

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Applicant

- and -

2460467 ONTARIO INC.

Respondent

**IN THE MATTER OF SECTION 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**

**MOTION RECORD OF THE RECEIVER AND MANAGER,
KSV RESTRUCTURING INC.
(Motion Returnable May 5, 2025)**

April 30, 2025

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Court File No. CV-24-00096502-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Applicant

- and -

2460467 ONTARIO INC.

Respondent

**IN THE MATTER OF SECTION 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**

**NOTICE OF MOTION
(Returnable May 5, 2025)**

KSV Restructuring Inc., in its capacity as Receiver and Manager (the “**Receiver**”) of all of the assets, property and undertakings of the Respondent, 2460467 Ontario Inc. (the “**Debtor**”), will make a motion to the Honourable Justice Kershman on Monday, May 5, 2025 at 2:00 P.M., or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard:

☒ By Video Conference.

Virtual Courtroom 219

<https://ca01web.zoom.us/j/69739444485?pwd=eWcwSWRSMUY1aXVSU21GSDVxMUt>

OZz09

Tel: 1-855 703 8985; ID: 697 3944 4485; Pass: 950156

THE MOTION IS FOR AN ORDER:

- a) abridging the time for service of this motion or, alternatively, dispensing with service;
- b) approving the terms of a Completion Agreement dated April 30, 2025 and CCDC 5B Construction Management Contract dated April 30, 2025 (the “**New CCDC 5B Contract**”) between the Receiver and Fusioncorp;
- c) authorizing and directing the Receiver to enter into and perform the Completion Agreement and the New CCDC 5B Contract and permitting the Receiver to take such steps and execute and deliver such additional documents as may be necessary or desirable to give effect to the Completion Agreement and the New CCDC 5B Contract;
- d) increasing the borrowing powers of the Receiver from \$1,000,000 to \$14 million;
- e) approving the Receiver’s Second Report dated April 30, 2025 (the “**Second Report**”), and the activities and proposed activities of the Receiver described therein; and
- f) approving the Receiver’s Interim Statement of Receipts and Disbursements for the period August 12, 2024 to April 29, 2025; and
- g) such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

Background

- a) The Receiver was appointed on the application of Duca Financial Services Credit Union Ltd. ("**Duca**") pursuant to the Order of the Honourable Justice Kershman dated August 12, 2024 (the "**Appointment Order**");
- b) Prior to the date of the Receiver's appointment, the Debtor was building a 62 unit stacked townhouse development project known municipally as 240 Yeomans Street, Belleville, Ontario (the "**Project**");
- c) At the date of the Appointment Order, the Debtor had sold 61 units in the Project, construction of the Project had not yet been completed, and each phase was at varying stages of completion;
- d) The outside occupancy date in the pre-sale purchase agreements between the Debtor and purchasers is May 1, 2026 (the "**Outside Occupancy Date**"). Given the Project's current status, construction on the Project needs to recommence immediately to meet this deadline;
- e) In accordance with paragraph 3(c) of the Appointment Order, the Receiver intends to disclaim the Original CCDCs.

Construction Manager Selection

- f) On January 27, 2025, the Receiver sent a Request for Proposal ("**RFP**") to 59 Project Management Inc. ("**59 PM**") and Fusioncorp to submit proposals to act as

construction manager for the purpose of completing the Project. The deadline for submitting a proposal was February 10, 2025;

g) The Receiver, in consultation with Duca and Tarion, selected Fusioncorp as the construction manager based on its:

- i. familiarity with the Project given its pre-receivership role;
- ii. experience working with trades in the Belleville, Ontario area;
- iii. acceptability to Tarion;
- iv. stated ability to complete the Project by April 30, 2026; and
- v. its fees and construction schedule are acceptable to Duca.

h) The Receiver advised Fusioncorp on April 1, 2025 that its proposal was accepted, subject to Court approval.

Completion Agreement

i) Below is a summary of the essential terms of the Completion Agreement:

- i. Construction Manager shall attain *Substantial Performance of the Work* on or before April 30, 2026;
- ii. the Construction Manager's fee shall be \$439,793 (the "**Completion Fee**") based on four percent (4%) of the remaining *Cost of the Work*, and the costs of its employees and services provided to the Project

- iii. if the Construction Manager attains *Substantial Performance of the Work* and occupancy permits for all units, on or before April 30, 2026, then, the Receiver shall also pay to the Construction Manager the amount of \$270,000;
- iv. Fusioncorp shall release and/or discharge its Claim for Lien, registered on title to the Project on June 4, 2024 in the amount of \$878,720;
- v. Fusioncorp shall insure the Project as a project cost and/or the Receiver shall insure the Project; and
- vi. the Receiver shall have no personal liability under the Completion Agreement;

CCDC 5B Contract

j) Below is a summary of the key terms of the New CCDC 5B:

- i. The Construction Manager shall provide services for each of the following phases: preconstruction (including pre-design, schematic design, design development, construction development and construction procurement), construction (including general services and cost control/accounting); and post-construction.
- ii. The estimated cost to complete the Project is \$11 million. This amount does not include the construction manager's fee, the

Receiver's fees, financing costs or contingencies. The estimated total funding required from Duca to complete the Project is approximately \$14 million.

iii. Construction is to start in May 2025 and to be completed by April 30, 2026.

iv. Fusioncorp is to pay each subcontractor directly.

v. The Receiver is entering into the New CCDC 5B and the Completion Agreement solely in its capacity as Receiver and not in its personal or corporate capacity.

vi. Fusioncorp is responsible for all site safety and fulfills the role of "constructor" under the *Occupational Health and Safety Act* (Ontario).

Project Funding

- k) By order dated December 11, 2024, the Court increased the Receiver's maximum borrowing limit under the Appointment Order to \$1 million.
- l) In order to protect the construction that had been performed at the site, the Receiver retained a construction manager, 59 PM to winterize the Project.
- m) The Receiver has borrowed \$784,000 from Duca and expects the balance of the funding available under the Receiver's existing borrowing powers to be drawn imminently.

- n) The Receiver, after consultation with Duca and other consultants, is of the view that the estimated costs of completion of the Project are reasonable and are intended to maximize realizations upon the Debtor's assets for the benefit of its creditors.
- o) The increase in the Receiver's borrowing limit is required to fund completion of the Project.
- p) Duca has agreed to advance additional funding to the Receiver secured by the Receiver's Borrowing Charge (as defined in the Appointment Order) to a maximum of \$14 million.
- q) Rules 3.02 and 37 of the *Rules of Civil Procedure*.
- r) Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion

- a) The Second Report of the Receiver dated April 30, 2025, and
- b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

April 30, 2025

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TO: THE SERVICE LIST

DUCA FINANCIAL CREDIT SERVICES UNION LTD. v. 2460467 ONTARIO LIMITED.

IN THE MATTER OF SECTION 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

Court File No. CV-24-00096502-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
OTTAWA

NOTICE OF MOTION

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**Second Report to Court of
KSV Restructuring Inc.
as Receiver and Manager
of 2460467 Ontario Inc.**

April 30, 2025

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COURT FILE NUMBER: CV-24-00096502-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DUCA FINANCIAL SERVICES CREDIT UNION LTD

APPLICANT

- AND -

2460467 ONTARIO INC.

RESPONDENT

**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 30, 2025

1.0 Introduction

1. Pursuant to an order (the "**Receivership Order**") of the Ontario Superior Court of Justice (the "**Court**") made on August 12, 2024 (the "**Filing Date**"), KSV Restructuring Inc. ("**KSV**") was appointed receiver and manager (in such capacity, the "**Receiver**") without security, of all the assets, undertakings and properties of 2460467 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to, a business carried on by the Debtor. A copy of the Receivership Order is attached as Appendix "A".
2. The principal asset of the Debtor is real property having a municipal address of 240 Yeomans Street, Belleville (the "**Real Property**"). The Debtor intended to build a 62 unit stacked townhouse development on the Real Property (the "**Project**"). As of the Filing Date, the Project was partially completed.
3. The application to appoint KSV as Receiver was made by Duca Financial Services Credit Union Ltd. ("**Duca**"), a secured creditor of the Debtor.

4. At the outset of these proceedings, one of the principal purposes of the receivership was to provide the stability and supervision required to preserve the value of the Project, while the Receiver consulted with Duca and other stakeholders to consider whether the Project should be completed or sold on an “as is” basis. As a result of this due diligence, Duca has now advised the Receiver that it is prepared to provide funding to the Receiver for the purpose of completing the Project, as more fully discussed in this report (the “**Second Report**”).
5. This Second Report is filed by KSV in its capacity as Receiver.

1.1 Purposes of this Second Report

1. The purposes of this Second Report are to:
 - a) discuss the status of the Project;
 - b) summarize the terms of the Completion Agreement (the “**Completion Agreement**”) and a new CCDC 5B Construction Management Contract (the “**New CCDC 5B**”), each between the Receiver and Fusioncorp and, pursuant to which Fusioncorp Developments Inc. (“**Fusioncorp**”), would act as construction manager to complete the Project;
 - c) discuss the rationale for the Receiver’s recommendation that the Court grant an Order:
 - i. approving the Completion Agreement and the New CCDC 5B;
 - ii. authorizing and directing the Receiver to enter into and perform the Completion Agreement and the New CCDC 5B and permitting the Receiver to take such steps and execute and deliver such additional documentation as may be necessary or desirable to give effect to the Completion Agreement and the New CCDC 5B;
 - iii. increasing the Receiver’s Borrowing Charge (as defined in the Receivership Order) from \$1 million to \$14 million; and
 - iv. approving the Second Report and the Receiver’s activities described herein.

1.2 Currency

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

1.3 Restrictions

1. In preparing this Second Report, the Receiver has relied upon the Debtor’s financial and Project information, consulting reports concerning the Project and discussions with Duca, Duca’s legal counsel, Borden Ladner Gervais LLP (“**BLG**”), Fusioncorp, and Project consultants (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. Other than the Court, any party wishing to place reliance on the Information is required to perform its own diligence.
3. This Second Report contains forward-looking information, including statements regarding the anticipated completion of the Project, expected outcomes and future events. Forward-looking statements are based on current expectations, estimates, projections and assumptions, and are subject to known and unknown risks, uncertainties, and other factors that could cause actual results to differ materially from those expressed or implied by such forward-looking information.

2.0 Background

1. The Debtor marketed the Project as “Yeo Towns”. The Debtor pre-sold 61 of 62 townhomes.
2. The Project is comprised of four blocks of townhouses - each block was in various stages of completion as of the Filing Date. As of that date, the first and second blocks were estimated to be over 50% complete and the third and fourth blocks were significantly less advanced.
3. The Receiver understands that construction of the Project had been halted for several months prior to the Filing Date. Except for work performed to “winterize” the Project, there has been no construction on the Project since these proceedings commenced.
4. As of the Filing Date, the Debtor’s bank account had a nil cash balance. Funding for these proceedings has been provided by Duca pursuant to Receiver’s Certificates. As of the date of this Second Report, the Receiver is authorized to borrow up to \$1 million under the Receiver’s Borrowing Charge (as defined in the Receivership Order), of which Duca has advanced \$784,000.
5. On August 20, 2024, the Receiver posted a notice on its website advising purchasers of the townhomes (the “**Purchasers**”) of the commencement of these proceedings and that, *“The Receiver is presently considering the next steps in these proceedings, which may include completing construction of the Project. It will take some time for the Receiver to complete its due diligence, and accordingly, the Receiver is presently unable to provide a timeline for the completion of the Project.”* A copy of this notice was also mailed to the Purchasers.
6. Certain Purchasers have followed up with the Receiver to obtain status reports concerning the Project; however, as the decision to complete the Project was only made recently and remains subject to Court approval, the Receiver has not yet advised Purchasers of the intention to complete the Project. If the Court approves the relief sought by the Receiver on this motion, the Receiver intends to update Purchasers as to the status of the Project by posting a further notice on the Case Website (as defined below) and by sending the notice by mail to each Purchaser.

7. The outside occupancy date in the pre-sale Purchase Agreements is May 1, 2026 (the “**Outside Occupancy Date**”). Given the Project’s current status, construction on the Project needs to recommence immediately to meet this deadline.
8. Additional background information regarding the Project and the reasons for the appointment of the Receiver is provided in Duca’s application materials and the Receiver’s First Report to Court dated December 5, 2024 (“**First Report**”), a copy of which is provided in Appendix “B” (without attachments). 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/yeotowns> (the “**Case Website**”).

2.1 Secured Creditors

1. The following is a summary of the Debtor’s secured creditors and their outstanding balances (if known) as of the date of the Receivership Order:
 - a) Duca has a first-ranking mortgage on the Real Property. The Debtor also granted Duca a general security agreement dated December 6, 2022;
 - b) Based on Duca’s receivership application materials, as of June 12, 2024, the Debtor owed Duca approximately \$7.5 million, with interest and costs continuing to accrue. Duca was also owed approximately \$200,000 under a letter of credit facility as of the Filing Date. Duca has also been funding these proceedings under Receiver’s Certificates;
 - c) Westmount Guarantee Services Inc. (“**Westmount**”) provides insurance coverage for Purchaser deposits. Westmount registered a charge against the Real property in the amount of \$7 million. The Receiver understands that Purchasers paid deposits of \$3.8 million, of which approximately \$2.1 million has been released from escrow and used to pay Project costs and the balance (the “**Remaining Deposits**”) remains in trust with Owens Wright LLP, the law firm retained by the Debtor to hold these amounts; and
 - d) ten suppliers, including Fusioncorp, registered eleven construction liens totalling over \$2.6 million against the Real Property. Fusioncorp’s registered lien is approximately \$878,720. The Receiver has not reviewed any of the liens registered on title to the Real Property.

2.2 Project Status

1. The Receiver has been advised that construction on the Project ceased well prior to the Filing Date. As of the Filing Date, the Project had been exposed to the elements for several months. In order to protect the construction that had been performed at the site, the Receiver retained a construction manager, 59 Project Management Inc. (“**59 PM**”) to winterize the Project. This work included installing:
 - a) insulation and tarps to protect the interior footings from frost;
 - b) air barriers to cover window openings;

- c) roof sheathing at the third block;
 - d) waterproofing membranes at the existing exposed roof sheathing at the third block; and
 - e) temporary plywood and waterproof tarps to cover floor openings at the fourth block.
2. In addition to the above, the Receiver retained the Project architect, 4 Architecture Inc., to perform a site inspection and provide a written report on the status of the Project. The Receiver also arranged 24/7 remote video monitoring of the site for security purposes.

3.0 Construction Managers Selection Process

1. In consultation with Duca, on January 27, 2025, the Receiver sent a Request for Proposals to 59 PM and Fusioncorp to submit proposals to act as construction manager for the purpose of completing the Project. The deadline for submitting a proposal was February 10, 2025. The Receiver requested that the proposals include each party's qualifications to complete the work, a construction budget, construction schedule, compensation structure and confirmation that construction of the Project will satisfy the requirements of the Ontario New Home Warranties Act & Regulations.
2. In order to facilitate due diligence by 59 PM and Fusioncorp, the Receiver provided each party, upon execution of a confidentiality agreement, with access to an electronic data room, including documentation concerning the Project. Each candidate was also provided the opportunity to visit the site. Both candidates submitted proposals by the deadline and thereafter the Receiver, in consultation with Duca, engaged with the candidates to discuss their proposals. The Receiver also consulted with Tarion concerning the selection of the construction manager.
3. Fusioncorp was selected as the construction manager based on its:
 - a) familiarity with the Project given its pre-receivership role;
 - b) experience working with trades in the Belleville area;
 - c) acceptability to Tarion;
 - d) stated ability to complete the Project by April 30, 2026; and
 - e) fees and construction schedule being acceptable to Duca.
4. The Receiver advised Fusioncorp on April 1, 2025 that its proposal was accepted, subject to finalizing definitive documentation and Court approval, following which Fusioncorp and the Receiver, in consultation with Duca, BLG and counsel to the Receiver, worked on a construction budget, construction schedule, the Completion Agreement, and the New CCDC 5B.

4.0 Completion Agreement and New CCDC 5B¹

1. It is contemplated that subject to Court approval, the Receiver and Fusioncorp will enter into the Completion Agreement and the New CCDC 5B. Fusioncorp, as construction manager, will enter into new agreements with trade contractors. A copy of the Completion Agreement is attached as Appendix “C”. The New CCDC 5B is attached as Schedule “B” to the Completion Agreement.
2. In accordance with paragraph 3(c) of the Receivership Order, the Receiver intends to disclaim the Original CCDCs and original Trade Contracts.
3. A summary of the Completion Agreement is as follows²:
 - a) **Parties:** the Receiver and Fusioncorp (i.e. the “**Construction Manager**”).
 - b) **New Contract:**
 - i. The Receiver and Construction Manager agree and confirm that they are entering into a new contract, within the meaning of the Construction Act, R.S.O. 1990, c.C.30, for the completion of the Remaining Scope of Work and that the Completion Agreement and New CCDC 5B agreements are not a continuation of the CCDC 5A Construction Management Contract dated October 27, 2020 and the CCDC 5B Construction Management Contract dated November 18, 2022 (together, the “**Original CCDCs**”) between the Debtor and Fusioncorp, or the original Trade Contracts between the Debtor and Trade Contractors, which Original CCDCs and the original Trade Contracts are to be disclaimed by the Receiver.
 - ii. The Parties acknowledge and agree that the Receiver is not responsible under the Completion Agreement for any matters, debts, payments, holdback, disputes, or issues that arose between Fusioncorp and the Debtor, or the Debtor and any original Trade Contractors. Any claims made, or demands, arising under the Original CCDCs and original Trade Contracts prior to the date of the Completion Agreement and New CCDC 5B agreement are to be resolved in these receivership proceedings.
 - iii. The Construction Manager shall advise all Trade Contractors retained under the Completion Agreement (including the New CCDC 5B), that the Construction Manager has been retained under a new contract.
 - c) **Completion of Work and Fees:** Upon execution of the Completion Agreement and Court approval of the Completion Agreement and New CCDC 5B agreement, the Construction Manager shall return to the Project site and commence completion of the Remaining Scope of Work. The Construction Manager understands that time is of the essence for the completion of the

¹ Capitalized terms not otherwise defined in this section have the meanings ascribed to them in the Completion Agreement or the New CCDC 5B.

² This section of the Second Report summarizes the Completion Agreement and the New CCDC 5B and is not intended to include all material terms of either agreement.

Remaining Scope of Work, which shall be substantially performed on or before April 30, 2026.

- i. Within fifteen (15) Working Days of execution of the Completion Agreement and the New CCDC 5B agreement, Fusioncorp shall update the construction schedule and provide a copy of the updated construction schedule to the Receiver.
- ii. The Parties agree that the terms and conditions of the Completion Agreement and New CCDC 5B agreement, provide that:
 - (A) Construction Manager shall attain *Substantial Performance of the Work* on or before April 30, 2026;
 - (B) the Construction Manager's fee for the completion of the Remaining Scope of Work shall be the total amount of \$439,793 (the "**Completion Fee**") based on four percent (4%) of the remaining *Cost of the Work*; and
 - (C) the Completion Fee shall be paid by one initial payment of \$50,000, payable within ten (10) Working Days of execution of the Agreement, with the remainder of the Completion Fee being invoiced and paid monthly in twelve (12) equal instalments.
- iii. The Construction Manager is also to be paid at amounts specified in the CCDC 5B costs of its employees and services it provides to the Project.
- d) **Early Completion Fee:** The Receiver and the Construction Manager agree that if the Construction Manager is able to attain *Substantial Performance of the Work* and attain occupancy permits for all units, on or before April 30, 2026, then, in addition to the Construction Manager's Fee otherwise payable under this Agreement for the completion of the Remaining Scope of Work, the Receiver shall also pay to the Construction Manager the amount of \$270,000.
- e) **Failure to attain Substantial Performance by April 30, 2026:** Subject to an extension of the Contract Time, in accordance with the Completion Agreement and New CCDC 5B agreement, in the case of delays, then (a) Fusioncorp is required to take all reasonable steps to put in place a scheduled recovery plan to recover the delay in order to achieve Substantial Performance of the Work by the Scheduled Substantial Performance Date (April 30th); and (b) Fusioncorp shall not be entitled to any adjustment in its fee or additional payment for such extended period of time necessary to attain Substantial Performance of the Work.
- f) **Fusioncorp's Lien:** Fusioncorp agrees that, as part of the consideration for the Receiver entering into the Completion Agreement with Fusioncorp, within ten (10) days of Court approval of the Completion Agreement, or the execution of the Completion Agreement by the Receiver and Fusioncorp, whichever is later, Fusioncorp shall release and/or discharge its Claim for Lien, registered June 4, 2024 in the amount of \$878,720.

- g) **Insurance:** The Completion Agreement requires either the Receiver or Fusioncorp to insure the Project.
- h) **No Personal Liability of the Receiver.** Fusioncorp also acknowledges and agrees that (i) the Receiver is entering into the Completion Agreement and New CCDC 5B agreement solely in its capacity as Receiver and not in its personal or corporate capacity, (ii) Fusioncorp shall only have recourse to the assets, properties and undertakings of the Debtor that is subject to the receivership with respect to the obligations of the Receiver hereunder, and only with leave of the Court to seek such recourse, and (iii) the obligations of the Receiver under the Completion Agreement and any other agreement or instrument which may be entered into by the Receiver in connection with the Completion Agreement, are entirely non-recourse to KSV and any of its affiliates and any of their respective shareholders, directors, officers, employees, agents, lawyers or advisors. For greater certainty, neither the Receiver, nor any of its affiliates, or any of their respective shareholders, directors, officers, employees, agents, attorneys or advisors, shall have any personal liability under or in connection with the Completion Agreement, and the Receiver expressly disclaims any such liability.

4. A summary of key terms of the New CCDC 5B is as follows:

- a) **Parties:** the Receiver and Fusioncorp.
- b) **Services:**
 - i. Preconstruction, including pre-design, schematic design, design development, construction development and construction procurement phases;
 - ii. Construction, including general services and cost control/accounting; and
 - iii. Post-construction phase.

(Each phase has a separate list of services to be provided; however, several of the Services under the pre-construction phase have already been completed and therefore will not be required under the New CCDC 5B. The full list of services to be provided can be found in Schedule A1 of the New CCDC 5B.)

- c) **Budget:** The construction budget (the “**Budget**”) is attached as Schedule “E” of the New CCDC 5B. Pursuant to the Budget, the hard costs to complete the Project total approximately \$11 million. This amount does not include the construction manager’s fee, the Receiver’s fees, financing costs or contingencies. An increase in the Receiver’s Borrowing Charge to \$14 million is being sought to cover hard and soft costs (including professional fees and consulting fees). Additionally, the Receiver, Duca and Westmount are presently discussing the terms pursuant to which the Remaining Deposits may be used to fund the Budget.

- d) **Schedule:** Construction is to start in May 2025 and to attain substantial performance by April 30, 2026.
- e) **Subcontractors:** Pursuant to the New CCDC 5B, Fusioncorp is to retain and pay each subcontractor directly.
- f) **No Personal Liability of the Receiver:** The Receiver is entering into the New CCDC 5B and the Completion Agreement solely in its capacity as Receiver and not in its personal or corporate capacity. The New CCDC 5B and the Completion Agreement provide various protections for the Receiver, without which the Receiver would not be prepared to complete the Project.
- g) **Receiver's Right to Terminate:** The Receiver may terminate the New CCDC 5B and the Completion Agreement at any time in the event of a default under the New CCDC 5B. The Receiver may also seek Court approval in these proceedings to terminate the New CCDC 5B. Upon a termination, Fusioncorp will be entitled to: (i) its verified direct costs required to be paid to Subcontractors, trades or suppliers pursuant to agreements or purchase orders entered into by Fusioncorp; (ii) the Construction Manager's Fee earned, but unpaid; and (iii) its verified and direct demobilization costs.
- h) **Fusioncorp's Right to Terminate:** Fusioncorp may terminate the New CCDC 5B if the Receiver substantially violates the terms under the New CCDC 5B, including but not limited to, non-payment of compensation for the Services to Fusioncorp. Upon termination, Fusioncorp shall be entitled to be paid for all work performed including reasonable profit, for loss sustained upon Products and Construction Equipment, and such other damages as Fusioncorp may have sustained as a result of the termination.
- i) **Occupational Health & Safety:** Fusioncorp is responsible for all site safety on the Project site and for fulfilling the role of "constructor" under the *Occupational Health and Safety Act* (Ontario).

4.1 Recommendation

1. The Receiver recommends that the Court issue an Order approving the Completion Agreement and the New CCDC 5B and authorizing the Receiver to take such steps and execute and deliver such additional documentation as may be necessary or desirable to give effect to the Completion Agreement and the New CCDC 5B for the following reasons:
 - a) if the Completion Agreement and the New CCDC 5B are not approved, the Receiver will be required to either (i) negotiate a new construction management contract with another party, which would significantly delay completion of the Project (likely past the Outside Completion Date) and result in additional professional fees and other carrying costs; or (ii) consider other options for the Project, including selling the Project in its current state, which would be to the financial prejudice of Duca and would delay occupancy of the homes for Purchasers;

- b) the fees and costs of the Completion Agreement and the New CCDC 5B were lower than 59 PM's proposal and include an incentive for delivering occupancy to the Purchasers before the Outside Completion Date;
- c) Fusioncorp has agreed to release and discharge its lien claim registered against the Real Property;
- d) completing the Project is intended to maximize value for Duca and other stakeholders and to eliminate claims against Westmount and/or Tarion in respect of their deposit refund exposure; and
- e) Duca supports the retention of Fusioncorp pursuant to the terms of the Completion Agreement and the New CCDC 5B.

5.0 Project Funding

1. Pursuant to an Order made on December 11, 2024, the Court, among other things, increased the Receiver's Borrowing Limit to \$1 million. As noted above, as of the date of this Second Report, the Receiver has borrowed \$784,000 to-date and expects the balance of the present Borrowing Limit to be drawn imminently. A copy of a Statement of Receipts and Disbursements for the period August 12, 2024 to April 29, 2025 is provided in Appendix "D".
2. Duca has agreed to fund the Receiver under the Receiver's Borrowing Charge to a maximum amount of \$14 million, representing a \$13 million increase from the current limit. Absent an increase in the Receiver's Borrowing Charge, the Receiver will be unable to recommence construction. The Receiver is not aware of any other party who is prepared to fund these costs.
3. The Receiver, in consultation with Duca and the Project consultants, has reviewed the estimated construction costs, and based on the advice of these parties, is of the view that the estimate is reasonable in the circumstances. The Receiver also intends to retain various consultants, and to work with Duca, to closely monitor the construction costs and the Project schedule.
4. The Receiver understands that Duca consents to the increase in the Borrowing Limit and intends to fund the Receiver pursuant to the terms of the Receiver's Borrowing Charge.
5. Based on the foregoing, the Receiver recommends that the Court issue an Order increasing the Borrowing Limit to \$14 million.

6.0 Receiver's Activities

1. In addition to the activities described above, the Receiver's activities since the date of its First Report have included, among other things, the following:
 - a) corresponding with 59 PM regarding the winterization work;
 - b) corresponding with a cost consultant regarding the cost to complete the Project;

- c) corresponding with the Debtor's insurance broker to renew coverage;
- d) dealing with security at the Project;
- e) corresponding with Tarion and its counsel regarding the Project;
- f) corresponding with representatives of Westmount and its counsel;
- g) responding to inquiries from Purchasers regarding their deposits and the status of the Project;
- h) corresponding with Canada Revenue Agency regarding the Debtor's HST returns filed by the Receiver;
- i) responding to inquiries from the Debtor's creditors;
- j) considering the advancement of the Project in coordination with Duca;
- k) preparing an Interim Report of the Receiver pursuant to Section 246(2) of the *Bankruptcy and Insolvency Act*; and
- l) preparing this Second report.

7.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court grant an Order providing the relief requested in section 1.1 (c) of this Second Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
2460467 ONTARIO INC.**

Appendix “A”



Court File No.: CV-24-00096502-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)	MONDAY, THE 12 th
)	
MR. JUSTICE KERSHMAN)	DAY OF AUGUST, 2024

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Applicant

- and -

2460467 ONTARIO INC.

Respondent

APPOINTMENT ORDER

THIS APPLICATION made by DUCA Financial Services Credit Union Ltd. (“**DUCA**”) for an Order pursuant to section 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. as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties of 2460467 Ontario Inc. (“**246**” or the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, was heard this day by Zoom video conference.

ON READING the affidavit of Ivan Bogdanovich sworn July 15, 2024 and the Exhibits thereto, the affidavit of Kamel Patel sworn July 31, 2024 and the Exhibits thereto, the reply affidavit of Ivan Bogdanovich sworn August 6, 2024 and the Exhibits thereto and the supplementary affidavit of Kamal Patel sworn August 6, 2024 and the Exhibits thereto and on hearing the submissions of counsel for DUCA and counsel for the Debtor, no one appearing for any other person on the service list, although duly served as appears from the affidavits of service of Mariela Adriana Gasparini sworn July 29, 2024 and July 31, 2024 and the affidavit of service

of Sumit Bhatia sworn July 25, 2024, and on reading the consent of KSV Restructuring Inc. to act as the Receiver.

SERVICE

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.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV Restructuring Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including and without limiting the generality of the foregoing, the lands and premises described in Schedule “A” hereto, and all proceeds thereof (the “**Property**”).

RECEIVER’S POWERS

3. **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 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;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary

course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons 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 purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) 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 the Debtor, 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;
- (j) 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 may deem appropriate;

- (k) 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 \$150,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; 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.

- (l) 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;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) 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;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to make an assignment into bankruptcy on behalf of the Debtor and for KSV Restructuring Inc. to act as trustee in bankruptcy, provided that any legal opinion regarding the validity of the security is obtained from a law firm that is independent from the firm representing the secured creditors;

- (p) 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 the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture, or other rights which the Debtor may have;
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (t) the Receiver shall not terminate any of agreements of purchase and sale presently in place without notice to the purchasers and absent further order of the Court.

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 (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) 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.

5. **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 and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, 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 and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 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.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer 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, 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 or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease,

such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least three (3) business days notice to such landlord and any such secured creditors.

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 DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor 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 the Debtor 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 Debtor, 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 shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor 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 the Debtor, 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 the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor 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 the Debtor's 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 the Debtor 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.

RECEIVER TO HOLD FUNDS

13. **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

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the 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 section 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 sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. **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 the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **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*, 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

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 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

18. **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, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its 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 Ontario Superior Court of Justice.

20. **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

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow 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 \$500,000 (or such greater amount 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, 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 sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **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.

23. **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.

24. **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

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

Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL 'www.ksvadvisory.com/experience/case/yeotowns'.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol 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 the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

27. **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 on five (5) business days notice.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

29. **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.

30. **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.

31. **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 Debtor's estate with such priority and at such time as this Court may determine.

32. **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.

33. **THIS COURT ORDERS** that the supplementary responding affidavit of Kamal Patel dated August 6, 2024 shall be redacted to remove the reference to the purchase price in the affidavit and in Exhibit "B" thereto, and that the Receiver shall post the redacted version of the supplementary responding affidavit of Kamal Patel on its website.

34. **THIS COURT ORDERS** that this Order and all of its provisions shall take effect as of 12:01 a.m. on the date of this Order and shall be immediately enforceable without the need for further entry or filing.

