

Court File No. VLC-S-B-200257
Estate No. 11-2649058
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF TRIPLE M MODULAR LTD. dba METRIC MODULAR**

**APPLICATION RECORD OF THE APPLICANT,
TRIPLE M MODULAR LTD. dba METRIC MODULAR**

**Solicitors for the Applicant,
Triple M Modular dba
Metric Modular**

**J. REILLY POLLARD
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**Solicitors for Grant Thornton Limited,
Proposal Trustee**

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DATE, TIME, PLACE OF APPLICATION

August 14, 2020 at 9:45 am in
Vancouver (Appearing by Telephone
Conference)

LENGTH OF HEARING: 15 minutes

APPLICATION RECORD PROVIDED BY:

Lindsay Kenney LLP, Solicitors for
the Applicant

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**APPLICATION RECORD
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TAB 1



COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRIPLE M MODULAR LTD. dba METRIC MODULAR**

NOTICE OF APPLICATION

Name of Applicant: Triple M Modular Ltd. dba Metric Modular ("Metric Modular")

To: ATB Financial (c/o their Solicitors, McCarthy Tetrault LLP)

Grant Thornton Limited, in its capacity as Proposal Trustee (c/o their Solicitors, Cassells Brock & Blackwell LLP)

Her Majesty the Queen in the Right of Canada as represented by the Minister of National Revenue (c/o Department of Justice Canada) – *and* – Canada Revenue Agency, Pacific Insolvency Intake Centre

The British Columbia Minister of Finance (c/o Ministry of Attorney General)

The Office of the Superintendent in Bankruptcy (by email to ic.osbservice-bsfservice.ic@canada.ca)

TAKE NOTICE that an application will be made by the Applicant to the presiding judge at the Courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia on Friday, the 14th day of August, 2020 at 9:45am (via telephone conference) for the orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An Order extending the time for filing a proposal by Metric Modular from 11:59pm on August 15, 2020 to 11:59pm on September 29, 2020.
2. An Order extending the stay of proceedings from 11:59pm on August 15, 2020 to 11:59pm on September 29, 2020.

3. An Order abridging the time for service of the application materials.

Part 2: FACTUAL BASIS

Background

4. Metric was incorporated on April 6, 2017 pursuant to the *Business Corporations Act* (British Columbia). Metric is a wholly owned subsidiary of Triple M Modular LP ("**Triple M LP**"), an entity that is the ultimate shareholder of Metric and its sister company, Triple M Housing Ltd. ("**Triple M Housing**"), an Alberta-based corporation located in Lethbridge, Alberta.

Affidavit #1 of Joel Holloway sworn June 23, 2020 ("**Holloway #1**"), para. 4

5. Metric Modular ("**Metric**" or the "**Company**") is a modular construction company specializing in designing, building, delivering, and installing multi-family affordable and market housing, student accommodation and education space, hotels, workforce accommodation, and high-performance energy efficient modular buildings. Metric has been in business since 2017 when it acquired the assets of the Pacific Coast Modular Construction LP o/a Britco Construction, which had been in business over forty years.

Holloway #1, para. 5

6. Metric filed a Notice of Intention to Make a Proposal under section 50.4 of the *Bankruptcy and Insolvency Act* ("**BIA**") on June 1, 2020 and Grant Thornton Limited was appointed as Proposal Trustee. On June 30, 2020, the Court granted an Order extending the stay of proceedings and the time for filing a proposal to August 15, 2020. In this application, Metric seeks a further extension of 45 days.

Business Activity Since First Extension

7. Since June 30, 2020, the Company has been executing on the 24 project identified to be completed after the NOI filing date (the "**Continuing Projects**"). The status of the Continuing Projects is as follows:

- (a) 7 have been completed and payment received in full. These projects involved the construction of manufactured homes for Triple M Housing, a sister company of Metric;

- (b) 5 other projects have also been completed and all receivables from those projects have been collected;
- (c) 6 projects have completed construction and all that remains to be completed is the collection of receivables owing to the Company;
- (d) 5 projects still have further construction works to be completed; and
- (e) The Gibsons Project has been assigned to Triple M Housing by an Assignment Agreement dated June 15, 2020.

Affidavit #3 of Joel Holloway sworn August 10, 2020 ("Holloway #3"), para. 12, Ex. A

8. The 5 projects with remaining construction work are scheduled to be completed in the month of August 2020. The Company is also actively working with customers to resolve warranty requests and resolve actual and potential lien claims in order to facilitate final payments from customers for work completed and for projects with ongoing construction works. The Company anticipates that it will complete work on collection of receivables for 6 of the projects by September 30, 2020, with collections for the remaining 6 projects to be completed after September 30, 2020.

Holloway #3, para. 13

9. In accordance with the terms of the Assignment Agreement in respect of the Gibsons Project, Triple M Housing will pay \$456,783 to Metric Modular as consideration for the assignment of the contract. The Proposal Trustee has reviewed the transaction and has determined that the consideration payable for the assignment is fair and reasonable.

Holloway #3, para. 15

Second Report of the Proposal Trustee dated August 10, 2020

10. As a result of the ongoing work on the Continuing Projects, since the filing of the NOI on June 1, 2020 the Company has received payment of \$3,141,298 and made disbursements of \$2,241,855, for net cash collection of \$899,443.

Holloway #3, para. 16

11. Due to the completion of construction on most of the Continuing Projects, the Company has taken steps to reduce its overhead costs by returning certain vehicles and equipment to the suppliers. In particular, on June 30, 2020 the Company returned 3 of the 6 vehicles that it had leased from JP Leasing and is currently in the process of returning tools and equipment that were rented from Hilti Canada.

Holloway #3, para. 17

Sale of Assets

12. The Company has commenced a process to sell the remaining inventory, tooling and equipment ("**Remaining Assets**") of the Company. The Company has organized the Remaining Assets into 900 lots and commenced a tender process to attract bids for the purchase of the Remaining Assets by issuing a bid package containing a description of the assets and the procedure for bidding on them (the "**Bid Package**"). The tender period commenced on August 4, 2020 and bids are due by August 26, 2020. In order to attract bids for the Remaining Assets, the Company has issued the Bid Package to more than 7,200 email recipients and will be engaging in local advertising and direct contact of selected potential bidders. Successful bidders will be required to make full payment for purchase of the assets subsequent to court approval of the sale and prior to removal of the assets from the Agassiz Facility. Successful bidders will be required to remove all purchased assets from the Agassiz Facility during the month of September or forfeit their purchase.

Holloway #3, para. 18, Ex. B

13. Metric Modular is seeking an extension of the time to file a Proposal for the following reasons:

- (a) To complete the 5 remaining Continuing Projects on which construction is not yet finished, generating positive cash flow for the benefit of creditors;
- (b) To complete the process of collecting accounts receivable on the Continuing Projects, which will benefit trade creditors who have rights to payment under the *Builders Lien Act* from the funds received by the Company; and

- (c) To complete the orderly liquidation of the Remaining Assets in order to maximize recovery for the benefit of creditors.

Part 3 LEGAL BASIS

Extending the Time for Filing a Proposal and the Stay of Proceedings

14. Metric seeks an extension of time to file a proposal and an extension of the stay of proceedings under section 50.4 of the *Bankruptcy and Insolvency Act* (“BIA”). Section 50.4(9) of the BIA provides as follows:

(9) The insolvent person may, before the expiration of the thirty day period mentioned in subsection (8) or any extension thereof granted under this subsection, apply to the court for an extension, or further extension, as the case may be, of that period, and the court may grant such extensions, not exceeding forty-five days for any individual extension and not exceeding in the aggregate five months after the expiration of the thirty day period mentioned in subsection (8), if satisfied on each application that

- (a) the insolvent person has acted, and is acting, in good faith and with due diligence;
- (b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and
- (c) no creditor would be materially prejudiced if the extension being applied for were granted.

15. The requirement that the insolvent person “would likely be able to make a viable proposal” has been interpreted broadly. In *Scotia Rainbow Inc. (Re)*, 2000 CanLII 1649 (NS SC) (“*Scotia Rainbow*”), at para. 17-18, the Supreme Court of Nova Scotia interpreted the phrase “likely be able to” to mean “might well happen”: this suggests that a *real possibility* that a proposal will be made is sufficient to meet the test. In a very recent decision of the Supreme Court of Prince Edward Island – which considered the debtor company’s first application under section 50.4(9) – the Court cited *Scotia Rainbow* in granting the extension: *Nautican v. Dumont*, 2020 PESC 15 (CanLII) at para. 16 (“*Nautican*”). The further comments at para. 28 of *Nautican* are apposite:

[28] It is not in any parties’ best interest to truncate the proposal stage in these matters. *Nautican* and *Careli* should be provided an opportunity to prepare a substantive proposal as a going concern thereby increasing the likelihood that the creditors will recoup the best possible financial outcome.

Based on the foregoing, it is submitted that an extension can be granted to provide the debtor company *with an opportunity* to file a proposal to its creditors, provided that continuing the proposal proceedings increases the likely return to creditors (and so long as section 50.4(c) is met – i.e. that the extension does not result in any material prejudice to a creditor).

16. In the present case, Metric has not yet determined whether and to what extent it will be in a position to make a proposal, but the continuation of these restructuring proceeding under the *BIA* will, in any event, allow Metric to generate a greater return to its creditors than would be possible if the extension were not granted, and will make it *more likely* that a proposal will be filed. Furthermore, no creditor would be materially prejudiced by the extension.

17. This position is further supported by the unreported decision of this Court in *SNFW Fitness B.C. Ltd. (Re)*, (court docket no. B200193, Vancouver Registry) made June 17, 2020 (“*SNFW*”). In *SNFW*, the both proposal trustee and the debtor company acknowledged that the company was unlikely to file a proposal, based on the value of its assets and the amount owed to its senior secured creditor. Nevertheless, the Court granted the extension, which suggests that section 50.4(9) does not require proof that *a proposal is likely to be made*. It is sufficient if: (i) the extension of the proposal proceedings is in the best interests of the creditors generally, and (ii) a proposal could well be made in the future.

Affidavit #1 of Kendra Hewson sworn June 22, 2020

Part 4: MATERIAL TO BE RELIED ON

- 18. Affidavit #1 of Joel Holloway sworn June 23, 2020.
- 19. Affidavit #1 of Kendra Hewson sworn June 22, 2020.
- 20. Affidavit #3 of Joel Holloway sworn August 11, 2020.
- 21. Second Report of the Trustee dated August 10, 2020.

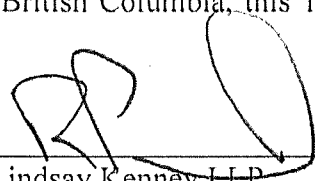
The Applicant estimates that the application will take 15 minutes.

- ☐ This matter is within the jurisdiction of a Master.
- ☒ This matter is not within the jurisdiction of a Master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application.

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated at the City of Vancouver, in the Province of British Columbia, this 11th day of August, 2020.


 Lindsay Kenney LLP
 Solicitors for the Applicant, Metric Modular

This Notice of Application is filed by J. Reilly Pollard, of the law firm of Lindsay Kenney LLP, whose place of business and address for delivery is 1800 - 401 West Georgia Street, Vancouver, British Columbia, V6B 5A1.

To be completed by the court only:

Order made

☐	in the terms requested in paragraphs _____ of Part 1 of this Notice of Application
☐	with the following variations and additional terms: _____ _____ _____ _____
Date:	
_____ Signature of ☐ Judge ☐ Master	

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts

COURT FILE NO. VLC-S-B-200257
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TRIPLE M MODULAR LTD. dba METRIC
MODULAR

NOTICE OF APPLICATION

NOTICE OF APPLICATION



Lindsay Kenney LLP
Barristers & Solicitors
Founded in 1980

Barristers and Solicitors
1800 - 401 West Georgia Street
Vancouver, British Columbia
V6B 5A1
Phone: (604) 687-1323
Attention: J. Reilly Pollard

TAB 2

COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
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TRIPLE M MODULAR LTD. dba METRIC MODULAR

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE

FRIDAY, THE 14TH
DAY OF AUGUST, 2020

ON THE APPLICATION of Triple M Modular Ltd. dba Metric Modular ("**Metric Modular**"), coming on for hearing at Vancouver, on the 14th day of August, 2020, via telephone, and on hearing J. Reilly Pollard, counsel for Metric Modular; Jared Enns, counsel for Grant Thornton Limited in its capacity as Proposal Trustee; and no one else appearing:

THIS COURT ORDERS that:

1. The time for filing a proposal by Metric Modular be and is hereby extended from 11:59pm on August 15, 2020 to 11:59pm on September 29, 2020.
2. The stay of proceedings against Metric Modular be and is hereby extended from 11:59pm on August 15, 2020 to 11:59pm on September 29, 2020.
3. The time for service of the application materials in this matter be and is hereby abridged such that the application is properly returnable August 14, 2020.

4. Endorsement of this Order by counsel appearing on this application, other than counsel for Metric Modular, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

J. Reilly Pollard, Counsel for Metric Modular

BY THE COURT

REGISTRAR

COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
VANCOUVER REGISTRY

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IN THE MATTER OF THE NOTICE OF
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MODULAR

ORDER MADE AFTER APPLICATION



Lindsay Kenney LLP
Barristers & Solicitors
Founded in 1980

Barristers and Solicitors
1800 - 401 West Georgia Street
Vancouver, British Columbia
V6B 5A1
Phone: (604) 687-1323
Attention: J. Reilly Pollard

File no. 20201024

TAB 3



This is the 1st Affidavit of Joel Holloway
in this case and was made on June 23, 2020

COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
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TRIPLE M MODULAR LTD. dba METRIC MODULAR

AFFIDAVIT

I, Joel Holloway, Certified Professional Accountant, of 1825 Tower Road, in the
City of Agassiz, in the Province of British Columbia, AFFIRM THAT:

1. I am an officer of Triple M Modular Ltd., which does business as "Metric Modular"
and as such have personal knowledge of the facts and matters hereinafter deposed to, save and
except where the same are stated to be made upon information and belief, and, as to such facts, I
verily believe the same to be true.

2. I have been employed by Triple M Modular Ltd. o/a Metric Modular ("**Metric
Modular**" or the "**Company**") as Chief Financial Officer since 2017. My responsibilities include
the accounting, finance, administration and human resource functions of the business. The
management of all other operations of the business is overseen by the President, Stephen Branch.

Background

3. For clarity, dates referenced in the following statements will refer to the Company's
fiscal year which begins September 1 and ends August 31. Therefore, fiscal 2019 refers to the
period from September 1, 2018 through to August 31, 2019. When quarters are referenced, they
also refer to the Company's fiscal year. In the statements below, Q1 refers to the period from

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September 1 through to November 30, Q2 refers to December 1 through to February 28, Q3 refers to March 1 through May 31, and Q4 refers to June 1 through August 31 in any given fiscal year.

4. Metric Modular was incorporated on April 6, 2017 pursuant to the *Business Corporations Act* (British Columbia). Metric Modular is a wholly owned subsidiary of Triple M Modular LP ("**Triple M LP**"), an entity that is the ultimate shareholder of Metric Modular and its sister company, Triple M Housing Ltd. ("**Triple M Housing**"), an Alberta-based corporation located in Lethbridge, Alberta.

5. Metric Modular is a modular construction company specializing in designing, building, delivering, and installing multi-family affordable and market housing, student accommodation and education space, hotels, workforce accommodation, and high-performance energy efficient modular buildings. Metric Modular has been in business since 2017 when it acquired the assets of the Pacific Coast Modular Construction LP o/a Britco Construction, which had been in business over forty years.

6. Metric Modular operates out of leased premises at its head office located at 1825 Tower Road, in the city of Agassiz, British Columbia (the "**Agassiz Facility**"). The Agassiz Facility is also the location of the Company's manufacturing facility. Prior to the filing of the Notice of Intention to make a Proposal on June 1, 2020 (the "**NOI**"), Metric Modular also operated from a second facility located in Penticton, British Columbia (the "**Penticton Facility**"). Metric Modular currently has 54 employees in British Columbia.

