

ONTARIO

SUPERIOR COURT OF JUSTICE

(COMMERCIAL LIST)

BETWEEN:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

- and -

TERRASAN 327 ROYAL YORK RD. LIMITED

Respondent

MOTION RECORD

(Returnable October 10, 2017)

DATE: October 4, 2017

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(as at September 14, 2017)

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(as at August 28, 2017)

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AND TO:	COMMUNITY TRUST COMPANY 2350 Matheson Boulevard East Mississauga, ON L4W 5G9
AND TO:	OLYMPIA TRUST COMPANY 125 9 th Avenue SE, Suite 2200 Calgary, AB T2G 0P6
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TAB 1

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

B E T W E E N:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

- and -

TERRASAN 327 ROYAL YORK RD. LIMITED

Respondent

**NOTICE OF MOTION
(Returnable October 10, 2017)**

BDO Canada Limited (“**BDO**”), in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Terrasan 327 Royal York Rd. Limited (“**Terrasan**”), will make a motion to a judge presiding over the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on October 10, 2017, at 10:00 a.m., or as soon after that time as the motion may be heard, at 330 University Avenue, Toronto, Ontario.

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

THE MOTION IS FOR:

1. An Order, substantially in form attached hereto as **TAB 3** of the Motion Record, for the following relief:
 - (a) abridging the time for service of the Notice of Motion herein, Motion Record and the Fifth Report of BDO, in its capacity as Receiver, dated October 4, 2017 (the “**Fifth Report**”) so that this Motion is properly returnable on October 10, 2017, and dispensing with further service thereof;

- (b) approving the activities of the Receiver, as set out in the Fifth Report;
- (c) authorizing and approving a distribution by the Receiver to Centurion Mortgage Capital Corporation ("**Centurion**") from the proceeds generated from the closing of the 2402871 APA (as defined herein) (the "**Sale Proceeds**"), as set out in the Fifth Report; and
- (d) such further and other grounds as counsel may advise and this Honourable Court may permit;

THE GROUNDS FOR THE MOTION ARE:

1. By Order of the Court dated February 24, 2017, BDO was appointed as the Receiver of all of the assets, undertakings and properties of Terrasan, pursuant to the application made by Centurion;
2. Terrasan's principal asset is a partially constructed residential condominium development located at 327 Royal York Rd., Toronto, Ontario, known as the "*On the Go Mimico*";
3. On August 25, 2017, this Court granted an Approval and Vesting Order (the "**Approval and Vesting Order**") which approved, among other things, the asset purchase agreement dated July 28, 2017 (the "**2402871 APA**") between the Receiver and 2402871 Ontario Inc. (the "**Purchaser**"), and the transaction as set out therein (the "**Transaction**");
4. The closing of the Transaction occurred on September 15, 2017. The Receiver also filed the Receiver's Certificate pursuant to the 2402871 APA and the Approval and Vesting Order on September 15, 2017, confirming that the Transaction has closed;
5. Counsel to the Receiver has conducted a review of the security held by Centurion and has delivered a security opinion to the Receiver (the "**Security Opinion**"). The Security Opinion, subject to the customary qualifications and assumptions contained therein, opines that: (i) the security held by Centurion is valid and legally enforceable against Terrasan, and (ii) Centurion has a first priority security interest in the assets sold pursuant to the 2402871 APA;

6. The Sale Proceeds are sufficient to repay the indebtedness owing to Centurion. The Receiver is of the view that the proposed distribution to Centurion is appropriate in the circumstances; and
7. 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:

1. The Fifth Report of the Receiver;
2. Such further and other material as counsel may advise and this Honourable Court may permit.

DATED: October 4, 2017

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Lawyers for the Receiver

TO: SERVICE LIST

CENTURION MORTGAGE CAPITAL CORPORATION - and - TERRASAN 327 ROYAL YORK RD. LIMITED

Applicant Respondent

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

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION
(Returnable October 10, 2017)

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Lawyers for the Receiver

TAB 2

Court File No. CV-17-11679-00CL

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

BETWEEN:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

- and -

TERRASAN 327 ROYAL YORK RD. LIMITED

Respondent

FIFTH REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY

AS COURT APPOINTED RECEIVER

October 4, 2017

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INTRODUCTION AND PURPOSE OF THIS REPORT

Introduction

1. By Order of the Honourable Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (the "**Court**") dated February 24, 2017 (the "**Receivership Order**"), BDO Canada Limited ("**BDO**") was appointed as the Court-appointed receiver (in such capacity, the "**Receiver**") of all of the assets, undertakings and properties (collectively, the "**Assets**") of Terrasan 327 Royal York Rd. Limited ("**Terrasan**" or the "**Company**"), pursuant to the application made by Centurion Mortgage Capital Corporation ("**Centurion**").
2. The Company's principal asset was a partially constructed condominium known as the "*On the Go Mimico*" residential condominium development (the "**Project**"). The municipal address for the Project is 327 Royal York Rd., Toronto, Ontario (the "**Property**").
3. On April 3, 2017, this Court granted an Order (the "**Sale Process Order**") which, among other things: (i) approved the First Report of the Receiver dated March 27, 2017 (the "**First Report**"), and the actions of the Receiver set out therein; and (ii) approved the marketing and sale process set out in the First Report (the "**Sale Process**"). A copy of the Sale Process Order is annexed hereto as Appendix A.
4. On August 25, 2017, this Court granted an Approval and Vesting Order (the "**Approval and Vesting Order**") which approved, among other things, the asset purchase agreement dated July 28, 2017 (the "**2402871 APA**") between the Receiver and 2402871 Ontario Inc. (the "**Purchaser**"), and the transaction as set out therein (the "**Transaction**"). The closing of the sale pursuant to the 2402871 APA was to occur within 7 days of the Court granting the Approval and Vesting Order (the "**Closing Date**").
5. The closing of the Transaction was delayed as the Purchaser, following further due diligence, was not prepared to close the Transaction until a tower crane and scaffolding (collectively, the "**Equipment**") was removed from the Property. The Purchaser specifically raised liability concerns over assuming responsibility for the demobilization of the Equipment upon closing of the Transaction.
6. The Receiver and the Purchaser negotiated a letter agreement dated September 12, 2017 (the "**Letter Agreement**") to resolve the outstanding matters delaying the closing of the Transaction. The Letter Agreement, among other things, provided for an adjustment to the purchase price in favour of the Purchaser (the "**Price Adjustment**"). The Letter Agreement also provided for the closing of the Transaction to be completed on or before

September 15, 2017 (5:00 p.m. Toronto time). The closing of the Transaction pursuant to the 2402871 APA, notwithstanding the Price Adjustment, still represented the highest and best offer for the Property.

7. On September 13, 2017 this Court granted an Order, (the "**Letter Agreement Approval Order**"):
 - (a) approving and authorizing the execution by the Receiver of the Letter Agreement, and approving the Price Adjustment; and
 - (b) amending the Approval and Vesting Order granted on August 25, 2017, such that any reference to "Asset Purchase Agreement", shall be deemed to be a reference to the "Asset Purchase Agreement, as amended by the Letter Agreement".

A copy of the Letter Agreement Approval Order is attached hereto as Appendix B.

8. The closing of the Transaction occurred on September 15, 2017. The Receiver also filed the Receiver's Certificate pursuant to the 2402871 APA and the Approval and Vesting Order on September 15, 2017, confirming that the Transaction had closed. The net sale proceeds totaling \$30,044,444 ("**Sale Proceeds**") now stand in the place and stead of the Property in respect of the various mortgages and lien claims previously registered against title to the Property.

Purpose of the Report

9. The purpose of this report dated October 4, 2017 (the "**Fifth Report**") is to :
 - (a) approve the Receiver's Statement of Receipts and Disbursements to date (the "**R&D Statement**");
 - (b) approve the Fifth Report and the activities outlined therein; and
 - (c) seek an Order authorizing and approving a distribution by the Receiver to Centurion to fully retire its mortgage debt from the Sale Proceeds generated from the closing of the 2402871 APA.

Disclaimer

10. This Fifth Report is prepared solely for the use of the Court for the purpose of assisting the Court in making a determination whether to approve and authorize the Receiver to make the Interim Distribution and other ancillary relief being sought.

11. Except as otherwise described in this report:
 - (a) the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook; and
 - (b) the Receiver has not conducted an examination or review of any financial forecast and projections in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
12. Unless otherwise stated, all monetary amounts contained in this Fifth Report are expressed in Canadian dollars.

Background

13. Terrasan is a single purpose entity incorporated in Ontario for the purpose of the developing the Project. At the time of the Receiver's appointment, the Project was under construction and was to be developed into condominium complex with 242 suites ranging between 537 sq. ft. to 2,700 sq. ft. including two levels of penthouses. Additionally, the Project was to include 193 residential parking stalls, 116 lockers and 8,245 sq. ft. of retail/commercial space.
14. According to the Corporate Profile Report of Terrasan, Luigi Santaguida is listed as the sole officer and director of Terrasan. Mr. Santaguida is the acting President and Secretary of Terrasan and the sole employee.
15. The Receiver understands that approximately 208 condominium units had been pre-sold (the "**Pre-Construction Sales**") and agreements of purchase and sale (the "**Condominium Unit Sale Agreements**") had been executed between Terrasan and the condominium purchasers. In addition, Terrasan had received deposits in respect of the majority of these Pre-Construction Sales. At the receivership date only 73 of the Pre-Construction Sales remained and the balance, 135 Pre-Construction Sales, had been terminated primarily due to non-payment of milestone deposits as prescribed in the respective Condominium Unit Sale Agreements, according to the Terrasan records.
16. The Receiver intends on sending correspondence to purchasers of condominium units notifying them that the Receiver has closed the Transaction and as a result, Terrasan no longer has any ownership in the Property and will not be in a position to satisfy its

obligations to those purchasers with a valid and enforceable Condominium Unit Sale Agreement.

Dispute with Resform

17. Resform Construction Limited ("**Resform**") has scheduled a motion returnable before this Court on November 20, 2017 seeking an Order to fix the alleged compensation that the Receiver should pay Resform regarding the Equipment. Resform alleges that the Receiver retained the Equipment from the date of the Receiver's appointment.
18. The Receiver has provided the Court with updates in respect of the Resform claim. The Receiver has maintained that at no time did it prohibit Resform or its sub-trade Aluma from removing the Equipment from the Property, or agree to pay Resform any compensation. The dispute with Resform is discussed in more detail in the Receiver's Third Report. A Copy of the Third Report, including appendices, is attached hereto as Appendix C.
19. The Receiver will be opposing the relief sought by Resform and will file a further report in this regard.

Secured Creditors

20. Set out below is a summary of the mortgages that are registered against title to the Property, together with the corresponding amount of the registered mortgage (the "**Mortgages**"):

Creditor	Instrument Number	Charge
Centurion	AT4192730	\$21,800,000
Diversified Capital Inc. (" Diversified ")	AT3235332 and AT4035434 (Transfer of Charge)	\$7,700,000
The Guarantee Company of North America (" GCNA ")	AT3841250	\$15,053,500
Olympia Trust Company/John Fletcher/Community Trust Company (" Olympia ")	AT3539503 and AT4464383 (Transfer of Charge)	\$10,000,000

21. As reflected in the mortgage payout statement provided by Centurion attached hereto as Appendix D, Centurion is owed \$12,679,084.29 as at October 4, 2017, and per diem interest is accruing at \$3,453.78 per day.
22. Additionally, the Receiver is advised by its counsel that the following liens ("**Lien Claims**") are registered against title to the Property:

-7-

Liens per PIN Search	
CRH Canada Group Inc.	\$ 435,519.00
Summit Concrete & Drain Ltd.	111,313.00
Roni Excavating Limited	504,413.00
Bluescape Construction Management Inc.	469,827.00
Mansteel Rebar Ltd.	228,336.00
Desrosiers Geothermal Corporation	285,237.00
R. Mancini and Associates Ltd.	34,881.00
R. Mancini and Associates Ltd.	29,826.00
Resform Construction Ltd.	2,015,268.00
Shalom Electric Inc.	73,198.12
McCallum Sather Architects Inc	115,432.00
Quinn Dressel Associates	55,969.00
Total	\$ 4,359,219.12

SECURITY OPINION

23. The Receiver obtained a security opinion from its counsel (the "**Security Opinion**") and, subject to the customary qualifications and assumptions contained therein, the Security Opinion opines that: (i) the security held by Centurion is valid and legally enforceable against Terrasan, and (ii) Centurion has a first priority security interest in the assets sold pursuant to the 2402871 APA (the "**Assets**").
24. Subject to the customary assumptions and qualifications contained in the Security Opinion, Receiver's counsel has opined that the subject Centurion security documents:
- (a) constitute legal, valid and binding security interests in favour of Centurion in the Assets;
 - (b) is sufficient to secure the payment and performance of the obligations secured thereby; and
 - (c) is properly registered and in first position over all other secured creditors.
25. The Receiver is in the process of completing an opinion on the debt and security of GCNA, Diversified and Olympia. With respect to GCNA, GCNA's claim is contingent in nature and covers deposit insurance claims. The Receiver is currently working with both Tarion Warranty Corporation and GCNA to establish the framework of a claims procedure to deal with the claims of purchasers of condominium units in respect of deposits paid. Once a framework is established, the Receiver intends to return to this Court to obtain an Order approving a claims procedure.

PRIORITY CLAIMS

26. At the date of receivership Terrasan had no employees (other than Mr. Santaguida), no outstanding wages, vacation pay or source deductions. In addition, Terrasan had no outstanding HST obligations and was in an HST receivable position at the date of receivership. Accordingly, the Receiver is unaware of any claims which would rank in priority to the secured claims of the mortgagees and Lien Claims.

RECEIPTS AND DISBURSEMENTS

27. The R&D Statement, appended hereto as Appendix E, reports net receipts over disbursements from the date of the Receiver's appointment to October 3, 2017 amount to \$30,567,564.55.
28. The Receiver is seeking the Court's approval of its R&D Statement.

INTERIM DISTRIBUTION

29. Given that the Sale Proceeds are sufficient to pay Centurion, and in order to limit interest charges accruing on the Centurion indebtedness, the Receiver is seeking the approval of a distribution to repay Centurion in full and final satisfaction of all amounts owing by Terrasan (the "**Centurion Distribution**").
30. The Receiver is satisfied that there will remain sufficient funds in the estate following the Centurion Distribution to address any priorities confirmed pursuant to the Lien Claims.

SUMMARY AND RECOMMENDATIONS

31. As a result of the closing of the Transaction, the Receiver is therefore of the view that the proposed Centurion Distribution is appropriate in the circumstances.
32. Based on the foregoing, the Receiver recommends that the Court:
- (a) approve the Receiver's R&D Statement;
 - (b) approve the Fifth Report and the activities outlined therein; and
 - (c) grant an Order approving and authorizing the Receiver to make the Centurion Distribution as set forth herein.

All of which is respectfully submitted this 4th day of October, 2017.

**BDO CANADA LIMITED,
in its capacity as the Court-appointed Receiver of
Terrasan 327 Royal York Rd. Limited, and not in its personal
or corporate capacity**

Per:

A handwritten signature in black ink, appearing to read "J. Parisi". The signature is written in a cursive, flowing style.

Name: Josie Parisi, CA, CPA, CBV, CIRP, LIT
Title: Senior Vice-President

APPENDIX "A"

TO THE FIFTH REPORT OF BDO
CANADA LIMITED, IN ITS CAPACITY
AS COURT APPOINTED RECEIVER
DATED OCTOBER 4, 2017

Court File No. CV-17-11679-00CL

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

THE HONOURABLE JUSTICE

CONWAY

)
)
)MONDAY, THE 3rd DAY OF
APRIL, 2017

BETWEEN:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

and



TERRASAN 327 ROYAL YORK RD. LIMITED

Respondent

SALE PROCESS ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court appointed receiver and manager (the "Receiver") of the assets, undertakings and properties of Terrasan 327 Royal York Rd. Limited ("Terrasan") for an order approving the sale process, set out in Schedule "A" hereto (the "Sale Process"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Receiver dated March 27, 2017 (the "First Report"), and on hearing the submissions of counsel for the Receiver, and any such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Amanda Campbell sworn March 29, 2017, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion and the Motion Record is hereby dispensed with.

RECEIVER'S ACTIVITIES

2. **THIS COURT ORDERS** that the First Report is approved and the activities of the Receiver as described therein.

3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver, as set out in the First Report, be and are hereby approved.

SALE PROCESS

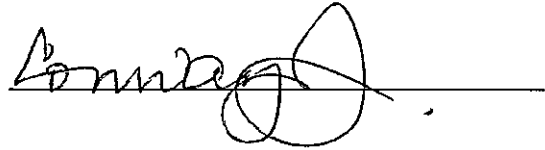
4. **THIS COURT ORDERS** that the Sale Process be and is hereby approved and that the Receiver is authorized and directed to commence the Sale Process for the purpose of soliciting interest in and opportunities for a sale of the property and assets of Terrasan.

5. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to perform its obligations under the Sale Process, and to do all things reasonably necessary to do so.

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

GENERAL

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

A handwritten signature in black ink, appearing to be "L. Smith", written over a horizontal line.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:
APR 03 2017

PER / PAR:

A handwritten signature in black ink, appearing to be "M", written below the text "PER / PAR:".

Schedule "A" – Sale Process

Sale Process

Set forth below is the sale process (the "**Sale Process**") to be employed with respect to the proposed sale of all or substantially all of the business and assets (the "**Assets**") of Terrasan 327 Royal York Rd. Limited ("**Terrasan**").

On February 24, 2017, the Ontario Superior Court of Justice (the "**Court**") issued an order (the "**Receivership Order**"), appointing BDO Canada Limited as the receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of Terrasan.

Pursuant to the Receivership Order, the Receiver is authorized to market, advertise and solicit offers in respect of the sale, in whole or in part, of the Assets.

The Sale Process is intended to solicit interest in an acquisition of the Assets, under a fair and competitive sale process pursuant to which all qualified interested parties will be provided with a fair and equal opportunity to participate in the Sale Process.

Notwithstanding anything contained herein, the Receiver shall have the right to enter into an exclusive transaction for the sale of the Assets, or any portion thereof, outside of the Sale Process prior to the selection of a Successful Bidder (as defined herein).

Timeline

The following table sets out the key milestones under the Sale Process:

Milestone	Deadline
Non-Binding APA Deadline	May 12, 2017
Binding APA Deadline	July 28, 2017
Sale Approval Motion	August 18, 2017
Closing Date	August 25, 2017

Subject to the terms contained herein and any order of the Court, the dates set out in the Sale Process may be extended by the Receiver, in its sole discretion acting reasonably, all with a view of maximizing the value of the Assets.

Sale Process

The Sale Process set forth herein describes, among other things: (i) the Assets available for sale, (ii) the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Assets, (iii) the manner in which bidders can be

determined to be a Phase 1 Qualified Bidder (as defined herein), (iv) the timing of delivering a Non-Binding APA (as defined herein), (v) the manner in which bids are to be received and negotiated, (vi) the ultimate selection of any Successful Bidder (as defined herein) and the process leading up to that selection, and (vii) the approval thereof by the Court.

Assets To Be Sold

The Receiver, in accordance with this Sale Process, is offering for sale, in one or more transactions, the Assets. The Receiver reserves the right to eliminate certain assets available for sale pursuant to the Sale Process prior to the Non-Binding APA Deadline (as defined below).

“As Is, Where Is”

The sale of the Assets will be on an “as is, where is” basis without representations or warranties of any kind, nature or description by the Receiver, or any of their respective directors, officers, partners, employees, agents, advisors or estates, except to the extent as may be set forth in a Binding APA (as defined herein), and approved by the Court. By submitting a bid, each Potential Bidder (as defined herein) shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its bid, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Assets or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Process or as set forth in a Binding APA and approved by the Court.

Free Of Any And All Claims And Interests

Except as may otherwise be provided in the Successful Bidder’s Binding APA, all of the rights, title and interests of Terrasan in and to the Assets, or any portion thereof, will be sold free and clear of all liens and claims (which may be defined in an Approval and Vesting Order (as defined herein)), subject to any permitted encumbrances (which may be defined in an Approval and Vesting Order), pursuant to an order by the Court approving the sale of the Assets, or a portion thereof, and vesting in the Successful Bidder all of Terrasan’s rights, title and interests in and to such Assets, or a portion thereof, by way of an approval and vesting order (the “**Approval and Vesting Order**”). For greater certainty, such liens and claims are to attach to the net proceeds of the sale of such Assets following the granting of the Approval and Vesting Order.

Publication Notice

Within seven (7) business days of the granting of the Sale Process order by the Court (the “**Sale Process Order**”), or as soon as practicable thereafter the Receiver shall publish notice of

this Sale Process: (i) in The Globe and Mail (National Edition), the Daily Commercial News, the NRU GTA Weekly Newsletter, the MLS and / or ICX (through a third party provider), (ii) in any other relevant publication that may advertise and potentially solicit interest in the Assets, and (iii) by posting a copy of the Teaser Letter (as defined herein) on the Axial website.

Solicitation of Interest

As soon as reasonably practicable after the granting of the Sale Process Order, the Receiver will prepare an initial offering summary (the “**Teaser Letter**”) notifying prospective purchasers of the existence of the Sale Process and inviting prospective purchasers to express their interest in making an offer for the Assets pursuant to the terms of the Sale Process.

Participation Requirements

Unless otherwise ordered by the Court or as otherwise determined by the Receiver, each person who wishes to participate in the Sale Process, (a “**Potential Bidder**”) must deliver to the Receiver, an executed non-disclosure agreement (“**NDA**”), in the form attached herein as **Schedule “A”**, prior to the distribution of any confidential information by the Receiver.

If it is determined by the Receiver, in its reasonable business judgment, that a Potential Bidder: (i) has a *bona fide* interest in an acquisition of the Assets; and (ii) has delivered the NDA, then such Potential Bidder will be deemed by the Receiver to be a “**Phase 1 Qualified Bidder**”.

The Receiver will prepare and send to each Phase 1 Qualified Bidder, as soon as reasonably practicable, a confidential information memorandum which will provide, among other things, information considered relevant to the Sale Process.

Due Diligence

The Receiver, in its reasonable business judgment, and subject to competitive and other business considerations, may give each Phase 1 Qualified Bidder, such access to due diligence materials and information relating to the Assets as the Receiver deems appropriate. Due diligence access may include access to an electronic data room (a “**Data Room**”), on-site inspections, and other matters which a Phase 1 Qualified Bidder may reasonably request and as to which the Receiver, in its reasonable business judgment, may agree. The Receiver may designate a representative to coordinate all reasonable requests for additional information and due diligence access from Phase 1 Qualified Bidders and the manner in which such requests must be communicated. Neither the Receiver nor any of its affiliates (or any of its respective representatives) will be obligated to furnish any information relating to the Assets to any person, in its discretion. The Receiver makes no representation or warranty as to the information to be

provided through this due diligence process or otherwise, except as may be set forth in a Binding APA with the Successful Bidder.

Non-Binding APA Deadline

A Phase 1 Qualified Bidder that desires to make a bid shall deliver written copies of its bid, in the form of the template asset purchase agreement located in the Data Room (the “**APA**”), together with a blackline outlining all changes made to the APA (a “**Non-Binding APA**”), to the Receiver as follows: Attn: Gary Cerrato, e-mail gcerrato@bdo.ca, fax (416) 865-0904, so as to be received by the Receiver no later than May 12, 2017 at 5:00 p.m. (ET) (as may be extended as set out below, the “**Non-Binding APA Deadline**”). The Receiver, may extend the Non-Binding APA Deadline, once or successively, but is not obligated to do so. If the Non-Binding APA Deadline is extended, the Receiver will promptly notify all Phase 1 Qualified Bidders.

Qualified APA

A Non-Binding APA will be considered a qualified APA only if the Non-Binding APA is submitted by a Phase 1 Qualified Bidder and complies with all of the following (a “**Qualified APA**”):

- (a) the bid (either individually or in combination with other bids that make up one Qualified APA) is an offer to purchase some or all of the Assets on terms and conditions reasonably acceptable to the Receiver;
- (b) it is duly authorized and executed, and includes a purchase price for the Assets expressed in Canadian dollars (the “**Purchase Price**”), together with all exhibits, schedules and all applicable ancillary agreements thereto;
- (c) it includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Receiver to make a reasonable determination as to the Phase 1 Qualified Bidder’s financial and other capabilities to consummate the proposed sale and pay the Purchase Price;
- (d) it provides all of the conditions associated with unperformed due diligence that is required to be conducted in order to proceed with a Binding APA. For greater certainty, such conditions cannot relate to any financing condition;
- (e) it fully discloses the identity of each entity that will be bidding for the Assets or otherwise sponsoring, financing, participating or benefiting from such bid;
- (f) it includes an acknowledgement and representation of the Phase 1 Qualified Bidder that: (i) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid, and (ii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise,

regarding the Assets or the completeness of any information provided in connection therewith;

- (g) it includes evidence, in form and substance reasonably satisfactory to the Receiver, of authorization and approval from the Phase 1 Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of the Qualified APA submitted by the Phase 1 Qualified Bidder;
- (h) provides a deposit in the amount of not less than 5% of the Purchase Price offered by the Phase 1 Qualified Bidder (the "**Deposit**"); and
- (i) it is received by the Receiver by the Non-Binding APA Deadline.

The Receiver may determine whether to entertain bids for the Assets that do not conform to one or more of the requirements specified herein and deem such bids to be a Qualified APA.