35. **THIS COURT ORDERS** that this proceeding shall be case-managed by Justice Kershman.



The Honorable Justice S. Kershman

Issued On August 13th, 2024

SCHEDULE "A"

PIN 40454-0002 (LT)

PCL 14-2 SEC 92 (BELLEVILLE); LT 14 PL 92 THURLOW; LT 21 PL 92 THURLOW; PT LT 15 PL 92 THURLOW; PT LT 20 PL 92 THURLOW; PT UNION ST PL 92 THURLOW; PT RAILROAD ST PL 92 THURLOW; PT YEOMANS ST PL 92 THURLOW PT 1, 2 & 3 21R18413; S/T EASEMENT OVER PT 2 21R18413 IN FAVOUR OF PT 1,2,3 21R18018 EXCEPT PT 1,2,3 21R18413 AS IN HT33628; S/T EASEMENT OVER PT 1,2,3 21R22303 IN FAVOUR OF PT 1,2,3 21R18018 EXCEPT PT 1,2,3 21R18413 AS IN HT33628; T/W EASEMENT OVER PTS 1,2,3 21R22307 AS IN HT33628; BELLEVILLE; COUNTY OF HASTINGS; SUBJECT TO AN EASEMENT IN GROSS AS IN HT292181

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that KSV Restructuring Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties of 2460467 Ontario Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (the "**Court**") dated the ____ day of _____, 2024 (the "**Order**") made in an action having Court File Number CV-24-00096502-0000 has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ 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 _____ per 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*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate 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.

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

DATED the ____ day of _____, 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.: CV-24-00096502-0000

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 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

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

- and -

2460467 ONTARIO INC.

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE

APPOINTMENT ORDER

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Lawyers for the Applicant

Appendix “B”



**First Report to Court of
KSV Restructuring Inc.
as Receiver and Manager
of 2460467 Ontario Inc.**

December 5, 2024

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COURT FILE NUMBER: CV-24-00096502-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DUCA FINANCIAL SERVICES CREDIT UNION LTD

APPLICANTS

- AND -

2460467 ONTARIO INC.

RESPONDENT

**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**

**FIRST REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER**

DECEMBER 5, 2024

1.0 Introduction

1. Pursuant to an order of the Ontario Superior Court of Justice (the "Court") made on August 12, 2024 (the "Receivership Order"), KSV Restructuring Inc. ("KSV") was appointed receiver and manager (in such capacity, the "Receiver") without security, of all the assets, undertakings and properties of 2460467 Ontario Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor.
2. The principal asset of the Debtor is the real property having a municipal address of 240 Yeomans Street, Belleville (the "Real Property"). The Debtor is building a 62 stacked townhouse development project on the Real Property (the "Project"). As of the date of the Receivership Order, the Project was partially completed.
3. A copy of the Receivership Order is attached as Appendix "A".
4. The application to appoint KSV as Receiver was made by Duca Financial Services Credit Union Ltd. ("Duca"), a secured creditor of the Debtor.

5. A principal purpose of this receivership proceeding was to provide the stability and supervision required to preserve the value of the Project, with a view to considering whether the Project should be completed or sold on an “as is” basis.
6. This report (the “Report”) is filed by KSV in its capacity as Receiver.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide an update on the Receiver’s activities since the Receivership Order was granted; and
 - b) provide the Receiver’s rationale for recommending that this Court issue an order approving an increase in the Borrowing Limit (as defined below) from \$500,000 to \$1,000,000.

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 discussions with various stakeholders in these proceedings, including Duca and parties involved in construction activities at the Real Property, consultants who were retained by the Debtor in advance of the receivership and 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. Accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party, other than the Court, wishing to place reliance on the Information is required to perform its own diligence.

2.0 Background

1. The Debtor was marketing the Project as “Yeo Towns”. The Project is comprised of four blocks of townhouses - each block was in various stages of completion as of the date of the Receivership Order. The first and second blocks are estimated to be over 50% completed and the third and fourth blocks are significantly less advanced. The Receiver understands that construction of the Project had been halted for several months prior to the commencement of these receivership proceedings.
2. The Receiver understands that 61 of the 62 townhouse units were sold prior to the receivership. Pursuant to a letter dated August 20, 2024 (the “Purchaser Letter”), the Receiver advised the purchasers of the townhomes (the “Purchasers”) of the receivership proceeding. A copy of the Purchaser Letter is provided as Appendix “B”.

3. As of the date of the Receivership Order, the Debtor had no cash in its bank accounts. To-date, the Receiver has borrowed \$172,000 from Duca under Receiver's Certificates (as defined in the Receivership Order) to fund maintenance, security and other receivership costs.
4. Duca has advised the Receiver that it is considering funding the completion of the Project; however, Duca has not made a final decision in that regard. In the meantime, immediate steps need to be taken on an urgent basis to "winterize" the Project.
5. The Borrowing Charge under the Receivership Order permits the Receiver to borrow up to \$500,000. An increase to the Borrowing Charge is required to fund winterization costs, plus other unpaid costs of the receivership. An increase to \$1,000,000 is being sought to pay various receivership costs, including the winterization costs, security and maintenance, professional costs and costs to commence the build-out of the balance of the Project, if a decision is made in that regard. An increase of the Borrowing Charge to \$1,000,000 will eliminate the need to seek the Court's approval of a further funding increase in the Borrowing Charge in the near term.
6. Additional background information regarding the Project and the reasons for the appointment of the Receiver is provided in the application materials of the Applicants. 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/yeotowns>.

2.1 Secured Creditors

1. The following summarizes the creditors with registrations against the Real Property and their outstanding balances (if known) as of the date of the Receivership Order:
 - a) Duca is a secured lender pursuant to a first-ranking mortgage on the Real Property. The Debtor also granted Duca a general security agreement dated December 6, 2022.
 - b) Based on the Court materials filed by Duca in the context of the receivership application, as of June 12, 2024, the Debtor owed Duca approximately \$7.5 million, with interest and costs continuing to accrue. Duca is also owed approximately \$200,000 under a letter of credit facility;
 - c) Westmount Guarantee Services Inc. ("Westmount"), which provides insurance on the deposits paid by the Purchasers, registered a charge against the Real property in the amount of \$7 million in this regard. The Receiver understands that approximately \$3.8 million is presently owing to Westmount, representing deposits released from escrow. The Westmount mortgage ranks behind Duca; and
 - d) In addition to the two mortgages over the Real Property, eight suppliers have registered nine construction liens totalling approximately \$2 million against the Real Property.

2.2 Receiver's Activities

1. Since the date of the Receivership Order, the Receiver has, among other things, taken steps to preserve the Project by: (i) addressing deficiencies identified by the City of Belleville; (ii) maintaining site security by placing signage, additional fencing and cameras around the perimeter of the construction site; (iii) addressing maintenance issues as they arise; and (iv) conducting a request for proposal process to select a construction manager to winterize the Project. The Receiver also engaged an appraiser and cost consultant to assist it and Duca to determine whether the Project should be completed or sold.

3.0 Borrowing Limit

1. Pursuant to the Receivership Order, the Receiver is permitted to borrow up to \$500,000 (the "Borrowing Limit").
2. Since the commencement of these proceedings, the Receiver has borrowed \$172,000 to fund the exercise of its powers and duties. Attached as Appendix "C" is the Receiver's interim statement of receipts and disbursements (the "R&D") for the period from the commencement of the proceedings to December 2, 2024.
3. The Receiver is continuing to receive estimates from various suppliers, tradespeople and consultants to winterize the Project. Based on estimates received to date, the Receiver is of the view that the remaining availability under the Borrowing Limit (\$328,000) will not be sufficient to complete the winterization and to fund other receivership costs. Given the critical nature of the winterization work, the Receiver is urgently recommending that the Borrowing Limit be increased to \$1,000,000 in order to fund the known costs, and to permit construction to commence, if a decision is made in that regard. As noted, this will eliminate the need to seek a further order of the Court in the near term further increasing the Borrowing Charge.
4. The Receiver understands that Duca consents to the increase in the Borrowing Limit and intends to fund the Receiver pursuant to the terms of the Borrowing Charge.

4.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court increase the Receiver's Borrowing Charge on the basis detailed herein.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
2460467 ONTARIO INC.**

Appendix “C”

COMPLETION AGREEMENT

This Completion Agreement (the “**Agreement**”) is made and entered into this 30th day of April 2025, by and between KSV Restructuring Inc. (“**KSV**”) as Court-appointed receiver (the “**Receiver**”) and manager of all the assets, undertakings, and properties of 2460467 Ontario Inc. (“**Original Owner**”), pursuant to an order of the Ontario Superior Court of Justice (the “**Court**”) dated August 12, 2024 (the “**Appointment Order**”) and Fusioncorp Developments Inc. (“**Fusioncorp**” or “**Construction Manager**”).

RECITALS

WHEREAS Fusioncorp and the Original Owner entered into a Construction Manager Contract made on October 27, 2020, in the form of a CCDC 5A form of agreement (the “**Original 5A Contract**”) for the development and construction of the project located at 240 Yeomans Street, Belleville, Ontario (the “**Project**”);

AND WHEREAS Fusioncorp and the Original Owner also entered into another Construction Management Contract made on November 18, 2022, in the form of a CCDC 5B form of agreement (the “**Original 5B Contract**”) for the development and construction of the Project;

AND WHEREAS the Original Owner, upon recommendation of Fusioncorp, entered into certain trade contracts (“**Trade Contracts**”) with trade contractors (“**Trade Contractors**”), which are more particularly listed in Schedule “A” to this Agreement;

AND WHEREAS the Appointment Order appointed KSV as Receiver of all the assets, undertakings, and properties of the Original Owner, which include the Project;

AND WHEREAS the Receiver intends to complete the Project, subject to approval of this Agreement by the Court;

AND WHEREAS Fusioncorp has agreed to continue the performance of the remaining scope of work in accordance with this Agreement, and a new Construction Management Contract in the form of a CCDC 5B form of agreement attached as Schedule “B” to this Agreement (the “**New CM Agreement**”);

AND WHEREAS Fusioncorp intends to engage all of the necessary Trade Contractors originally engaged under the Trade Contracts, and such other subcontractors or suppliers required to complete the Project work;

NOW THEREFORE, in consideration of the mutual agreements, promises, and undertakings set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Receiver and Fusioncorp (the “**Parties**”), both agree as follows:

AGREEMENTS

1. **Incorporation of Recitals.** The recitals are incorporated herein and made a part of this Agreement.

2. **Disclaimer of Original Contracts.** Pursuant to paragraph 3(c) of the Appointment Order, the Receiver proposed to disclaim the Original 5A Contract and Original 5B Contract (together, the “**Original CM Contracts**”).
3. **Performance of the Work.**
 - (a) The Construction Manager acknowledges and agrees that all work associated with the Change Orders and/or Change Directives issued by the Original Owner have been completed, save and except for those listed in Schedule “C” attached hereto (the “**Incomplete Change Work**”).
 - (b) The Construction Manager hereby undertakes and agrees to cause the performance of the remaining scope of work under the New CM Agreement , including the Incomplete Change Work and correction of any and all defects and deficiencies (the “**Remaining Scope of Work**”), as part of the Work to be performed under the New CM Agreement and in accordance with the terms and conditions of the New CM Agreement, including any changes or modifications that may be made thereto.
 - (c) The Receiver agrees and acknowledges that the Construction Manager may not be able to attain, provide, or enforce warranties from the original Trade Contracts in respect of the work performed by the original Trade Contractors for the Original Owner, in particular where the original Trade Contractors may have outstanding balances on their original Trade Contracts owing by the Original Owner. The Construction Manager will take all reasonable steps to have, but cannot guarantee that, any Trade Contractors who complete work, warrant the original work performed for the Original Owner and/or any new subcontractors or trades to warrant the original work. All new work performed under this Agreement and the New CM Agreement will be warranted.
4. **New Contract.**
 - (a) The Receiver and Construction Manager agree and confirm that by this Agreement, they are entering into a new contract, within the meaning of the *Construction Act*, R.S.O. 1990, c.C.30 (the “**Act**”), for the completion of the Remaining Scope of Work and that this Agreement is not a continuation of the Original CM Contracts between the Original Owner and Fusioncorp, or the Trade Contracts between the Original Owner and Trade Contractors, which Original CM Contracts and Trade Contracts have been disclaimed by the Receiver.
 - (b) The Parties understand and agree that the terms and conditions of the New CM Agreement are being incorporated into this Agreement, for the purpose of this Agreement only.
 - (c) For avoidance of doubt, the Parties acknowledge and agree that the Receiver is not responsible under this Agreement for any matters, debts, payments, holdback, disputes, or issues that arose between Fusioncorp and the Original Owner, or the Original Owner and any Trade Contractors. Any claims made, or demands, arising under the Original CM Contracts or Trade Contracts prior to the date of

this Agreement, are to be resolved in the existing receivership proceedings of the Original Owner by the Receiver.

- (d) The Construction Manager shall advise all Trade Contractors that are retained to be retained under this Agreement (including the New CM Agreement), that the Construction Manager has been retained under a new contract.
5. **Contract Balance.** The Construction Manager represents and warrants that, to date, the accounting of the Original CM Contracts is as follows:
- (a) Amount invoiced by Construction Manager – \$2,145,672.09
 - (b) Amount paid to the Construction Manager – \$1,552,025.68
 - (c) Approved changes to the Original CM Contracts – \$149,920.66
 - (d) Unapproved changes to the Original CM Contracts – \$245,984.05
 - (e) Estimated Construction Cost to complete the Work – \$10,994,846.41 plus HST.
6. **Payments:** The Receiver and Fusioncorp agree that Fusioncorp shall submit proper invoices to the Receiver as the work progresses, in accordance with the payment terms of the New CM Agreement. The Receiver shall remit payment to Fusioncorp in accordance with the payment terms of the New CM Agreement.
7. **Completion of the Work.**
- (a) Upon execution of this Agreement and, Court approval of this Agreement, the Construction Manager shall return to the Project site and commence completion of the Remaining Scope of Work. The Construction Manager understands that time is of the essence for the completion of the Remaining Scope of Work, which shall be substantially performed or before April 30, 2026.
 - (b) Within fifteen (15) Working Days of execution of this Agreement and the New CM Agreement, Fusioncorp shall update the construction schedule and provide a copy of the updated construction schedule to the Receiver.
 - (c) The Parties agree that the terms and conditions of the New CM Agreement shall provide, among other things, as follows:
 - (i) Construction Manager shall attain *Substantial Performance of the Work* on or before April 30, 2026;
 - (ii) The Construction Manager's fee shall be the total amount of \$439,793.86 plus HST (the "**Completion Fee**") based on four percent (4%) of the remaining *Cost of the Work*, and as reference in the New CM Agreement; and
 - (iii) The Completion Fee shall be paid by one initial payment of \$50,000.00, plus HST, payable within ten (10) Working Days of execution of the Agreement, with the remainder of the Completion Fee being invoiced and paid monthly in twelve (12) equal instalments.

8. **Early Completion Payment.** The Receiver and the Construction Manager agree that if the Construction Manager is able to attain *Substantial Performance of the Work* and attain occupancy permits for all units, on or before April 30, 2026, then, in addition to the Construction Manager's Fee otherwise payable under this Agreement for the completion of the Remaining Scope of Work, the Receiver shall also pay to the Construction Manager the amount of \$270,000.00 plus HST.
9. **Additional Work:** The Receiver and the Construction Manager agree and confirm that in the event that additional work (which is not included in the Remaining Scope of the Work) is discovered that requires completion or correction and/or the Receiver requests the performance of additional work, any changes will be made in accordance with the New CM Agreement.
10. **Fusioncorp Lien:** Fusioncorp agrees that, as part of the consideration for the Receiver entering into this Agreement with Fusioncorp, within ten (10) days of Court approval of this Agreement, or the execution of this Agreement by the Receiver and Fusioncorp, whichever is later, Fusioncorp shall release and/or discharge its Claim for Lien, registered June 4, 2024 in the amount of \$878,720 (the "**Claim for Lien**"). Fusioncorp understands and agrees that failure to release and/or discharge its Claim for Lien in accordance with this Section 10, shall be a default under the Agreement, and entitle the Receiver to withhold from payments otherwise payable under the Agreement in the amount of the Claim for Lien, until the Claim for Lien is released and/or discharged. In addition, the Parties acknowledge that the Receiver's withholding under this Section 10, shall not constitute a default under the Agreement, and Fusioncorp shall have no right to terminate or otherwise suspend the Work or Services as a result of the proper withholding by the Owner under this Section 10.
11. **Entire Agreement.** This Agreement constitutes the whole of the understanding, discussions, and agreements by and between the Receiver and the Construction Manager. The terms and provisions of this Agreement are contractual and not mere recitals. The Receiver and the Construction Manager acknowledge and agree that there have been no oral, written or other agreements of any kind as a condition precedent to or to induce the execution and delivery of this Agreement. Any written or oral discussions conducted prior to the effective date of this Agreement shall not in any way vary or alter the terms of this Agreement.
12. **No Consequential Damages.** In no event shall the Receiver be liable to the Construction Manager (or any of its Subcontractors, trades, or Suppliers) for any Consequential Damages arising out of, or in connection with this Agreement. "Consequential Damages" means any indirect, incidental, special or consequential damages whatsoever arising out of or in connection with this Agreement, whether arising out of a claim by the Receiver, the Construction Manager or a claim by a third party, in negligence, tort, statute, equity or common law, or any other cause of action or legal theory, even if the party has been advised of the possibility of those damages, including, without limitation, lost profits, anticipated or lost revenue, loss of productivity, loss of use of any systems, networks, rental expenses, income, financing, business and reputation, loss of management or employee productivity or the services of such persons, principal office expenses, compensation of personnel stationed at principal office, failure to realize expected

savings or any other commercial or economic loss, whether incurred by the Receiver, the Construction Manager or a third party.

13. **Termination.**

- (a) The Receiver reserves the right to cancel or terminate the whole or any part of this Agreement or any associated Services and/or Work at any time, pursuant to the terms of the New CM Agreement, or otherwise upon Court direction and approval. The Receiver may also cancel any part or component of this Agreement, the Services, or Work without terminating the Agreement. For the avoidance of doubt, and without limiting the generality of the foregoing termination right of the Receiver, the Receiver reserves the right to cancel or terminate this Agreement in the event that the Court does not approve this Agreement.
- (b) In the event of the cancellation or termination of this Agreement:
 - (i) The Receiver shall only be responsible for payment of the following amounts up to the date of cancellation or termination:
 - (A) Verified direct costs required to be paid to Subcontractors, trades, and Suppliers pursuant to Subcontractors, agreements, and/or purchase orders entered into by the Construction Manager pursuant to this Agreement;
 - (B) The Construction Manager's Completion Fee earned, but unpaid; and
 - (C) Verified and direct demobilization costs.
 - (c) The Receiver shall not be prohibited in any way from negotiating with and/or engaging a third party to provide the construction management services with respect to the Project, engaging a different contractor, or engaging the Subcontractors, trades, and/or Suppliers directly, provided that same occurs only after this Agreement has been cancelled or terminated.

14. **Insurance.**

- (a) The Receiver and/or the Construction Manager 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 Receiver, and in each case in respect of the work to be completed under this Agreement, 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 Receiver shall be named as a loss payee on all such insurance policies. If requested by the Receiver, the Construction Manager can assist the Receiver with obtaining any of the aforementioned policies, which policies.

- (i) In the event that the Receiver requires the Construction Manager to obtain any of the insurance policies listed above, said cost of the any insurance policies shall be added to the Estimated Construction Cost and shall, in any event, be included as a *Cost of the Work* as defined the New CM Agreement and its Schedules.
 - (ii) In the event that the Receiver requires the Construction Manager to obtain any of the insurance policies listed above, the Construction Manager shall provide the Receiver with certificates of insurance evidencing the insurance policies required under this Agreement.
 - (b) All insurance policies described herein shall be issued by insurance companies licensed to carry on business in Ontario and reasonably acceptable to the Receiver. Such policies shall only be acceptable to the Receiver if they contain terms, conditions, exclusions, limits and deductibles reasonably acceptable to the Receiver.
15. **No Personal Liability of the Receiver.** The Construction Manager acknowledges and agrees that (i) the Receiver is entering into this Agreement solely in its capacity as Receiver and not in its personal or corporate capacity, (ii) the Construction Manager shall only have recourse to the assets, properties and undertakings of the Original Owner that is subject to the receivership with respect to the obligations of the Receiver hereunder, and only with leave of the Court to seek such recourse, and (iii) the obligations of the Receiver under this Agreement and any other agreement or instrument which may be entered into by the Receiver in connection with this Agreement, are entirely non-recourse to KSV Restructuring Inc. and any of its affiliates and any of their respective shareholders, directors, officers, employees, agents, lawyers or advisors. For greater certainty, neither the Receiver nor any of its affiliates or any of their respective shareholders, directors, officers, employees, agents, attorneys or advisors, shall have any personal liability under or in connection with this Agreement, and the Receiver expressly disclaims any such liability.
 16. **Cooperation and Best Efforts.** The Receiver and the Construction Manager agree to use their best efforts to cooperate under the terms of this Agreement for the prompt completion of the Remaining Scope of Work. In addition, at the request of the Receiver, the Construction Manager agrees to provide to the Receiver copies, and where required, originals, of any and all documents including, without limitation, correspondence and emails, that have been or were created or received by the Construction Manager with respect to or in any way connected to the Original CM Contracts, Trade Contracts, and/or the Project, including, any and all documents, correspondence and/or emails exchanged between the Original Owner and Construction Manager.
 17. **Modifications.** No modification, amendment and/or waiver of this Agreement, or of any of the provisions of this Agreement, shall become effective unless and until executed in writing by both the Receiver and Fusioncorp.
 18. **Effectiveness.** This Agreement shall become effective when executed by the Parties and may be executed in counterparts, any one of which shall be deemed to be an original

instrument, including any counterpart transmitted by facsimile transmission and all counterparts delivered by facsimile shall be deemed to be an original. Any proof of this Agreement shall require production of only one such counterpart duly executed by the party to be charged therewith.

19. **Notices.** Any notice, direction, or other communication, required to be given by the Receiver or the Construction Manager to each other pursuant to the terms of the New CM Agreement, this Agreement, or otherwise, shall be sent by electronic mail or facsimile to the following email addresses or fax numbers, and such notice shall be deemed to be received on the day sent, unless the sender receives an automatic response indicating that the email or facsimile has not been received, or if sent after 5:00 p.m. or on Saturday, Sunday, or any statutory holiday observed in the Province of Ontario, such communication shall be deemed to have been received on the next day that is not a Saturday, Sunday, or statutory holiday:

As to the Receiver:

Bobby Kofman
Phone: 416.932.6228
Email: bkofman@ksvadvisory.com

With a copy to:

Fahim Rizwan and Bill Truffen
Phone: 647.224.8530 / 416.590.2101
Email: frizwan@duca.com / btruffen@duca.com

As to Construction Manager

Nick Ainis, Founder & CEO
Fusioncorp Developments Inc.
Phone: 416-917-0242
Email: nick@fusioncorp.ca

20. **Severability.** In the event that one or more provisions of this Agreement shall be declared to be invalid, illegal or unenforceable in any respect, unless such invalidity, illegality or unenforceability shall be tantamount to a failure of consideration, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby.
21. **Construction.** Should any provision of this Agreement require interpretation or construction, the parties hereto agree that the court, administrative body, or other entity interpreting or construing this Agreement shall not apply a presumption that the provisions herein shall be more strictly construed against one party by reason of the rule of construction that the provisions of a document shall be more strictly construed against the party who itself or through its representatives prepared same; it being agreed that the parties and their respective solicitors have fully participated in the preparation of all provisions of this Agreement.

22. **Choice of Law.** This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance shall be governed by the laws of the Province of Ontario.
23. **Successors and Assigns.** This Agreement shall be binding upon the parties and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date indicated above, and each of the undersigned personally represent and warrant that they have the full right, power and authority to execute this Agreement on behalf of the respective parties.

**KSV RESTRUCTURING INC. IN ITS CAPACITY AS
COURT-APPOINTED RECEIVER OF 2460467
ONTARIO INC. AND NOT IN ITS PERSONAL CAPACITY**

Date: _____

By: _____

Title: _____

FUSIONCORP DEVELOPMENTS INC.

Date: _____

By: _____

Title: _____

Schedule “A” – Trade Contracts and Trade Contractors

Trade Contractor	Trade Contract Details
Alpa Stairs and Railings Inc.	Trade Agreement made April 4, 2022
Cambridge Drywall Services Ltd.	Trade Agreement made March 10, 2022
Concete Floor Tek Inc.	Trade Agreement made July 29, 2022
Diamond Electrical Contractors Limited	Trade Agreement made April 7, 2022
Elegance Marble and Granite	Trade Agreement made May 3, 2022
Go Caulking Experts Inc.	Trade Agreement made April 28, 2022
A Hewitt and Sons Inc.	Trade Agreement made October 5, 2023
Jacques Carrier & Sons Construction Ltd.	Trade Agreement made April 11, 2022
1829816 Ontario Inc. o/a Klaver Masonry & Concrete	Trade Agreement made April 13, 2022
Lucvaa Kitchens	Trade Agreement made May 9, 2022
1932496 Ontario Ltd. o/a Ontario Siding and Gutters	Trade Agreement made April 21, 2022
Parkwood Carpentry	Trade Agreement made September 5, 2023
Performance Windows & Doors	Trade Agreement made April 18, 2022
Quality Mechanical	Trade Agreement made April 20, 2022
Quality Sterling Group	Trade Agreement made December 15, 2022
T. Hamilton & Son Roofing Inc.	Trade Agreement made April 13, 2022
Village Paint	Trade Agreement made September 5, 2023
CDS	Trade Agreement made, February 07, 2022
Bonwest	Trade Agreement made, March 07, 2023
Greco Railings	Trade Agreement made, March 08, 2022
High Class Stucco	Trade Agreement made, March 14, 2022

Schedule “B” – New CCDC Contract

CCDC 5B

Construction Management Contract – for Services and Construction

2 0 1 0

Name of Project

Apply a CCDC 5B copyright seal here. The application of the seal demonstrates the intention of the party proposing the use of this document that it be an accurate and unamended form of CCDC 5B – 2010 except to the extent that any alterations, additions or modifications are set forth in supplementary conditions.

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

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**AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER
– FOR SERVICES AND CONSTRUCTION**

This agreement made on the _____ day of _____ in the year _____
by and between _____

hereinafter called the “*Owner*”
and _____

hereinafter called the “*Construction Manager*”

The *Owner* and *Construction Manager* agree as follows:

ARTICLE A-1 THE SERVICES AND THE WORK

The *Construction Manager* shall

1.1 perform the *Services* and the *Work* for

insert above the title of the Project

located at

insert above the Place of the Work

and as further described in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT, for which the Agreement has been signed by the parties, and for which

insert above the name of the Consultant

is acting as and is hereinafter called the “*Consultant*”, and

1.2 do and fulfill everything indicated by the *Contract Documents*, and

1.3 commence the *Services* and the *Work* by the _____ day of _____ in the year _____ and continue in accordance with any schedule provided in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT. The *Construction Manager*’s obligation to provide *Services* shall end no later than one year after the date of *Substantial Performance of the Work*.

ARTICLE A-2 AGREEMENTS AND AMENDMENTS

2.1 This *Contract* supersedes all prior negotiations, representations or agreements, either written or oral, relating in any manner to the *Project*.

2.2 This *Contract* may be amended only as provided in the *Contract Documents*.

CCDC 5B – 2010

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ARTICLE A-3 DESCRIPTION OF THE PROJECT

- 3.1 The following is a description of the *Project* including intended use, scope, budget, schedule, phases if applicable, and the anticipated date of *Substantial Performance of the Work*), and any other information which further generally describes the nature of the *Project* and the *Work*:

ARTICLE A-4 CONTRACT DOCUMENTS

4.1 The following are the *Contract Documents* referred to in Article A-1 of the Agreement – THE SERVICES AND THE WORK:

- the Agreement Between *Owner* and *Construction Manager* (including the Schedules to the Agreement)
- the Appendix – STIPULATED PRICE OPTION
- the Definitions
- the General Conditions
- the *Construction Documents*

*

* (Insert here, attaching additional pages if required, a list identifying all other *Contract Documents*)

CCDC 5B – 2010

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ARTICLE A-5 CONSTRUCTION MANAGER'S FEE

5.1 The *Construction Manager's Fee* shall be equal to the sum of the fee for the *Services* as specified in paragraph 5.2 and the fee for the *Work* as described in paragraph 5.3.

5.2 The *Construction Manager's Fee* for the *Services* is comprised of one or more of the following:

- .1* A fixed amount of _____ ; and
- .2* A percentage amount of _____ percent (_____ %) of the *Construction Cost Estimate*. Final reconciliation payments shall be adjusted based on *Class A Construction Cost Estimate*; and
- .3* An amount based on the time-based rates for personnel employed by the *Construction Manager* as described in Schedule B to the Agreement and engaged in performing the *Services* to the level of effort agreed prior to the commencement of the *Services*. The *Owner* may by written request require the *Construction Manager* to provide prior to commencement of the *Services* an estimate of the total fee for *Services* to be performed based on the time-based rates for evaluation and verification purposes.

* Strike out inapplicable paragraph(s).

5.3 The *Construction Manager's Fee* for the *Work* is comprised of one or more of the following:

- .1☒ A percentage fee of _____ percent (_____ %) of the *Cost of the Work* earned as the *Cost of the Work* accrues. In the event the *Owner* furnishes labour or material below market cost or materials are re-used beyond that anticipated in the original scope of the *Work*, the *Cost of the Work* for purposes of establishing the *Construction Manager's Fee* for the *Work* is the cost of all materials and labour necessary to complete the *Project* as if all materials had been new and as if all labour had been paid for at market prices at the time of construction or, in the event that the construction does not proceed, at existing market prices at the anticipated time of construction; and
- .2☒ A fixed fee of _____ ,
earned as follows:

☒ Delete inapplicable paragraph.

5.4 The *Construction Manager's Fee* shall be subject to adjustment as may be required in accordance with the provisions of the *Contract Documents* listed in Article A-4 of the Agreement – CONTRACT DOCUMENTS.

5.5 All amounts are in Canadian funds.

ARTICLE A-6 REIMBURSABLE EXPENSES FOR THE SERVICES

6.1 The reimbursable expenses are the actual expenses, supported by receipts or invoices, that the *Construction Manager* incurred in performing the *Services*, and as identified in Schedule A2 to the Agreement plus the administrative charge of _____ percent (_____ %). If there are no receipts or invoices, the expenses shall be at rates prevailing in the area of the *Place of the Work* and supported with suitable documentation.

6.2 The *Owner* may by written request require the *Construction Manager* to:

- .1 provide prior to commencement of the *Services* an estimate of the total reimbursable expenses incurred by the *Construction Manager* in performing the *Services* for evaluation and verification purposes; and
- .2 inform the *Owner* in writing prior to incurring reimbursable expenses relating to the *Services*.

