in accordance with the standard terms and conditions of the CCDC 5A along with the other additional conditions set out herein; and in accordance with the budgets appended hereto. All trade contracts and subcontracts shall be in a form acceptable to Owner with a preference for CCDC 17 contract forms plus supplementary conditions for most major scopes.

Both parties acknowledge that this is a distressed Project and that time is of the essence in performing the duties of the construction manager and that the parties have agreed to use the CCDC 5A contract to foster collaboration and transparency between the parties. Furthermore, Leeswood acknowledges that some of the trade scope has already been completed and that it will work in good faith, with the diligence and intensity typical of a construction manager operating 'at risk' under a CCDC 5B to help the Owner find the most cost effective and expeditious manner to complete the outstanding scope for the remaining 2 buildings, landscaping, stormwater pond work and balance of the civil work. As part of the engagement, Leeswood is committing to helping the Owner maximize the value of any materials already delivered to the site, including any insulation, mechanical and electrical equipment, roofing materials stored at Systems 55, Precast panels at the Pre-Con facility, roof trusses and all other materials located at 688 Southdown and will work diligently to re-use a much of these materials as possible. The challenging nature of the work is acknowledged by all parties and has been built into the schedule.

For clarity, Leeswood's responsibilities include:

- 1. Working with the Owner to source the correct versions of the "Issued for Construction" drawings and specifications and ensuring the accuracy of the drawing sets being used;
- 2. Proactively trying to find solutions to any design coordination or site conditions encountered;
- 3. Value engineering / proactively finding ways to keep costs to a minimum;
- 4. Reviewing all the materials stored on site, Systems 55, 688 Southdown or purchased via off site storage agreements and helping the Owner keep costs to a minimum by using as much of these materials as possible; and





5. Working with the Owner on the cost sharing agreement and the CM / trades used by the cost sharing party at 772 Winston Churchill on any scope that needs to be built as part of the cost sharing.

Leeswood also acknowledges the Owner is considering replacing the envelope system on Building 1 with precast and potentially amending the design to make the two buildings net zero ready. Leeswood will work collaboratively with the Owner to achieve optimal outcomes for the Project.

As part of the tendering process, Leeswood is committed to reaching out to both new and incumbent trades in order to keep the budget to a minimum.

While a drawing list has been provided, Leeswood and the Owner acknowledge further diligence is needed to ensure they have the most recent versions of the drawings. The drawing list will be confirmed prior to the finalization of the Definitive Contract.

Leeswood shall act as "constructor" in connection with any construction work on the Project and shall file "Notice of Project" as required by applicable laws. Leeswood shall indemnify, defend and hold harmless Owner, KSV Restructuring Inc. and their respective agents, representatives, directors, officers, employees and successors and assigns ("Indemnitees") from and against all actual, threatened or potential claims, demands, proceedings, complaints, grievances, actions, adjudications, litigation, applications, suits, causes of action, orders, charges, arbitrations or other similar process, of whatsoever kind or nature (whether civil, administrative, regulatory, arbitral or otherwise), or losses, debts, expenses, liabilities, damages, obligations, payments, fines and costs suffered, sustained, or incurred by the Indemnitees which may be directly or indirectly attributable to, or arising or alleged to arise out of any failure or alleged failure by Leeswood, or others for whom Leeswood is responsible, to comply with the health and safety requirements at the Project.

Leeswood shall provide, maintain and pay for appropriate insurance in respect of the Project and the services and work to be provided at minimum limits and durations acceptable to and as approved by the Owner, which shall include at a minimum: (i) automobile insurance, (ii) equipment insurance, (iii) commercial general liability insurance, (iv) pollution liability insurance, and (v) Builder's Risk insurance. The Owner shall be named as a loss payee on all such insurance policies.

Any liability of Owner hereunder shall cease upon:

- I. the execution of the Definitive Contract, or
- II. Owner providing Leeswood written notice of termination of this LOI, provided that in such latter event Owner shall nevertheless reimburse Leeswood for (i) Leeswood's direct out-of-pocket costs incurred and for the reasonable overhead and fee for the work plus (ii) work performed, and for other materials and services ordered with Owner written approval prior to the date of receipt by Leeswood of such written termination, along with reasonable sum for overhead and fees for such work.





For clarity, amounts incurred by Leeswood in the performance of the services and work in connection with the Project shall either be paid pursuant to the preceding paragraph (in the event the LOI is terminated) or in accordance with the Definitive Contract (in the event the Definitive Contract is entered into).

In the event this authorization is terminated without the execution of the Definitive Contract, upon payment to Leeswood of said amounts, Owner shall have the use and ownership of all such work and materials and shall be entitled to the use thereof free of any claims by Leeswood. Subject to the foregoing, upon any such termination neither Party will be liable for any costs, damages or liabilities on account of such termination.

In the event the Owner enters into a joint venture with a new party and / or the Owner sells the Project during construction, the Owner will have the right to assign this LOI and any Definitive Contract to the joint venture party and / or the new owner(s) without Leeswood's consent.

This LOI shall be governed by the laws of the Province of Ontario and remains subject to approval of the Ontario Superior Court of Justice (Commercial List). No amendment to this LOI shall be valid or binding unless set forth in writing and duly executed by the parties to this LOI. This LOI may be executed in counterparts and may be executed and delivered by PDF and all the counterparts and PDFs together constitute one and the same agreement. This LOI shall enure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns, provided that neither party shall be entitled to assign this LOI in whole or in part, to any other person without the prior written consent of the other party. The parties will each pay their own expenses, including the fees and expenses of financial, legal, and other advisors, incurred in connection with this LOI.

Leeswood acknowledges and agrees that KSV Restructuring Inc. is executing this LOI on behalf of Owner solely in its capacity as Court-appointed receiver and manager (in such capacity, "Receiver") of certain assets, property and undertakings of Owner (collectively, the "Property") pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) granted on May 30, 2024 (as amended, restated and/or supplemented from time to time) and not in personal, corporate or any other capacity and none of KSV Restructuring Inc. (in its capacity as Receiver), KSV Restructuring Inc. (in its own right) or any of their respective directors, officers, agents, servants, employees or representatives shall have any personal or corporate liability hereunder or at common law, or by statute, or equity or otherwise as a result hereof. Any claims hereunder shall be limited to and only enforceable against the Property.

[signature page follows]





Please indicate your confirmation of the foregoing by dating, signing and returning a copy of this letter.

Your truly,

LEESWOOD DESIGN BUILD (ALBERTA) Ltd.

Richard Mulvale

Executive Vice President/Partner

Confirmed this $\frac{9}{}$ Day of April, 2025:

759 WINSTON CHURCHILL L.P.,

by KSV Restructuring Inc., solely in its capacity as Receiver and not in its personal, corporate or any other capacity

By: Name: Noah Goldstein

Title: Managing Director



Winston Churchill Building 1 Budget

[Redacted and subject to a request for a Sealing Order]



Winston Churchill Building 2 Budget

[Redacted and subject to a request for a Sealing Order]