7. Since taking over the business of Britco Construction in 2017, Metric Modular has been executing on a strategy to move the business away from its traditional revenue base of workforce accommodation to a more diversified mix of permanent modular construction revenue streams. Metric Modular made progress on this strategic shift, growing revenues by 54% in the fiscal year ending August 31, 2018 and 31% in the fiscal year ending August 31, 2019. However, there were also significant financial losses of (\$2.0MM) EBITDA in fiscal 2017 and (\$3.1MM) EBITDA in fiscal 2018. These losses were due to:

- (a) the startup of the Penticton Facility;

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- (b) periods with insufficient production backlog, which led to manufacturing inefficiencies; and
- (c) cost overruns on project installation due to scope increase and costs incurred to meet project timelines.

In the fiscal year ended August 31, 2019 the Company reduced the losses incurred by the business to (\$0.5MM) but failed to achieve targeted profitability for the business.

8. In fiscal 2019 and 2020 the Company's management took the following steps to improve profitability of the business:

- (a) Closed the Company's Penticton Facility which had accounted for significant financial losses in 2019 and prior years;
- (b) In response to project installation losses, made changes to the Company's management by hiring a Director, Projects with extensive construction experience. The Director, Projects was tasked with addressing common sources of cost overruns in the business. Project financial performance improved considerably on projects completed under the oversight of the Director, Projects;
- (c) Reduced non-production staff by 24%; and
- (d) Introduced new product lines for production in the Agassiz Facility, further diversifying the revenue streams generated by that facility;

9. In fiscal 2020, the Company began the year with a single project comprising much of the production backlog for the Agassiz Facility. When the project was delayed due to timing of municipal approvals for the project, the Company experienced a reduction in manufacturing revenue and lower production efficiency. Losses in the months during which the project was delayed exceeded \$1.8MM. This was followed by the onset of the COVID-19 pandemic, which further reduced production efficiencies, created uncertainty to the Company's ability to complete existing backlog efficiently, and added difficulty to projecting future sales and financial performance.

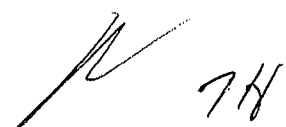
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10. Since 2017, the ongoing losses and working capital requirements of the business necessitated financial support from TriWest Capital Partners IV L.P. ("**TriWest**") and minority investors (collectively with TriWest referred to as "**Ownership**") and ATB Financial, which is the senior secured lender to the Company and Triple M Housing pursuant to a credit facility that is secured against the assets of both (Triple H Housing is the primary borrower and Metric Modular is a guarantor, but the funds advanced by ATB Financial are intended to be for the use of both companies). Metric Modular received waivers of defaults on financial covenants from ATB Financial for fiscal quarters Q2 2019 and Q1 and Q2 2020, and access to additional liquidity in the form of temporary increases to the operating credit facility during periods of fiscal 2019 and 2020. Ownership also took the following steps to support the business:

- (a) In fiscal 2019 TriWest provided a parental guarantee to ATB Financial in order to obtain an increase to the operating facility to support liquidity requirements of the business;
- (b) Ownership made additional investment in the business in fiscal Q1 and Q4 of 2019 to support liquidity requirements and financial covenant compliance; and
- (c) In fiscal Q3 2020 TriWest again provided a parental guarantee to ATB Financial to obtain an increase to the operating.

11. On May 25, 2020 the parental guarantee provided by TriWest expired and the increase to the operating facility provided by ATB was eliminated. At this time, the business continued to face liquidity constraints and was unable to pay vendors according to the credit terms they had agreed to provide to the Company.

12. Throughout the month of May, the Company had begun to evaluate alternatives available should the Company have insufficient liquidity upon the reduction of the ATB Financial operating facility on May 25th. On May 26, 2020 Metric Modular met with Grant Thornton Ltd ("**GT**") to consider its options. The liquidity challenges and inability to pay creditors according to agreed terms led Metric Modular to apply for creditor protection by filing the NOI with GT as Proposal Trustee (the "**Proposal Trustee**"). The NOI was filed in consultation with the Company's primary secured lender ATB Financial.

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13. As at June 1, 2019 (the “**Filing Date**”), Metric Modular had total liabilities of approximately \$15,001,739, including:

- (a) the ATB / Triple M Housing Ltd. Indebtedness – \$9,277,492;
- (b) trade accounts payable – \$2,567,781; and
- (c) employee obligations – \$1,391,574;
- (d) Customer deposits – \$1,172,105; and
- (e) GST, PST and EHT obligations – \$592,787.

Included in the above trade accounts payable are amounts owing to vendors and suppliers that on certain ongoing projects that are governed by the *Builders Lien Act* (British Columbia) (the “*BLA*”). Based on consultations with its legal counsel, the Company has estimated that creditors owed approximately \$900,000 may have rights under the *BLA* and, as such, may have certain priority status in these proceedings.

14. The Company’s assets consist of, among other things, the following items with the below noted book values as at April 30, 2020:

- (a) accounts receivable – \$3,466,775;
- (b) hold back receivable – \$1,182,201;
- (c) inventory
 - (i) raw material – \$2,304,754;
 - (ii) work in process – \$691,989;
 - (iii) housing work in progress and finished goods – \$443,606; and
- (d) fixed assets – \$814,528

Accordingly, the total book value of the Company’s assets is \$8,903,853 against total liabilities in excess of \$15,000,000.

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15. In consultation with GT, Metric Modular determined that the NOI filing was the most effective process for generating returns to its creditors, as it would allow the Company to continue business operations to maximize collection of accounts receivables and holdbacks, and to work on a plan to sell the remaining assets of the business, either through a sale of the Company as whole, or a liquidation of its assets.

16. At the Filing Date, Metric Modular had 26 ongoing customer projects, 17 of which were under active construction and 3 future projects which Metric Modular anticipated commencing work on shortly. Of the ongoing projects, 7 related to the construction of manufactured homes for Triple M Housing. In conjunction with the NOI filing, Metric Modular performed an analysis of each project to assess the cash flow impact of completing the project. Projects with positive cash flows (including associated Company overheads) were identified for completion. As a result of the analysis, it was determined that the company would complete 23 of the ongoing projects and 1 future project (the "**Continuing Projects**").

17. In order to complete the Continuing Projects and conduct an orderly wind down of the business, the Company identified a group of critical employees and management personnel (the "**Key Employees**"). In order to retain Key Employees, the company developed a key employee retention plan ("**KERP**") and negotiated retention bonuses for Key Employees which have been documented in individual agreements between the Key Employees and the Company. Details of the individual retention agreements are included in my second affidavit, which is subject to a sealing request.

18. In order to maximize the value to its creditors, the Company has taken steps to align expenditures to the completion of the Continuing Projects and wind down of the business. To that end the Company has undertaken the following:

- (a) On June 1, 2020, the Company disclaimed its commercial lease related to the unused Penticton Facility;
- (b) On June 1, 2020, and in subsequent weeks, the Company terminated or accepted resignation of 10 sales, supervision and administrative staff, which is a 34% reduction in the associated workforce;

Handwritten signature and initials, possibly "A 7H", in the bottom right corner of the page.

- (c) On June 1, 2020 and in subsequent weeks the Company terminated or accepted resignation of 50 production staff, which is a 60% reduction in the production workforce;
- (d) The Company has disclaimed customer purchase orders, sales agreements and contracts related to the four projects that it could not complete without incurring further losses and a corresponding decline in the returns available to its creditors;
- (e) The Company has continued work on a project in Gibsons, BC (the "**Gibsons Project**") pursuant to an agreement between Metric Modular and BC Housing Management Commission ("**BC Housing**"). Due to the length of the Gibsons Project and the significant resources required for the execution of same, the Company is forecasting that it would incur a cash loss if it were to complete the Gibsons Project. Accordingly, the Company is in the process of assigning the contract for the Gibsons Project to Triple M Housing and anticipates this assignment to be completed by the end of June 2020. It is anticipated that the assignment of this contract and related assets and liabilities will be cash positive to the Company, and therefore to the benefit of its creditors.

19. Metric Modular is seeking an extension of the time to file a Proposal for the following reasons:

- (a) To complete the Continuing Projects, generating positive cash flow for the benefit of creditors and allowing the Company to explore the sale of the business as a going concern;
- (b) If a sale of the Company as a going concern is not achievable, then to conduct an orderly liquidation of the remaining assets in order to maximize recovery for the benefit of creditors;
- (c) To maximize collections from the Continuing Projects, on which trade creditors will be benefited by receiving ongoing payment for their invoices and recovery of the holdback funds as a result of the Company's collection of project receipts from customers (consistent with the *BLA*, all project receipts will be used to pay the



specific suppliers and subcontractors that have contributed to the to the project, and only the excess receipts will flow into the Company's general revenues).

20. Based on the foregoing, it is my belief that:

- (a) The Company has acted in good faith and with due diligence in this proceeding;
- (b) The granting of a 45 day extension improves the likelihood that the Company will be able to develop a viable Proposal to creditors; and
- (c) No creditor would be materially prejudiced if the extension being applied for is granted.

21. I affirm this Affidavit in support of an application by the Company for an Order that the time for filing a proposal, and the stay of proceedings, be extended by 45 days from July 1, 2020 to August 15, 2020.

AFFIRMED BEFORE ME at the City
of Agassay, in the Province of British
Columbia, this 23 day of June, 2020.

A Commissioner for taking Affidavits for
British Columbia.

BRAD R. WAAL
Notary Public
9086 Young Road
Chilliwack, BC V2P 4R5
604-795-0070

JOEL HOLLOWAY

TAB 4

Vancouver

23-Jun-20

REGISTRY

This is the 1st Affidavit of Kendra Hewson
in this case and was made on June 22, 2020

COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

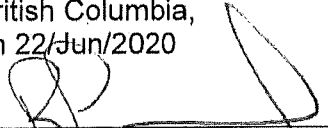
IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRIPLE M MODULAR LTD. dba METRIC MODULAR

AFFIDAVIT

I, Kendra Hewson, c/o 1800-401 West Georgia Street, Vancouver, Paralegal, SWEAR (OR
AFFIRM) THAT:

1. I am a paralegal for Lindsay Kenney LLP, counsel for Triple M Modular Ltd. and as such have personal knowledge of the matters and facts deposed to herein except where stated to be made on information and belief and where so stated I verily believe the same to be true.
2. Attached to this my Affidavit as **Exhibit "A"** is a true copy of a Notice of Application filed June 12, 2020 in the Supreme Court matter titled "In the Matter of the Notice of Intention to Make a Proposal of SNFW Fitness B.C. Ltd.", which is Court File No. B200193 (the "**SNFW Matter**").
3. Attached to this my Affidavit as **Exhibit "B"** is a true copy of a Second Report to Court of the Proposal Trustee dated June 12, 2020 in the SNFW Matter.
4. Attached to this my Affidavit as **Exhibit "C"** is a true copy of an Order Made After Application before Madam Justice Fitzpatrick on June 17, 2020 in the SNFW Matter.
5. Attached to this my Affidavit as **Exhibit "D"** is a printout of an online article by Hayley Woodin, published in Business in Vancouver, dated June 17, 2020, and titled "Steve Nash Fitness Granted Insolvency Extension."

SWORN BEFORE ME at
Vancouver
British Columbia,
on 22/Jun/2020


A commissioner for taking
affidavits for British Columbia

J. REILLY POLLARD
BARRISTER & SOLICITOR
1800-401 WEST GEORGIA STREET
VANCOUVER, BC V6B 5A1
TEL: 604-687-1323


Kendra Hewson



This is Exhibit "A" referred to in the
Affidavit of Kendra Huss sworn
before me at Vancouver this 12th
day of June 2020
RP
A Commissioner for taking Affidavits
within British Columbia

2
COURT NO.B200193
ESTATE NO.11-2636604
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF

SNFW FITNESS B.C. LTD.

NOTICE OF APPLICATION

Name of Applicant: SNFW Fitness B.C. Ltd. ("SNFW")

To: The Bowra Group Inc., in its capacity as Proposal Trustee of SNFW (the
"Proposal Trustee")

And To: The Offices of the Superintendent of Bankruptcy

And To: The Bank of Montreal, c/o its counsel

And To: All other parties on the service list

TAKE NOTICE THAT an application will be brought on behalf of SNFW before the presiding Judge in Chambers at the Courthouse, at 800 Smithe Street, Vancouver, B.C. on June 17, 2020 at 9:00 a.m. (via telephone conference) or soon thereafter as counsel may be heard for the following Orders:

Part 1: Orders Sought

1. An Order extending the time for filing a proposal by SNFW from 11:59 p.m. on Wednesday June 17, 2020 to 11:59 p.m. on Monday, August 3, 2020.
2. An Order extending the stay of proceedings from 11:59 p.m. on Wednesday, June 17, 2020 to 11:59 pm on Monday, August 3, 2020.

Part 2: Factual Basis

3. On April 3, 2020, SNFW filed a notice of intention (the “NOI”) to make a Proposal with the Office of the Superintendent of Bankruptcy with The Bowra Group Inc. being named as Proposal Trustee.
4. By Order pronounced April 24, 2020, the time for SNFW to file a proposal was extended to June 17, 2020. The subject application is for a further, that being the second, extension.

Overview of SNFW’s business operations:***(Proposal Trustee’s Second Report, paras. 6 - 12)***

5. SNFW was established through a merger in 2009 between Fitness World and Steve Nash Sports Clubs:
 - (b) Fitness World was founded in 1959 by Henry Polessky. At the time of the Merger in 2009, Fitness World was the largest fitness brand in Vancouver, BC, having 15 fitness clubs in the Lower Mainland of Vancouver, BC with over 100,000 members; and
 - (c) Steve Nash Sports Clubs was established in 2007 by Canadian basketball legend Steve Nash, and 24 Hour Fitness founders Mark Mastrov and Leonard Schlemm. At the time of the Merger with Fitness World, Steve Nash Sports Club was operating two full-service sports clubs in Vancouver, BC.
6. Since the merger, SNFW has grown to operate 29 fitness facilities in BC, including locations in the Lower Mainland, Vancouver Island, and the Okanagan, with an additional two locations that had been scheduled to open in July, 2020.
7. SNFW is licensed to use the “Steve Nash” name through a licensing agreement, which expires in 2027. In addition, SNFW is a registered Franchisee of “UFC Gym” for three of its facilities, and the Franchisee of Crunch Fitness for two of its facilities.

8. SNFW also founded the British Columbia Personal Training Institute, which is a fully accredited personal training education program for prospective fitness trainers, which develops and certifies between 140 – 175 personal trainers annually.
9. SNFW offers fitness facilities for personal use, fitness group classes, personal training and, in certain locations, mixed martial arts training.

Financial Difficulties

(Proposal Trustee's Second Report, paras. 13 - 15)

10. On March 17, 2020, SNFW issued a notice to all members that due to the Province of BC limiting gatherings of 50 people to slow the COVID-19 spread, all facilities were shut down effective immediately and that members would not be charged during the shutdown period. Accordingly, SNFW terminated all of its staff except for 6 key personnel. SNFW typically employs around 1,300 individuals.
11. The Board of Directors estimated that SNFW would require an equity injection of over \$10 million to fund the costs during the COVID-19 shutdown period, working capital requirements and estimated operating losses to get to a break-even level after the COVID-19 restrictions are lifted. This assumes that:
 - (b) Landlords are not paid and do not exercise any of their rights under their respective leases during the COVID-19 shutdown period; and
 - (c) The COVID-19 shutdown ends in August 2020.
12. Based on the analysis by the Board of Directors, it was determined that SNFW is not a viable business without a significant equity commitment and injection to fund COVID-19 shutdown costs and operating losses for several months after restarting operations post COVID-19 shutdown.