ARTICLE A-7 COST OF THE WORK

7.1 The *Cost of the Work* is the actual cost incurred by the *Construction Manager* in performing the *Work* and is limited to the actual cost of the following:

- .1 salaries, wages and benefits paid to personnel in the direct employ of the *Construction Manager* under a salary or wage schedule agreed upon by the *Owner* and the *Construction Manager*, or in the absence of such a schedule, actual salaries, wages and benefits paid under applicable bargaining agreement, and in the absence of a salary or wage schedule and bargaining agreement, actual salaries, wages and benefits paid by the *Construction Manager*, for personnel
 - (1) stationed at the *Place of the Work*, in whatever capacity employed;
 - (2) engaged in expediting the production or transportation of material or equipment, at shops or on the road;
 - (3) engaged in the preparation or review of *Shop Drawings*, fabrication drawings and coordination drawings; or
 - (4) engaged in the processing of changes in the *Work*.
- .2 contributions, assessments or taxes incurred for such items as employment insurance, provincial or territorial health insurance, workers' compensation, and Canada or Quebec Pension Plan, insofar as such cost is based on wages, salaries or other remuneration paid to employees of the *Construction Manager* and included in the cost of the *Work* as provided in paragraph 7.1.1;
- .3 travel and subsistence expenses of the *Construction Manager's* personnel described in paragraph 7.1.1;
- .4 all *Products* including cost of transportation thereof;
- .5 materials, supplies, *Construction Equipment*, *Temporary Work*, and hand tools not owned by the workers, including transportation and maintenance thereof, which are consumed in the performance of the *Work*; and cost less salvage value on such items used but not consumed, which remain the property of the *Construction Manager*;
- .6 all tools and *Construction Equipment*, exclusive of hand tools used in the performance of the *Work*, whether rented from or provided by the *Construction Manager* or others, including installation, minor repairs and replacements, dismantling, removal, transportation, and delivery cost thereof;
- .7 the *Construction Manager's* field office;
- .8 deposits lost provided that they are not caused by negligent acts or omissions of the *Construction Manager* and the *Services* are performed in accordance with this *Contract*;
- .9 the amounts of all contracts or written agreements with *Subcontractors* and *Suppliers* and the unrecoverable costs to the *Construction Manager* that result from any *Subcontractor's* or *Supplier's* default, insolvency or abandonment; termination of any *Subcontractor's* or *Supplier's* right to perform due to default by the *Subcontractor* or *Supplier*; or termination of any *Subcontractor's* or *Supplier's* contract due to default by the *Subcontractor* or *Supplier*;
- .10 quality assurance such as independent inspection and testing services;
- .11 charges levied by authorities having jurisdiction at the *Place of the Work*;
- .12 royalties, patent license fees and damages for infringement of patents and cost of defending suits therefor subject always to the *Construction Manager's* obligations to indemnify the *Owner* as provided in paragraph 10.3.1 of GC 10.3 – PATENT FEES;
- .13 premiums for all contract securities and insurance that the *Construction Manager* is required, by the *Contract Documents*, to purchase and maintain;
- .14 taxes, other than *Value Added Taxes*, and duties relating to the *Work* for which the *Construction Manager* is liable;
- .15 charges for long distance communications, courier services, expressage, printing, and reproduction incurred in relation to the performance of the *Work*;
- .16 removal and disposal of waste products and debris;
- .17 the cost of safety measures and requirements;
- .18 legal costs, incurred by the *Construction Manager* in relation to the performance of the *Work* provided that they are not caused by negligent acts or omissions of the *Construction Manager* and the *Work* is performed in accordance with this *Contract*;
- .19 the cost of financing the *Work* in accordance with the method determined by the parties and identified in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT;

- .20 the cost of auditing when requested by the *Owner*;
- .21 the cost of project-specific information technology and usage in accordance with the method determined by the parties in writing;
- .22 the cost of removal or containment of toxic or hazardous substances pursuant to GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES;
- .23 other costs incurred in the performance of the *Work* as listed below:

- 7.2 The *Cost of the Work* excludes *Value Added Taxes* and shall be at rates prevailing in the locality of the *Place of the Work*, except with the prior consent of the *Owner*.
- 7.3 Any costs incurred by the *Construction Manager* due to failure on the part of the *Construction Manager* to exercise reasonable care and diligence in the *Construction Manager's* attention to the *Work* shall be borne by the *Construction Manager*.
- 7.4 All cash discounts shall accrue to the *Construction Manager* unless the *Owner* deposits funds with the *Construction Manager* with which to make payments, or where the *Owner* pays the costs of financing the *Work*, in which case the cash discounts shall accrue to the *Owner*.
- 7.5 All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment applicable to the *Work* shall accrue to the *Owner*, and the *Construction Manager* shall make provisions so that they can be secured.
- 7.6 The *Owner* may by written request require the *Construction Manager* to:
 - .1 provide prior to commencement of the *Work* an estimate of the total *Cost of the Work* for evaluation and verification purposes; and
 - .2 inform the *Owner* in writing prior to incurring reimbursable expenses relating to the *Cost of the Work*.

ARTICLE A-8 OPTIONS

- 8.1 The *Owner* and the *Construction Manager* may agree to exercise the options described in paragraph 8.2, 8.3 or 8.4 at the time of signing of this *Contract* or any time during the term of the *Contract*. Any agreement to exercise any of the following options after the signing of this *Contract* shall be recorded by a *Change Order*.

8.2 GUARANTEED MAXIMUM PRICE (GMP) OPTION

The sum of the *Price of the Services* and the *Price of the Work* are guaranteed by the *Construction Manager* not to exceed _____ /100 dollars (\$ _____),

subject to the adjustment as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE. Any amount, consisting of the sum of the *Price of the Services* and the *Price of the Work*, in excess of this *Guaranteed Maximum Price* will be paid by the *Construction Manager* without reimbursement by the *Owner*.

8.3 GUARANTEED MAXIMUM PRICE PLUS % COST SAVINGS OPTION

The *Price of the Services* and the *Price of the Work* are guaranteed by the *Construction Manager* not to exceed _____ /100 dollars (\$ _____),

subject to the adjustment as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE.

At the conclusion of the *Project*,

- .1 any amount, consisting of the sum of the *Price of the Services* and the *Price of the Work*, in excess of this *Guaranteed Maximum Price* will be paid by the *Construction Manager* without reimbursement by the *Owner*.
- .2 if the sum of the *Price of the Services* and the *Price of the Work* is less than this *Guaranteed Maximum Price*, the difference will be disbursed as follows:
 - (1) retained by the *Owner*: %
 - (2) paid to the *Construction Manager*: %

8.4 STIPULATED PRICE OPTION

The *Owner* and the *Construction Manager* may agree to change this *Contract* to a stipulated price contract, in accordance with the amendments as provided in the Appendix – STIPULATED PRICE OPTION.

ARTICLE A-9 PAYMENT

- 9.1 Where required by provincial or territorial legislation, payments shall be subject to the lien legislation applicable to the *Place of the Work*. The *Owner* shall pay the *Construction Manager*:
 - .1 payments on account of the *Construction Manager's Fee* for the *Services* earned as described in Article A-5 of the Agreement – CONSTRUCTION MANAGER'S FEE together with such *Value Added Taxes* as may be applicable to such payments, and
 - .2 payments on account of the reimbursable expenses for the *Services* earned as described in Article A-6 of the Agreement – REIMBURSABLE EXPENSES FOR THE SERVICES together with such *Value Added Taxes* as may be applicable to such payments,
 - .3 payments on account of the *Price of the Work* when due in the amount certified by the *Consultant* together with such *Value Added Taxes* as may be applicable to such payments,
 - .4 upon *Substantial Performance of the Work*, the unpaid balance of the holdback amount when due together with such *Value Added Taxes* as may be applicable to such payment, and
 - .5 upon the issuance of the final certificate for payment, the unpaid balance of the *Construction Manager's Fee* for the *Services*, the reimbursable expenses for the *Services*, and the *Price of the Work* when due together with such *Value Added Taxes* as may be applicable to such payment.
- 9.2 In the event of loss or damage occurring where payment becomes due under the property and boiler insurance policies, payments shall be made to the *Construction Manager* in accordance with the provisions of GC 11.1 – INSURANCE.
- 9.3 Interest
 - .1 Should either party fail to make payments as they become due under the terms of this *Contract* or in an award by arbitration or court, interest at the following rates on such unpaid amounts shall also become due and payable until payment:
 - (1) 2% per annum above the prime rate for the first 60 days.
 - (2) 4% per annum above the prime rate after the first 60 days.
 Such interest shall be compounded on a monthly basis. The prime rate shall be the rate of interest quoted by

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

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

- .2 Interest shall apply at the rate and in the manner prescribed by paragraph 9.3.1 of this Article on the settlement amount of any claim in dispute that is resolved either pursuant to Part 8 of the General Conditions – DISPUTE RESOLUTION or otherwise, from the date the amount would have been due and payable under the *Contract*, had it not been in dispute, until the date it is paid.

ARTICLE A-10 RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING

- 10.1 *Notices in Writing* will be addressed to the recipient at the address set out below.
- 10.2 The delivery of a *Notice in Writing* will be by hand, by courier, by prepaid first class mail, or by facsimile or other form of electronic communication during the transmission of which no indication of failure of receipt is communicated to the sender.
- 10.3 A *Notice in Writing* delivered by one party in accordance with this *Contract* will be deemed to have been received by the other party on the date of delivery if delivered by hand or courier, or if sent by mail it shall be deemed to have been received 5 calendar days after the date on which it was mailed, provided that if either such day is not a *Working Day*, then the *Notice in Writing* shall be deemed to have been received on the *Working Day* next following such day.
- 10.4 A *Notice in Writing* sent by facsimile or other form of electronic communication shall be deemed to have been received on the date of its transmission provided that if such day is not a *Working Day* or if it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been received at the opening of business at the place of receipt on the first *Working Day* next following the transmission thereof.
- 10.5 An address for a party may be changed by *Notice in Writing* to the other party setting out the new address in accordance with this Article.

*Owner**name of Owner***address**facsimile number**email address**Construction Manager**name of Construction Manager***address**facsimile number**email address**Consultant**name of Consultant***address**facsimile number**email address*

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

ARTICLE A-11 LANGUAGE OF THE CONTRACT

- 11.1 When the *Contract Documents* are prepared in both the English and French languages, it is agreed that in the event of any apparent discrepancy between the English and French versions, the English/~~French~~ language shall prevail.

#Complete this statement by striking out inapplicable term.

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

ARTICLE A-12 SUCCESSION

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

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

SIGNED AND DELIVERED

in the presence of:

WITNESS

OWNER

name of Owner

signature

signature

name of person signing

name and title of person signing

signature

signature

name of person signing

name and title of person signing

WITNESS

CONSTRUCTION MANAGER

name of Construction Manager

signature

signature

name of person signing

name and title of person signing

signature

signature

name of person signing

name and title of person signing

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

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

CCDC 5B – 2010

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SCHEDULE A1 TO THE AGREEMENT – SERVICES AND COMPENSATION

1. PRECONSTRUCTION (*Note: F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5 – CONSTRUCTION MANAGER’S FEE. F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5 – CONSTRUCTION MANAGER’S FEE. F3 Fee to the Construction Manager based on time-based rates as described in paragraph 5.2.3 of Article A-5 – CONSTRUCTION MANAGER’S FEE.)	Performed by the Owner or someone other than the Construction Manager	Performed by the Construction Manager (*F1/F2/F3)	Not Applicable
1.1 General Services .1 Attend regular <i>Project</i> meetings with the <i>Owner</i> and the <i>Consultant</i> . .2 Provide advice to the <i>Owner</i> and the <i>Consultant</i> with respect to construction and market conditions.			
1.2 Predesign .1 Estimating: (1) Confirm or prepare a <i>Class D Construction Cost Estimate</i> . (2) Advise the <i>Owner</i> if it appears that the <i>Construction Cost Estimate</i> may exceed the <i>Project</i> budget, and make recommendation for corrective action. .2 Scheduling: Prepare a preliminary overall <i>Project</i> schedule.			
1.3 Schematic Design Phase .1 Constructability: Provide advice on site use and possible improvements, selection of materials, assembly systems, and, equipment and provide recommendations on construction feasibility, availability of materials and labour, time requirements for installation and construction, and factors related to alternative designs and possible economies. .2 Estimating: (1) Prepare a <i>Class C Construction Cost Estimate</i> at the end of the Schematic Design Phase. (2) Advise the <i>Owner</i> if it appears that the <i>Construction Cost Estimate</i> may exceed the <i>Project</i> budget, and make recommendation for corrective action. .3 Scheduling: Prepare, in consultation with the <i>Consultant</i> and the <i>Owner</i> , a preliminary <i>Project</i> schedule for the <i>Owner's</i> review; such <i>Project</i> schedule shall take into consideration the sequence and timing of the required basic program decisions, including anticipated design time, approval period, preparation of documentation, bid calls and subsequent evaluations, trade contract awards, on-site construction activities, and the anticipated date of <i>Substantial Performance of the Work</i> . .4 Other Services: Assist in providing liaison and coordination among government authorities, utility companies, and other authorities having jurisdiction over the <i>Place of the Work</i> .			
1.4 Design Development Phase .1 Constructability: (1) Provide updates as necessary regarding the availability of materials and labour, building systems, and possible economies. (2) Make recommendations to the <i>Owner</i> and the <i>Consultant</i> regarding the scope of <i>Work</i> packages and <i>Work</i> to be performed by the <i>Construction Manager's</i> own forces to help facilitate the subsequent bidding and awarding of <i>Subcontractor</i> and <i>Supplier</i> contracts. (3) Review the <i>Specifications</i> and <i>Drawings</i> and, at the end of the Design Development Phase, make recommendations to the <i>Owner</i> and the <i>Consultant</i> as to constructability and coordination among the <i>Subcontractors</i> . .2 Estimating and Cost Control: (1) Prepare a <i>Class B Construction Cost Estimate</i> at the end of the Design Development Phase. (2) Advise the <i>Owner</i> if it appears that the <i>Construction Cost Estimate</i> may exceed the <i>Project</i> budget, and make recommendations for corrective action. (3) Establish a cost control program and prepare a cash flow forecast for the <i>Project</i> .			

SCHEDULE A1 TO THE AGREEMENT – SERVICES AND COMPENSATION

1. PRECONSTRUCTION (*Note: F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5 – CONSTRUCTION MANAGER’S FEE. F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5 – CONSTRUCTION MANAGER’S FEE. F3 Fee to the Construction Manager based on time-based rates as described in paragraph 5.2.3 of Article A-5 – CONSTRUCTION MANAGER’S FEE.)	Performed by the Owner or someone other than the Construction Manager	Performed by the Construction Manager (*F1/F2/F3)	Not Applicable
.3 Scheduling: (1) Review and update the <i>Project</i> schedule with appropriate details. (2) Advise the <i>Owner</i> if it appears that the <i>Project</i> schedule may vary from that specified in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT or otherwise agreed with the <i>Owner</i> , and make recommendations for corrective action. (3) Make recommendations to the <i>Owner</i> regarding any equipment or materials which should be pre-ordered to meet the <i>Project</i> schedule.			
1.5 Construction Document Phase .1 Constructability: (1) Provide updates as necessary regarding the availability of materials and labour, building systems, and possible economies. (2) Review the <i>Specifications</i> and <i>Drawings</i> and make recommendations to the <i>Owner</i> and the <i>Consultant</i> as to clarity, consistency, constructability, and coordination among the <i>Subcontractors</i> . (3) Assist the <i>Owner</i> and the <i>Consultant</i> in preparing bid documents for <i>Subcontractors</i> . (4) Assist the <i>Owner</i> in determining the contract security requirements of <i>Subcontractors</i> . .2 Estimating and Cost Control: (1) Update the <i>Class B Construction Cost Estimate</i> at defined intervals of <i>Construction Documents</i> completion. (2) Prepare a <i>Class A Construction Cost Estimate</i> at the end of the Construction Document Phase. (3) Update the cash flow forecasts for the <i>Project</i> . (4) Advise the <i>Owner</i> if it appears that the <i>Construction Cost Estimate</i> may exceed the <i>Project</i> budget, and make recommendations for corrective action. .3 Scheduling: (1) Review and update the <i>Project</i> schedule with appropriate details. (2) Advise the <i>Owner</i> if it appears that the <i>Project</i> schedule may vary from that specified in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT or otherwise agreed with the <i>Owner</i> , and make recommendations for corrective action, including changes to <i>Project</i> scope, schedule or budget. .4 Other Services: (1) Make recommendations to the <i>Owner</i> regarding any equipment or materials which should be pre-ordered to meet the <i>Project</i> objective.			
1.6 Construction Procurement Phase .1 Scheduling: (1) Review and update the <i>Project</i> schedule with appropriate details. .2 Contracting: (1) Develop methods of solicitation for <i>Subcontractors</i> and the distribution of addenda. (2) Prepare the prequalification criteria for <i>Subcontractors</i> and <i>Suppliers</i> as required by the <i>Owner</i> . (3) Review for completeness and coordinate all bid documents for the solicitation of competitive bids for the <i>Work</i> to be performed by <i>Subcontractors</i> . .3 Other Service: (1) Update the cash flow forecasts for the <i>Project</i> .			

SCHEDULE A1 TO THE AGREEMENT – SERVICES AND COMPENSATION

2. CONSTRUCTION (*Note: F1 Included in the fixed amount as described in paragraph 5.2.1 of Article A-5 – CONSTRUCTION MANAGER’S FEE. F2 Included in the percentage amount as described in paragraph 5.2.2 of Article A-5 – CONSTRUCTION MANAGER’S FEE. F3 Fee to the Construction Manager based on time-based rates as described in paragraph 5.2.3 of Article A-5 – CONSTRUCTION MANAGER’S FEE.)	Performed by the Owner or someone other than the Construction Manager	Performed by the Construction Manager (*F1/F2/F3)	Not Applicable
2.1 General Service .1 Chair and minute regular <i>Project</i> meetings with the <i>Owner</i> and the <i>Consultant</i> .			
2.2 Cost Control and Accounting .1 Prepare and update the <i>Construction Cost</i> and cash flow forecasts in accordance with the <i>Project</i> budget as specified in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT or otherwise agreed with the <i>Owner</i> . .2 Develop, implement and maintain a system of <i>Project</i> cost control and accounting. .3 Advise the <i>Owner</i> and the <i>Consultant</i> on the variances between actual cost and <i>Construction Cost Estimate</i> . .4 Provide reasonable assistance and information to permit recovery of all tax rebates where applicable. .5 Provide recommendations to the <i>Owner</i> for necessary changes to maintain the <i>Project</i> budget and <i>Project</i> schedule.			
3. POST-CONSTRUCTION			
3.1 General Service .1 Prepare final <i>Construction Cost</i> report.			
3.2 Occupancy Review .1 Assist the <i>Owner</i> in conducting post-construction occupancy review.			

SCHEDULE A2 – REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE A1

Unless otherwise agreed to by the parties or as indicated in the following table, all expense items relating to *Services* are included in the *Construction Manager's Fee* for the *Services* as described in paragraph 5.2 of Article of the Agreement A-5 – CONSTRUCTION MANAGER'S FEE.

	Costs Included in the Construction Manager's Fee (A-5.2)	Reimbursable Expenses (A-6)
1. Travel and subsistence expenses of the <i>Construction Manager's</i> personnel outside a radius of 50km from the <i>Place of the Work</i> .		
2. Charges for long distance telephone and facsimile communications, courier services, reproduction of <i>Contract Documents</i> incurred in relation to the performance of this Contract.		
3. The cost of <i>Project</i> specific information technology support in accordance with the method determined by the parties.		
4. Deposits lost provided that they are not caused by negligent acts or omissions of the <i>Construction Manager</i> and the <i>Services</i> are performed in accordance with this <i>Contract</i> .		
5. The costs to the <i>Construction Manager</i> that result from any <i>Subcontractor's</i> insolvency or failure to perform.		
6. Charges levied by authorities having jurisdiction at the <i>Place of the Work</i> .		
7. Royalties, patent licence fees and damages for infringement of patents and cost of defending suits therefore.		
8. Any adjustment in taxes and duties directly related to the <i>Project</i> for which the <i>Construction Manager</i> is liable.		
9. Losses and expenses sustained by the <i>Construction Manager</i> for matters which are the subject of the insurance coverages obtained pursuant to GC 11.1 – INSURANCE when such losses and expenses are not recoverable because the amounts are in excess of collectible amounts, within the deductible amounts or are not insurable.		
10. The costs incurred due to emergencies affecting the safety of persons or property.		
11. Legal costs, incurred by the <i>Construction Manager</i> in relation to the performance of the <i>Services</i> provided that they are not caused by negligent acts or omissions of the <i>Construction Manager</i> and the <i>Services</i> are performed in accordance with this <i>Contract</i> .		
12. Such other costs directly incurred by the <i>Construction Manager</i> in the performance of this <i>Contract</i> as follows:		

SCHEDULE B – TIME-BASED RATES FOR PERSONNEL EMPLOYED BY THE CONSTRUCTION MANAGER

[illegible]

DEFINITIONS

The following Definitions apply to this *Contract Documents*. References in the definition to the singular shall be considered to include the plural as the context requires.

Class A Construction Cost Estimate

The *Class A Construction Cost Estimate* is an estimate of the *Construction Cost* based on the completed *Contract Documents*. *Class A Construction Cost Estimate* is the final estimate before the bid or proposal call. *Class A Construction Cost Estimate* shall be presented in elemental format and include labour and material costs, allowance for all costs resulting from the *Project* schedule, all actual associated costs, including cash allowances, contingencies, allowances for design, escalation, market conditions and anticipated amendment amounts as applicable.

Class B Construction Cost Estimate

The *Class B Construction Cost Estimate* is an estimate of the *Construction Cost* with a level of precision that is based on the degree of completion of the *Contract Documents* at the time of preparation of the estimate. The *Class B Construction Cost Estimate* is typically prepared when all site or installation investigations are completed and the design of the major systems and sub-systems of the *Project* (including outline specifications and preliminary drawings and models) are well underway. *Class B Construction Cost Estimate* shall be presented in elemental format and include labour and material costs, allowance for all costs resulting from the *Project* schedule, all actual associated costs, including cash allowances, contingencies, allowances for design, escalation, market conditions and anticipated amendment amounts as applicable.

Class C Construction Cost Estimate

The *Class C Construction Cost Estimate* is an estimate of the *Construction Cost* based on updated *Owner* requirements, general description of the *Project*, preliminary site information and existing conditions, and takes into consideration market conditions as well as basic implementation logistics. *Class C Construction Cost Estimate* shall include labour and material costs and the *Owner's* construction contingencies and allowances.

Class D Construction Cost Estimate

The *Class D Construction Cost Estimate* is an estimate of the *Construction Cost* based on the *Owner's* functional requirements to the degree known at the time. The *Class D Construction Cost Estimate* shall as a minimum be based on historical cost data for similar projects, suitably adjusted for such factors as inflation, location, risk, quality, size, and time. All related factors affecting cost are considered to the extent possible. The *Class D Construction Cost Estimate* provides the *Owner* an indication of the order of magnitude of the *Construction Cost* for a project completed within the estimated completion date, and shall include labour and material costs and the *Owner's* construction contingencies and allowances.

Change Directive

A *Change Directive* is a written instruction prepared by the *Consultant* and signed by the *Owner* directing the *Construction Manager* to proceed with a change in the *Work* within the general scope of this *Contract* prior to the *Owner* and the *Construction Manager* agreeing upon an adjustment in any or all of the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and the *Contract Time*.

Change Order

A *Change Order* is a written amendment to this *Contract* prepared by the *Consultant* and signed by the *Owner* and the *Construction Manager* stating their agreement upon:

- a change in the *Services*;
- a change in the *Work*;
- the method of adjustment or the amount of the adjustment in the *Construction Manager's Fee*, if any;
- the method of adjustment or the amount of the adjustment in the *Guaranteed Maximum Price*, if any;
- the extent of the adjustment in the *Contract Time*, if any; and
- the options described in Article A-8 of the Agreement – OPTIONS.

Construction Cost

Construction Cost means the actual cost of all elements of the *Project* including all applicable taxes but excluding the applicable value added taxes, whether recoverable or not. *Construction Cost* does not include the *Construction Manager's Fee*, the reimbursable expenses for the *Services* as described in Article A-6 of the Agreement – REIMBURSABLE EXPENSES FOR THE SERVICES and the compensation of the *Consultant*.

Construction Cost Estimate

Construction Cost Estimate is either a *Class A Construction Cost Estimate*, a *Class B Construction Cost Estimate*, a *Class C Construction Cost Estimate*, or a *Class D Construction Cost Estimate*, as the context shall require and is prepared with a level of precision commensurate with the level of detail of information available at the time.

Construction Documents

The *Construction Documents* consist of the *Specifications* and *Drawings* that are consistent with the *Contract Documents* and are prepared by the *Consultant* and accepted by the *Owner* after execution of the Agreement for the performance of the *Project*.

Construction Equipment

Construction Equipment means all machinery and equipment, either operated or not operated, that is required for preparing, fabricating, conveying, erecting, or otherwise performing the *Work* but is not incorporated into the *Work*.

Construction Manager

The *Construction Manager* is the person or entity identified as such in the Agreement.

Construction Manager's Fee

The *Construction Manager's Fee* is the *Construction Manager's* fee for performing the *Services* and the *Work* and the amount is as stipulated in Article A-5 of the Agreement – CONSTRUCTION MANAGER'S FEE.

Consultant

The *Consultant* is the person or entity engaged by the *Owner* and identified as such in the Agreement. The *Consultant* is the Architect, the Engineer or entity licensed to practise in the province or territory of the *Place of the Work*.

Contract

The *Contract* is the undertaking by the parties to perform their respective duties, responsibilities and obligations as prescribed in the *Contract Documents* and represents the entire agreement between the parties.

Contract Documents

The *Contract Documents* consist of those documents listed in Article A-4 of the Agreement – CONTRACT DOCUMENTS and amendments agreed upon between the parties.

Contract Time

The *Contract Time* is the time stipulated in paragraph 1.3 of Article A-1 of the Agreement – THE SERVICES AND THE WORK.

Cost of the Work

The *Cost of the Work* is the amount stipulated in Article A-7 of the Agreement – COST OF THE WORK which excludes *Value Added Taxes*.

Drawings

The *Drawings* are the graphic and pictorial portions of the *Contract Documents*, wherever located and whenever issued, showing the design, location and dimensions of the *Work*, generally including plans, elevations, sections, details, and diagrams.

Guaranteed Maximum Price

The *Guaranteed Maximum Price* is the amount, if any, stipulated in paragraphs 8.2 or 8.3 of Article A-8 of the Agreement – OPTIONS which excludes *Value Added Taxes*. In the event that no amount is stipulated in paragraphs 8.2 or 8.3 of Article A-8 of the Agreement – OPTIONS, the provisions pertinent to the *Guaranteed Maximum Price*, wherever they appear in this *Contract*, shall be individually inoperative and considered as deleted from this agreement.

Notice in Writing

A *Notice in Writing*, where identified in this *Contract*, is a written communication between the parties or between them and the *Consultant* that is transmitted in accordance with the provisions of Article A-10 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

Owner

The *Owner* is the person or entity identified as such in the Agreement.

Place of the Work

The *Place of the Work* is the designated site or location of the *Work* identified in the Agreement.

Price of the Services

The *Price of the Services*, which excludes *Value Added Taxes*, is the sum of the *Construction Manager's Fee* for the *Services* as stipulated in paragraph 5.2 of Article A-5 – CONSTRUCTION MANAGER'S FEE and the reimbursable expenses for the *Services* as stipulated in paragraph 6.1 of Article A-6 of the Agreement – REIMBURSABLE EXPENSES FOR THE SERVICES.

Price of the Work

The *Price of the Work*, which excludes *Value Added Taxes*, is the sum of the *Construction Manager's Fee* for the *Work* as stipulated in paragraph 5.3 of Article A-5 – CONSTRUCTION MANAGER'S FEE and the *Cost of the Work*.

Product

Product means material, machinery, equipment, and fixtures incorporated into the *Work*, but does not include *Construction Equipment*.

Project

The *Project* means the total construction as described in Article A-3 of the Agreement – DESCRIPTION OF THE PROJECT contemplated by the *Owner* of which the *Work* may be the whole or a part.

Services

The *Services* means all services described in Schedule A1 to the Agreement – SERVICES AND COMPENSATION to be performed by the *Construction Manager* under this *Contract*.

Shop Drawings

Shop Drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures, *Product* data, and other data which the *Construction Manager* provides to illustrate details of portions of the *Work*.

Specifications

The *Specifications* are that portion of the *Contract Documents*, wherever located and whenever issued, consisting of the written requirements and standards for *Products*, systems, workmanship, quality, and the services necessary for the performance of the *Work*.

Subcontractor

A *Subcontractor* is a person or entity having a direct contract with the *Construction Manager* to perform a part or parts of the *Work* at the *Place of the Work*.

Substantial Performance of the Work

Substantial Performance of the Work is as defined in the lien legislation applicable to the *Place of the Work*. If such legislation is not in force or does not contain such definition, or if the *Work* is governed by the Civil Code of Quebec, *Substantial Performance of the Work* shall have been reached when the *Work* is ready for use or is being used for the purpose intended and is so certified by the *Consultant*.

Supplemental Instruction

A *Supplemental Instruction* is an instruction, not involving adjustment in the *Price of the Work* or *Contract Time*, in the form of *Specifications*, *Drawings*, schedules, samples, models or written instructions, consistent with the intent of the *Contract Documents*. It is to be issued by the *Consultant* to supplement the *Contract Documents*, as required for the performance of the *Work*.

Supplier

A *Supplier* is a person or entity having a direct contract with the *Construction Manager* to supply *Products*.

Temporary Work

Temporary Work means temporary supports, structures, facilities, services, and other temporary items, excluding *Construction Equipment*, required for the execution of the *Work* but not incorporated into the *Work*.

Value Added Taxes

Value Added Taxes means such sums as shall be levied upon the *Owner's* payment to the *Construction Manager* by the Federal or any Provincial or Territorial government and is computed as a percentage of such payment and includes the Goods and Services Tax, the Quebec Sales Tax, the Harmonized Sales Tax, and any other similar tax, the collection and payment of which have been imposed on the *Construction Manager* by the tax legislation.

Work

The *Work* means the total construction and related services to be performed by the *Construction Manager* as required by the *Contract Documents* but does not include *Services*.

Working Day

Working Day means a day other than a Saturday, Sunday, statutory holiday or statutory vacation day that is observed by the construction industry in the area of the *Place of the Work*.

GENERAL CONDITIONS**PART 1 GENERAL PROVISIONS****GC 1.1 CONTRACT DOCUMENTS**

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

GC 1.2 LAW OF THE CONTRACT

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

GC 1.3 RIGHTS AND REMEDIES

- 1.3.1 Except as expressly provided in the *Contract Documents*, the duties and obligations imposed by the *Contract Documents* and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

- 1.3.2 No action or failure to act by the *Owner*, *Consultant* or *Construction Manager* shall constitute a waiver of any right or duty afforded either of the parties to this *Contract*, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

GC 1.4 ASSIGNMENT

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

GC 1.5 PERFORMANCE OF THE SERVICES

- 1.5.1 Architectural or engineering aspects of the *Project* shall not be the responsibility of the *Construction Manager*. In providing *Services*, the *Construction Manager* assumes no responsibility for the performance of the *Consultant* nor offers any professional design advice.
- 1.5.2 Notwithstanding any other provisions of this *Contract*, the *Construction Manager* shall be deemed not to assume any duties nor responsibilities as agent of the *Owner*.

GC 1.6 PROJECT REPRESENTATIVES

- 1.6.1 The *Owner*, *Construction Manager* and *Consultant* may appoint one or more project representatives to assist in carrying out their responsibilities under this *Contract*. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in writing.