The Receiver shall notify each Phase 1 Qualified Bidder in writing as to whether such Phase 1 Qualified Bidder's APA constituted a Qualified APA within five (5) business days following the expiration of the Non-Binding APA Deadline, or at such later time as the Receiver deems appropriate. If such notification is provided, then such Phase 1 Qualified Bidder will be deemed to be a "**Phase 2 Qualified Bidder**".

If the Receiver is not satisfied with the number or terms of bids submitted by the Non-Binding APA Deadline, the Receiver may extend the Non-Binding APA Deadline or cancel the Sale Process.

Binding APA Deadline

The Receiver will take all reasonable steps to negotiate and assist Phase 2 Qualified Bidder(s) in completing its unperformed due diligence, or any other bid matters including any discussions or negotiations required to be completed with any stakeholders in the receivership proceedings of Terrasan, with a view of submitting: (i) a further binding APA (a "**Binding APA**") on or before July 28, 2017 (the "**Binding APA Deadline**"), and (ii) a blackline outlining all changes made to the APA, for consideration by the Receiver. For greater certainty, a Binding APA shall:

- (a) be delivered to the Receiver prior to the Binding APA Deadline;
- (b) replace and supersede the Non-Binding APA submitted by a Phase 2 Qualified Bidder;
- (c) comply with all of the requirements set forth in respect of a Qualified APA;

- (d) include a letter stating that the Phase 2 Qualified Bidder's offer is irrevocable and open for acceptance until the Successful APA (as defined herein) is selected by the Receiver;
- (e) include written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Receiver to make a determination as to the Phase 2 Qualified Bidder's financial and other capabilities to consummate the proposed transaction;
- (f) not to be conditioned on: (i) the outcome of unperformed due diligence by the Phase 2 Qualified Bidder, and/or (ii) obtaining financing;
- (g) fully disclose the identity of each entity that will be entering into the transaction or the financing, or that is participating or benefiting from such bid;
- (h) provide the Deposit (as may be adjusted);
- (i) include acknowledgments and representations of the Phase 2 Qualified Bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the Assets and Terrasan prior to making its bid, (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Assets in making its bid, and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Assets or the completeness of any information provided in connection therewith; and
- (j) the bid contemplates closing the transaction set out therein on or before August 25, 2017 (the "Closing Date").

The Receiver may determine whether to entertain bids for the Assets that do not conform to one or more of the requirements specified herein and deem such bids to be a Binding APA.

Evaluation of Binding APA

A Binding APA will be valued based upon several factors including, without limitation, items such as the Purchase Price and the net value provided by such bid, the claims likely to be created by such bid in relation to other bids, the counterparties to such transactions, the proposed transaction documents, other factors affecting the speed and certainty of the closing of the transaction, the value of the transaction, the assets included or excluded from the bid, the transition services required from the Receiver (if any), any related transaction costs, and the likelihood and timing of consummating such transactions, each as determined by the Receiver.

Each Phase 2 Qualified Bidder shall comply with all reasonable requests for additional information by the Receiver regarding the Phase 2 Qualified Bidder or the Binding APA. Failure of a Phase 2 Qualified Bidder to comply with requests for additional information will be a basis for the Receiver to reject a Binding APA.

Selection of Successful APA

The Receiver will review and evaluate each Binding APA. Each Binding APA may be negotiated by the Receiver and the applicable Phase 2 Qualified Bidder submitting the Binding APA (the “**Unconditional Bidder**”), and may be amended, modified or varied to improve such Binding APA, and as a result of such negotiations, the Receiver may: (i) identify the highest or otherwise best offer for the Assets (the “**Successful APA**”, and the Unconditional Bidder making such Successful APA, the “**Successful Bidder**”), or (ii) in the event no Successful Bidder is declared, reject each Binding APA and may ask any Unconditional Bidder to resubmit a revised Binding APA. The determination of a Successful APA by the Receiver, shall be subject to approval by the Court.

Notwithstanding the foregoing, a Binding APA may not be withdrawn, modified or amended without the written consent of the Receiver prior to the Successful APA being determined. Any such withdrawal, modification or amendment made without the written consent of the Receiver prior to the Successful APA being determined shall result in the forfeiture of such Unconditional Bidder’s deposit as liquidated damages and not as a penalty.

In the event an Unconditional Bidder is not selected as a Successful Bidder, the Deposit shall be returned to the Unconditional Bidder as soon as reasonably practicable.

The Receiver shall have no obligation to select a Successful APA, and it reserves the right to reject any or all Binding APAs.

Sale Approval Motion Hearing

The motion for an order of the Court approving any Successful APA (the “**Sale Approval Motion**”) shall be sought and include, among other things, the approval from the Court to consummate the Successful APA. The Sale Approval Motion shall be heard on or before August 18, 2017.

All of the Binding APAs other than the Successful APA, if any, shall be deemed rejected by the Receiver on and as of the date of closing of the transaction contemplated by the Successful APA.

Reservation of Rights

The Receiver may: (a) determine which Binding APA, if any, is the highest or otherwise best offer; (b) reject at any time before the issuance and entry of an order approving a Binding APA, any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Sale Process or any order of the Court, or (iii) contrary to the best interests of the receivership estate, and (c) may modify the Sale Process or impose additional terms and conditions on the sale of the Assets.

Miscellaneous

This Sale Process is solely for the benefit of the Receiver and nothing contained in the Sale Process Order or this Sale Process shall create any rights in any other person or bidder (including without limitation rights as third party beneficiaries or otherwise).

Except as provided in the Sale Process Order and Sale Process, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Sale Process Order and the Sale Process.

Limitation of Liability

The Receiver shall not have any liability whatsoever to any person or party, including without limitation any Potential Bidder, Terrasan, or any creditor or other stakeholder, for any act or omission related to the Sale Process. By submitting a bid, each Potential Bidder shall be deemed to have agreed that it has no claim against the Receiver for any reason whatsoever.

Schedule "A"
Non-Disclosure Agreement

PRIVATE & CONFIDENTIAL

► [Potential Bidder Organization Name and Address]

Dear Sirs:

Re: Confidential Information with respect to Terrasan 327 Royal York Rd. Ltd. (the "Debtor")

In accordance with the terms of the Sale Process approved by the Ontario Superior Court of Justice (Commercial List) on _____ (the "**Sale Process**") you have requested access to due diligence and other materials relating to the business and assets (the "**Assets**") of the Debtor, such access to be coordinated by BDO Canada Limited, in its capacity as the Court-appointed Receiver in the receivership proceedings (the "**Receivership Proceedings**") of the Debtor (the "**Receiver**"). You will treat confidentially any information the Receiver or its representatives furnish to you in connection with the Assets (the "**Evaluation Material**"), provided, however, that the term "Evaluation Material" does not include information that: (a) was or becomes generally available to the public or to you on a non-confidential basis through no fault or breach of this agreement on your part or on the part of any of your directors, officers, employees or agents (including investment bankers, financing sources, accountants, and attorneys) (all such directors, officers, employees or agents referred to collectively as, "**Representatives**"); (b) was independently developed by you or your affiliates without reference to the Evaluation Material; or (c) was provided to you by a third party not known to you, after due inquiry, to be subject to confidentiality obligations.

You shall use the same degree of care as you use to protect your own confidential information of a similar nature, but not less than reasonable care, to prevent the unauthorized use, dissemination or publication of the Evaluation Material.

You agree that you will not use the Evaluation Material for any purpose other than evaluating your interest in purchasing some or all of the Assets; provided, however, that you may disclose

any Evaluation Material to your Representatives who need to know such information for the purpose of evaluating the possible purchase of the Assets (it being understood that you shall inform such Representatives of the confidential nature of such information and that, by receiving such information, they agree to abide by the terms this Agreement), provided that you will be responsible for any breach of the provisions of this Agreement by any such Representatives. Upon gaining access to the Evaluation Material, you will not contact any director, officer, employee or stakeholder of the Debtor or its affiliates with respect to the Evaluation Material or any other matter contemplated in this Agreement, without the express consent of the Receiver. In the event you are deemed a "Phase 2 Qualified Bidder" in accordance with the terms of the Sale Process, the Receiver may assist and coordinate meetings, discussions, and other communications between you and the aforementioned parties, all with a view of assisting you in submitting a "Binding APA" pursuant to the Sale Process.

In the event that you are required by applicable law or legal process or regulatory body or agency to disclose any part of the Evaluation Material, you will, to the extent permitted by law, give the Receiver prompt notice of such request so that the Receiver may seek an appropriate protective order. If in the absence of a protective order you are nonetheless compelled to disclose any part of the Evaluation Material, you may disclose such information (but only to the extent necessary to comply with your legal obligations) without liability hereunder, provided, however, that you give the Receiver written notice of the information to be disclosed as far in advance of its disclosure as is practicable and legally permitted. Upon the Receiver's request, you will use your commercially reasonable efforts to obtain assurances that confidential treatment will be accorded to such information.

Upon the Receiver's written request, you shall return promptly to the Receiver or destroy all copies of the Evaluation Material and you shall provide promptly a written certificate to the Receiver confirming your compliance with this Agreement. Notwithstanding the foregoing, on written notice to the Receiver concurrently with the provision of the aforementioned written certificate, you may retain a copy of the Evaluation Material to the extent required in order to comply with regulatory and internal record retention requirements.

You agree that (a) the Receiver reserves the right, in its reasonable business judgment, and subject to competitive and other business considerations, to decline access to all or part of the Evaluation Material, and (b) the Receiver reserves the right to reject any and all offers for the Assets or to terminate discussions and negotiations with you at any time all in accordance with the terms of the Sale Process. The exercise by the Receiver of these rights shall not affect the enforceability of any provision of this Agreement.

You acknowledge and agree that neither the Debtor nor the Receiver nor their representatives have made or make any representation or warranty as to the accuracy or completeness of the

Evaluation Material. You agree that neither the Debtor nor the Receiver nor their representatives shall have any liability to you or any of your Representatives resulting from the use of, or reliance on, the Evaluation Material. You agree that if you determine to engage in a transaction with the Receiver, such determination will be based solely on the terms of any definitive written agreement covering that transaction and on your own investigation, analysis and evaluation of the transaction.

You agree that damages may not be a sufficient remedy for any breach of this Agreement by you or your Representatives, and that in addition to all other remedies, the Receiver shall be entitled to seek specific performance, injunctive relief or other equitable relief as a remedy for any such breach.

You agree that this Agreement, and any rights of the Debtor or Receiver hereunder, shall inure to the benefit of any party that enters into a transaction contemplated by the Sale Process.

The Receiver may disclose the existence of this agreement, the identities of the parties hereto and any other information in respect of this agreement, or a transaction proposed by any party hereto, to the extent required in connection with the Receivership Proceedings or applicable laws, to any other person.

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. This Agreement and the rights and obligations of the parties will terminate two years from the date hereof.

Please indicate your agreement with the foregoing by signing and returning one copy of this agreement to:

[NTD]

Yours very truly,

**TERRASAN 327 ROYAL YORK RD.
LIMITED , by its court appointed receiver
BDO Canada Limited., and not in any other
capacity**

Per: _____

Name:

Title:

Confirmed and agreed to this _____ day of _____, 2017

► [Potential Bidder Organization Name]

Per: _____

Name:

Title:

(I have the authority to bind the corporation)

CENTURION MORTGAGE CAPITAL CORPORATION

and

TERRASAN 327 ROYAL YORK RD. LIMITED

Applicant

Respondent

<p>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</p>	
<p>ORDER (Sale Process)</p>	
<p>DENTONS CANADA LLP 77 King Street West, Suite 400 Toronto-Dominion Centre Toronto, ON M5K 0A1 Fax: 416-863-4592</p>	
<p>Robert Kennedy (LSUC No. 474070) Tel: 416-637-6756 Email: robert.kennedy@dentons.com</p>	
<p><i>Counsel to the Receiver</i></p>	

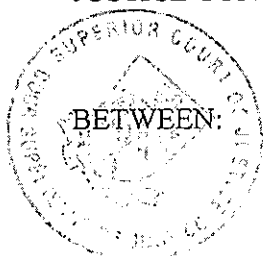
APPENDIX “B”

TO THE FIFTH REPORT OF BDO
CANADA LIMITED, IN ITS CAPACITY
AS COURT APPOINTED RECEIVER
DATED OCTOBER 4, 2017

Court File No. CV-17-11679-00CL

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

THE HONOURABLE)	WEDNESDAY, THE 13 th DAY
JUSTICE CONWAY)	OF SEPTEMBER, 2017
)	



CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

and

TERRASAN 327 ROYAL YORK RD. LIMITED

Respondent

ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court appointed receiver and manager (the “**Receiver**”) for an Order approving the letter agreement between the Receiver and 2402871 Ontario Inc. dated September 12, 2017 (the “**Letter Agreement**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Receiver dated September 12, 2017 and the Supplement to the Fourth Report of the Receiver dated September 12, 2017 (the “**Supplemental Report**”), and on hearing the submissions of counsel for the Receiver, and any such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Vanja Ginic sworn September 13, 2017 filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion is abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion is hereby dispensed with.

2. **THIS COURT DECLARES** that the Letter Agreement is hereby approved, together with the Price Adjustment (as defined therein), and the execution of the Letter Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary.

3. **THIS COURT ORDERS** that the Approval and Vesting Order granted on August 25, 2017 is hereby amended such that any reference to "Asset Purchase Agreement", shall be deemed to be a reference to the "Asset Purchase Agreement, as amended by the Letter Agreement".

4. **THIS COURT ORDERS** that the Confidential Appendix A to the Supplemental Report shall be sealed, kept confidential and not form part of the public record, but shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order ~~and shall only be opened upon further order of the Court.~~

✓ ~~✗~~ *until the closing of the transaction pursuant to the asset purchase agreement, as amended by the Letter Agreement.*
Conway J

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

SEP 13 2017

PER / PAR. *[Signature]*

CENTURION MORTGAGE CAPITAL CORPORATION

- and -

TERRASAN 327 ROYAL YORK RD. LIMITED

Applicant

Respondent

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

PROCEEDING COMMENCED AT TORONTO

ORDER

DENTONS CANADA LLP
77 King Street West, Suite 400
Toronto-Dominion Centre
Toronto, ON M5K 0A1

Robert J. Kennedy (LSUC #474070)
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vanja.ginic@dentons.com

Lawyers for the Receiver

APPENDIX “C”

TO THE FIFTH REPORT OF BDO
CANADA LIMITED, IN ITS CAPACITY
AS COURT APPOINTED RECEIVER
DATED OCTOBER 4, 2017

Court File No. CV-17-11679-00CL

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

BETWEEN:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

- and -

TERRASAN 327 ROYAL YORK RD. LIMITED

Respondent

THIRD REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY

AS COURT APPOINTED RECEIVER

August 30, 2017

INTRODUCTION AND PURPOSE OF THIS REPORT

Introduction

1. By Order of the Honourable Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (the "Court") dated February 24, 2017 (the "Receivership Order"), BDO Canada Limited ("BDO") was appointed as the Court-appointed receiver (in such capacity, the "Receiver") of all of the assets, undertakings and properties of Terrasan 327 Royal York Rd. Limited ("Terrasan" or the "Company"), pursuant to the application made by Centurion Mortgage Capital Corporation.
2. The Company's principal asset is a partially constructed residential condominium development located at 327 Royal York Rd., Toronto, Ontario known as the "On the Go Mimico". The municipal address for the Project is 327 Royal York Rd., Toronto, Ontario (the "Property").
3. On April 3, 2017, this Court granted an Order (the "Sale Process Order") which, among other things: (i) approved the First Report of the Receiver dated March 27, 2017, and the actions of the Receiver set out therein; and (ii) approved the marketing and sale process for the Property as set out in the First Report (the "Sale Process").
4. On August 25, 2017, this Court granted an Approval and Vesting Order (the "Approval and Vesting Order") which approved, among other things, the asset purchase agreement dated July 28, 2017 (the "2402871 APA") between the Receiver and 2402871 Ontario Inc. (the "Purchaser") and the transaction as set out therein. The closing of the sale pursuant to the 2402871 APA was to occur within 7 days of the Court granting the Approval and Vesting Order (the "Closing Date").
5. Aluma Systems Inc. ("Aluma") and Resform Construction Limited ("Resform") were in attendance at the sale approval motion represented by their respective counsel, Ms. Willson and Mr. DaRe. Aluma is a sub-trade of Resform. Each party raised concerns regarding the removal of their client's equipment from the Property, specifically whether reasonable access would be afforded to Resform following the transfer of the Property. The equipment consists of Aluma's scaffolding and Resform's tower crane (together, the "Equipment"), which do not form part of the assets being conveyed to the Purchaser pursuant to the 2402871 APA.
6. Certain scaffolding is currently supporting concrete structures at the Property, the removal of which must be engineered and "shored" to maintain the integrity of the structures and the safety of workers that will be onsite and engaged in the removal process. The Receiver also understands that demobilizing the crane requires certain stepped procedures to be followed and requires the use of a secondary mobile crane and will require the closure of a roadway that provides access to the Mimico Go Train Station.

7. Justice Myers issued an endorsement scheduling a motion returnable August 31, 2017 to address Aluma and Resform's concerns regarding the return of the Equipment should Aluma, Resform and the Receiver not be able to develop a viable demobilization plan. Attached hereto as Appendix A is a copy of the aforementioned endorsement of Justice Myers.

2402871 APA UPDATE

8. In accordance with the terms of the 2402871 APA, the Receiver and the Purchaser have agreed in writing to extend the Closing Date to September 8, 2017. The Purchaser has indicated to the Receiver that it is not prepared to close the sale pursuant to the 2402871 APA until such time as the Equipment removal issue is resolved.

RESFORM CLAIM

9. On or about January 31, 2017, Resform filed a lien claim for amounts owing to it pursuant to the Resform Contract (as defined herein). Attached hereto as Appendix B is a true copy of the lien materials provided to the Receiver from Resform (the "Lien Materials"). The cost of demobilization has been claimed by Resform in the Lien Materials.
10. A copy of the Resform contract is attached hereto as Appendix C (the "Resform Contract"). The Resform Contract provides that Resform is responsible for the removal of the Equipment.

SUMMARY OF RECEIVER'S DEALING WITH RESFORM

11. Following the appointment of the Receiver pursuant to the Receivership Order, on or about March 9, 2017, the Receiver was contacted by Mr. DaRe to inquire about rental payments for the Equipment. At that time the Receiver advised Mr. DaRe that it was not in a position to make rental payments.
12. The Receiver continued to have various communications with both Mr. DaRe and representatives of Resform after March 24, 2017 regarding the removal of the Equipment. During these communications, the Receiver advised that it was in the process of selling the Property and provided Mr. DaRe with information regarding the Sales Process. Attached hereto as Appendix D is a copy of the email correspondence dated April 13, 2017 wherein the Receiver provides Mr. DaRe a weblink to the Receiver's Sale Process website.
13. The Receiver understands that Resform was requesting information related to the Sales Process as it had an interest in communicating with bidders in the Sale Process in an effort to secure new agreements for the continued use of the Equipment at the construction site.

14. At no time has the Receiver prohibited Resform or Aluma from removing the Equipment from the Property. However, given the nature of the Equipment, the Receiver has always maintained that a detailed demobilization plan needs to be provided in advance of the removal to ensure that the demobilization is conducted in a reasonable and safe manner having consideration for all relevant safety legislation.
15. On June 8, 2017, the Receiver received a letter from Resform addressed to Empire Communities requesting access to the Property to remove the Equipment. On June 8, 2017, the Receiver contacted Mr. DaRe and requested details of Resform's intention regarding removal of the Equipment. Mr. DaRe was unaware that Resform had demanded access to the Property to remove its equipment and asked the Receiver to provide him with his client's correspondence and indicated that he would contact his client for further instruction. Attached hereto as Appendix E is a copy of the June 8, 2017 correspondence.
16. On June 9, 2017, the Receiver received a reply from Mr. DaRe. Attached hereto as Appendix F is a copy of the June 9, 2017 correspondence. Resform communicates to the Receiver that its negotiations for new agreements with bidding parties were not as successful as Resform had anticipated and Resform indicates it wants to take steps to remove the Equipment.
17. On June 21, 2017, representatives of Resform / Aluma entered the Property without the Receiver's permission. The Receiver contacted Mr. DaRe by email and advised that, before anything is removed from the site, the Receiver needed to understand what was being removed and the process of removal in order to be satisfied that the removal is safe and will not impact the integrity of the construction site. The Receiver was also concerned about the safety of those representatives unlawfully entering the construction site without supervision.
18. On June 28, 2017, the Receiver met with Mr. Brocca of Resform at the Property to discuss the removal of the Equipment. In attendance at that meeting were, among others, a representative of Quinn Dressel Associates (the engineer of record for the development). At that meeting Mr. Brocca agreed to provide the Receiver with a complete plan for the removal of the Equipment including obtaining all necessary permits required to carry out a demobilization plan. The Receiver understands that any demobilization plan requires approval by Quinn Dressel Associates as the engineer of record for the development. No such demobilization plan was provided to the Receiver or Quinn Dressel Associates.
19. On July 7, 2017, the Receiver delivered correspondence to Mr. Brocca to obtain a status update regarding the demobilization plan. Attached as Appendix G is a copy of the July 7, 2017 correspondence. The Receiver received no response to its email to Mr. Brocca.

20. On July 11, 2017, the Receiver subsequently contacted Mr. Brocca by telephone. During the telephone conversation Mr. Brocca indicated to the Receiver that Resform had not yet put its mind to formulating a demobilization plan and that to do so would require taking a project manager off of an ongoing construction project to dedicate time to preparing a demobilization plan. The Receiver also asked if a list of certain tools and small equipment not requiring the use of the tower crane that could be easily removed from the site had been assembled. Mr. Brocca indicated that such a list was being assembled but required input from various individuals and had also not yet been completed.

DEMOBILIZATION

21. On August 25, 2017, following the motion for the Approval and Vesting Order, the Receiver, its counsel, Ms. Willson and Mr. DaRe met to discuss the removal of the Equipment from the Property. At that meeting, the Receiver was asked to determine if the Purchaser would have an interest in the Equipment and the parties agreed that Mr. DaRe would take the necessary steps to have Resform develop a demobilization plan. Since that meeting:
- (a) on August 27, 2017, Receiver's counsel delivered correspondence to Mr. DaRe indicating that the Purchaser had no interest in the crane;
 - (b) On August 28, 2017, Mr. DaRe sent the Receiver's counsel an email estimating the number of days required to demobilize the Equipment, however a detailed demobilization plan was not included. Attached as Appendix H is a copy of the August 28, 2017 correspondence;
 - (c) On August 28 and August 29, 2017, Receiver's counsel followed up with Mr. DaRe regarding the progress in obtaining the required permit(s) associated with demobilization. Attached as Appendix I is a copy of the August 28, 2017 and August 29, 2017 correspondence;
 - (d) On August 30, 2017, Mr. DaRe provided an update on the development of a demobilization plan. At this point, the Receiver understands that Resform is meeting with the Purchaser to discuss the possibility of the Purchaser entering into an agreement with Resform. Attached hereto as Appendix J is a copy of the August 30, 2017 correspondence.
22. To date, the Receiver has not received a viable demobilization plan from Resform. The Receiver is concerned that the delays to date in the development a viable demobilization plan may jeopardize the closing of the sale pursuant to the 2402871 APA.

23. Based on the foregoing, the Receiver is seeking an Order requiring Resform to deliver a demobilization plan on or before September 6, 2017, that will outline the timing associated with the necessary permit process, confirm the engagement of the contractors required to assist in the demobilization process, and provide assurances regarding the safety concerns of the Receiver and the ultimate date of completion.

All of which is respectfully submitted this 30th day of August, 2017.

BDO CANADA LIMITED,
in its capacity as the Court-appointed Receiver of
Terrasan 327 Royal York Rd. Limited, and not in its personal or corporate capacity
Per:



Name: Gary Cerrato, CIRP, LIT
Title: Vice-President

APPENDIX "A"

Court File Number: CV-17-11679

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

CENTURION MORTGAGE CAPITAL CORP
Plaintiff(s)

AND

TERRASAN
Defendant(s)

Case Management Yes No by Judge: _____

Counsel	Telephone No:	Facsimile No:

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows):

MOTION TO DEAL WITH TRANSITION TO
PURCHASER OF GOODS OF ALUMA AND
RESPOND, IF NECESSARY, ROUTED FOR
1/2 HOUR ON SEP. 27/17. MR.
MILBURN ~~AS~~ FOR PURCHASER IS TO
BE INVOLVED.

Aug 25 / 17
Date

[Signature]
Judge's Signature

Additional Pages _____

APPENDIX "B"

CV-17-571983⁴²
Court File No.

SUPERIOR COURT OF JUSTICE

**IN THE MATTER OF THE CONSTRUCTION LIEN ACT,
R.S.O. 1990, c.c. 30 and amendments thereto**

BETWEEN:

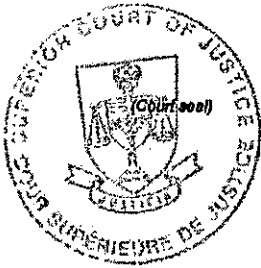
RESFORM CONSTRUCTION LTD.

PLAINTIFF

-and-

TERRASAN 327 ROYAL YORK RD. LIMITED

DEFENDANT



STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff(s) lawyer or, where the plaintiff(s) do(es) not have a lawyer, serve it on the plaintiff(s), and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFFS CLAIM, and costs of \$750.00 for costs, within the time for serving and filing Statement of Defence, you may move to have this proceeding dismissed by the Court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's Claim and \$400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five (5) years after the action was commenced unless otherwise ordered by the Court.