Creditors

(Proposal Trustee's Second Report, paras. 16 - 18)

13. SNFW has multiple authorized borrowing facilities from its secured creditor, the Bank of Montreal ("BMO" or the "Bank"), for approximately \$38.8 million of which approximately \$32 million has been drawn.
14. As at April 3, 2020, per the SNFW records, the amount owed to unsecured creditors was approximately \$3.4 million. This amount does not include any amounts owing to the various landlord's with respect to April 1, 2020 rent that was not paid, employee severance, prepaid membership, and prepaid personal training amounts (or the unsecured shortfall that BMO is likely to realize from its claim noted above).

The Sales Process

(Proposal Trustee's Second Report, paras. 24 – 29)

15. SNFW's insolvency is based upon a liquidation plan.
16. On April 24, 2020, the SNFW obtained an order (the "Sales Process Order") for approving a process for the sales and solicitation of the assets and undertakings of the company (the "Sales Process").
17. The Sales Process contemplates that the Proposal Trustee and the Financial Advisor, acting as agent on behalf of SNFW, and with the assistance of SNFW and the Proposal Trustee, shall conduct the Sales Process. In addition, the closing of any sale transaction may involve additional intermediate steps or transactions to facilitate consummation of such sale or investment, including additional Court filings.
18. The Proposal Trustee engaged MNP Corporate Finance ("MNPCF") to conduct the Sales Process, with original timing for the primary steps in Sales Process is suggested to be as follows:
 - (b) By April 24, 2020 the Financial Advisor will be sending out teaser letters to the marketplace;

- (c) By May 20, 2020, the qualified bidders will be determined, with further negotiation to select the successful bid by May 29th;
 - (d) Within 5 business days of the successful bid being selected, a court date for approval will be sought, to be no later than June 15, 2020;
 - (e) Closing will be 15 business days after court approval.
19. On May 20, 2020, three offers were received, with a further party advising MNPCF that they required additional time to submit a bid.
20. The bids received were evaluated and found to be unacceptable as presented. Under the discretion permitted by the Sales Process Order, the Proposal Trustee, BMO and SNFW extended the bid deadline to May 28, 2020, and requested that the parties who had submitted a bid, along with the party that required additional time, to re-submit, or submit, their bids.
21. The four parties were advised that the bid selection would be extended to June 5, 2020. The Proposal Trustee, BMO and SNFW then required further time to evaluate the bids and the time to select a successful bid was further extended to June 8, 2020.

Summary of Results

(Trustee's Second Report to Court, paras. 30 – 35)

22. MNPCF conducted the Sales Process, as set out more fulsomely in the Proposal Trustee's Second Report to Court, and selected a successful bidder.
23. The successful bidder and SNFW are currently drafting a definitive purchase and sale agreement.
24. The successful bidder is also setting up a new corporate structure, negotiating with landlords and BMO, confirming which intellectual property and licenses it wishes to have assigned to it, and determining how many employees to whom it can offer employment.
25. The transaction contemplated in the accepted bid, as will be reflected in the final definitive documents, will be the subject of a later application for court approval and a vesting order.

Status of Proposal

(Trustee's Second Report to Court, paras. 36 – 41)

26. As set out above, SNFW requires an extension of time to complete the contemplated sale of assets.
27. It is unlikely to make a proposal to its creditors, given the results of the Sales Process and that the realization will be insufficient to pay out BMO's secured debt.
28. The Proposal Trustee and BMO support the extension of the stay of proceedings and the Proposal Trustee believes that the Sales Process offers a better recovery for creditors, including specifically certain classes of unsecured creditors, than a liquidation in bankruptcy. Specifically:
 - (b) The successful bidder has indicated that they will honour SNFW prepaid memberships and SNFW prepaid personal training sessions credits at their fitness facilities, and are working on the terms for doing so;
 - (c) Depending upon the locations that can be re-opened, it is anticipated that approximately 65% of SNFW former employees will be offered employment; and
 - (d) The majority of the landlords, subject to mutually agreed upon terms, will have a long term tenant rather than be faced with vacant premises in which are uncertain times due to COVID-19.
29. Accordingly, SNFW seeks an order extending the time to file a proposal and the stay of proceedings.

Part 3: Legal Basis

Extending the Time for Filing a Proposal and the Stay of Proceedings

30. In seeking an extension of time to file the Proposal, SNFW relies on section 50.4(9) of the *Bankruptcy and Insolvency Act*, which provides as follows:
 - (a) The insolvent person may, before the expiration of the thirty day period mentioned in subsection (8) or any extension thereof granted under this

subsection, apply to the court for an extension, or further extension, as the case may be, of that period, and the court may grant such extensions, not exceeding forty-five days for any individual extension and not exceeding in the aggregate five months after the expiration of the thirty day period mentioned in subsection (8), if satisfied on each application that

- (i) the insolvent person has acted, and is acting, in good faith and with due diligence;
- (ii) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and
- (iii) no creditor would be materially prejudiced if the extension being applied for were granted.

31. In order to obtain an extension, the debtor must prove the required elements set out under s. 50.4(9) on a balance of probabilities.

Heritage Flooring Ltd. (2004), 3 C.B.R. (5th) 60 (N.B.Q.B.) at para. 31
2004 NBQB 168 (CanLII),

32. However, in determining whether the elements have been satisfied, an objective standard must be applied. "In other words, what would a reasonable person or creditor do in the circumstances".

Cantrail Coach Lines Ltd. (2005), BCJ No. 552 (S.C.) at para. 11
2005 BCSC 351,

33. SNFW acknowledges that it is unlikely to file a proposal, however, the proposal proceedings still have value to the class of creditors who would otherwise benefit from one being filed. Specifically, the employee, pre-paid clients, and landlords. The requirement under s. 50.4(ii) is whether the company "would be able to" file a viable proposal. While there does not appear to be a clear line of authorities, there are instances where a liquidating proposal under the BIA has been undertaken. For example:

- (a) *Little Tree Farm Ltd.*, 1997 CanLii 12402 (ON SC)

- (b) *Danier Leather*, 2016 ONS 1044 where a SISP was approved under an NOI, for an admitted liquidation plan, where it was preferable to consummate the sale in proposal proceedings rather than a bankruptcy in similar circumstances, including that if there was bankruptcy and a shut down of the various leased locations, it would face substantial landlord claims that could not be satisfied. On the timing of the SISP an extension would have been necessary. At paragraph 39, the court specifically commented that the sale process allowed for a sale as a going concern, which would be more beneficial than a bankruptcy/liquidation sale which could not.
34. In this respect, the Alberta courts seem reluctant to endorse a liquidating proposal, whereas the Ontario Courts will and, in doing so, has pointed to the authorities where it has been recognized that the CCAA, which more typically sees liquidation plans, is an analogous restructuring statute to the proposal provisions of the BIA, *Re Ted Leroy Trucking [Century Services] Ltd.*, 2010 SCC 60 at para 24; *Re Indalex Ltd.*, 2013 SCC 6 (CanLII), [2013] 1 S.C.R. 271 at paras. 50-51. The BC Courts do not appear to have expressed an opinion on the issue.
35. In one Ontario decision where an extension of time was sought under s. 50.4(9) where there would only ever be a liquidating proposal, similarly with a shortfall to BMO as the primary security creditor, the extension was not granted. However, that was because BMO opposed and brought a cross application to appoint a receiver to complete the sale transaction. Notably, the court did not indicate that the extension could not otherwise be made because the assets were being liquidated under a SISP— rather was just more appropriate that a receiver be appointed given BMO's position.
- Bank of Montreal v. Trent*, 2005 CanLii 25628 (ONSC)
36. Accordingly, while SNFW could arguably file a liquidating proposal, given the interests of the parties and that the material benefits to the unsecured creditors are being realized from the purchaser directly, filing a liquidating proposal would be an unnecessary step.
37. Similarly, having SNFW deemed bankrupt before the sale is closed also adds unnecessary costs, including potential costs and liability to the Proposal Trustee who

would then have the assets vested to it, and would have direct obligations and liabilities as a result.

38. Nonetheless, the proposal process is achieving the objectives given that it is providing for a more beneficial recover, that being one that provides for a going concern sales process, similar to the situation in *Danier Leather*, as noted above.
39. SNFW submits that s. 50.4(9)(ii) should be interpreted broadly – that being whether they “would be likely *able to*” file a liquidating proposal, not that they state that they will.
40. As noted above, the answer to whether SNFW would be able to is yes - if they had to in order to prevent a deemed bankruptcy, SNFW could file a liquidating plan that provides for the distribution of proceeds of sale in accordance with the Act, and that the unsecured creditor class will then realize the benefits as offered by the purchaser and noted above.
41. However, SNFW wishes to be entirely transparent that it would prefer not to file such a proposal, or be deemed bankrupt at this point, as neither is necessary to complete the sales process and bring the benefit to the unsecured class of creditors.
42. Similarly, if, no extension is granted, a premature bankruptcy will similarly provide less recovery, with further costs being incurred by a proposal trustee having to take possession of assets.
43. More importantly, the party most affected by the process, BMO, would be materially prejudiced if the process was ended and a bankruptcy were to occur.
44. Material prejudice, the third point as set out in s. 50.4(9), is generally considered from the opposite viewpoint, namely that no party is being materially prejudiced. However, such prejudice is noted to be an objective prejudice as opposed to a subjective one, and one where the balancing the prejudice of the parties in getting the extension versus not getting the extension is made:

12. ... In other words, it refers to the degree of the prejudice suffered vis a vis the indebtedness and the attendant security and not to the extent that such prejudice may affect the creditor *qua* person, organization or entity.

13. In *Re Acepharm Inc.*, the Court refused to lift a stay under s. 69.4 of the BIA as the moving party pleaded subjective prejudice, which did not constitute material prejudice. At paragraph 10 the Court cited with approval the following passage from *Honsberger, Debt Restructuring*, at 8-44:

What amounts to material prejudice must be decided on a case-by-case basis. It is a broad concept ... **the Bankruptcy Court being a court of equity must consider the impact of a stay on the parties. This will involve the weighing of the interest of the debtor against the hardship incurred on the creditor. This has been referred to as the "balance of hurt" test.**

[emphasis added]

Lockhart Saw Ltd., [2007] NBJ No. 94 (N.B.Q.B.) at para. 12-13
2007 NBQB 93 (CanLII),

45. As further noted, there is a distinct difference between being prejudiced and being "materially prejudiced":

22. There is no doubt that Volvo has been prejudiced by the circumstances which have befallen Cantrail and befallen Volvo as a secured creditor. The Act in and of itself, and the possibility of a proposal, does create simple prejudice by staying the obligations of a person attempting to make a proposal during the period of time which the proposal is being formulated. There is no evidence before me of anything other than the normal or perhaps average prejudice to Volvo. There is no evidence of substantial prejudice or considerable prejudice. There is no evidence that in not being allowed to realize their security at this time that there is, for example, reduced security or, for example, that there are buyers out there for these assets they wish to seize under their security who will not be around once the proposal has had its opportunity to succeed or fail, once it has been completely formulated and presented to creditors. There is no worse case scenario for Volvo if the proposal is allowed to run a reasonable course. In my view, there is no evidence on which Volvo can rely to show that it has been materially prejudiced.

Cantrail Coach Lines, supra, at para. 22 (page 23-24)
2005 BCSC 351,

46. More recently, this Court has had an opportunity to revisit the findings of Master Groves, as he then was, in Cantrail, specifically where a creditor seeks in a cross application to have the proposal annulled. In *Andover Mining Corp.*, Mr. Justice Steeves considered the competing sections and whether or not one has paramountcy over the other. While, in the case at bar, there is no such competing application, *Andover* confirmed that Cantrail remains good law.

Andover Mining Corp. (Re), 2013 BCSC 1833
2013 BCSC 1833

47. Here there is no evidence of prejudice if the extension is granted, however there is prejudice if it is not.
48. Applying those considerations to the facts set out in Part 2 above, SNFW submits that it has met the test set out in s. 50.4(9), that:
- (b) SNFW has acted, and continues to act, in good faith and with due diligence;
 - (c) SNFW could make a viable liquidating proposal if the extensions being applied for were granted, even though it does not intend to do so as it ultimately will provides no benefit over and above the benefit of the continuation of the proposal process solely to complete the sales transaction; and
 - (d) no creditor would be materially prejudiced if the extensions being applied for were granted.
49. Accordingly, SNFW submits that it is appropriate to grant the order extending the time for filing a Proposal and the order extended the stay of proceedings.

Part 4: Material To Be Relied On

50. Trustee's Second Report to Court

The applicant(s) estimate(s) that the application will take **30 minutes**.

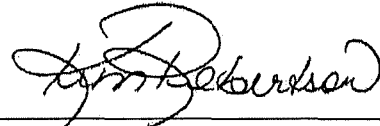
☐ This matter is within the jurisdiction of a Master.

☒ This matter is not within the jurisdiction of a Master, **as it involves inherent jurisdiction.**

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application:

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
- (d) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated at the City of Vancouver, in the Province of British Columbia, this 12th day of June, 2020.



Lawson Lundell LLP
(Kimberley A. Robertson)
Solicitors for SNFW

This Notice of Application is filed by the law firm of Lawson Lundell LLP, whose place of business and address for delivery is 1600 – 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2.

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1 of this Notice of Application

☐ with the following variations and additional terms:

Date:

Signature of ☐ Judge ☐ Master

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

☒ Other –Bankruptcy Matter

DISTRICT OF BRITISH COLUMBIA
DIVISION NO. 03-VANCOUVER
COURT NO.B200193
ESTATE NO.11-2626604

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF

SNFW FITNESS B.C. LTD.

NOTICE OF APPLICATION



Barristers & Solicitors
1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia
V6C 3L2
Phone: (604) 631-9145
Attention: Kimberley A. Robertson

COURT NO. B200193
ESTATE NO. 11-2636604
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY
IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED
AND
IN THE MATTER OF THE PROPOSAL OF
SNFW FITNESS B.C. LTD.

SECOND REPORT TO COURT OF THE PROPOSAL TRUSTEE

June 12, 2020

This is Exhibit "B" referred to in the
Affidavit of Kendra Hewer sworn
before me at Vancouver this 20th
day of June 2020

RP
A Commissioner for taking Affidavits
within British Columbia

**IN THE MATTER OF THE PROPOSAL OF
SNFW FITNESS B.C. LTD.**

Proposal Trustee's Second Report to Court

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III.	SALES PROCESS	3
IV.	EFFORTS TO FORMULATE A PROPOSAL	6
V.	CONCLUSION	7

APPENDICES

- A.** Notice of Intention to make a Proposal dated April 3, 2020
- B.** Sales Process Order and Extension of Notice of Intention dated April 24, 2020
- C.** Copy of the SNFW Fitness B.C. Ltd. Cash Flow for the Period April 6, 2020 to June July 31, 2020

I. INTRODUCTION

1. On April 3, 2020, SNFW Fitness B.C. Ltd. (the "**Company**" or "**SNFW**") filed a Notice of Intention (the "**NOI**") to Make a Proposal with the Office of the Superintendent of Bankruptcy with The Bowra Group Inc. being named as Trustee (the "**Proposal Trustee**"). A copy of the NOI is attached as **Appendix A**.
2. The Company sought and was granted an Order extending the stay of proceedings under the NOI to June 17, 2020 from the Supreme Court of British Columbia on April 24, 2020. A copy of the Order for the extension of the stay of proceedings is attached as **Appendix B**.
3. On April 24, 2020 the Company obtained an Order approving a process for the sales and solicitation of the assets and undertakings of SNFW (the "**Sales Process**"). The Sales Process Order is attached as **Appendix B**.
4. This is the Proposal Trustee's second report to Court.

Purpose of This Report

5. The purpose of this report is to update the Court with respect to the:
 - i. Sales Process;
 - ii. The Company's request to seek an extension of the current stay of proceedings; and
 - iii. Conduct of the Company.

Background

6. SNFW was established through a merger in 2009 between Fitness World and Steve Nash Sports Clubs.
7. Fitness World was founded in 1959 by Henry Polessky. At the time of the Merger in 2009, Fitness World was the largest fitness brand in Vancouver, BC, having 15 fitness clubs in the Lower Mainland of Vancouver, BC with over 100,000 members.
8. Steve Nash Sports Clubs was established in 2007 by Canadian basketball legend Steve Nash, and 24 Hour Fitness founders Mark Mastrov and Leonard Schlemm. At the time of the Merger with Fitness World, Steve Nash Sports Club was operating two full-service sports clubs in Vancouver, BC.