PART 2 ADMINISTRATION OF THE CONTRACT

GC 2.1 OWNER'S RESPONSIBILITIES

- 2.1.1 The *Owner* shall:
- .1 provide full and timely information and approvals regarding the requirements of the *Project* for the orderly progress of the *Services* and the *Work*;
 - .2 review documents submitted by the *Construction Manager* and give the *Construction Manager* timely decisions for the orderly progress of the *Services* and the *Work*;
 - .3 furnish promptly to the *Construction Manager* all information that is available or requested by the *Construction Manager* regarding the *Place of the Work* including surveys as to the physical characteristics of the site, soils reports, subsurface investigations, legal limitations, utility locations, and legal description. Subject to paragraph 9.1.2 of GC 9.1 – PROTECTION OF WORK AND PROPERTY, the *Construction Manager* shall be entitled to rely on such information;
 - .4 designate in writing a representative who shall be fully acquainted with the *Work*; and shall have the authority to act on the *Owner's* behalf in relation to all duties and responsibilities of the *Owner* under this *Contract*;
 - .5 retain the *Consultant* who shall be responsible for the design and design related services required for the *Work*;
 - .6 inform the *Construction Manager* of the scope and terms of the *Consultant's* services;
 - .7 inform the *Consultant* of the scope and terms of the *Services* and the *Work*;
 - .8 immediately notify the *Construction Manager* if the *Owner* observes or otherwise becomes aware of any fault or defect in the *Project* or any non-conformity with the requirements of the *Contract*; and
 - .9 coordinate and facilitate the *Services* of the *Construction Manager* and the *Consultant's* services.

GC 2.2 AUTHORITY OF THE CONSULTANT

- 2.2.1 The *Consultant* will have authority to act on behalf of the *Owner* only to the extent provided in the *Contract Documents*, unless otherwise modified by written agreement as provided in paragraph 2.2.2.
- 2.2.2 The duties, responsibilities and limitations of authority of the *Consultant* as set forth in the *Contract Documents* may be modified or extended only with the written consent of the *Construction Manager* following consultation with the *Consultant*.
- 2.2.3 If the *Consultant's* employment is terminated, the *Owner* shall immediately appoint or reappoint a *Consultant* against whom the *Construction Manager* makes no reasonable objection and whose duties, responsibilities and limitations of authority under the *Contract Documents* will be that of the former *Consultant*.

GC 2.3 CONSULTANT'S RESPONSIBILITIES

- 2.3.1 The *Consultant* will provide administration of the *Work* as described in the *Contract Documents*.
- 2.3.2 The *Consultant* will visit the *Place of the Work* at intervals appropriate to the progress of construction to become familiar with the progress and quality of the *Work* and to determine if the *Work* is proceeding in general conformity with the *Contract Documents*.
- 2.3.3 If the *Owner* and the *Consultant* agree, the *Consultant* will provide at the *Place of the Work*, one or more project representatives to assist in carrying out the *Consultant's* responsibilities. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in writing to the *Construction Manager*.
- 2.3.4 The *Consultant* will promptly inform the *Owner* of the date of receipt of the *Construction Manager's* applications for payment for the *Work* performed as provided in paragraph 5.4.7.1 of GC 5.4 – PROGRESS PAYMENT FOR THE WORK.
- 2.3.5 Based on the *Consultant's* observations and evaluation of the *Construction Manager's* applications for payment for the *Work* performed, the *Consultant* will determine the amounts owing to the *Construction Manager* for the *Price of the Work* and will issue certificates for payment as provided in Article A-9 of the Agreement – PAYMENT, GC 5.4 – PROGRESS PAYMENT FOR THE WORK and GC 5.8 – FINAL PAYMENT FOR THE WORK.
- 2.3.6 The *Consultant* will not be responsible for and will not have control, charge or supervision of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs required in connection with the *Work* in accordance with the applicable construction safety legislation, other regulations or general construction practice. The *Consultant* will not be responsible for the *Construction Manager's* failure to carry out the *Work* in accordance with the *Contract Documents*. The *Consultant* will not have control over, charge of or be responsible for the acts or omissions of the *Construction Manager*, *Subcontractors*, *Suppliers*, or their agents, employees, or any other persons performing portions of the *Work*.
- 2.3.7 Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, the *Consultant* will be, in the first instance, the interpreter of the requirements of the *Work*.
- 2.3.8 Matters in question relating to the performance of the *Work* or the interpretation of the *Contract Documents*, except with respect to the scope, fee and reimbursable expenses of the *Services*, shall be initially referred in writing to the *Consultant* by the party raising the question for interpretations and findings and copied to the other party.
- 2.3.9 Interpretations and findings of the *Consultant* shall be consistent with the intent of the *Contract Documents* as they relate to the *Work*. In making such interpretations and findings the *Consultant* will not show partiality to either the *Owner* or the *Construction Manager*.
- 2.3.10 The *Consultant's* interpretations and findings will be given in writing to the parties within a reasonable time.
- 2.3.11 With respect to claims for a change in *Price of the Work*, the *Consultant* will make findings as set out in GC 6.6 – CLAIMS FOR A CHANGE IN CONSTRUCTION MANAGER'S FEE FOR THE SERVICES, THE PRICE OF THE WORK OR THE GUARANTEED MAXIMUM PRICE.
- 2.3.12 The *Consultant* will have authority to reject work which in the *Consultant's* opinion does not conform to the requirements of the *Contract Documents*. Whenever the *Consultant* considers it necessary or advisable, the *Consultant* will have authority to require inspection or testing of work, whether or not such work is fabricated, installed or completed. However, neither the authority of the *Consultant* to act nor any decision either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the *Consultant* to the *Construction Manager*, *Subcontractor*, *Suppliers*, or their agents, employees, or other persons performing any of the *Work*.
- 2.3.13 During the progress of the *Work* the *Consultant* will furnish *Supplemental Instructions* to the *Construction Manager* with reasonable promptness or in accordance with a schedule for such instructions agreed to by the *Consultant* and the *Construction Manager*.
- 2.3.14 The *Consultant* will review and take appropriate action upon *Shop Drawings*, samples and other *Construction Manager's* submittals which are provided in accordance with the *Construction Documents*.
- 2.3.15 The *Consultant* will prepare *Change Orders* and *Change Directives* as provided in GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 2.3.16 The *Consultant* will conduct reviews of the *Work* to determine the date of *Substantial Performance of the Work* as provided in GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK.

- 2.3.17 All certificates issued by the *Consultant* will be to the best of the *Consultant's* knowledge, information and belief. By issuing any certificate, the *Consultant* does not guarantee the *Work* is correct or complete.
- 2.3.18 The *Consultant* will receive and review written warranties and related documents required by the *Contract* and provided by the *Construction Manager* and will forward such warranties and documents to the *Owner* for the *Owner's* acceptance.

GC 2.4 REVIEW AND INSPECTION OF THE WORK

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

GC 2.5 DEFECTIVE WORK

- 2.5.1 The *Construction Manager* shall promptly correct defective work that has been rejected by the *Consultant* as failing to conform to the *Contract Documents* whether or not the defective work has been incorporated in the *Work* and whether or not the defect is the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the *Construction Manager*. Subject to paragraph 7.1.9 of Article A-7 of the Agreement – COST OF THE WORK, the correction of defective work shall be at the *Construction Manager's* expense.
- 2.5.2 The *Construction Manager* shall promptly make good other contractors' work destroyed or damaged by such removals or replacements. Subject to paragraph 7.1.9 of Article A-7 of the Agreement – COST OF THE WORK, the correction of destroyed or damaged work shall be at the *Construction Manager's* expense.
- 2.5.3 If in the opinion of the *Consultant* it is not expedient to correct defective work or work not performed as provided in the *Contract Documents*, the *Owner* may deduct from the amount otherwise due to the *Construction Manager* the difference in value between the work as performed and that called for by the *Contract Documents*. If the *Owner* and the *Construction Manager* do not agree on the difference in value, they shall refer the matter to the *Consultant* for a finding.

PART 3 PERFORMANCE OF THE SERVICES AND EXECUTION OF THE WORK

GC 3.1 CONTROL OF THE WORK

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

GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

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

GC 3.3 TEMPORARY WORK

- 3.3.1 The *Construction Manager* shall have the sole responsibility for the design, erection, operation, maintenance, and removal of *Temporary Work*.
- 3.3.2 The *Construction Manager* shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform those functions referred to in paragraph 3.3.1 where required by law or by the *Contract Documents* and in all cases where such *Temporary Work* is of such a nature that professional engineering skill is required to produce safe and satisfactory results.
- 3.3.3 Notwithstanding the provisions of GC 3.1 – CONTROL OF THE WORK, paragraph 3.3.1 and paragraph 3.3.2 or provisions to the contrary elsewhere in the *Contract Documents* where such *Contract Documents* include designs for *Temporary Work* or specify a method of construction in whole or in part, such designs or methods of construction shall be considered to be part of the design of the *Work* and the *Construction Manager* shall not be held responsible for that part of the design or the specified method of construction. The *Construction Manager* shall, however, be responsible for the execution of such design or specified method of construction in the same manner as for the execution of the *Work*.

GC 3.4 REVIEW OF DRAWINGS, SPECIFICATIONS AND MATERIAL AND FINISH SCHEDULES

- 3.4.1 The *Construction Manager* shall review the *Drawings, Specifications* and material and finish schedules and shall report promptly to the *Consultant* any error, inconsistency or omission the *Construction Manager* may discover. If the *Construction Manager* does discover any error, inconsistency or omission in the *Drawings, Specifications* and material and finish schedules, the *Construction Manager* shall not proceed with the work affected until the *Construction Manager* has received corrected or missing information from the *Consultant*.
- 3.4.2 The review of *Drawings, Specifications* and material and finish schedules under paragraph 3.4.1 shall be to the best of the *Construction Manager's* knowledge, information and belief. In making such review the *Construction Manager* assumes no responsibility for the accuracy of the review. The *Construction Manager* shall not be liable for any damage or costs resulting from errors, inconsistencies or omissions, which the *Construction Manager* did not discover.

GC 3.5 CONSTRUCTION SCHEDULE

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

GC 3.6 SUPERVISION

- 3.6.1 The *Construction Manager* shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the *Place of the Work* while work is being performed. The *Construction Manager* may appoint a new representative for a valid reason and to whom the *Owner* makes no reasonable objection.
- 3.6.2 The appointed representative shall represent the *Construction Manager* at the *Place of the Work*. Information and instructions provided by the *Consultant* to the *Construction Manager's* appointed representative shall be deemed to have been received by the *Construction Manager*, except with respect to Article A-10 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

GC 3.7 SUBCONTRACTORS AND SUPPLIERS

- 3.7.1 The *Construction Manager* shall preserve and protect the rights of the parties under the *Contract* with respect to work to be performed under subcontract, and shall:
- .1 enter into contracts or written agreements with *Subcontractors* and *Suppliers* to require them to perform their work as provided in the *Contract Documents*;
 - .2 incorporate the terms and conditions of the *Contract Documents* into all contracts or written agreements with *Subcontractors* and *Suppliers*; and
 - .3 subject to paragraph 7.1.9 of Article A-7 of the Agreement – COST OF THE WORK, be as fully responsible to the *Owner* for acts and omissions of *Subcontractors, Suppliers* and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Construction Manager*.
- 3.7.2 The *Construction Manager* shall, before entering into contracts or written agreements with *Subcontractors* and *Suppliers*, submit to the *Owner* all bids received for the various parts of the *Work* to be subcontracted and obtain the *Owner's* acceptance of the *Subcontractors* and *Suppliers* selected.
- 3.7.3 The *Construction Manager* shall cause to be obtained contract security from *Subcontractors* to the extent and for the amounts approved by the *Owner*.
- 3.7.4 The *Construction Manager* shall not be required to employ as a *Subcontractor* or *Supplier*, a person or firm to which the *Construction Manager* may reasonably object.
- 3.7.5 The *Owner*, through the *Consultant*, may provide to a *Subcontractor* or *Supplier* information as to the percentage of the *Subcontractor's* or *Supplier's* work which has been certified for payment.

GC 3.8 LABOUR AND PRODUCTS

- 3.8.1 The *Construction Manager* shall maintain good order and discipline among the *Construction Manager's* employees engaged on the *Work* and shall not employ on the *Work* anyone not skilled in the tasks assigned.
- 3.8.2 Unless otherwise specified in the *Contract Documents*, *Products* provided shall be new. *Products* which are not specified shall be of a quality consistent with those specified and their use acceptable to the *Consultant*.

GC 3.9 DOCUMENTS AT THE SITE

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

GC 3.10 SHOP DRAWINGS

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

GC 3.11 USE OF THE WORK

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

GC 3.12 CUTTING AND REMEDIAL WORK

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

GC 3.13 CLEANUP

- 3.13.1 The *Construction Manager* shall maintain the *Work* in a safe and tidy condition and free from the accumulation of waste products and debris, other than that caused by the *Owner*, other contractors or their employees.
- 3.13.2 Before applying for *Substantial Performance of the Work* as provided in GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK, the *Construction Manager* shall remove waste products and debris, other than that resulting from the work of the *Owner*, other contractors or their employees, and shall leave the *Place of the Work* clean and suitable for use or occupancy by the *Owner*. The *Construction Manager* shall remove products, tools, *Construction Equipment*, and *Temporary Work* not required for the performance of the remaining work.
- 3.13.3 Prior to application for the final payment, the *Construction Manager* shall remove any remaining products, tools, *Construction Equipment*, and *Temporary Work*, and waste products and debris, other than that resulting from the work of the *Owner*, other contractors or their employees.

PART 4 ALLOWANCE

GC 4.1 CASH ALLOWANCES

- 4.1.1 Cash allowances may be stated in this *Contract* if the *Guaranteed Maximum Price* is stipulated in paragraphs 8.2 or 8.3 of Article A-8 of the Agreement – OPTIONS.
- 4.1.2 The *Price of the Work* includes the cash allowances, if any, stated in this *Contract*. The scope of work or costs included in such cash allowances shall be as described in this *Contract*.
- 4.1.3 Expenditures under cash allowances shall be authorized by the *Owner* through the *Consultant*.
- 4.1.4 Where costs under any cash allowance exceed the amount of the allowance specified in this *Contract*, the *Construction Manager’s Fee* for the *Work* and the *Guaranteed Maximum Price* shall be adjusted by *Change Order* to compensate the *Construction Manager* for any excess incurred and substantiated. Where costs under any cash allowance are less than the amount of the allowance, the *Owner* shall be credited for the unexpended portion of the cash allowance, but not for the *Construction Manager’s* overhead and profit on such amount. Multiple cash allowances shall not be combined for the purpose of calculating the foregoing.
- 4.1.5 The *Construction Manager’s* overhead and profit in connection with such cash allowances is eligible to be included in progress payments on account of the *Construction Manager’s Fee* for the *Work*.
- 4.1.6 The value of the *Work* performed under a cash allowance is eligible to be included in progress payments on account of the *Cost of the Work*.
- 4.1.7 The *Construction Manager* and the *Consultant* shall jointly prepare a schedule that shows when the *Consultant* and the *Owner* must authorize ordering of items called for under cash allowances to avoid delaying the progress of the *Work*.

PART 5 PAYMENT

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

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

GC 5.2 ACCOUNTING AND AUDIT

- 5.2.1 The *Construction Manager* shall keep full and detailed accounts and records necessary for the documentation of the *Cost of the Work*.
- 5.2.2 For 60 calendar days after the application for final payment or for such other period specified in the *Contract*, the *Owner* shall be afforded reasonable access to all of the *Construction Manager's* books, records, correspondence, instructions, drawings, receipt vouchers, *Subcontractor* and *Supplier* invoices, and memoranda relating to the *Cost of the Work*, and for this purpose the *Construction Manager* shall preserve all such records.

GC 5.3 PROGRESS PAYMENT FOR THE SERVICES

- 5.3.1 The *Owner* shall make payment for the *Construction Manager's Fee* for the *Services* as described in paragraph of 5.2 of Article A-5 of the Agreement – CONSTRUCTION MANAGER'S FEE and on account of the reimbursable expenses for the *Services* as described in Article A-6 of the Agreement – REIMBURSABLE EXPENSES FOR THE SERVICES no later than 20 calendar days after receipt of an application for payment for the *Services* submitted by the *Construction Manager*.
- 5.3.2 The application for payment for the reimbursable expenses for the *Services* shall include items of cost as defined in Schedule A2 to the Agreement – REIMBURSABLE EXPENSES APPLICABLE TO SCHEDULE A1 and other support documents required by the *Owner* in accordance with the *Contract Documents*.

GC 5.4 PROGRESS PAYMENT FOR THE WORK

- 5.4.1 Applications for payment on account as provided in Article A-9 of the Agreement – PAYMENT may be made monthly as the *Work* progresses.
- 5.4.2 Applications for payment shall be dated the last day of each payment period, which is the last day of the month or an alternative day of the month agreed in writing by the parties.
- 5.4.3 The amount applied for shall be the cost of the *Work* performed and *Products* delivered to the *Place of the Work* or other locations designated by the *Owner* in accordance with the provisions of Article A-7 of the Agreement – COST OF THE WORK, as of the last day of the month or an alternative day of the month agreed in writing by the parties plus the *Construction Manager's Fee* for the *Work* earned in accordance with the provisions of Article A-5 of the Agreement – CONSTRUCTION MANAGER'S FEE.
- 5.4.4 The application for payment for the *Work* shall include items of cost as defined in Article A-7 of the Agreement – COST OF THE WORK and other support documents required by the *Owner* as in accordance with the *Contract Documents*.
- 5.4.5 When submitting the second and succeeding applications for payment, the *Construction Manager* shall furnish receipted vouchers or other satisfactory evidence of payment for all items included in the preceding applications. If the *Owner* has reasonable grounds for believing that any amount included in preceding applications has not been paid the *Owner* may withhold payment in respect of such amount from the current application until satisfactory evidence of payment is given by the *Construction Manager*.
- 5.4.6 Applications for payment for *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall be supported by such evidence as the *Consultant* may reasonably require to establish the value and delivery of the *Products*.

- 5.4.7 After receipt by the *Consultant* of an application for payment for the *Work* submitted by the *Construction Manager* in accordance with paragraphs 5.4.1 to 5.4.6:
- .1 the *Consultant* will promptly inform the *Owner* of the date of receipt of the *Construction Manager's* application for payment;
 - .2 the *Consultant* will issue to the *Owner* and copy to the *Construction Manager*, no later than 10 calendar days after the receipt of the application for payment, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due. If the *Consultant* amends the application, the *Consultant* will promptly advise the *Construction Manager* in writing giving reasons for the amendment; and
 - .3 the *Owner* shall make payment to the *Construction Manager* on account as provided in Article A-9 of the Agreement – PAYMENT on or before 20 calendar days after the later of:
 - receipt by the *Consultant* of the application for payment, or
 - the last day of the monthly payment period for which the application for payment is made.

GC 5.5 SUBSTANTIAL PERFORMANCE OF THE WORK

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

GC 5.6 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.6.1 After the issuance of the certificate of *Substantial Performance of the Work*, the *Construction Manager* shall:
- .1 submit an application for payment of the holdback amount,
 - .2 submit CCDC 9A 'Statutory Declaration' to state that all accounts for labour, subcontracts, *Products*, *Construction Equipment*, and other indebtedness which may have been incurred by the *Construction Manager* in the *Substantial Performance of the Work* and for which the *Owner* might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute.
- 5.6.2 After the receipt of an application for payment from the *Construction Manager* and the statement as provided in paragraph 5.6.1, the *Consultant* will issue a certificate for payment of the holdback amount.
- 5.6.3 Where the holdback amount required by the applicable lien legislation has not been placed in a separate holdback account, the *Owner* shall, 10 calendar days prior to the expiry of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*, place the holdback amount in a bank account in the joint names of the *Owner* and the *Construction Manager*.
- 5.6.4 In the common law jurisdictions, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable on the first calendar day following the expiration of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*. Where lien legislation does not exist or apply, the holdback amount shall be due and payable in accordance with other legislation, industry practice or provisions which may be agreed to between the parties. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Construction Manager* which are enforceable against the *Owner*.
- 5.6.5 In the Province of Quebec, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable 30 calendar days after the issuance of the certificate. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken, or could be taken, against the *Work* or other third party monetary claims against the *Construction Manager* which are enforceable against the *Owner*.

GC 5.7 PROGRESSIVE RELEASE OF HOLDBACK FOR THE WORK

- 5.7.1 In the common law jurisdictions, where legislation permits and where, upon application by the *Construction Manager*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Construction Manager* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, on the first calendar day following the expiration of the holdback period for such work stipulated in the lien legislation applicable to the *Place of the Work*. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Construction Manager* which are enforceable against the *Owner*.
- 5.7.2 In the Province of Quebec, where, upon application by the *Construction Manager*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Construction Manager* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, no later than 30 calendar days after such certification by the *Consultant*. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken, or could be taken, against the *Work* or other third party monetary claims against the *Construction Manager* which are enforceable against the *Owner*.
- 5.7.3 Notwithstanding the provisions of the preceding paragraphs, and notwithstanding the wording of such certificates, the *Construction Manager* shall ensure that such subcontract work or *Products* are protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when such certificates were issued.

GC 5.8 FINAL PAYMENT FOR THE WORK

- 5.8.1 When the *Construction Manager* considers that the *Work* is completed, the *Construction Manager* shall submit an application for final payment.
- 5.8.2 The *Consultant* will, no later than 10 calendar days after the receipt of an application from the *Construction Manager* for final payment, review the *Work* to verify the validity of the application and advise the *Construction Manager* in writing that the application is valid or give reasons why it is not valid.
- 5.8.3 When the *Consultant* finds the *Construction Manager's* application for final payment valid, the *Consultant* will promptly issue a final certificate for payment.
- 5.8.4 Subject to the provision of paragraph 10.4.1 of GC 10.4 – WORKERS' COMPENSATION and any lien legislation applicable to the *Place of the Work*, the *Owner* shall, no later than 5 calendar days after the issuance of a final certificate for payment, pay the *Construction Manager* as provided in Article A-9 of the Agreement – PAYMENT.

GC 5.9 WITHHOLDING OF PAYMENT FOR THE WORK

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

GC 5.10 NON-CONFORMING WORK

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

PART 6 CHANGES

GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

- 6.1.1 The *Owner*, through the *Consultant*, without invalidating the *Contract*, may make:
- .1 changes in the *Work* consisting of additions, deletions, or other revisions to the *Work* by *Change Order* or *Change Directive*, and
 - .2 changes to the *Contract Time* for the *Work*, or any part thereof, by *Change Order*.

- 6.1.2 The *Construction Manager* shall not perform a change in the *Work* without a *Change Order* or a *Change Directive*.
- 6.1.3 The *Owner* and the *Construction Manager*, without invalidating the *Contract*, may agree to make changes to the *Services*.

GC 6.2 CHANGE ORDER

- 6.2.1 When a change in the *Work* is proposed or required, the *Consultant* shall provide the *Construction Manager* with a written description of the proposed change in the *Work*. The *Construction Manager* shall promptly present, in a form acceptable to the *Consultant*, a method of adjustment or an amount of adjustment for the *Construction Manager's Fee*, a method of adjustment or an amount of adjustment for the *Guaranteed Maximum Price*, and the adjustment in the *Contract Time*, as applicable, for the proposed change in the *Work*.
- 6.2.2 When the *Owner* and *Construction Manager* agree to the adjustments in the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and the *Contract Time*, or to the method to be used to determine the adjustments, such agreement shall be effective immediately and shall be recorded in a *Change Order*. The value of the work performed as the result of a *Change Order* shall be included in applications for progress payment.
- 6.2.3 When the *Owner* and *Construction Manager* agree to exercise the stipulated price option at any time during the term of the *Contract*, such agreement shall be recorded in a *Change Order*.

GC 6.3 CHANGE DIRECTIVE

- 6.3.1 If the *Owner* requires the *Construction Manager* to proceed with a change in the *Work* prior to the *Owner* and the *Construction Manager* agreeing upon any corresponding adjustment in the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and the *Contract Time*, the *Owner*, through the *Consultant*, shall issue a *Change Directive*.
- 6.3.2 A *Change Directive* shall only be used to direct a change in the *Work* which is within the general scope of the *Contract Documents*.
- 6.3.3 A *Change Directive* shall not be used to direct a change in the *Contract Time* only.
- 6.3.4 Upon receipt of a *Change Directive*, the *Construction Manager* shall proceed promptly with the change in the *Work*.
- 6.3.5 If no method of adjustment is agreed:
 - .1 the adjustment in the *Construction Manager's Fee* for a change carried out by way of a *Change Directive* shall be determined on the basis of the changes in costs of the *Construction Manager*; and
 - .2 the *Guaranteed Maximum Price* shall be adjusted by the changes in the *Cost of Work* and in the *Construction Manager's Fee* for the *Work* resulting from a *Change Directive*.
- 6.3.6 Pending determination of the adjustment to the *Construction Manager's Fee* required as a result of a *Change Directive*, the *Cost of the Work* incurred and the undisputed amount of the *Construction Manager's Fee* as the result of a *Change Directive* is eligible to be included in progress payments, notwithstanding the limit imposed by the *Guaranteed Maximum Price*.
- 6.3.7 If the *Owner* and the *Construction Manager* do not agree on the proposed adjustment in the *Construction Manager's Fee*, the *Guaranteed Maximum Price*, the *Contract Time*, or in the method of determining them, the adjustment shall be referred to the *Consultant* for a finding.
- 6.3.8 When the *Owner* and the *Construction Manager* reach agreement on the adjustment to the *Construction Manager's Fee*, the *Guaranteed Maximum Price* and the *Contract Time*, this agreement shall be recorded in a *Change Order*.

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

- 6.4.1 If the *Owner* or the *Construction Manager* discover conditions at the *Place of the Work* which are:
 - .1 subsurface or otherwise concealed physical conditions which existed before the commencement of the *Work* which differ materially from those indicated in the *Contract Documents*; or
 - .2 physical conditions, other than conditions due to weather, that are of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the *Contract Documents*,
 then the observing party shall give *Notice in Writing* to the other party of such conditions before they are disturbed and in no event later than 5 *Working Days* after first observance of the conditions.

- 6.4.2 The *Consultant* will promptly investigate such conditions and make a finding. If the finding is that the conditions differ materially and this would justify an increase or decrease in the *Construction Manager's Fee* for the *Work*, the *Guaranteed Maximum Price* or the *Contract Time*, the *Consultant*, with the *Owner's* approval, will issue appropriate instructions for a change in the *Work* as provided in GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE.
- 6.4.3 If the *Consultant* finds that the conditions at the *Place of the Work* are not materially different or that no change in the *Construction Manager's Fee* for the *Work*, the *Guaranteed Maximum Price* or the *Contract Time* is justified, the *Consultant* will report the reasons for this finding to the *Owner* and the *Construction Manager* in writing.
- 6.4.4 If such concealed or unknown conditions relate to toxic and hazardous substances and materials, artifacts and fossils, or mould, the parties will be governed by the provisions of GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES, GC 9.3 – ARTIFACTS AND FOSSILS and GC 9.5 – MOULD.

GC 6.5 DELAYS

- 6.5.1 If the *Construction Manager* is delayed in the performance of the *Work* by an action or omission of the *Owner*, *Consultant* or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the *Contract Documents*, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager*. The *Construction Manager's Fee* and the *Guaranteed Maximum Price* shall be adjusted by a reasonable amount for costs incurred by the *Construction Manager* as the result of such delay.
- 6.5.2 If the *Construction Manager* is delayed in the performance of the *Work* by a stop work order issued by a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Construction Manager* or any person employed or engaged by the *Construction Manager* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager*. The *Construction Manager's Fee* and the *Guaranteed Maximum Price* shall be adjusted by a reasonable amount for costs incurred by the *Construction Manager* as the result of such delay.
- 6.5.3 If the *Construction Manager* is delayed in the performance of the *Work* by:
- .1 labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the *Construction Manager* is a member or to which the *Construction Manager* is otherwise bound),
 - .2 fire, unusual delay by common carriers or unavoidable casualties,
 - .3 abnormally adverse weather conditions, or
 - .4 any cause beyond the *Construction Manager's* control other than one resulting from a default or breach of *Contract* by the *Construction Manager*,
- then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager*. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the *Construction Manager* agrees to a shorter extension. The *Construction Manager's Fee* and the *Guaranteed Maximum Price* shall be adjusted by a reasonable amount for overhead costs incurred by the *Construction Manager* as the result of such delay.
- 6.5.4 No extension shall be made for delay unless *Notice in Writing* of the cause of the delay is given to the *Consultant* not later than 10 *Working Days* after the commencement of the delay. In the case of a continuing cause of delay only one *Notice in Writing* shall be necessary.
- 6.5.5 If no schedule is made under paragraph 2.3.13 of GC 2.3 – CONSULTANT'S RESPONSIBILITIES or paragraph 3.5.1 of GC 3.5 – CONSTRUCTION SCHEDULE, then no request for extension shall be made because of failure of the *Consultant* to furnish instructions until 10 *Working Days* after demand for such instructions has been made.

GC 6.6 CLAIMS FOR A CHANGE IN CONSTRUCTION MANAGER'S FEE FOR THE SERVICES, THE PRICE OF THE WORK OR THE GUARANTEED MAXIMUM PRICE

- 6.6.1 If the *Construction Manager* intends to make a claim for an increase to the *Construction Manager's Fee* for the *Services*, the *Price of the Work* or the *Guaranteed Maximum Price*, or if the *Owner* intends to make a claim against the *Construction Manager* for a credit to the *Construction Manager's Fee* for the *Services*, the *Price of the Work* or the *Guaranteed Maximum Price*, the party that intends to make the claim shall give timely *Notice in Writing* of intent to claim to the other party and, if the claim relates to the *Price of the Work* or the *Guaranteed Maximum Price*, with a copy to the *Consultant*.

- 6.6.2 Upon commencement of the event or series of events giving rise to a claim, the party intending to make the claim shall:
- .1 take all reasonable measures to mitigate any loss or expense which may be incurred as a result of such event or series of events, and
 - .2 keep such records as may be necessary to support the claim.
- 6.6.3 The party making the claim shall submit within a reasonable time to the other party a detailed account of the amount claimed and the grounds upon which the claim is based.
- 6.6.4 Where the event or series of events giving rise to the claim has a continuing effect, the detailed account submitted under paragraph 6.6.3 shall be considered to be an interim account and the party making the claim shall, at such intervals as the party receiving the claim may reasonably require, submit further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 6.6.5 If the claim is not acceptable to the other party, it shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION.