Winston Churchill Project Schedule

759 Winston Churchill Industrial Preliminary Schedule



Name Winston Churchill Preliminary dule oject Milestones Project award FP and IFT drawings review	37 days	Start Mon 25-03-10		2024 Qtr 4 Oct Nov	2025 Qtr 1 Dec Jan	Feb Mar	2025 Qtr 2 Apr May	2025 Qtr 3 Jun Jul		Aug	Sep 20	025 Qtr 4 Oct	Nov	Dec	2026 Qtr 1 Jan	Feb	Mar	2026 Qtr 2
edule oject Milestones Project award FP and IFT drawings review	37 days	Mon 25-03-10	Tue 26-03-24	Oct Nov	Dec Jan	Feb Mar	Apr May	Jun Jul		Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Anr
edule oject Milestones Project award FP and IFT drawings review	37 days																	Apr 759 Winston Chu
Project award FP and IFT drawings review																		
Project award FP and IFT drawings review		Thu 25-03-20	Fri 25-05-09				Project M	ilestones							+			
FP and IFT drawings review	10 days	Thu 25-03-20	Wed 25-04-02			03-20	Project award											
	15 days		Wed 25-04-09			03-20	IFP and IFT drawings review	v										
Tender and Award Sub Trades	22 days	Thu 25-04-10	Fri 25-05-09				_	d Award Sub Trades							+			
ework Construction	52 days	Thu 25-04-03	Fri 25-06-13					Sitework Construc	tion									
Mobilization	5 days	Thu 25-04-03	Wed 25-04-09			04-03	Mobilization	· ·										
Remaining Site Cut and Fill	40 days		Wed 25-05-28			04-03		Remaining Site Cut and Fill										
Stone Building Pad	10 days		Fri 25-06-13				06-02	Stone Building Pad										
ilding 2 - 257,000 sqft gfa	131 days	Thu 25-04-03	Thu 25-10-02				▼					Building 2 - 257	7,000 sqft gfa					
Fine Grade building pad as needed	5 days	Thu 25-04-03	Wed 25-04-09			04-03	Fine Grade building pad as	needed		+	<u> </u>							
Remaining Steel Erection	27 days	Thu 25-04-03	Fri 25-05-09			04-03	Remaining	Steel Erection		+								
Under slab plumbing	20 days		Fri 25-06-06				05-12	Under slab plumbing										
Metal Deck	35 days		Fri 25-06-06				04-21	Metal Deck										
Precast wall panels	60 days		Fri 25-08-08				05-19		P	Precast wall par	nels							
Aluminum / Glazing	60 days		Fri 25-09-05					06-16			Aluminum / Gla	azing						
Install Dock Door Jambs	12 days		Mon 25-08-18						08-01	Install Doo	ck Door Jambs							
Roofing	65 days						05-19			Roofing					†			
Masonry Mech and elect Room	15 days		Fri 25-07-25					07-07	Masonry	/ Mech and elec	t Room							
Prep SOG Granular top dressing	7 days	Fri 25-08-15	Mon 25-08-25						08-15	Prep S	OG Granular to	p dressing						
install Dock Levellers	18 days	Mon 25-06-02	Wed 25-06-25				06-02	Install Dock	Levellers									
Place & Finish SOG	35 days	Mon 25-08-11	Fri 25-09-26						08-11		Pla	ce & Finish SOG						
nstall Dock Doors	8 days	Fri 25-08-01	Tue 25-08-12						08-01	Install Dock D	Doors							
Fire Protection	60 days	Mon 25-06-02	Fri 25-08-22				06-02			Fire Pro	tection							
Electrical R/I	60 days	Mon 25-06-02	Fri 25-08-22				06-02			Electrica	al R/I				+			
Mechanical R/I	60 days	Mon 25-06-02	Fri 25-08-22				06-02			Mechan	nical R/I							
Final Clean	8 days	Mon 25-08-25	Wed 25-09-03						(08-25 F	inal Clean							
Truck Apron / Ramps c/w Granular Fine	Grac 10 days	Mon 25-07-21	Fri 25-08-01					07-21	Truck	k Apron / Ram	ps c/w Granular	Fine Grade						
Curbs	10 days		Fri 25-08-01					07-21	Curb	bs	_				+			
Landscaping - weather dependant	20 days	Fri 25-08-01	Thu 25-08-28						08-01	Land	dscaping - weat	her dependant						
Fine Grade Stone to Parking lot									08-01	Fine Gra	de Stone to Par	rking lot						
Exterior Sidewalks c/w Granular		Fri 25-08-01	Tue 25-08-12						08-01	Exterior Sidev	walks c/w Granı	ular						
										09-12	2	Asphalt Paving -	weather depen	dant				
Substantial Completion		Mon 25-08-25							0	08-25 💊 Substa	antial Completion	on						
ilding 1 - 215,000 sqft gfa Tiltwall Cons	truci 272 days	Mon 25-03-10	Tue 26-03-24							_								Building 1 - 215,0
Cut and Fill Building and Site	25 days		Fri 25-04-11			03-10	Cut and Fill Building and S	iite							+			
Stone Building Pad	8 days	Thu 25-04-03	Mon 25-04-14			04-03	Stone Building Pad								_			
Foundations	30 days	Tue 25-04-15	Mon 25-05-26				04-15 F	oundations							+			
Under slab plumbing	18 days	Tue 25-05-13	Thu 25-06-05				05-13	Under slab plumbing										
Prep SOG Granular top dressing	8 days	Fri 25-06-06	Tue 25-06-17				06-0	06 Prep SOG Granu	ar top dressin	ng								
Place & Finish SOG	6 wks	Fri 25-06-13	Thu 25-07-24					06-13	Place & Fi	Finish SOG								
Load Bearing Exterior Walls	12 wks	Fri 25-07-25	Thu 25-10-16						5			Load Bea	aring Exterior W	alls				
Steel Erection	55 days										09-26			Steel Ere	ction			
Metal Deck	35 days											1	1-14		Metal Deck			
Aluminum / Glazing	40 days		Thu 26-02-26											01-02	: 1		Aluminum / (ilazing
Install Dock Door Jambs	12 days											10-17	Install Dock D	oor Jambs	+			
Roofing															_		Roofing	
Masonry Mech and elect Room														12-26	Masor	ry Mech and elec	t Room	
nstall Dock Levellers	18 days													01-02	2	Install Dock Leve	llers	
install Dock Doors	8 days		Tue 25-12-23										1	2-12 In:	stall Dock Doors			
Fire Protection	50 days													01-02	:	!	Fire P	rotection
Electrical R/I	50 days													01-02	1		Electr	ical R/I
Mechanical R/I	50 days													01-02	<u> </u>		Mech	anical R/I
Final Clean	8 days																03-13	Final Clean
											10			os c/w Granular I	Fine Grade			
Curbs																		
Landscaping														Landscaping				
Fine Grade Stone to Parking lot															lot			_
Exterior Sidewalks c/w Granular												· ·		_				
Asphalt Paving																		
Substantial Completion																q	3-13 🙀 Subs	tantial Completion
																	•	
instatorio del manara	all Dock Door Jambs offing sonry Mech and elect Room of SOG Granular top dressing all Dock Levellers of & Finish SOG all Dock Doors Protection official R/I offic	all Dock Door Jambs 12 days fing 65 days sonry Mech and elect Room 15 days p SOG Granular top dressing 7 days all Dock Levellers 18 days p Frotection 60 days ctrical R/I 60 days dictan 8 days descaping - weather dependant 20 days erior Sidewalks c/w Granular Fine Grai 10 days and Fill Building and Site 25 days and Fill Building and Site 8 Finish SOG 6 wks descaping Exterior Walls 12 wks ex Finish SOG 6 wks descaping Exterior Walls 12 days and Fill Build Granular fine Grai 12 days and Fill Build Granular fine Granul	all Dock Door Jambs	all Dock Door Jambs 12 days Fri 25-08-01 Mon 25-08-18 fing 65 days Mon 25-05-19 Fri 25-08-15 fing 65 days Mon 25-07-07 Fri 25-08-15 fri 25-08-15 Mon 25-08-15 Mon 25-08-25 fri 25-08-15 Mon 25-08-25 Mon 25-08-25 fri 25-08-15 Mon 25-08-25 fri 25-08-15 Mon 25-08-25 fri 25-08-15 Mon 25-08-25 fri 25-08-16 Mon 25-08-25 fri 25-08-20 Mon 25-06-02 Mon 25-08-25 fri 25-08-21 Fri 25-08-21 fri 25-08-22 fri 25-08-22 Mon 25-06-02 Fri 25-08-22 fri 25-08-23 Mon 25-06-02 Fri 25-08-23 fri 25-08-24 Mon 25-06-02 Fri 25-08-24 fri 25-08-25 Mon 25-06-02 Fri 25-08-26 fri 25-08-26 Mon 25-06-02 Fri 25-08-26 fri 25-08-27 Fri 25-08-27 fri 25-08-28 Mon 25-06-02 Fri 25-08-28 fri 25-08-10 Mon 25-07-21 Fri 25-08-01 fri 25-08-01 Thu 25-08-28 fri 25-08-12 Thu 25-08-12 fri 25-08-12 Thu 25-08-12 fri 25-08-13 Thu 25-00-12 fri 25-08-14 fri 25-08-15 Mon 25-08-25 fri 25-08-16 Tru 25-08-16 fri 25-08-17 Tru 25-08-18 fri 25-08-18 Mon 25-08-25 fri 25-08-19 Tru 25-08-26 fri 25-08-10 Tru 25-08-18 fri 25-08-11 Tru 25-08-18 fri 25-08-11 Tru 25-08-18 fri 25-08-13 Tru 25-08-18 fri 25-08-14 Mon 25-08-25 fri 25-08-15 Tru 25-08-16 fri 25-08-16 Tru 25-08-17 fri 25-08-17 Tru 25-08-18 fri 25-08-18 Mon 25-08-25 fri 25-08-19 Tru 25-08-26 fri 25-08-10 Tru 25-08-26 fri 25-08-10	all Dock Door Jambs 12 days Fri 25-08-01 Mon 25-05-19 Fri 25-08-15 Story Mech and elect Room 15 days Mon 25-07-07 Fri 25-08-15 Story Mech and elect Room 15 days Mon 25-06-02 Fri 25-08-15 Mon 25-06-25 all Dock Levellers 18 days Mon 25-06-02 Wed 25-06-25 all Dock Levellers 18 days Mon 25-06-02 Wed 25-06-25 all Dock Levellers 18 days Mon 25-06-02 Wed 25-06-25 all Dock Levellers 19 days Mon 25-06-02 Fri 25-08-12 Protection 60 days Mon 25-06-02 Fri 25-08-12 Fri 25-08-12 Fri 25-08-12 It Clean 8 days Mon 25-06-02 Fri 25-08-22 Mon 25-06-02 Fri 25-08-03 It Clean 8 days Mon 25-06-02 Fri 25-08-03 Mon 25-06-02 Fri 25-08-03 Mon 25-06-02 Fri 25-08-02 Mon 25-06-02 Fri 25-08-03 Mon 25-06-03 Mon 25-06-02 Fri 25-08-02 Mon 25-06-03 Mon 25-06-03 Mon 25-06-04 Fri 25-08-04 Mon 25-06-05 Mon 25-06-06 Mon 25-06-06 Mon 25-06-07 Mon 25-06-07 Mon 25-08-10 Mon 25-08-21 Mon 25-08-25 Mon 25-08-25 Mon 25-08-26 Mon 25	2 days	Section	all flood Door Jambis 12 days 675.00 dt 000 75.00 st 000 7	Millook poet aurino 1.5 deps 162-298 162-292 152-292	## 15 Augus	Secretarians	March Marc	March Mar	March Control 18	Mark of the Mark of M	Mary Mary	March Marc	March 18



Winston Churchill List of Drawings



Building Confidence

March 21, 2025

Drawing Title Architectural - WARE MALCOMB	Drawing #	Revision #	Description	Date
Building 1				
Title Sheet	A0.1	77	Issued for Updated Set	10-Apr-24
General Notes	A0.2	77	Issued for Updated Set	10-Apr-24
ssembly Types	A0.2a	77	Issued for Updated Set	10-Apr-24
gress Plan	A0.5	77	Issued for Updated Set	10-Apr-24
ite Plan	A1.0	10	Issued for SPA Resubmission	7-Jul-23
Overall Floor Plan	A2.1	77	Issued for Updated Set	10-Apr-24
Partial Floor Plan	A2.1a	77	Issued for Updated Set	10-Apr-24
Partial Floor Plan	A2.1b	77	Issued for Updated Set	10-Apr-24
toof Plan	A3.1	77	Issued for Updated Set	10-Apr-24
exterior Elevations	A4.1	77	Issued for Updated Set	10-Apr-24
xterior Elevations	A4.2	77	Issued for Updated Set	10-Apr-24
Building Sections	A5.0	77	Issued for Updated Set	10-Apr-24
nlarged elevation and Floor Plans	A5.1	77	Issued for Updated Set	10-Apr-24
Inlarged elevation and Floor Plans	A5.2	77	Issued for Updated Set	10-Apr-24
nlarged Elevations, Floor Plan and Wall Sections	A5.3	77	Issued for Updated Set	10-Apr-24
nlarged Elevations, Floor Plan and Wall Sections	A5.3a	77	Issued for Updated Set	10-Apr-24
Vall Sections	A5.4	77	Issued for Updated Set	10-Apr-24
Vall Sections	A5.5	77	Issued for Updated Set	10-Apr-24
nlarged Elevations, Floor Plan and Wall Sections	A5.6	77	Issued for Updated Set	10-Apr-24
nlarged Mechanical and Electrical Room Plan and Sections	A6.1	77	Issued for Updated Set	10-Apr-24
Canopy Soffit and Roof Plan	A6.2	77	Issued for Updated Set	10-Apr-24
anopy Soffit and Roof Plan	A6.3	77	Issued for Updated Set	10-Apr-24
Canopy Soffit and Roof Plan	A6.4	77	Issued for Updated Set	10-Apr-24
Canopy Soffit and Roof Plan	A6.5	77	Issued for Updated Set	10-Apr-24
Door Schedule	A7.1	77	Issued for Updated Set	10-Apr-24
Details	A8.1	77	Issued for Updated Set	10-Apr-24
Details	A8.2	77	Issued for Updated Set	10-Apr-24
Petails	A8.3	77	Issued for Updated Set	10-Apr-24
Details	A8.4	77	Issued for Updated Set	10-Apr-24
Details	A8.5	77	Issued for Updated Set	10-Apr-24
Details	A8.6	77	Issued for Updated Set	10-Apr-24
creen Wall Details	A8.7	77	Issued for Updated Set	10-Apr-24
Building 2				
ītle Sheet	A0.1	78	Issued for Updated Set	10-Apr-24
General Notes	A0.2	78	Issued for Updated Set	10-Apr-24
Assembly Types	A0.3	78	Issued for Updated Set	10-Apr-24
gress Plan	A0.5	78	Issued for Updated Set	10-Apr-24
Overall Site Plan	A1.0	10	Issued for SPA Resubmission	7-Jul-23
Overall Floor Plan	A2.1	78	Issued for Updated Set	10-Apr-24
Partial Floor Plan Partial Floor Plan	A2.1a A2.1b	78	Issued for Updated Set Issued for Updated Set	10-Apr-24
Roof Plan	A2.10 A3.1	78 78	Issued for Updated Set	10-Apr-24 10-Apr-24
exterior Elevations			Issued for Updated Set	<u> </u>
Exterior Elevations	A4.1 A4.2	78 78	Issued for Updated Set	10-Apr-24
Building Sections	A5.0	78	Issued for Updated Set	10-Apr-24 10-Apr-24
Enlarged Elevations, Plans	A5.0 A5.1	78	Issued for Updated Set	10-Apr-24
Enlarged Elevations, Plans	A5.1a	78	Issued for Updated Set	10-Apr-24
Enlarged Elevations, Plans	A5.1a	78	Issued for Updated Set	10-Apr-24
Enlarged Elevations, Plans	A5.2	78	Issued for Updated Set	10-Apr-24
Vall Sections	A5.4	78	Issued for Updated Set	10-Apr-24
Inlarged Elevations, Plan and Wall Sections	A5.5	78	Issued for Updated Set	10-Apr-24
	A5.3 A6.1	78	Issued for Updated Set	·
Inlarged Mechanical and Electrical Room Plan and Sections			Issued for Updated Set	10-Apr-24 10-Apr-24
Canopy Soffit and Roof Plan Canopy Soffit and Roof Plan	A6.2 A6.2a	78 78	Issued for Updated Set	10-Apr-24 10-Apr-24
Canopy Soffit and Roof Plan	A6.2a A6.3	78 78	Issued for Updated Set	10-Apr-24 10-Apr-24
Canopy Soffit and Roof Plan	A6.3a	78	Issued for Updated Set	10-Apr-24 10-Apr-24
Door Schedule	A6.3a A7.1	78	Issued for Updated Set	10-Apr-24
Details Details	A8.1	78	Issued for Updated Set	10-Apr-24
Details	A8.2	78	Issued for Updated Set	10-Apr-24
Details	A8.3	78	Issued for Updated Set	10-Apr-24
Details Details	A8.4	78	Issued for Updated Set	10-Apr-24
Details	A8.5	78	Issued for Updated Set	10-Apr-24
Details	A8.6	78	Issued for Updated Set	10-Apr-24
MP and Curtain Wall Supports	A8.7	78	Issued for Updated Set	10-Apr-24
creen Wall Details	A8.8	78	Issued for Updated Set	10-Apr-24
Structural - GRAVITY ENGINEERING				
Building 1	04.55	1 1		0.4. 5:
Cover Sheet	S100	12	Issued for Updated Set	8-Apr-24
General Notes	S101	12	Issued for Updated Set	8-Apr-24
oundation Plan	S200	12	Issued for Updated Set	8-Apr-24
nlarged Foundation Plan - A	S200-A	12	Issued for Updated Set	8-Apr-24
nlarged Foundation Plan - B	S200-B	12	Issued for Updated Set	8-Apr-24
oundation Details	S210	12	Issued for Updated Set	8-Apr-24
oundation Sections	S220	12	Issued for Updated Set	8-Apr-24
oundation Sections	S221	12	Issued for Updated Set	8-Apr-24
Roof Framing Plan	S300	12	Issued for Updated Set	8-Apr-24
Enlarged Roof Framing Plan - A	S300-A	12	Issued for Updated Set	8-Apr-24
Enlarged Roof Framing Plan - B	S300-B	12	Issued for Updated Set	8-Apr-24
Roof Diaphragm Details	S301	12	Issued for Updated Set	8-Apr-24
South West Entrance Plans & Elevations	S310	12	Issued for Updated Set	8-Apr-24
vest entrance Plans & Elevations	5311	12	issued for Updated Set	8-Apr-24
South West Entrance Plans & Elevations West Entrance Plans & Elevations	S310 S311	12	Issued for Updated Set Issued for Updated Set	