9. Since the merger, SNFW has grown to operate 29 fitness facilities in BC, including locations in the Lower Mainland, Vancouver Island, and the Okanagan, with an additional two locations that were scheduled to open in July 2020.
10. The Company is licensed to use the "Steve Nash" name through a licensing agreement, which expires in 2027. In addition, SNFW is a registered Franchisee of "UFC Gym" for three of its facilities, and the Franchisee of "Crunch Fitness" for two of its facilities.
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12. SNFW offers fitness facilities for personal use, fitness group classes, personal training and, in certain locations, mixed martial arts training.

Financial Difficulties

13. On March 17, 2020, SNFW issued a notice to all members that due to the Province of BC limiting gatherings of 50 people to slow the COVID-19 spread, all facilities were shut down effective immediately and that members would not be charged during the shutdown period. Accordingly, SNFW terminated all of its staff except for 6 key personnel. SNFW typically employs around 1,300 individuals.
14. The Board of Directors estimated that SNFW would require an equity injection of over \$10 million to fund the costs during the COVID-19 shutdown period, working capital requirements and estimated operating losses to get to a break-even level after the COVID-19 restrictions are lifted. This assumes that:
 - i. Landlords are not paid and do not exercise any of their rights under their respective leases during the COVID-19 shutdown period; and
 - ii. The COVID-19 shutdown ends in August 2020.
15. Accordingly, based on the analysis by the Board of Directors, it was determined that SNFW is not a viable business without a significant equity commitment and injection to fund COVID-19 shutdown costs and operating losses for several months after restarting operations post COVID-19 shutdown.

Secured and Unsecured Creditors

16. SNFW has multiple authorized borrowing facilities from its primary secured creditor, the Bank of Montreal ("BMO" or the "Bank"), for approximately \$38.8 million of which

approximately \$32 million has been drawn.

17. On April 2, 2020, BMO demanded payment of all amounts outstanding by SNFW. On the same day, at the request of BMO, SNFW waived the 10 day notice period prescribed by section 244 of the *Bankruptcy and Insolvency Act*.
18. As at April 3, 2020, per the SNFW records, the amount owed to unsecured creditors was approximately \$12 million including amounts for prepaid membership and prepaid personal training. This amount does not include any amounts owing to the various landlord's with respect to April 1, 2020 rent that was not paid or employee severance.

II. LANDLORDS

19. SNFW filed an NOI on April 3, 2020. The rent due April 1, 2020 was not paid.
20. The Company has not paid either the May or June 2020 rent due to the COVID-19 shutdown.
21. The Company and Proposal Trustee have been working with and keeping the landlords informed of the Sales Process and timing.
22. Understandably, all of the landlords would like to be paid their lease payments, however, given the COVID 19 shutdown, all landlords, except for one, have not taken any action.
23. One landlord has formally terminated their lease with SNFW, but has allowed the Company to keep their assets in their facility. This is on the understanding the assets may be removed at a later date if a purchaser is unsuccessful at negotiating a new lease with this landlord.

III. SALES PROCESS

24. On April 24, 2020, the Company obtained a Sales Process Order from the Supreme Court of British Columbia.
25. The Proposal Trustee will be filing a further report on the sales process, and its results once the application for approval of sale and a vesting order is set down. Since the results are relevant to the application for a further extension as being sought by the Company, a summary is included in this report, which is not intended to be exhaustive.

Timeline

26. The Proposal Trustee engaged MNP Corporate Finance ("**MNPCF**") to conduct the Sales Process with the following original timeline:
 - i. April 3, 2020 to April 19, 2020 – Compile a target list of prospective purchasers and investor groups;
 - ii. April 3, 2020 to April 19, 2020 – Compile information for data room to provide to MNPCF and work with the Proposal Trustee and MNPCF to prepare a Teaser Letter and Confidential Information Memorandum ("**CIM**");
 - iii. Week of April 20, 2020 – Teaser letters and CIM are completed for prospective investors and or purchasers;
 - iv. April 24, 2020 – commence marketing by contacting prospective purchasers and investors;
 - v. April 24, 2020 and onwards – MNPCF will obtain confidentially and non-disclosure agreements from prospective purchasers and investors that wish to pursue this opportunity to grant them access to the SNFW data room for due diligence purposes. The prospective purchasers and investors will have to demonstrate that they have the financial wherewithal to participate in this process;
 - vi. May 20, 2020 –deadline for Tender Bid Offers to be submitted to both the MNPCF and Proposal Trustee;
 - vii. May 21, 2020 to May 28, 2020 – final negotiations with select purchasers; and
 - viii. May 29, 2020 – select successful bid.
27. On the bid offer date of May 20, 2020, three offers were received with a further party advising MNPCF that they required additional time to submit a bid.
28. The bids received were evaluated and it was determined that none of the bids were acceptable as presented. Accordingly, and given the discretion contained in the Sales Process Order to do so, MNPCF and the Proposal Trustee (with the consent of BMO) directed the Company to extend the bid deadline to May 29, 2020 and the deadline for selection of a successful bid to June 5, 2020. All Potential Bidders (as defined in the Sales Process) were advised of the extensions and given the option to withdraw or resubmit their bids during the extended period.

29. On June 5, 2020, MNPCF and the Proposal Trustee (in consultation with BMO) determined additional time was needed further time to evaluate the bid submissions. Accordingly, the time to select a successful bid was further extended to June 8, 2020.

Summary of Results

30. MNPCF contacted 53 parties that were either operators or were financing the fitness industry.
31. Of the parties contacted:
- i. 16 signed non-disclosure agreements and accessed the data room;
 - ii. 7 entered into discussions with MNPCF;
 - iii. 3 submitted bids by May 20, 2020;
 - iv. 4 re-submitted (1 of which was new) bids by May 28, 2020; and
 - v. The successful bidder notified on June 8, 2020.
32. The successful bidder and the Company are currently drafting a definitive purchase and sale agreement, and ancillary agreements as will be required to complete the sales transaction.
33. The successful bidder has retained counsel, and is currently:
- i. setting up a new corporate structure;
 - ii. negotiating leasing terms with the landlords. It is not known at this time if all of the landlords will agree to amended leasing terms, or an assignment of the existing leases, on the go forward. The Proposal Trustee believes there will be certain locations that will be disclaimed by the Company or terminated by the respective landlord, however it is not known at this time how many;
 - iii. negotiating with BMO as to certain terms of the bid that require BMO's consent;
 - iv. confirming what tradenames, licenses, and intellectual property it wishes to have assigned to it, and negotiating with any licence holders as may be necessary; and

- v. determining how many employees it will be able to offer employment too, which is largely dependent upon the results of the negotiations with the landlords and determination of how many facilities can be re-opened.
34. As noted, the transaction which is the subject of the accepted bid, as will be reflected in the final definitive documents, and will be the subject of a later application for court approval, and vesting order.
 35. In order for the above to be achieved, the Company requires an extension of the current stay of proceedings under the NOI.

IV. EFFORTS TO FORMULATE A PROPOSAL

36. SNFW is not in a position to make a proposal to its creditors by the time the current stay of proceedings expires on June 17, 2020.
37. The Sales Process as described above requires additional time to document the purchase and sale, negotiate with landlords, determine staffing needs to start engaging employees, and seek Court Approval. Accordingly, the Company requires an extension of the stay of proceedings to complete the contemplated sale of the assets.
38. Based on the results of the Sales Process, and that the realization from the bid process is insufficient to payout the Bank's secured debt, the Company will likely not make a Proposal to its creditors.
39. Nonetheless, the Proposal Trustee supports an extension of the stay of proceedings because unsecured creditors will benefit more from a sales transaction completed in these proceedings versus a liquidation in a bankruptcy, for the following reasons
 - i. The successful bidder has indicated that they will honour SNFW prepaid memberships and SNFW prepaid personal training sessions credits at their fitness facilities, and are working on the terms for doing so;
 - ii. Depending upon the locations that can be re-opened, it is anticipated that approximately 65% of SNFW former employees will be offered employment; and
 - iii. The majority of the landlords, subject to mutually agreed upon terms, will have a long term tenant rather than be faced with vacant premises in which are uncertain times due to COVID-19.
40. In addition, the largest single creditor affected by an extension is BMO. BMO is

providing SNFW with the necessary funds for these proceedings including the Sales Process, and supports an extension in order for the sale transaction to be approved by the court, and the sale consummated.

41. A copy of the cash flow filed of SNFW for the period April 6, 2020 to July 31, 2020 is attached as **Appendix C**.

V. CONCLUSION

42. The Proposal Trustee is of the opinion that:
- i. SNFW continues to act in good faith and with due diligence in order to complete a sales transaction, that will provide a benefit to a number of groups of unsecured creditors and stakeholders, which they would not otherwise realize;
 - ii. A further 45-day extension should be granted; and
 - iii. No creditor will be materially prejudiced if an extension is granted except for BMO and BMO supports an extension.
43. All of which is respectively submitted this 12th day of June 2020.

The Bowra Group Inc.

Trustee in the Matter of the Notice of Intention
to Make a Proposal of SNFW Fitness B.C. Ltd.

Per:



Mario Mainella, CA, CIRP

APPENDIX A

Notice of Intention to make a Proposal dated April 3, 2020



Industry Canada

Office of the Superintendent
of Bankruptcy Canada

Industrie Canada

Bureau du surintendant
des faillites Canada

District of British Columbia
Division No. 03 - Vancouver
Court No. 11-2636604
Estate No. 11-2636604

In the Matter of the Notice of Intention to make a
proposal of:

SNFW FITNESS B.C. LTD.
Insolvent Person

THE BOWRA GROUP INC.
Licensed Insolvency Trustee

Date of the Notice of Intention: April 03, 2020

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the *Bankruptcy and Insolvency Act*.

Pursuant to subsection 69(1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: April 03, 2020, 19:52

E-File/Dépôt Electronique

Official Receiver

300 Georgia Street W, Suite 2000, Vancouver, British Columbia, Canada, V6B6E1, (877)376-9902

Canada

APPENDIX B

Sales Process Order and Extension of Notice of Intention dated April 24, 2020



**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE PROPOSAL OF
SNFW FITNESS B.C. LTD.

ORDER MADE AFTER APPLICATION

BEFORE) THE HONOURABLE)
) MADAM JUSTICE) APRIL 24, 2020
) FITZPATRICK)

ON THE APPLICATION of SNFW Fitness B.C. Ltd. (the "**Company**") coming on for hearing at Vancouver, British Columbia on this day and on hearing Kimberley Robertson, counsel for the Company, and those counsel listed in **Schedule "A"** hereto;

THIS COURT ORDERS that:

EXTENSION OF TIME TO FILE A PROPOSAL

1. The time for the filing of a Proposal by the Company be extended from May 3, 2020 to 11:59 p.m. Wednesday, June 17, 2020
2. The stay of proceedings be extended from May 3, 2020 to 11:59 p.m., Wednesday, June 17, 2020.

APPROVAL OF FINANCIAL ADVISOR AND SALE PROCESS

3. The Company is hereby authorized to sell its assets and undertakings (the “**Property**”), and engage in the sales process substantially in the form as set out in **Schedule “B”** to this Order (the “**Sale Process**”).
4. For the purpose of undertaking the Sales Process, the Proposal Trustee is hereby authorized to take all steps and actions as may be necessary to carry out

the Sales Process for and on behalf of the Company, including without limitation the following:

- (a) enter into, and perform all of the Company's obligations under, an engagement agreement with MNP Corporate Finance Inc. (the "**Financial Advisor**" or "**MNP**");
- (b) execute, assign, issue and endorse documents of whatever nature in connection with the Sales Process, whether in the Proposal Trustee's name or in the name and on behalf of the Company, for any purpose pursuant to this Order;
- (c) market any or all of the Property pursuant to and in accordance with the Sales Process, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Proposal Trustee considers appropriate; and
- (d) apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances.

and in each case where Proposal Trustee takes any such actions or steps, it shall be authorized and empowered to do so, and in the event of conflict between the actions or steps taken or proposed to be taken by the Proposal Trustee and the Company, or opinion as to how any of the above shall be undertaken or proposed to be undertaken, the actions, steps and opinion of the Proposal Trustee shall prevail.

5. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Company, the Proposal Trustee and the Financial Advisor may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors (collectively, "**Potential Bidders**"), but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Proposal Trustee, or in the alternative destroy all such information and provide proof of same. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner

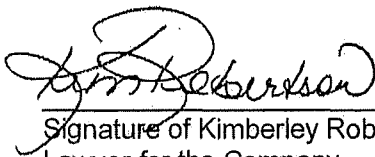
which is in all material respects identical to the prior use of such information by the Company, and shall return all other personal information to the Proposal Trustee, or ensure that all other personal information is destroyed, and provide proof of same.

6. From and after the date of this Order, all communications and information requests made by Potential Bidders will be made to the Financial Advisor or the Proposal Trustee.
7. Except upon request by, or with the consent of, the Proposal Trustee or the Financial Advisor, no director, officer or employee of the Company shall engage in any communications with any Potential Bidder regarding the Sales Process, and actual or potential bid for the assets of the Company, or any other matter relating to the Sale Process.
8. The Financial Advisor and Proposal Trustee shall incur no liability or obligation as a result of it carrying out the Sales Process, save and except in the event of any gross negligence or willful misconduct on its part.

GENERAL

9. The Company or the Proposal Trustee may, from time to time, apply to this Honourable Court for advice and directions in connection with the Sales Process or the discharge of their powers and duties hereunder.
10. Endorsement of this Order by counsel appearing on this application, other than counsel for the Company, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Signature of Kimberley Robertson
Lawyer for the Company

By the Court.

Registrar

Schedule "A"

(List of Counsel)

Name of Counsel	Appearing For
Jordan Schultz	Bank of Montreal
Colin Gusikoski	Employee Groups making up the Plaintiffs and proposed class members contemplated in BCSC Vancouver Registry Actions No. S197593 and S203844
Brad Kielmann	Anticipated SNFW B.C. Ltd. Club Membership Group of Creditors

SCHEDULE "B"

SALES PROCESS

On April 3, 2020, SNFW Fitness B.C. Ltd. ("SNFW" or the "Company") filed a notice of intention file a proposal in bankruptcy (the "NOI") under the *Bankruptcy and Insolvency Act* (the "BIA").

The Sales Process Order and this Sales Process shall exclusively govern the process for soliciting and selecting bids for the sale of all or substantially all of the assets or business of the Company.

Unless otherwise indicated, any event occurring on a day that is not a Business Day shall be deemed to occur on the next Business Day.

Defined Terms

"Bid Package" means the package of information to be provided by the Financial Advisor to each Potential Bidder, which shall describe the opportunity to acquire all or substantially all of the Company Property or to invest in the Company;

"Business Day" means any day other than (a) a Saturday or Sunday; or (b) a day that is a statutory holiday in Vancouver, British Columbia;

"Financial Advisor" means MNP Corporate Finance Inc.;

"Company Business" means the business carried on by the Company;

"Company Property" means the property, assets and undertakings of the Company;

"Court" means the Supreme Court of British Columbia;

"Proposal Trustee" means The Bowra Group Inc.;

"Sale Proposal" means an offer or proposal to purchase all or substantially all, or any specified portion, of the Company Property or the Company Business;

"Sales Process" means this Sales Process;

"Sales Process Order" means the Order of the Court approving this Sales Process and making other orders and directions with respect thereto;

Solicitation Process

1. This Sales Process describes, among other things, the Company property, assets and undertakings available for sale, the manner in which prospective bidders may gain access

to or continue to have access to due diligence materials concerning the Company, the manner in which bidders and bids become Qualified Bidders and Qualified Bids, respectively, the receipt and negotiation of bids and investment offers received, the ultimate selection of one or more Successful Bids, and the approval thereof by the Court (collectively, the “**Sales Process**”).