PART 7 DEFAULT NOTICE

GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK OR TERMINATE THE CONTRACT

- 7.1.1 If the *Construction Manager* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Construction Manager's* insolvency, or if a receiver is appointed because of the *Construction Manager's* insolvency, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, terminate the *Construction Manager's* right to continue with the *Work* by giving the *Construction Manager* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.1.2 If the *Construction Manager* neglects to prosecute the *Work* properly or otherwise fails to comply with the requirements of the *Contract Documents* to a substantial degree, and if the *Consultant* has given a written statement to the *Owner* and *Construction Manager* that sufficient cause exists to justify such action, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, give the *Construction Manager Notice in Writing* that the *Construction Manager* is in default of the *Construction Manager's* contractual obligations and instruct the *Construction Manager* to correct the default in the 5 *Working Days* immediately following the receipt of such *Notice in Writing*.
- 7.1.3 If the default cannot be corrected in the 5 *Working Days* specified or in such other time period as may be subsequently agreed in writing by the parties, the *Construction Manager* shall be in compliance with the *Owner's* instructions if the *Construction Manager*:
- .1 commences the correction of the default within the specified time, and
 - .2 provides the *Owner* with an acceptable schedule for such correction, and
 - .3 corrects the default in accordance with the *Contract* terms and with such schedule.
- 7.1.4 If the *Construction Manager* fails to correct the default in the time specified or in such other time period as may be subsequently agreed in writing by the parties, without prejudice to any other right or remedy the *Owner* may have, the *Owner* may:
- .1 correct such default and deduct the cost thereof from any payment then or thereafter due the *Construction Manager* provided the *Consultant* has certified such cost to the *Owner* and the *Construction Manager*, or
 - .2 terminate the *Construction Manager's* right to continue with the *Work* in whole or in part or terminate the *Contract*.
- 7.1.5 If the *Owner* terminates the *Construction Manager's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Owner* shall:
- .1 be entitled to take possession of the *Work* and *Products* at the *Place of the Work*; subject to the rights of third parties, utilize the *Construction Equipment* at the *Place of the Work*; finish the *Work* by whatever method the *Owner* may consider expedient, but without undue delay or expense, and
 - .2 pay the *Construction Manager* upon the *Consultant's* certificate and in accordance with Part 5 of the General Conditions – PAYMENT for the costs properly incurred by the *Construction Manager* to that time plus the proportionate amount of the fee as provided in Article A-5 of the Agreement – CONSTRUCTION MANAGER'S FEE, and
 - .3 pay to the *Construction Manager* fair compensation, either by purchase or rental, at the option of the *Owner*, for any *Construction Equipment* retained for use in the *Work*, and
 - .4 assume and become liable for all obligations, commitments and unliquidated claims as certified by the *Consultant* that the *Construction Manager* may have heretofore, in good faith, undertaken or incurred in connection with the *Work*, other than such as are properly payable by the *Construction Manager* because of neglect or default.

- 7.1.6 If the *Owner* terminates the *Construction Manager's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Construction Manager* shall, as a condition of receiving the payments, execute and deliver such papers and take such action, including the legal assignment in the *Construction Manager's* contractual rights, as the *Owner* may require for the purpose of fully vesting in the *Construction Manager* the rights and benefits of the *Construction Manager* under the obligations or commitments to be assumed by the *Owner*.
- 7.1.7 The *Construction Manager's* obligation under the *Contract* as to quality, correction and warranty of the work performed by the *Construction Manager* up to the time of termination shall continue in force after such termination of the *Contract*.

GC 7.2 CONSTRUCTION MANAGER'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

- 7.2.1 If the *Owner* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Owner's* insolvency, or if a receiver is appointed because of the *Owner's* insolvency, the *Construction Manager* may, without prejudice to any other right or remedy the *Construction Manager* may have, terminate the *Contract* by giving the *Owner* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.2.2 If the *Work* is suspended or otherwise delayed for a period of 20 *Working Days* or more under an order of a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Construction Manager* or of anyone directly or indirectly employed or engaged by the *Construction Manager*, the *Construction Manager* may, without prejudice to any other right or remedy the *Construction Manager* may have, terminate the *Contract* by giving the *Owner Notice in Writing* to that effect.
- 7.2.3 The *Construction Manager* may give *Notice in Writing* to the *Owner*, with a copy to the *Consultant*, that the *Owner* is in default of the *Owner's* contractual obligations if:
- .1 the *Owner* fails to furnish, when so requested by the *Construction Manager*, reasonable evidence that financial arrangements have been made to fulfill the *Owner's* obligations under the *Contract*, or
 - .2 the *Consultant* fails to issue a certificate as provided in GC 5.4 – PROGRESS PAYMENT FOR THE WORK, or
 - .3 the *Owner* fails to pay the *Construction Manager*, or
 - .4 the *Owner* violates the requirements of the *Contract* to a substantial degree and the *Consultant*, except for GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, confirms by written statement to the *Construction Manager* that sufficient cause exists.
- 7.2.4 The *Construction Manager's* *Notice in Writing* to the *Owner* provided under paragraph 7.2.3 shall advise that if the default is not corrected within 5 *Working Days* following receipt of the *Notice in Writing*, the *Construction Manager* may, without prejudice to any other right or remedy the *Construction Manager* may have, suspend the *Work* or terminate the *Contract*.
- 7.2.5 If the *Construction Manager* terminates the *Contract* under the conditions set out above, the *Construction Manager* shall be entitled to be paid for all work performed including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and such other damages as the *Construction Manager* may have sustained as a result of the termination of the *Contract*.

PART 8 DISPUTE RESOLUTION

GC 8.1 AUTHORITY OF THE CONSULTANT

- 8.1.1 Differences between the parties to the *Contract* as to the interpretation, application or administration of the *Contract* or any failure to agree where agreement between the parties is called for, herein collectively called disputes, which are not resolved in the first instance by findings of the *Consultant* as provided in GC 2.3 – CONSULTANT'S RESPONSIBILITIES, shall be settled in accordance with the requirements of Part 8 of the General Conditions – DISPUTE RESOLUTION.
- 8.1.2 If a dispute arises under the *Contract* in respect of a matter in which the *Consultant* has no authority under the *Contract* to make a finding, the procedures set out in paragraph 8.1.3 and paragraphs 8.2.3 to 8.2.8 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION, and in GC 8.3 – RETENTION OF RIGHTS apply to that dispute with the necessary changes to detail as may be required.

- 8.1.3 If a dispute is not resolved promptly, the *Consultant* will give such instructions as in the *Consultant's* opinion are necessary for the proper performance of the *Work* and to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any claim the party may have. If it is subsequently determined that such instructions were in error or at variance with the *Contract Documents*, the *Owner* shall pay the *Construction Manager* costs incurred by the *Construction Manager* in carrying out such instructions which the *Construction Manager* was required to do beyond what the *Contract Documents* correctly understood and interpreted would have required, including costs resulting from interruption of the *Work*.

GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION

- 8.2.1 In accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing, the parties shall appoint a *Project Mediator*
- .1 within 20 *Working Days* after the *Contract* was awarded, or
 - .2 if the parties neglected to make an appointment within the 20 *Working Days*, within 10 *Working Days* after either party by *Notice in Writing* requests that the *Project Mediator* be appointed.
- 8.2.2 A party shall be conclusively deemed to have accepted a finding of the *Consultant* under GC 2.3 – CONSULTANT'S RESPONSIBILITIES and to have expressly waived and released the other party from any claims in respect of the particular matter dealt with in that finding unless, within 15 *Working Days* after receipt of that finding, the party sends a *Notice in Writing* of dispute to the other party and to the *Consultant*, which contains the particulars of the matter in dispute and the relevant provisions of the *Contract Documents*. The responding party shall send a *Notice in Writing* of reply to the dispute within 10 *Working Days* after receipt of such *Notice in Writing* setting out particulars of this response and any relevant provisions of the *Contract Documents*.
- 8.2.3 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid, and timely disclosure of relevant facts, information and documents to facilitate these negotiations.
- 8.2.4 After a period of 10 *Working Days* following receipt of a responding party's *Notice in Writing* of reply under paragraph 8.2.2, the parties shall request the *Project Mediator* to assist the parties to reach agreement on any unresolved dispute. The mediated negotiations shall be conducted in accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing.
- 8.2.5 If the dispute has not been resolved within 10 *Working Days* after the *Project Mediator* was requested under paragraph 8.2.4 or within such further period agreed by the parties, the *Project Mediator* shall terminate the mediated negotiations by giving *Notice in Writing* to the *Owner*, the *Construction Manager* and the *Consultant*.
- 8.2.6 By giving a *Notice in Writing* to the other party and the *Consultant*, not later than 10 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.2.5, either party may refer the dispute to be finally resolved by arbitration under the Rules for Arbitration of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing. The arbitration shall be conducted in the jurisdiction of the *Place of the Work*.
- 8.2.7 On expiration of the 10 *Working Days*, the arbitration agreement under paragraph 8.2.6 is not binding on the parties and, if a *Notice in Writing* is not given under paragraph 8.2.6 within the required time, the parties may refer the unresolved dispute to the courts or to any other form of dispute resolution, including arbitration, which they have agreed to use.
- 8.2.8 If neither party, by *Notice in Writing* given within 10 *Working Days* of the date of *Notice in Writing* requesting arbitration in paragraph 8.2.6, requires that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 8.2.6 shall be
- .1 held in abeyance until
 - (1) Substantial Performance of the *Work*,
 - (2) the *Contract* has been terminated, or
 - (3) the *Construction Manager* has abandoned the *Work*,
 whichever is earlier, and
 - .2 consolidated into a single arbitration under the rules governing the arbitration under paragraph 8.2.6.

GC 8.3 RETENTION OF RIGHTS

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

PART 9 PROTECTION OF PERSONS AND PROPERTY

GC 9.1 PROTECTION OF WORK AND PROPERTY

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

GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

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

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

GC 9.3 ARTIFACTS AND FOSSILS

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

GC 9.4 CONSTRUCTION SAFETY

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

GC 9.5 MOULD

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

PART 10 GOVERNING REGULATIONS

GC 10.1 TAXES AND DUTIES

- 10.1.1 The *Construction Manager* shall pay all customs, taxes and duties in effect during the performance of the *Work*. The amount incurred shall be included in the *Cost of the Work* as in accordance with paragraph 7.1.14 of the Agreement A-7 – COST OF THE WORK.

GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- 10.2.1 The laws of the *Place of the Work* shall govern the *Work*.
- 10.2.2 The *Owner* shall obtain and pay for development approvals, building permit, permanent easements, rights of servitude, and all other necessary approvals and permits, except for the permits and fees referred to in paragraph 10.2.3 or for which the *Contract Documents* specify as the responsibility of the *Construction Manager*.
- 10.2.3 The *Construction Manager* shall be responsible for the procurement of permits, licences, inspections, and certificates, which are necessary for the performance of the *Work* and customarily obtained by contractors in the jurisdiction of the *Place of the Work* after the issuance of the building permit. The *Cost of the Work* includes the cost of these permits, licences, inspections, and certificates, and their procurement.
- 10.2.4 The *Construction Manager* shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the performance of the *Work* and which relate to the *Work*, to the preservation of the public health, and to construction safety.
- 10.2.5 The *Construction Manager* shall not be responsible for verifying that the *Contract Documents* are in compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the *Work*. If the *Contract Documents* are at variance therewith, or if, subsequent to the time of bid closing, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the *Contract Documents*, the *Construction Manager* shall advise the *Consultant* in writing requesting direction immediately upon such variance or change becoming known. The *Consultant* will make the changes required to the *Contract Documents* as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 10.2.6 If the *Construction Manager* fails to advise the *Consultant* in writing, fails to obtain direction as required in paragraph 10.2.5, and performs work knowing it to be contrary to any laws, ordinances, rules, regulations or codes; the *Construction Manager* shall be responsible for and shall correct the violations thereof; and shall bear the costs, expenses and damages attributable to the failure to comply with the provisions of such laws, ordinances, rules, regulations, or codes.

GC 10.3 PATENT FEES

- 10.3.1 The *Construction Manager* shall pay the royalties and patent licence fees required for the performance of the *Contract*. The amount incurred shall be included in the *Cost of the Work* in accordance with paragraph 7.1.12 of the Agreement A-7 – COST OF THE WORK. The *Construction Manager* shall hold the *Owner* harmless from and against claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the *Construction Manager*’s performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention by the *Construction Manager* or anyone for whose acts the *Construction Manager* may be liable.
- 10.3.2 The *Owner* shall hold the *Construction Manager* harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Construction Manager*’s performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention in executing anything for the purpose of the *Contract*, or any model, plan or design which was supplied to the *Construction Manager* as part of the *Contract*.

GC 10.4 WORKERS' COMPENSATION

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

PART 11 INSURANCE — CONTRACT SECURITY

GC 11.1 INSURANCE

- 11.1.1 Without restricting the generality of GC 12.1 – INDEMNIFICATION, the *Construction Manager* shall provide, maintain and pay for the following insurance coverages, the minimum requirements of which are specified in CCDC 41 – INSURANCE REQUIREMENTS in effect at the time of bid closing except as hereinafter provided:
- .1 General liability insurance in the name of the *Construction Manager* and include, or in the case of a single, blanket policy, be endorsed to name, the *Owner* and the *Consultant* as insureds but only with respect to liability, other than legal liability arising out of their sole negligence, arising out of the operations of the *Construction Manager* with regard to the *Work*. General liability insurance shall be maintained from the date of commencement of the *Services* until one year from the date of *Substantial Performance of the Work*. Liability coverage shall be provided for completed operations hazards from the date of *Substantial Performance of the Work*, as set out in the certificate of *Substantial Performance of the Work*, on an ongoing basis for a period of 6 years following *Substantial Performance of the Work*.
 - .2 Automobile Liability Insurance from the date of commencement of the *Services* until one year after the date of *Substantial Performance of the Work*.
 - .3 Aircraft or Watercraft Liability Insurance when owned or non-owned aircraft or watercraft are used directly or indirectly in the performance of the *Work*.
 - .4 "Broad form" property insurance in the joint names of the *Construction Manager*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The "broad form" property insurance shall be provided from the date of commencement of the *Work* until the earliest of:
 - (1) 10 calendar days after the date of *Substantial Performance of the Work*;
 - (2) on the commencement of use or occupancy of any part or section of the *Work* unless such use or occupancy is for construction purposes, habitational, office, banking, convenience store under 465 square metres in area, or parking purposes, or for the installation, testing and commissioning of equipment forming part of the *Work*;
 - (3) when left unattended for more than 30 consecutive calendar days or when construction activity has ceased for more than 30 consecutive calendar days.
 - .5 Boiler and machinery insurance in the joint names of the *Construction Manager*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The coverage shall be maintained continuously from commencement of use or operation of the boiler and machinery objects insured by the policy and until 10 calendar days after the date of *Substantial Performance of the Work*.
 - .6 The "Broad form" property and boiler and machinery policies shall provide that, in the case of a loss or damage, payment shall be made to the *Owner* and the *Construction Manager* as their respective interests may appear. In the event of loss or damage:
 - (1) the *Construction Manager* shall act on behalf of the *Owner* for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the *Construction Manager* shall proceed to restore the *Work*. Loss or damage shall not affect the rights and obligations of either party under the *Contract* except that the *Construction Manager* shall be entitled to such reasonable extension of *Contract Time* relative to the extent of the loss or damage as the *Consultant* may recommend in consultation with the *Construction Manager*;
 - (2) the *Construction Manager* shall be entitled to receive from the *Owner*, in addition to the amount due under the *Contract*, the amount which the *Owner's* interest in restoration of the *Work* has been appraised, such amount to be paid as the restoration of the *Work* proceeds in accordance with the progress payment provisions. In addition the *Construction Manager* shall be entitled to receive from the payments made by the insurer the amount of the *Construction Manager's* interest in the restoration of the *Work*; and
 - (3) to the *Work* arising from the work of the *Owner*, the *Owner's* own forces or another contractor, the *Owner* shall, in accordance with the *Owner's* obligations under the provisions relating to construction by *Owner* or other contractors, pay the *Construction Manager* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as in accordance with the progress payment provisions.
 - .7 Contractors' Equipment Insurance from the date of commencement of the *Work* until one year after the date of *Substantial Performance of the Work*.
- 11.1.2 Prior to commencement of the *Services* and upon the placement, renewal, amendment or extension of all or any part of the insurance, the *Construction Manager* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to this *Contract*.

- 11.1.3 The parties shall pay their share of the deductible amounts in direct proportion to their responsibility in regards to any loss for which the above policies are required to pay, except where such amounts may be excluded by the terms of the *Contract*.
- 11.1.4 If the *Construction Manager* fails to provide or maintain insurance as required by the *Contract Documents*, then the *Owner* shall have the right to provide and maintain such insurance and give evidence to the *Construction Manager* and the *Consultant*. The *Construction Manager* shall pay the cost thereof to the *Owner* on demand or the *Owner* may deduct the cost from the amount which is due or may become due to the *Construction Manager*.
- 11.1.5 All required insurance policies shall be with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Work*.
- 11.1.6 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies reduced insurance requirements, the parties shall address such reduction, prior to the *Construction Manager*'s insurance policy becoming due for renewal, and record any agreement in a *Change Order*.
- 11.1.7 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies increased insurance requirements, the *Owner* may request the increased coverage from the *Construction Manager* by way of a *Change Order*.
- 11.1.8 A *Change Directive* shall not be used to direct a change in the insurance requirements in response to the revision of CCDC 41 – INSURANCE REQUIREMENTS.

GC 11.2 CONTRACT SECURITY

- 11.2.1 The *Construction Manager* shall, prior to commencement of the *Work* or within the specified time, provide to the *Owner* any *Contract* security required by this *Contract* as in accordance with paragraph 7.1.13 of the Agreement A-7 – COST OF THE WORK.
- 11.2.2 If this *Contract* requires surety bonds to be provided, such bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until the fulfilment of this *Contract*. The form of such bonds shall be in accordance with the latest edition of the CCDC approved bond forms.

PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY

GC 12.1 INDEMNIFICATION

- 12.1.1 Without restricting the parties' obligation to indemnify as described in paragraphs 12.1.4 and 12.1.5, the *Owner* and the *Construction Manager* shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to, their involvement as parties to this *Contract*, provided such claims are:
 - .1 caused by:
 - (1) the negligent acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
 - (2) a failure of the party to the *Contract* from whom indemnification is sought to fulfill its terms or conditions; and
 - .2 made by *Notice in Writing* within a period of 6 years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work* issued pursuant to paragraph 5.5.2.2 of GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work*.

The parties expressly waive the right to indemnity for claims other than those provided for in this *Contract*.
- 12.1.2 The obligation of either party to indemnify as set forth in paragraph 12.1.1 shall be limited as follows:
 - .1 In respect to losses suffered by the *Owner* and the *Construction Manager* for which insurance is to be provided by either party pursuant to GC 11.1 – INSURANCE, the insurance limit in effect at the time of bid closing.
 - .2 In respect to losses suffered by the *Owner* and the *Construction Manager* for which insurance is not required to be provided by either party in accordance with GC 11.1 – INSURANCE, the greater of the *Price of the Work* or \$2,000,000, but in no event shall the sum be greater than \$20,000,000.

- .3 In respect to claims by third parties for direct loss resulting from bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, the obligation to indemnify is without limit. In respect to all other claims for indemnity as a result of claims advanced by third parties, the limits of indemnity set forth in paragraphs 12.1.2.1 and 12.1.2.2 shall apply.
- 12.1.3 The obligation of either party to indemnify the other as set forth in paragraphs 12.1.1 and 12.1.2 shall be inclusive of interest and all legal costs.
- 12.1.4 The *Owner* and the *Construction Manager* shall indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of their obligations described in GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES.
- 12.1.5 The *Owner* shall indemnify and hold harmless the *Construction Manager* from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings:
 - .1 as described in GC 10.3 – PATENT FEES, and
 - .2 arising out of the *Construction Manager's* performance of the *Contract* which are attributable to a lack of or defect in title or an alleged lack of or defect in title to the *Place of the Work*.
- 12.1.6 In respect to any claim for indemnity or to be held harmless by the *Owner* or the *Construction Manager*:
 - .1 *Notice in Writing* of such claim shall be given within a reasonable time after the facts upon which such claim is based became known;
 - .2 should either party be required as a result of its obligation to indemnify the other pay or satisfy a final order, judgment or award made against the party entitled by this contract to be indemnified, then the indemnifying party upon assuming all liability for any costs that might result shall have the right to appeal in the name of the party against whom such final order or judgment has been made until such rights of appeal have been exhausted.

GC 12.2 WAIVER OF CLAIMS

- 12.2.1 Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Construction Manager* waives and releases the *Owner* from all claims which the *Construction Manager* has or reasonably ought to have knowledge of that could be advanced by the *Construction Manager* against the *Owner* arising from the *Construction Manager's* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the date of *Substantial Performance of the Work*, except as follows:
 - .1 claims arising prior to or on the date of *Substantial Performance of the Work* for which *Notice in Writing* of claim has been received by the *Owner* from the *Construction Manager* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;
 - .2 indemnification for claims advanced against the *Construction Manager* by third parties for which a right of indemnification may be asserted by the *Construction Manager* against the *Owner* pursuant to the provisions of this *Contract*;
 - .3 claims for which a right of indemnity could be asserted by the *Construction Manager* pursuant to the provisions of paragraphs 12.1.4 or 12.1.5 of GC 12.1 – INDEMNIFICATION; and
 - .4 claims resulting from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.2.2 The *Construction Manager* waives and releases the *Owner* from all claims referenced in paragraph 12.2.1.4 except for those referred in paragraphs 12.2.1.2 and 12.2.1.3 and claims for which *Notice in Writing* of claim has been received by the *Owner* from the *Construction Manager* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.2.3 Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Owner* waives and releases the *Construction Manager* from all claims which the *Owner* has or reasonably ought to have knowledge of that could be advanced by the *Owner* against the *Construction Manager* arising from the *Owner's* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the date of *Substantial Performance of the Work*, except as follows:
 - .1 claims arising prior to or on the date of *Substantial Performance of the Work* for which *Notice in Writing* of claim has been received by the *Construction Manager* from the *Owner* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;

- .2 indemnification for claims advanced against the *Owner* by third parties for which a right of indemnification may be asserted by the *Owner* against the *Construction Manager* pursuant to the provisions of this *Contract*;
 - .3 claims for which a right of indemnity could be asserted by the *Owner* against the *Construction Manager* pursuant to the provisions of paragraph 12.1.4 of GC 12.1 – INDEMNIFICATION;
 - .4 damages arising from the *Construction Manager*'s actions which result in substantial defects or deficiencies in the *Work*. "Substantial defects or deficiencies" mean those defects or deficiencies in the *Work* which affect the *Work* to such an extent or in such a manner that a significant part or the whole of the *Work* is unfit for the purpose intended by the *Contract Documents*;
 - .5 claims arising pursuant to GC 12.3 – WARRANTY; and
 - .6 claims arising from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.2.4 The *Owner* waives and releases the *Construction Manager* from all claims referred to in paragraph 12.2.3.4 except claims for which *Notice in Writing* of claim has been received by the *Construction Manager* from the *Owner* within a period of six years from the date of *Substantial Performance of the Work* should any limitation statute of the Province or Territory of the *Place of the Work* permit such agreement. If the applicable limitation statute does not permit such agreement, within such shorter period as may be prescribed by:
- .1 any limitation statute of the Province or Territory of the *Place of the Work*; or
 - .2 the Civil Code of Quebec, if the *Place of the Work* is the Province of Quebec.
- 12.2.5 The *Owner* waives and releases the *Construction Manager* from all claims referenced in paragraph 12.2.3.6 except for those referred in paragraph 12.2.3.2, 12.2.3.3 and those arising under GC 12.3 – WARRANTY and claims for which *Notice in Writing* has been received by the *Construction Manager* from the *Owner* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.2.6 "Notice in Writing of claim" as provided for in GC 12.2 – WAIVER OF CLAIMS to preserve a claim or right of action which would otherwise, by the provisions of GC 12.2 – WAIVER OF CLAIMS, be deemed to be waived, must include the following
- .1 a clear and unequivocal statement of the intention to claim;
 - .2 a statement as to the nature of the claim and the grounds upon which the claim is based; and
 - .3 a statement of the estimated quantum of the claim.
- 12.2.7 The party giving "Notice in Writing of claim" as provided for in GC 12.2 – WAIVER OF CLAIMS shall submit within a reasonable time a detailed account of the amount claimed.
- 12.2.8 Where the event or series of events giving rise to a claim made under paragraphs 12.2.1 or 12.2.3 has a continuing effect, the detailed account submitted under paragraph 12.2.7 shall be considered to be an interim account and the party making the claim shall submit further interim accounts, at reasonable intervals, giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 12.2.9 If a *Notice in Writing* of claim pursuant to paragraph 12.2.1.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 12.2.3.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.
- 12.2.10 If a *Notice in Writing* of claim pursuant to paragraph 12.2.3.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 12.2.1.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.

GC 12.3 WARRANTY

- 12.3.1 Except for extended warranties as described in paragraph 12.3.7, the warranty period under this *Contract* is one year from the date of *Substantial Performance of the Work*.
- 12.3.2 The *Construction Manager* shall be responsible for the proper performance of the *Work* to the extent that the design and *Contract Documents* permit such performance.
- 12.3.3 The *Owner*, through the *Consultant*, shall promptly give the *Construction Manager* *Notice in Writing* of observed defects and deficiencies which occur during the one year warranty period.
- 12.3.4 Subject to paragraph 12.3.2, the *Construction Manager* shall correct promptly, at the *Construction Manager's* expense, defects or deficiencies in the *Work* which appear prior to and during the one year warranty period.

- 12.3.5 The *Construction Manager* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.4.
- 12.3.6 The *Construction Manager* shall enforce the warranty obligations of the *Subcontractors* and *Suppliers* which shall include the following provisions:
- .1 the *Subcontractor* or the *Supplier* shall correct promptly at its expense defects or deficiencies in the work which appear prior to and during the warranty periods specified in the *Contract Documents*; and .
 - .2 the *Subcontractor* or the *Supplier* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.4.
- 12.3.7 Any extended warranties required beyond the one year warranty period as described in paragraph 12.3.1 shall be as specified in the *Contract Documents*. Extended warranties shall be issued by the warrantor to the benefit of the *Owner*. The *Construction Manager's* responsibility with respect to extended warranties shall be limited to obtaining any such extended warranties from the warrantor. The obligations under such extended warranties are solely the responsibilities of the warrantor.

GENERAL

These Supplementary Conditions supplement or amend the Agreement, Definitions, Schedules, Appendix, and General Conditions of the *Contract* (CCDC 5B-2010) between the *Construction Manager* and *Owner*.

Where any article or paragraph in the CCDC 5B-2010 document is supplemented by one of the following, the provisions of such article or paragraph shall remain in effect and the supplemental provisions shall be considered as added thereto. Where any article or paragraph of the CCDC 5B-2010 document is amended, deleted, or superseded by any of the following, the provisions of such article or paragraph not so amended, voided, deleted or superseded shall remain in effect.

The CCDC 5B-2010 document is amended as follows:

AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER – FOR SERVICES AND CONSTRUCTION

Article A-1 THE SERVICES AND THE WORK

Delete paragraph 1.3 and replace with the following:

“commence the *Services* and *Work* upon receipt of a *Notice to Commence Work*, attain *Substantial Performance of the Work* by the *Scheduled Substantial Performance Date*, and attain *Total Completion of the Work* within sixty (60) calendar days of *Substantial Performance of the Work*.”

Article A-6 REIMBURSABLE EXPENSES FOR THE SERVICES

Add new paragraphs 6.3 and 6.4 as follows:

- “6.3 *Construction Manager* shall obtain the prior written approval of *Owner* before incurring any reimbursable expenses that (a) are not identified in Schedule A2 to the Agreement, and/or (b) exceed \$1,000.
- 6.4 The administrative charge referenced in Article A-6.1 shall not exceed a total amount of \$30,000, without the prior written approval and consent of the *Owner* and *Lender*.”

Article A-7 – COST OF THE WORK

Add new paragraph 7.7 as follows :

“7.7 *Owner* and *Construction Manager* acknowledge and agree that the *Cost of the Work* for the items listed in Division 1 of the *Construction Budget*, and the *Construction Managers’ Fee* for the *Services* referenced in Article 5.2.3, shall not exceed the amounts included in Division 1 of the *Construction Budget*, without the prior written consent and approval of the *Owner* and *Lender*.”

Article A-8 – OPTIONS

Delete paragraphs 8.1 to 8.4 in their entirety and replace with “Intentionally deleted”.

Article A-9 – PAYMENT

Amend paragraph 9.1 by deleting the second sentence of the preamble and replace with: “Subject to the

terms and conditions of the *Contract Documents* and the *Construction Act*, the *Owner* shall pay the *Construction Manager*.”

Amend paragraph 9.3.1(1) by deleting the words “for the first 60 days”.

Delete paragraph 9.3.1(2) in its entirety and replace with “Intentionally deleted”.

Article A-13 – GENERAL

Add new Article A-13 GENERAL as follows:

“ARTICLE A-13 -GENERAL

13.1 Time is of the essence of this *Contract*.

13.2 The *Construction Manager* shall be an independent contractor in performing its obligations under the *Contract*. The *Contract* does not create any partnership, joint venture or other relationship of the *Construction Manager* with the *Owner* other than the relationship of an independent contractor. Nothing contained in the *Contract* shall create any employment or contractual relationship between the *Owner* (or anyone acting on its behalf) and any *Construction Management* personnel.

13.3 All parties agree that this *Agreement* may be executed in any number of counterparts and may be executed via electronic signature. Each executed counterpart will be deemed to be an original. All executed counterparts taken together will constitute one agreement. To evidence the fact that it has executed this *Agreement*, a party may send a copy of its executed counterpart to the other party by electronic mail in Portable Document File (PDF) format.”

SCHEDULE A1 TO THE AGREEMENT – SERVICES AND COMPENSATION

Add new paragraphs 1.6.2(4) and (5) as follows:

“(4) Make recommendations to *Owner* for approval to award to *Subcontractors* and *Suppliers*.

(5) Provide *Owner* with copies of proposed contracts, purchase orders, and/or other agreements with *Subcontractors* and/or *Suppliers*, if requested by *Owner*.”

DEFINITIONS

Amend the definition of “Consultant” by adding the following to the end of the definition: “The *Consultant* has been appointed by the *Owner* to act for the *Owner* in a professional capacity in relation to the *Work*.”

Add the following definitions:

Applicable Law

Applicable Law means foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal or rural municipality by-law, order, directive, judgment, decree, injunction, decision, ruling, award or writ of any *Governmental Authority* or other requirement having the force of law relating or applicable to the *Construction Manager*, the *Owner* and/or the *Project*.

Completion Agreement

Completion Agreement means the Completion Agreement entered into by the *Owner* and

Construction Manager, dated April [insert date], 2025.

Construction Act

Construction Act means the Ontario *Construction Act*, RSO 1990, c C.30 and all Regulations made thereto, and as may be amended.

Construction Budget

Construction Budget means the construction budget set out in Schedule “E” to this *Contract*.

Governmental Authorities

Governmental Authorities means any government, legislature, municipality, regulatory authority, agency, commission, department, board or other law regulation or rule making entity (including, without limitation, a minister of the *Crown*).

Lender

Lender means Duca Financial Services Credit Union Ltd.

Notice to Commence Work

Notice to Commence Work means a written notice issued by the *Owner* to the *Construction Manager*, instructing *Construction Manager* to commence the *Work*.

OHSA

OHSA means the *Occupational Health and Safety Act*, R.S.O. 1990, c.01. and amended, and all Regulations made thereto, as may be amended.

Original Owner

Original Owner means 2460467 Ontario Inc. and as defined in the *Completion Agreement*.