Date: March 21, 2017.

Issued by



Local registrar

Address of court office:
393 University Avenue
Toronto, Ontario
M5G 1E6

(m Brenton)

(Name and address of each defendant)

TO:

Terrasas 327 Royal York Rd. Limited
93 Skyway Avenue
Suite 200
Toronto, Ontario
M9W 6N6

-3-

CLAIM**1. The Plaintiff claims:***(State here the precise relief claimed.)*

:

- (a) payment of the sum of \$2,015,268.26, inclusive of H.S.T., from the Defendant, Terrasan 327 Royal York Rd. Limited, and that in default of such payment, payment from the Defendant, Terrasan 327 Royal York Rd. Limited, (hereinafter referred to as the "owner"), either jointly or severally;
- (b) payment of pre-judgment interest pursuant to the Courts of Justice Act, 1990, and amendments thereto from December 23, 2016;
- (c) payment of post-judgment interest pursuant to the Courts of Justice Act, 1990, and amendments thereto;
- (d) payment of H.S.T. payable by Terrasan 327 Royal York Rd. Limited on the Judgment and payment of its legal costs plus H.S.T. on a substantial indemnity basis;
- (e) that in default of payment of the said sum of \$2,015,268.26, plus H.S.T, plus interest and costs by the Defendant, an order that all the estate or interest in the lands and premises hereinafter described in Schedule "A" attached hereto (hereinafter referred to as the "property"), of the Defendant or any beneficial owner of the said estate or interests, be sold and the proceeds applied in and towards payment of Terrasan 327 Royal York Rd.

-4-

Limited's claim and with interest and costs pursuant to the provisions of the Construction Lien Act R.S.O. 1990, Ch. c. 30 and amendments thereto, and in addition if applicable, an Order and declaration that the lien attaches against the security posted by the Defendant for the payment out to the Plaintiff to the full extent of Terrasan 327 Royal York Rd.'s Claim for Lien or in the further alternative, but not by way of waiver, to the full extent of the owner's holdback as was required to be maintained pursuant to the relevant provisions of the *Construction Lien Act, R.S.O., 1990*;

(f) for the purposes aforesaid and for all other purposes, an Order that all proper directions be given, inquiries made and accounts taken;

(g) such further and other relief as this Honourable Court considers just.

2. The Plaintiff, Resform Construction Ltd., (hereinafter "Resform") is a corporation incorporated pursuant to the laws of the Province of Ontario. The Defendant, Terrasan 327 Royal York Rd. Limited, (hereinafter "Terrasan") is a corporation incorporated pursuant to the laws of the Province of Ontario and was at all times the General Contractor with respect to an improvement upon the lands as described in the Claim for Lien and the party with whom Resform contracted for the work described therein.

3. Terrasan 327 Royal York Rd. Limited ("owner"), was at all material times the owner and developer of the property and was at all material times the party authorizing the work performed by Resform.

-5-

4. As of the date of the registration of the Claim for Lien, Terrasan remains indebted to Resform for the sum of \$2,015,2658.26, plus H.S.T. for concrete forming and related services in respect to the improvements upon the property and which sum remains due and owing on account of invoices rendered and delivered by Resform, particulars of which have been provided.

5. At all times, the owner as set out herein knew and/or acquiescence to Resform providing the services and work referred to herein and received the benefit of same. The benefit is ascertainable and the Plaintiff seeks, if required, payment from the owner on a quantum meruit basis.

6. By reason of the above and by reason of providing the said material and services and performing the said work, Resform became and is entitled to a lien upon the estate and interest of the owner of the property in the amount of \$2,015,268.26, plus H.S.T. and the costs of the action and interest pursuant to the provisions of the Construction Lien Act ("Act").

7. On or about the 31st day of January, 2017, Resform, pursuant to the said Act, caused to be registered in the Land Registry Office for the Land Titles Division of Toronto, a Claim for Lien registered as instrument No. AT4475863 against title to the lands:

Name of Lien Claimant:	Resform Construction Ltd.
Address for Service:	3761 Hwy 89, R.R. #1 Cookstown, Ontario L0L 1L0

-6-

Name of Owners:	Terrasan 327 Royal York Rd. Limited
Address:	93 Skyway Avenue, Suite 200 Toronto, Ontario M9W 6N6
Name of Person to whom lien claimant supplied services or materials:	Terrasan 327 Royal York Rd. Limited
Address:	327 Royal York Road Etobicoke, Ontario M8Y 2P81
Time within which services or materials were supplied:	April 14, 2016 – December 23, 2016
Short description of services or material that have been supplied:	Concrete forming and related services
Contract Price or subcontract price:	\$7,865,000.00 (Plus H.S.T.)
Amount claimed as owing in respect or services or materials that have been supplied:	\$2,015,268.26 (Plus H.S.T.)

A. The lien claimant claims a lien against the interest of every person identified above as an owner of the premises described in Schedule "A" to this Claim for Lien.

Date: January 31, 2017

RESFORM CONSTRUCTION LTD.

PER:

"ALEX DE IULIS"
Signature of Claimant

-7-

which Claim for Lien is verified by the affidavit of ALEX DE IULIS, the agent of the lien claimant and is sworn before a commissioner for taking Affidavits in the Province of Ontario as required by statute.

The Plaintiff propose(s) that this action be tried at Toronto.

Date of Issue: *March 21, 2017*

JOHN DARE (LSUC#30619L)
Barrister and Solicitor
241 Applewood Crescent
Unit 9
Concord, Ontario
L4K 4E6

Tel: (905) 266-0772
Fax: (905) 266-0773

Solicitor for the Plaintiff

**THE CONSTRUCTION LIEN ACT,
R.S.O. 1990, c.c. 30 and amendments thereto**

SCHEDULE "A"

PIN NO.: 07617-0889 (LT)

**LOTS 159, 160 & 161 PLAN 164 EXCEPT PART LOTS 160 & 161 PLAN 164, PART 2
66R28185; ETOBICOKE; TOGETHER WITH AN EASEMENT OVER PART LOTS 160 &
160, PLAN 164; PART 2 66R28185 AS IN AT4215400; SUBJECT TO AN EASEMENT IN
GROSS AS IN AT4264438; SUBJECT TO AN EASEMENT IN GROSS AS IN AT4274323;
CITY OF TORONTO**

RESFORM CONSTRUCTION LTD.

and
PLAINTIFF

TERRASAN 327 ROYAL YORK RD. LIMITED.

DEFENDANT

(Short title of proceeding)

Court File No. CV-17-571983

SUPERIOR COURT OF JUSTICE

Proceeding commenced at
TORONTO

STATEMENT OF CLAIM

JOHN DARE (LSUC#30619L)
Barrister and Solicitor
241 Appplewood Crescent
Unit 9
Concord, Ontario
L4K 4E6

Tel: (905) 266-0772
Fax: (905) 266-0773

Solicitor for the Plaintiff

Construction Lien Act, R.S.O. 1990, CHAPTER C. 30

CERTIFICATE OF ACTION

Under Section 36 of the Act

CV-17-571983
Court File No.

SUPERIOR COURT OF JUSTICE

BETWEEN:

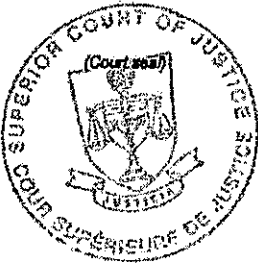
RESFORM CONSTRUCTION LTD.

PLAINTIFF

-and-

TERRASAN 327 ROYAL YORK RD. LIMITED

DEFENDANTS




CERTIFICATE OF ACTION

I certify that an action has been commenced in the Superior Court of Justice under the Construction Lien Act, R.S.O. 1990, Chapter C. 30 between the above parties in respect of the premises described in Schedule A to this certificate, and relating to the claim(s) for lien bearing the following registration number: WR4003593 AT 4475863

33

Date: March 21, 2017



(Registrar or local registrar)
393 University Avenue M Branton
10th Floor
Toronto, Ontario
M5G 1E6

Construction Lien Act, R.S.O. 1990 CHAPTER C. 30**SCHEDULE A****Description of Premises:**

(The description of the premises must be the same as in the statement of claim, and must be sufficient for registration under the Land Titles Act or Registry Act, as the case may be).

PIN NO.: 07617 – 0889 (LT)

LOTS 159, 160 & 161 PLAN 164 EXCEPT PART LOTS 160 & 161 PLAN 164, PART 2 66R28185; ETOBICOKE; TOGETHER WITH AN EASEMENT OVER PART LOTS 160 & 160, PLAN 164; PART 2 66R28185 AS IN AT4215400; SUBJECT TO AN EASEMENT IN GROSS AS IN AT4264438; SUBJECT TO AN EASEMENT IN GROSS AS IN AT4274323; CITY OF TORONTO

RESFORM CONSTRUCTION LTD.

and PLAINTIFF

TERRASAN 327 ROYAL YORK RD. LIMITED.

DEFENDANT

(Short title of proceeding)

Court File No. CV-17-571983

SUPERIOR COURT OF JUSTICE

Proceeding commenced at
TORONTO

*Certificate of
Action*

JOHN DARE (LSUC#30619L)
Barrister and Solicitor
241 Appplewood Crescent
Unit 9
Concord, Ontario
L4K 4E6
Tel: (905) 266-0772
Fax: (905) 266-0773
Solicitor for the Plaintiff



resform
construction ltd.
RES Group of Companies

3761 Hwy-89
Cookstown, ON L0L 1L0
(705) 458-0600
www.resgroup.ca

DEMOBILIZATION COST ANALYSIS -FROM JANUARY 1, 2017

Assumptions:

Total discontinuation of the project

Completion of demobilization by February 28, 2017

Tower Crane	
Rental	\$34,500.00
Dismantling	\$172,500.00
Formwork Shoring Equipment	
Rental	\$70,764.10
Labour to Disassemble	\$149,500.00
Transportion	\$10,000.00
Site Shacks and Small Tools	
Rental	\$5,520.00
Transportation	\$3,000.00
TOTAL -	\$445,784.10

SUMMARY	
Billed	\$1,938,588.66
Paid	\$467,740.25
Owing -	\$1,470,848.41
Change Orders -	\$304,065.96
Demobilization -	\$445,784.10
Total -	\$2,220,698.47

PROJECT : On-The-Go-Mimico
3-61-16



PROGRESS BILLING SUMMARY

INV. NO.	DATE INVOICED	GROSS AMOUNT	HOLDBACK	NET AMOUNT	H.S.T.	AMOUNT DUE	DATE PAID	AMOUNT PAID
7227 1R	May 19, 2016 May 19, 2016	\$205,925.00	\$20,592.50	\$185,332.50	\$24,093.23	\$209,425.73	July 14, 2016	\$209,425.73
7258 7259	June 22, 2016 June 22, 2016	\$248,425.00 \$52,470.00	\$24,842.50 \$5,247.00	\$223,582.50 \$47,223.00	\$29,065.73 \$6,138.99	\$252,648.23 \$52,470.00	August 15, 2016	\$258,787.22
7290 7291	July 27, 2016 July 27, 2016	\$48,050.00 \$11,275.00	\$4,805.00 \$1,127.50	\$43,245.00 \$10,147.50	\$5,621.85 \$1,319.18	\$48,866.85 \$11,466.68	September 19, 2016	\$60,333.53
7311 4R	August 22, 2016 August 22, 2016	\$7,340.00	\$734.00	\$6,606.00	\$858.78	\$7,464.78		
7374 7375	October 21, 2016 October 21, 2016	\$592,365.96 \$480.15	\$59,236.80 \$48.02	\$533,129.36 \$432.14	\$69,306.82 \$56.18	\$602,436.18 \$488.31		
7406 7407	November 23, 2016 November 23, 2016	\$399,780.00 \$50,170.45	\$39,978.00 \$5,017.05	\$359,802.00 \$45,153.41	\$46,774.26 \$5,869.94	\$406,576.26 \$51,023.35		
7439 7440	December 20, 2016 December 20, 2016	\$282,420.00 \$39,887.10	\$28,242.00 \$3,988.71	\$254,178.00 \$35,898.39	\$33,043.14 \$4,666.79	\$287,221.14 \$40,565.18		
8 8R	8 8							
9 9R	9 9							
10 10R	10 10							
11 11R	11 11							
12 12R	12 12							
13 13R	13 13							
14 14R	14 14							
15 15R	15 15							
16 16R	16 16							
17 17R	17 17							
18 18R	18 18							
TOTALS		\$1,938,588.66	\$193,858.87	\$1,744,729.79	\$226,814.87	\$1,970,652.68		\$528,546.48

PROJECT : On-The-Go-Mimico
3-61-16



EXTRA'S TO CONTRACT

INV. NO.	SUBMITTED			APPROVED			COMMENTS
	DATE	AMOUNT	GST	DATE	AMOUNT	GST	
7389	November 7, 2016	\$1,825.83	\$237.36				W.O. 06560, 06565 & 06562
7397	November 15, 2016	\$5,943.80	\$772.69				W.O. 06682, 83, 84, 85 & 86
7432	December 19, 2016	\$2,664.50	\$346.39				W.O. 06686, 92, 90, 89, 88 & 87
TOTAL		\$10,434.13	\$1,356.44				

PROJECT : On-The-Go-Mimico
3-61-16



CHANGES TO CONTRACT

INV. NO.	SUBMITTED			APPROVED			COMMENTS
	DATE	AMOUNT	GST +	DATE	AMOUNT	GST +	
CO #1	July 5, 2016	(\$392.60)	(\$51.04)				
CO #2	July 12, 2016	(\$4,900.00)	(\$637.00)				
CO #3	September 9, 2016	\$5,328.96	\$718.76				
CO #4	September 22, 2016	\$8,293.44	\$1,078.15				
Quote	November 22, 2016	\$3,741.16	\$486.35				Drawing Changes
Quote	October 28, 2016	\$291,794.00	\$37,933.35				Re-Mobilization
TOTAL		\$304,065.96	\$39,528.57				



3761 Highway 89, Rte #1
 Cookstown, ON L0L 1L0
 (705) 458-0600
 (705) 458-1641 Fax Admin
 (705) 458-4594 Fax Estim/Proj
 info@resgroup.ca

CHANGE NOTICE

DATE: November 22, 2016 (Revised from November 2, 2016)

TO: Bluescape Construction Management Inc.

ATTN: Mitchell Cataford

RE: On The Go Mimico - Changes/Extras SSI#2-18, ASI#1-5, 7-8

FROM: Tashyna Gatti – Ext. 2206

PROJECT: On The Go Mimico

SUMMARY:

Drawing Changes as Identified – Per the Structural Supplemental Instructions #2-18, Architectural Supplemental Instruction #1-5, 7-8

We are pleased to submit our price to provide the necessary labour and equipment to form the additional work as per the drawings and site instructions provided to date.

Changes associated with Structural Supplemental Instruction #2

Drawing # S203b

CREDIT: Slab step at J2 removed	42 ft ²	x \$14.20	\$-596.40
CREDIT: Slab step at N2 removed	64 ft ²	x \$14.20	\$-908.80

Changes associated with Structural Supplemental Instruction #7

Drawing # S213

Beam PBM1-PBM3, PBM6, PBM9-PBM11 added	676 ft ²	x \$16.70	\$ 11,289.20
Curbs along GL 6 and 3x extended from 600mm to 1575mm	344 ft ²	x \$16.70	\$ 5,744.80
CREDIT: Columns at B6 and B5 removed	325 ft ²	x \$7.23	\$-2,349.75

Drawing # S214

Beam RBM3 added	17 ft ²	x \$16.70	\$ 283.90
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Changes associated with Structural Supplemental Instruction #7 & 8

Drawing # S213

CREDIT: Slab at elevator equipment platform removed	556 ft ²	x \$7.23	\$-4,019.88
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Changes associated with Structural Supplemental Instruction #10

Drawing # S205a

CREDIT: Concrete wall replaced with steel frame at 1B	765 ft ²	x \$7.23	\$-5,530.95
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3761 Highway 67, RR #1
 Cookstown, ON L0L 1L0
 (705) 458-0600
 (705) 458-1641 Fax Admin
 (705) 458-4594 Fax Estim/Proj
 info@resgroup.ca

October 28, 2016

Bluescape Construction Management
 468 Queen Street East,
 Toronto, Ontario
 M5A 1T7

Attention: Jane Almey

OTGM -- Formwork Delay Update

Now that we are remobilized and back on site in a productive manner, we would like to update or previously submitted extra. We have incurred the following costs to date that are extra to our contract associated with the site preparation delay.

Decreased labour production – 2,390 Hours x \$80.50	\$192,395.00
Additional crane rental time – 4 Months x \$16,500.00	\$66,000.00
Increase labour costs – 16 weeks x 30 Men x \$1.50 / hour	\$28,800.00
Ulma equipment rental	\$4,600.00
Total extra associated with the project delay to date	\$291,795.00

Cold weather protection measures for shotcrete to be completed on a time and material basis.

Please let me know if you have any questions or concerns with the information provided.

Yours truly,
RESFORM CONSTRUCTION LTD.

Chad Buttineau

Badger Daylighting LP
 6740 - 65th Ave.
 Red Deer, AB T4P 1A5

STATEMENT

CUSTOMER NO.:	TER079	CUSTOMER NO.:	TER079
PAGE:	1	PAGE:	1
DATE:	1/1/2017	DATE:	1/1/2017

SOLD TO: TERRASAN 327 ROYAL YORK RD LIMITED
 488 QUEEN STREET E
 TORONTO, ON M5S 1T7

 Attn: JULEITH MYERS

REMIT TO ADDRESS:
 Badger Daylighting LP
 6740 - 65 Ave
 Red Deer, AB T4P 1A5

DOCUMENT NO.	DOC DATE	TY	REFERENCE/APPLIED NO.	DUE DATE	AMOUNT	DOCUMENT NO.	AMOUNT	✓
AR00112892	6/14/2016	IN		7/14/2016	265.55	AR00112892	265.55	
AR00113319	6/15/2016	IN		7/15/2016	4,808.15	AR00113319	4,808.15	
AR00120681	8/12/2016	IN		9/11/2016	1,401.20	AR00120681	1,401.20	
AR00120683	8/12/2016	IN		9/11/2016	1,401.20	AR00120683	1,401.20	
CR00120915	8/15/2016	CR		8/15/2016	-1,932.30	CR00120915	-1,932.30	

PLEASE CONTACT OUR CREDIT DEPARTMENT

Credit Limit: 25,000.00
Credit Available: 19,056.20

TO ENSURE PROPER CREDIT, PLEASE CHECK THE ITEMS YOU ARE PAYING IN THE ✓ COLUMN.

IN - Invoice
 DN - Debit Note
 CR - Credit Note
 IT - Interest Payable

PY - Applied Receipt
 ED - Earned Discount
 AD - Adjustment
 PI - Prepayment

UC - Unapplied Cash
 RF - Refund

Total ⇒ 5,943.80

Total ⇒ 5,943.80

1 - 30 DAYS O/DUE	31 - 60 DAYS O/DUE	61 - 90 DAYS O/DUE	OVER 90 DAYS O/DUE
0.00	0.00	0.00	5,943.80

Badger Daylighting LP

APPENDIX "C"

CCDC 17

Stipulated Price Contract between Owner and Trade Contractor for Construction Management Projects

2010

On The GO Mimico

Apply a CCDC 17 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 17 - 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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			CCDC 17 and CCDC 5A 'Construction Management Contract-For Services' are complimentary documents. CCDC 17 is the product of a consensus-building process aimed at balancing the interests of all parties on the construction project. It reflects recommended industry practices. CCDC 17 can have important consequences. The CCDC and its constituent member organizations do not accept any responsibility or liability for loss or damage which may be suffered as a result of the use or interpretation of CCDC 17.

**AGREEMENT BETWEEN OWNER AND TRADE CONTRACTOR
FOR CONSTRUCTION MANAGEMENT PROJECTS**

This Agreement made on the 26 day of February in the year 2016 .

by and between the parties

Terrasas 327 Royal York Rd. Limited

and

hereinafter called the *Owner*

Resform Construction Ltd.

The *Owner* and the *Trade Contractor* agree as follows:

hereinafter called the *Trade Contractor*

ARTICLE A-1 THE WORK

The *Trade Contractor* shall:

1.1 perform the *Work* required by the *Contract Documents* for

Formwork

for the *Project*

insert above the description of the *Work*

On The GO Mimico

located at

insert above the title of the *Project*

327 Royal York Road Toronto Ontario

for which the Agreement has been signed by the parties, and for which

insert above the *Place* of the *Project*

Bluescape Construction Management Inc.

is acting as and is hereinafter called the *Construction Manager*, and for which

insert above the name of the *Construction Manager*

McCallum Sather Architects Inc.

is acting as and is hereinafter called the *Consultant*, and for which

insert above the name of the *Consultant*

the ~~Construction~~ *Manager* * / *Consultant* * is acting as the *Payment Certifier*, and (* Strike out inapplicable term.)

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- 1.2 do and fulfill everything indicated by the *Contract Documents*, and
- 1.3 perform the *Work*:
- .1 in accordance with a schedule provided by the *Owner* at the time of signing the *Contract*, or
 - .2 in accordance with a schedule mutually agreed upon if provided by the *Owner* after the signing of the *Contract*; or
 - .3 ~~if no schedule is provided by the *Owner*, commence the *Work* by the 21 day of March in the year 2016 and, subject to adjustment in *Contract Time* as provided for in the *Contract Documents*, attain *Substantial Performance* of the *Work*, by the 4 day of May in the year 2017 .~~

ARTICLE A-2 AGREEMENTS AND AMENDMENTS

- 2.1 The *Contract* supersedes all prior negotiations, representations or agreements, either written or oral, relating in any manner to the *Work*, including the bidding documents that are not expressly listed in Article A-3 of the Agreement – CONTRACT DOCUMENTS.
- 2.2 The *Contract* may be amended only as provided in the *Contract Documents*.

ARTICLE A-3 CONTRACT DOCUMENTS

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

- Agreement Between *Owner* and *Trade Contractor*
- Definitions
- The General Conditions of the *Contract*

- Standard Construction Document – CCDC17 – 2010, Agreement between Owner and Trade Contractor for Construction Management projects.
- Architectural Drawings prepared for this project by McCallum Sather Architects Inc. - see attached list dated January 29, 2016.
- Structural Drawings prepared for this project by Quinn Dressel Associates - see attached list dated October 29, 2015
- Shoring Drawings prepared for this project by Terraprobe Engineering Solutions Inc. - see attached list dated January 28, 2016.
- Scope of Work for Formwork, prepared for this project by Bluescape Construction Management Inc., dated February 26, 2016
- Forming Schedule dated March 2, 2016, prepared for this project by Resform Construction Ltd.
- Specifications prepared for this project by Quinn Dressel Associates:
 - Section 03 30 00 – Cast in Place Concrete (41 pages)
- Safety Documentation, prepared for this project by Bluescape Construction Management Inc:
 - Contractor/Subcontractors Safety Health & Environment Agreement
 - Safety Health & Environment Documentation for Bid Submittals
 - Workplace Safety & Insurance Board Subcontractor Coverage
 - Contractor Safety, Health and Environment Program
 - Bluescape Health and Safety Policy Statements

(Insert here, attaching additional pages if required, a list identifying all other Contract Documents e.g. supplementary conditions; information documents; specifications, giving a list of contents with section numbers and titles, number of pages, and date; material finishing schedules; drawings, giving drawing number, title, date, revision date or mark; addenda, giving title, number, date; schedule)

2

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CCDC 17 – 2010

ARTICLE A-4 CONTRACT PRICE

- 4.1 The *Contract Price*, which excludes *Value Added Taxes*, is:
- | | | |
|--|--------------|-----------------|
| Seven Million and Ninety Five Thousand | /100 dollars | \$ 7,095,000.00 |
|--|--------------|-----------------|
- 4.2 *Value Added Taxes* (at 13 %) payable by the *Owner* to the *Trade Contractor* are:
- | | | |
|--|--------------|---------------|
| Nine Hundred and Twenty Two Thousand Three Hundred and Fifty | /100 dollars | \$ 922,350.00 |
|--|--------------|---------------|
- 4.3 Total amount payable by the *Owner* to the *Trade Contractor* for the *Work* is:
- | | | |
|--|--------------|-----------------|
| Eight Million Seventeen Thousand Three Hundred and Fifty | /100 dollars | \$ 8,017,350.00 |
|--|--------------|-----------------|
- 4.4 These amounts shall be subject to adjustments as provided in the *Contract Documents*.
- 4.5 All amounts are in Canadian funds.

ARTICLE A-5 PAYMENT

- 5.1 Subject to the provisions of the *Contract Documents*, and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations do not exist or apply, subject to a holdback of ten percent (10 %), the *Owner* shall:
- .1 make progress payments to the *Trade Contractor* on account of the *Contract Price* when due in the amount certified by the *Payment Certifier* together with such *Value Added Taxes* as may be applicable to such payment, and
 - .2 upon *Substantial Performance of the Work*, pay to the *Trade Contractor* the unpaid balance of the holdback amount when due together with such *Value Added Taxes* as may be applicable to such payment, and
 - .3 upon the issuance of the final certificate for payment, pay to the *Trade Contractor* the unpaid balance of the *Contract Price* when due together with such *Value Added Taxes* as may be applicable to such payment.
- 5.2 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 *Trade Contractor* in accordance with the provisions of GC 11.1 – INSURANCE.
- 5.3 Interest
- .1 Should either party fail to make payments as they become due under the terms of the *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
 Royal Bank Financial
 (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 5.3.1 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-6 COMMUNICATION

- 6.1 Except for the direct communications described in paragraph 6.2 of this Article, all communications between the *Trade Contractor*, and the *Owner*, the *Consultant* or the *Payment Certifier* that relate to the *Contract* shall be forwarded through the *Construction Manager*.
- 6.2 The parties shall inform the *Construction Manager* of the following direct communications:
- .1 between the *Payment Certifier* and the *Owner*, *Consultant* or *Trade Contractor* as described in Part 5 of the General Conditions – PAYMENT;
 - .2 among the *Owner*, *Consultant* and *Trade Contractor* with respect to *Notices in Writing*; and
 - .3 as otherwise expressly specified in the *Contract Documents*.