2. The Financial Advisor, acting as agent on behalf of the Company, and with the assistance of the Company and the Proposal Trustee, shall conduct the Sales Process. In addition, the closing of any sale transaction may involve additional intermediate steps or transactions to facilitate consummation of such sale or investment, including additional Court filings.
3. In the event that there is a disagreement or clarification required as to the interpretation or application of this Sales Process or the Sales Process Order or the responsibilities the Financial Advisor or Proposal Trustee thereunder, the Court will have the jurisdiction to hear such matters and provide advice and directions upon the application of the Financial Advisor or Proposal Trustee with a hearing on no less than two (2) Business Days’ notice.

“As Is, Where Is”

4. The sale of the Company Property will be on an “as is, where is” basis and without surviving representations, warranties, covenants or indemnities of any kind, nature or description by Company, the Financial Advisor, or any of their agents, advisors, professionals or otherwise, except to the extent expressly set forth in any relevant Purchase Agreement or Investment Agreement.

“Free of any and all Claims and Interests”

5. In the event of a sale, all of the rights, titles and interests of Company in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, royalties and interests thereon and there against (collectively, the “**Claims and Interests**”) pursuant to approval and vesting orders made by the Court. Contemporaneously with such approval and vesting orders being made, all such Claims and Interests, to the extent valid and enforceable, shall attach to the net proceeds of the sale of such property (without prejudice to any claims or causes of action regarding priority, validity or enforceability thereof), except to the extent otherwise set forth in the relevant sale agreement with a Successful Bidder.

Solicitation of Interest

6. As soon as reasonably practicable, the Proposal Trustee and the Financial Advisor will finalize a list of potential bidders (the “**Known Potential Bidders**”) for an investment in the Company or the purchase of some or all of the Company Business or the Company Property. Such list will include both strategic and financial parties who, in the Financial Advisor’s reasonable business judgment, may be interested in acquiring the Company

Business or the Company Property.

7. By **April 24, 2020** the Financial Advisor shall deliver a summary and teaser of the assets being offered for sale to the Known Potential Bidders, along with a copy of this Sales Process and a blank confidentiality and non disclosure agreement (the “**NDA**”) in form and substance acceptable to the Financial Advisor and the Proposal Trustee, which shall inure to the benefit of the Company and any purchaser of the Company Business or Company Property.

Participation Requirements

8. Unless otherwise ordered by the Court, in order to receive the Bid Package, conduct its due diligence and participate in the Sales Process, an interested party must deliver to the Financial Advisor and the Proposal Trustee an executed NDA, and upon doing so each such interested party shall be deemed to be a “**Potential Bidder**”.

Due Diligence

9. The Financial Advisor will provide to each Potential Bidder a Bid Package, including a confidential information memorandum prepared in consultation with the Company, describing the opportunity to acquire all, or substantially all, of the Company Business or the Company Property, or to invest in the Company.
10. Each Potential Bidder shall have such access to materials and information relating to the Company Property and the Company Business for the purpose of conducting due diligence as the Proposal Trustee and the Financial Advisor, in their collective reasonable business judgment, deem appropriate. The Company, the Proposal Trustee and the Financial Advisor shall not be obligated to furnish any due diligence information after the Bid Deadline.
11. The Company, the Proposal Trustee and the Financial Advisor (and their respective officers, directors, employees, agents, counsel and professionals) are not responsible for, and will have no liability with respect to, any information obtained by any Known Potential Bidder, Potential Bidder or Qualified Bidder in connection with the Company Business or the Company Property. The Company, the Proposal Trustee and the Financial Advisor (and their respective officers, directors, employees, agents, counsel and professionals) do not make any representations or warranties whatsoever as to the information or the material provided, except in the case of the Company to the extent expressly provided.
12. Prior to the Bid Deadline, the Proposal Trustee and the Financial Advisor may engage in discussions with any or all of the Potential Bidders to determine and explore the level of interest of any such Potential Bidder and may request from any such Potential Bidder such further information as the Company and the Financial Advisor may deem appropriate.

Sale Bidding Process

13. In order to qualify as a **"Qualified Bidder"**, a Potential Bidder must deliver a Qualified Bid to the Notice Parties so as to be received by the Notice Parties no later than May 20, 2020 (the **"Bid Deadline"**).
14. A Sale Proposal will be considered a **"Qualified Bid"** only if the Sale Proposal complies with all of the following:
 - a. It includes a letter stating that the Sale Proposal is irrevocable until the earlier of (a) the approval by the Court of a Successful Bid; and (b) 30 days following the Bid Deadline; provided however that if such Sale Proposal is selected as the Successful Bid it shall remain irrevocable until the closing of the Successful Bid;
 - b. It includes a duly authorized and executed purchase and sale agreement (the **"Purchase Agreement"**) specifying the assets being purchased, the purchase price, how the purchase price is to be paid, and requiring a closing of the purchase transaction no later than **15 business days** after court approval together with all exhibits and schedules thereto, and such ancillary agreements as may be required by the Qualified Bidder with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such ancillary agreements), such ancillary agreements and the proposed orders to approve the sale by the Court;
 - c. It does not include any request or entitlement to any break-fee, expense reimbursement or similar type of payment;
 - d. It includes written evidence of a firm, irrevocable commitment for all required funding and/or financing from a creditworthy bank or financial institution to consummate the proposed transaction, or other evidence satisfactory to the Financial Advisor, in consultation with the Proposal Trustee, to allow the Financial Advisor to make a reasonable determination as to the Potential Bidder's (and its direct and indirect owners and their principals) financial and other capabilities to consummate the transaction contemplated by the Sale Proposal;
 - e. It is not conditioned on (i) the outcome of unperformed due diligence by the Potential Bidder; and/or (ii) obtaining any financing and includes an acknowledgement and representation that the Potential Bidder has had an opportunity to conduct any and all required due diligence prior to making its Sale Proposal;
 - f. It fully discloses the identity of each entity that is bidding or otherwise that will be sponsoring or participating in the Sale Proposal, including the identification of the Potential Bidder's direct and indirect owners and their principals, and the complete terms of any such participation;

- g. It includes an acknowledgement and representation that the Potential Bidder will assume the obligations of the Company under any executory contracts and unexpired leases proposed to be assigned and, to the extent applicable, contains full details of the Potential Bidder's proposal for the treatment thereof; and it identifies with particularity any executory contract or unexpired leases the assumption and assignment of which is a condition to closing;
- h. It includes an acknowledgement and representation that the Potential Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents, information and other due diligence materials, and/or the assets to be acquired and liabilities to be assumed in making its Sale Proposal; (ii) did not rely upon any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, including by the Company, the Proposal Trustee or the Financial Advisor (and their respective officers, directors, employees, agents, counsel and professionals), except as expressly stated in the Purchase Agreement submitted by it; (iii) is a sophisticated party capable of making its own assessments in respect of making its Sale Proposal; and (iv) has had the benefit of independent legal, tax, accounting and other relevant professional advice in connection with its Sale Proposal;
- i. It includes evidence, in form and substance reasonably satisfactory to the Financial Advisor and the Company, of authorization and approval from the Potential Bidder's board of directors (or comparable governing body), with respect to the submission, execution, delivery and closing of the transaction contemplated by the Sale Proposal;
- j. It is accompanied by a refundable deposit (the "**Deposit**"), in form and amount acceptable to the Financial Advisor and the Proposal Trustee, to be held in accordance with paragraph 25 hereof;
- k. If the Potential Bidder is an entity newly formed for the purpose of the transaction, the bid shall contain an equity or debt commitment letter from the parent entity or sponsor, which is satisfactory to the Proposal Trustee and the Financial Advisor, that names the Company as third party beneficiary of any such commitment letter with recourse against such parent entity or sponsor;
- l. It includes evidence, in form and substance reasonably satisfactory to the Proposal Trustee and the Financial Advisor, of compliance or anticipated compliance with any and all applicable regulatory approvals (including, if applicable, anti-trust regulatory approval) or the anticipated time frame for such compliance and any outstanding conditions or anticipated impediments for obtaining such approvals; and

- m. It contains any other information reasonably requested by the Proposal Trustee or the Financial Advisor.

15. Notwithstanding paragraphs 13 and 14 hereof, the Financial Advisor and the Proposal Trustee may waive compliance with any one or more of the Qualified Bid requirements specified above, and deem such non-compliant bids to be Qualified Bids.

No Qualified Bids

16. The Financial Advisor, in consultation with the Proposal Trustee, will assess the Qualified Bids received, if any, and will determine whether it is likely that the transactions contemplated by such Qualified Bids are likely to be consummated and whether proceeding with this Sales Process is in the best interests of the Company and its stakeholders. Such assessments will be made as promptly as practicable but no later than five (5) Business Days after the Bid Deadline.

17. If the Proposal Trustee and the Financial Advisor, in accordance with paragraph 16 above, determine that (a) no Qualified Bid was received, (b) at least one Qualified Bid was received but it is not likely that the transactions contemplated in any such Qualified Bids will be consummated; or (c) proceeding with this Sales Process is not in the best interests of the Company and its stakeholders, the Proposal Trustee shall forthwith (i) terminate this Sales Process; (ii) notify each Potential Bidder (including any Qualified Bidder(s)) that this Sales Process has been terminated; (iii) consult with the Company's stakeholders regarding the Company's next steps; and (iv) report to the Court if it considers it appropriate to do so.

18. If the Proposal Trustee and the Financial Advisor, in accordance with paragraph 16 above, determine that (a) one or more Qualified Bids were received, (b) it is likely that the transactions contemplated by one or more of such Qualified Bids will be consummated, and (c) proceeding with this Sales Process is in the best interests of the Company and its stakeholders, this Sales Process will not be terminated and the Company, the Proposal Trustee and the Financial Advisor, will proceed to negotiate with one or more of the Qualified Bidders in an attempt to conclude a transaction.

Selection Criteria

19. In selecting any bid, the Proposal Trustee and the Financial Advisor will review each Qualified Bid. In determining the highest and best offer among Qualified Bids, a single Qualified Bid for all or substantially all of the Company Property and/or Company Business generally will be viewed as preferable to a combination of Qualified Bids.

20. Evaluation criteria with respect to any Qualified Bid may include, but are not limited to, items such as (a) the purchase price and the net value, including assumed liabilities or other obligations to be performed or assumed by the bidder, provided by such bid; (b) the claims likely to be created by such bid in relation to the other bids; (c) the counterparties to the transaction; (d) the terms of the proposed Purchase Agreement and other

transaction documents; (e) other factors affecting the speed, certainty and value of the transaction, including conditions and any regulatory approvals required to close the transaction; (f) the assets included or excluded from the bid and the transaction costs and risks associated with closing multiple transactions versus a single transaction for all or substantially all of the Company Property and/or the Company Business; (g) the estimated number of employees of the Company that will be offered post-closing employment by the bidder and any proposed measures associated with their continued employment; (h) the transition services required from the Company post-closing and any related restructuring costs; and (i) the likelihood and timing of consummating the transaction.

21. Upon the conclusion of the bidding, the Proposal Trustee and the Financial Advisor will identify the highest or otherwise best Qualified Bid received (such offer, the "**Successful Bid**", and the Qualified Bidder(s) who made the Successful Bid is the "**Successful Bidder**"). By **May 29, 2020** the Financial Advisor will notify the Qualified Bidders of the identities of the Successful Bidder.
22. The Proposal Trustee, for and on behalf of the Company, shall finalize any further ancillary or definitive documents required to fulfil the obligations set out in the purchase agreement in respect of the Successful Bid, if any, conditional upon the approval of the Court.
23. All Qualified Bids (other than the Successful Bid) shall be deemed rejected by the Company on and as of the date of approval of the Successful Bid by the Court.

Approval Hearing

24. Within **five Business Days** of the date of the definitive agreement(s) with the Successful Bidder), the Company shall seek a hearing to be held on a date, no later than **June 15, 2020**, or such other date as the court may assign, (the "**Approval Hearing**") to authorize the Company to enter into an agreement with the Qualified Bidder or in respect to the Successful Bid (the "**Approval Order**"). The Approval Hearing may be adjourned or rescheduled by the Proposal Trustee, in consultation with the Company and the Financial Advisor, without further notice, by notice to the service list maintained by the Company.

Deposits

25. All Deposits shall be retained by the Financial Advisor and invested in an interest bearing trust account in a Schedule I Bank in Canada. Upon closing of the transaction with the Successful Bidder, the Deposit (plus accrued interest) paid by the Successful Bidder shall be released by the Financial Advisor to the Company (and/or to other third parties as otherwise directed by Court Order) and applied to the purchase price to be paid by the Successful Bidder. The Deposits (plus applicable interest) of all Qualified Bidders not selected as the Successful Bidder shall be returned to such bidders within **five Business Days** of the date upon which the Successful Bid is approved by the Court. If the this Sales Process is terminated in accordance with the terms in this document, all Deposits

shall be returned to the bidders within **five Business Days** of the date upon which it is determined that this Sales Process is terminated.

26. If the Successful Bidder breaches its obligations to close, it shall forfeit its Deposit to the Company, provided however that the forfeit of such Deposit shall be in addition to, and not in lieu of, any other rights in law or equity that the Company has against such breaching entity, and the party holding the deposit shall be obligated to release the funds to the Company, subject to the claims of the Company's creditors.

Approvals

27. For greater certainty, the approvals required pursuant to the terms of this Sales Process are in addition to and not in substitution for any other approvals required by the BIA or any other statute or are otherwise required at law in order to implement a definitive agreement with a Successful Bidder, as the case may be.

Notice Parties

28. As used herein, the "**Notice Parties**" are, collectively, the Proposal Trustee and the Financial Advisor. The addresses to be used for delivering documents to the Notice Parties are as follows:

The Bowra Group Inc.

505 Burrard St #430, Vancouver, BC V7X 1M3

Attention: Mario Mainella

Email: mmainella@bowragroup.com

MNP Corporate Finance Inc.

1021 West Hastings, Suite 2200, Vancouver, BC V6E0C3

Attention: Aleem Bandali

Email: Aleem.Bandali@mnp.ca

29. A bid shall be delivered to all Notice Parties at the same time by electronic mail, personal delivery or courier.

Reservation of Rights

30. The Company, at the direction of the Proposal Trustee and the Financial Advisor, and not in its sole discretion:
- a. may reject, at any time any bid that is (i) inadequate or insufficient; (ii) not in conformity with the requirements of the BIA, this Sales Process or any orders of the Court applicable to the Company; and/or (iii) contrary to the interests of the Company, its estate or stakeholders, as determined by the Company and the Financial Advisor;

- b. in accordance with the terms hereof, may impose additional terms and conditions and otherwise seek to modify this Sales Process at any time in order to maximize the results obtained;
 - c. in accordance with the terms hereof, may accept bids not in conformity with this Sales Process to the extent that the Company and the Financial Advisor determine, in their reasonable business judgment, that doing so will benefit the Company, its estate and its stakeholders; and,
 - d. extend the deadlines contained in this Sales Process, provided that the Bid Deadline shall not be extended beyond May 29 2020.
31. At or before the Approval Hearing, the Proposal Trustee may impose such other terms and conditions in the negotiation of a Purchase Agreement, as applicable, as the Proposal Trustee may, in consultation with the Company and Financial Advisor, determine to be in the best interest of the Company and its stakeholders, provided that such terms and conditions are not inconsistent with this Sales Process.
32. This Sales Process does not, and shall not be interpreted to, create any contractual or other legal relationship between the Company, the Proposal Trustee, the Financial Advisor and any other party, other than as specifically set forth in definitive agreements that may be executed by the Company.

No Amendment

33. Except as provided herein, there shall be no amendments to this Sales Process, including for greater certainty the process and procedures set out in this document, without the prior written consent of the Proposal Trustee unless otherwise ordered by the Court upon application and appropriate notice.

Further Orders

34. At any time during this Sales Process, the Company, the Proposal Trustee or the Financial Advisor may apply to the Court for advice and directions with respect to the discharge of their powers and duties hereunder.

COURT NO.B200193
ESTATE NO.11-2626604
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE PROPOSAL OF
SNFW FITNESS B.C. LTD.