Proper Invoice

Proper Invoice means a written bill or other request for payment for services and/or materials comprising the *Services* and the *Work* performed under this *Contract* issued by the *Construction Manager*, provided such bill or request, contains the following information:

1. the *Construction Manager*'s name and address;
2. the *Construction Manager*'s HST registration number;
3. the date of the *Proper Invoice* and the period during which the services or materials were supplied to the *Owner*;
4. information identifying the authority, whether in this *Contract* or otherwise, under which the services or materials were supplied;
5. a description of the *Services* or *Work*, or the portion thereof, including quantity where appropriate, of the services or materials that were supplied;
6. Name and address of the *Owner*, and *Owner*'s unique *Project* number, if any;
7. Name and address of the *Project*;
8. the amount the *Construction Manager* is requesting to be paid by the *Owner*, separating out any reimbursable expenses, statutory or other holdbacks, set-offs, and HST;
9. the amount payable for the services or materials that were supplied, and the payment terms;

10. the name, title, telephone number and mailing address of the person at the *Construction Manager* to whom payment is to be sent;
11. a copy of the updated construction schedule, which is required to be updated monthly in accordance with GC 3.5.1.4 of the *Contract*; and
12. any other information that may be prescribed by the *Construction Act*.

Scheduled Substantial Performance Date

Scheduled Substantial Performance Date means April 30, 2026, as may be amended in accordance with the terms of this *Contract*.

Submittals

Submittals are documents or other forms of information and items which the *Construction Manager* is required to submit to the *Owner* or *Consultant* and include, without limitation, *Shop Drawings*, samples, models, mock-ups, record drawings, test reports, certificates, diagrams, manuals, and *As-built Drawings*.

Total Completion of the Work

Total Completion of the Work means that all of the *Services* and *Work* under the *Contract* are fully complete as required by and prescribed in the *Contract Documents*, including, without limitation, the rectification of any, and all, defects and/or deficiencies.

Work Site

Work Site means, within the *Place of the Work*, the area shown on the drawings, or designated by the *Consultant* or *Owner*, where the *Work* is to be carried out.

GENERAL CONDITIONS

GC 1.1 CONTRACT DOCUMENTS

Amend paragraph 1.1.6.1 by (a) inserting “*Completion Agreement*” to the top of the list, and (b) deleting “Supplementary Conditions, if any” and inserting as the second item at the top of the list (just after *Completion Agreement*), the following: “Supplementary Conditions”.

GC 2.1 OWNER’S RESPONSIBILITIES

Amend paragraph 2.1.1 by adding the following to the end of the paragraph: “provided that, at all times, the *Construction Manager*, acting reasonably, provides sufficient information and documentation to the *Owner* in a timely manner in order for the *Owner* to make such approvals.”

Delete paragraph 2.1.1.6 in its entirety and replace with “Intentionally deleted”.

Amend paragraph 2.1.1.8 by deleting the word “immediately” and replace with “as soon as reasonably practical”.

GC 2.2 AUTHORITY OF THE CONSULTANT

Amend paragraph 2.2.2 by (a) adding the words “and *Owner*” at the end of the paragraph and (b) adding a second sentence as follows: “*The Construction Manager’s* consent shall not be unreasonably withheld.”

Amend paragraph 2.2.3 by deleting the words “against whom the *Construction Manager* makes no reasonable objection and”.

GC 2.3 CONSULTANT’S RESPONSIBILITIES

Amend paragraph 2.3.7 by deleting “Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, the” and replacing with “The”.

Delete paragraph 2.3.13 in its entirety and replace with the following:

“2.3.13 The *Construction Manager* shall request any additional instructions, information or clarifications that may be required from the *Consultant* or *Owner*, which are needed for the performance of the *Work*, promptly upon discovering that such instructions, information, or clarifications are required for the completion of the *Work*. During the progress of the *Work*, the *Owner* or *Consultant* may furnish *Supplemental Instructions* to the *Construction Manager* with respect to requests made to it with reasonable promptness or in accordance with a schedule for such instructions agreed to by the *Owner*, *Consultant*, and the *Construction Manager*.”

GC 2.4 REVIEW AND INSPECTION OF THE WORK

Amend paragraph 2.4.1 by adding “and *Owner*” after the word “*Consultant*” in the second sentence.

Amend paragraphs 2.4.2 by adding “and *Owner*” after the word “*Consultant*”.

Amend paragraph 2.4.5 by adding “or the *Owner*” after the word “*Consultant*”.

GC 2.5 DEFECTIVE WORK

Amend GC 2.5.1 by adding the words “*Owner* or” before the word “*Consultant*” in the first line.

Amend paragraph 2.5.3 by adding “*Owner* or” before “*Consultant*” in the first line.

GC 3.1 CONTROL OF THE WORK

Amend paragraph 3.1.1 by (a) adding the words “schedule, coordinate,” after the word “effectively”, and (b) add the following words to the end of paragraph “and shall perform and complete the *Services* and the *Work* in a high quality and good and workmanlike manner.”

Amend paragraph 3.1.2 by adding the word “schedules” after the word “techniques”.

GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORCONSTRUCTION MANAGERS

Delete paragraphs 3.2.2.1, 3.2.2.2, and 3.2.2.4 in their entirety and replace with “Intentionally deleted”.

Delete paragraph 3.2.3.2 in its entirety and replace with the following:

“cooperate with other contractors and *Owner’s* own forces, and coordinate and schedule the activities and *Work* of other contractors and *Owner’s* own forces with the *Work* of the *Contract* and connect as specified or shown in the *Contract Documents*.”

Add new paragraph 3.2.3.4 as follows:

- “.4 subject to GC9.4 CONSTRUCTION SAFETY, for the *Owner's* own forces and for other contractors, assume overall responsibility for safety on the *Project*, including compliance with all aspects of the applicable health and safety legislation at the *Place of the Work*.”

GC 3.7 SUBCONTRACTORS AND SUPPLIERS."

- Amend paragraph 3.7.2 by adding the words “, copies of the proposed contracts, and all other documentation requested by the *Owner*, acting reasonably,” after the word “subcontracted”.

GC 3.8 LABOUR AND PRODUCTS

- Amend paragraph 3.8.2 by adding the following new sentence to the end of the paragraph: “All *Products* and workmanship shall be of a good quality.”

- Add new paragraphs 3.8.3 and 3.8.4 as follows:

“3.8.3 *Owner* and *Construction Manager* acknowledge and agree that the beneficial ownership of *Products* shall pass to the *Owner* upon payment and/or incorporation into the *Work*, whichever is earlier. However, any *Products* delivered to the *Place of the Work*, but not yet incorporated into the *Work*, shall remain at the risk of the *Construction Manager*.

3.8.4 The *Construction Manager* is responsible for the safe on-site storage of *Products* and their protection (including *Products* supplied by the *Owner* to be installed under the *Contract*) in such ways as to avoid dangerous conditions or contamination to the *Products* or other persons or property and in locations at the *Place of the Work* to the satisfaction of the *Owner*. The *Construction Manager* shall only store *Products* or equipment at locations at the *Place of the Work* which have been designated in writing by the *Owner* or *Landlord* for such purposes (if any). The *Construction Manager* acknowledges and accepts that the *Owner* may not have space for storage of *Products* or equipment at the *Place of the Work* and, as such, the *Construction Manager* agrees that the *Owner* shall not have any responsibility or liability to permit the storage of *Products* or equipment at the *Place of the Work*.”

GC 3.9 DOCUMENTS AT THE SITE

- Amend paragraph 3.9.1 by deleting “submittals” and replacing with “*Submittals, Supplemental Instructions, Change Orders, Change Directives, Shop Drawings*,”.

GC 3.10 SHOP DRAWINGS

- Add the words ‘AND OTHER SUBMITTALS’ to the Title after SHOP DRAWINGS.

- Add “and *Submittals*” after the words ‘*Shop Drawings*’ in paragraphs 3.10.1, 3.10.2, 3.10.3, 3.10.4, 3.10.5, 3.10.7, 3.10.8, 3.10.8.2, 3.10.9, 3.10.10, 3.10.11, and 3.10.12.

- Delete paragraph 3.10.12 in its entirety and substitute the following:

“The *Consultant* will review and return *Shop Drawings* and *Submittals* in accordance with the schedule agreed upon in GC 3.10.3, or, in the absence of such schedule, with reasonable promptness, provided that such period of time shall be subject to reasonable extension if the *Construction Manager* submits an unusually large number or volume of *Shop Drawings* and/or *Submittals*. If, for any reason, the *Consultant* is unable to process them within the agreed-upon schedule or with reasonable promptness, the *Construction Manager* shall notify the *Consultant*

and they shall meet to review and arrive at an acceptable revised schedule for processing.”

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

Revise the heading, “**GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER**” to read, “**GC 5.1 FINANCING INFORMATION REQUIRED**”.

Delete paragraphs 5.1.1 and 5.1.2 in their entirety and replace with the following:

“5.1.1 The *Construction Manager* shall provide the *Owner* with timely *Notice in Writing* of any material change in its financial ability to fulfil its obligations under the *Contract*.”

GC 5.2 ACCOUNTING AND AUDIT

Delete paragraph 5.2.2 in its entirety and replace with the following:

“For a period of two (2) years after the application for final payment (or for such other period specified in the *Contract*), the *Owner* shall be afforded reasonable access to all of the *Construction Manager’s* books, records, correspondence, instructions, drawings, receipt vouchers, *Subcontractor* and *Supplier* invoices, and memoranda relating to the *Cost of the Work*, and for this purpose the *Construction Manager* shall preserve all such records for a period of two (2) years after the application for final payment, or for such longer period as may be required by *Applicable Laws*.”

GC 5.3 PROGRESS PAYMENT FOR THE SERVICES

Delete paragraph 5.3.1 in its entirety and substitute the following:

“Subject to the requirements of the *Construction Act*, and the delivery of any notice of non-payment, the *Owner* shall make payment for the *Construction Manager’s Fee* for the *Services* as described in paragraph of 5.2 of Article A-5 of the Agreement – CONSTRUCTION MANAGER’S FEE and on account of the reimbursable expenses for the *Service* as described in Article A-6 of the Agreement – REIMBURSABLE EXPENSES FOR THE SERVICES no later than twenty-eight (28) days after receipt of the *Construction Manager’s Proper Invoice*.”

GC 5.4 PROGRESS PAYMENT FOR THE WORK

Delete paragraphs 5.4.1 to 5.4.7 and replace with the following:

“5.4.1 At least three (3) *Working Days* prior to issuing a *Proper Invoice*, the *Consultant* and *Construction Manager* shall meet to discuss a draft application for payment. The *Owner* shall be given notice of the meeting and be entitled, but not required, to attend the meeting. The draft application for payment will be submitted in a format to be mutually agreed upon by the *Owner*, *Consultant*, and *Construction Manager*.”

5.4.2 Applications for payment on account as provided in Article A-9 of the Agreement – PAYMENT shall be made pursuant to the delivery of *Proper Invoices* which shall be given to the *Owner* and the *Consultant* on a monthly basis as the *Work* progresses.

5.4.3 On or before the twenty-fifth (25th) calendar day of each month, or such other date that the *Construction Manager* and *Owner* may agree, the *Construction Manager* shall submit to the *Owner* and *Consultant* on a *Working Day*, a *Proper Invoice* for payment for the *Work* and, if applicable, the *Services* for the previous month. Subject to the provisions

of the *Contract* and the *Construction Act*, including the issuance of a notice of non-payment, payment shall be made by *Owner* to *Construction Manager* of the amount outlined in the *Proper Invoice* within twenty-eight (28) calendar days of the *Owner's* receipt of the *Proper Invoice*. If a notice of non-payment is issued by the *Owner*, the *Owner* shall pay the *Construction Manager* the undisputed portion of the *Proper Invoice* within twenty-eight (28) calendar days after receiving the *Proper Invoice*.

- 5.4.4 The *Construction Manager* shall submit, with each *Proper Invoice* after the first, a Statutory Declaration, on an original form of CCDC Document 9A-2001, declaring that payments in connection with the *Work*, as noted in the Statutory Declaration, have been made to the end of the period immediately preceding that covered by the current application.
- 5.4.5 The *Construction Manager* shall submit, with each *Proper Invoice* (a) evidence of compliance with workers' compensation/workplace safety and insurance board legislation at the *Place of the Work*, including payments due thereunder, with each application for progress payment, and (b) proposed updated *Schedule* in accordance with GC 3.5.
- 5.4.6 The *Construction Manager* shall cause payment to be made to all *Subcontractors*, trade contractors, workers and *Suppliers* promptly when due and payable in accordance with the *Construction Act*.
- 5.4.7 After receipt by the *Owner* and the *Consultant* of a *Proper Invoice* submitted by the *Construction Manager* in accordance with GC 5.4 – APPLICATIONS FOR PROGRESS PAYMENTS PURSUANT TO THE SUBMISSION OF PROPER INVOICES:
- .1 the *Consultant* will issue to the *Owner*, no later than ten (10) *Working Days* after the *Consultant's* receipt of the *Proper Invoice*, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due following its review of such *Proper Invoice*. The issuance by the *Consultant* to the *Owner* of such certificate for payment is solely for the *Owner's* internal purposes and the *Owner's* receipt or approval of such certificate shall not be a condition of, or obligation to, make payment of the *Proper Invoice* in respect of which such certificate has been issued;
 - .2 following the *Owner* and *Consultant's* review of the *Proper Invoice*, the *Construction Manager* may amend the *Proper Invoice* to reflect and incorporate the comments or changes proposed by the *Owner* and *Consultant*. For clarity, the form and date of the *Proper Invoice* cannot change despite such a revision; and
 - .3 the *Owner* shall make payments to the *Construction Manager* in accordance with GC 5.4."

GC 5.6 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

Delete paragraph 5.6.3 in its entirety and replace with "Intentionally deleted".

Delete paragraph 5.6.4 and replace with the following:

"The statutory holdback amount authorized by the certificate for payment referred to in GC 5.6.2 is due and payable, subject to Article A-9, following the expiry of the applicable period for the preservation of claims for lien provided: (i) there are no claims for lien or certificates of action

that have been registered against the title to the *Place of the Work* (unless discharged, vacated or for which security has been posted); (ii) the *Owner* has not received any valid written notices of lien in respect of the *Work* (for which security has not been posted); and (iii) the *Owner* has not published a notice of non-payment in the form prescribed by the *Construction Act* prior to the 40th calendar day following the publication of the certificate of *Substantial Performance of the Work*.”

Delete paragraph 5.6.5 in its entirety.

GC 5.7 PROGRESSIVE RELEASE OF HOLDBACK FOR THE WORK

Amend paragraph 5.7.1 by deleting the word “shall” in the third line and replace with “may”.

Delete paragraph 5.7.2 in its entirety and replace with “Intentionally deleted”.

GC 6.1 OWNERS RIGHT TO MAKE CHANGES

Add new paragraphs 6.1.4 to 6.1.6 as follows:

- “6.1.4 There shall be no adjustments to the *Contract Time* or *Contract Price* or compensation or payment of any kind whatsoever including potential or contingent costs for matters such as loss of profit, loss of productivity, loss of opportunity or any other such losses based on the quantity, scope or cumulative value or number of changes in the *Work* whether resulting from one or more *Change Orders* or *Change Directives*, unless agreed in writing by the parties in a *Change Order*.
- 6.1.5 If any changes in the *Work* are made by which the amount of the *Work* to be done is decreased, or if the whole or any portion of the *Work* is dispensed with, the *Owner* shall not be liable to the *Construction Manager* for any costs or damages whatsoever including, without limitation, any indirect, consequential, or special damages, such as loss of opportunity or loss of productivity. For greater certainty, where the amount of the *Work* to be done is decreased or dispensed with resulting in a credit owed to the *Owner*, the resulting credit shall not include an adjustment to the *Construction Manager’s Fee* for the *Services* or the *Construction Manager’s Fee* for the *Work*.
- 6.1.6 No extension to the *Contract Time* shall be granted for changes in the *Work* unless (a) the *Construction Manager* has identified, in writing, prior to the commencement of the *Work* impacted by the change, the extension of the *Contract Time* required for the completion of same, (b) the *Construction Manager* can clearly demonstrate that such changes impact the critical path of the applicable construction schedule, and (c) the requested extension to the *Contract Time* has been approved by the *Consultant* and *Owner* and included in a *Change Order*.

GC 6.2 CHANGE ORDER

Add new paragraphs 6.2.4 and 6.2.5 as follows:

- “6.2.4 Upon the *Construction Manager* and the *Owner* signing a *Change Order*, the *Change Order* shall constitute full settlement of all matters addressed in the *Change Order*, including, without limitation, any extension to the *Contract Time* and/or increase or decrease to the *Contract Price*.
- 6.2.5 A *Change Order* shall be the final determination of adjustments in the *Contract Price* and *Contract Time*. The *Construction Manager* shall not be entitled to submit a request for

further adjustments to the *Contract Time* or *Contract Price*, after the execution of a *Change Order*, based on the quantity, scope or cumulative value of the overall changes in the *Work*.

GC 6.5 DELAYS

- Amend paragraph 6.5.1 by adding the following to the end of the paragraph: “provided that the *Owner* shall not be liable for any indirect, consequential or special damages, including, without limitation any amount for loss of profit, loss of use, loss of productivity, and/or loss of opportunity.”
- Amend paragraph 6.5.2 by (a) deleting the words “court or other public authority” and replacing with “court, other public authority, or any legislation, regulation, instruction, or direction issued by a *Government Authority*”, and (b) adding the following to the end of the paragraph: “provided that the *Owner* shall not be liable for any indirect, consequential or special damages, including, without limitation any amount for loss of profit, loss of use, loss of productivity, and/or loss of opportunity.”
- Amend paragraph 6.5.3.3 by adding “, epidemics or pandemics” after the word “conditions”.
- Amend paragraph 6.5.4 by deleting from the first line the word “*Consultant*” and substituting the words “*Owner* and *Consultant*.”
- Add new paragraph 6.5.6 as follows:

“If the *Construction Manager* is delayed in the performance of the *Work* by an act or omission of the *Construction Manager* or anyone for whom the *Construction Manager* is responsible, then (a) the *Construction Manager* shall take all reasonable steps to put in place any scheduled recovery plan to recover such delay in order to achieve *Substantial Performance of the Work* by the *Scheduled Substantial Performance Date*; and (b) the *Construction Manager* shall not be entitled to any adjustment in the *Construction Manager’s Fee* or additional payment for such extended period of time necessary to attain *Substantial Performance of the Work*.”

GC 7.1 OWNERS RIGHT TO PERFORM THE WORK OR TERMINATE THE CONTRACT

- Amend paragraph 7.1.2 by adding (a) “, or the *Owner* determines that sufficient cause exists to justify such action” after the word “action” in the third line, and (b) deleting “*Working Days*” and replacing with “days”.
- Amend paragraph 7.1.3.2 by deleting “an acceptable schedule” with “a schedule acceptable to the *Owner*”.

GC 7.2 CONSTRUCTION MANAGER’S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

- Delete paragraph 7.2.2 in its entirety and replace with the following:
- “7.2.2 If the entirety of the *Work* is stopped or otherwise suspended for a period of ninety (90) calendar days or more under an order of a court or other public authority as the result of an act or default of the *Owner* or anyone employed or engaged by the *Owner*, or the *Owner* otherwise suspends the *Work* for any reason, the *Construction Manager* may, without prejudice to any other right or remedy that the *Construction Manager* may have, by giving the *Owner Notice in Writing*, terminate the *Contract*, provided that the stoppage or suspension is still in effect.”
- Delete paragraph 7.2.3.1 in its entirety and replace with “Intentionally deleted”.
- Delete paragraph 7.2.3.3 in its entirety and replace with the following:

“7.2.3.3 the *Owner* fails to pay the *Construction Manager* when due the undisputed portion of a *Proper Invoice*, or”

Amend paragraph 7.2.3.4 by deleting the words “, except for GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER,”.

GC 8.1 AUTHORITY OF THE CONSULTANT

Amend paragraph 8.1.3 by deleting the word “will” in the first line and replacing with “may”.

GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION

Amend paragraph 8.2.1 by (a) deleting the word “shall” and replacing with “may”, and (b) adding the following to the end of the paragraph: “, except that such appointment shall only be made if both the *Owner* and *Construction Manager* agree to the appointment.”

Amend paragraph 8.2.4 by (a) adding the words “, subject to paragraph 8.2.1” after “8.2.2,” in the second line, and (b) deleting the word “shall” in the second line and replacing with “may”.

Delete paragraph 8.2.6 in its entirety and replace with the following:

“8.2.6 If mediated negotiations are terminated, pursuant to the provisions in GC 8.2.5, either party may refer an unresolved dispute to the courts having jurisdiction over the dispute. Alternatively, if both parties consent, a dispute may be submitted to arbitration in accordance with rules and terms to be agreed upon by the *Owner* and *Construction Manager*. If the *Construction Manager* and the *Owner* agree to resolve the dispute by arbitration, the arbitration shall be conducted in the jurisdiction of the *Place of the Work*.”

Delete paragraph 8.2.7 in its entirety and replace with “Intentionally deleted”.

Add new paragraphs 8.2.9 and 8.2.10 as follows:

“8.2.9 Nothing in this Contract shall be deemed to affect the rights of the parties to resolve any dispute by adjudication as prescribed in the *Construction Act*.

8.2.10 Notwithstanding the dispute process set out in GC 8.2.1 to 8.2.8, the *Owner* and *Construction Manager* acknowledge and agree that disputes may be resolved through the court proceeding in respect of the insolvency of the *Original Owner*.

GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

Delete paragraph 9.2.7.4 in its entirety and replace with “Intentionally deleted”.

Amend paragraph 9.2.8.3 by adding “, including any costs incurred under paragraph 9.2.6” after the word “incurred”.

Add new paragraphs 9.2.10 and 9.2.11 as follows:

“9.2.10 The *Construction Manager* shall not, and shall ensure that the *Subcontractors* and *Suppliers* shall not, bring on to the *Place of the Work* any toxic or hazardous substances and materials, except as required in order to perform the *Work*. If such toxic or hazardous substances or materials are required, storage in quantities sufficient to allow work to proceed to the end of any current work week only shall be permitted. All such toxic and hazardous materials and substances at the *Place of the Work* shall be handled

and disposed of only in accordance with all *Applicable Law*.

- 9.2.11 The *Construction Manager* shall indemnify and hold harmless the *Owner*, *Crown*, and *Consultant*, and their respective, partners, officers, directors, agents and employees, from and against all claims, demands, liability, losses, suits and proceedings arising out of or resulting from exposure to or the presence of any toxic or hazardous substances or materials which were brought onto or made at the *Place of the Work* by the *Construction Manager*.”

GC 9.4 CONSTRUCTION SAFETY

Delete paragraph 9.4.1 in its entirety and replace with the following:

- “9.4.1 The *Construction Manager* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations and practices required by the applicable construction health and safety legislation and the *Owner’s* and *Landlord’s* health and safety policies and procedures. The *Construction Manager* shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the *Services* and the *Work*. The *Construction Manager* shall act as, and accepts the designation of, “constructor” for the *Project*, as that term is defined under the *OHSA*. The *Construction Manager* agrees to indemnify and save harmless the *Owner* and the *Crown* and their respective agents, officers, directors, employees, appointees, and assigns from all liability, damages, costs and losses, including fines and legal costs, which any such parties may incur or suffer as a result of a failure by the *Construction Manager* to properly discharge its duties as constructor.”

Add new paragraphs 9.4.2 to 9.4.4 as follows:

- “9.4.2 The *Owner* shall require all of its own forces, other contractors, employees, personnel, security guard forces (if any) and agents to comply with any and all policies, instructions, and directions of the *Construction Manager* in respect of health and safety when attending at the *Place of the Work*.”

GC 9.5 MOULD

Amend paragraph 9.5.2.3 by adding the words “, including any costs incurred” after the word “incurred”.

Delete paragraph 9.5.3.3 in its entirety and replace with the following:

- “9.5.3.3 extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Construction Manager* and the *Owner*. If, in the opinion of the *Consultant*, the *Construction Manager* has been delayed in performing the *Work* and/or has incurred additional costs under GC 9.5.1.2, the *Owner* shall reimburse the *Construction Manager* for reasonable direct costs incurred as a result of the delay and for the costs identified in paragraph 9.5.3.2, and”.

GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

Amend paragraph 10.2.1 by adding the words “and *Services*” to the end of the sentence.

GC 10.3 PATENT FEES

Delete paragraph 10.3.2 in its entirety and replace with “Intentionally deleted”.

GC 12.3 WARRANTY

Amend paragraph 12.3.2 by adding “*Services* and the” before the word “*Work*”.

Add new paragraphs 12.3.9 and 12.3.10 as follows:

- “12.3.9 Between thirty (30) and sixty (60) calendar days prior to the expiry of the warranty period, the *Owner*, with the involvement and participation of the *Construction Manager* shall carry out a detailed and exhaustive inspection of the *Work* for the purpose of establishing a final deficiency list (the “**Punch List**”). The *Construction Manager* shall promptly correct, at the *Construction Manager’s* (or applicable *Subcontractor’s*) expense, any and all defects and deficiencies in the *Work* noted in the Punch List.
- 12.3.10 Prior to the application for final payment under GC 5.7.1, the *Construction Manager* shall assign to the *Owner* the benefit of all guarantees and warranties for all *Products* and services used or incorporated in the *Work* and shall ensure that such an assignment is also effected by all *Subcontractors* and/or *Suppliers* from whom the same have been obtained.”

PART 13 – OTHER PROVISIONS

Add new Part 13 – Other Provisions as follows:

“PART 13 - OTHER PROVISIONS

GC 13.1 OWNERSHIP OF MATERIALS

- 13.1.1 Unless otherwise specified, all materials existing at the *Place* of the *Work* at the time of execution of the *Contract* shall remain the property of the *Owner*. All *Work* and *Products* delivered to the *Place of the Work* by the *Construction Manager* shall be the property of the *Owner*. The *Construction Manager* shall remove all surplus or rejected materials as its property when notified in writing to do so by the *Consultant*.

GC 13.2 CONSTRUCTION LIENS

- 13.2.1 Notwithstanding anything else in PART 5 - PAYMENT, in the event a claim for lien is registered against the *Project* or the *Place of the Work*, a claim for lien is given to the *Owner*, or the *Owner* receives any written notice of a lien, the *Owner* shall be entitled to withhold any payment otherwise due to the *Construction Manager* until such time as such claims have been dealt with as provided below.
- 13.2.2 If a claim for lien or certificate of action arising from the performance of the *Services* or the *Work* is registered against the *Project* or the *Place of the Work*, or given to the *Owner*, the *Construction Manager* shall, within ten (10) *Working Days* of becoming aware of such lien, at its expense, vacate or discharge the lien and/or certificate of action from title to the *Place of the Work*.
- 13.2.3 If a written notice of a lien arising from the performance of the *Services* or the *Work* is given to the *Owner*, the *Construction Manager* shall, within ten (10) *Working Days* of becoming aware of such lien, at its expense, vacate or arrange for the withdrawal of the written notice of a lien.
- 13.2.4 If the *Construction Manager* fails or refuses to vacate or discharge a claim for lien or certificate of action or fails or refuses to vacate or arrange for the withdrawal of a written notice of a lien, within the time prescribed in paragraphs 13.2.2 and 13.2.3 (as applicable), the *Owner* shall, at its option, be

entitled to take all steps necessary to vacate or discharge and/or discharge the lien or written notice of a lien and all costs incurred by the *Owner* in doing so (including, without limitation, legal fees on a substantial indemnity basis and any payment which may ultimately be made out of or pursuant to security posted to vacate the lien or written notice of a lien) shall be for the account of the *Construction Manager*, and the *Owner* may deduct such amounts from the amounts otherwise due or owing to the *Construction Manager*.

- 13.2.5 This GC 13.2 – CONSTRUCTION LIENS does not apply: (a) to construction liens claimed by the *Construction Manager*, (b) if the *Owner* has failed to pay amounts properly due under the *Contract*, or (c) to construction liens that arise as a result of any ongoing and reasonable dispute between the *Owner* and *Construction Manager*, pertaining to whether amounts are properly payable by the *Owner* under the terms of this *Contract*.”

GC 13.3 RECORDS/DAILY REPORTS/DAILY LOGS

- 13.3.1 The *Construction Manager* shall cause its supervisor, or such competent person as he or she may delegate, to prepare and maintain daily logs recording the *Work* and conditions as customarily maintained by a construction manager for similar projects (the “*Daily Logs*”). The *Daily Logs* shall include, among other things, weather conditions, a record of the work force of the *Construction Manager*, *Subcontractors*, *Suppliers* and any other forces on site, the general nature of *Project* activities, any extraordinary or emergency events which may occur, and the identities of any persons who visit the site who are not part of the day-to-day work force.
- 13.3.2 The *Construction Manager* shall also maintain records, either at its head office or at the job site, recording manpower and material resourcing on the *Project*, including records which document the activities of the *Construction Manager* and comparing that resourcing to the resourcing anticipated in the most recent version of the *Project* schedule.
- 13.3.3 Upon request by the *Owner* or the *Consultant*, the *Construction Manager* shall make available for inspection and copying all of the *Daily Logs*, other logs and records generated pursuant to this GC 13.3, along with any other routine *Project* records ordinarily maintained by the *Construction Manager*.