North West Entrance Plans & Elevations	S312	12	Issued for Updated Set	8-Apr-24
Entrance Sections	S313	12	Issued for Updated Set	8-Apr-24
Roof Framing Details	S320	12	Issued for Updated Set	8-Apr-24
Roof Framing Details	S321	12	Issued for Updated Set	8-Apr-24
Masonry Details	S322	12	Issued for Updated Set	8-Apr-24
Roof Sections	S330	12	Issued for Updated Set	8-Apr-24
Exterior Elevations	S400	12	Issued for Updated Set	8-Apr-24
Building 2	3400	12	issued for opudica set	57(p) 24
Cover Sheet	S100	13	Issued for Updated Set	8-Apr-24
General Notes	S100		Issued for Updated Set	8-Apr-24
		13	•	•
Foundation Plan	S200	13	Issued for Updated Set	8-Apr-24
Enlarged Foundation Plan - A	S200-A	13	Issued for Updated Set	8-Apr-24
Enlarged Foundation Plan - B	S200-B	13	Issued for Updated Set	8-Apr-24
Enlarged Foundation Plan - C	S200-C	13	Issued for Updated Set	8-Apr-24
Foundation Details	S210	13	Issued for Updated Set	8-Apr-24
Foundation Sections	S220	13	Issued for Updated Set	8-Apr-24
Roof Framing Plan	S300	13	Issued for Updated Set	8-Apr-24
Enlarged Roof Framing Plan - A	S300-A	13	Issued for Updated Set	8-Apr-24
Enlarged Roof Framing Plan - C	S300-B	13	Issued for Updated Set	8-Apr-24
Enlarged Roof Framing Plan - B	S300-C	13	Issued for Updated Set	8-Apr-24
Roof Diaphragm Details	S301	13	Issued for Updated Set	8-Apr-24
South West Entrance Plans & Elevations	S310	13	Issued for Updated Set	8-Apr-24
			· · · · · · · · · · · · · · · · · · ·	•
West Entrance Plans & Elevations	S311	13	Issued for Updated Set	8-Apr-24
North West Entrance Plans & Elevations	S312	13	Issued for Updated Set	8-Apr-24
Entrance Sections	S313	13	Issued for Updated Set	8-Apr-24
Roof Framing Details	S320	13	Issued for Updated Set	8-Apr-24
Roof Framing Details	S321	13	Issued for Updated Set	8-Apr-24
Masonry Details	S322	13	Issued for Updated Set	8-Apr-24
Roof Sections	S330	13	Issued for Updated Set	8-Apr-24
Exterior Elevations	S400	13	Issued for Updated Set	8-Apr-24
			·	
Civil - EMC GROUP				
Cover Sheet				
General Notes	221145-N	5		3-Aug-23
Removal and Adjustment Plan	221145-RP	5		3-Aug-23
Pavement Marking and Signage Plan	221145-RP 221145-PMSP	5		3-Aug-23 3-Aug-23
Plan & Profile - STA 0+000 to 0+160				
	221145-P1	5		3-Aug-23
Plan & Profile - STA 0+160 to 0+460	221145-P2	5		3-Aug-23
Grading and Pavement Elevations	221145-GR	5		3-Aug-23
Section Details Plan - Part 1	221145-SEC1	5		3-Aug-23
Section Details Plan - Part 2	221145-SEC2	5		3-Aug-23
Erosion and Sediment Control Plan	221145-ES	5		3-Aug-23
Standard Detail Page	221145-STD	5		3-Aug-23
Interim Street Lighting	SL-01	5		3-Aug-23
Interim Photometric Summary	SL-02	5		3-Aug-23
•				7-Jul-23
Phase 2 Site Servicing Plan	221126-1	4		
Phase 2 Site Grading Plan	221126-2	4		7-Jul-23
Wall Section Details - Sections 0+000 to 0+280	221126-3	4		7-Jul-23
Wall Section Details - Sections 0+000 to 0+280	221126-4	4		7-Jul-23
Sprinkler - SUPERIOR SPRINKLER				
Zoning Plan Notes and Details	SP-1	1		04-11-2024
Site Plan	SP-2	1		04-11-2024
Partial Plan	SP-3	1		04-11-2024
Partial Plan	SP-4	1		04-11-2024
Partial Plan	SP-5	1		04-11-2024
Underside of Mezzanine	SP-6	1		04-11-2024
Mechanical - INVIRO ENGINEERED SYSTEMS				
Building 1				
Mechanical Site Plan	M01	1	Issued for Tender	15-Apr-24
Warehouse Floor Plan P&D Layout	M02	1	Issued for Tender	15-Apr-24
Warehouse Floor Plan HVAC Layout	M03	1	Issued for Tender	15-Apr-24
Notes & Schedules	M04	1	Issued for Tender	15-Apr-24
Notes, Schedules, & Details				
Details	M05	1	Issued for Tender	15-Apr-24
	M06	1	Issued for Tender	15-Apr-24
Building 2	1			
Mechanical Site Plan	M01	1	Issued for Tender	13-09-2024
DAY, John J. El. Bl. 505 1	M02	1	Issued for Tender	13-09-2024
Warehouse Floor Plan P&D Layout		1	Issued for Tender	13-09-2024
Warehouse Floor Plan HVAC Layout	M03			
Warehouse Floor Plan HVAC Layout Notes & Schedules	M03 M04	1	Issued for Tender	13-09-2024
Warehouse Floor Plan HVAC Layout			Issued for Tender Issued for Tender	13-09-2024 13-09-2024
Warehouse Floor Plan HVAC Layout Notes & Schedules	M04	1		
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details	M04 M05	1 1	Issued for Tender	13-09-2024
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details	M04 M05	1 1	Issued for Tender	13-09-2024
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS	M04 M05	1 1	Issued for Tender	13-09-2024
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1	M04 M05 M06	1 1 1	Issued for Tender Issued for Tender	13-09-2024 13-09-2024
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan	M04 M05 M06	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Issued for Tender Issued for Tender Issued for Tender Issued for Tender	13-09-2024 13-09-2024 15-Apr-24
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan Distribution Diagram	M04 M05 M06 E01 E02	1 1 1 1	Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender	13-09-2024 13-09-2024 15-Apr-24 15-Apr-24
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan Distribution Diagram Main Floor Lighting Layout	M04 M05 M06 E01 E02 E03	1 1 1 1 1 1	Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender	13-09-2024 13-09-2024 15-Apr-24 15-Apr-24 15-Apr-24
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan Distribution Diagram Main Floor Lighting Layout Main Floor Power and HVAC Layout	M04 M05 M06 E01 E02 E03 E04	1 1 1 1 1 1 1	Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender	13-09-2024 13-09-2024 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan Distribution Diagram Main Floor Lighting Layout Main Floor Power and HVAC Layout Specification and Legend	M04 M05 M06 E01 E02 E03	1 1 1 1 1 1	Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender	13-09-2024 13-09-2024 15-Apr-24 15-Apr-24 15-Apr-24
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan Distribution Diagram Main Floor Lighting Layout Main Floor Power and HVAC Layout Specification and Legend Building 2	E01 E02 E03 E04 E05	1 1 1 1 1 1 1 1	Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender Issued for Tender	13-09-2024 13-09-2024 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan Distribution Diagram Main Floor Lighting Layout Main Floor Power and HVAC Layout Specification and Legend Building 2 Site Plan	E01 E02 E03 E04 E05	1 1 1 1 1 1 1 1	Issued for Tender	13-09-2024 13-09-2024 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan Distribution Diagram Main Floor Lighting Layout Main Floor Power and HVAC Layout Specification and Legend Building 2 Site Plan Distribution Diagram Distribution Diagram	E01 E02 E03 E04 E05	1 1 1 1 1 1 1 1	Issued for Tender	13-09-2024 13-09-2024 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan Distribution Diagram Main Floor Lighting Layout Main Floor Power and HVAC Layout Specification and Legend Building 2 Site Plan Distribution Diagram Main Floor Lighting Layout	E01 E02 E03 E04 E05	1 1 1 1 1 1 1 1	Issued for Tender	13-09-2024 13-09-2024 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan Distribution Diagram Main Floor Lighting Layout Main Floor Power and HVAC Layout Specification and Legend Building 2 Site Plan Distribution Diagram Distribution Diagram	E01 E02 E03 E04 E05	1 1 1 1 1 1 1 1	Issued for Tender	13-09-2024 13-09-2024 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24
Warehouse Floor Plan HVAC Layout Notes & Schedules Notes, Schedules, & Details Details Electrical - INVIRO ENGINEERED SYSTEMS Building 1 Site Plan Distribution Diagram Main Floor Lighting Layout Main Floor Power and HVAC Layout Specification and Legend Building 2 Site Plan Distribution Diagram Main Floor Lighting Layout	E01 E02 E03 E04 E05	1 1 1 1 1 1 1 1 1 1 1	Issued for Tender	13-09-2024 13-09-2024 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24 15-Apr-24

APPENDIX C



April 10th, 2025

KSV Restructuring Inc. 220 Bay Street, 13th Floor Toronto, Ontario, M5J 2W3

Attention: Noah Goldstein

Re: First priority construction and stabilization financing of real property at 759 Winston Churchill Boulevard, Mississauga, ON and the development of three industrial buildings thereon

A. LOAN TERMS

The Lender is pleased to offer a first priority non-revolving construction loan (the "Loan") in connection with the above noted matter, subject to the terms and conditions as described herein and within the Schedules attached hereto (the "Commitment Letter").

- 1. <u>Project</u>: An approximately 47.15-acre site located at lands municipally known as 759 Winston Churchill Boulevard, Mississauga, ON which will feature three industrial buildings spanning approximately 750,000 square feet.
 - (a) <u>Building 1</u>: 278,109 square foot existing building which features 36' clear heights, 53 high dock doors and 2 drive-in doors ("**Building 1**").
 - (b) <u>Building 2</u>: 257,121 square foot building under construction which will feature 36' clear heights, 50 high dock doors and 2 drive-in doors ("Building 2").
 - (c) <u>Building 3</u>: 215,124 square foot building under construction which will feature 36' clear heights, 50 high dock doors and 2 drive-in doors ("Building 3").

(Collectively, the "Project" or "Property").

- Lender: KingSett Mortgage Corporation (the "Lender").
- 3. <u>Borrower</u>: KSV Restructuring Inc., solely in its capacity as court appointed receiver and manager of the Property (as defined in the Appointment Order, defined below) of 759 Winston Churchill GP Inc. and 759 Winston Churchill L.P. (the "Debtor") pursuant to the Appointment Order granted by the Ontario Superior Court of Justice (Commercial List) (the "Court") on May 30th, 2024 (as amended, restated or supplemented from time to time, the "Appointment Order"), and not in its personal or any other capacity (the "Borrower").