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ARTICLE A-9 SUCCESSION

9.1 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 the hands of their duly authorized representatives.

SIGNED AND DELIVERED

In the presence of:

WITNESS



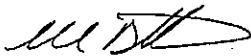
signature of witness

name of person signing
Luis Correia

signature of witness

name of person signing

WITNESS



signature of witness

name of person signing
CHAD BUTTNER

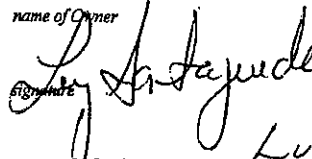
signature of witness

name of person signing

OWNER

Terrasan 327 Royal York Rd. Limited

name of Owner



signature

name and title of person signing

*Luigi Santaguida
President*

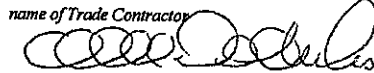
signature

name and title of person signing

TRADE CONTRACTOR

Resform Construction Ltd.

name of Trade Contractor



signature

name and title of person signing
*Alex DeIulis
President*

signature

name and title of person signing

N.B. Where legal jurisdiction, local practice or Owner or Trade Contractor 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.

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DEFINITIONS

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

Change Directive

A *Change Directive* is a written instruction issued by the *Owner* through the *Construction Manager* and signed by the *Owner* directing the *Trade Contractor* to proceed with a change in the *Work* within the general scope of the *Contract Documents* prior to the *Owner* and the *Trade Contractor* agreeing upon adjustments in the *Contract Price* and the *Contract Time*.

Change Order

A *Change Order* is a written amendment to the *Contract* issued by the *Construction Manager* and signed by the *Owner* and the *Trade Contractor* stating their agreement upon:

- a change in the *Work*;
- the method of adjustment or the amount of the adjustment in the *Contract Price*, if any; and
- the extent of the adjustment in the *Contract Time*, if any.

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 engaged by the *Owner* and identified as such in the Agreement.

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 Project*.

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-3 of the Agreement – CONTRACT DOCUMENTS and amendments agreed upon between the parties.

Contract Price

The *Contract Price* is the amount stipulated in Article A-4 of the Agreement – CONTRACT PRICE.

Contract Time

The *Contract Time* is the time stipulated in paragraph 1.3 of Article A-1 of the Agreement – THE WORK from commencement of the *Work* to *Substantial Performance of the Work*.

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.

Notice in Writing

A *Notice in Writing*, where identified in the *Contract Documents*, is a written communication between the parties or between them and the *Construction Manager* or the *Consultant* that is transmitted in accordance with the provisions of Article A-7 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.

Payment Certifier

The *Payment Certifier* is either the *Construction Manager* or the *Consultant* identified as such in the Agreement.

Place of the Project

The *Place of the Project* is the designated site or location of the *Project* identified in the *Contract Documents*.

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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 contemplated of which the *Work* may be the whole or a part.

Project In-Use Date

Project In-Use Date shall have been reached when the *Project* is ready for use or is being used for the purpose intended and is so confirmed in writing by the *Construction Manager* in consultation with the *Consultant* and the *Owner*.

Provide

Provide means to supply and install.

Shop Drawings

Shop Drawings are drawings, diagrams, illustrations, schedules, performance charts, brochures, *Product* data, and other data which the *Trade Contractor* 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*.

Substantial Performance of the Work

Substantial Performance of the Work is as defined in the lien legislation applicable to the *Place of the Project*. 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 *Payment Certifier*.

Supplemental Instruction

A *Supplemental Instruction* is an instruction, not involving adjustment in the *Contract Price* 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 *Construction Manager* 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 *Trade Contractor* 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*.

Trade Contractor

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

Trade Subcontractor

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

Value Added Taxes

Value Added Taxes means such sum as shall be levied upon the *Contract Price* by the Federal or any Provincial or Territorial Government and is computed as a percentage of the *Contract Price* and includes the Goods and Services Tax, the Quebec Sales Tax, the Harmonized Sales Tax, and any similar tax, the collection and payment of which have been imposed on the *Trade Contractor* by tax legislation.

Work

The *Work* means the total construction and related services required by the *Contract Documents*.

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 Project*.

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GENERAL CONDITIONS OF THE CONTRACT

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 *Trade Contractor* in accordance with these documents. It is not intended, however, that the *Trade Contractor* shall supply products or perform 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 *Trade Subcontractor*, a *Supplier*, or their agent, employee, or other person performing any of the *Work* ;
 - .2 the *Construction Manager* and the *Trade Contractor*, a *Trade Subcontractor*, a *Supplier*, or their agent, employee, or other person performing any portion of the *Work*; or
 - .3 the *Consultant* and the *Trade Contractor*, a *Trade Subcontractor*, a *Supplier*, or their agent, employee, or other person performing any portion of the *Work*.
- 1.1.3 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 *Trade Contractor* in dividing the work among *Trade 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 *Trade Contractor*,
 - the Definitions,
 - Supplementary Conditions,
 - the General Conditions of the *Contract*,
 - 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 *Trade Contractor*, without charge, sufficient copies of the *Contract 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. Signed *Contract* sets shall belong to each party to the *Contract*. All *Specifications*, *Drawings* and models prepared by the *Consultant* and issued to the *Trade Contractor* 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 *Trade Contractor* 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 Project* shall govern the interpretation of the *Contract*.

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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*, *Construction Manager*, *Consultant*, *Payment Certifier*, or *Trade Contractor* shall constitute a waiver of any right or duty afforded any of them under the *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 written consent of the other, which consent shall not be unreasonably withheld.

PART 2 ADMINISTRATION OF THE CONTRACT**GC 2.1 AUTHORITY OF THE CONSTRUCTION MANAGER AND THE CONSULTANT**

- 2.1.1 The *Construction Manager* and 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 2.1.2.
- 2.1.2 The duties, responsibilities and limitations of authority of the *Construction Manager* and the *Consultant* as set forth in the *Contract Documents* shall be modified or extended only with the written consent of the *Owner* and the *Trade Contractor*.
- 2.1.3 If the employment of the *Construction Manager* or the *Consultant* is terminated, the *Owner* shall immediately appoint or reappoint those against whom the *Trade Contractor* makes no reasonable objection and whose duties, responsibilities and limitations of authority under the *Contract Documents* will be that of the former *Construction Manager* or the former *Consultant*, as the case may be.
- 2.1.4 If the employment of the *Construction Manager* or the *Consultant* as the *Payment Certifier* is terminated, the *Owner* shall immediately appoint or reappoint the *Construction Manager* or the *Consultant* as the *Payment Certifier*.

GC 2.2 ROLES OF THE CONSTRUCTION MANAGER AND THE CONSULTANT

- 2.2.1 The *Construction Manager* will:
- .1 provide administration of the *Contract* as described in the *Contract Documents*;
 - .2 in the first instance, receive all questions in writing by the *Owner* or the *Trade Contractor* for interpretations and findings relating to the performance of the *Work* or the interpretation of the *Contract Documents* except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER;
 - .3 in the first instance, give interpretations and make findings on matters in question relating to the performance of the *Work* or the requirements of the *Contract Documents*, except with respect to any and all architectural and engineering aspects of the *Work* or GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER; and
 - .4 during the progress of the *Work*, issue *Supplemental Instructions* to the *Trade Contractor* with reasonable promptness or in accordance with a schedule for such instructions agreed to by the *Construction Manager* and the *Trade Contractor*.
- 2.2.2 The *Consultant* will:
- .1 visit the *Place of the Project* 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*; and
 - .2 in the first instance, give interpretations and make findings on matters in question relating to the requirements of the design.
- 2.2.3 The *Construction Manager* and the *Consultant* will:
- .1 have authority to reject work which in their opinion does not conform to the requirements of the *Contract Documents* and whenever it is considered necessary or advisable, require inspection or testing of work, whether or not such work is fabricated, installed or completed. However, neither the authority of the *Construction Manager* or 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 *Construction Manager* or the *Consultant* to the *Trade Contractor*, *Trade Subcontractors*, *Suppliers*, or their agents, employees, or other persons performing any of the *Work*; and

- .2 give interpretations and make findings that relate to the *Work*. Such interpretations and findings shall be provided in writing within a reasonable time, and unless otherwise agreed with the *Owner* and the *Trade Contractor*, no later than 5 *Working Days* of a request. In making such interpretations and findings the *Construction Manager* and the *Consultant* will not show partiality to either the *Owner* or the *Trade Contractor*.

2.2.4 The *Construction Manager* and the *Consultant* will not:

- .1 be responsible for the *Trade Contractor's* failure to carry out the *Work* in accordance with the *Contract Documents*; and
 .2 have control over, charge of or be responsible for, the acts or omissions of the *Trade Contractor*, *Trade Subcontractors*, *Suppliers*, or their agents, employees, or any other persons performing portions of the *Work*.

GC 2.3 REVIEW AND INSPECTION OF THE WORK

- 2.3.1 The *Owner*, the *Construction Manager* and the *Consultant* shall have access to the *Work* at all times. The *Trade Contractor* shall provide sufficient, safe and proper facilities at all times for the review of the *Work* by the *Construction Manager* and 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 Project*, the *Owner*, the *Construction Manager* and the *Consultant* shall be given access to such work whenever it is in progress.
- 2.3.2 If work is designated for tests, inspections or approvals in the *Contract Documents*, or by the instructions of the *Construction Manager* or the *Consultant*, or by the laws or ordinances of the *Place of the Project*, the *Trade Contractor* shall give the *Construction Manager* reasonable notification of when the work will be ready for review and inspection. The *Trade Contractor* shall arrange for and shall give the *Construction Manager* reasonable notification of the date and time of inspections by other authorities.
- 2.3.3 The *Trade Contractor* shall furnish promptly to the *Construction Manager* copies of certificates and inspection reports relating to the *Work*.
- 2.3.4 If the *Trade Contractor* 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 *Trade Contractor* shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good covering work at the *Trade Contractor's* expense.
- 2.3.5 The *Construction Manager* 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 *Trade Contractor* shall correct the work and pay the cost of examination and correction. If the work is in accordance with the requirements of the *Contract Documents*, the *Owner* shall pay the cost of examination and restoration.
- 2.3.6 The *Trade Contractor* shall pay the cost of making any test or inspection if such test or inspection is designated in the *Contract Documents* to be performed by the *Trade Contractor* or is so designated by the laws or ordinances applicable to the *Place of the Project*.
- 2.3.7 The *Trade Contractor* shall pay the cost of samples required for any test or inspection to be performed by others if such test or inspection is designated in the *Contract Documents* or is required pursuant to paragraph 2.3.6.

GC 2.4 DEFECTIVE WORK

- 2.4.1 The *Trade Contractor* shall promptly correct defective work that has been rejected by the *Construction Manager* or 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 *Trade Contractor*.
- 2.4.2 The *Trade Contractor* shall make good promptly other contractors' work destroyed or damaged by such corrections at the *Trade Contractor's* expense.
- 2.4.3 If in the opinion of the *Construction Manager* 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 *Trade Contractor* the difference in value between the work as performed and that called for by the *Contract Documents*. If the *Owner* and the *Trade Contractor* do not agree on the difference in value, they shall refer the matter to the *Construction Manager* for a finding.

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PART 3 EXECUTION OF THE WORK

GC 3.1 CONTROL OF THE WORK

- 3.1.1 The *Trade Contractor* 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 *Trade Contractor*, and not the *Owner*, the *Construction Manager* or the *Consultant*, shall be 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, CONSTRUCTION MANAGER OR OTHER CONTRACTORS

- 3.2.1 The *Owner* shall:
- .1 provide for the co-ordination of the activities and work of other contractors and the *Owner's* and the *Construction Manager's* own forces with the *Work* of the *Contract*;
 - .2 enter into separate contracts with other contractors under conditions of contract which are compatible with the conditions of the *Contract*; and
 - .3 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 *Trade Contractor* as it affects the *Work*.
- 3.2.2 The *Trade Contractor* shall:
- .1 afford the *Owner*, the *Construction Manager* and other contractors reasonable opportunity to store their products and execute their work;
 - .2 co-ordinate and schedule the *Work* with the work of other contractors as identified in the *Contract Documents*;
 - .3 participate with other contractors and the *Construction Manager* in reviewing their construction schedules when directed to do so;
 - .4 report promptly to the *Construction Manager* in writing any apparent deficiencies in the work of other contractors or the *Owner's* or *Construction Manager'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*; and
 - .5 take all reasonable precautions to avoid labour disputes or other disputes on the *Project* arising from the work of other contractors.
- 3.2.3 Where a change in the *Work* is required as a result of the co-ordination and integration of the work of other contractors or the *Owner's* or *Construction Manager'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.
- 3.2.4 Disputes and other matters in question between the *Trade Contractor* 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 *Trade Contractor* shall be deemed to have consented to arbitration of any dispute with any other contractor whose contract with the *Owner* contains a similar agreement to arbitrate. In the absence of other contractors having reciprocal obligations, disputes and other matters in question initiated by the *Trade Contractor* against other contractors will be considered disputes and other matters in question between the *Trade Contractor* and the *Owner*.

GC 3.3 TEMPORARY WORK

- 3.3.1 The *Trade Contractor* shall have the responsibility for the design, erection, operation, maintenance, and removal of *Temporary Work* unless otherwise specified in the *Contract Documents*.
- 3.3.2 The *Trade Contractor* 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, paragraphs 3.3.1 and 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 *Trade Contractor* shall not be held responsible for that part of the design or the specified method of construction. The *Trade Contractor* 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*.

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GC 3.4 DOCUMENT REVIEW

- 3.4.1 The *Trade Contractor* shall review the *Contract Documents* and shall report promptly to the *Construction Manager* any error, inconsistency, or omission the *Trade Contractor* may discover. Such review by the *Trade Contractor* shall be to the best of the *Trade Contractor's* knowledge, information and belief and in making such review the *Trade Contractor* does not assume any responsibility to the *Owner*, the *Construction Manager*, or the *Consultant* for the accuracy of the review. The *Trade Contractor* shall not be liable for damage or costs resulting from such errors, inconsistencies or omissions in the *Contract Documents* which the *Trade Contractor* did not discover. If the *Trade Contractor* does discover any error, inconsistency or omission in the *Contract Documents*, the *Trade Contractor* shall not proceed with the work affected until the *Trade Contractor* has received corrected or missing information from the *Construction Manager*.

GC 3.5 CONSTRUCTION SCHEDULE

- 3.5.1 The *Construction Manager* will provide to the *Trade Contractor* the *Project* schedule that indicates the timing of the major activities of the *Project* in sufficient detail for the *Trade Contractor* to schedule the *Work*.
- 3.5.2 The *Construction Manager* will monitor the progress of the *Work* relative to the *Project* schedule and update the *Project* schedule on a monthly basis.
- 3.5.3 The *Trade Contractor* shall:
- .1 prepare and submit to the *Construction Manager* within 15 calendar days after its receipt of the *Project* schedule, 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 *Project* schedule;
 - .2 monitor the progress of the *Work* relative to the construction schedule and update the schedule on a monthly basis or as stipulated by the *Contract Documents*; and
 - .3 advise the *Construction Manager* of any revisions required to the schedule as the result of extensions of the *Contract Time* as provided in Part 6 of the General Conditions – CHANGES IN THE WORK.

GC 3.6 SUPERVISION

- 3.6.1 The *Trade Contractor* shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the *Place of the Project* while work is being performed. The appointed representative shall not be changed except for valid reason.
- 3.6.2 The appointed representative shall represent the *Trade Contractor* at the *Place of the Project*. Information and instructions provided in accordance with the *Contract* by the *Construction Manager* to the appointed representative shall be deemed to have been received by the *Trade Contractor*, except with respect to Article A-7 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

GC 3.7 TRADE SUBCONTRACTORS AND SUPPLIERS

- 3.7.1 The *Trade Contractor* 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 *Trade 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 *Trade Subcontractors* and *Suppliers*; and
 - .3 be as fully responsible to the *Owner* for acts and omissions of *Trade Subcontractors*, *Suppliers* and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Trade Contractor*.
- 3.7.2 The *Trade Contractor* shall indicate in writing, if requested by the *Construction Manager*, those *Trade Subcontractors* or *Suppliers* whose bids have been received by the *Trade Contractor* which the *Trade Contractor* would be prepared to accept for the performance of a portion of the *Work*. Should the *Owner* not object before signing the *Contract*, the *Trade Contractor* shall employ those *Trade Subcontractors* or *Suppliers* so identified by the *Trade Contractor* in writing for the performance of that portion of the *Work* to which their bid applies.
- 3.7.3 The *Owner* may, for reasonable cause, at any time before the *Owner* has signed the *Contract*, object to the use of a proposed *Trade Subcontractor* or *Supplier* and require the *Trade Contractor* to employ one of the other trade subcontract bidders.

- 3.7.4 If the *Owner* requires the *Trade Contractor* to change a proposed *Trade Subcontractor* or *Supplier*, the *Contract Price* and *Contract Time* shall be adjusted by the difference occasioned by such required change.
- 3.7.5 The *Trade Contractor* shall not be required to employ as a *Trade Subcontractor* or *Supplier*, a person or firm to whom the *Trade Contractor* may reasonably object.
- 3.7.6 The *Owner*, through the *Construction Manager*, may provide to a *Trade Subcontractor* or *Supplier* information as to the percentage of the *Trade Subcontractor's* or *Supplier's* work which has been certified for payment.

GC 3.8 LABOUR AND PRODUCTS

- 3.8.1 The *Trade Contractor* shall maintain good order and discipline among the *Trade Contractor's* employees engaged in the *Work* and shall not employ in the *Work* anyone not skilled in the tasks assigned.
- 3.8.2 The *Trade Contractor* shall provide and pay for labour, *Products*, tools, *Construction Equipment*, water, heat, light, power, transportation, and other facilities and services necessary for the performance of the *Work* in accordance with the *Contract*.
- 3.8.3 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 *Trade Contractor* shall keep one copy of current *Contract Documents*, submittals, reports, and records of meetings at the *Place of the Project*, in good order and available to the *Construction Manager* and the *Consultant*.

GC 3.10 SHOP DRAWINGS

- 3.10.1 The *Trade Contractor* shall provide *Shop Drawings* as required in the *Contract Documents*.
- 3.10.2 The *Trade Contractor* shall provide *Shop Drawings* to the *Construction Manager* for review by the *Construction Manager* and the *Consultant* 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 The *Trade Contractor*, the *Consultant* and the *Construction Manager* shall jointly prepare a schedule of the dates for provision, review and return of *Shop Drawings* upon request by any one of them.
- 3.10.4 The *Trade Contractor* 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 *Trade Contractor* to the *Construction Manager* shall indicate by stamp, date and signature of the person responsible for the review that the *Trade Contractor* 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 *Trade Contractor* for approval.
- 3.10.8 The *Trade Contractor* shall review all *Shop Drawings* before providing them to the *Construction Manager*. The *Trade Contractor* represents by this review that:
- .1 the *Trade Contractor* has determined and verified all field measurements, field construction conditions, *Product* requirements, catalogue numbers and similar data, or will do so; and
 - .2 the *Trade Contractor* has checked and co-ordinated each *Shop Drawing* with the requirements of the *Work* and of the *Contract Documents*.
- 3.10.9 At the time of providing *Shop Drawings*, the *Trade Contractor* shall expressly advise the *Construction Manager* in writing of any deviations in a *Shop Drawing* from the requirements of the *Contract Documents*. The *Construction Manager* shall indicate the *Consultant's* acceptance or rejection of such deviation expressly in writing.
- 3.10.10 If *Shop Drawings* are found to be in order, the *Construction Manager* will forward them to the *Consultant*. If the *Construction Manager* or the *Consultant* find the *Shop Drawings* incomplete or not in order, the *Construction Manager* may request the *Trade Contractor* to provide revised *Shop Drawings*.
- 3.10.11 The review by the *Construction Manager* and the *Consultant* shall not relieve the *Trade Contractor* of responsibility for errors or omissions in the *Shop Drawings* or for meeting all requirements of the *Contract Documents*.

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- 3.10.12 The *Trade Contractor* shall provide revised *Shop Drawings* to correct those which the *Construction Manager* found to be incomplete or not in order or the *Consultant* rejects as inconsistent with the *Contract Documents*. The *Trade Contractor* shall notify the *Construction Manager* in writing of any revisions to the *Shop Drawings* other than those requested by the *Construction Manager* or the *Consultant*.
- 3.10.13 The *Construction Manager* will 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 SITE

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

GC 3.12 CUTTING AND REMEDIAL WORK

- 3.12.1 The *Trade Contractor* shall perform the cutting and remedial work required to make the affected parts of the *Work* come together properly.
- 3.12.2 The *Trade Contractor* 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 *Construction Manager*, the *Consultant*, other contractors, or anyone employed by them be responsible for ill-timed work necessitating cutting or remedial work to be performed, the *Contract Price* and the *Contract Time* shall be adjusted as provided in 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 *Project*.

GC 3.13 CLEANUP

- 3.13.1 The *Trade Contractor* 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*, the *Construction Manager*, other contractors, or their employees.
- 3.13.2 Before applying for *Substantial Performance of the Work* as provided in GC 5.4 – SUBSTANTIAL PERFORMANCE OF THE WORK, the *Trade Contractor* shall remove waste products and debris, other than that resulting from the work of the *Owner*, the *Construction Manager*, other contractors, or their employees, and shall leave the *Place of the Project* clean and suitable for use or occupancy by the *Owner*. The *Trade Contractor* 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 *Trade Contractor* shall remove any remaining *Products*, tools, *Construction Equipment*, *Temporary Work*, and waste products and debris, other than those resulting from the work of the *Owner*, the *Construction Manager*, other contractors, or their employees.

PART 4 ALLOWANCES

GC 4.1 CASH ALLOWANCES

- 4.1.1 The *Contract Price* includes the cash allowances, if any, stated in the *Contract Documents*. The scope of work or costs included in such cash allowances shall be as described in the *Contract Documents*.
- 4.1.2 The *Contract Price*, and not the cash allowances, includes the *Trade Contractor's* overhead and profit in connection with such cash allowances.
- 4.1.3 Expenditures under cash allowances shall be authorized by the *Owner* through the *Construction Manager*.

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- 4.1.4 Where the actual cost of the *Work* under any cash allowance exceeds the amount of the allowance, the *Trade Contractor* shall be compensated for the excess incurred and substantiated plus an amount for overhead and profit on the excess as set out in the *Contract Documents*. Where the actual cost of the *Work* under any cash allowance is less than the amount of the allowance, the *Owner* shall be credited for the unexpended portion of the cash allowance, but not for the *Trade Contractor'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 *Contract Price* shall be adjusted by *Change Order* to provide for any difference between the amount of each cash allowance and the actual cost of the *Work* under that cash allowance.
- 4.1.6 The value of the work performed under a cash allowance is eligible to be included in progress payments.
- 4.1.7 The *Trade Contractor* and the *Construction Manager* shall jointly prepare a schedule that shows when items called for under cash allowances must be ordered to avoid delaying the progress of the *Work*.

GC 4.2 CONTINGENCY ALLOWANCE

- 4.2.1 The *Contract Price* includes the contingency allowance, if any, stated in the *Contract Documents*.
- 4.2.2 The contingency allowance includes the *Trade Contractor's* overhead and profit in connection with such contingency allowance.
- 4.2.3 Expenditures under the contingency allowance 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.
- 4.2.4 The *Contract Price* shall be adjusted by *Change Order* to provide for any difference between the expenditures authorized under paragraph 4.2.3 and the contingency allowance.

PART 5 PAYMENT

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

- 5.1.1 The *Owner* shall, at the request of the *Trade Contractor*, before signing the *Contract*, and promptly from time to time thereafter, furnish to the *Trade Contractor* 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 *Trade Contractor Notice in Writing* of any material change in the *Owner's* financial arrangements to fulfil the *Owner's* obligations under the *Contract* during the performance of the *Contract*.

GC 5.2 APPLICATIONS FOR PAYMENT

- 5.2.1 Applications for payment on account as provided in Article A-5 of the Agreement – PAYMENT may be made monthly to the *Construction Manager* as the *Work* progresses.
- 5.2.2 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.
- 5.2.3 The amount claimed shall be for the value, proportionate to the amount of the *Contract*, of *Work* performed and *Products* delivered to the *Place of the Project* as of the last day of the payment period.
- 5.2.4 The *Trade Contractor* shall submit to the *Construction Manager*, at least 15 calendar days before the first application for payment, a schedule of values for the parts of the *Work*, aggregating the total amount of the *Contract Price*, so as to facilitate evaluation of applications for payment.
- 5.2.5 The schedule of values shall be made out in such form and supported by such evidence as the *Payment Certifier* may reasonably require and when accepted by the *Payment Certifier*, shall be used as the basis for applications for payment, unless it is found to be in error.
- 5.2.6 The *Trade Contractor* shall include:
- .1 with each application for payment a statement based on the schedule of values, and
 - .2 with each of the second and subsequent applications for payment a 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 *Trade Contractor* as of the last day of the payment period or an alternative day agreed by the parties 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.