ORDER MADE AFTER APPLICATION



Barristers and Solicitors
1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia V6C 3L2
Phone: (604) 685-3456
Attention: Kimberley A. Robertson

APPENDIX C

**Copy of the SNFW Fitness B.C. Ltd. Cash Flow for the Period April 6, 2020 to June
July 31, 2020**

In the Matter of the Notice of Intention to File a Proposal of SNFW Fitness B.C. Ltd.
Cash Flow Forecast
For the Period of April 3, 2020 to July 31, 2020

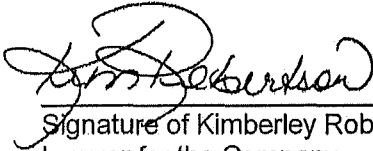
	Actual	Forecast - Week Ended								TOTAL
	April 3, 2020 - June 7, 2020	14-Jun	21-Jun	28-Jun	5-Jul	12-Jul	19-Jul	26-Jul	31-Jul	Actual + Forecast
Receipts										
Advances from secured creditor	411,757	100,000	150,000	200,000	275,000		250,000	150,000		1,536,757
Total Receipts	411,757	100,000	150,000	200,000	275,000	-	250,000	150,000	-	1,536,757
Disbursements										
Payroll	170,654	42,000	-	42,000	42,000	-	42,000	42,000	-	380,654
Utilities	55,231	-	-	-	-	-	-	-	-	55,231
Member Management Licensing Fee	40,184	-	-	-	-	-	-	-	-	40,184
Security and Moving Costs	4,155	12,500	20,000	12,500	35,000	20,000	12,500	12,500	-	129,155
Member Refunds	35,424	-	-	-	-	-	-	-	-	35,424
EE Expenses	1,789	1,000	-	-	1,000	-	-	1,000	-	4,789
Computer - IT Services	28,325	-	-	-	-	-	-	-	-	28,325
Insurance	72,090	-	-	-	-	-	-	-	-	72,090
Vehicle leases	4,008	-	-	-	-	-	-	-	-	4,008
Professional fees	-	-	150,000	100,000	200,000	-	150,000	-	100,000	700,000
Contingency	-	-	-	25,000	-	-	25,000	25,000	-	75,000
Total Disbursements	411,757	55,500	170,000	179,500	278,000	20,000	229,500	80,500	100,000	1,524,757
Net Cash Flow for the Period	-	44,500	(20,000)	20,500	(3,000)	(20,000)	20,500	69,500	(100,000)	12,000
Opening Cash Balance	-	-	44,500	24,500	45,000	42,000	22,000	42,500	112,000	-
Closing Cash Balance	-	44,500	24,500	45,000	42,000	22,000	42,500	112,000	12,000	12,000

Notes

- 1 Assumes that the sales transaction closes before the end of July 2020
- 2 Cash flows do not include payments for lease facilities

3. Endorsement of this Order by counsel appearing on this application, other than counsel for the Company, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Signature of Kimberley Robertson
Lawyer for the Company

Digitally signed by
Fitzpatrick, J

By the Court.

Digitally signed by
Day, Kristen

Registrar in Bankruptcy

Schedule "A"

(List of Counsel)

Name of Counsel	Appearing For
Kimberley A. Robertson	SNFW FITNESS B.C. LTD.
Jordan Schultz	Bank of Montreal
Colin Gusikoski	Employee Groups making up the Plaintiffs and proposed class members contemplated in BCSC Vancouver Registry Actions No. S197593 and S203844
Michael Hochberg / Gasper Galati	Morgan Crossing Shopping Centre and its manager Strathallen Property Management Inc.
Mario Mainella	The Bowra Group Inc., Proposal Trustee
Stephen Jackson	Selby Property Investments Limited Partnership

COURT NO.B200193
ESTATE NO.11-2626604
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE PROPOSAL OF
SNFW FITNESS B.C. LTD.

ORDER MADE AFTER APPLICATION



Barristers and Solicitors
1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia V6C 3L2
Phone: (604) 685-3456
Attention: Kimberley A. Robertson

48
This is Exhibit "D" referred to in the
Affidavit of Karen Huen sworn
before me at Vancouver this 22nd
day of June 2020

RD
A Commissioner for taking Affidavits
within British Columbia

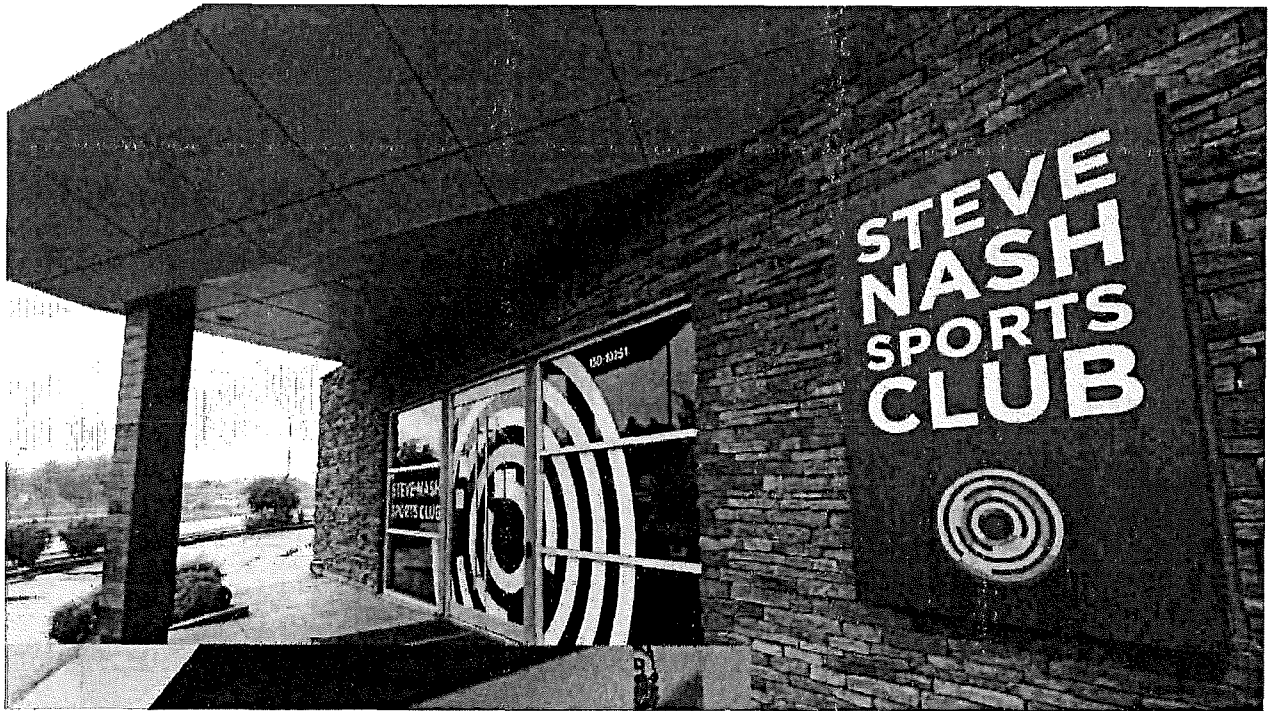


Economy, Law & Politics

Steve Nash Fitness granted insolvency extension

The company applied for more time to file a proposal to creditors under bankruptcy and insolvency legislation

By Hayley Woodin | June 17, 2020, 10:45am



Some Steve Nash Fitness locations are reportedly preparing to open "quickly" under new ownership | Rob Kruyt

What happened: The BC Supreme Court has granted the owner of Steve Nash Fitness World and Sports Clubs more time to file a proposal to creditors.

Why it matters: SNFW Fitness B.C. Ltd. now has until midnight on August 3 to file a proposal under federal bankruptcy and insolvency legislation.

The BC Supreme Court today granted SNFW Fitness B.C. Ltd. an additional 45 days to file a proposal to its creditors, which are collectively owed upwards of an estimated \$44 million.

The company – which operates more than two dozen fitness clubs in B.C. under Steve Nash, UFC Gym and Crunch Fitness brands – is more than two months into insolvency proceedings that began April 3, when the company filed a notice of intention to file a proposal to creditors under federal bankruptcy and insolvency legislation.



After an initial extension, the company's deadline for filing a proposal was June 17 at midnight. Had an extension not been granted and a proposal not filed, the company would have been deemed bankrupt.

In brief oral reasons, Madam Justice Shelley Fitzpatrick concluded that no creditor will suffer material prejudice as a result of the extension.

"In all the circumstances, I'm satisfied that the extension is appropriate," she noted.

The application heard Wednesday acknowledge that SNFW Fitness is unlikely to file a proposal to creditors, but that "proposal proceedings still have value" to

certain groups of unsecured creditors, informer employees, pre-paid members and landlords – all of which are unsecured creditors.

SNFW Fitness being declared bankrupt ahead of a finalized deal to sell the company would add unnecessary costs to the process, and would ultimately result in less recovery for creditors, the company argued.

"SNFW wishes to be entirely transparent that it would prefer not to file such a proposal, or be deemed bankrupt at this point, as neither is necessary to complete the sales process and bring the benefit to the unsecured class of creditors."

The company officially announced on Tuesday that a group of investors has agreed to acquire the company. The deal has not yet been finalized, nor has it been approved by the BC Supreme Court.

Two groups of former employees, represented by Victory Square Law Office LLP, objected to the extension request. The groups argued that SNFW Fitness engaging in the proposal process with no clear intention of filing a proposal constitutes not acting in good faith.

"SNFW's proposal is unprecedented, illogical and obstructs the purpose of the [*Bankruptcy and Insolvency Act*]," states the employee groups' response to the extension application by SNFW Fitness.

"Its current proposal is designed to circumvent important legislative protections for employees in a manner that dramatically advantages another creditor."

That other creditor is the Bank of Montreal, which is owed \$32 million by SNFW Fitness and has supported the company's court-approved sales process.

Madam Justice Fitzpatrick rejected the claim that former SNFW Fitness employees will be materially impacted by the deadline extension, and said she found no evidence to support the suspicions former employees have about how the company has approached its sales process.

"The [*Bankruptcy and Insolvency Act*] has evolved ... to recognize that sales are an appropriate means of enhancing and preserving stakeholder value for

the benefit of the stakeholders generally," she said, noting that it would be "extremely unusual" for employees to have been included or looped into the sales process at this stage.

She added that the court will continue to have "significant oversight" of the company's insolvency and sale proceedings.

All legal actions against SNFW Fitness are stayed over the 45-day extension.

hwoodin@biv.com

[@hayleywoodin](#)

VIEW COMMENTS

TAB 5



This is the 3rd Affidavit of Joel Holloway
in this case and was made on August 11, 2020

COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRIPLE M MODULAR LTD. dba METRIC MODULAR

AFFIDAVIT

I, Joel Holloway, Certified Professional Accountant, of 1825 Tower Road, in the
City of Agassiz, in the Province of British Columbia, AFFIRM THAT:

1. I am an officer of Triple M Modular Ltd., which does business as "Metric Modular" and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be made upon information and belief, and, as to such facts, I verily believe the same to be true.
2. I have been employed by Triple M Modular Ltd. o/a Metric Modular ("**Metric Modular**" or the "**Company**") as Chief Financial Officer since 2017. My responsibilities include the accounting, finance, administration and human resource functions of the business. The management of all other operations of the business is overseen by the President, Stephen Branch.
3. Capitalized terms not defined in this affidavit refer to the definitions in my first and second affidavits sworn on June 23, 2020.

Sale of Inventory Prior to Filing Date

4. Prior to the Filing Date, Metric Modular sold to its sister company, Triple M Housing, various inventory and equipment (collectively, the "**Sold Assets**") located at the

Penticton Facility, with an aggregate book value of \$208,828. The Sold Assets primarily consisted of:

- (a) Raw materials including insulation, lumber and other construction materials; and
- (b) Equipment including equipment for fabrication of metal frames and a skid steer.

Under the terms of the sale, Metric Modular received cash consideration equal to the book value of the Sold Assets (i.e. \$208,828), which was received subsequent to the Filing Date. The book value was used to calculate the consideration payable for the Sold Assets based on management's experience with prior sales of excess inventory and equipment from the Penticton facility to third parties, which have consistently realized less than the book value of the assets sold.

Payment of Pre-Filing Amounts

5. Since the Filing Date, the Company has been required to pay certain creditors amounts which are owed for debts arising prior to the Filing Date. These payments have been made in consultation with the Company's counsel, and with the rationale of achieving a net benefit for the Company. The reasoning behind each such payment is described under the headings below.

i. Peter Kiewit G3 Project and UBC Health Services Building Project

6. The Company intends to issue payments to subcontractors and suppliers that are owed amounts for work performed prior to the Filing Date in relation to the Peter Kiewit G3 Project (the "**G3 Project**") and the UBC Health Services Building Project (the "**UBC Project**") for the following reasons:

- (a) pursuant to the relevant contracts between Metric Modular and the project owners, statutory declarations are required in order to receive the remaining payments owing to Metric Modular;
- (b) the statutory declarations require that the Metric Modular certify that it has paid all amounts owing to subcontractors and suppliers even though not all of these creditors maintain lien rights;

- (c) the project owners are not willing to deviate from the requirement for a statutory declaration to be issued or to amendment of the form of statutory declaration to take into account the insolvency; and
- (d) all of the site-work on these projects has been completed and the only remaining work required is the submission and approval of the close-out documents and other miscellaneous documentation.

7. The Company has arranged for Triple M Housing to assume the warranty work on each of the Projects to ensure that no rights of set-off will apply. Accordingly, completion of the Projects, after the payment of the subcontractors and suppliers will generate a net cash inflow of approximately \$270,109.

8. In respect of the pre-filing amounts owing to subcontractors and suppliers on these projects, which totals approximately \$173,771 (\$136,788 + \$36,983), the Company's counsel reviewed this matter and confirmed the following:

- (a) approximately \$116,275 is owing to subcontractors and suppliers that will likely have or currently have lien rights under the *Builders Lien Act* (British Columbia) (the "*BLA*"); and
- (b) the remaining amount (i.e. \$57,496) is owing to subcontractors and suppliers which did not lien within the applicable period set out in the *BLA*, but which maintain trust claims over the proceeds received from the owners pursuant to Section 10 of the *BLA*.

ii. Property Taxes

9. The Company intends to issue payment on account of 2020 property taxes owing pursuant to the lease agreement for its Agassiz Facility which, under the terms of the lease, are due and payable on July 15, 2020. This payment would include \$54,732 of property taxes assessed for five (5) months prior to the Filing Date (i.e. January 2020 to May 2020). The Company's counsel has advised the Company's management that the landlord may have grounds to terminate the lease for the Agassiz Facility if payment for the property taxes is not made by the Company. Through

correspondence between the Company's counsel and counsel for the landlord, a settlement has been worked out for the Company to pay the total amount of \$98,517, which represents the property taxes attributable for nine months of the year (i.e. up to September 30, 2020).

iii. Gibsons Project

10. The Company paid \$52,177 in owed to subcontractors and suppliers for work performed on, or material provided to, the Gibsons Project prior to the Filing Date. The payment of these amount was factored into the consideration paid by Triple M Housing for the assignment of the contract on the Gibsons Project, further discussed below, such that Metric Modular was essentially reimbursed by Triple M Housing for these amounts.

iv. Project Manager

11. A total of \$10,004 was paid to a project manager employed by the Company, in relation to the reimbursement of expenses incurred directly by the employee prior to the Filing Date. This employee was determined to be critical for the completion of certain Remaining Projects. Accordingly, the Company issued the above noted payment to ensure the employee continued to provide the services required by the Company.

Business Activity Since First Extension

12. On June 30, 2020, the Court granted an Order extending the time for filing a proposal to August 15, 2020. Since June 30, 2020, the Company has been executing on the 24 Continuing Projects identified to be completed after the NOI filing date. The status of the Continuing Projects is as follows:

- (a) 7 have been completed and payment received in full. These projects involved the construction of manufactured homes for Triple M Housing;
- (b) 5 other projects have also been completed and all receivables from those projects have been collected;
- (c) 6 projects have completed construction and all that remains to be completed is the collection of receivables owing to the Company;

- (d) 5 projects still have further construction works to be completed; and
- (e) The Gibsons Project has been assigned to Triple M Housing.