Scotia Plaza, 40 King Street West, Suite 3700, Toronto ON, M5H 3Y2 (416) 687-6700 | www.kingsettcapital.com

- 4. Loan Amount: \$90,250,000 (the "Loan" or "Loan Amount").
- Interest Rate: Initially, the interest rate will be Prime Rate + 6.50% per annum, calculated on the daily outstanding balance, compounded and payable monthly, not in advance, both before and after maturity, default, and/or judgment with respect to the Loan for each and every month of the Term (as such Term may be extended in accordance with this Commitment Letter) (as applicable, the "Interest Rate"). Upon syndication of the Loan, the interest rate will be adjusted to a lower amount, which will be a blend of the interest rates charged by the Loan syndicate partners, yet to be determined but the Interest Rate may not be increased. "Prime Rate" shall mean, for any day, the rate of interest per annum established and published from time to time by Royal Bank of Canada as the reference rate of interest for the determination of interest rates charged to its customers of varying degrees of creditworthiness in Canada for Canadian Dollar demand loans in Toronto, Ontario.
- 6. Letters of Credit: \$2,000,000 Letter of Credit Facility shall be available for any costs in respect of the Project (all costs are duplicative in nature, i.e., the Letter(s) of Credit (as defined below) may secure the payment of costs that are subsequently paid by other draws or cash) and Lender shall issue one or more letter(s) of credit pursuant to such facility (the "Letter(s) of Credit") upon the request of the Borrower. In the event any Letter of Credit is called upon, the called amount will be converted to direct borrowings under the Loan.
- 7. <u>Letter of Credit Fee</u>: 2.25% per annum payable annually in advance, subject to a minimum fee of \$500 annually per Letter of Credit. Any amendments to the Letter of Credit will be subject to a minimum fee of \$500 per amendment.
- 8. <u>Term</u>: In this Commitment Letter, "Maturity Date" means the date that is 24 months (the "Term") after the first calendar day of the month next following the date of the initial advance of the Loan (the "Interest Adjustment Date"), unless the advance of the Loan is made on the first day of the month in which case the Interest Adjustment Date shall be the date of the advance, as may be extended in accordance with this Commitment Letter. The principal balance of the Loan outstanding together with all accrued and unpaid interest thereon and all other costs secured by the Security is repayable in full on the Maturity Date together with all accrued and unpaid interest, costs, fees and any other amount secured by the Security.
- 9. <u>Extension Option</u>: Provided that no Event of Default (as defined in Schedule D) has occurred which is continuing and subject to the consent of the Lender, in its sole, absolute and unfettered discretion, the Lender shall permit an extension of the Term by two extensions of three months each to the Maturity Date (each an "Extension Option"). The exercise of each Extension Option is subject to delivery of a written request from the Borrower to the Lender at least 30 days prior to the Maturity Date.
- Monthly Interest: Interest at the Interest Rate shall accrue monthly to the outstanding principal balance of the Loan together with all accrued and unpaid interest thereon (the "Monthly Interest"). Monthly Interest shall be calculated on the first calendar day of every month commencing on the Interest Adjustment Date until the principal balance of the Loan outstanding together with all accrued and unpaid interest thereon and all other costs secured by the Security is repaid in full.

11. Sources and Uses:

Sources	\$	Uses	\$
Current Indebtedness (As of March 31 st , 2025)	\$176,328,380	Land Costs	\$180,778,380
Subject Loan	90,250,000	Hard Costs	46,922,283
,		Soft Costs	18,120,609
		Financing Costs	15,082,900
		Contingency	5,674,208
Total	\$266,578,380	Total	\$266,578,380

- 12. Project Budget: See Schedule G (the "Project Budget"). For greater certainty, the Lender approved Project Budget shall be no greater than \$266,578,380. The Project Budget may be amended or modified from time to time subject to the prior written consent of the Lender. Consent to increase the Project Budget may be unreasonably withheld, delayed and/or conditioned by the Lender.
- Project Monitor: An independent project monitor acceptable to the Lender shall have been engaged to act on behalf of the Lender throughout the duration of the Project at the Borrower's expense. The Lender's project monitor shall be Finnegan Marshall (the "Project Monitor". The scope of the Project Monitor's mandate is outlined in Schedule C). The Lender shall have the right to expand or vary the scope of the Project Monitor or to replace the Project Monitor at any time, in its discretion, acting reasonably.
- 14. Prepayment: The Loan is open for prepayment at any time without bonus or penalty subject to at least ten days prior written notice. Without limiting the foregoing, the Borrower can prepay the Loan with respect to portions of the Property if the Property has been legally severed. Upon prepayment of the Loan with respect to the entire Property or such severed part thereof, the Lender shall provide discharge all Security in respect of the Property or such part thereof, as applicable, in accordance with Section 14 below.
- Mortgage Discharge: The Lender shall charge a one-time administrative fee of \$1,000 for ongoing administration of the Loan including, but not limited to, providing a full or partial discharge of the Security which administration fee is earned by the Lender upon the Borrower's execution of this Commitment Letter and payable by the Borrower to the Lender on the Maturity Date as may be extended from time to time in accordance with the terms of this Agreement. The Borrower's legal counsel shall prepare all documentation reasonably required to discharge the Security for review by the Lender and its legal counsel. Discharge statements will be provided to the Borrower within three business days after receipt of a written request for same.
- 16. No Further Encumbrances: Additional financing (prior or subsequent) of the Project, secured or unsecured, or the registration of any other encumbrance save and except for any encumbrances or construction liens registered as of the day of the initial advance is not permitted in connection with the Project without the prior written consent of the Lender, which consent may be arbitrarily withheld, delayed and/or conditioned by the Lender.

B. SECURITY

The Loan shall be secured by the security set forth below which, prior to any advance under the Loan, shall be delivered by the Borrower to the extent party thereto, to the Lender in form, scope and substance

satisfactory to the Lender and its legal counsel in its sole, absolute and unfettered discretion (collectively, the "Security" and together with this Commitment Letter and all other documentation delivered in connection with this Commitment Letter and the Security, collectively, the "Loan Documents"):

- 1. Receiver's WC Borrowings Charge: A \$92,250,000 first priority charge on the Debtor's Property as provided by the Financing Approval Order (as defined below) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts (including, without limitation deemed trusts), liens, charges and encumbrances statutory or otherwise, in favour of any Person but (i) subordinate in priority to the Receiver's Charge (as defined in the Appointment Order), and (ii) pari passu with the Receiver's General Borrowings Charge (as defined in the Financing Approval Order) (the "Receiver's WC Borrowings Charge").
- Other: Such other Security over the Debtor's Property as the Lender and/or its legal counsel may reasonably require.

C. CONDITIONS PRECEDENT TO INITIAL ADVANCE

The obligation of the Lender to make available initial advance(s) of the Loan shall be subject to the prefunding conditions below (collectively, the "Initial Conditions Precedent") which shall be satisfied or waived by the Lender in its sole, absolute and unfettered discretion at least two business days prior to the initial advance of the Loan.

- Delivery of Loan Documents: The Lender shall have received the following:
 - (a) the Loan Documents duly executed by the parties thereto; and
 - (b) a request for borrowing delivered in accordance with the provisions of Section E.1. which shall include, without limitation, certification that all proceeds of the advance of the Loan are being used solely to pay all accounts payable of the Project approved by the Lender and for no other purpose whatsoever;
- 2. <u>Financing Approval Order</u>: The Borrower shall have obtained a second amended and restated Appointment Order or other Order from the Court substantially in a form satisfactory to the Lender in its sole discretion ("Financing Approval Order").

D. CONDITIONS PRECEDENT TO SUBSEQUENT ADVANCE

The obligation of the Lender to make available any subsequent advance of the Loan, shall be subject to the pre-funding conditions below (collectively, the "Subsequent Conditions Precedent" together with the Initial Conditions Precedent, collectively, the "Conditions Precedent") which Subsequent Conditions Precedent shall be satisfied or waived by the Lender in its sole, absolute and unfettered discretion at least two business days prior to any subsequent advance of the Loan.

- Initial Conditions Precedent: The Initial Conditions Precedent shall have been satisfied or waived by the Lender.
- 2. <u>No Default:</u> No Event of Default shall exist, nor shall the advance of the Loan result in the occurrence of an Event of Default.

- 3. Representations Correct: The representations and warranties contained in the Loan Documents shall be true and correct in all material respects on the date of each subsequent advance as if made on that date, except where any representation or warranty relates to a specified date, in which case that representation or warranty shall be made as of the date to which it relates.
- 4. Request for Borrowing: The Lender shall have received a request for borrowing delivered in accordance with the provisions of Section E.2 which shall include, without limitation, certification that all proceeds of the advance of the Loan are being used solely to pay all accounts payable of the Project approved by the Lender and for no other purpose whatsoever.
- 5. **Project Reports**: The Lender shall have received and reviewed a progress draw report on the Project prepared by the Project Monitor in accordance with Schedule C.

E. FUNDING

Each advance of the Loan shall, in addition to being subject to the applicable Conditions Precedent, be completed in accordance with the following:

- Initial Advance: An initial advance of the Loan will be determined by the Borrower, with input from the Project Monitor.
- 2. <u>Subsequent Advances</u>: Subsequent advances under the Loan shall be permitted not more frequently than once per month and in minimum monthly increments of \$250,000 for the purpose of funding Project costs in accordance with the Project Budget or as otherwise approved by the Lender with such advances to be made on a cost-in-place basis subject to the Lender's cost-to-complete formula. This dollar amount limit shall not apply to monthly advances of the Interest Reserve.
- 3. Margin Calculation: Accumulated advances under the Loan shall at no time exceed the cost of cost-in-place less the aggregate of (i) holdbacks required by the Project Monitor, (ii) any advances made under the existing debt, if applicable, and (iii) any deferred costs used as a source of funds within the Project Budget; provided, however, that such deferred costs have been approved by the Lender.
- 4. <u>Advances to Subtrades</u>: The Lender reserves the right to make advances of the Loan directly to the Project Monitor or trades (sub-trades or otherwise) and/or suppliers if an Event of Default has occurred which is continuing.
- 5. Advance Fee: All advances of the Loan, save and except for advances under the Interest Reserve alone, shall be subject to a \$500 advance fee payable by the Borrower to the Lender which amount shall be deducted from the applicable advance of the Loan by the Lender.

F. SPECIAL CONDITIONS

The Loan shall be subject to the following special conditions which shall each have been received, reviewed and/or met, as the context implies, to the satisfaction of the Lender in its sole, absolute, and unfettered discretion prior to any advance of the Loan:

1. **Construction Manager**: Borrower may not terminate the Construction Manager (Leeswood Construction) without the prior consent of the Lender.

2. <u>Loan Syndication</u>: Subject in all respects to Section 7 of Schedule B, the Lender may, at its sole and absolute discretion, syndicate a portion or all of the Loan to alternative lenders. This is not a condition to the Loan.

G. NATURE OF LIABILITY AND OBLIGATIONS

- 1. Nothing in this Commitment Letter or otherwise shall or shall be interpreted to require the Borrower to do any act or thing that would result in a breach or default by the Borrower of any duty or obligation of the Borrower as provided in or by the Appointment Order, any amendment thereof or any other order of the Court, or of any applicable law.
- 2. Notwithstanding any other provision hereof, the Lender agrees and acknowledges that the obligations of the Borrower to the Lender hereunder, including all interest, fees, legal and other costs, charges and expenses relating thereto, shall have recourse only to the assets, property and undertaking of the Debtor that are subject to the receivership in respect of the Debtor created pursuant to the Appointment Order (the "Receivership") and are entirely non-recourse against KSV Restructuring Inc. and any of its affiliates and any of their respective shareholders, directors, officers or employees. For the avoidance of doubt, KSV Restructuring Inc. shall have no personal or corporate liability for the obligations of the Borrower to the Lender hereunder or otherwise have any other liability under or in connection with this Commitment Letter or any other Loan Document, or any agreement or document entered into pursuant to this Commitment Letter or such other Loan Document (including for a breach or other non-compliance with any covenant in this Commitment Letter or any other Loan Document).
- Wherever in this Commitment Letter or any other Loan Document there is a reference to the 3. Borrower's responsibility for costs, expenses, interest, fees, reimbursements, other amounts payable or the performance of any other obligations by the Borrower, including in respect of or owing to third parties, such obligations shall be satisfied or funded solely and exclusively from funding to the Borrower under the Loan (or, in each case to the extent available to the Borrower at the applicable time, from revenue from the Project or the proceeds of any realization against the Property), and in no event shall KSV Restructuring Inc. be required to expend its own funds in respect thereof. In the event that the Borrower is required pursuant to this Commitment Letter or any other Loan Document, or in the performance of its obligations hereunder or as court appointed receiver and manager of the Property, to incur a liability, including any contingent liability, the Borrower shall not be required to incur such liability (or enter into any agreement or document in respect thereof) until it has been funded in respect thereof under the Loan or unless and until it has received such other security or assurance in respect thereof as it may require in its sole discretion. Where the Lender has advanced funds to the Borrower hereunder, the Lender acknowledges that, notwithstanding the occurrence of an Event of Default, the Borrower shall be entitled to use such funds to satisfy obligations incurred by the Borrower in its capacity as court appointed receiver of the Property as contemplated by the terms hereof, the Appointment Order or any other order of the Court, and the Lender shall have no right to the return or recovery of any such funds held by the Borrower unless and until all such obligations have been satisfied.