SCHEDULE “C” TO CCDC 5B

List of Drawings

Discipline: Architectural			
Prepared by: 4 Architecture Inc.			
Drawing #	Drawing Title	Date of Issue	Rev. #
---- BLOCK A ----			
A0.0	COVER PAGE	2022.02.25	10
A0.1	GENERAL NOTES, OBC MATRIX & SB-12	2022.02.25	10
A0.1a	TYPICAL DETAILS	2022.02.25	10
A0.2	CONSTRUCTION ASSEMBLIES	2022.02.25	10
A0.3	DOOR, WINDOW SCHEDULE AND DETAILS	2022.02.25	10
A0.3a	DOOR, WINDOW SCHEDULE AND DETAILS	2022.02.25	10
A1.0	SITE PLAN	2022.05.25	3
A2.0	BLOCK A – FIRE & SAFETY PLANS & SECTION	2022.02.25	10
A2.1	BLOCK A – FIRE & SAFETY PLANS & SECTION	2022.02.25	10
A2.2	BLOCK A – FOUNDATION PLAN	2022.02.25	10
A2.3	BLOCK A – LOWER LEVEL PLAN	2022.02.25	10
A2.4	BLOCK A – GROUND FLOOR PLAN	2022.02.25	10
A2.5	BLOCK A – SECOND FLOOR PLAN	2022.02.25	10
A2.6	BLOCK A – THIRD FLOOR PLAN	2022.02.25	10
A2.7	BLOCK A – ROOF PLAN	2022.02.25	10
A3.0	BLOCK A FRONT & REAR BUILDING ELEVATIONS	2022.02.25	10
A3.1	BLOCK A LEFT & RIGHT BUILDING ELEVATIONS	2022.02.25	10
A3.2	BLOCK A FRONT & REAR SPATIAL CALCULATION	2022.02.25	10
A3.3	BLOCK A LEFT & RIGHT SPATIAL CALCULATION	2022.02.25	10
A4.0	BLOCK A – BUILDING SECTIONS	2022.02.25	10
A5.0	UNITS A1 & B1 – LOWER LEVEL FLOOR PLANS	2022.02.25	10
A5.0a	UNIT A1 – LOWER LEVEL (MODS) FLOOR PLANS	2022.02.25	10
A5.1	UNITS A2 & B1 – GROUND FLOOR PLAN	2022.02.25	10
A5.1a	UNITS A2 – GROUND FLOOR PLAN (MODS)	2022.06.01	2
A5.2	UNIT A3, A4 & B2 – SECOND FLOOR PLAN	2022.02.25	10
A5.2a	UNITS A3 & A4 (MODS) – SECOND FLOOR	2022.02.25	10
A5.3	UNIT A3, A4 & B2 – THIRD FLOOR PLAN	2022.02.25	10
A5.3a	UNIT A3 & A4 (MODS) – THIRD FLOOR PLAN	2022.02.25	10
A6.0	ENLARGED ELEVATIONS	2022.02.25	10
A7.0	WALL SECTIONS	2022.02.25	10
A8.0	PLAN & SECTION DETAILS	2022.02.25	10
A9.0	SECTION DETAILS	2022.02.25	10
A10.0	ENLARGED STAIR PLANS	2022.02.25	10
A11.0	FIRESTOP DETAILS – PLUMBING	2022.02.25	10
A11.1	FIRESTOP DETAILS – ELECTRICAL	2022.02.25	10
A11.2	FIRESTOP DETAILS – SMOKE & ACOUSTIC (SPRAY)	2022.02.25	10
A11.3	FIRESTOP DETAILS – SMOKE & ACOUSTIC (SLEEVE)	2022.02.25	10
---- BLOCK B ----			
A0.0	COVER PAGE	2022.02.25	9
A0.1	GENERAL NOTES, OBC MATRIX & SB-12	2022.02.25	9
A0.1a	TYPICAL DETAILS	2022.02.25	9
A0.2	CONSTRUCTION ASSEMBLIES	2022.02.25	9
A0.3	DOOR, WINDOW SCHEDULE AND DETAILS	2022.02.25	9
A0.3a	DOOR, WINDOW SCHEDULE AND DETAILS	2022.02.25	9
A1.0	SITE PLAN	2022.05.25	3
A2.0	BLOCK B – FIRE & SAFETY PLANS & SECTION	2022.02.25	9
A2.1	BLOCK B – FIRE & SAFETY PLANS & SECTION	2022.02.25	9
A2.2	BLOCK B – FOUNDATION PLAN	2022.02.25	9
A2.3	BLOCK B – LOWER LEVEL PLAN	2022.02.25	9
A2.4	BLOCK B – GROUND FLOOR PLAN	2022.02.25	9

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A2.5	BLOCK B – SECOND FLOOR PLAN	2022.02.25	9
A2.6	BLOCK B – THIRD FLOOR PLAN	2022.02.25	9
A2.7	BLOCK B – ROOF PLAN	2022.02.25	9
A3.0	BLOCK B FRONT & REAR BUILDING ELEVATIONS	2022.11.18	9
A3.1	BLOCK B LEFT & RIGHT BUILDING ELEVATIONS	2022.11.18	9
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A4.0	BLOCK B – BUILDING SECTIONS	2022.02.25	9
A5.0	UNITS A1 & B1 – LOWER LEVEL FLOOR PLANS	2022.02.25	9
A5.0a	UNIT A1 – LOWER LEVEL (MODS) FLOOR PLANS	2022.02.25	10
A5.1	UNITS A2 & B1 – GROUND FLOOR PLAN	2022.02.25	9
A5.1a	UNITS A2 – GROUND FLOOR PLAN (MODS)	2022.06.01	2
A5.2	UNIT A3, A4 & B2 – SECOND FLOOR PLAN	2022.02.25	9
A5.2a	UNITS A3 & A4 (MODS) – SECOND FLOOR	2022.02.25	9
A5.3	UNIT A3, A4 & B2 – THIRD FLOOR PLAN	2022.02.25	9
A5.3a	UNIT A3 & A4 (MODS) – THIRD FLOOR PLAN	2022.02.25	9
A6.0	ENLARGED ELEVATIONS	2022.02.25	9
A7.0	WALL SECTIONS	2022.02.25	9
A8.0	PLAN & SECTION DETAILS	2022.02.25	9
A9.0	SECTION DETAILS	2022.02.25	9
A10.0	ENLARGED STAIR PLANS	2022.02.25	9
A11.0	FIRESTOP DETAILS – PLUMBING	2022.02.25	9
A11.1	FIRESTOP DETAILS – ELECTRICAL	2022.02.25	9
A11.2	FIRESTOP DETAILS – SMOKE & ACOUSTIC (SPRAY)	2022.02.25	9
A11.3	FIRESTOP DETAILS – SMOKE & ACOUSTIC (SLEEVE)	2022.02.25	9
	---- BLOCK C ----		
A0.0	COVER PAGE	2022.06.01	10
A0.1	GENERAL NOTES, OBC MATRIX & SB-12	2022.02.25	10
A0.1a	TYPICAL DETAILS	2022.02.25	10
A0.2	CONSTRUCTION ASSEMBLIES	2022.02.25	2
A0.3	DOOR, WINDOW SCHEDULE AND DETAILS	2022.02.25	10
A0.3a	DOOR, WINDOW SCHEDULE AND DETAILS	2022.02.25	10
A1.0	SITE PLAN	2022.05.25	3
A2.0	BLOCK C – FIRE & SAFETY PLANS & SECTION	2022.02.25	10
A2.1	BLOCK C – FIRE & SAFETY PLANS & SECTION	2022.06.01	2
A2.2	BLOCK C – FOUNDATION PLAN	2022.11.18	8
A2.3	BLOCK C – LOWER LEVEL PLAN	2022.06.01	2
A2.4	BLOCK C – GROUND FLOOR PLAN	2022.06.01	2
A2.5	BLOCK C – SECOND FLOOR PLAN	2022.06.01	2
A2.6	BLOCK C – THIRD FLOOR PLAN	2022.06.01	2
A2.7	BLOCK C – ROOF PLAN	2022.02.25	10
A3.0	BLOCK C FRONT & REAR BUILDING ELEVATIONS	2022.11.18	2
A3.1	BLOCK C LEFT & RIGHT BUILDING ELEVATIONS	2022.11.18	10
A3.2	BLOCK C FRONT & REAR SPATIAL CALCULATION	2022.06.01	2
A3.3	BLOCK C LEFT & RIGHT SPATIAL CALCULATION	2022.06.01	2
A4.0	BLOCK C – BUILDING SECTIONS	2022.06.01	2
A5.0	UNITS A1 & B1 – LOWER LEVEL FLOOR PLANS	2022.02.25	10
A5.0a	UNIT A1 – LOWER LEVEL (MODS) FLOOR PLANS	2022.02.25	10
A5.1	UNITS A2 & B1 – GROUND FLOOR PLAN	2022.02.25	10
A5.1a	UNITS A2 – GROUND FLOOR PLAN (MODS)	2022.06.01	2
A5.2	UNIT A3, A4 & B2 – SECOND FLOOR PLAN	2022.02.25	10
A5.2a	UNITS A3 & A4 (MODS) – SECOND FLOOR	2022.02.25	10
A5.3	UNIT A3, A4 & B2 – THIRD FLOOR PLAN	2022.02.25	10
A5.3a	UNIT A3 & A4 (MODS) – THIRD FLOOR PLAN	2022.02.25	10
A6.0	ENLARGED ELEVATIONS	2022.02.25	10
A7.0	WALL SECTIONS	2022.02.25	10
A8.0	PLAN & SECTION DETAILS	2022.02.25	10
A9.0	SECTION DETAILS	2022.02.25	10
A10.0	ENLARGED STAIR PLANS	2022.02.25	10

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A11.0	FIRESTOP DETAILS – PLUMBING	2022.02.25	10
A11.1	FIRESTOP DETAILS – ELECTRICAL	2022.02.25	10
A11.2	FIRESTOP DETAILS – SMOKE & ACOUSTIC (SPRAY)	2022.02.25	10
A11.3	FIRESTOP DETAILS – SMOKE & ACOUSTIC (SLEEVE)	2022.02.25	10
---- BLOCK D ----			
A0.0	COVER PAGE	2021.11.18	10
A0.1	GENERAL NOTES, OBC MATRIX & SB-12	2021.11.18	10
A0.1a	TYPICAL DETAILS	2021.11.18	10
A0.2	CONSTRUCTION ASSEMBLIES	2021.11.18	10
A0.3	DOOR, WINDOW SCHEDULE AND DETAILS	2021.11.18	10
A0.3a	DOOR, WINDOW SCHEDULE AND DETAILS	2021.11.18	10
A1.0	SITE PLAN	2022.05.25	3
A2.0	BLOCK D – FIRE & SAFETY PLANS & SECTION	2022.06.01	2
A2.1	BLOCK D – FIRE & SAFETY PLANS & SECTION	2022.06.01	2
A2.2	BLOCK D – FOUNDATION PLAN	2022.11.18	4
A2.3	BLOCK D – LOWER LEVEL PLAN	2022.06.01	2
A2.4	BLOCK D – GROUND FLOOR PLAN	2022.06.01	2
A2.5	BLOCK D – SECOND FLOOR PLAN	2022.06.01	2
A2.6	BLOCK D – THIRD FLOOR PLAN	2022.06.01	2
A2.7	BLOCK D – ROOF PLAN	2021.11.18	10
A3.0	BLOCK D FRONT & REAR BUILDING ELEVATIONS	2022.11.18	10
A3.1	BLOCK D LEFT & RIGHT BUILDING ELEVATIONS	2022.11.18	10
A3.2	BLOCK D FRONT & REAR SPATIAL CALCULATION	2022.06.01	2
A3.3	BLOCK D LEFT & RIGHT SPATIAL CALCULATION	2022.06.01	2
A4.0	BLOCK D – BUILDING SECTIONS	2022.06.01	2
A5.0	UNITS A1 & B1 – LOWER LEVEL FLOOR PLANS	2021.11.18	10
A5.0a	UNIT A1 – LOWER LEVEL (MODS) FLOOR PLANS	2021.11.18	10
A5.1	UNITS A2 & B1 – GROUND FLOOR PLAN	2021.11.18	10
A5.1a	UNITS A2 – GROUND FLOOR PLAN (MODS)	2022.06.01	2
A5.2	UNIT A3, A4 & B2 – SECOND FLOOR PLAN	2021.11.18	10
A5.2a	UNITS A3 & A4 (MODS) – SECOND FLOOR	2021.11.18	10
A5.3	UNIT A3, A4 & B2 – THIRD FLOOR PLAN	2021.11.18	10
A5.3a	UNIT A3 & A4 (MODS) – THIRD FLOOR PLAN	2021.11.18	10
A6.0	ENLARGED ELEVATIONS	2021.11.18	10
A7.0	WALL SECTIONS	2021.11.18	10
A8.0	PLAN & SECTION DETAILS	2021.11.18	10
A9.0	SECTION DETAILS	2021.11.18	10
A10.0	ENLARGED STAIR PLANS	2021.11.18	10
A11.0	FIRESTOP DETAILS – PLUMBING	2021.11.18	10
A11.1	FIRESTOP DETAILS – ELECTRICAL	2021.11.18	10
A11.2	FIRESTOP DETAILS – SMOKE & ACOUSTIC (SPRAY)	2022.02.25	10
A11.3	FIRESTOP DETAILS – SMOKE & ACOUSTIC (SLEEVE)	2022.02.25	10

Discipline: Landscaping

Prepared by: Marton Smith Landscape Architects

Drawing #	Drawing Title	Date of Issue	Rev. #
L1-01	Landscape plan	02/28/22	03
LD-01	Landscape details	02/28/22	03
LD-02	Landscape details	02/28/22	03
LD-03	Landscape details	02/28/22	03

Discipline: Civil

Prepared by: Ainley Group Consulting Engineers Planners

Drawing #	Drawing Title	Date of Issue	Rev. #
17541-SP	SITE PLAN	16/08/2022	15

Discipline: Structural

Prepared by: SWS Engineering Inc.

Drawing #	Drawing Title	Date of Issue	Rev. #
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**FUSIONCORP**

---- BLOCK A ----			
S-A1	BLOCK A FOUNDATION PLAN	01/11/2022	7
S-A2	BLOCK A LOWER FLOOR PLAN	21/02/2022	6
S-A3	BLOCK A GROUND FLOOR PLAN	21/02/2022	6
S-A4	BLOCK A SECOND FLOOR PLAN	21/02/2022	6
S-A5	BLOCK A THIRD FLOOR PLAN	21/02/2022	6
S-A6	BLOCK A SECTION	21/02/2022	6
---- BLOCK B ----			
S-B1	BLOCK B FOUNDATION PLAN	01/11/2022	7
S-B2	BLOCK B LOWER FLOOR PLAN	21/02/2022	6
S-B3	BLOCK B GROUND FLOOR PLAN	21/02/2022	6
S-B4	BLOCK B SECOND FLOOR PLAN	21/02/2022	6
S-B5	BLOCK B THIRD FLOOR PLAN	21/02/2022	6
S-B6	BLOCK B SECTIONS	21/02/2022	6
---- BLOCK C ----			
S-C1	BLOCK C FOUNDATION PLAN	01/11/2022	7
S-C2	BLOCK C LOWER FLOOR PLAN	21/02/2022	6
S-C3	BLOCK C GROUND FLOOR PLAN	21/02/2022	6
S-C4	BLOCK C SECOND FLOOR PLAN	21/02/2022	6
S-C5	BLOCK C THIRD FLOOR PLAN	21/02/2022	6
S-C6	BLOCK C SECTION	21/02/2022	6
---- BLOCK D ----			
S-D1	BLOCK D FOUNDATION PLAN	01/11/2022	7
S-D2	BLOCK D LOWER FLOOR PLAN	21/02/2022	6
S-D3	BLOCK D GROUND FLOOR PLAN	21/02/2022	6
S-D4	BLOCK D SECOND FLOOR PLAN	21/02/2022	6
S-D5	BLOCK D THIRD FLOOR PLAN	21/02/2022	6
S-D6	BLOCK D SECTIONS	21/02/2022	6

Discipline: Floor Joists**Prepared by: Lake Scugog Lumber Inc.**

Drawing #	Drawing Title	Date of Issue	Rev. #
---- BLOCK A ----			
	1 st Floor Framing	07/07/2021	
	2 nd Floor Framing	07/07/2021	
ME21-6001-12	Design Information – Unit 1A	07/13/2021	
ME21-6001-13	Design Information – Unit 1A	07/13/2021	
ME21-6001-14	Design Information – Unit 1A	07/13/2021	
ME21-6001-15	Design Information – Unit 1A	07/13/2021	
ME21-6001-16	Design Information – Unit 1A	07/13/2021	
	3 rd Floor Framing	07/07/2021	
ME21-6001-1	Design Information – Unit 1A	07/13/2021	
ME21-6001-2	Design Information – Unit 1A	07/13/2021	
ME21-6001-3	Design Information – Unit 1A	07/13/2021	
ME21-6001-4	Design Information – Unit 1A	07/13/2021	
ME21-6001-5	Design Information – Unit 1A	07/13/2021	
ME21-6001-6	Design Information – Unit 1A	07/13/2021	
ME21-6001-7	Design Information – Unit 1A	07/13/2021	
ME21-6001-8	Design Information – Unit 1A	07/13/2021	
ME21-6001-9	Design Information – Unit 1A	07/13/2021	
ME21-6001-10	Design Information – Unit 1A	07/13/2021	
ME21-6001-11	Design Information – Unit 1A	07/13/2021	
---- BLOCK B ----			
	1 st Floor Framing	07/07/2021	
ME21-6002-1	Design Information – Unit B1	07/13/2021	
ME21-6002-2	Design Information – Unit B1	07/13/2021	
	2 nd Floor Framing	07/07/2021	
ME21-6002-3	Design Information – Unit B1	07/13/2021	
ME21-6002-4	Design Information – Unit B1	07/13/2021	

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ME21-6001-2	Design Information – Unit 1A	07/13/2021
ME21-6001-3	Design Information – Unit 1A	07/13/2021
ME21-6001-4	Design Information – Unit 1A	07/13/2021
ME21-6001-5	Design Information – Unit 1A	07/13/2021
ME21-6001-6	Design Information – Unit 1A	07/13/2021
ME21-6001-7	Design Information – Unit 1A	07/13/2021
ME21-6001-8	Design Information – Unit 1A	07/13/2021
ME21-6001-9	Design Information – Unit 1A	07/13/2021
ME21-6001-10	Design Information – Unit 1A	07/13/2021
ME21-6001-11	Design Information – Unit 1A	07/13/2021
	3 rd Floor Framing	07/07/2021
ME21-6002-5	Design Information – Unit B1	07/13/2021
ME21-6002-6	Design Information – Unit B1	07/13/2021
ME21-6001-12	Design Information – Unit 1A	07/13/2021
ME21-6001-13	Design Information – Unit 1A	07/13/2021
ME21-6001-14	Design Information – Unit 1A	07/13/2021
ME21-6001-15	Design Information – Unit 1A	07/13/2021
ME21-6001-16	Design Information – Unit 1A	07/13/2021
	---- BLOCK C ----	
	1 st Floor Framing	07/07/2021
ME21-6002-1	Design Information – Unit B1	07/13/2021
ME21-6002-2	Design Information – Unit B1	07/13/2021
	2 nd Floor Framing	07/07/2021
ME21-6002-3	Design Information – Unit B1	07/13/2021
ME21-6002-4	Design Information – Unit B1	07/13/2021
ME21-6001-1	Design Information – Unit 1A	07/13/2021
ME21-6001-2	Design Information – Unit 1A	07/13/2021
ME21-6001-3	Design Information – Unit 1A	07/13/2021
ME21-6001-4	Design Information – Unit 1A	07/13/2021
ME21-6001-5	Design Information – Unit 1A	07/13/2021
ME21-6001-6	Design Information – Unit 1A	07/13/2021
ME21-6001-7	Design Information – Unit 1A	07/13/2021
ME21-6001-8	Design Information – Unit 1A	07/13/2021
ME21-6001-9	Design Information – Unit 1A	07/13/2021
ME21-6001-10	Design Information – Unit 1A	07/13/2021
ME21-6001-11	Design Information – Unit 1A	07/13/2021
	3 rd Floor Framing	07/07/2021
ME21-6002-5	Design Information – Unit B1	07/13/2021
ME21-6002-6	Design Information – Unit B1	07/13/2021
ME21-6001-12	Design Information – Unit 1A	07/13/2021
ME21-6001-13	Design Information – Unit 1A	07/13/2021
ME21-6001-14	Design Information – Unit 1A	07/13/2021
ME21-6001-15	Design Information – Unit 1A	07/13/2021
ME21-6001-16	Design Information – Unit 1A	07/13/2021
	---- BLOCK D ----	
	1 st Floor Framing	07/07/2021
ME21-6002-1	Design Information – Unit B1	07/13/2021
ME21-6002-2	Design Information – Unit B1	07/13/2021
	2 nd Floor Framing	07/07/2021
ME21-6002-3	Design Information – Unit B1	07/13/2021
ME21-6002-4	Design Information – Unit B1	07/13/2021
ME21-6001-1	Design Information – Unit 1A	07/13/2021
ME21-6001-2	Design Information – Unit 1A	07/13/2021
ME21-6001-3	Design Information – Unit 1A	07/13/2021
ME21-6001-4	Design Information – Unit 1A	07/13/2021
ME21-6001-5	Design Information – Unit 1A	07/13/2021
ME21-6001-6	Design Information – Unit 1A	07/13/2021
ME21-6001-7	Design Information – Unit 1A	07/13/2021
ME21-6001-8	Design Information – Unit 1A	07/13/2021

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ME21-6001-9	Design Information – Unit 1A	07/13/2021
ME21-6001-10	Design Information – Unit 1A	07/13/2021
ME21-6001-11	Design Information – Unit 1A	07/13/2021
	3 rd Floor Framing	07/07/2021
ME21-6002-5	Design Information – Unit B1	07/13/2021
ME21-6002-6	Design Information – Unit B1	07/13/2021
ME21-6001-12	Design Information – Unit 1A	07/13/2021
ME21-6001-13	Design Information – Unit 1A	07/13/2021
ME21-6001-14	Design Information – Unit 1A	07/13/2021
ME21-6001-15	Design Information – Unit 1A	07/13/2021
ME21-6001-16	Design Information – Unit 1A	07/13/2021

Discipline: Roof Trusses**Prepared by: Lake Scugog Lumber Inc.**

Drawing #	Drawing Title	Date of Issue	Rev. #
	---- BLOCK A ----		
	ROOF PLAN	2021-07-06	
	DETAILS	Feb 12 2021	
	---- BLOCK B ----		
	ROOF PLAN	2021-07-06	
	DETAILS	Feb 12 2021	
	---- BLOCK C ----		
	ROOF PLAN	2021-07-06	
	DETAILS	Feb 12 2021	
	---- BLOCK D ----		
	ROOF PLAN	2021-07-06	
	DETAILS	Feb 12 2021	
	---- BLOCK C & D ----		
	Block C & D Non-Combust ENG	Feb 12 2021	

Discipline: Mechanical**Prepared by: Jain Sustainability Consultants Inc.**

Drawing #	Drawing Title	Date of Issue	Rev. #
	---- BLOCK A ----		
M-1.0	BLOCK A, B, C, D LAYOUT - PLUMBING -	21.09.07	2
MA-1.1	FLOOR PLANS - PLUMBING -	21.09.07	3
MA-1.2	LOWER FLOOR PLAN - PLUMBING -	21.09.07	3
MA-1.3	WEeping TILES PLUMBING	21.09.07	3
MA2.0	HVAC LEGEND, HVAC LINE LEGEND, HVAC PIPING SYMBOL, DRAWING LIST & SITE PLAN	2021.09.07	3
MA2.1	UNIT A – FLOOR PLAN – HVAC	2021.09.07	3
MA2.2	UNIT B – FLOOR PLAN – HVAC	2021.09.07	3
MA2.3a	BLOCK A – LOWER FLOOR PLAN – HVAC PIPING	2021.09.07	3
MA2.3b	BLOCK A – GROUND FLOOR PLAN – HVAC PIPING	2021.09.07	3
MA2.3c	BLOCK A – SECOND FLOOR PLAN – HVAC PIPING	2021.09.07	3
MA2.3d	BLOCK A – THIRD FLOOR PLAN – HVAC PIPING	2021.09.07	3
MA2.3e	BLOCK A – SIDE ELEVATION – HVAC PIPING	2021.09.07	3
MA2.4	MECHANICAL DETAILS	2021.09.07	3
MA2.5	MECHANICAL DETAILS	2021.09.07	3
	---- BLOCK B ----		
M-1.0	BLOCK A, B, C, D LAYOUT - PLUMBING -	21.09.07	2
MB-1.1	FLOOR PLANS - PLUMBING -	21.09.07	3
MB-1.2	FLOOR PLANS - PLUMBING -	21.09.07	3
MB-1.3	LOWER FLOOR PLAN - PLUMBING -	21.09.07	3
MB-1.4	LOWER FLOOR PLAN - PLUMBING -	21.09.07	3
MB2.0	HVAC LEGEND, HVAC LINE LEGEND, HVAC PIPING SYMBOL, DRAWING LIST & SITE PLAN	2021.09.07	3
MB2.1	UNIT A – FLOOR PLAN – HVAC	2021.09.07	3
MB2.2	UNIT B – FLOOR PLAN – HVAC	2021.09.07	3

**FUSIONCORP**

MB2.3a	BLOCK B – LOWER FLOOR PLAN – HVAC PIPING	2021.09.07	3
MB2.3b	BLOCK B – GROUND FLOOR PLAN – HVAC PIPING	2021.09.07	3
MB2.3c	BLOCK B – SECOND FLOOR PLAN – HVAC PIPING	2021.09.07	3
MB2.3d	BLOCK B – THIRD FLOOR PLAN – HVAC PIPING	2021.09.07	3
MB2.3e	BLOCK B – SIDE ELEVATION – HVAC PIPING	2021.09.07	3
MB2.4	MECHANICAL DETAILS	2021.09.07	3
MB2.5	MECHANICAL DETAILS	2021.09.07	3
---- BLOCK C ----			
M-1.0	BLOCK A, B, C, D LAYOUT - PLUMBING -	21.09.07	2
MC-1.1	FLOOR PLANS - PLUMBING -	21.09.07	3
MC-1.2	FLOOR PLANS - PLUMBING -	21.09.07	3
MC-1.3	LOWER FLOOR PLAN - PLUMBING -	21.09.07	3
MC-1.4	LOWER FLOOR PLAN - PLUMBING -	21.09.07	3
MC2.0	HVAC LEGEND, HVAC LINE LEGEND, HVAC PIPING SYMBOL, DRAWING LIST & SITE PLAN	2021.09.07	3
MC2.1	UNIT A – FLOOR PLAN – HVAC	2021.09.07	3
MC2.2	UNIT B – FLOOR PLAN – HVAC	2021.09.07	3
MC2.3a	BLOCK C – LOWER FLOOR PLAN – HVAC PIPING	2021.09.07	3
MC2.3b	BLOCK C – GROUND FLOOR PLAN – HVAC PIPING	2021.09.07	3
MC2.3c	BLOCK C – SECOND FLOOR PLAN – HVAC PIPING	2021.09.07	3
MC2.3e	BLOCK C – SIDE ELEVATION – HVAC PIPING	2021.09.07	3
MC2.4	MECHANICAL DETAILS	2021.09.07	3
MC2.5	MECHANICAL DETAILS	2021.09.07	3
---- BLOCK D ----			
MD-1.1	FLOOR PLANS - PLUMBING -	21.09.07	3
MD-1.2	FLOOR PLANS - PLUMBING -	21.09.07	3
MD-1.3	LOWER FLOOR PLAN - PLUMBING -	21.09.07	3
MD-1.4	LOWER FLOOR PLAN - PLUMBING -	21.09.07	3
MD2.0	HVAC LEGEND, HVAC LINE LEGEND, HVAC PIPING SYMBOL, DRAWING LIST & SITE PLAN	2021.09.07	3
MD2.1	UNIT A – FLOOR PLAN – HVAC	2021.09.07	3
MD2.2	UNIT B – FLOOR PLAN – HVAC	2021.09.07	3
MD2.3a	BLOCK B – LOWER FLOOR PLAN – HVAC PIPING	2021.09.07	3
MD2.3b	BLOCK B – GROUND FLOOR PLAN – HVAC PIPING	2021.09.07	3
MD2.3c	BLOCK B – SECOND FLOOR PLAN – HVAC PIPING	2021.09.07	3
MD2.3d	BLOCK B – THIRD FLOOR PLAN – HVAC PIPING	2021.09.07	3
MD2.3e	BLOCK B – SIDE ELEVATION – HVAC PIPING	2021.09.07	3
MD2.4	MECHANICAL DETAILS	2021.09.07	3
MD2.5	MECHANICAL DETAILS	2021.09.07	3

Discipline: Mechanical (MECHANICAL ADDENDUM #MA-1)

Prepared by: Jain Sustainability Consultants Inc.

Drawing #	Drawing Title	Date of Issue	Rev. #
---- BLOCK A ----			
	COVER PAGE	Dec. 1, 2021	
MA-1.1	FLOOR PLANS - PLUMBING -	21.12.01	4
MA-1.2	LOWER FLOOR PLAN - PLUMBING -	21.12.01	4
MA2.1	UNIT A – FLOOR PLAN – HVAC	2021.11.25	1
MA2.2	UNIT B – FLOOR PLAN – HVAC	2021.11.25	1
MA2.4	MECHANICAL DETAILS	2021.11.25	1
---- BLOCK B ----			
	COVER PAGE	Dec. 1, 2021	
MB-1.1	FLOOR PLANS - PLUMBING -	21.12.01	4
MB-1.2	FLOOR PLANS - PLUMBING -	21.12.01	4
MB-1.3	LOWER FLOOR PLAN - PLUMBING -	21.12.01	4
MB2.1	UNIT A – FLOOR PLAN – HVAC	2021.11.25	1
MB2.2	UNIT B – FLOOR PLAN – HVAC	2021.11.25	1
MB2.4	MECHANICAL DETAILS	2021.11.25	1
---- BLOCK C ----			

**FUSIONCORP**

	COVER PAGE	Dec. 1, 2021	
MC-1.1	FLOOR PLANS - PLUMBING -	21.12.01	4
MC-1.2	FLOOR PLANS - PLUMBING -	21.12.01	4
MC-1.3	LOWER FLOOR PLAN - PLUMBING -	21.12.01	4
MC2.1	UNIT A – FLOOR PLAN – HVAC	2021.11.25	1
MC2.2	UNIT B – FLOOR PLAN – HVAC	2021.11.25	1
MC2.4	MECHANICAL DETAILS	2021.11.25	1
	---- BLOCK D ----		
	COVER PAGE	Dec. 1, 2021	
MD-1.1	FLOOR PLANS - PLUMBING -	21.12.01	4
MD-1.2	FLOOR PLANS - PLUMBING -	21.12.01	4
MD-1.3	LOWER FLOOR PLAN - PLUMBING -	21.12.01	4
MD2.1	UNIT A – FLOOR PLAN – HVAC	2021.11.25	1
MD2.2	UNIT B – FLOOR PLAN – HVAC	2021.11.25	1
MD2.4	MECHANICAL DETAILS	2021.11.25	1

Discipline: Electrical

Prepared by: Jain Sustainability Consultants Inc.

Drawing #	Drawing Title	Date of Issue	Rev. #
	---- BLOCK A ----		
EA100	LEGEND AND DETAILS (BLOCK-A)	2021.09.07	3
EA101	SITE PLAN – ELECTRICAL (BLOCK-A)	2021.09.07	3
EA102	SITE PLAN – ELECTRICAL (CONTD.) - BLOCK-A	2021.09.07	3
EA201	LIGHTING LAYOUT – TYP. HOUSES (BLOCK-A)	2021.09.07	3
EA301	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-A)	2021.09.07	3
EA401	SINGLE LINE DIAGRAM (BLOCK-A)	2021.09.07	3
EA402	SCHEDULES (BLOCK-A)	2021.09.07	3
	---- BLOCK B ----		
EB100	LEGEND AND DETAILS (BLOCK-B)	2021.09.07	3
EB101	SITE PLAN – ELECTRICAL (BLOCK-B)	2021.09.07	3
EB102	SITE PLAN – ELECTRICAL (CONTD.) - BLOCK-B	2021.09.07	3
EB201	LIGHTING LAYOUT – TYP. HOUSES (BLOCK-B)	2021.09.07	3
EB202	LIGHTING LAYOUT – TYP. HOUSES (BLOCK-B)	2021.09.07	3
EB301	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-B)	2021.09.07	3
EB302	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-B)	2021.09.07	3
EB401	SINGLE LINE DIAGRAM (BLOCK-B)	2021.09.07	3
EB402	SCHEDULES	2021.09.07	3
	---- BLOCK C ----		
EC100	LEGEND AND DETAILS (BLOCK-C)	2021.09.07	3
EC101	SITE PLAN – ELECTRICAL (BLOCK-C)	2021.09.07	3
EC102	SITE PLAN – ELECTRICAL (CONTD.) - BLOCK-C	2021.09.07	3
EC201	LIGHTING LAYOUT – TYP. HOUSES (BLOCK-C)	2021.09.07	3
EC202	LIGHTING LAYOUT – TYP. HOUSES (BLOCK-C)	2021.09.07	3
EC301	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-C)	2021.09.07	3
EC302	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-C)	2021.09.07	3
EC401	SINGLE LINE DIAGRAM (BLOCK-C)	2021.09.07	3
EC402	SCHEDULES (BLOCK-C)	2021.09.07	3
	---- BLOCK D ----		
ED100	LEGEND AND DETAILS (BLOCK-D)	2021.09.07	3
ED101	SITE PLAN – ELECTRICAL (BLOCK-D)	2021.09.07	3
ED102	SITE PLAN – ELECTRICAL (CONTD.) - BLOCK-D	2021.09.07	3
ED201	LIGHTING LAYOUT – TYP. HOUSES (BLOCK-D)	2021.09.07	3
ED202	LIGHTING LAYOUT – TYP. HOUSES (BLOCK-D)	2021.09.07	3
ED301	POWER & SYSTEMS LAYOUT – TYPICAL HOUSES	2021.09.07	3
ED302	POWER & SYSTEMS LAYOUT – TYPICAL HOUSES	2021.09.07	3
ED401	SINGLE LINE DIAGRAM (BLOCK-D)	2021.09.07	3
ED402	SCHEDULES (BLOCK-D)	2021.09.07	3

**FUSIONCORP****Discipline: Electrical (ELECTRICAL ADDENDUM #EA-1)**

Prepared by: Jain Sustainability Consultants Inc.