13. The 5 projects with remaining construction work are scheduled to be completed in the month of August 2020. The Company is also actively working with customers to resolve warranty requests and resolve actual and potential lien claims in order to facilitate final payments from customers for work completed and for projects with ongoing construction works. I anticipate that the Company will complete work on collection of receivables on 6 of the projects by September 30, 2020, with collections for the remaining 6 projects to be completed after September 30, 2020.

14. As mentioned above, the Gibsons Project has been assigned to Triple M Housing effective June 15, 2020. A true copy of the Assignment Agreement is attached and marked as **Exhibit "A"** to this my Affidavit.

15. Pursuant to the Assignment Agreement, Triple M Housing will be making payment of \$456,783 to Metric Modular during the week ending August 14, 2020 as consideration for the assignment of the contract. This amount was calculated as follows:

Post Assignment Cash Inflows	
Projected Revenue	\$ 6,915,620
Invoiced	(3,785,636)
Holdbacks	378,564
Total Post Assignment Cash Inflows [A]	3,508,548
Post Assignment Cash Outflows	
Forecasted Project Costs	(5,907,886)
Costs Incurred to Date	3,083,700
Assigned AP/HB Payable	(4,153)
Remaining Metric Spend	150,000
Financing Charge	(31,046)
Total Post Assignment Cash Outflows [B]	(2,709,385)
Budgeted Project Cash Flow [C = A + B]	799,163
Adjustments	
Margin Adjustment	(305,798)
Cost of Capital Charge	(36,582)
Total Adjustments [D]	(342,380)
Assignment Price [C + D]	\$ 456,783

The assignment price decreased from the forecasted value of \$564,000 in the Assignment Agreement to an actual assignment price of \$456,783 due to the following:

- (a) \$152,491 decrease in the assignment price for funds received by Metric Modular from the customer after the assignment date;
- (b) \$36,582 decrease in the assignment price for the Cost of Capital Charge added to reflect the net present value of the cash flow generated from the Gibsons Project, which is expected to be completed on or around January 2021, at a rate of return of 18%;

- (c) \$81,856 increase in the assignment price for payments made to vendors after the assignment date.

16. As a result of the ongoing work on the Continuing Projects, since the filing of the NOI on June 1, 2020 the Company has received payment of \$3,141,298 and made disbursements of \$2,241,855, for net cash collection of \$899,443.

17. Due to the completion of construction on most of the Continuing Projects, the Company has taken steps to reduce its overhead costs by returning certain vehicles and equipment to the suppliers. In particular, on June 30, 2020 the Company returned 3 of the 6 vehicles that it had leased from JP Leasing and is currently in the process of returning tools and equipment that were rented from Hilti Canada.

Sale of Assets

18. The Company has commenced a process to sell the remaining inventory, tooling and equipment ("**Remaining Assets**") of the Company. The Company has organized the Remaining Assets into 900 lots and commenced a tender process to attract bids for the purchase of the Remaining Assets by issuing a bid package containing a description of the assets and the procedure for bidding on them (the "**Bid Package**"). A true copy of the Bid Package is attached and marked as **Exhibit "B"** to this my Affidavit. The tender period commenced on August 4, 2020 and bids are due by August 26, 2020. In order to attract bids for the Remaining Assets, the Company has issued the Bid Package to more than 8,500 email recipients and will be engaging in local advertising and direct contact of selected potential bidders. Successful bidders will be required to make full payment for purchase of the assets subsequent to court approval of the sale and prior to removal of the assets from the Agassiz Facility. Successful bidders will be required to remove all purchased assets from the Agassiz Facility during the month of September or forfeit their purchase.

19. Metric Modular is seeking an extension of the time to file a Proposal for the following reasons:

- (a) To complete the 5 remaining Continuing Projects on which construction is not yet finished, generating positive cash flow for the benefit of creditors;

- (b) To complete the process of collecting accounts receivable on the Continuing Projects, which will benefit trade creditors who have rights to payment under the *Builders Lien Act* from the funds received by the Company; and
- (c) To complete the orderly liquidation of the Remaining Assets in order to maximize recovery for the benefit of creditors.

20. Based on the foregoing, it is my belief that:

- (a) The Company has acted in good faith and with due diligence in this proceeding;
- (b) The granting of a 45 day extension provides the Company with the time necessary to complete the restructuring activities described above and to determine whether a viable Proposal to creditors can be made; and
- (c) No creditor would be materially prejudiced if the extension being applied for is granted.

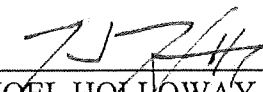
21. I affirm this Affidavit in support of an application by the Company for an Order that the time for filing a proposal, and the stay of proceedings, be extended by 45 days from August 15, 2020 to September 29, 2020.

AFFIRMED BEFORE ME at the Township
of Langley, in the Province of British
Columbia, this 11th day of August, 2020.



A Commissioner for taking Affidavits for
British Columbia.

J. REILLY POLLARD
BARRISTER & SOLICITOR
1800-401 WEST GEORGIA STREET
VANCOUVER, BC V6B 5A1
TEL: 604-687-1323



JOEL HOLLOWAY

This is **Exhibit "A"** referred to in the Affidavit of
Joel Holloway sworn before me at Vancouver,
British Columbia this 11th day of August, 2020

A handwritten signature in black ink, appearing to be 'RP' followed by a stylized flourish.

A Commissioner for taking Affidavits for
British Columbia

ASSIGNMENT AGREEMENT

THIS AGREEMENT is made effective June 15th, 2020

BETWEEN:

TRIPLE M MODULAR LTD. dba METRIC MODULAR
a company incorporated under the laws of British Columbia
having a registered office address of 25th Floor 666 Burrard Street,
Vancouver BC V6C 2X8

(the "Assignor")

AND:

TRIPLE M HOUSING LTD.
a company incorporated under the laws of Alberta having a
head office address of 4500, 855 - 2ND Street S.W.,
Calgary AB T2P 4K7

(the "Assignee")

AND:

BC Housing Management Commission
having an address of 1701 – 4555 Kingsway,
Burnaby, BC V5H 4T8

("BCHMC")

WHEREAS:

- A. The Assignor carries on the business of modular building construction British Columbia;
- B. The Assignee is a related company of the Assignor and carries on the business of modular building construction in Alberta and British Columbia;
- C. The Assignor entered into a written agreement with BCHMC dated May 17, 2019 (the "**Contract**") for the design, construction and installation of certain modular buildings as detailed in the Contract (the "**Project**"), which is appended hereto as Appendix "A"; and
- D. With the written consent of BCHMC, the Assignor has agreed to assign its rights and obligations under the Contract to the Assignee and the Assignee has agreed to

accept such assignment on the terms and conditions set out in this Assignment Agreement;

NOW THEREFORE in consideration of the premises and the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Assignor and the Assignee covenant and agree as follows:

Definitions

- (1) For the purposes of this Agreement:
 - (a) **"Benefits"** means any and all benefits and advantages due under the Contract at the Effective Date, or accruing or coming due under the Contract at any time after the Effective Date;
 - (b) **"Effective Date"** means June 15th, 2020;
 - (c) **"Permits"** means all necessary transferable permits required for the construction of the Project and fulfilment of the Contract issued to the Assignor by any government, statutory or other authority having jurisdiction over same;
 - (d) **"Warranties"** means all existing guarantees, warranties and indemnities obtained for the benefit of the Assignor in relation to the Project and, without limiting the generality of the foregoing, shall include those warranties obtained by the Assignor, either expressly or by implication, from contractors, subcontractors or suppliers in respect of work performed, or supplies delivered to, the Project, insofar as such rights can be assigned; and
 - (e) **"Assignor's Covenants"** means all obligations of the Assignor under the Contract, whether expressed as conditions, covenants, representations, undertakings or warranties.

Assignment of Benefits, Permits, and Warranties

- (2) As and from the Effective Date, the Assignor grants, assigns, transfers and sets over absolutely and unconditionally unto the Assignee all of the Assignor's right, title and interest, both at law and in equity in and to the Benefits, Permits and Warranties.
- (3) The Assignor agrees that the Assignee is to have and to hold the Benefits for its sole use and benefit forever.
- (4) BCHMC acknowledges and agrees that the Assignee shall have all right, title and interest in the Benefits after the Effective Date and hereby consents to the assignment of same from the Assignor to the Assignee.

Representations

- (5) The Assignor represents and warrants to the Assignee that:
- (a) the Assignor has full right and authority to assign the Benefits, Permits, and Warranties as contemplated hereby; and
 - (b) the Benefits, Permits and Warranties are good, valid and subsisting and the Assignor has observed and performed each and every of the Assignor's Covenants required to be observed or performed by it to the Effective Date.

Covenant to Indemnify

The Assignee agrees to indemnify and save harmless BCHMC from all actions, suits, costs, losses, damages, charges and expenses for or in respect of any breach by the Assignor of the Assignor's Covenants arising before the Effective Date.

Assumption of Obligations

- (6) As and from the Effective Date, the Assignee assumes, agrees and covenants with BCHMC, to observe, perform, be bound by and be liable under, as an obligation of the Assignee, each and every of the Assignor's Covenants under the Contract required to be observed or performed on or after the Effective Date, including but not limited to any obligations under the Permits, as if the Assignee were the contractor originally named in the Contract.
- (7) BCHMC hereby consents to the assignment of the Assignor's Covenants from the Assignor to the Assignee as of the Effective Date.

Consideration Paid by Assignee to Assignor

- (8) In consideration for the Assignment contemplated in this Agreement, the Assignee shall pay to the Assignor the sum of \$ 564,000.00.

Authorization Regarding Benefits

- (9) The Assignor expressly authorizes the Assignee to collect, demand, sue for, enforce, recover and receive, dispose of, realize or enforce any of the Benefits as the Assignee may deem advisable, either in the name of the Assignor or in the name of the Assignee without notice to the Assignor.

Benefits Not Assigned Held in Trust

- (10) Notwithstanding paragraphs 2, 3 and 4 hereof, the parties agree that any of the Benefits in respect of which consents to assignment cannot be obtained, or are not for any other reason assignable to the Assignee, will be held in trust by the Assignor as bare trustee for the Assignee and performed by the Assignee in the name of and at the direction of the Assignor, acting reasonably, until their

assignment to the Assignee has been effected, and all benefits derived thereunder will be for the benefit of the Assignee.

Further Covenants and Agreements

- (11) The Assignor agrees with the Assignee that it will from time to time and at all times hereafter at the request of the Assignee, acting reasonably, execute and deliver to the Assignee such further assurances for the better and more perfect assignment to the Assignee of the Benefits, or any one of them.
- (12) The Assignor will deliver such notices of this Agreement as may be reasonably requested by the Assignee.
- (13) This Agreement shall be binding upon and enure to the benefit of the parties and their respective successors and permitted assigns.
- (14) This Agreement and all claims arising out of or relating to this Agreement shall be governed by and construed in accordance with the law of British Columbia.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

TRIPLE M MODULAR LTD.

TRIPLE M HOUSING LTD.

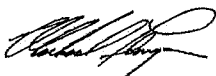


Per: _____
Stephen Branch



Per: _____
Rick Weste

BC HOUSING MANAGEMENT COMMISSION



Per: _____
Authorized Signatory

Michael Flanigan
VP Development and Asset Strategies

CCDC 14

Design-Build Stipulated Price Contract

2 0 1 3

ITT# 1070-1920/012 Design-Build Services
for a Modular Supportive Housing Facility
Gibsons, BC

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Public-Sector Owners

Private-Sector Owners

*The Association of Consulting Engineering Companies-Canada

*The Canadian Construction Association

*Construction Specifications Canada

*The Royal Architectural Institute of Canada

*Committee policy and procedures are directed and approved by the four constituent national organizations.

This document has also been endorsed by the Canadian Design-Build Institute.



Comments and inquiries should be directed to:
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Construction Devis de
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AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER

For use when a stipulated price is the basis of payment.

This Agreement made on the 17th day of May in the year 2019.

by and between the parties:

BC Housing Management Commission

hereinafter called the "Owner"

and TRIPLE M MODULAR LTD DBA

Metric Modular

hereinafter called the "Design-Builder"

The Owner and the Design-Builder agree as follows:

ARTICLE A-1 DESIGN SERVICES AND THE WORK

The Design-Builder shall:

1.1 provide the Design Services, and

1.2 perform the Work for

ITT# 1070-1920/012 Design-Build Services
for a Modular Supportive Housing Facility
Gibsons, BC

insert above the name of the Work

located at

739/749 School Road, Gibsons, BC

insert above the Place of the Work

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

Martin Pykalo Architect

insert above the name of the Consultant

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

BC Housing Management Commission

insert above the name of the Payment Certifier

is acting as, and is hereinafter called the Payment Certifier, and for which

Architect/Third Party Payment Certifier Selected by BC Housing

insert above the name of the Owner's Advisor

is acting as, and is hereinafter called the Owner's Advisor*

(*Strike out if none appointed)

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K2 PL

- 1.3 subject to adjustment in *Contract Time* as provided for in the *Contract Documents*, attain *Substantial Performance* of the Work by the 28th day of February in the year 2020.

ARTICLE A-2 AGREEMENTS AND AMENDMENTS

- 2.1 This *Contract* supersedes all prior negotiations, representations or agreements, either written or oral, including bidding documents that are not expressly listed in Article A-3 of the Agreement – CONTRACT DOCUMENTS.
- 2.2 This *Contract* may be amended only as provided for 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 – DESIGN SERVICES AND THE WORK:

- Agreement Between *Owner* and *Design-Builder*
- Definitions in this *Contract*
- General Conditions of this *Contract*
- *Owner's Statement of Requirements*, consisting of the following (list those written requirements and information constituting those documents intended to comprise the *Owner's Statement of Requirements*):

-BC Housing Supplementary General Conditions Of The Stipulated Price Contract (SGC's) of CCDC14 - 2013 Design Build Agreement (Owner Procured Land) - March 2019
 -RFP# 1070-1920/012 for Design-Build Services for a Modular Supportive Housing Facility Issued April 4, 2019 with all attachments
 -Addendum #1 Issued April 5, 2019
 -Addendum #2 Issued April 24, 2019
 -Addendum #3 Issued April 29, 2019
 -Addendum #4 Issued May 3, 2019
 -Metric Modular Response to RFP# 1070-1920/012 Dated May 8, 2019
 -Notice of Award Delivered May 17, 2019
 Modular Supportive Housing Facility for a Total Price offering:
 a. Base Scope (\$6,755,814.00 + GST)
 -Submission clarification email submitted by Tom Faliszewski on May 16, 2019

- *Construction Documents*

- * -Scope of Work and Statement of Requirements
- Site Information
- Phase I Environmental Site Assessment
- Schematic Design Package
- BC Housing Design Guidelines and Construction Standards (2019)
- Modular Owner's Requirements
- BC Housing Step Code Energy Sample Report

* (Insert here, attaching additional pages if required, a list identifying all other *Contract Documents*, e.g. *Supplementary Conditions*; *Proposals*; *Specifications* (giving a list of contents with section numbers and titles, number of pages, date and revision date(s), if any); *Drawings* (giving drawing number, title, date, revision date or mark); *Addenda* (giving title, number, date).