H. COUNSEL

Counsel for the Lender and the Borrower with respect to the Loan is as follows:

1. Lender's Counsel:

Bennett Jones LLP (Attention: John van Gent)

3400 One First Canadian Place Toronto, ON M5X 1A4

Phone: (416) 777-6522 Fax: (416) 863-1716

Email: vanGentJ@bennettjones.com

2. Borrower's Counsel:

Osler, Hoskin & Harcourt LLP (Attention: Marc Wasserman & Dave Rosenblat) First Canadian Place 100 King St. W Suite 6200 Toronto, ON M5X 1B8

Phone: (416) 862-4908 / (416) 862-5673

Fax: (416) 862-6666

Email: <u>mwasserman@osler.com</u> / drosenblat@osler.com

If you are in agreement with the foregoing terms and conditions, please indicate this by signing and returning this Commitment Letter to the Lender by April 11th, 2025, failing which this letter shall, at the Lender's option, be deemed null and void.

Yours truly,

KINGSETT MORTGAGE CORPORATION

Per:

Daniel Poliad

Executive Director, Portfolio

Management

Per:

Scott Coates

President, KingSett Mortgage

Corporation

ACKNOWLEDGEMENT

I/We hereby accept the terms and conditions of this Commitment Letter and any Schedules and each person executing this Commitment Letter on behalf of any Borrower warrants that he/she has the power and authority to bind such entity.	accompanying represents and
Accepted and agreed as of the day of	, 20
BORROWER: KSV Restructuring Inc. in its capacity as a court appointed receiver and manager of the Property of 759 Winston Churchill GP Inc. and 759 Winston Churchill L.P., and not in its personal or any other capacity	
Per: Name: Title:	

SCHEDULE A CONSTRUCTION INSURANCE REQUIREMENTS CHECKLIST

- 1. All insurance policies/certificates must be forwarded to the insurance consultant for review. The cost of such review shall be for the account of the Borrower.
- 2. All insurance policies shall be in form and with insurers reasonably acceptable to the Lender and contain the original signatures of the insurers (which may include being signed by certified electronic signature).
- 3. KingSett Mortgage Corporation must be shown as 1st Mortgagee and 1st Loss Payee under the Builder's Risk and, where applicable, Boiler and Machinery Insurance policies.
- 4. KingSett Mortgage Corporation must be shown as Additional Insured under all Liability Insurance policies covering the subject Project (or "Property" as defined herein) with respect to claims arising out of the operations of the named insured.
- The Borrower/Registered Owner must be shown as a Named Insured or Additional Named Insured under all policies of insurance in force with respect to the subject Project.
- 6. The insurers, policy numbers, policy limits, policy term, applicable reasonable deductibles and the location of the Property as an insured location must be shown on the insurance policies and certificates of insurance.
- 7. The Builder's Risk and, where applicable, Boiler and Machinery policies shall contain a standard mortgage clause in favour of KingSett Mortgage Corporation.
- 8. All policies of insurance must provide KingSett Mortgage Corporation with at least 30 days' prior written notice of any adverse material change i.e. Misrepresentation, Fraud or Cancellation, except for the non-payment of premium, in which case the Statutory Conditions may apply.
- There needs to be evidence of Builders Risk insurance written on an All Risk or Broad Form basis and may or may not be subject to the latest CCDC policy wording.
- 10. The builders risk insurance needs to insure 100% of the projected Hard Costs of the Project and not less than 25% of all Project soft costs plus 100% of all Finance and Interest charges, or 100% of recurring Project Soft Costs.
- 11. There must be evidence of full By-Laws extensions, Blanket By-Laws coverage with:
 - (a) 100% of replacement cost or policy limit for Loss of Undamaged portion of the building(s);
 - (b) 10% of the replacement cost or policy limit for Demolition Costs;
 - (c) 10% of the replacement cost or policy limit for Increased Cost of Construction; and
 - (d) Resultant Loss of Income.
- 12. There needs to be evidence of Earthquake insurance.
- 13. There needs to be evidence of Flood insurance.
- 14. There needs to be evidence of Sewer Back-Up insurance.
- 15. The Builders Risk policy needs to include a "permission to occupy" clause.

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- 16. The Builders Risk policy needs to include (where applicable) Delayed Start Up (DSU) insurance to cover 100% of the anticipated loss of revenue for a minimum of one year, which may be incurred in the event of an insured loss, during construction. The Builders Risk policy will provide coverage for the installation, testing and commissioning of machinery and equipment.
- 17. There must be evidence of comprehensive Boiler and Machinery insurance covering all central HVAC and miscellaneous electrical equipment (and production machinery where applicable) for explosion, electrical, electronic, and mechanical breakdown.
- 18. The Builders Risk policy will provide Debris Removal, Extra Expense and Expediting Expense, Property in Transit and Property Off Site.
- 19. The Builders Risk policy (where applicable) must contain a minimum DE4/LEG2 amended workmanship, design or materials exclusion wording and confirmation of resulting damage is covered.
- 20. Confirmation of builder's risk warranties.

Owners Liability:

21. There must be evidence of Owner's Liability Insurance, with a minimum limit of \$5,000,000 per occurrence and in the aggregate or such other limit as may be agreed to by the Lender or insurance consultant unless a Wrap Up Liability policy has been purchased. Coverage should include but not be limited to Cross Liability, Severability of Interest, Contractual Liability and Sudden & Accidental Pollution extension. KingSett Mortgage Corporation is added as an Additional Insured.

Contractors Liability:

- 22. There must be evidence of Contractors Liability insurance, with a minimum limit of \$5,000,000 per occurrence and in the aggregate or such other limit as may be agreed to by the Lender or insurance consultant unless a Wrap Up Liability policy has been purchased. Coverage should include but not be limited to Cross Liability, Severability of Interest, Contractual Liability, Non-Owned Auto, and Sudden & Accidental Pollution extension.
- 23. The Borrower/Registered Owner/KingSett Mortgage Corporation must be added as an Additional Insured under any Contractor's Liability insurance, but only with respects to claims arising out of the operations of the named insured and indicating the Project location.
- 24. When evidence is provided in the form of the Borrower's Liability insurance program and General Contractor's Liability insurance program, confirmation that the Borrower or the General Contractor are responsible for administration for effectiveness and compliance of all trades and subtrades liability certificates prior to starting work on the Project.

Wrap-up Liability:

25. There must be evidence of Wrap-Up Liability insurance, with a minimum limit of \$5,000,000 per occurrence and in the aggregate or such other limit as may be agreed to by KingSett Mortgage Corporation or insurance consultant and provide 12/24/36 months completed operations period, Cross Liability, Severability of Interest, Contractual Liability, and Sudden & Accidental Pollution extension.

- 26. The Borrower/Registered Owner must be added as an Additional Named Insured under the Wrap Up Liability insurance, but only with respects to claims arising out of the operations of the named insured. The Borrower/Registered Owner and all Contractors, Sub-Contractors, Trades and Consultants must be Named Insureds with respect to the work or operations at the Project, excluding professional liability.
- 27. KingSett Mortgage Corporation and its insurance consultant shall receive copies of all policy "Warranties" that apply.

Other:

- 28. KingSett Mortgage Corporation will not accept evidence of insurance on a CSIO form, or an ACORD Form #25 (or their equivalents), due to the limitation in the wording as to its efficacy, and the restrictive cancellation provisions, unless accompanied with an additional remarks schedule/comments ACORD 101 or CSIO equivalent.
- 29. Evidence of Professional Liability (Errors & Omission) insurance is required for the architect and the engineer of the Project for a minimum limit of \$1,000,000 per occurrence.
- 30. KingSett Mortgage Corporation and its insurance consultant shall receive copies of all policy "Warranties" that apply, on any of the construction insurance programs.
- 31. Such other insurance as KingSett Mortgage Corporation and/or its insurance consultant may reasonably require given the nature of the security and that which a prudent owner of similar security would purchase and maintain or cause to be purchased and maintained.

There must be full, original, certified, endorsed copies of the insurance policies provided to the KingSett Mortgage Corporation as soon as available from the insurers. (The certified policy copies should be available within 60 to 90 days). Signed Certificates or Binders of Insurance addressing the above will suffice as insurance evidence for closing purposes.

In the instance that any portion of the property insurance coverage described above has expired or cancelled and evidence of adequate and satisfactory insurance coverage has not been provided to KingSett Mortgage Corporation immediately (with the certified policy copies provided within 90 days) upon the expiration or cancellation date, KingSett Mortgage Corporation will have the option, without obligation, to place adequate and satisfactory insurance (at the Lender's sole, absolute and unfettered discretion) for the Project at the Borrower's expense.

Certificates or Binders of Insurance are not acceptable if they contain the words, "This certificate is issued as a matter of information only and confers no rights upon the certificate holder" and the words "will endeavour to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" under the cancellation clause.

-- Insurance broker contact information and release follows on next page --

Insurance Broker Contract Information and Release

Please provide the following information for our records:

Insurance Broker:	Brokerage Name:	
	Contact Name:	
	Address:	
	Phone #:	Fax #
	Email Address:	
Please provide the following to your insurance Broker fro	information if you woul m RISK REVIEW INC.	d like to be copied on all correspondence addressed
Contact Number:		
Email Address:		
required by the Lender and	d its insurance consult case information necess	Insurance Broker to release insurance information ant, RISK REVIEW INC. for this Loan and hereby ary to determine insurance requirements, as needed, ng an insurance review.
BORROWER: KSV Restructuring Inc. in it court appointed receiver and Property of 759 Winston Cand 759 Winston Churchill L personal or any other capacitation.	d manager of the churchill GP Inc. .P., and not in its	
Per: Name: Title:		

SCHEDULE B OTHER CONDITIONS

1. **Prohibition on Sale of Project:** Prior to repayment of the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Page 13 of 33

Security in full on the Maturity Date, or as otherwise contemplated in the Commitment Letter, the Borrower may not sell the Project, in whole or in part, without the Lender's prior written consent, which consent may be arbitrarily withheld, delayed and/or conditioned by the Lender. Notwithstanding the foregoing and with the Lenders consent, the Borrower shall be permitted to sell any severed portion of the Property provided that upon Closing of such sale the Net Closing Proceeds (as hereinafter defined) from the sale of such severed portion of the Property is solely used to repay the Loan, together with all accrued and unpaid interest and all other reasonable costs as agreed to by the Receiver. The assumption of the Loan by a purchaser of the Project, or part thereof, shall be subject to the prior written approval of the Lender, which approval may be arbitrarily withheld, delayed and/or conditioned by the Lender.

"Net Closing Proceeds" shall mean the net closing proceeds from a sale of the Property, in part or in full, calculated as:

- a) The actual gross sales price net of applicable sales tax including any additional recoveries, and other customary real estate conveyancing adjustments less reasonable closing costs, approved legal fees, reasonable sales commissions, and any other reasonable closing adjustments for the sale of a similar property to such Property.
- Change of Ownership: A direct or indirect change in ownership of the Borrower shall not be permitted without the Lender's prior written consent, which consent may be arbitrarily withheld, delayed and/or conditioned by the Lender.
- Amalgamation: Any amalgamation of the Borrower shall not be permitted without the Lender's prior written consent, which consent may be arbitrarily withheld, delayed and/or conditioned by the Lender.
- Payment of Property Taxes: The Borrower shall pay when due to the taxing authority or authorities having jurisdiction all property taxes, local improvement rates and charges with respect to the Project.
- Indemnity: The Borrower shall indemnify and save harmless the Lender and its officers, agents, trustees, employees, contractors, licensees or invitees from and against any and all losses, damages, injuries, expenses, suits, actions, claims and demands of every nature whatsoever arising out of the provisions of the Loan Documents, any letters of credit or letters of guarantee issued or indemnified, sale or lease of the Project and/or the use or occupation of the Project including, without limitation, those arising from the right to enter the Project from time to time and to carry out the various tests, inspections and other activities permitted by the Loan Documents.
- 6. **Environmental Liability:** In addition to any liability imposed on the Borrower under any of the Loan Documents, the Borrower shall be jointly and severally liable for any and all of the Lender's costs, expenses, damages or liabilities, including, without limitation, all reasonable legal fees, directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about the Project of any hazardous or noxious substances; provided that notwithstanding the foregoing the Borrower shall not have personal liabilities with respect to this subparagraph. For greater certainty, recourse by the Lender under this subparagraph shall be limited solely to the property of the Borrower.
- 7. **Assignability:** The Loan Documents may not be assigned, transferred or otherwise disposed of by the Borrower without the Lender's prior written consent, which consent may be arbitrarily withheld, delayed and/or conditioned by the Lender. The Loan, any of the Loan Documents or any interest in the Loan or the Loan Documents may be assigned or participated by the Lender

(and its successors and assigns), in whole or in part, without the consent of the Borrower, provided that any assignee must have sufficient financial wherewithal to comply with the terms of this Commitment Letter. Except as hereinafter provided, the Borrower consents to the disclosure by the Lender to any such prospective assignee or participant of all information and documents regarding the Loan, the Loan Documents, the Project and the Borrower within the possession or control of the Lender.