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5.2.7 Applications for payment for *Products* delivered to the *Place of the Project* but not yet incorporated into the *Work* shall be supported by such evidence as the *Payment Certifier* may reasonably require to establish the value and delivery of the *Products*.

GC 5.3 PROGRESS PAYMENT

5.3.1 After the *Construction Manager* receives an application for payment from the *Trade Contractor* as described in GC 5.2 – APPLICATIONS FOR PAYMENT:

- .1 the *Construction Manager* will promptly inform the *Owner* of the date of receipt of the *Trade Contractor's* application for payment and promptly forward a copy of the application for payment to the *Consultant*;
- .2 the *Payment Certifier* will issue to the *Owner* and copy to the *Trade Contractor* and to the *Construction Manager* and the *Consultant*, as the case may be, no later than 10 calendar days after the receipt by the *Construction Manager* of the application for payment, a certificate for payment in the amount applied for, or in such other amount as the *Payment Certifier* determines to be properly due. If the *Payment Certifier* amends the application, the *Payment Certifier* will promptly advise the *Trade Contractor* in writing giving reasons for the amendment; and
- .3 the *Owner* shall make payment to the *Trade Contractor* on account as provided in Article A-5 of the Agreement – PAYMENT on or before 20 calendar days after the later of:
 - receipt by the *Construction Manager* of the application for payment, or
 - the last day of the monthly payment period for which the application for payment is made.

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.4.1 When the *Trade Contractor* considers that the *Work* is substantially performed, or if permitted by the lien legislation applicable to the *Place of the Project* a designated portion thereof which the *Owner* agrees to accept separately is substantially performed, the *Trade Contractor* shall, within one *Working Day*, deliver to the *Construction Manager* and to the *Owner* a comprehensive list of items to be completed or corrected, together with a written application for a review and verification by the *Construction Manager* and 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 *Trade Contractor* to complete the *Contract*.
- 5.4.2 The *Construction Manager* and the *Consultant* will review the *Work* to verify the validity of the application and whichever of them is the *Payment Certifier*, acting in that capacity, will promptly, and in any event, no later than 20 calendar days after the *Construction Manager's* receipt of the *Trade Contractor's* list and application:
- .1 advise the *Trade Contractor* 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 *Trade Contractor*.
- 5.4.3 Immediately following the issuance of the certificate of *Substantial Performance of the Work* or a designated portion of the *Work*, the *Trade Contractor*, in consultation with the *Construction Manager*, will establish a reasonable date for completing the *Work*.

GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.5.1 After the issuance of the certificate of *Substantial Performance of the Work*, the *Trade Contractor* shall submit to the *Construction Manager* an application for payment of the holdback amount including a CCDC 9A 'Statutory Declaration'.
- 5.5.2 After the *Construction Manager* receives an application for payment of the holdback amount from the *Trade Contractor*, whichever of the *Construction Manager* and the *Consultant* who is the *Payment Certifier*, and acting in that capacity, will issue a certificate for payment of the holdback amount.
- 5.5.3 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 Project*, place the holdback amount in a bank account in the joint names of the *Owner* and the *Trade Contractor*.
- 5.5.4 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 Project*. 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 Project*, other third party monetary claims against the *Trade Contractor* which are enforceable against the *Owner*.

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- 5.5.5 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 *Trade Contractor* which are enforceable against the *Owner*.

GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK

- 5.6.1 In the Common Law jurisdictions, where legislation permits and where, upon application by the *Trade Contractor*, the *Payment Certifier* has certified that the work of a *Trade Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Trade Contractor* 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 Project*. 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 Project*, other third party monetary claims against the *Trade Contractor* which are enforceable against the *Owner*.
- 5.6.2 In the Province of Quebec, where, upon application by the *Trade Contractor*, the *Payment Certifier* has certified that the work of a *Trade Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Trade Contractor* 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 *Payment Certifier*. 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 *Trade Contractor* which are enforceable against the *Owner*.
- 5.6.3 Notwithstanding the provisions of the preceding paragraphs, and notwithstanding the wording of such certificates, the *Trade Contractor* shall ensure that such subcontract work or *Products* are protected pending the *Substantial Performance of the Work* 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 5.7 FINAL PAYMENT

- 5.7.1 When the *Trade Contractor* considers that the *Work* is completed, the *Trade Contractor* shall submit an application for final payment to the *Construction Manager*
- 5.7.2 No later than 10 calendar days after the receipt by the *Construction Manager* an application for final payment from the *Trade Contractor*:
- .1 the *Construction Manager* and the *Consultant* will review the *Work* to verify the validity of the application, and
 - .2 the *Payment Certifier* will advise the *Trade Contractor* in writing that the application is valid or give reasons why it is not valid.
- 5.7.3 When the *Construction Manager* and the *Consultant* find the *Trade Contractor's* application for final payment valid, whichever of them is the *Payment Certifier*, and acting in that capacity, will promptly issue a final certificate for payment.
- 5.7.4 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 Project*, the *Owner* shall, no later than 5 calendar days after the issuance of a final certificate for payment, pay the *Trade Contractor* as provided in Article A-5 of the Agreement – PAYMENT.

GC 5.8 WITHHOLDING OF PAYMENT

- 5.8.1 If because of climatic or other conditions reasonably beyond the control of the *Trade Contractor*, 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 *Payment Certifier* 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 *Payment Certifier* determines is sufficient and reasonable to cover the cost of performing such remaining *Work*.

GC 5.9 NON-CONFORMING WORK

- 5.9.1 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*.

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PART 6 CHANGES IN THE WORK

GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

- 6.1.1 The *Owner* 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 *Trade Contractor* shall not perform a change in the *Work* without a *Change Order* or a *Change Directive*.

GC 6.2 CHANGE ORDER

- 6.2.1 When a change in the *Work* is proposed or required, the *Construction Manager* will provide the *Trade Contractor* with a written description of the proposed change in the *Work*. The *Trade Contractor* shall promptly present, in a form acceptable to the *Construction Manager*, a method of adjustment or an amount of adjustment for the *Contract Price*, if any, and the adjustment in the *Contract Time*, if any, for the proposed change in the *Work*.
- 6.2.2 When the *Owner* and *Trade Contractor* agree to the adjustments in the *Contract Price* and *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 the applications for progress payment.

GC 6.3 CHANGE DIRECTIVE

- 6.3.1 If the *Owner* requires the *Trade Contractor* to proceed with a change in the *Work* prior to the *Owner* and the *Trade Contractor* agreeing upon the corresponding adjustment in *Contract Price* and *Contract Time*, the *Owner*, through the *Construction Manager*, 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 *Trade Contractor* shall proceed promptly with the change in the *Work*.
- 6.3.5 For the purpose of valuing *Change Directives*, changes in the *Work* that are not substitutions or otherwise related to each other shall not be grouped together in the same *Change Directive*.
- 6.3.6 The adjustment in the *Contract Price* for a change carried out by way of a *Change Directive* shall be determined on the basis of the cost of the *Trade Contractor's* actual expenditures and savings attributable to the *Change Directive*, valued in accordance with paragraph 6.3.7 and as follows:
- .1 If the change results in a net increase in the *Trade Contractor's* cost, the *Contract Price* shall be increased by the amount of the net increase in the *Trade Contractor's* cost, plus the *Trade Contractor's* percentage fee on such net increase.
 - .2 If the change results in a net decrease in the *Trade Contractor's* cost, the *Contract Price* shall be decreased by the amount of the net decrease in the *Trade Contractor's* cost, without adjustment for the *Trade Contractor's* percentage fee.
 - .3 The *Trade Contractor's* fee shall be as specified in the *Contract Documents* or as otherwise agreed by the parties.
- 6.3.7 The cost of performing the work attributable to the *Change Directive* shall be limited to the actual cost of the following:
- .1 salaries, wages and benefits paid to personnel in the direct employ of the *Trade Contractor* under a salary or wage schedule agreed upon by the *Owner* and the *Trade Contractor*, or in the absence of such a schedule, actual salaries, wages and benefits paid under applicable bargaining agreements, and in the absence of a salary or wage schedule and bargaining agreement, actual salaries, wages and benefits paid by the *Trade Contractor*, for personnel:
 - (1) stationed at the *Trade Contractor's* field office, 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 *Trade Contractor* and included in the cost of the *Work* as provided in paragraph 6.3.7.1;

- .3 travel and subsistence expenses of the *Trade Contractor's* personnel described in 6.3.7.1;
 - .4 all *Products* including the 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 *Trade Contractor*;
 - .6 all tools and *Construction Equipment*, exclusive of hand tools used in the performance of the *Work*, whether rented from or provided by the *Trade Contractor* or others, including installation, minor repairs and replacements, dismantling, removal, transportation and delivery cost thereof;
 - .7 all equipment and services required for the *Trade Contractor'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 subcontracts;
 - .10 quality assurance such as independent inspection and testing services;
 - .11 charges levied by authorities having jurisdiction at the *Place of the Project*;
 - .12 royalties, patent license fees and damages for infringement of patents and cost of defending suits therefor subject always to the *Trade Contractor's* obligations to indemnify the *Owner* as provided in paragraph 10.3.1 of GC 10.3 – PATENT FEES;
 - .13 any adjustment in premiums for all bonds and insurance which the *Trade Contractor* is required, by the *Contract Documents*, to purchase and maintain;
 - .14 any adjustment in taxes, other than *Value Added Taxes*, and duties for which the *Trade Contractor* 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; and
 - .17 safety measures and requirements.
- 6.3.8 Notwithstanding any other provisions contained in the General Conditions of the *Contract*, it is the intention of the parties that the cost of any item under any cost element referred to in paragraph 6.3.7 shall cover and include any and all costs or liabilities attributable to the *Change Directive* other than those which are the result of or occasioned by any failure on the part of the *Trade Contractor* to exercise reasonable care and diligence in the *Trade Contractor's* attention to the *Work*. Any cost due to failure on the part of the *Trade Contractor* to exercise reasonable care and diligence in the *Trade Contractor's* attention to the *Work* shall be borne by the *Trade Contractor*.
- 6.3.9 The *Trade Contractor* shall keep full and detailed accounts and records necessary for the documentation of the cost of performing the work attributable to the *Change Directive* and shall provide the *Construction Manager* with copies thereof when requested.
- 6.3.10 For the purpose of valuing *Change Directives*, the *Owner* and the *Construction Manager* shall be afforded reasonable access to all of the *Trade Contractor's* pertinent documents related to the cost of performing the *Work* attributable to the *Change Directive*.
- 6.3.11 Pending determination of the final amount of a *Change Directive*, the undisputed value of the *Work* performed as the result of a *Change Directive* is eligible to be included in progress payments.
- 6.3.12 If the *Owner* and the *Trade Contractor* do not agree on the proposed adjustment in the *Contract Time* attributable to the change in the *Work*, or the method of determining it, the adjustment shall be referred to the *Construction Manager* for finding.
- 6.3.13 When the *Owner* and the *Trade Contractor* reach agreement on the adjustment to the *Contract Price* and to 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*, the *Trade Contractor* or the *Construction Manager* discover conditions at the *Place of the Project* 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 *Construction Manager* of such conditions before they are disturbed and in no event later than 5 *Working Days* after first observance of the conditions. The *Construction Manager* will promptly inform the *Owner*, the *Trade Contractor* and the *Consultant* in writing.

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- 6.4.2 The *Construction Manager* will promptly investigate such conditions and make a finding. If the finding is that the conditions differ materially and this would cause an increase or decrease in the *Trade Contractor's* cost or time to perform the *Work*, the *Construction Manager*, 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 *Construction Manager* finds that the conditions at the *Place of the Project* are not materially different or that no change in the *Contract Price* or the *Contract Time* is justified, the *Construction Manager* will promptly inform the *Owner* and the *Trade Contractor* 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 *Trade Contractor* is delayed in the performance of the *Work* by an action or omission of the *Owner*, the *Construction Manager*, the *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 *Construction Manager* may recommend in consultation with the *Trade Contractor*. The *Trade Contractor* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Trade Contractor* as the result of such delay.
- 6.5.2 If the *Trade Contractor* 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 *Trade Contractor* or any person employed or engaged by the *Trade Contractor* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as the *Construction Manager* may recommend in consultation with the *Trade Contractor*. The *Trade Contractor* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Trade Contractor* as the result of such delay.
- 6.5.3 If the *Trade Contractor* 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 *Trade Contractor* is a member or to which the *Trade Contractor* is otherwise bound),
 - .2 fire, unusual delay by common carriers or unavoidable casualties,
 - .3 abnormally adverse weather conditions, or
 - .4 any cause beyond the *Trade Contractor's* control other than one resulting from a default or breach of *Contract* by the *Trade Contractor*,
- then the *Contract Time* shall be extended for such reasonable time as the *Construction Manager* may recommend in consultation with the *Trade Contractor*. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the *Trade Contractor* agrees to a shorter extension. The *Trade Contractor* shall not be entitled to payment for costs incurred by such delays unless such delays result from actions by the *Owner*, *Consultant*, *Construction Manager*, or anyone employed or engaged by them directly or indirectly.
- 6.5.4 No extension shall be made for delay unless *Notice in Writing* of the cause of delay is given to the *Construction Manager* not later than 10 *Working Days* after the commencement of 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 2.2.1.4 of GC 2.2 – ROLE OF THE CONSTRUCTION MANAGER AND THE CONSULTANT, then no request for extension shall be made because of failure of the *Construction Manager* to furnish instructions until 10 *Working Days* after demand for such instructions has been made.

GC 6.6 CLAIMS FOR A CHANGE IN CONTRACT PRICE

- 6.6.1 If the *Trade Contractor* intends to make a claim for an increase to the *Contract Price*, or if the *Owner* intends to make a claim against the *Trade Contractor* for a credit to the *Contract Price*, the party that intends to make the claim shall give timely *Notice in Writing* of intent to claim to the other party and to the *Construction Manager*.
- 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.

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- 6.6.3 The party making the claim shall submit within a reasonable time to the *Construction Manager* a detailed account of the amount claimed and the grounds upon which the claim is based, and the *Construction Manager* shall make a finding upon such claim.
- 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 *Construction Manager* 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 The *Construction Manager's* finding with respect to a claim made by either party, will be given by *Notice in Writing* to both parties within 30 *Working Days* after receipt of the claim by the *Construction Manager*, or within such other time period as may be agreed by the parties.
- 6.6.6 If such finding is not acceptable to either party, the claim 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, TERMINATE THE TRADE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK OR TERMINATE THE CONTRACT

- 7.1.1 If the *Trade Contractor* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Trade Contractor's* insolvency, or if a receiver is appointed because of the *Trade Contractor's* insolvency, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, terminate the *Trade Contractor's* right to continue with the *Work*, by giving the *Trade Contractor* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.1.2 If the *Trade Contractor* neglects to prosecute the *Work* properly or otherwise fails to comply with the requirements of the *Contract* to a substantial degree and if the *Construction Manager* has given a written statement to the *Owner* and *Trade Contractor* 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 *Trade Contractor Notice in Writing* with a copy to the *Construction Manager* that the *Trade Contractor* is in default of the *Trade Contractor's* contractual obligations and instruct the *Trade Contractor* 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 *Trade Contractor* shall be in compliance with the *Owner's* instructions if the *Trade Contractor*:
- .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 *Trade Contractor* 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 to the *Trade Contractor* provided the *Payment Certifier* has certified such cost to the *Owner* and the *Trade Contractor*, or
 - .2 terminate the *Trade Contractor's* right to continue with the *Work* in whole or in part or terminate the *Contract*.
- 7.1.5 If the *Owner* terminates the *Trade Contractor's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Owner* shall be entitled to:
- .1 take possession of the *Work* and *Products* at the *Place of the Project*; subject to the rights of third parties, utilize the *Construction Equipment* at the *Place of the Project*; finish the *Work* by whatever method the *Construction Manager* may consider expedient, but without undue delay or expense, and
 - .2 withhold further payment to the *Trade Contractor* until a final certificate for payment is issued, and
 - .3 charge the *Trade Contractor* the amount by which the full cost of finishing the *Work* as certified by the *Payment Certifier*, including compensation to the *Construction Manager* and the *Consultant* for their additional services and a reasonable allowance as determined by the *Construction Manager* to cover the cost of corrections to work performed by the *Trade Contractor* that may be required under GC 12.3 – WARRANTY, exceeds the unpaid balance of the *Contract Price*; however, if such cost of finishing the *Work* is less than the unpaid balance of the *Contract Price*, the *Owner* shall pay the *Trade Contractor* the difference, and

- .4 on expiry of the warranty period, charge the *Trade Contractor* the amount by which the cost of corrections to the *Trade Contractor's* work under GC 12.3 – WARRANTY exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the *Trade Contractor* the difference.

7.1.6 The *Trade Contractor's* obligation under the *Contract* as to quality, correction and warranty of the work performed by the *Trade Contractor* up to the time of termination shall continue in force after such termination of the *Contract*.

GC 7.2 TRADE CONTRACTOR'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 *Trade Contractor* may, without prejudice to any other right or remedy the *Trade Contractor* 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* should be 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 *Trade Contractor* or of anyone directly or indirectly employed or engaged by the *Trade Contractor*, the *Trade Contractor* may, without prejudice to any other right or remedy the *Trade Contractor* may have, terminate the *Contract* by giving the *Owner* *Notice in Writing* to that effect.
- 7.2.3 The *Trade Contractor* may give *Notice in Writing* to the *Owner*, with a copy to the *Construction Manager* and 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 *Trade Contractor*, reasonable evidence that financial arrangements have been made to fulfill the *Owner's* obligations under the *Contract*, or
 - .2 the *Payment Certifier* fails to issue a certificate as provided in Part 5 of the General Conditions – PAYMENT, or
 - .3 the *Owner* fails to pay the *Trade Contractor* when due the amounts certified by the *Payment Certifier* or awarded by arbitration or court, or
 - .4 the *Owner* violates the requirements of the *Contract* to a substantial degree and the *Construction Manager*, except for GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, confirms by written statement to the *Trade Contractor* that sufficient cause exists.
- 7.2.4 The *Trade Contractor'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 the receipt of the *Notice in Writing*, the *Trade Contractor* may, without prejudice to any other right or remedy the *Trade Contractor* may have, suspend the *Work* or terminate the *Contract*.
- 7.2.5 If the *Trade Contractor* terminates the *Contract* under the conditions set out above, the *Trade Contractor* 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 *Trade Contractor* may have sustained as a result of the termination of the *Contract*.

PART 8 DISPUTE RESOLUTION

GC 8.1 AUTHORITY OF THE CONSTRUCTION MANAGER AND 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 *Construction Manager* or the *Consultant* as provided in GC 2.2 – ROLE OF THE CONSTRUCTION MANAGER AND THE CONSULTANT, 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 neither the *Construction Manager* nor the *Consultant* have 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 *Construction Manager* will give such instructions as in the *Construction Manager'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 *Trade Contractor* costs incurred by the *Trade Contractor* in carrying out such instructions which the *Trade Contractor* was required to do beyond what the *Contract Documents* correctly understood and interpreted would have required, including costs resulting from interruption of the *Work*.

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GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION

- 8.2.1 In accordance with the Rules for Mediation and Arbitration 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 *Construction Manager* or the *Consultant* under GC 2.2 - ROLES OF THE CONSTRUCTION MANAGER AND THE CONSULTANT 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, the *Construction Manager* and 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 and Arbitration 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 *Trade Contractor* and the *Construction Manager*.
- 8.2.6 By giving a *Notice in Writing* to the other party and the *Construction Manager*, 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 latest edition of the Rules for Mediation and 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 Project*.
- 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 *Trade Contractor* 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 CONSTRUCTION MANAGER AND 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 Project* 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.

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PART 9 PROTECTION OF PERSONS AND PROPERTY

GC 9.1 PROTECTION OF WORK AND PROPERTY

- 9.1.1 The *Trade Contractor* shall protect the *Project* and the *Owner's* property and property adjacent to the *Place of the Project* from damage which may arise as the result of the *Trade Contractor's* operations under the *Contract*, and shall be responsible for such damage, except damage which occurs as the result of:
- .1 errors in the *Contract Documents*; or
 - .2 acts or omissions by the *Owner*, the *Construction Manager*, the *Consultant*, other contractors, their agents and employees.
- 9.1.2 Before commencing any *Work*, the *Trade Contractor* shall determine the location of all underground utilities and structures indicated in the *Contract Documents* or that are reasonably apparent in an inspection of the *Place of the Project*.
- 9.1.3 Should the *Trade Contractor* in the performance of the *Contract* damage the *Project*, the *Owner's* property or property adjacent to the *Place of the Project*, the *Trade Contractor* shall be responsible for making good of such damage at the *Trade Contractor's* expense.
- 9.1.4 Should damage occur to the *Work* or *Owner's* property for which the *Trade Contractor* is not responsible, as provided in paragraph 9.1.1, the *Trade Contractor* shall make good such damage to the *Work* and, if the *Construction Manager* so directs, to the *Owner's* property. The *Contract Price* and *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 related to toxic and hazardous substances, the *Owner* shall be deemed to have control and management of the *Place of the Project* with respect to existing conditions.
- 9.2.2 Prior to the *Trade Contractor* 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 Project*, and
 - .2 provide the *Construction Manager*, the *Consultant* and the *Trade Contractor* 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 Project* 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 Project* prior to the *Trade Contractor* 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 Project*, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the *Place of the Project* prior to the *Trade Contractor* commencing the *Work*.
- 9.2.5 If the *Trade Contractor*
- .1 encounters toxic or hazardous substances at the *Place of the Project*, or
 - .2 has reasonable grounds to believe that toxic or hazardous substances are present at the *Place of the Project*, which were not brought to the *Place of the Project* by the *Trade Contractor* or anyone for whom the *Trade Contractor* 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 *Trade Contractor* shall
 - .3 take all reasonable steps, including stopping the *Work*, to ensure that no person's exposure to any toxic or hazardous substance exceeds any applicable time weighted levels prescribed by applicable legislation at the *Place of the Project*, and
 - .4 immediately report the circumstances to the *Construction Manager*, the *Owner* and the *Consultant* in writing.
- 9.2.6 If the *Owner* and *Trade Contractor* do not agree on the existence, significance of, or whether the toxic or hazardous substances were brought onto the *Place of the Project* by the *Trade Contractor* or anyone for whom the *Trade Contractor* 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*, the *Trade Contractor* and the *Construction Manager*.

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- 9.2.7 If the *Owner* and *Trade Contractor* 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 Project* by the *Trade Contractor* or anyone for whom the *Trade Contractor* is responsible, the *Owner* shall promptly at the *Owner's* own expense:
- .1 take all steps as required under paragraph 9.2.4;
 - .2 reimburse the *Trade Contractor* for the costs of all steps taken pursuant to paragraph 9.2.5;
 - .3 extend the *Contract Time* for such reasonable time as the *Construction Manager* may recommend in consultation with the *Owner*, the *Trade Contractor* and the expert referred to in 9.2.6 and reimburse the *Trade Contractor* for reasonable costs incurred as a result of the delay; and
 - .4 indemnify the *Trade Contractor* as required by paragraph GC 12.1 – INDEMNIFICATION
- 9.2.8 If the *Owner* and *Trade Contractor* 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 Project* by the *Trade Contractor* or anyone for whom the *Trade Contractor* is responsible, the *Trade Contractor* shall promptly at the *Trade Contractor's* own expense:
- .1 take all necessary steps in accordance with applicable legislation in force at the *Place of the Project*, to safely remove and dispose the toxic or hazardous substances;
 - .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the *Place of the Project* 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 Project* shall, as between the *Owner* and the *Trade Contractor*, be deemed to be the absolute property of the *Owner*.
- 9.3.2 The *Trade Contractor* shall take all reasonable precautions to prevent removal or damage to discoveries as identified in paragraph 9.3.1, and shall advise the *Construction Manager* upon discovery of such items.
- 9.3.3 The *Construction Manager* will investigate the impact on the *Work* of the discoveries identified in paragraph 9.3.1. If conditions are found that would cause an increase or decrease in the *Trade Contractor's* cost or time to perform the *Work*, the *Owner*, through the *Construction Manager*, 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 The *Trade Contractor* shall:
- .1 be responsible for construction health and safety relating to the *Work* at the *Place of the Project* in compliance with the rules, regulations and practices required by the applicable construction health and safety legislation;
 - .2 be responsible for establishing, initiating, maintaining, and supervising all health and safety precautions and programs in connection with the performance of the *Work*; and
 - .3 comply with all health and safety precautions and programs established at the *Place of the Project*.
- 9.4.2 The *Owner* shall be responsible for construction health and safety at the *Place of the Project* in compliance with the rules, regulations and practices required by the applicable construction health and safety legislation.
- 9.4.3 The *Construction Manager* will:
- .1 establish, initiate, maintain, and supervise the health and safety precautions and programs required to be put in place at the *Place of the Project*; and
 - .2 review with the *Owner* the *Trade Contractor's* health and safety program for compliance.