Drawing #	Drawing Title	Date of Issue	Rev. #
---- BLOCK A ----			
	COVER PAGE	SEPT. 27, 21	
EA100	LEGEND AND DETAILS (BLOCK-A)	2021.09.27	4
EA101	SITE PLAN – ELECTRICAL (BLOCK-A)	2021.09.27	4
EA301	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-A)	2021.09.27	4
---- BLOCK B ----			
	COVER PAGE	SEPT. 27, 21	
EB100	LEGEND AND DETAILS (BLOCK-B)	2021.09.27	4
EB101	SITE PLAN – ELECTRICAL (BLOCK-B)	2021.09.27	4
EB301	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-B)	2021.09.27	4
EB302	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-B)	2021.09.27	4
---- BLOCK C ----			
	COVER PAGE	SEPT. 27, 21	
EC100	LEGEND AND DETAILS (BLOCK-C)	2021.09.27	4
EC101	SITE PLAN – ELECTRICAL (BLOCK-C)	2021.09.27	4
EC301	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-C)	2021.09.27	4
EC302	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-C)	2021.09.27	4
---- BLOCK D ----			
	COVER PAGE	SEPT. 27, 21	
ED100	LEGEND AND DETAILS (BLOCK-D)	2021.09.27	4
ED101	SITE PLAN – ELECTRICAL (BLOCK-D)	2021.09.27	4
ED301	POWER & SYSTEMS LAYOUT – TYPICAL HOUSES	2021.09.27	4
ED302	POWER & SYSTEMS LAYOUT – TYPICAL HOUSES	2021.09.27	4

Discipline: Electrical (ELECTRICAL ADDENDUM #EA-2)

Prepared by: Jain Sustainability Consultants Inc.

Drawing #	Drawing Title	Date of Issue	Rev. #
---- BLOCK A ----			
	COVER PAGE	NOV. 26, 2021	
EA301	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-A)	2021.11.17	5
EA402	SCHEDULES (BLOCK-A)	2021.11.17	4
---- BLOCK B ----			
	COVER PAGE	NOV. 26, 2021	
EB301	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-B)	2021.11.17	5
EB302	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-B)	2021.11.17	5
EB402	SCHEDULES	2021.11.17	4
---- BLOCK C ----			
	COVER PAGE	NOV. 26, 2021	
EC301	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-C)	2021.11.17	5
EC302	POWER & SYSTEMS LAYOUT – TYP. HOUSES (BLOCK-C)	2021.11.17	5
EC402	SCHEDULES (BLOCK-C)	2021.11.17	4
---- BLOCK D ----			
	COVER PAGE	NOV. 26, 2021	
ED301	POWER & SYSTEMS LAYOUT – TYPICAL HOUSES	2021.11.17	5
ED302	POWER & SYSTEMS LAYOUT – TYPICAL HOUSES	2021.11.17	5
ED402	LEGEND AND DETAILS (BLOCK-D)	2021.11.17	4

Discipline: Electrical (ELECTRICAL ADDENDUM #EA-3)

Prepared by: Jain Sustainability Consultants Inc.

Drawing #	Drawing Title	Date of Issue	Rev. #
---- BLOCK A ----			
	COVER PAGE (description)	NOV. 29, 2021	
---- BLOCK B ----			
	COVER PAGE (description)	NOV. 26, 2021	
---- BLOCK C ----			
	COVER PAGE (description)	NOV. 26, 2021	



---- BLOCK D ----

COVER PAGE (description)

NOV. 26, 2021

Discipline: Electrical (ELECTRICAL ADDENDUM #EA-4)

Prepared by: Jain Sustainability Consultants Inc.

Drawing #	Drawing Title	Date of Issue	Rev. #
---- BLOCK A ----			
	COVER PAGE	Dec. 02, 2021	
1 of 6	COVER PAGE	11/11/21	0
2 of 6	ELECTRICAL ARRANGEMENT	11/11/21	0
3 of 6	CIVIL ARRANGEMENT	11/11/21	0
4 of 6	POLE DETAILS	11/11/21	0
5 of 6	STANDARDS & DETAILS	11/11/21	0
6 of 6	STANDARDS & DETAILS	11/11/21	0

---- BLOCK B ----

	COVER PAGE	Dec. 02, 2021	
1 of 6	COVER PAGE	11/11/21	0
2 of 6	ELECTRICAL ARRANGEMENT	11/11/21	0
3 of 6	CIVIL ARRANGEMENT	11/11/21	0
4 of 6	POLE DETAILS	11/11/21	0
5 of 6	STANDARDS & DETAILS	11/11/21	0
6 of 6	STANDARDS & DETAILS	11/11/21	0

---- BLOCK C ----

	COVER PAGE	Dec. 02, 2021	
1 of 6	COVER PAGE	11/11/21	0
2 of 6	ELECTRICAL ARRANGEMENT	11/11/21	0
3 of 6	CIVIL ARRANGEMENT	11/11/21	0
4 of 6	POLE DETAILS	11/11/21	0
5 of 6	STANDARDS & DETAILS	11/11/21	0
6 of 6	STANDARDS & DETAILS	11/11/21	0

---- BLOCK D ----

	COVER PAGE	Dec. 02, 2021	
1 of 6	COVER PAGE	11/11/21	0
2 of 6	ELECTRICAL ARRANGEMENT	11/11/21	0
3 of 6	CIVIL ARRANGEMENT	11/11/21	0
4 of 6	POLE DETAILS	11/11/21	0
5 of 6	STANDARDS & DETAILS	11/11/21	0
6 of 6	STANDARDS & DETAILS	11/11/21	0

Discipline: Electrical (ELECTRICAL ADDENDUM #EA-4)

Prepared by: Jain Sustainability Consultants Inc.

Drawing #	Drawing Title	Date of Issue	Rev. #
1 of 6	COVER PAGE	01/14/22	1
2 of 6	ELECTRICAL ARRANGEMENT	01/14/22	1
3 of 6	CIVIL ARRANGEMENT	01/14/22	1
4 of 6	POLE DETAILS	01/14/22	1
5 of 6	STANDARDS & DETAILS	01/14/22	1
6 of 6	STANDARDS & DETAILS	01/14/22	1

List of Reports

- **Geotechnical Engineering Report**, Prepared by JFM Environmental Limited, October 7, 2019.
- **Small Scale Hydrogeological Assessment (Long-Term Dewatering Assessment)**, Prepared by A & A Environmental Consultants Inc., August 9, 2021.
- **Evaluation Report CCMC 11518-R LP SolidStar LVL**, Prepared by NRC-CNRC, April 27, 2018.
- **Noise and Vibration Impact Study**, Prepared by Swallow Acoustic Consultants Ltd., December 3, 2021.



- **Phase II Environmental Site Assessment**, Prepared by A & A Environmental Consultants Inc., July 07, 2020.

List of Specifications and Features & Finishes

- **Electrical Specifications**, Prepared by Jain Sustainability Consultants Inc., September 7, 2021.
- **Mechanical Specifications**, Prepared by Jain Sustainability Consultants Inc., September 7, 2021.
- **Exterior Colour Package**, Prepared by 4 ARCHITECTURE INC., July 26, 2021.
- **Standard Interior Finishes**, December 2, 2021.
- **Features & Finishes**.
- **LVL Beam and Header Tables**, Stamped by S. J. Boyd, May 31, 2016.

----- END OF SCHEDULE B -----

SCHEDULE “D” TO CCDC 5B

Schedule 'D' – Tarion Requirements and Contract Clarifications

1. The Owner is not a registered as a Tarion Vendor. Fusioncorp Developments Inc., (FDI) is registered as a Tarion Vendor/Builder for this project.
2. FDI warranty obligations include administration of the TARION (30-day and 1 year) and inspection process. Trades will be responsible for deficiencies, warranty service, etc. Such obligations to be incorporated in the trade and/or subcontractor agreements.
3. Costs for the Tarion and Bulletin 19 Consultant to be the responsibility of the Owner.
4. PDI inspections will be undertaken by FDI and all related customer service staff cost will be the responsibility of the Owner. Any services from FDI with respect to administering claims will be extra to the Agreement and will be charged at an hourly rate of \$90.00 plus HST by way of the Tarion Customer Service Manager.
5. Inspections and testing during the course of construction, are to be paid by the Owner. Budget in General Requirements.
6. Owner to supply the building permit. FDI will be responsible for obtaining other permits relating to construction only; costs of which to be paid by the owner, directly and without markup by FDI.
7. All works to be done in accordance to all applicable building codes and regulations, Tarion, Bulletin 19 Requirements etc.
8. FDI shall cooperate in the exchange of information as required by the Owners lender and any project monitor.

SCHEDULE “E” TO CCDC 5B



Construction Management Proposal

240 Yeomans Street, Bellville, Ontario

In Response to a Request For Proposal on Behalf of 2460467 Ontario Inc.

For KSV Restructuring Inc.

Contents

1. Background & Introduction
2. Work Plan
3. Timeline, Construction Schedule
4. Construction Budget
5. Company Background
6. Staff Experience
7. Breakdown of Proposal Fee and Construction Management Resources
 - 7.1. Project Description
 - 7.2. Project Budget
 - 7.3. Project Schedule
 - 7.4. Construction Management Fee
8. Conflict of Interest Statement
9. Home Construction Regulatory Authority/ Tarion Management
10. Fusioncorp Developments Experience Constructing Similar Projects

3.0 Timeline, Construction Schedule

Fusioncorp have assessed the current progress of work on site, and have, based on their experience of this development, drafted a detailed construction schedule for the completion of the project. We have allowed for a site mobilization and some remedial work based on the current condition of the works.

Please find attached a Construction Schedule indicated a commencement date of 3rd March 2025 and a completion at around the end of 2025, early 2026.

Task Name	Duration	Start	Finish	Predecessors
YEO Towns Project	948 days	2022 May 20	2026 February 04	
SITE WORK PHASE 1	78 days	2022 May 20	2022 September 09	
CONSTRUCTION OF THE BLOKS	870 days	2022 September 12	2026 February 04	
Block A	748 days	2022 September 12	2025 August 18	
substructure	202 days	2022 September 12	2023 July 05	
superstructure	55 days	2023 July 04	2023 September 19	
exterior envelope	177 days	2023 September 20	2024 May 31	
finishing	483 days	2023 October 04	2025 August 18	
issue 90-day notice	60 days	2025 May 26	2025 August 15	147FS-15 days
Block B	739 days	2022 November 03	2025 September 25	
substructure	98 days	2022 November 03	2023 March 29	
superstructure	60 days	2023 July 04	2023 September 26	
exterior envelope	192 days	2023 September 27	2024 June 28	
finishing	458 days	2023 December 18	2025 September 25	
issue 90-day notice	60 days	2025 July 03	2025 September 24	307FS-15 days
Block C	755 days	2022 November 10	2025 October 24	
substructure	162 days	2022 November 10	2023 July 07	
superstructure	140 days	2023 September 19	2024 April 09	
exterior envelope	381 days	2024 February 19	2025 August 04	
finishing	140 days	2025 April 14	2025 October 24	
issue 90-day notice	60 days	2025 August 01	2025 October 23	433FS-15 days
Block D	703 days	2023 April 20	2026 January 09	
substructure	164 days	2023 April 20	2023 December 08	
superstructure	80 days	2025 April 07	2025 July 25	
exterior envelope	370 days	2024 March 04	2025 August 01	
finishing	115 days	2025 August 04	2026 January 09	
issue 90-day notice	60 days	2025 October 17	2026 January 08	559FS-15 days
INSPECTIONS FOR OCCUPANCY	109 days	2025 August 12	2026 January 09	
OCCUPANCY	105 days	2025 August 19	2026 January 12	
Block A	1 day	2025 August 19	2025 August 19	580
Block B	1 day	2025 September 26	2025 September 26	581
Block C	1 day	2025 October 27	2025 October 27	582
Block D	1 day	2026 January 12	2026 January 12	583
REGISTRATION	138 days	2025 July 28	2026 February 04	
measure suites	10 days	2025 July 28	2025 August 08	464
schedule G	5 days	2025 November 07	2025 November 13	559
apply for registration	5 days	2025 November 14	2025 November 20	591
closings Block A & B	2 days	2026 January 16	2026 January 19	592FS+40 days
closings Block C & D	2 days	2026 February 03	2026 February 04	593FS+10 days
SITE WORK PHASE 2	70 days	2025 August 25	2025 November 28	
landscaping	70 days	2025 August 25	2025 November 28	

4.0 Construction Budget, Cost to Complete

Fusioncorp have assessed the current progress of work on site, and have, based on their experience of this project, drafted a detailed construction budget for the completion of the project.

This is based on the following:

As the current Construction Manager, FC had engaged all the trades required for the construction of this project. Scopes of work have been agreed and contracts exchanged. Due to the failure of the previous Owner to pay trades for work executed, and the consequent suspension of works, the trades have ceased work on the project and some have registered liens on the property for the amounts owing.

Prior to the project going into receivership, FC had negotiated terms with each trade to return to work and complete their obligations. The Owner was unable to meet the financial requirements for this plan.

As part of our due diligence, FC have contacted all the trades recently, and have enquired if they would be able to resume work on the project and fulfill the obligations set out under their previous contract. It is recommended that the trades that have commenced their works on the site, be retained to fulfil the warranty requirements associated with that installation. The response has been broadly positive, and we have reached out to the majority of the trades and 95% have agreed to return.

Based on the trade response FC have made reasonably accommodations for the commercial terms in the Cost to Complete budget.

NOTE: Where practical, FC will consider a retender for certain budget items as part of a cost savings measure.

Construction Budget, Cost to Complete

#	Description	Cost
1.00	Division 1	
1.01	Site Supervisor	\$ 160,000.00
1.02	Site Assistant	\$ 52,000.00
1.03	Project Manager	\$ 80,000.00
1.04	Construction Coordinators	\$ 84,000.00
1.06	Travel / Parking	\$ 10,400.00
1.07	Site Vehicles	\$ 6,240.00
1.08	Fuel	\$ 5,200.00
1.09	Survey Layout	\$ 6,000.00
1.11	Temp. Hydro Site Services Set Up	\$ 3,000.00
1.12	Temp. Hydro Consumption	\$ 6,240.00
1.13	Temp. communications (telephone)	\$ 1,560.00
1.14	Temp. Water	\$ 5,200.00
1.15	Temp. Toilet	\$ 2,600.00
1.16	Temporary Gas	\$ 4,000.00
1.17	Temporary Heat	\$ 4,000.00
1.21	Temporary Protection	\$ 5,000.00
1.22	First Aid & Medical	\$ 2,600.00
1.23	Safety Control Inspections	\$ 26,000.00
1.25	Temporary Lighting	\$ 4,000.00
1.27	Hoarding / Fence Rental	\$ 10,400.00
1.29	Scaffold	\$ 5,000.00
1.30	Site Security	\$ 26,000.00
1.32	Labour	\$ 176,800.00
1.33	Final Cleaning	\$ 18,000.00
1.34	Street Cleaning	\$ 2,000.00
1.35	Office Cleaning	\$ 2,600.00
1.36	Snow Removal	\$ 2,000.00
1.37	Waste Management - Bins	\$ 15,000.00
1.42	Equipment Rental	\$ 10,400.00
1.44	Temp. Site Office	\$ 26,000.00
1.45	Office Supplies	\$ 2,600.00
1.50	As Built Drawings / Manuals	\$ 1,000.00

1.52	Close Out Submittals	\$ 5,000.00
1.54	Testing & Inspections	\$ 7,500.00
1.55	Publications	\$ 500.00
1.56	Quality Control	\$ 5,000.00
1.57	Computer Software & Systems	\$ 3,900.00
1.00	Total Division 1	\$ 787,740.00
2.00	Division 2	
2.05	Site Servicing - CDS	\$ 683,457.89
2.16	Landscaping - Plants and Sod	\$ 246,900.00
2.00	Total Division 2	\$ 930,357.89
3.00	Division 3	
3.01	Concrete Formwork	\$ 20,000.00
3.08	Allowance for self leveling of slabs	\$ 76,927.50
3.00	Total Division 3	\$ 96,927.50
4.00	Division 4	
4.04	Masonry	\$ 586,500.00
4.00	Total Division 4	\$ 586,500.00
5.00	Division 5	
5.03	Balcony Railings	\$ 246,120.00
5.00	Total Division 5	\$ 246,120.00
6.00	Division 6	
6.01	Kitchen Cabinets	\$ 394,325.00
6.02	Counter Tops	\$ 69,551.25
6.03	Rough Carpentry - Labour - Bonwest	\$ 250,000.00
6.05	Rough Carpentry - Supply	\$ 150,000.00
6.06	Finish Carpentry - Supply & Install	\$ 399,950.00
6.08	Int. Wood Stairs	\$ 299,259.90
6.00	Total Division 6	\$ 1,563,086.15
7.00	Division 7	
7.02	Firestopping	\$ 15,000.00
7.04	Roofing - Roof & Sheet Metal	\$ 292,407.00
7.07	Metal Soffits & Downspouts	\$ 137,640.00
7.09	Caulking	\$ 65,000.00
7.10	EIFS & Stucco Finish	\$ 199,875.00
7.11	Architectural Cementitious Siding	\$ 495,310.00
7.00	Total Division 7	\$ 1,205,232.00

8.00	Division 8	
8.04	Vinyl Windows	\$ 225,614.00
8.05	HM Windows & Doors	\$ 65,000.00
Total Division 8		\$ 290,614.00
9.00	Division 9	
9.01	Drywall	\$ 1,243,804.87
9.03	Ceramic Tile	\$ 345,298.75
9.08	Painting	\$ 180,935.00
9.10	Vinyl Floor	\$ 285,396.25
9.00 Total Division 9		\$ 2,055,434.87
10.00	Division 10	
10.07	Mirrors & Signage	\$ 46,500.00
10.00 Total Division 10		\$ 46,500.00
11.00	Division 11	
11.01	Appliances	\$ 239,134.00
11.00 Total Division 11		\$ 239,134.00
12.00	Division 12	
12.00 Total Division 12		\$ -
13.00	Division 13	
13.00 Total Division 13		\$ -
14.00	Division 14	
14.00 Total Division 14		\$ -
15.00	Division 15	
15.01	Mechanical/Plumbing	\$ 1,920,000.00
15.00 Total Division 15		\$ 1,920,000.00
16.00	Division 16	
16.01	Electrical	\$ 1,027,200.00
16.00 Total Division 16		\$ 1,027,200.00
CONSTRUCTION SUB-TOTAL		\$10,994,846.41

Schedule “C” – Incomplete Change Work

FUSIONCORP -Yeoman Towns - Change Order Log

CO#	Trade Name	Date CO Issued	Description	Change Order Amount (\$)	Original Contract Amount (\$)	Cumulative Contract Amount (\$)	Sent to Trade?	Date signed by Trade	Date Signed by Owner	Directive Issued to Site	Status	completed
01	Diamond Electric	June 16 2022	Supply and install primary high voltage cables and terminations.	\$21,500.00	\$1,390,000.00	\$1,411,500.00	June 20 2022	June 21 2022	June 21 2022	yes	fully executed, closed	No
	CDS	July 07 2022	Supply, install and compact ¾" clear stone with 8" minimum thickness as per drawings underneath the concrete slab on grade for all 4 blocks. Make areas ready for SOG	\$29,270.33	\$1,190,000.00	\$1,219,270.33	July 07 2022	July 13 2022	July13 2022	yes	fully executed, closed	Yes
2	Diamond Electric	July 19 2022	the supply and installation of electrical services for new poles and receptacles to accommodate security cameras as shown on Live Patrol Site Plan	\$11,600.00	\$1,390,000.00	\$1,423,100.00	July 31 2022	August 04 2022	August 04 2022	yes	fully executed, closed	Yes
4	Diamond Electric	August 23 2022	changing primary cables from aluminum to copper	\$7,500.00	\$1,390,000.00	\$1,430,600.00	Aug-22	Aug-22	August 24 2022	yes	fully executed, closed	No
5	CDS	Sept1 2022	Additional work associated with SI #03, additional soak away pit.	\$4,096.45	\$1,190,000.00	\$1,223,366.78	Sept 01 2022	Sept 06 2022	Sept 06 2022	yes	fully executed, closed	Yes
6	CDS	Oct 11 2022	supply and install 14 bollards	\$21,001.00	\$1,190,000.00	\$1,244,367.78	Oct 12 2022	Oct 12 2022	Oct 13 2022	yes	fully executed, closed	No
7	CDS	Oct 11 2022	Supply and Place and Compact Granular B Type II in Footing Excavation - BlockA.	\$425/load	\$1,190,000.00	TBD	yes	Oct 12 2022	Oct 12 2022	yes	fully executed, closed	Yes
8	CDS	Dec3 2022	Cost of sand for backfill	\$22/ton	\$1,190,000.00	TBD	Dec 2 2022	Dec 2 2022	Dec 2 2022	yes	fully executed, closed	Yes
9	Klaver	Dec 12 2022	winter heat as per invoice 2693	\$10,405.62	\$978,500.00	\$988,905.62	Dec 13 2022	Dec 12 2022	Dec 13 2022	yes	fully executed, closed	Yes
10	Klaver	Jan 20 2023	winter heat footing of block A	\$2,475.00	\$978,500.00	\$991,380.62	Jan 20 2023	Jan 23 2023	Jan 24 2023	yes	fully executed, closed	Yes
11	Jaques Carrier	Feb 3 2023	escalations	\$187,064.50							CANCELLED	
12	Klaver	Feb 14 2023	winter, BlockB lower wall, 16m; weather mix level3 - 214	\$864.00	\$978,500.00	\$992,244.62	Feb 24 2023	Feb 24 2023	Feb 25 2023	yes	fully executed, closed	Yes
13	Klaver	Feb 14 2023	winter, BlockC 63m; weather mix level2 - 215	\$3,087.00	\$978,500.00	\$995,331.62	Feb 24 2023	Feb 24 2023	Feb 25 2023	yes	fully executed, closed	Yes
14	Klaver	Mar 21 2023	Winter Heat Block C - 31.5m	\$787.50	\$978,500.00	\$996,119.12	March 22 2023	March 24 2023	March 24 2023	yes	fully executed, closed	Yes
15	A Hewitt	Mar 23 2023	supply rebar for 4 firewalls for 4 blocks	\$10,800.00	\$118,520.00	\$129,320.00	March 24 2023	June 06 2023	June 06 2023	yes	fully executed, closed	partially
16	A Hewitt	April 12 2023	supply masonry anchors	\$10,160.00	\$118,250.00	\$139,480.00	april 12 2023	May-23	May 23 2023	yes	fully executed, closed	partially
17	Klaver	April 13 2023	winter heat, blockB	\$1,925.00	\$978,500.00	\$998,044.12	april 17 2023	April 18 2023	April 20 2023	yes	fully executed, closed	Yes
18	Klaver	April 30 2023	winter heat, blockB - 50m	\$1,250.00	\$978,500.00	\$999,294.12	May 01 2023	May 02 2023	May 16 2023	yes	fully executed, closed	Yes
19	Performance Windows	June 19 2023	extra windows	\$25,002.00	\$203,132.00	\$228,134.00	June 22 2023	July 13 2023	July 13 2023	yes	fully executed, closed	No
20	Cambridge Drywall	Aug 09 2023	escalations	\$114,800.00	\$1,050,000.00	\$1,164,800.00	yes	Aug 29 2023	Aug 31 2023	yes	fully executed, closed	No
21	not used											
22	not used											
23	Diamond Electric	Nov 10 2023	change of a 4" potlight, 838 units x \$10/unit	\$10,139.80	\$1,390,000.00	\$1,440,739.80	Nov 10 2023	Nov14 2023	Nov 14 2023	yes	fully executed, closed	partially
24	Klaver	Dec 11 2023	winter heat for slabs block D	\$2,241.00	\$978,500.00	\$1,001,535.12	Dec 11 2023	Dec 12 2023	Dec 12 2023	yes	fully executed, closed	Yes
25	Klaver	Dec 13 2023	winter heat porches	\$518.00	\$978,500.00	\$1,002,053.12	Dec 13 2023	Dec 13 2023	Dec 15 2023	yes	fully executed, closed	Yes
26	Klaver	Dec 20 2023	winter heat porches	\$333.00	\$978,500.00	\$1,002,386.12	Dec 20 2023	Dec 20 2023	Dec 22 2023	yes	fully executed, closed	Yes
27	Bonwest	Dec 20 2023	time, material and rentals for various work (incl blueskin, and others)	\$23,514.60	\$945,553.56	\$969,068.16	Dec 21 2023	Jan03 2024	sent in draw	signed by site	closed	Yes
28	not used											
29	Bonwest	Jan 20 2024	time, material and rentals for various work (incl blueskin, and door framing)	\$13,200.00	\$945,553.56	\$982,268.16	Jan 20 2023		feb 1 2024	Feb 6 2024	fully executed, close	Yes
30	Performance Windows BC	Jan 20 2024	for blueskin costs (bonwest invoice)	-\$2,700.00	\$203,132.00	-\$2,700.00	No	did not give for signing	feb 1 2024		not issued at this time	Yes
31	Canuck Doors BC	Jan 20 2024	removing and reinstalling framing (bonwest invoice)	-\$10,500.00	\$97,523.18	-\$10,500.00	No	did not give for signing	feb 1 2024		not issued at this time	partially
32	Alpa Stairs	Jan 24 2024	shipping stairs in 2 for block B	\$750.00	\$250,836.00	\$251,586.00	Jan 24 2024	feb 1 2024		Feb 6 2024	fully executed, close	No
33	Alpa Stairs	Feb 1 2024	labour increases, material shortages-contract increase	\$15,050.16	\$250,836.00	\$266,636.16	Feb 01 2024	feb 1 2024		Feb 6 2024	fully executed, close	No
34	Klaver	Mar 15 2024	winter heat, weather mix, calcium, gravel	\$6,423.05	\$978,500.00	\$1,008,809.17	Mar 18 2024	March 19 2024	sent in draw	signed by site	closed	Yes
35	Bonwest	March 20 2024	time and materials for invoice 2884, 2885, 2886	\$22,809.50	\$945,553.56	\$1,005,077.66	March 20 2024	March 20 2024	sent in draw	signed by site	closed	Yes
36	Klaver Winter	April 9 2024	winter heat	\$413.10	\$978,500.00	\$1,009,222.27	April 11 2024	April 11 2024	signed	signed by site	closed	Yes

Appendix “D”

2460467 Ontario Inc. (Yeo Towns)

Statement of Receipts and Disbursements

For the Period Ending April 29, 2025

(\$; unaudited)

Description	Amount
Receipts	
Funding from Duca	784,000
Interest earned from funds on hand	2,305
	<u>786,305</u>
Disbursements	
Receiver's fees and disbursements	171,390
Third-party contractor fees	125,011
Insurance	122,167
Winterization work	92,680
Receiver's counsel's fees and disbursements	86,410
HST paid on disbursements	70,937
Security	32,304
Consultants	28,438
PST paid on insurance	9,773
Equipment rentals	9,548
Utilities	778
Misc expenses	528
	<u>749,963</u>
Balance	<u><u>36,343</u></u>

DUCA FINANCIAL SERVICES CREDIT UNION LTD. Plaintiff	- and -	KAMAL PATEL Defendant
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**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT
OTTAWA

**Second Report to Court of
KSV Restructuring Inc.
as Receiver and Manager
of 2460467 Ontario Inc.**

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Lawyers for KSV Restructuring Inc.

Court File No. CV-24-00096502-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)	MONDAY, THE 5 TH
)	
MR. JUSTICE KERSHMAN)	DAY OF MAY, 2025
)	

B E T W E E N:

DUCA FINANCIAL SERVICES CREDIT UNION LTD.

Applicant

- and -

2460467 ONTARIO INC.

Respondent

**IN THE MATTER OF SECTION 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**

ORDER

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the court-appointed receiver (in such capacity, the “**Receiver**”) of all the property, assets and undertakings of the Respondent, for an order, *inter alia*, approving a Completion Agreement and CCDC 5B Construction Management Contract and increasing the borrowing limit under the Receiver’s Borrowing Charge (as defined in the Order of the Court dated August 12, 2024 (the “**Receivership Order**”)) was heard this day by judicial videoconference.

ON READING the Second Report of KSV Restructuring Inc. in its capacity as Receiver, dated April 30, 2025 (the “**Second Report**”), and on hearing the submissions of counsel for the Receiver, counsel for the Applicant, and those other parties present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Second Report, and the activities and proposed activities of the Receiver described therein are hereby approved, provided that only the Receiver, in its personal capacity, and only with respect to its own personal liability, shall be entitled to rely upon this approval.
3. **THIS COURT ORDERS** that the terms of the Completion Agreement and CCDC 5B Construction Management Contract (the “**New CCDC 5B Contract**”), each dated April 30, 2025 between the Receiver and Fusioncorp Developments Inc. be and are hereby approved, and the Receiver is hereby authorized and directed to enter into and perform the Completion Agreement and the New CCDC 5B Contract and to take such steps and execute and deliver such additional documents as may be necessary or desirable to give effect to the Completion Agreement and the New CCDC 5B Contract.
4. **THIS COURT ORDERS** that Paragraph 21 of the Receivership Order, as amended by the Order of the Court dated December 11, 2024, is hereby further amended as follows:

THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant by way of 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 \$14 million (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, fees 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 sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

5. **THIS COURT ORDERS** that the Receiver’s Interim Statement of Receipts and Disbursements for the period from August 12, 2024 to April 29, 2025 attached at Appendix F to the Second Report be and is hereby approved.

6. **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.

DUCA FINANCIAL CREDIT SERVICES UNION LTD. v. 2460467 ONTARIO LIMITED.

IN THE MATTER OF SECTION 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

Court File No. CV-24-00096502-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
OTTAWA

ORDER

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Lawyers for the Receiver

DUCA FINANCIAL CREDIT SERVICES UNION LTD. v. 2460467 ONTARIO LIMITED.

IN THE MATTER OF SECTION 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

Court File No. CV-24-00096502-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
OTTAWA

**MOTION RECORD OF THE RECEIVER AND MANAGER,
KSV RESTRUCTURING INC.
(MOTION RETURNABLE MAY 5, 2025)**

DICKINSON WRIGHT LLP

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