- 8. Information: For purposes of this Commitment Letter, "Information" means all information relating to the Borrower and its affiliates or any of their respective businesses, other than any such information that is available to the Lender on a non-confidential basis prior to such receipt. Any person required to maintain the confidentiality of Information in accordance with this Commitment Letter shall be considered to have complied with its obligation to do so if such person has exercised the same degree of care to maintain the confidentiality of such Information as such person would accord to its own confidential information. In addition, from time to time the Lender publishes advertisements or announcements of completed transactions which advertisements or announcements include, but are not limited to, press releases, paid advertisements, internally displayed tombstones, social media, investor brochures or information displayed on the internet or on the Lender's intranet. The Borrower consents to the publication of an advertisement or announcement of the Loan and agrees to allow the Lender to photograph or utilize existing photographs or artistic renderings (for unfinished projects) of the Project for possible use in internal or external marketing programs.
- Confidentiality of Information: The Lender agrees to maintain the confidentiality of the 9. Information, except that Information may be disclosed (a) to it, its affiliates and its affiliates' respective partners, directors, officers, employees, agents, advisors and representatives to the extent necessary to administer or enforce any of the Loan Documents, it being understood that the persons to whom such disclosure is made will be informed of the confidential nature of such Information and will be bound and instructed to keep such Information confidential, (b) to the extent requested by any regulatory authority having jurisdiction over it (including any selfregulatory authority), (c) to the extent required by any applicable law or other legal process, (d) to any other party hereto, (e) to the extent reasonable, in connection with the exercise of any remedies under any of the Loan Documents or any action or proceeding relating to any of the Loan Documents or the enforcement of rights thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under the Loan or any of the Loan Documents, (g) with the consent of the Borrower, or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section, or (ii) becomes available to the Lender on a non-confidential basis from a source other than the Borrower or its affiliates and provided such source has not, to the knowledge of the Lender, breached a duty or obligation of confidentiality owed to the Borrower or its affiliates, or the Lender. If the Lender is requested or required to disclose any Information pursuant to or as required by any applicable law or by an subpoena or similar legal process, the Lender shall use its reasonable commercial efforts to provide the Borrower with notice of such requests or obligation in sufficient time so that the Borrower may seek an appropriate protective order or waive the Lender's compliance with the provisions of this Section, and the Lender shall co-operate with the Borrower in obtaining any such protective order.
- 10. Use of Information: The Lender shall be entitled to use any Information to assess the ability of the Borrower to obtain the Loan and to evaluate the ability of the Borrower to meet its financial obligations which includes, without limitation, disclosing and exchanging Information on an ongoing basis with credit bureaus, credit reporting agencies and financial institutions or their agents,

or to service providers, in order to determine and verify, on an on-going basis, the continuing eligibility of the Borrower for the Loan and the continuing ability of the Borrower to meet its financial obligations. This use, disclosure and exchange of Information will continue until the principal balance of the Loan outstanding together with all accrued and unpaid interest thereon and all other costs secured by the Security is repaid in full and will help protect the Borrower from fraud and will also protect the integrity of the credit-granting system.

- 11. Changes and Alterations: Any major changes, additions, and/or alterations contemplated to the Property, including major changes in use of the Property or any proposed use of the Property as a hotel, short term stay of less than 60 days, or similar type of accommodation, must receive the Lender's prior written consent, in the Lender's sole discretion, prior to the commencement of the changes, additions and/or alterations. If the Borrower changes or alters the Property or its use, without the prior written consent of the Lender being obtained, then the Lender may, in its sole discretion, declare forthwith due and payable the entire outstanding Loan Amount together with all accrued and unpaid interest due thereon. The Borrower will provide reasonable notice to the Lender of any anticipated or impending transaction which would require the consent of the Lender under this section, together with such reasonable information as the Lender may require to determine whether or not to grant its consent thereto.
- 12. **Right to Inspect:** The Borrower acknowledges that the Lender may inspect the Project at any time at the expense of the Borrower.
- Demand and Default: If any Event of Default has occurred which is continuing, , then the Borrower shall, at the option of the Lender, be in default of its obligations to the Lender, the Lender may, at its option on notice to the Borrower, demand repayment of the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Security in full, cease or delay further funding, and/or may exercise any and/or all remedies available to it under the Security, at law and/or in equity.

Misappropriation of funds as determined by the Lender or Project Monitor, in its sole and absolute discretion, is deemed an Event of Default under the Loan and the Lender retains its right to demand repayment of the Loan in full.

- 14. Remedies Cumulative: No extension, postponement, forbearance, delay, or failure on the part of the Lender in the exercise of any power, right or remedy under any of the Loan Documents, at law or in equity shall operate as a waiver thereof, nor shall a single or partial exercise of any power, right or remedy preclude other or further exercise thereof or the exercise of any other power, right or remedy. Neither the acceptance of any payment nor the making of any concession by the Lender at any time during the existence of a default shall be construed as a waiver of any continuing default or of any of the Lender's rights or remedies. All of the powers, rights and remedies of the Lender shall be cumulative and may be exercised simultaneously or from time to time in such order or manner as the Lender may elect. No waiver of any condition or covenant of the Borrower or of the breach of any such covenant or condition shall be deemed to constitute a waiver of any other covenant or condition or of any subsequent breach of such covenant or condition or justify or constitute a consent to or approval by the Lender of any violation, failure or default by the Borrower of the same or any other covenant or condition contained under any of the Loan Documents.
- 15. **Severability:** The Borrower agrees that if any one or more of the provisions contained in this Commitment Letter shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any or all other provisions of

this Commitment Letter and this Commitment Letter shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

- 16. Time of the Essence: Time is of the essence in this Commitment Letter.
- 17. **Non-Merger:** The representations, warranties, covenants and obligations herein set out in any of the Loan Documents shall not merge or be extinguished by the execution or registration of the Security but shall survive until the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other amounts secured by the Security are repaid in full.
- 18. Interim Occupancy Fees and Revenues: [Intentionally deleted.]
- 19. **Payment of Sales Taxes:** The Project Budget shall include a net difference of \$Nil for applicable sales tax paid less applicable sales tax recovered and shall also include a ceiling of \$1,500,000 at any point in time, prior to repayment of the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Security in full, with respect to the permitted difference between applicable sales tax included in work-in-place less applicable sales tax recovered by the Borrower from government authorities.
- 20. Lender's Sign: The Lender shall have the right, but shall not be obligated, at the Lender's cost, to place a sign on the Project at any time after execution of this Commitment Letter by the Borrower but prior to repayment of the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Security in full, which sign shall state that the Lender has assisted with the financing of the Project. The Lender, at the Lender's cost, shall be permitted to take down the sign at any time prior to repayment of the principal balance of the Loan outstanding together with all accrued and unpaid interest and all other costs secured by the Security in full, after which time the Borrower shall be permitted to take down such sign at any time at the Borrower's cost.
- 21. Governing Law: The Loan and the Loan Documents shall be governed by and construed under laws of the Province of Ontario and the federal laws of Canada as applicable therein.
- 22. **Modification:** No term or requirement of any of the Loan Documents may be waived or varied orally or by any course of conduct of the Borrower or anyone acting on his behalf or by any officer, employee or agent of the Lender. Any alteration or amendment to any of the Loan Documents must be in writing and signed by a duly authorized officer of the Lender and accepted by a duly authorized officer of the Borrower.
- 23. **Language:** Any word importing the singular or plural shall include the plural and singular respectively. If any party is comprised of more than one entity, the obligations of each of such entities shall be joint and several. Any word importing persons of either gender or firms or corporations shall include persons of the other gender and firms or corporations were the context so requires.
- 24. **Headings:** The headings and section numbers appearing in any of the Loan Documents are included only for convenience of reference and in no way define, limit, construe or describe the scope or intent of any provision of any of the Loan Documents.
- 25. Counterparts: Any of the Loan Documents may be executed in several counterparts, each of which when so executed shall be deemed to be an original and which counterparts together shall constitute one and the same instrument.

- 26. **Electronic Execution:** The words "execution," "execute", "signed," "signature," and words of like import in or related to any Loan Documents to be signed in connection with the Loan shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada) and the *Electronic Commerce Act*, 2000 (Ontario), or any other similar laws based on the *Uniform Electronic Commerce Act* of the Uniform Law Conference of Canada.
- 27. **Calculations:** All interest calculated under this Commitment Letter shall be computed based on the actual number of days elapsed in a year consisting of 365 days.
- 28. **Paramountcy:** In the event of any inconsistency or conflict between any of the provisions of the Commitment Letter and any provision or provisions of the Security, the provisions of the Commitment Letter will prevail.
- 29. **Disclosure:** KingSett Mortgage Corporation acted on behalf of 12 lenders in the previous fiscal year.

SCHEDULE C PROJECT MONITOR MANDATE / REPORTING

INDUSTRIAL CONSTRUCTION

GENERALLY ON THE ROLE OF THE PROJECT MONITOR:

The below aims to set out what is expected by Lender from the Project Monitor. While the below lists our minimum requirements, we anticipate the Quantity Surveying professional will use their best judgment and provide additional information as needed to alert Lender of any material issues as they emerge on site / during the life of the project.

PRELIMINARY REPORT PRIOR TO INITIAL FUNDING:

The Project Monitor is to prepare a preliminary report inclusive of the following information:

Project Description:

- 1. The Preliminary report should include a brief description of the project. The description should outline major points such as:
 - (a) Overall GFA of the proposed project
 - (b) Whether the project consists of purpose built rental units or for sale housing units.
 - (c) [intentionally deleted]
 - (d) If there are multiple phases the number of phases included in the project, with a brief description of each phase.
 - (e) The type of construction, with a brief description of:
 - (i) Foundation system (eg Concrete footings)
 - (ii) Structure (eg Timber framed)
 - (iii) Envelope (eg Brick veneer & vinyl siding with punch windows)
 - (iv) Roofing system (eg Asphalt shingles)
 - (v) Finishes (eg. Interior walls with drywall finishes, tiling finishes in the washrooms, laminate flooring throughout, unfinished basement etc)
 - (vi) Services, including a brief description of the HVAC system being installed
 - (vii) Landscaping scope
 - (viii) Deferred scope if there are items shown on the drawings which are being deferred / not included in the sources of funding, these should be identified.

Budget & Schedule Commentary:

- Quantity Surveyor to review the drawing packages included and comment on whether or not the drawings are adequate for pricing. Commentary should clarify whether the drawings are approximately at:
 - (a) Class B stage / Detailed Design
 - (b) Class A stage commentary should clarify if the drawings are 'Issued for Construction' or 'Issued for Tender'
 - (c) Drawings are to be made available upon request
- 2. review the Borrower's proposed detailed Project Budget as revised and approved by the Lender, further to the Project Monitor's recommendations. The review of the soft costs should confirm
 - (a) Comment on the allowance for the Development Management fee and whether it is reasonable
 - (b) Review the development charges, building permits allowances and levies and confirm they are in line with the local city charges
- review all material cost-items, contracts and change orders with trades; the review must include commentary with regards to the documentation included in the major trade contracts and any exclusions / qualifications. Requirements are further outlined in the section on Contracts below.
- Request / confirm quantum of any contemplated trade contract change orders or extras not yet approved with the Borrower and / or Construction Manager.
- 5. confirm all funding sources including without limitation, equity, purchaser deposits, deferrals, mezzanine financing and construction loan, as applicable;
- 6. confirm that Minimum Project Equity has been injected into the Project on the agreed-upon land valuation contained in the Commitment Letter and costs incurred to date;
- 7. confirm that the Borrower has continually maintained the Minimum Project Equity at all times;
- 8. confirm the adequacy of the interest expense carried in the Project Budget including, without limitation, the preparation of independent Project cash flows.
- confirm the adequacy of the contingency allowances carried in terms of construction risk and other soft costs;
- 10. confirm the costs incurred to date through a review of all invoices, the Borrower's trial balance, aged payables listing, cancelled cheques, etc. (backup to costs to be made available on request);
- confirm applicable development charges and levies relating to the Project including, without limitation, parkland deduction, regional and municipal, education, Section 37 and any other applicable municipal fees;
- 12. confirm the expected timing of payments and prepare a cash flow;

- 13. Provide commentary on relative experience of major trade contractors and the construction manager, and any requirement for bonding. Commentary should briefly comment on the trade's capacity to complete low rise projects of this scale, and confirm whether they are arm's length / non arm's length.
- 14. review the Project construction time schedule (the "Project Schedule") to confirm overall reasonableness. The commentary must confirm whether the schedule is suitably detailed with all key activities listed and has a clear critical path that the Quantity Surveyor can track. Key milestones to be summarized and incorporated in the report.
- 15. review allowance for appropriate HST and whether this is to be funded by the Lender or the Borrower and, where the Project includes residential rental units, validate the amount of self-assessed HST included in the Project Budget.
- 16. Confirm the approach being taken with regards to Holdback. If the Borrower is not taking a 10% Holdback in line with the requirements of the lien act this must be noted in the report and discussed with the Lender.
- 17. If the project includes any deferred items, these must be noted in the report.