GC 9.5 MOULD

- 9.5.1 If the *Trade Contractor*, the *Construction Manager*, the *Consultant*, or the *Owner* observes or reasonably suspects the presence of mould at the *Place of the Project*, the remediation of which is not expressly part of the *Work*,
- .1 the observing party shall promptly report the circumstances to the other parties in writing, and
 - .2 the *Trade Contractor* 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 the *Trade Contractor* 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 the *Trade Contractor*.
- 9.5.2 If the *Owner* and the *Trade Contractor* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was caused by the *Trade Contractor's* operations under the *Contract*, the *Trade Contractor* shall promptly, at the *Trade Contractor'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 Project* 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 *Trade Contractor* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was not caused by the *Trade Contractor'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, and
 - .2 reimburse the *Trade Contractor* for the cost of taking the steps under 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, and
 - .3 extend the *Contract Time* for such reasonable time as the *Construction Manager* may recommend in consultation with the *Trade Contractor* and the expert referred to in paragraph 9.5.1.3 and reimburse the *Trade Contractor* for reasonable costs incurred as a result of the delay, and
 - .4 indemnify the *Trade Contractor* 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 *Contract Price* shall include all taxes and customs duties in effect at the time of the bid closing except for *Value Added Taxes* payable by the *Owner* to the *Trade Contractor* as stipulated in Article A-4 of the Agreement – CONTRACT PRICE.
- 10.1.2 Any increase or decrease in costs to the *Trade Contractor* due to changes in such included taxes and duties after the time of the bid closing shall increase or decrease the *Contract Price* accordingly.

GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- 10.2.1 The laws of the *Place of the Project* 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 *Trade Contractor*.
- 10.2.3 The *Trade Contractor* 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 Project* after the issuance of the building permit. The *Contract Price* includes the cost of these permits, licences, inspections, and certificates, and their procurement.

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- 10.2.4 The *Trade Contractor* 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 *Trade Contractor* 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 *Trade Contractor* shall notify the *Construction Manager* in writing requesting direction immediately upon such variance or change becoming known. The *Owner*, through the *Construction Manager*, will issue 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 *Trade Contractor* fails to advise the *Construction Manager* 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 *Trade Contractor* 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.
- 10.2.7 If, subsequent to the time of bid closing, changes are made to applicable laws, ordinances, rules, regulations, or codes of authorities having jurisdiction which affect the cost of the *Work*, either party may submit a claim in accordance with the requirements of GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE.

GC 10.3 PATENT FEES

- 10.3.1 The *Trade Contractor* shall pay the royalties and patent licence fees required for the performance of the *Contract*. The *Trade Contractor* shall hold the *Owner* harmless from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Trade Contractor's* performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention by the *Trade Contractor* or anyone for whose acts the *Trade Contractor* may be liable.
- 10.3.2 The *Owner* shall hold the *Trade Contractor* harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Trade Contractor'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 *Trade Contractor* as part of the *Contract*.

GC 10.4 WORKERS' COMPENSATION

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

PART 11 INSURANCE AND CONTRACT SECURITY

GC 11.1 INSURANCE

- 11.1.1 Without restricting the generality of GC 12.1 – INDEMNIFICATION, the *Trade Contractor* 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 Automobile Liability Insurance from the date of commencement of the *Work* until one year after the date of *Substantial Performance of the Work*;
 - .2 Aircraft or Watercraft Liability Insurance when owned or non-owned aircraft or watercraft are used directly or indirectly in the performance of the *Work*; and
 - .3 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 If the *Trade Contractor* 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 *Trade Contractor*, the *Construction Manager* and the *Consultant*. The *Trade Contractor* shall pay the cost thereof to the *Owner* on demand or the *Owner* may deduct the cost from any amount which is due or may become due to the *Trade Contractor*.
- 11.1.3 The *Owner* shall obtain, maintain and pay for 'wrap-up' general liability insurance in the joint names of the *Owner*, the *Construction Manager*, the *Consultant* and the *Trade Contractor* with limits of not less than \$10,000,000 per occurrence and a deductible not more than \$10,000. The insurance coverage shall be primary to all other insurance policies and shall not be substantially less than the insurance provided by IBC Form 2100 (including an extension for a standard provincial and territorial form of non-owned automobile liability policy) and IBC Form 2320, except for liability arising from damage to the *Project* during construction, which shall be limited to the completed operations period. The insurance shall be maintained from the date of commencement of the *Project* until 90 calendar days after the *Project In-Use Date*. The *Owner* is responsible to provide coverage for completed operations hazards from the *Project In-Use Date* for a period of 2 year. The *Trade Contractor* shall then provide, maintain and pay for liability insurance coverage for completed operations hazards with limits of not less than \$5,000,000 per occurrence and a deductible not more than \$5,000 on an ongoing basis for a further period of 4 years.
- 11.1.4 The *Owner* shall provide, maintain and pay for the following insurance coverages:
- 1 "Broad form" property insurance in the joint names of the *Owner*, the *Trade Contractor*, the *Construction Manager*, and the *Consultant*. The policy shall have limits of not less than the sum of 1.1 times *Contract Price*, and the full value, as stated in the *Contract*, of products and design services that are specified to be provided by the *Owner* for incorporation into the *Work*, with a deductible not exceeding \$10,000. The insurance coverage shall not be less than the insurance provided by the latest edition of IBC Forms 4042 and 4047 or their equivalent replacement. In addition to the exclusions identified in the latest edition of IBC forms 4042 and 4047, the *Owner* is not required to provide insurance coverage for Asbestos, Cyber Risk, Mould, or Terrorism. 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 *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.
 - 2 Boiler and machinery insurance in the joint names of the *Owner*, the *Trade Contractor*, the *Construction Manager*, and the *Consultant*. The insurance shall have limits of not less than the replacement value of the permanent or temporary boilers and pressure vessels, and other insurable objects forming part of the *Work*. The insurance coverage shall not be less than the insurance provided by a comprehensive boiler and machinery policy. 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*.
 - 3 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*, the *Trade Contractor*, the *Construction Manager*, and the *Consultant* as their respective interests may appear. In the event of loss or damage:
 - (1) the *Construction Manager* shall act on behalf of the *Owner*, the *Trade Contractor* and the *Consultant* 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 *Trade Contractor* 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 *Trade Contractor* shall be entitled to such reasonable extension of *Contract Time* relative to the extent of the loss or damage as the *Construction Manager* may recommend in consultation with the *Trade Contractor*;
 - (2) the *Trade Contractor* 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 *Trade Contractor* shall be entitled to receive from the payments made by the insurer the amount of the *Trade Contractor'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, in accordance with the *Owner's* obligations under the provisions relating to construction by *Owner* or other contractors, shall pay the *Trade Contractor* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as in accordance with the progress payment provisions.

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- 11.1.5 Prior to commencement of the *Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance,
- .1 the *Trade Contractor* shall promptly provide the *Construction Manager* with confirmation of coverage under the policies specified in paragraph 11.1.1 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 the *Work*; and
 - .2 the *Owner*, through the *Construction Manager*, shall promptly provide the *Trade Contractor* with confirmation of coverage under the policies specified in paragraphs 11.1.3 and 11.1.4 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 the *Work*.
- 11.1.6 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*.
- 11.1.7 All required insurance policies shall be with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Project*.
- 11.1.8 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 insurance policy becoming due for renewal, and record any agreement in a *Change Order*.
- 11.1.9 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies increased insurance requirements, either party may request the increased coverage by way of a *Change Order*.
- 11.1.10 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 *Trade Contractor* shall, prior to commencement of the *Work* or within the specified time, provide to the *Construction Manager* any *Contract* security specified in the *Contract Documents*.
- 11.2.2 If the *Contract Documents* require surety bonds to be provided, such bonds shall be issued by a duly licensed surety company authorized to transact the business of suretyship in the province or territory of the *Place of the Project* and shall be maintained in good standing until the fulfillment of the *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 *Trade Contractor* 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 5.4.2.2 of GC 5.4 – 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 Project*.
- 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 *Trade Contractor* for which insurance is to be provided by either party pursuant to GC 11.1 – INSURANCE, the insurance limit for the loss so covered in effect at the time of bid closing.
 - .2 In respect to losses suffered by the *Owner* and the *Trade Contractor* for which insurance is not required to be provided by either party in accordance with GC 11.1 – INSURANCE, the greater of the *Contract Price* as recorded in Article A-4 – CONTRACT PRICE 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 *Trade Contractor* 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 *Trade Contractor* from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings:
- .1 as described in paragraph 10.3.2 of GC 10.3 – PATENT FEES, and
 - .2 arising out of the *Trade Contractor'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 Project*.
- 12.1.6 In respect to any claim for indemnity or to be held harmless by the *Owner* or the *Trade Contractor*:
- .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 Project*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Project*, the *Trade Contractor* waives and releases the *Owner* from all claims which the *Trade Contractor* has or reasonably ought to have knowledge of that could be advanced by the *Trade Contractor* against the *Owner* arising from the *Trade Contractor'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 *Trade Contractor* 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 Project*;
 - .2 indemnification for claims advanced against the *Trade Contractor* by third parties for which a right of indemnification may be asserted by the *Trade Contractor* against the *Owner* pursuant to the provisions of this *Contract*;
 - .3 claims for which a right of indemnity could be asserted by the *Trade Contractor* 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 *Trade Contractor* 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 *Trade Contractor* 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 Project*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Project*, the *Owner* waives and releases the *Trade Contractor* from all claims which the *Owner* has or reasonably ought to have knowledge of that could be advanced by the *Owner* against the *Trade Contractor* 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 *Trade Contractor* 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 Project*;
 - .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 *Trade Contractor* pursuant to the provisions of this *Contract*;

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- .3 claims for which a right of indemnity could be asserted by the *Owner* against the *Trade Contractor* pursuant to the provisions of paragraph 12.1.4 of GC 12.1 – INDEMNIFICATION;
 - .4 damages arising from the *Trade Contractor'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 *Trade Contractor* 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 *Trade Contractor* 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 Project* 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 Project*; or
 - .2 the Civil Code of Quebec, if the *Place of the Project* is the Province of Quebec.
- 12.2.5 The *Owner* waives and releases the *Trade Contractor* 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 *Trade Contractor* 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 Project*, 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 Project*.
- 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 Project*, 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 Project*.

GC 12.3 WARRANTY

- 12.3.1 Except for extended warranties as described in paragraph 12.3.7, the warranty period under the *Contract* is one year from the later of the date of *Substantial Performance of the Work* and the *Project In-Use Date*.
- 12.3.2 The *Trade Contractor* 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 *Trade Contractor* shall submit to the *Construction Manager* for the *Owner's* acceptance all written warranties and related documents required by the *Contract Documents*.
- 12.3.4 The *Owner*, through the *Construction Manager*, shall promptly give the *Trade Contractor* *Notice in Writing* of observed defects and deficiencies that occur during the one year warranty period.

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- 12.3.5 Subject to paragraph 12.3.2, the *Trade Contractor* shall correct promptly, at the *Trade Contractor's* expense, defects or deficiencies in the *Work* which appear prior to and during the one year warranty period.
- 12.3.6 The *Trade Contractor* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.5.
- 12.3.7 Any extended warranties 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 *Trade Contractor'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.

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**Amendments and Supplementary Conditions to the CCDC-17-2010
Stipulated Price Contract between Owner and Trade Contractor for Construction
Management Projects**

The following amendments, additions and deletions to General Conditions of the Stipulated Price Contract forming part of the Standard Construction Document CCDC - 17 - 2010 shall form part of the Contract Documents.

Where these amendments, additions, and modifications specifically reference a change to the Agreement, Definitions, General Conditions, these amendments, additions and modifications shall govern.

SC.1 Amendments to Article A-4 CONTRACT PRICE

(a) Add 4.6:

It is agreed that the Contract Price includes all overtime, premium time, premium charges, and any other costs arising thereto, as may be incurred by the Trade Contractor for: (i) labour; (ii) use or rentals of equipment (whether or not such equipment is incorporated into the Work); and (iii) use of independent contractors, other workers, agents or representatives, including Trade Subcontractors (collectively the "Premium Charges"), all of which Premium Charges may be required to complete the Work in accordance with the Project schedule.

SC.2 Amendments to GC DEFINITIONS

(a) Replace "Contract Documents", as set forth in the Definitions section to the Contract:

The Contract Documents shall consist of those documents listed in Article A-3 of the Contract, and any amendments agreed upon between the parties, and/or such additions or revisions to the Contract Documents as may be provided for in this Contract, and shall include:

the drawings, including all plans, elevations, sections, details, diagrams, Shop Drawings, Specifications and/or Supplemental Instructions, as may be issued to the Trade Contractor from time to time during the course of the Project, including site layout and coordination drawings (collectively the "Drawings") and which Drawings shall include those attached hereto as Schedule "A", as well as any additions or revisions to such Drawings that may be allowed for in this Contract or that may be agreed upon by the parties by way of amendment. The Trade Contractor acknowledges having reviewed the Contract Documents.

(b) Add to the end of "Drawings", as set forth in the Definitions section to the Contract:

the drawings, including all plans, elevations, sections, details, diagrams, Shop Drawings, Specifications and/or Supplemental Instructions, as may be issued to the Trade Contractor from time to time during the course of the Project, including site layout and coordination drawings (collectively the "Drawings") and which Drawings shall include those attached hereto as Schedule "A", as well as any additions or revisions to such Drawings that may be allowed for in this Contract or that may be agreed upon by the parties by way of amendment. The Trade Contractor acknowledges having reviewed the Contract Documents.

SC.3 Amendments to GC 1.1 CONTRACT DOCUMENTS

(a) Delete GC 1.1.7

(b) Add GC 1.1.10:

The Owner shall provide the Trade Contractor with digital access to the Contract Documents through the Owner's designated website, FTP site, on-line or cloud based portal and/or network link (the "FTP Site"). The Trade Contractor shall obtain copies of the Contract Documents at its own expense by accessing the FTP Site and/or by downloading and/or by printing such documents. The Owner shall not be required to provide hard copies of the Contract Documents to the Trade Contractor.

(c) Add GC 1.1.11:

The Trade Contractor shall be responsible to make inquiries from time to time (and as a minimum, on a weekly basis) to determine whether or not there have been any revisions or additions made to the Contract Documents. Such inquiries can be made through the Construction Manager or by accessing the FTP Site. If revisions to the Contract Documents have been made, the Trade Contractor shall promptly obtain a copy of such revised or added Contract Documents in accordance with GC 1.1.10 and shall review the revisions or additions to determine what, if any, impact there will be to the Work. The Trade Contractor shall take all reasonable steps necessary to implement and/or execute such revisions or additions forthwith and/or in accordance with the Project schedule. Any changes in the Work resulting from such revisions or additions shall only be permitted in accordance with GC 6.2 - CHANGE ORDER or GC 6.3 - CHANGE DIRECTIVE, unless such changes are otherwise deemed to be included in the Work and the Contract Price pursuant to the terms of the Contract (and per GC 1.1.12 to 1.1.16 below). *NOTIFICATION OF UPDATED DRAWINGS, SITE INSTRUCTIONS AND CHANGES ARE TO BE PROVIDED BY THE CONSTRUCTION MANAGER.*

(d) Add GC 1.1.12:

The Trade Contractor acknowledges that the Contract Documents have been prepared by the Project consultants and that the Work and the Contract Documents shall include any such revisions and/or additions to the Contract Documents as may be requested, required and/or directed by the Owner, the Consultant, other Project consultants and/or by the local or regional authorities having jurisdiction, all of which matters shall be deemed to be in accordance with the spirit and intent of the Contract Documents and for the advancement and benefit of the Project.

(e) Add GC 1.1.13:

The Trade Contractor acknowledges that the Contract Documents may be incomplete in detail. The Trade Contractor agrees that, notwithstanding any such incomplete detail, the Contract Price herein includes all foreseen (or unforeseen) conditions, circumstances, details, Drawings and/or requirements associated with the construction and performance of the Work, including any circumstances described at GC 1.1.12. To this extent, the Contract Documents shall constitute the primary guidelines for the execution of the Work. Any conditions, circumstances, details, Drawings, requests, requirements and/or directions provided to the Trade Contractor following the date of execution of this Contract, shall be deemed to have been included in the Work and in the Contract Price. Accordingly, the second sentence of GC 1.1.1, shall be, and is hereby deleted.

(f) Add GC 1.1.14:

Notwithstanding GC 1.1.6, where a contradiction exists between any of the Contract Documents, the Trade Contractor will carry out the more onerous requirement and bring same to the attention of the Construction Manager.

(g) Add GC 1.1.15:

It is acknowledged that the Trade Contractor shall be at liberty to recommend value engineering initiatives (including design and/or specification changes) in relation to the scope and execution of its Work. In doing so, the Trade Contractor must take the following steps:

- .1 notify the Construction Manager about the proposed value engineering initiative, in writing, within a reasonable time prior to when the activity (which is the subject of the initiative) is required to be carried out per the Project schedule;
- .2 provide the Construction Manager with any requested answers, details, documentation or other information necessary to substantiate the value engineering initiative;
- .3 abstain from taking steps to implement the proposed initiative until written authorization has been received from the Owner and: (a) the Construction Manager; (b) the Consultant; or (c) other sub-consultants, as the circumstances may require; and
- .4 if authorization has been so granted, proceed to carry out the relevant work in accordance with the supplemental information and the Project schedule, and this Contract is deemed to be amended accordingly.

(h) Add GC 1.1.16:

If a reduction to the Contract Price arises as a result of the Trade Contractor's value engineering initiative, the Construction Manager shall issue appropriate instructions for a change in the Work as provided in GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE. Any such Change Order or Change Directive must be approved by the Owner in writing.



SC.4 Amendments to GC 2.4 DEFECTIVE WORK

- (a) Add the following statement to the end of GC 2.4.1:

In the event that the required remedial work is not commenced or performed by the Trade Contractor within the amount of time provided in any default or deficiency notice delivered by the Construction Manager, Consultant, or any governing authority, to the Trade Contractor, then the Owner shall have the right, in addition to any other right which it may have under this Contract, to make alternative arrangements for the remedial work to be performed. The total cost of performing such remedial work, plus a 10% administration fee, may be deducted from any monies payable by the Owner to the Trade Contractor pursuant to this Contract.

SC.5 Amendments to GC 3.4 DOCUMENT REVIEW

- (a) Delete GC 3.4.1

- (b) Add new GC 3.4.1:

Prior to commencing the Work, the Trade Contractor shall undertake a detailed review of the Contract Documents. The Trade Contractor's review shall be carried out to a standard that is reasonable and that would ordinarily be expected by an experienced and competent trade contractor who provides services that are comparable to the Trade Contractor working in the Province of Ontario. If the Trade Contractor discovers any error, inconsistency or omission in the Contract Documents prior to, or while performing, its Work, the Trade Contractor shall notify the Construction Manager forthwith in writing. In such case, the Trade Contractor shall not proceed with the affected Work until the Trade Contractor has received any missing or corrected information from the Construction Manager. The Trade Contractor shall not be liable for damage or costs resulting from such errors, inconsistencies or omissions in the Contract Documents which the Trade Contractor was unable to reasonably discover, applying the above standards.

- (c) Add GC 3.4.2:

Notwithstanding GC 6.4, the Trade Contractor acknowledges that it has visited the site and has satisfied itself as to the existing site conditions, including soils, bearing capacity, physical obstructions, utility locates (or connections), the overall status of construction and the status of the work of the other Trade Subcontractors (the "Site Conditions"). The Work and the Contract Price herein shall be fully inclusive of all such Site Conditions and any impacts arising thereto.

SC.6 Amendments to GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

- (a) Delete GC 5.1

SC.7 Amendments to GC 5.2 APPLICATIONS FOR PAYMENT

- (b) Delete GC 5.2.1

- (c) Delete GC 5.2.2

- (d) Delete GC 5.2.3

(e) Add new GC 5.2.1:

Applications for payment on account, as provided in Article A-5 of the Agreement – PAYMENT, may be made monthly as the Work progresses and shall be submitted to the Construction Manager by no later than the 25th day of each month. Such Applications for payment shall include the Trade Contractor's invoice and shall be submitted on a form approved by the Construction Manager. The amount claimed shall be for the value, proportionate to the amount of the Contract, of Work performed and Products delivered to the Place of the Project as of the 25th day of the payment period. In this regard, the Trade Contractor acknowledges that a mutually agreed upon schedule of values will be provided for the various parts of the Work, aggregating the total amount of the Contract Price, so as to facilitate evaluation of applications for payment.

(f) Add GC 5.2.8:

Applications for payment shall include such other evidence, information or documentation as the Construction Manager or Payment Certifier may reasonably request in support of the application, including W.S.I.B. clearance certificates, statutory declaration, dump tickets, delivery tickets and back-up documentation from the Trade Subcontractors or Suppliers. Such applications for payment shall be in hard copy document format (facsimile transmission copies will not be accepted). The amount claimed shall be strictly in accordance with the certification of the Construction Manager or Consultant (which certificate shall certify the Work performed and Products delivered by the Trade Contractor to the Place of the Project as of the 25th day of the month).

SC.8 Amendments to GC 5.3 PROGRESS PAYMENT

(a) Delete GC 5.3.1.3

(b) Add new GC 5.3.1.3:

The Owner shall make payment to the Trade Contractor on account as provided in Article A-5 – PAYMENT on or before the later of:


- .1 the 30th day of the month, immediately following the month in which the Application for payment was submitted by the Trade Contractor for the payment period; or
- .2 20 calendar days following the issuance of the certificate for payment from the Payment Certifier, or from such other person as may be designated by the Owner.

(c) Add GC 5.3.2:

The progress payments owing to the Trade Contractor shall be subject to the following deductions: (a) any expenses and/or chargeback amounts for materials, Products or services furnished by the Owner to the Trade Contractor in connection with the Work; (b) any expenses that have been incurred by the Owner to correct or rectify a deficiency or item of Incomplete Work of the Trade Contractor; (c) deductions that may otherwise be provided for in the Contract, including any amounts paid by the Owner pursuant to GC 5.3.4 (in respect of the Debts of the Trade Contractor); and (d) the holdback amount required to be retained in accordance with the statutory holdback legislation in the Place of the Project. Any amounts paid by the Owner at subparagraphs (a), (b) or (c) above shall be subject to a 10% administration fee.

(d) Add GC 5.3.3:

~~The Trade Contractor acknowledges and agrees that the Owner's receipt of funding and/or payment from the Owner's applicable lending institution (the "Lender") for the payment period in question, is an express condition precedent to the Owner's obligation to pay the Trade Contractor in accordance with this Contract.~~



(e) Add GC 5.3.4:

The Trade Contractor shall promptly and satisfactorily settle and pay for all accounts, claims or liens (the "Debts") with respect to the Work. If, after having received 2 Working Days Notice in Writing from the Owner or Construction Manager to settle and pay such Debts, the Trade Contractor fails or refuses to settle or pay same, the Owner shall have the right to settle or pay such Debts for the account of the Trade Contractor and the receipt issued to the Owner with respect to such Debts shall be conclusive evidence as to such payments and the amount thereof. Notwithstanding the foregoing provision, the Trade Contractor shall not be required to pay any such Debts if it has reasonable grounds for disputing same and the Owner in these circumstances will only have the right to pay or settle such Debts in such manner as in its opinion, will not prejudice the Trade Contractor's right to dispute same. Any amounts properly paid by the Owner as aforesaid, may be deducted from the Trade Contractor's progress payments in accordance with paragraph GC 5.3.2 above.

SC 9. Amendments to GC 6.2 CHANGE ORDER

(a) Add the following statement to the end of GC 6.2.2:

Any such Change Order must be specifically approved by the Owner in writing.

SC 10. Amendments to GC 6.3 CHANGE DIRECTIVE

(b) Add GC 6.3.6.4

The Trade Contractor's fee, as described at paragraph GC 6.3.6, shall be calculated as 5% of the Trade Contractor's costs, which costs shall be calculated at paragraphs GC 6.3.6.1 or 6.3.6.2.

SC 11. Amendments to GC 7.2 - TRADE CONTRACTOR'S RIGHT TO SUSPEND THE WORK OR TERMINATE THE CONTRACT

(a) Delete GC 7.2.3.1

(b) Delete GC 7.2.4

(c) Add new GC 7.2.4:

The Trade Contractor's Notice in Writing to the Owner provided under paragraph 7.2.3 shall advise that if the default is not corrected within 10 Working Days following the receipt of the Notice in Writing, the Trade Contractor may, without prejudice to any other right or remedy the Trade Contractor may have, suspend the Work or terminate the Contract.

(d) Delete GC 7.2.5



- (e) Add new GC 7.2.5:

If the Trade Contractor terminates the Contract under the conditions set out above, the Trade Contractor shall be entitled to be paid for all work performed to date.

SC 12. Amendments to GC 12.3 WARRANTY

- (a) Delete GC 12.3

- (b) Add new GC 12.3.1:

- .1 The Trade Contractor warrants that the Work shall be carried professionally, in a proper workmanlike manner and to the standard of diligence, skill and care that a trade contractor would customarily provide in similar circumstances for comparable projects in the same relative geographic location as the Project herein. Moreover, all Product forming part of the Work (whether specified or not) shall be free from defects, shall be fit for the purpose intended and shall be of a quality equal to or better than that of a comparable condominium building in the area of the Project;
- .2 The Trade Contractor further warrants that the Work shall be performed in accordance with the standards set forth in the *Ontario Building Code*, the *Ontario New Homes Warranty Plan Act* and any other laws, by-laws, regulations, codes and/or other requirements of the local or regional authority and any other authorities having jurisdiction and in accordance with the Contract Documents.

- (c) Add new GC 12.3.2:

To the extent applicable, the Trade Contractor shall submit to the Construction Manager for the Owner's acceptance all written warranties and related documents required by the Contract Documents.