Management Contract & Trade contracts:

- 1. Confirm whether the project is being self performed with the Borrower acting as the Construction manager; or whether a 3rd party Construction manager is being hired.
- Confirm the Borrower's approach to procurement, clarifying whether the Borrower has a standard form
 of contract that they use with trades, inclusive of a detailed scope of work; or whether post award trade
 work proceeds on the basis of quotes received (without a contract being in place).
- Unless previously authorized by the lender, stipulated price contracts/fixed-price contracts and/or contract forms that do not require proof of payment to all trades and suppliers will not be accepted, including CCDC 2, CCDC 5B and CCDC 14 contract forms.
- 4. Review the development management agreement to confirm the requirements and any other material agreements against the Project Budget;
- 5. Review the budget as follows:
 - (a) all costs reported as committed should be reviewed in terms of reasonableness, conformity to the latest design documents, Project Schedule and for front end loading;
 - (b) confirmation of committed costs identifying contracts, awards, letters of intent and trade quotations together with a summary of major contracts still to be awarded and tendering schedule for all un-awarded scopes of work. Commentary must also advise of the approximate timeline to turn the Letters of Intent into firm contracts;
 - (c) Time sensitive LOIs / Quotes / Contracts should be identified. For example, if a quote is received for Lumber supply which is contingent on work commencing by certain dates, this should be noted.
 - (d) Any quotes / contracts / LOIs that do not cover the entire scope should be identified. For example, if there are 30 Blocks, and the lumber supply quote only covers the first 10 Blocks, this should be noted.

- (e) for all costs noted as being uncommitted, an estimate should be completed (QS to confirm the reasonableness of the budget amounts);
- (f) All information reviewed, including Bid Levelling, must be made available to the Lender upon request;
- 6. Please list all contracts / LOIs / Quotes using a format similar to the table below (examples given for reference purposes only)

	Sub-Contractor /			
Trade / Supplier	Supplier	Drawings included	Status	Amount
Excavation	Trade A	Eg. Issued for Permit	Quote	\$500,000.00
Concrete Work	Trade B	Eg. Issued for Permit	Contract	\$1,000,000.00
		Eg. Issued for		
Lumber Supply	Trade C	Construction _	Unit rate contract	\$2,225,000.00
Carpentry -				
Framing	Trade D	Eg. Issued for Permit	LOI	\$3,000,000.00
		Eg. Issued for		
Roofing	Trade E	Construction	Quote	\$600,000.00

Permits and Approvals: Provide a list of <u>all</u> the permits and approvals required for the project, as well as the expected timing of receipt of the approvals and permits. Review all of the development agreements, site plan agreement, subdivision agreement, building permits, and other municipal / regional agreements and, in the case where not all permits are available, identify which permits have been received and any that have been applied for and anticipated timing of receipt.

Letters of Credit: confirm the amounts of any required letters of credit and whether any or all of the letters of credit are duplicates of Project costs included within the Project Budget.

Insurance: review the insurance provided in terms of period of coverage, insured parties, loss payable and the sum insured.

Other Conditions:

- 1. review all loan agreements and commitment letters including, without limitation, any deposit insurance agreement and amendments for the financing of the Project;
- 2. confirm the purchase price for the lands upon which the Project is to be constructed by reviewing the purchase and sale agreement and supporting documents;
- 3. review all available architectural and engineering plans and specifications for conformity with the Project Budget, along with all awarded contracts, letters of intent or tendered quotations;
- 4. review all environmental site assessments reports, geotechnical reports and hydrogeology reports, as applicable, and confirm that all recommendations are included within the Project Budget; any major risks / unknowns are to be highlighted.
- 5. review all design consultant contracts in conjunction with a review of costs incurred to date to confirm the adequacy of applicable budgets. The commentary should confirm whether are adequate funds left in the cost to complete for the contract administration phase of the project of the design team; and

- review all sales, legal and marketing agreements in conjunction with a review of costs incurred to date
 to confirm the adequacy of applicable budgets and the timing of commission payments with respect
 thereto.
- 7. If there are any off site storage items being claimed by the Borrower, the associated documentation should be enclosed, including the Bill of Sale and insurance documents. Please note that for off site amounts in excess of \$50,000 the QS needs to visit the site where the offsite storage materials are being retained.

Other:

- 1. identify any potential issues that may affect the completion of the Project in accordance with the Project Budget and the Project Schedule;
- 2. provide any additional recommendations as they become apparent during the Project Monitor's review and discussions with the Borrower and the Lender.
- 3. List any outstanding documents that have been requested but not received. For example, if backup to invoices have been requested but not received, this should be noted.

Appendices required in the Preliminary report:

The following are a list of the Appendices required in the Preliminary report

- (a) Borrower's cost ledger / Borrower's job cost report
- (b) Quantity Surveyor's Capital Cost Summary (CCS)
- (c) A reconciliation between the Quantity Surveyor's CCS and the Borrower's ledger
- (d) A construction cost report (CCR). [CCR must show Holdback on a trade by trade basis]
- (e) Draft Margin Calculation
- (f) A current project schedule
- (g) Cash flow
- (h) A site plan marked up showing what has been completed to date (example included as a separate attachment for reference)
- (i) The Construction Manager's invoice / Contractor's invoice. If applicable, executed copies of change orders should be included [Full backup must be made available on request]
- (j) Consultant reports / Consultant Sign off / Municipal sign off (as available / applicable)
- (k) Site Photographs (minimum of 6 photos per Block once framing has commenced)
- (I) Project statistics, showing the GFA on a floor by floor basis
- (m) Project Monitor's Certificate for Payment
- (n) Project Monitor Certificate / Payment certifier's certificate (as available / applicable)

- (o) Statutory Declaration and WSIB / Worksafe statement
- (p) Off site Storage Agreements (if off site storage has been claimed, please enclose in a separate appendix)
- (q) Building Permits & Development agreements
- (r) Contracts / Backup to costs being reported as committed
- (s) Insurance Certificates
- (t) Legal Survey

PROGRESS DRAW REPORTS PRIOR TO SUBSEQUENT ADVANCES FOR WORK-IN-PLACE:

During construction of the Project the Project Monitor is to prepare monthly progress draw reports inclusive of the following information.

Outstanding documents:

- 1. Every monthly report should have a list of outstanding documents and / or a list of documents that have been requested but not received. Examples of items we need flagged:
 - a. Statutory Declaration has not been received for the last payment
 - b. Insurance certificates are out of date
 - c. WSIB out of date
 - d. Invoice backup to Borrower's cost ledger requested but not received
 - e. Off site storage agreements are not available or inadequate.
 - f. Any other material items

Site Visit:

- 1. conduct monthly site inspections prior to every draw request, including photographs and commentary on all work-in-place and the status of the Project;
- 2. confirm if there are any materials stored off-site and ensure that appropriate bill of sales and off-site material documentation is provided, including a thorough review of the documents to ensure the addresses, the names of the parties and the dollar amounts are correct and in line with contractual arrangements. Please note that for off site amounts in excess of \$50,000 the QS needs to visit the site where the offsite storage materials are being retained and;
- 3. provide commentary on the status of physical progress on-site and whether it is progressing in accordance with the Project Schedule. Commentary should:
 - (a) Provide an overall summary of the progress on site
 - (b) Outline what has been completed since the last report was issued
 - (c) Compare actual progress to the schedule, noting how progress compares to the critical path. If the schedule is slipping, QS is to clarify how the Borrower & Construction team are addressing this.
 - (d) The report should include a table with clear milestones, and the milestones should be no more than 6 months apart. Milestone dates not to be changed without prior discussions with KingSett Capital.
 - (e) Provide an updated progress matrix (sample one will be provided)

Project Budget, Cost-to-Date and Cost-to-Complete:

- 1. review the Borrower's draw request based on a Project cost report, invoices and aged payables listing, and update and confirm the cost of work completed to date including holdbacks;
- 2. Further to the above, the QS must do a review of all the hard cost invoices to ensure amounts claimed are in line with progress on site, including all costs tied to general requirements and trade invoices (full backup of hard costs to be made available on request).
- 3. update the Project Budget and comment on any amendments to the Project Budget based on a review of the latest information and discussions with the Borrower;
- 4. review and update the Project cash flow projections and advise on any necessary revisions. Cash flow should include a reasonable forecast of the construction hard costs, and all key milestones in the project per the baseline schedule should be shown in the legend;
- 5. comment on the adequacy of the remaining contingency allowances;
- 6. review cancelled cheques to confirm that all material costs claimed in the Borrower's last draw request have been paid; and
- 7. receive and review a standard Statutory Declaration of Progress Payment Distribution and WSIB certificate. The QS should check that the Statutory Declaration has been signed, stamped by the commissioner and is up to date. If the statutory Declaration isn't up to date this should be flagged in the executive summary of the report.

Construction:

- 1. review and comment on any changes to the scope of the Project or the Project Budget, including without limitation, any revised drawings if applicable;
- identify and comment on any amendments to the construction budget to reflect approved change orders, requested change orders under review, and the impact of same on contingencies. With regards to contemplated change orders, the Quantity Surveyor should request updates on a monthly basis;
- 3. review any additional contracts received since the last draw report for completeness of scope, construction budget, and Project Schedule;
- 4. confirm committed costs identifying awarded contracts, letters of intent and trade quotations and provide an updated summary of major contracts still to be awarded, and a tendering schedule for such remaining un-awarded scopes of work.
- 5. provide commentary on the relative experience of any new major trade contractors and any requirement for bonding; and
- 6. review and comment on any additional new change orders over \$100,000, explaining what has caused the increase to the budget.

Loan Calculation/Monthly Draw:

 prepare a Loan advance calculation outlining work completed to date, work-in-place, holdback amounts, value of change orders, estimate of cost-to-complete, and recommended source of funding breakdown; and reconcile any deposit use with deposits received to date.

Permits and Approvals:

- 1. The QS report should note which agreements and permits have been received and, in the case where not all permits are available, identify which permits have been applied for together with the anticipated timing of receipt and the impact on construction progress, if any; and
- 2. confirm the amounts of any required letters of credit and whether any or all of these are duplicates of Project costs included within the Project Budget.

Insurance: review insurance provided in terms of period of coverage, insured parties, loss payable and the sum insured. If any insurance documents are out of date this should be noted in the Executive summary of the report.

Other:

- 1. identify any potential issues that may affect the completion of the Project in accordance with the Project Budget and the Project Schedule;
- provide any additional recommendations as they become apparent during the Project Monitor's review and discussions with the Borrower and the Lender:
- 3. All Monitoring reports should include the following Appendices:
 - (a) Borrower's cost ledger / Borrower's job cost report
 - (b) Quantity Surveyor's Capital Cost Summary (CCS)
 - (c) A reconciliation between the Quantity Surveyor's CCS and the Borrower's ledger
 - (d) A construction cost report (CCR)
 - (e) Draft Margin Calculation
 - (f) A current project schedule
 - (g) Cash flow (must be kept up to date)
 - (h) A site plan marked up showing what has been completed to date (example included as a separate attachment for reference)
 - (i) Borrower's sales report
 - (j) Deposit Trust summary
 - (k) The Construction Manager's invoice / Contractor's invoice. If applicable, executed copies of change orders should be included
 - (I) Consultant reports (including structural, mechanical, electrical, geotechnical reports as available)

- (m) Site Photographs. Location at which site photos were taken to be clearly identified (minimum of 6 photos per phase once framing has started)
- (n) Project Monitor's Certificate for Payment
- (o) Project Monitor Certificate / Payment Certifier's Certificate (as applicable)
- (p) Statutory Declaration and WSIB / Worksafe statement
- (q) Off site Storage Agreements (if off site storage has been claimed, please enclose in a separate appendix)
- (r) Building Permits & Development agreements (as they are received)
- (s) Contracts / Backup to costs being reported as committed (as they are received)
- (t) Insurance certificates (when updated / renewed)

SCHEDULE D EVENTS OF DEFAULT

The occurrence of any one or more of the following events will constitute an "Event of Default" under the Commitment Letter:

- if an order is entered or granted that: (i) dismisses the Appointment Order or vacates, stays or otherwise causes the Appointment Order to be ineffective; (ii) lifts the stay provided for in the Appointment Order or otherwise modifies the Appointment Order in a manner not acceptable to the Lender acting reasonably; or (iii) grants any claim of super priority status or a lien equal or superior to that granted to the Lender in the Appointment Order, other than the Receiver's Charge;
- 2. the filing by the Borrower of any motion or proceeding which (i) is not consistent with any provision of the Commitment Letter or the Receiver's WC Borrowings Charge; (ii) could reasonably be expected to materially adversely affect the interests of the Lender; (iii) seeks an order which affects the interests of the Lender that is not acceptable to the Lender, acting reasonably; or (iv) seeks to continue the Receivership under the jurisdiction of a court other than the Court, unless in the case of any of the foregoing, the Lender has consented thereto in writing, or the granting of any order in the Receivership that is not in form and substance satisfactory to the Lender, acting reasonably;
- 3. if the Borrower fails to pay any amount of principal of the Loan when due;
- 4. if the Borrower fails to pay any interest, fees or other obligations of the Borrower to the Lender hereunder (other than any principal amount of the Loan) when due and such default continues for three business days after notice of such default has been given by the Lender to the Borrower;
- 5. if the Borrower materially breaches any of the covenants hereunder and, where such covenant can be remedied, such breach is not remedied within 15 days of becoming aware of such breach;
- 6. except to the extent stayed by the Appointment Order, if proceedings are commenced for the dissolution, liquidation or voluntary winding-up of the Debtor, or for the suspension of the operations of the Debtor unless such proceedings are being actively and diligently contested in good faith:
- 7. if construction on the Project ceases for a single period of 20 days or more, once commenced, except as the result of force majeure, provided that upon completion of any building on the Property, construction of the Project may cease until construction of another building commences;
- 8. if any change occurs that: (i) has a material adverse effect on the Property, including the related liabilities, operations, construction, development, expected revenues, results of operations or condition of the Property; (ii) has an adverse effect on the legality, validity or enforceability of any of the Loan Documents which could reasonably be considered material having regard to any Loan Document, including the validity, enforceability, perfection or priority of any encumbrance created under any of the Security which could reasonably be considered material having regard to the Security considered as a whole; or (iii) has an adverse effect on the right, entitlement or ability of the Lender to enforce its rights or remedies under any of the Loan Documents which could reasonably be considered material (each, a "Material Adverse Change"); provided that the pendency of the Receivership shall not constitute a "Material Adverse Change"; or

9.	if any delay in construction on a Project of employees, contractors or subcontractors.	120	days	or	more	occurs	as a	result	of strike	s of
									Dage 20	of 22
									Page 30	01 33

SCHEDULE E REPORTING

The Borrower shall provide the Lender with copies of the following regarding the Borrower and the Project:

- 1. any and all insurance policy renewals and/or amendments immediately upon the issuance thereof. The Lender may, in its unfettered discretion, require its insurance consultant to conduct an insurance review at the Borrower's expense;
- 2. ongoing Project information including, but not limited to, strata plan documentation (if applicable), working and final architects' / engineers' drawings, construction budgets, artist's renderings, and floor plans for the proposed units or buildings;
- 3. annually or as otherwise requested from time to time by the Lender evidence of the payment of all property taxes, local improvement rates and charges with respect to the Project;
- 4. on a monthly basis, Project leasing updates; and
- 5. at the Lender's request from time to time, the Borrower shall provide the Lender with any other relevant updates regarding the Project.

SCHEDULE F NOTICE TO PROPERTY TAX AUTHORITY

Re:	Borrower:	
	Project:	
	Loan No.:	
To Whom It May Cor	ncern:	
KingSett Mortgage C	orporation, regarding all matters related limited to taxes outstanding, status o	or in writing as requested by our lender, to taxes for the above-noted property. This f tax account, payments received and/or
This approval will ren	nain in full force and effect until the mort	gage is paid in full.
Dated this	_ day of	., 20
court appointed recei	Inc. in its capacity as iver and manager of the eston Churchill GP Inc. urchill L.P., and not in its reapacity	
Name: Title:		

SCHEDULE G PROJECT BUDGET & SOURCES OF FUNDS

The total Project Budget has been represented by the Borrower to be \$266,578,380 as set out below:

Sources	\$	Uses	\$
Current Indebtedness (As of March 31 st , 2025)	\$176,328,380	Land Costs	\$180,778,380
Subject Loan	90,250,000	Hard Costs	46,922,283
		Soft Costs	18,120,609
		Financing Costs	15,082,900
		Contingency	5,674,208
Total	\$266,578,380	Total	\$266,578,380

APPENDIX D

APPENDIX D¹

Contractor/ Lien Claimant	Instrument No.	PINs	Supplied To	Amount of Lien	Contract Price	Description of Work	Date Registered	Start of Supply	End of Supply	Counsel/Clerk Name & Firm Name	Certificate of Action Instrument No.	Date Certificate of Action Registered	Court File No.
PROPERTY: 759 Winston C	L Churchill Boulev	ard, Mississaug	a, Ontario										
JC INFRASTR UCTURE LTD.	PR4286490	13493-0225	Kenaidan Contracting Ltd.	\$2,015,660.00	\$8,298,176.00	Site Servicing	12/20/2023	05/02/2022	12/05/2023	Marco Drudi, Drudi Alexiou Kuchar LLP	PR4296093	01/26/2024	CV-24- 00000385- 0000
SUPERIOR SPRINKLER CO. LTD.	PR4287910	13493-0213, 13493-0225 and 13493- 0226	Kenaidan Contracting Ltd.	\$550,503.78	\$1,334,145.00	Supply of supervision, materials, labour, equipment and tools related to the supply and installation of sprinklers and fire protection solutions	12/22/2023	08/31/2020	12/08/2023	Christophe Shammas, Loopstra Nixon LLP	PR4303678	02/16/2024	CV-24- 00000788- 0000
KENAIDAN CONTRACT ING LTD.	PR4288557	13493-0213, 13493-0225 and 13493- 0226	759 WINSTON CHURCHI LL GP INC., as GP for 759 WINSTON CHURCHI LL L.P.	\$30,076,837.01	\$120,630,930.56	Remediation of the Lands, design and construction of 3 warehouses and various roadway improvements	12/28/2023	05/04/2020	11/30/2023	Meghan C. Fougere, Norton Rose Fulbright Canada LLP	PR4303485	02/16/2024	CV-24- 00000774- 0000
NORAM GLASS CORPORAT ION	PR4293671	13493-0213, 13493-0225 and 13493- 0226	Kenaidan Contracting Ltd.	\$117,695.56	\$534,440.00	Supply and install to complete curtain wall and window work	01/18/2024	12/01/2021	11/22/2023	David Winer and Jeremy Ruffolo, Kagan Shastri Demelo Winer Park LLP	PR4321738	04/12/2024	CV-24- 00001654- 0000

¹ The information contained in this Appendix is taken from the registered claims for lien and certificates of action, as represented by the lien claimants. The Receiver is not able to independently verify the accuracy of this information.

Contractor/ Lien Claimant	Instrument No.	PINs	Supplied To	Amount of Lien	Contract Price	Description of Work	Date Registered	Start of Supply	End of Supply	Counsel/Clerk Name & Firm Name	Certificate of Action Instrument No.	Date Certificate of Action Registered	Court File No.
BLACK & MCDONAL D LIMITED	PR4294645	13493-0225 and 13493- 0226	Kenaidan Contracting Ltd.	\$289,607.44	\$2,552,837.33	Labour, materials, and equipment to complete mechanical works including to building 3 shell and 10,000 sq ft offices	01/22/2024	05/12/2021	11/24/2023	Jennifer J. Lake, Speigel Nichols Fox LLP	PR4319718	04/08/2024	CV-24- 00001570- 0000
NUCOR STEEL ULC	PR4296305	13493-0213, 13493-0225 and 13493- 0226	Kenaidan Contracting Ltd.	\$145,240.14	\$1,094,871.56	Manufacture, supply and install concrete reinforcing steel (rebar)	01/26/2024	02/26/2021	01/10/2024	Sandra D. Astolfo, WEIRFOULDS LLP	PR4305936	02/26/2024	CV-24- 00000901- 0000
MONTANA ELECTRIC AL CONTRACT ORS LTD.	PR4296425	13493-0213, 13493-0225 and 13493- 0226	Kenaidan Contracting Ltd.	\$637,007.23	\$928,881.00	Electrical materials and services	01/26/2024	08/16/2021	01/26/2024	Marco Drudi, Drudi Alexiou Kuchar LLP	PR4301156	02/09/2024	CV-24- 00000640- 0000
NORAM GLASS CORPORAT ION	PR4332497	13493-0213, 13493-0225 and 13493- 0226	Kenaidan Contracting Ltd.	\$389,924.60	\$1,191,416.00	Drawings, engineering aluminum extrusion for curtain wall and doors, steel for anchors	05/15/2024	12/01/2021	05/03/2024	David Winer and Jeremy Ruffolo, Kagan Shastri Demelo Winer Park LLP	PR4374060	09/05/2024	CV-24- 00003964- 0000
KENAIDAN CONTRACT ING LTD.	PR4367477	13493-0213, 13493-0225 and 13493- 0226	759 WINSTON CHURCHI LL GP INC., as GP for 759 WINSTON CHURCHI LL L.P.	\$1,884,704.60	\$120,630,930.56	Supply of equipment (incl. site trailer) and labour for construction of 3 warehouses and various roadway improvements	08/20/2024	12/01/2023	08/20/2024	Meghan C. Fougere, Norton Rose Fulbright Canada LLP	None	None	None

Contractor/ Lien Claimant	Instrument No.	PINs	Supplied To	Amount of Lien	Contract Price	Description of Work	Date Registered	Start of Supply	End of Supply	Counsel/Clerk Name & Firm Name	Certificate of Action Instrument No.	Date Certificate of Action Registered	Court File No.
PROPERTY:													
688 Southdown	n Road, Mississa	auga, Ontario											
KENAIDAN CONTRACT ING LTD.	PR4288556	13493-0044	688 SOUTHDO WN GP INC., for and on behalf of 688 SOUTHDO WN LP	\$9,572,190.55	\$31,510,000.00	Clearing and grubbing and remediation of the property	12/28/2023	09/01/2022	11/30/2023	Meghan C. Fougere, Norton Rose Fulbright Canada LLP	PR4303484	02/16/2024	CV-24- 00000772- 0000
SOILCAN INC.	PR4295545	13493-0044	KENAIDA N CONTRAC TING LTD.	\$3,950,495.79	\$3,950,495.79	Haulage and disposal of contaminated soil, loading trucks with contaminated soil, place and compaction of clean fill from Clarkson Rd.	01/25/2024	05/10/2022	11/29/2023	Rob Moubarak, Sutherland Law	PR4299203	02/02/2024	CV-24- 00000510- 0000
PROPERTY: 2226 Royal Windsor Drive, Mississauga, Ontario													
None													
TOTAL VAL	UE OF LIENS	REGISTEREI):	\$49,629,866.70			•	•	•	•	•	•	•

CONFIDENTIAL APPENDIX 1

Redacted and subject to a request for a Sealing Order

IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

KINGSETT MORTGAGE CORPORATION

and

759 WINSTON CHURCHILL GP INC., 759 WINSTON CHURCHILL L.P., 688 SOUTHDOWN GP INC., 688 SOUTHDOWN LP, 2226 ROYAL WINDSOR GP INC. and 2226 ROYAL WINDSOR LP

Applicant Respondents Court File No.: CV-24-00714543-00CL

ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)

Proceedings commenced in Toronto

SECOND REPORT OF THE RECEIVER

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Lawyers for KSV Restructuring Inc. in its capacity as

court-appointed Receiver