- (d) Add new GC 12.3.3:

The Owner, through the Construction Manager, shall promptly give the Trade Contractor Notice in Writing of observed defects and deficiencies that occur during the warranty periods (which warranty periods are specified below). The Trade Contractor shall correct promptly, at the Trade Contractor's expense, defects or deficiencies in the Work which appear prior to and during such applicable warranty periods.

- (e) Add new GC 12.3.4:

The Trade Contractor shall correct or pay for damage resulting from rectifications made under this paragraph SC 12.3 – WARRANTY.

WARRANTY FOR RESIDENTIAL AREAS

- (f) Add GC 12.3.5:

The Trade Contractor's warranty period for the residential areas of the Project (which residential areas are specified in the Contract documents), shall be as follows.

(g) Add GC 12.3.5.1:

It is acknowledged that the Owner is registered as the "vendor" of the Project as required by the *Ontario New Home Warranties Plan Act* and regulations (the "Tarion Regulations"). It is further acknowledged that the Owner is subject to the statutory warranties set forth in the Tarion Regulations. Such warranties are owed by the Vendor to the purchasers of the residential suites (as well as to the condominium corporation that will be created in respect of the common areas of the building). The warranties are intended to ensure that the Vendor meets prescribed standards and levels of construction performance. In general terms, such warranties are categorized into one year, two year and seven year warranties. The warranties relate to the various aspects of construction activity that will arise during the course of the Project. The particulars of such warranties are specified in the Tarion Regulations and are further described at Tarion's website (www.tarion.com) under the "Warranty Protection" tab (hereinafter the "Statutory Warranties").

(h) Add GC 12.3.5.2:

The Trade Contractor shall be subject to the Statutory Warranties to the same degree as the Owner, but only to the extent that such Statutory Warranties apply to the scope of the Trade Contractor's Work (hereinafter the "Trade Contractor's Residential Warranties"). The Trade Contractor shall not be responsible for Statutory Warranties that arise in respect of the work of other Trade Subcontractors or Suppliers working at the Project. The Trade Contractor's Residential Warranties shall be owed to the Owner.

(i) Add GC 12.3.5.3:

It is the Trade Contractor's responsibility to investigate and review the Tarion Regulations and the Statutory Warranties in effect as of the date of this Contract. This will enable the Trade Contractor to identify the extent of the Trade Contractor's Residential Warranties. However, it is agreed that the Trade Contractor's Residential Warranties shall be subject to amendments that may be made to the Tarion Regulations, from time to time.

(j) Add GC 12.3.5.4:

If a disagreement arises as to whether an alleged defect or deficiency in the Work is covered by the Trade Contractor's Residential Warranties (either with respect to the nature of the defect or deficiency itself or with respect to the timing of the Owner's and/or Construction Manager's request for the rectification of such defect or deficiency), the following shall apply:

- .1 the Trade Contractor shall deal with the Owner and/or Construction Manager cooperatively, in good faith and in a fair and reasonable manner with a view to resolving the disagreement as quickly as possible, with the understanding that time shall always be of the essence. In this regard, the Tarion Regulations and Statutory Warranties shall be given the most liberal interpretation that is reasonably possible in the circumstances;
- .2 if the disagreement cannot be resolved as aforesaid, either party may have the matter settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION.

(k) Add GC 12.3.5.5:

As of the date of this Contract, the Tarion Regulations stipulate that the Statutory Warranties (which include the Trade Contractor's Residential Warranties) shall commence on the dates set forth below:

- .1 for the residential condominium suites (and/or associated parking or storage areas, if applicable), the coverage shall begin on the date of possession of each condominium suite; and
- .2 For the residential common elements and/or amenity spaces, the coverage shall begin on the day that the condominium corporation is registered under the applicable legislation.

(l) Add GC 12.3.5.6:

The coverage for the Trade Contractor's Residential Warranties shall terminate in accordance with the Tarion Regulations.

(m) Add GC 12.3.5.7:

Notwithstanding GC 12.3.5.1 to 12.3.5.6 the Trade Contractor's minimum warranty in respect of the Work in the residential areas shall be 1 year from the dates identified at GC 12.3.5 (a) and (b) as applicable.

WARRANTY FOR COMMERCIAL AREAS

(n) Add GC 12.3.6:

The warranty period for the commercial areas of the *Project* (which commercial areas are specified in the *Contract Documents*) shall be one year from the later of the date of *Substantial Performance of the Work* and the date that the *Project* is ready for use for the intended purpose.

EXTENDED WARRANTIES

(o) Add GC 12.3.7:

Any extended warranties beyond the warranty periods mentioned above (in relation to the residential and commercial areas) shall be as specified in the Contract Documents. Extended warranties shall be issued by the warrantor to the benefit of the Owner. The Trade Contractor'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.

– END –

PAGE 9 OF 9



SCOPE OF WORK
ON THE GO MIMICO
TRADE: Formwork

Before submitting a tender, bidders shall carefully examine the site of the proposed work, fully inform themselves on the existing conditions and limitations and include in their tender price, a sum to cover the cost of all items contemplated by the Drawings, Specifications and Contract Documents. No allowance will be subsequently made for any error or negligence on behalf of the Contractor in this regard.

This Contractor is required to supply all engineering, labour, materials, machinery, equipment, tools, scaffold, hoisting, traffic management, off-loading, supervision and whatsoever required to properly execute and complete all the Formwork required all in accordance with the Contract Documents, including, but not limited to the following:

All materials must comply with the appropriate codes and ratings. All debris and waste is to be removed from the building by this Contractor.

1. General

- 1.1 These conditions will amend and/or supplement the specifications and drawings prepared by the consultants for this project.
- 1.2 Workmanship and materials shall conform to the requirements of Ontario and National Building Codes, City of Toronto Building Codes and any other authorities having jurisdiction over work to be performed.
- 1.3 Have a capable, decision-making representative attend all job-site meeting as set by the owner.
- 1.4 Comply with all health and safety measures and with all governing authorities safety procedures in force at the time that the work is carried out (see also Bluescape's Health and Safety Policy). No safety equipment or railing will be removed without the prior knowledge of the Owner's Site Superintendent.
- 1.5 All operations of this Contractor shall be conducted with full consideration of all the property rights of the Owners and occupants of the adjacent premises and with the least inconvenience possible to them, and without any interference with or interruptions to the operations of the said Owners or occupants.
- 1.6 Where contradiction exists between the Scope of Work and the other Contract documents, this Contractor will be responsible to carry out the more onerous requirements and to bring the same to the attention of the Construction Manager. If the Contractor in the course of his work finds any discrepancy between the Contract documents and the physical conditions of the work or any errors in the plans, specifications or in the points given for the construction of the work, it shall be his duty to immediately inform the Construction Manager in writing of such discovery and any work done after such discovery until authorized in writing will be done at the Contractor's risk.



- 1.7 If the Contractor is not making sufficient progress in the preparation of the materials herein called for and is thereby causing or threatening to cause delay in the general progress of the work, the Owner shall have the right to investigate the cause of the delay and to expedite deliveries and all expenses incurred by the Owner as a result shall be charged to and paid by the Contractor.
- 1.8 Qualifications or exclusions contained in the Contractors proposal for this work are not accepted unless specifically incorporated into this Contract document either through wording changes or attached appendices. All terms and conditions of the Contract prevail over any and all correspondence prior to the signing of the Contract.
- 1.9 Any additional work instructed by the Owner over and above the scope of work of this Contract shall be carried out by this Contractor only after receipt of a written purchase order or a change order to the contract.
- 1.10 When a change to the work is proposed or required resulting in an extra to the Contract, this Contractor shall submit a quotation for this work within 6 weeks of the date that the notice describing the proposed change is issued. If this Contractor proceed with the work and does not provide a formal quotation within the 6 week period, there will be no adjustment later to the Contract price.
- 1.11 Schedule all deliveries with the Site Superintendent. Arrange all hoisting required to suit the Site Superintendent's schedule. This Contractor shall receive all deliveries and unload their own trucks, including any required flagmen and equipment.
- 1.12 The Owner is not responsible for providing parking.
- 1.13 This Contractor to provide manpower to meet the agreed schedule. Any overtime required to achieve this rate will be at this Contractor's expense (including weekends).
- 1.14 Inspection and testing will be carried out by an independent Consultant and paid for by the Owner. This Contractor will co-operate with the Owners consultants / inspectors regarding installation procedures to be followed. The Construction Manager shall schedule and arrange for all inspections relative to this work. All costs associated with additional inspections, which are due to the fault of this Contractor, will be charged to the Contractors account.
- 1.15 This Contractor is to provide all mock-ups, samples and demonstrations required by the Contract Documents and/or Consultants, including all coordination, preparation and removal thereafter if required.
- 1.16 This Contractor agrees to clean the premises and remove all its debris daily. The owner reserves the right to have the premises cleaned and debris removed if, after written notice for clean-up to this Contractor, clean-up is not carried out within 24 hours of receipt of this notice; and backcharge the contractor based on a labourer's rate of \$65.00 per hour with a minimum charge of \$260.00 per incident. Photographic evidence will be provided with the backcharge notice.
- 1.17 This Contractor is to keep an up-to-date set of as-built drawings on site. Any and all changes or on-site instructions are to be recorded on such plans and reported to the corresponding consultants. This is to be carried out on a daily basis.

Two handwritten signatures in black ink are located at the bottom right of the page. The first signature is a stylized, cursive 'S' followed by a flourish. The second signature is a cursive 'R' followed by a flourish.



- 1.18 Liability insurance is to be provided in an amount of \$5,000,000 (five million dollars). A copy of the Contractor's certificate of insurance is to be provided to the Owner prior to commencing work on site.
- 1.19 This Contractor and Its Subcontractors shall provide warranties in compliance with those required by the Ontario New Home Warranty Program (ONWHP) in terms of coverage, start date and duration. Any defects that may appear within the warranty period are to be replaced and repaired without charge. This Contractor is responsible for all costs in making good the defective work provided the equipment is properly maintained through the warranty period.
- 1.20 Guarantee all material, equipment and workmanship for a period of one year after Substantial Performance of the Contract. Any defects that may appear within the warranty period are to be replaced and repaired without charge.
- 1.21 Provide an extended warranty if required by the specification(s).
- 1.22 Payment: Clauses 5.3.1 and 5.3.2 of the CCDC 17-2010 Agreement between Owner and Contractor will be amended as follows:

The *Construction Manager* will issue to the *Owner*, no later than 15 days after the receipt of an application for payment from the *Trade Contractor* submitted in accordance with GC 5.2 - APPLICATIONS FOR PROGRESS PAYMENT, a certificate for payment in the amount applied for or in such other amount as the *Construction Manager* determines to be properly due. If the *Construction Manager* amends the application, the *Construction Manager* will promptly notify the *Trade Contractor* in writing giving reasons for the amendment.

The *Owner* shall make payment to the *Trade Contractor* on account as provided in Article A-5 of the Agreement - PAYMENT no later than 30 days after the date of a certificate for payment issued by the *Construction Manager*.

- 1.23 Release of Holdback: The following are the prerequisites for release of construction lien holdback based on certification and publication of Substantial Performance in accordance with Section 32 (1) of the Construction Lien Act.
1. Certificate of Substantial Performance (Form 6), jointly signed by Owner and Contractor, in the absence of a Payment Certifier
 2. Proof of Publication of above certificate in *Daily Commercial News*. - The holdback is due on the 46th day after the date of publication
 3. The improvement or a substantial part thereof is ready for use or is being used for the purpose intended, and Substantial Performance achievement calculation per Section (2)(l)(b) of the Lien Act, as detailed below, has been achieved.
- For the purposes of the Act, a contract is substantially performed when the improvement to be made under that contract is capable of completion or, where there is a known defect, correction, at a cost of not more than,
- (i) 3 per cent of the first \$500,000 of the contract price,
 - (ii) 2 per cent of the next \$500,000 of the contract price, and
 - (iii) 1 per cent of the balance of the contract price.



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2. Quality of Workmanship

- 2.1 Forms shall be free from concrete and other matter with flat, smooth faces and firm edges, oiled with an approved agent before being installed. Form plywood is to be new material. Remove all sawdust or debris from corners of forms before pouring slabs.
- 2.2 Concrete shall be compacted by internal mechanical vibration applied in an approved manner at the point of deposit and in the area of freshly placed concrete. Supplement vibration with hand spading, puddling and prodding to secure an even, dense concrete close bonded to reinforcement. The resulting surface shall not show evidence of aggregate separation or honeycombing.
- 2.3 Immediately after removal of forms, cut off all bolts, ties, nails or other metal back to a depth of 1" from the surface of the concrete and make good with corks, non-shrink mortar mix or approved asphaltic compound. These materials will be supplied by the Formwork Contractor.
- 2.4 All serious honeycomb and other surface defects shall be made good with non-shrink mortar of the same proportions as the surrounding work. If the honeycombing is structurally unsound, this Contractor will be responsible for all costs incurred by the Owner to rectify the work.
- 2.5 Remove all fins and projections from concrete surfaces that are to be left exposed or are to receive laminated drywall or a directly applied finish. Carefully fill all such cavities, holes, or other blemishes with a cement mortar mix and surface rub with a carborundum block or wheel. These materials will be supplied by the Formwork Contractor.
- 2.6 Supply and install 25mm chamfer corners for all exposed columns, beams, and upstands.
- 2.7 The garage walls, columns and ceilings are to be left in a state suitable for a direct application of paint without preparation.
- 2.8 Within two (2) weeks of stripping formwork, the forming contractor is to commence repair of all faulty work such as honeycombing, concrete overflow, etc. Failing this, an appropriate amount will be held back from the next progress payment. Concrete patching operations will not take place during Winter months unless suitable conditions are provided for by the Owner.

3. Tolerances

- 3.1 All concrete is to be smooth, flat and level unless damage is caused by unexpected and unpredictable weather conditions. This Contractor is to take full responsibility for improper sloping of slabs because of undue form deflection. This Contractor will undertake all remedial work to rectify this work at its own expense.
- 3.2 This Contractor is to leave all floors completely level. If floor level is not within the required tolerance, then this Contractor shall be responsible for all labour and material to bring the slab to the required degree of levelling. This Contractor is responsible to hand over all slabs within acceptable tolerance, namely 9mm in 3000mm (3/8" in 10' 0") or to approved CSA Standard A23.1-94.



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- 3.3 Finish concrete walls straight and plumb to a smoothness to receive laminated drywall. Acceptable tolerance for plumbness is 1/4" in 10' 0". Grind all exposed concrete walls and columns ready to receive paint or laminated drywall.
- 3.4 The Elevator Hoistway must be plumb from top to bottom with variation not to exceed 1" (25mm) at any point in the first 100 feet (30m). Tolerances may increase thereafter to 1/32" for each additional 10 feet (3m) up to a maximum displacement of 2" (51mm), as per CSA standards.
- 4. Coordination with Other Trades**
- 4.1 Co-operate with all trades including mechanical and electrical. Set all metal ties required for masonry on the face of the concrete work.
- 4.2 Place all inserts for windows, window washing equipment and anchor bolts and plates for structural steel. Ensure that all inserts are firmly fixed in place and are in the correct location, are plumb and are at the correct elevation.
- 4.3 Sleeve and set for all elevator divider beams and hoist beams.
- 4.4 Carry out all necessary cutting and patching due to failure to properly carry out such work.
- 4.5 Set all shelf angles for masonry and exterior cladding as required.
- 5. Forming Contractors Forces**
- 5.1 This Contractor is to provide one permanent foreman.
- 5.2 The Construction Manager retains the right to refuse appointment of this Contractors site foreman prior to commencement onsite.
- 5.3 The Owner's surveyor will survey and establish main grid lines. Thereafter the forming contractor is to provide a competent and experienced "layout-man" (to be approved by the Owner) who will establish elevations at each floor and layout the slab, slab openings, and all foundations.
- 5.4 This Contractor is fully responsible for all layout including the location of all inserts for structural steel, miscellaneous steel, windows, shelf angles for masonry, etc.
- 6. Cranes**
- 6.1 This contractor is to provide two (2) cranes for hoisting and placing all concrete, formwork, and reinforcing steel. The first crane will be used for the completion of the parking garage structure, the first phase of construction, west of the shrinkage control strip and including the building tower. The second crane will be used for the completion of the tower structure, second phase of construction, east of the shrinkage control strip. ~~The cranes are~~ to have a boom of sufficient length and be capable of lifting 10,000 lbs of equipment or material from the Windsor Street access point, within 100 feet of the centre of the crane.
- 6.2 This Contractor is to supply the electric feeder cables and disconnects from the cranes to the hydro shack. The Owner will provide a 600V power service for the cranes located in the hydro shack at the South West corner of the site. All electrical connections will be made by Others.

FIRST

AND GROUNDING REQUIREMENTS

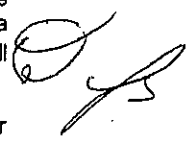



- 6.3 Crane lights are to be provided by this Contractor. Connection and maintenance of the crane lights are provided by Others.
- 6.4 The crane locations and operation will be the responsibility of this Contractor to be approved by the Construction Manager. Prior to commencement of construction, this Contractor will provide drawings showing the crane locations for review by the consulting Structural Engineer and Construction Manager. All required air rights and crane swing agreements by the Owner. This Contractor is to abide by all crane swing agreements.
- 6.5 The crane bases are to be designed and installed by this Contractor and are subject to review by the Owner's Structural Engineer. The excavation, concrete and reinforcing steel supply required for the crane bases are to be supplied by the Owner.
- 6.6 During normal working hours and when the cranes are not being used by the forming contractor, they are to be available to the Owner at no cost for hoisting mechanical and electrical equipment, elevator equipment, hoist jumps and other miscellaneous items.
- 6.7 Hoisting of all mechanical and electrical equipment, including pipes, will be coordinated by the Owner's Site Supervisor in conjunction with this Contractor.
- 6.8 If this Contractor is not working on site due to the elements, then the Owner will pay for the crane operator and swamper if used for the Owner's own purposes. There will be no cost for the crane itself.
- 6.9 This Contractor will be responsible for filling crane openings and hoist openings if needed and for all costs to remove the crane upon completion of the work.
- 6.10 Include all costs including premium time to erect and/or dismantle the cranes outside of normal working hours, if required, by the City of Toronto.
- 7. Miscellaneous Work to be Carried Out by the Forming Contractor**
- 7.1 Form openings in walls and slabs where required for garage doors, entry doors, louvers, vent pipes, etc.
- 7.2 Supply and install of all reinforcing steel accessories including chairs, wire, dovetail anchors, etc.
- 7.3 Supply and install all concrete accessories including waterstop and other miscellaneous embedded items associated with a concrete pour.
- 7.4 All 'high' perimeter concrete curbs, parapets or upstands indicated on the Structural and Architectural Drawings. These are to be formed and poured as soon as possible after pouring the reinforced concrete slab. All parapets shown as structural stud are to be cast in place concrete and are included in this Contract.
- 7.5 All miscellaneous concrete such as floating slabs, pads and bases for mechanical/electrical equipment. The work is to be carried out prior to the delivery of equipment and while this Contractor is still on site.
- 7.6 The supply and installation of all precast stairs including anti-slip nosings and required grout. Provide shop drawings for precast stairs, stamped by an Engineer.



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- 7.7 Slope all roof slabs, terrace slabs, balcony slabs and structural floor slabs to drains as indicated on the Structural and Architectural drawings. Roof slab slopes are to be poured continuous (at the same time) with the structural slab. Clean out all reglets ready for the roofers / waterproofer's use.
- 7.8 Provide a pump or pumps for placing concrete where required.
- 7.9 Winter protection is included. The work by the Forming Contractor includes the supply and installation of insulated forms for columns and wall (supply of insulation included) and plywood and/or tarpaulins to the perimeter of slab area to properly enclose the area below the slab being poured. The enclosure at the flying forms is to extend the full width and height of the area between shears walls or columns. ~~This Contractor is required to~~ The supply and maintenance all heaters is by Others. Gas and/or propane will be supplied by Others. 
- 7.10 Provide all labour and equipment required to clean deck of all debris, snow, ice and tarp for rebar and slab.
- 7.11 Provide hoisting for all propane/natural gas heaters, tanks and controls for winter heat. Heaters and fuel provided by Others.
- 7.12 Place and finish of the slab on grade, including necessary saw cuts. The slab on grade will be placed prior to suspended slabs.
- 7.13 Include for the forming of all footings and strip footings indicated on the Structural Drawings. This Contractor is to include for all layout of footings from provided gridlines.
- 7.14 This Contractor will supply garbage bins to remove from site all wood material from forming operations. Bins to be stored within easy reach of the cranes and to have truck access for delivery and removal.
- 7.15 Include for forming of Mechanical, Electrical, and HVAC sleeves greater than 150mm x 150mm. Layout by others.
- 7.16 Make up any lost time due to MOL stop work orders caused by this trade or mechanical issues with this trade's equipment (including crane).
- 7.17 Include for placing and finishing of the 125mm thick topping to the Garbage and Recycling Areas on the P1 Level and for the Ground Floor Retail Garbage Room after the waterproofing is complete.
- 7.18 Include for placing and finishing of the 100mm thick topping to the parking garage entrance ramp after the snow melting system is installed.
- 7.19 This Contractor will be responsible for filling raker, whaler, corner bracing and strut pockets in all areas where the P1 slab is more than 1 meter below the whalers and the shoring steel cannot be removed until the ground floor slab has been poured. ~~once the Ground Floor slab has been poured.~~ This work is to be completed within one month of the Ground Floor slab being poured. 
- 7.20 Supply, install and remove two (2) temporary engineered working platforms complete with overhead protection, in the elevator hoistway. All waterproofing of the platform is to be by Others.
- 7.21 Sleeve and place all Elevator Divider and Hoistway beams into position. Supply of beams and grouting will be by Others.






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- 7.22 Include for forming and pouring one (1) hoist base beneath the temporary construction hoist. The design, excavation, concrete and reinforcing steel required for the hoist base is to be supplied by Others.
- 7.23 Supply and install all rebar caps and/or wood boxes for rebar protrusions. Install all required safety straps. Safety straps provided by Others.
- 7.24 Provide all labour to cut or modify reinforcing steel as required for minor adjustments.
- 7.25 Clean and remove all concrete wash out buildup caused by this Contractor.
- 7.26 Include for all landscaping curbs and retaining walls shown and detailed on the Structural Drawings. Landscaping retaining walls to receive a smooth concrete finish.
- 7.27 Include for all forming and placing of cast in place exterior textured concrete walls as shown on the Architectural Drawings. This Contractor will provide a mock-up of all exposed concrete finishes. Linears will be supplied by Others.
~~ROUGH SAWN ARCHITECTURAL FORMS TO BE PRICED SEPARATELY.~~
- 7.28 ~~Supply, install and maintain five levels of safety fence and posts following the stripping of the slab. This Contractor is responsible to replace all fence panels removed for the purpose of their works. Safety fence will be supplied by Others.~~ 
- 7.29 Lights for stripping below forms are to be supplied by this Contractor.
- 7.30 This Contract includes for the supply and placing of all concrete and rebar accessories and the placing and finishing of all concrete.
- 7.31 This Contractor is to supply flagmen for concrete and rebar deliveries and other formwork related activities.
8. **Work to be Carried Out by Others**
- 8.1 All underpinning, hand or machine excavation and all shoring and scaffolding required for this work.
- 8.2 Supply and placing backfill to footings or foundations.
- 8.3 The supply of all concrete and reinforcing steel. All concrete pouring is to be monitored, ordered and approved by the Owner's personnel on site.
- 8.4 Electrical connection of the crane cables at the temporary hydro shack and bottom of crane. Provision of hydro service.
- 8.5 Landscaping and driveway curbs, sidewalks, and concrete toppings except where shown on structural drawings.
- 8.6 Supply of gas or propane.






9. Schedule

9.1 ~~This project will be completed in two (2) phases:~~

~~• First Phase Complete excavation and installation of all rakers, footings, foundations, and underground parking structure West of the Shrinkage Control~~

~~• Second Phase Complete excavation and installation of all rakers, footings, foundations, and underground parking structure East of the Shrinkage Control~~

9.2 This Contractor must submit a detailed floor-by-floor bar chart schedule based on working weeks for his work. This schedule will be mutually agreed upon prior to signing the contract. The work must be completed within the agreed number of working weeks from commencement on site. The schedule excludes lost time due to inclement weather where all work is abandoned and cannot be carried out that day. This Contractor is to formally notify the Construction Manager on a weekly basis, whenever a day is lost due to inclement weather. ~~THE CONSTRUCTION MANAGER WILL BE NOTIFIED IN SITE MEETINGS.~~

9.3 If it becomes necessary to provide for a mobile crane or pump, etc. in order to maintain the agreed schedule, then this Contractor must provide this equipment at no additional cost to the Owner.

9.4 If it becomes necessary to work extended hours and weekends in order to maintain the agreed schedule, then this Contractor must pay for any premium time and loss of productivity at no additional cost to the Owner.

9.5 High early strength concrete will be supplied by the Owner for slabs that require early stripping in order to meet the agreed schedule.

9.6 The Owner will not be held responsible for any delays in the delivery of concrete caused during the pouring of concrete, or by delays caused by the timing of steel deliveries.

9.7 The Work will commence onsite when the crane is operational. ~~AND WORK AREA IS PREPARED.~~

10. Separate Prices

~~10.1 Place and finish concrete. Concrete is to be supplied by others. Coordinate delivery of the concrete with the Owner's Site Supervisor. Under no circumstances can this contractor add or request that water be added to the concrete. The Owner and this Contractor must check the slump of concrete before pouring to ensure conformance with the structural specifications.~~

Add: \$ _____ per m³

10.2 Unload and place all reinforcing steel and accessories in accordance with the details by the Structural Engineer. Reinforcing steel provided by others.

Add: \$ 550.00 per tonne

~~10.3 Supply all reinforced steel accessories.~~

Add: \$ _____ per tonne of reinforcing steel

~~10.4 Provide a 50% labour and material and 50% performance bond for duration of project~~

Add: \$ _____ lump sum



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ARCHITECTURAL DRAWING LIST

29-Jan-16

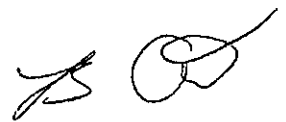
Drawing		Rev. #	Rev. date
<u>Architectural</u>			
AA000	COVER SHEET	9	13-Mar-15
AA001	SITE PLAN	14	13-Mar-15
AA002	EXISTING SURVEY	4	13-Mar-15
AA003	LIFE SAFETY PLANS	7	10-Mar-15
AA100	EXCAVATION PLAN - PARKING LEVEL P3	2	13-Mar-15
AD001	PARKING LEVEL P1 FLOOR PLAN	10	13-Mar-15
AD002	PARKING LEVEL P2 FLOOR PLAN	10	13-Mar-15
AD003	PARKING LEVEL P3 FLOOR PLAN	10	13-Mar-15
AD101	GROUND FLOOR PLAN	10	13-Mar-15
AD102	SECOND FLOOR PLAN	10	13-Mar-15
AD103	THIRD FLOOR PLAN	10	13-Mar-15
AD104	FOURTH FLOOR PLAN (TYPICAL FLOOR)	10	13-Mar-15
AD105	26TH FLOOR PLAN	10	13-Mar-15
AD106	27TH FLOOR PLAN	10	13-Mar-15
AD107	MECHANICAL PENTHOUSE & ROOF PLAN	10	13-Mar-15
AJ001	SLAB EDGE PLAN - PARKING LEVEL P1	2	10-Mar-15
AJ002	SLAB EDGE PLAN - PARKING LEVEL P2	2	10-Mar-15
AJ003	SLAB EDGE PLAN - PARKING LEVEL P3	4,R1	29-Jan-16
AJ004	SLAB EDGE PLAN - PARKING LEVEL P3B	2	10-Mar-15
AJ101	SLAB EDGE PLANS	2	10-Mar-15
AJ102	SLAB EDGE PLANS	1	06-Nov-13
AK001	EAST & SOUTH ELEVATIONS	10	13-Mar-15
AK002	WEST & NORTH ELEVATIONS	10	13-Mar-15
AK003	WEST & NORTH ELEVATIONS	9	13-Mar-15
AL001	BUILDING CROSS SECTION	10	13-Mar-15
AL002	BUILDING CROSS SECTION	10	13-Mar-15
AM001	ENLARGED ELEVATOR PLANS & SECTIONS	4	10-Mar-15
AM002	STAIR 'B' PLANS, SECTIONS & DETAILS	3	10-Mar-15
AM003	STAIR 'A' PLANS, SECTIONS & DETAILS	2	10-Mar-15
AM004	STAIR 'C' PLANS, SECTIONS & DETAILS	2	10-Mar-15
AN001	ENLARGED FLOOR PLANS	4	10-Mar-15
AN002	ENLARGED FLOOR PLANS	4	10-Mar-15
AN003	ENLARGED FLOOR PLANS	4	10-Mar-15
AN004	ENLARGED FLOOR PLANS	3	10-Mar-15
AN005	ENLARGED 27TH FLOOR PENTHOUSE PLAN	3	10-Mar-15
AN006	ENLARGED 27TH FLOOR PENTHOUSE PLAN	3	10-Mar-15
AN007	PLAN DETAILS	3	10-Mar-15
AN008	PLAN DETAILS AT GROUND FLOOR	3	10-Mar-15
AN009	PLAN DETAILS AT SECOND FLOOR	3	10-Mar-15

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SHORING DRAWING LIST

28-Jan-16

Drawing		Rev. #	Rev. date
Shoring			
SH1	EXCAVATION SHORING KEY PLAN AND NOTES	6	28-Jan-16
SH2	EXCAVATION SHORING PARTIAL PLAN	6	28-Jan-16
SH3	EXCAVATION SHORING PARTIAL PLAN	6	28-Jan-16
SH4	EXCAVATION SHORING ELEVATIONS	6	28-Jan-16
SH5	EXCAVATION SHORING SECTIONS	6	28-Jan-16
SH6	EXCAVATION SHORING SCHEDULES AND DETAILS	6	28-Jan-16



APPENDIX "D"

Ginic, Vanja


From: Cerrato, Gary <gcerrato@bdo.ca>
Sent: 13-Apr-17 2:11 PM
To: 'John DaRe'
Subject: RE: Resform Construction Ltd. v. Terrasan 327 Royal York Rd. Limited

John, here is the link to the website. If you want to see the sale process just hit the sale process tab on the left of the screen.

<http://www.extranets.bdo.ca/terrasan/courtdocs.cfm>

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Tel: 416-865-0210
Fax: 416-865-0904
www.bdo.ca

 Before you print think about the environment

From: John DaRe [<mailto:john.dare@johndare.ca>]
Sent: Thursday, April 13, 2017 11:20 AM
To: Cerrato, Gary <gcerrato@bdo.ca>
Subject: Resform Construction Ltd. v. Terrasan 327 Royal York Rd. Limited

Gary,

Have you had the opportunity to consider my correspondence to you of March 30, 2017. As you know my client continues to have rental equipment on site and we have been awaiting your advice with respect to same. Moreover, the buyer that we referred to you would like to move forward with this transaction. When can we discuss same?

Thank you.

John DaRe
Barrister & Solicitor
241 Applewood Crescent, Unit 9
Concord, Ontario
L4K 4E6

Telephone: 905-266-0772 Ext. 2222
Fax: 905-266-0773
john.dare@johndare.ca

APPENDIX "E"

Ginic, Vanja


From: Cerrato, Gary <gcerrato@bdo.ca>
Sent: 8-Jun-17 4:17 PM
To: 'John DaRe'
Cc: Parisi, Josie
Subject: OTGM - June 8 2017.pdf
Attachments: OTGM - June 8 2017.pdf

As discussed. Please let us know what your client's instructions are in respect of removing the crane.

Regards,

Gary Cerrato, CIRP, LIT
Vice President
BDO Canada Limited
Direct: 416-369-6058
Mobile: 647-883-3514
gcerrato@bdo.ca

123 Front Street West, Suite 1100
Toronto, ON, M5J 2M2
Canada
Tel: 416-865-0210
Fax: 416-865-0904
www.bdo.ca

 Before you print think about the environment



resform
construction ltd.
RES Group of Companies

Empire Communities
125 Villaboit Crescent
Vaughan, ON, L4K 4K2

June 8, 2017

Attention: Paul Pellegrino

RE: On The Go Mimico – Site Access

Paul, we require permission to go on site to retrieve our tower crane, material and equipment, if you have any concerns please let us know. Please follow up regarding this as soon as possible.

Thank you,

A handwritten signature in black ink, appearing to read 'Tashyna Gatti'.

Tashyna Gatti
RESFORM CONSTRUCTION LTD.

APPENDIX "F"

Kennedy, Robert

From: Cerrato, Gary <gcerrato@bdo.ca>
Sent: 30-Aug-17 10:29 PM
To: Kennedy, Robert
Subject: FW: Resform Construction Ltd. v. Terrasan 327 Royal York Rd. Limited

From: John DaRe [mailto:john.dare@johndare.ca]
Sent: Friday, June 09, 2017 2:20 PM
To: Cerrato, Gary <gcerrato@bdo.ca>
Cc: sandro.brocca@resgroup.ca
Subject: Resform Construction Ltd. v. Terrasan 327 Royal York Rd. Limited

Gary,

Further to our discussion yesterday I have had the opportunity of clarifying matters with my client.

As I had written to you sometime ago, my client continues to incur significant expenses in relation to the rental equipment currently on site. As there does not appear to be any prospects that an agreement with a new buyer will be completed before early fall, nor have we received any assurances that we will be offered a contract to continue to complete, my client is simply not prepared to continue to incur the expenses in the circumstances.

Should you wish to discuss this matter with me you may contact me at anytime, however I do agree with my clients position and in the absence of the trustee agreeing to pay compensation, this seems the only prudent course.

Yours Truly,

John DaRe
Barrister & Solicitor
241 Applewood Cres., Unit 9
Concord, Ontario
L4K 4E6

Tel: 905-266-0772
Fax: 905-266-0773

The information contained in this communication is confidential and intended only for the use of those to whom it is addressed. If you have received this communication in error, please notify me by telephone (collect if necessary) and delete or destroy any copies of it. Thank you.

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BDO is the brand name for the BDO network and for each of the BDO Member Firms.

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APPENDIX “G”

Ginic, Vanja

From: Cerrato, Gary <gcerrato@bdo.ca>
Sent: 7-Jul-17 1:15 PM
To: 'sandro.brocca@resgroup.ca'
Subject: Terrasan 327 Royal York Rd. - Resform/Aluma Equipment

Sandro, here is an update since our meeting on June 28, 2017 at the Terrasan construction site with Resform and Aluma. I have instructed my counsel to prepare an NDA for you to sign, the NDA should be ready and circulated to Resform early next week. Also, we are currently reaching out to the Phase 2 bidders to determine where they are in their due diligence process and to discuss their considerations with respect to the crane and the scaffolding. As discussed, some of the Phase 2 bidders which you may not have spoken with yet, may be interested in keeping the crane and scaffolding on site. Once you sign an NDA we will start asking the Phase 2 bidders to contact you directly to discuss the crane and scaffolding situation.

You informed me that Resform needed access to the construction site to do an electrical safety test on the crane and you wanted to engage a safety consultant to tour the site to make sure the site was safe for your workers to demobilize the crane and Aluma to remove its scaffolding, if either are determined to be necessary.

Resform was going to provide the Receiver with a complete plan on the crane and scaffolding removal process for BDO's engineer to review to ensure that the safety and integrity of the construction at the site is maintained. Additionally, you were going to also obtain all of the city permits necessary to operate and demobilize the crane, should it be determined to be necessary in the circumstances. Lastly, you had mentioned that you were going to provide the Receiver with a list of the tools and small equipment that you needed to remove from the site that didn't require the use of the crane.

Can you please advise on the status of your progress with regard to the above items.

Thanks.

Gary Cerrato, CIRP, LIT
Vice President
BDO Canada Limited
Direct: 416-369-6058
Mobile: 647-883-3514
gcerrato@bdo.ca

123 Front Street West, Suite 1100
Toronto, ON, M5J 2M2
Canada
Tel: 416-865-0210
Fax: 416-865-0904
www.bdo.ca

♻️ Before you print think about the environment

APPENDIX “H”

Kennedy, Robert

From: John DaRe <john.dare@johndare.ca>
Sent: 28-Aug-17 2:16 PM
To: Kennedy, Robert
Cc: Catherine Willson
Subject: Resform v. Terrasan - Receivership

Robert,

I have heard back from my client and there are a number of matters which I wish to share with you in regards to the demobilization process.

The first issue arises by virtue of the necessity of closing Kenny Avenue which leads to the Mimico station. Accordingly, an application for permits will require the consent of Metrolinx and a co-ordinated submission. My client has reached out to Metrolinx but in their experience it may take a few days for their position to be known.

In regards to the demobilization, that will require a crew of ten (10) labourers to stack the framing and scaffolding over a period of four (4) to five (5) days. The Tower Crane is then used to load the equipment bundles onto flat bed trailers for transportation. A mobile crane service has been contacted with regards to dismantling and trucking of the crane itself. This can be accomplished in two (2) to three (3) days. Accordingly the process of demobilization on site should be accomplished within eight (8) working days commencing at the time that all permits are in place.

I have spoken with Bruce Milburn at Baker Schneider Ruggiero. His inclination was that his clients would not insist on vacant possession including our equipment at closing. Accordingly, it should be no problem to have a three way agreement with respect to removal after final closing and I would ask that you contact him to discuss.

I noticed in correspondence that there may have been an engineering report. I would ask that you provide any reports that are not privileged, including any inventory lists compiled by the Receiver to me as soon as possible.

Finally, I would ask that you speak to the Receiver in regards to our claim for priority payment recognizing this will be a matter that will be discussed at the future distribution hearing, it would be appropriate at this time, for the parties to do any final determination as to whether or not the Receiver considers the equipment to have been provided any necessary or essential service during the Receivership sales process.

Yours Truly,

John DaRe
Barrister & Solicitor
241 Applewood Crescent, Unit 9
Concord, Ontario
L4K 4E6

Telephone: 905-266-0772 Ext. 2222
Fax: 905-266-0773
john.dare@johndare.ca

APPENDIX “I”

Kennedy, Robert

From: Kennedy, Robert
Sent: 28-Aug-17 3:22 PM
To: 'John DaRe'
Cc: Catherine Willson; Parisi, Josie (JParisi@bdo.ca)
Subject: RE: Resform v. Terrasan - Receivership

Importance: High

Has your client started the permit process?



Robert J. Kennedy
 Partner

D +1 416 367 6756 / +1 403 268 7161
 robert.kennedy@dentons.com
 Bio | Website

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 77 King Street West, Suite 400, Toronto-Dominion Centre Toronto, ON M5K 0A1 Canada

大成 Salans FMC SNR Denton McKenna Long

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From: John DaRe [<mailto:john.dare@johndare.ca>]
Sent: 28-Aug-17 2:16 PM
To: Kennedy, Robert
Cc: Catherine Willson
Subject: Resform v. Terrasan - Receivership

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I have spoken with Bruce Milburn at Baker Schneider Ruggiero. His inclination was that his clients would not insist on vacant possession including our equipment at closing. Accordingly, it should be no problem to have a three way agreement with respect to removal after final closing and I would ask that you contact him to discuss.

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Yours Truly,

John DaRe
Barrister & Solicitor
241 Applewood Crescent, Unit 9
Concord, Ontario
L4K 4E6

Telephone: 905-266-0772 Ext. 2222

Fax: 905-266-0773

john.dare@johndare.ca

Kennedy, Robert

From: Kennedy, Robert
Sent: 29-Aug-17 3:04 PM
To: 'John DaRe'
Cc: 'Catherine Willson'; Parisi, Josie (JParisi@bdo.ca); Cerrato, Gary
Subject: RE: Resform v. Terrasan - Receivership

John:

Thank you for the discussion earlier this afternoon.

Please provide us an update on the permit process and demobilization plan.

Robert



Robert J. Kennedy
 Partner

D +1 416 367 6756 / +1 403 268 7161
 robert.kennedy@dentons.com
 Bio | Website

Dentons Canada LLP
 77 King Street West, Suite 400, Toronto-Dominion Centre Toronto, ON M5K 0A1 Canada

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Sent: 28-Aug-17 3:22 PM
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Subject: RE: Resform v. Terrasan - Receivership
Importance: High

Has your client started the permit process?



Robert J. Kennedy
 Partner

D +1 416 367 6756 / +1 403 268 7161
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From: John DaRe [<mailto:john.dare@johndare.ca>]

Sent: 28-Aug-17 2:16 PM

To: Kennedy, Robert

Cc: Catherine Willson

Subject: Resform v. Terrasan - Receivership

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Yours Truly,

John DaRe
Barrister & Solicitor
241 Applewood Crescent, Unit 9
Concord, Ontario
L4K 4E6

Telephone: 905-266-0772 Ext. 2222

Fax: 905-266-0773

john.dare@johndare.ca

APPENDIX "J"

Kennedy, Robert

From: John DaRe <john.dare@johndare.ca>
Sent: 30-Aug-17 11:18 AM
To: Kennedy, Robert
Cc: Catherine Willson
Subject: RE: Resform v. Terrasan - Receivership

Robert,

To provide you with an update, I understand from my client that they have scheduled a meeting with the purchasers tomorrow at 9:00 a.m. The purpose of the meeting is to discuss the possibility that my client may remain on site as contractor or alternatively, the purchaser may wish to retain some of the equipment, especially the crane, for completion. Perhaps this is optimistic however, if Resform is to be retained, that would significantly impact on the necessity of demobilizing at this time.

In regards to the demobilization process, I am advised that Mr. Brocca did attend on the site for a meeting on June 28, 2017, with the Receiver, Gary Cerrato, and a structural engineer, amongst others. Apparently, there are concrete structures currently being supported by the scaffolding. Discussions took place to the extent that the structural engineer would need to prepare a temporary shoring design and instructions for the safe removal of the scaffolding and continued support of the structure. At that time, Resform required confirmation from the Receiver in regards to payment for the work, including the engineering, and was not provided with the instructions to proceed from the Receiver nor a commitment to pay for the services. Accordingly, nothing was done to either complete the drawings or the work. I understand that Mr. Cerrato may have made detailed minutes of that meeting and accordingly I would ask that you obtain those from him and provide me with a copy.

In the circumstances, and pending the outcome of the meeting tomorrow morning, I am uncertain as to what might be accomplished by re-attending before Justice Myers. I would appreciate your thoughts. Perhaps you may wish to obtain the input of Mr. Milburn or the receiver so that we might coordinate the attendance or simply move it to a more appropriate date should directions from the Court still be required.

Thank you.

John DaRe
 Barrister & Solicitor
 241 Applewood Crescent, Unit 9
 Concord, Ontario
 L4K 4E6

Telephone: 905-266-0772 Ext. 2222
 Fax: 905-266-0773
john.dare@johndare.ca

From: Kennedy, Robert [mailto:robert.kennedy@dentons.com]
Sent: August-29-17 3:04 PM
To: John DaRe <john.dare@johndare.ca>
Cc: Catherine Willson <willson@gsnh.com>; Parisi, Josie (JParisi@bdo.ca) <JParisi@bdo.ca>; Cerrato, Gary <gcerrato@bdo.ca>
Subject: RE: Resform v. Terrasan - Receivership

John:

Thank you for the discussion earlier this afternoon.

Please provide us an update on the permit process and demobilization plan.

Robert



Robert J. Kennedy
Partner

D +1 416 367 6756 / +1 403 268 7161
robert.kennedy@dentons.com
Bio | Website

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77 King Street West, Suite 400, Toronto-Dominion Centre Toronto, ON M5K 0A1 Canada

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Sent: 28-Aug-17 3:22 PM
To: 'John DaRe'
Cc: Catherine Willson; Parisi, Josie (JParisi@bdo.ca)
Subject: RE: Resform v. Terrasan - Receivership
Importance: High

Has your client started the permit process?



Robert J. Kennedy
Partner

D +1 416 367 6756 / +1 403 268 7161
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77 King Street West, Suite 400, Toronto-Dominion Centre Toronto, ON M5K 0A1 Canada

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Yours Truly,

John DaRe
Barrister & Solicitor
241 Applewood Crescent, Unit 9
Concord, Ontario
L4K 4E6

Telephone: 905-266-0772 Ext. 2222

Fax: 905-266-0773

john.dare@johndare.ca

CENTURION MORTGAGE CAPITAL CORPORATION

TERRASAN 327 ROYAL YORK RD. LIMITED

- and -

Applicant

Respondent

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

PROCEEDING COMMENCED AT TORONTO

**THIRD REPORT OF BDO CANADA LIMITED, IN
ITS CAPACITY AS COURT APPOINTED
RECEIVER DATED AUGUST 30, 2017**

DENTONS CANADA LLP

77 King Street West, Suite 400
Toronto-Dominion Centre
Toronto, ON M5K 0A1

Robert J. Kennedy (LSUC #474070)

Tel: (416) 367-6756

Fax: (416) 863-4592

robert.kennedy@dentons.com

Vanja Ginic (LSUC #69981W)

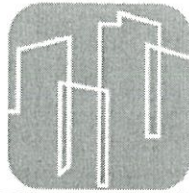
Tel: (416) 367-4673

vanja.ginic@dentons.com

Lawyers for the Receiver

APPENDIX “D”

TO THE FIFTH REPORT OF BDO
CANADA LIMITED, IN ITS CAPACITY
AS COURT APPOINTED RECEIVER
DATED OCTOBER 4, 2017



CENTURION

MORTGAGE CAPITAL CORPORATION

DISCHARGE STATEMENT

October 4, 2017, 2017

Dentons Canada LLP
77 King Street West Suite 400
Toronto-Dominion Centre
Toronto, ON
M5K 0A1

Attention: Robert J. Kennedy

Re: Borrower Name: Terrasan 327 Royal York Rd Limited
Centurion Loan #103
Security Address: 327 Royal York Road, Toronto, Ontario

This discharge statement is prepared as of October 4, 2017 and is valid until October 13, 2017.

Interest Rate: 10.00% per annum Calculated and payable Monthly

Principal Balance at Sept 01, 2017:	\$ 12,533,327.28
Accrued Interest from Sept 1 st to and including, Oct 6, 2017:	\$ 123,710.71
Discharge/Admin Fee:	\$ 250.00
Robins Appleby Total Fees, disbursement nd and HST:	\$ 21,796.30
Total Due on October 6 th , 2017:	\$ 12,679,084.29

Per Diem Interest: \$3,453.78

Note: Interest must be added at the rate of \$3,453.78 per day from October 6, 2017, until the date that certified funds are received by Centurion Mortgage Capital Corporation. All funds must be received in our offices by not later than 1:00 p.m. on the discharge date.

The Borrower will be responsible for any costs, legal or otherwise, associated with the discharge, including the preparation of the Discharge of Charge.

Yours truly,

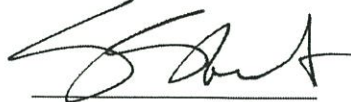
Statement Prepared By



Ryan Buzzell

2017-10-04
Date

Reviewed & Approved By:



Steve Stewart

2017-10-04
Date

APPENDIX “E”

TO THE FIFTH REPORT OF BDO
CANADA LIMITED, IN ITS CAPACITY
AS COURT APPOINTED RECEIVER
DATED OCTOBER 4, 2017

Appendix E

IN THE MATTER OF THE RECEIVERSHIP OF
TERRASAN 327 ROYAL YORK RD. LIMITED

RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS
for the period February 24, 2017 to October 3, 2017

RECEIPTS:

Property	\$ 30,044,444.00
Cash in Bank	1,381,910.45
HST Refunds	66,840.33
Property taxes reimbursed	23,934.52
Interest	16,894.76
Miscellaneous Refunds	210.55
Total Receipts	<u>\$ 31,534,234.61</u>

DISBURSEMENTS:

Operating Expense	\$ 253,282.61
Receiver's Fees	229,953.36
Legal fees	69,829.29
Outside Consulting	58,567.15
Property taxes	80,889.80
Insurance	55,414.14
HST Paid on Disbursements	50,165.05
Repairs and Maintenance	42,923.63
Property Management Fee	42,736.72
HST on Receiver's Fees	29,893.93
Utilities	17,132.03
HST on Legal Fees	9,077.81
Advertising	9,059.60
Occupancy Permit	6,399.36
Occupancy Rent (Site Trailer)	5,055.00
Telephone	2,471.10
Miscellaneous Disbursements	2,177.17
Travel	349.08
Freight	290.00
Storage	285.00
Bank Charges	237.00
Postage	228.33
To Redirection of Mail	182.90
Filing Fee	70.00
RECEIPTS OVER DISBURSEMENTS	<u>\$ 966,670.06</u>
	<u>\$ 30,567,564.55</u>

TAB 3

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)	TUESDAY, THE 10 th DAY
)	
JUSTICE)	OF OCTOBER, 2017

BETWEEN:

CENTURION MORTGAGE CAPITAL CORPORATION

Applicant

and

TERRASAN 327 ROYAL YORK RD. LIMITED

Respondent

DISTRIBUTION ORDER

THIS MOTION, made by BDO Canada Limited, in its capacity as Court appointed receiver and manager (the “**Receiver**”), for an order:

- (a) approving the activities of the Receiver as set out in the fifth report of the Receiver dated October 4, 2017 (the “**Fifth Report**”);
- (b) approving and authorizing a distribution by the Receiver to Centurion Mortgage Capital Corporation (“**Centurion**”) from the proceeds generated from the closing of the Court approved transaction between the Receiver and 2402871 Ontario Inc. pursuant to an asset purchase agreement dated July 28, 2017 (the “**Sale Proceeds**”), as set out in the Fifth Report; and
- (c) such further and other relief as counsel may advise and this Honourable Court may deem just;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver dated October 4, 2017 and the Fifth Report, and on hearing the submissions of counsel for the Receiver, and any such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Vanja Ginic sworn October __, 2017 filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion and the Motion Record is hereby dispensed with.

RECEIVER'S ACTIVITIES

2. **THIS COURT ORDERS** that the Fifth Report and the activities of the Receiver set out in the Fifth Report, are hereby approved.

DISTRIBUTION

3. **THIS COURT ORDERS** that the Receiver is authorized and directed to make a distribution from the Sale Proceeds in an amount sufficient to repay Centurion in full and final satisfaction of all amounts owing by Terrasan 327 Royal York Rd. Limited to Centurion, as outlined in the Fifth Report.

CENTURION MORTGAGE CAPITAL CORPORATION - and - **TERRASAN 327 ROYAL YORK RD. LIMITED**

Applicant | Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

DISTRIBUTION ORDER

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Lawyers for the Receiver

CENTURION MORTGAGE CAPITAL CORPORATION

- and -

TERRASAN 327 ROYAL YORK RD. LIMITED

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

MOTION RECORD
(Returnable October 10, 2017)

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