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ARTICLE A-4 CONTRACT PRICE

4.1 The *Contract Price*, which excludes *Value Added Taxes*, is:

Six Million, Seven Hundred Fifty Five Thousand, Eight Hundred Fourteen Dollars and Zero Cents /100 dollars \$ 6,755,814.00

4.2 *Value Added Taxes* (of 5 %) payable by the *Owner* to the *Design-Builder* are:

Three Hundred Thlrty Seven Thousand, Seven Hundred Ninety Dollars and Seventy Cents /100 dollars \$ 337,790.70

4.3 Total amount payable by the *Owner* to the *Design-Builder* is:

Seven Million, Ninety Three Thousand, Six Hundred Four Dollars and Seventy Cents /100 dollars \$ 7,093,604.70

4.4 These amounts shall be subject to adjustments as provided in the *Contract Documents*.

4.5 Amounts are in Canadian funds.

ARTICLE A-5 PAYMENT

5.1 Subject to 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 *Design-Builder* 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 *Design-Builder* 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 *Design-Builder* 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 and machinery insurance policies, payments shall be made to the *Design-Builder* 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 Chartered Bank Prime +1%

(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 claims in dispute that are resolved either pursuant to Part 8 of the General Conditions – DISPUTE RESOLUTION or otherwise, from the date on which 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 RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING

6.1 *Notices in Writing* will be addressed to the recipient at the address set out below.

6.2 The delivery of a *Notice in Writing* will be by hand, by courier, by prepaid first class mail, by facsimile or other form of electronic communication during the transmission of which no indication of failure of receipt is communicated to the sender.

- 6.3 A *Notice in Writing* delivered by one party in accordance with this *Contract* will be deemed to have been received by the other party on the date of delivery if delivered by hand or courier, or if sent by mail it shall be deemed to have been received five calendar days after the date on which it was mailed, provided that if either such day is not a *Working Day*, then the *Notice in Writing* shall be deemed to have been received on the *Working Day* next following such day.
- 6.4 A *Notice in Writing* sent by facsimile or other form of electronic communication shall be deemed to have been received on the date of its transmission provided that if such day is not a *Working Day* or if it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been received at the opening of business at the place of receipt on the first *Working Day* next following the transmission.
- 6.5 An address for a party may be changed by *Notice in Writing* to the other party setting out the new address in accordance with this Article.

Owner

BC Housing Management Commission

name of Owner*

1701-4555 Kingsway, Burnaby, BC

Address

facsimile number

sjellicoe@bchousing.org

email address

Design-Builder

JB DBA Metric Modular LTD

name of Design-Builder*

1825 Tower Road

Address

facsimile number

tfal@metricmodular.com

email address

~~Owner's Advisor~~

name of Owner's Advisor*

Address

facsimile number

email address

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

** Strike out this entry if no Owner's Advisor is designated as per GC 2.3 – OWNER'S ADVISOR.

ARTICLE A-7 LANGUAGE OF THE CONTRACT

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

*** Complete this statement by striking out the inapplicable term.

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

ARTICLE A-8 SUCCESSION

- 8.1 This *Contract* shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and permitted 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

OWNER

BC Housing Management Commission

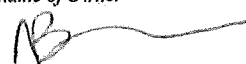

signature

Rola Kiani Ameri
name of person signing

signature

name of person signing

name of Owner


signature

Naamie Brunnermeyer, Director
name and title of person signing

Regional Development

WITNESS

DESIGN-BUILDER


TRIPLE M MODULAR LTD
DBA Metric Modular

name of Design-Builder

signature

STEPHEN BRANCH - PRESIDENT
name and title of person signing

signature

THOMAS FALURIEWSKI
name of person signing

signature

name of person signing

- N.B. Where legal jurisdiction, local practice, or Owner or Design-Builder requirement calls for:
- 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
 - 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*.

Change Directive

A *Change Directive* is a written instruction signed by the *Owner* directing a change in the *Work* or in the *Design Services* within the general scope of the *Contract Documents*.

Change Order

A *Change Order* is a written amendment to the *Contract* signed by the *Owner* and the *Design-Builder* stating their agreement upon:

- a change in the *Work* or in the *Design Services*;
- an amendment to the *Owner's Statement of Requirements*, if any;
- 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 Documents

The *Construction Documents* consist of *Drawings*, *Specifications*, and other documents prepared by or on behalf of the *Design-Builder*, based on the *Contract Documents*, and accepted in writing by the *Owner* and the *Design-Builder* as meeting the *Owner's Statement of Requirements* and the general intent of the *Contract Documents*.

Construction Equipment

Construction Equipment means 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*.

Consultant

The *Consultant* is the person or entity identified as such in the Agreement. The *Consultant* is the architect, the engineer, or entity licensed to practise in the province or territory of the *Place of the Work* and engaged by the *Design-Builder* to provide all or part of the *Design Services*.

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 thereto 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 – DESIGN SERVICES AND THE WORK from the date of the Agreement to the date of *Substantial Performance of the Work*.

Design-Builder

The *Design-Builder* is the person or entity identified as such in the Agreement.

Design Services

Design Services are the professional design and related services required by the *Contract Documents*.

Drawings

The *Drawings* are the graphic and pictorial portions of the *Construction 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* is a written communication between the parties that is transmitted in accordance with the provisions of Article A-6 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

Other Consultant

Other Consultant is a person or entity, other than the *Consultant*, that may be engaged by the *Design-Builder* to perform part of the *Design Services*.

Owner

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

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RB PL

Owner's Advisor

The *Owner's Advisor*, if any, is the person or entity appointed by the *Owner* and identified as such in the Agreement.

Owner's Statement of Requirements

The *Owner's Statement of Requirements* consists of written requirements and information provided by the *Owner* and as listed in Article A-3 of the Agreement – CONTRACT DOCUMENTS and amendments thereto agreed upon between the parties.

Payment Certifier

The *Payment Certifier* is the person or entity identified as such in the Agreement responsible for the issuance of certificates for payment.

Place of the Work

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

Product

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

Project

The *Project* means the *Owner's* entire undertaking of which the *Work* may be the whole or a part thereof.

Shop Drawings

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

Specifications

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

Subcontractor

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

Substantial Performance of the Work

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

Temporary Work

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

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 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 *Design-Builder* by tax legislation.

Work

The *Work* means the total construction and related services required by the *Contract Documents*, but does not include *Design Services*.

Working Day

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

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GENERAL CONDITIONS OF THE DESIGN-BUILD STIPULATED PRICE CONTRACT

PART 1 GENERAL PROVISIONS

GC 1.1 CONTRACT DOCUMENTS

- 1.1.1 The intent of the *Contract Documents* is to include the design, the labour, the *Products* and other services necessary for the design and performance of the *Work* by the *Design-Builder* in accordance with these documents. It is not intended, however, that the *Design-Builder* shall supply products or perform services or work not consistent with, not covered by, or not properly inferable from the *Contract Documents*.
- 1.1.2 Nothing contained in the *Contract Documents* shall create any contractual relationship between the *Owner* and the *Consultant*, an *Other Consultant*, a *Subcontractor*, a *Supplier*, or their agent, employee, or any other person performing any portion of the *Design Services* or 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 References in the *Contract Documents* to the singular shall be considered to include the plural as the context requires.
- 1.1.6 If there is a conflict within the *Contract Documents*:
 - .1 the order of priority of documents, from highest to lowest, shall be
 - the Agreement between the *Owner* and the *Design-Builder*,
 - the Definitions,
 - Supplementary Conditions,
 - the General Conditions,
 - the *Owner's Statement of Requirements*,
 - the *Construction Documents*,
 - .2 later dated documents shall govern over earlier documents of the same type, and
 - .3 amendments to documents shall govern over documents so amended.
- 1.1.7 Copyright for the design and *Drawings* and electronic media, prepared on behalf of the *Design-Builder* belongs to the *Consultant* or *Other Consultants* who prepared them. Plans, sketches, *Drawings*, graphic representations, and *Specifications*, including, but not limited to computer generated designs, are instruments of the *Consultant's* or *Other Consultant's* services and shall remain their property, whether or not the *Work* for which they are made is executed and whether or not the *Design-Builder* has paid for the *Design Services*. Their alteration by the *Owner* is prohibited.
- 1.1.8 The *Owner* may retain copies, including reproducible copies, of plans, sketches, *Drawings*, graphic representations, and *Specifications* for information and reference in connection with the *Owner's* use and occupancy of the *Work*. Copies may only be used for the purpose intended and for a one time use, on the same site, and for the same *Project*. Except for reference purposes, the plans, sketches, *Drawings*, electronic files, graphic representations, and *Specifications* shall not be used for additions or alterations to the *Work* or on any other project without a written license from the *Consultant* or *Other Consultants* who prepared the documents, for their limited or repeat use.
- 1.1.9 The *Owner* shall be entitled to keep original models or renderings specifically commissioned and paid for.
- 1.1.10 Should the *Owner* alter a *Consultant's* or *Other Consultant's* instrument of service, or use or provide them to third parties other than in connection with the *Work* without informing the *Consultant* and without the *Consultant's* or *Other Consultant's* prior written consent, the *Owner* shall indemnify the *Design-Builder* against claims and costs (including legal costs) associated with such improper alteration or use.

GC 1.2 LAW OF THE CONTRACT

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

GC 1.3 RIGHTS AND REMEDIES

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

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- 1.3.2 No action or failure to act by the *Owner*, *Design-Builder*, *Consultant*, *Other Consultant*, *Payment Certifier*, or *Owner's Advisor* shall constitute a waiver of any right or duty afforded to either the *Owner* or the *Design-Builder* 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 to in writing.

GC 1.4 ASSIGNMENT

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

GC 1.5 CONFIDENTIALITY

- 1.5.1 Where a confidentiality agreement exists or as the *Owner* otherwise expressly identifies and requires, the *Owner* and the *Design-Builder* shall keep confidential all matters respecting technical and commercial issues relating to or arising from the performance of the *Contract* and shall not, without the prior written consent of the other party, disclose any such matters, except in strict confidence, to their respective professional advisors.

PART 2 OWNER'S RESPONSIBILITIES

GC 2.1 OWNER'S INFORMATION

- 2.1.1 The *Owner* shall furnish the information required to complete the *Contract* promptly to avoid delay in the performance of the *Contract*.
- 2.1.2 Unless the *Contract Documents* specifically state otherwise, the *Design-Builder* is entitled to rely on the accuracy of all information provided by or on behalf of the *Owner* without regard for the source of such information.
- 2.1.3 Notwithstanding any other provision of the *Contract*, the *Design-Builder* is not responsible for any design errors or omissions in any designs or *Specifications* provided by or on behalf of the *Owner* unless the *Design-Builder* has been specifically requested to review and has accepted in writing those designs and *Specifications* under the *Contract*.

GC 2.2 ROLE OF THE OWNER

- 2.2.1 The *Owner* will render any necessary decisions or provide instructions promptly to avoid delay in the performance of the *Contract*.
- 2.2.2 All communications between the *Owner* and the *Consultant*, an *Other Consultant*, a *Subcontractor*, or a *Supplier* shall be forwarded through the *Design-Builder*.
- 2.2.3 The *Owner* will be, in the first instance, the interpreter of the requirements of the *Owner's Statement of Requirements*.
- 2.2.4 The *Owner* will have authority to reject by *Notice in Writing* design or work which in the *Owner's* opinion does not conform to the requirements of the *Owner's Statement of Requirements*.
- 2.2.5 Whenever the *Owner* considers it necessary or advisable, the *Owner* will have authority to require a review of the *Design Services* and inspection or testing of the *Work*, whether or not such work is fabricated, installed or completed, in accordance with paragraph 2.5.5 of GC 2.5 – OWNER'S REVIEW OF THE DESIGN AND THE WORK.
- 2.2.6 During the progress of the *Design Services* or of the *Work* the *Owner* will furnish *Supplemental Instructions* related to the *Owner's Statement of Requirements* to the *Design-Builder* with reasonable promptness or in accordance with a schedule for such instructions agreed to by the *Owner* and the *Design-Builder*.

GC 2.3 OWNER'S ADVISOR

- 2.3.1 When the *Owner* appoints an *Owner's Advisor*, the duties, responsibilities and limitations of authority of the *Owner's Advisor* shall be as set forth in the *Contract Documents*.
- 2.3.2 The duties, responsibilities and limitations of authority of the *Owner's Advisor* as set forth in the *Contract Documents* shall be modified or extended only with the written consent of the *Owner* and the *Design-Builder*.
- 2.3.3 Subject to any notified limitations in authority, the *Design-Builder* may rely upon any written instructions or directions provided by the *Owner's Advisor*. Neither the authority of the *Owner's Advisor* to act, nor any decision to exercise or not exercise such authority, shall give rise to any duty or responsibility of the *Owner's Advisor* to the *Design-Builder*, the *Consultant*, *Other Consultants*, *Subcontractors*, *Suppliers*, or their agents, employees or other persons performing any portion of the *Design Services* or the *Work*.

- 2.3.4 If the employment of the *Owner's Advisor* is terminated, the *Owner* may appoint or reappoint an *Owner's Advisor* against whom the *Design-Builder* makes no reasonable objection and whose status under the *Contract Documents* shall be that of the former *Owner's Advisor*.

GC 2.4 ROLE OF THE PAYMENT CERTIFIER

- 2.4.1 The *Owner* shall designate a *Payment Certifier* who will review the *Design-Builder's* applications for payment and certify the value of the *Design Services* and of *Work* performed and *Products* delivered to the *Place of the Work*.
- 2.4.2 The duties, responsibilities and limitations of authority of the *Payment Certifier* as set forth in the *Contract Documents* shall be modified or extended only with the written consent of the *Owner* and the *Design-Builder*.
- 2.4.3 Neither the authority of the *Payment Certifier* to act nor any decision either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the *Payment Certifier* to the *Design-Builder*, the *Consultant*, *Other Consultants*, *Subcontractors*, *Suppliers*, or their agents, employees or other persons performing any of the *Design Services* or the *Work*.
- 2.4.4 The *Payment Certifier* will take all reasonable steps to be accessible to the *Design-Builder* during performance of the *Contract* and shall render any necessary decisions or instructions promptly as provided in GC 5.3 – PROGRESS PAYMENT to avoid delay in the processing of payment claims.
- 2.4.5 Based on the *Payment Certifier's* observations and evaluation of the *Design-Builder's* applications for payment, the *Payment Certifier* will determine the amounts owing to the *Design-Builder* under the *Contract* and will issue certificates for payment as provided in Article A-5 of the Agreement – PAYMENT, GC 5.3 – PROGRESS PAYMENT and GC 5.7 – FINAL PAYMENT.
- 2.4.6 All communications between the *Payment Certifier* and the *Consultant*, an *Other Consultant*, a *Subcontractor*, or a *Supplier* shall be forwarded through the *Design-Builder*.
- 2.4.7 The *Payment Certifier* will promptly inform the *Owner* of the date of receipt of the *Design-Builder's* applications for payment as provided in paragraph 5.3.1.1 of GC 5.3 – PROGRESS PAYMENT.
- 2.4.8 If the *Payment Certifier's* services are terminated, the *Owner* shall immediately designate a new *Payment Certifier* against whom the *Design-Builder* makes no reasonable objection and whose status under the *Contract Documents* shall be that of the former *Payment Certifier*.
- 2.4.9 The *Owner* may provide to the *Consultant*, *Other Consultants*, *Subcontractors* or *Suppliers*, through the *Payment Certifier*, information as to the percentage of the *Design Services* and *Work* that has been certified for payment.

GC 2.5 OWNER'S REVIEW OF THE DESIGN AND THE WORK

- 2.5.1 The *Owner* shall review the design as set out in the design development documents and proposed *Construction Documents* as the *Design Services* proceed, to confirm that the design is in compliance with the *Owner's Statement of Requirements* and the *Contract Documents*.
- 2.5.2 The *Owner* shall complete the reviews in accordance with the schedule agreed upon, or in the absence of an agreed schedule, with reasonable promptness so as to cause no delay.
- 2.5.3 The *Owner's* review shall not relieve the *Design-Builder* of responsibility for errors or omissions in the *Construction Documents* or for meeting all requirements of the *Contract Documents* unless the *Owner* accepts in writing a deviation from the *Contract Documents*.
- 2.5.4 No later than 10 days after completing the review, the *Owner* shall advise the *Design-Builder* in writing that the *Owner* has accepted or rejected the proposed *Construction Documents*. If rejected, the *Owner* shall inform the *Design-Builder* of the reasons of non-conformance and the *Design-Builder* shall revise the proposed *Construction Documents* to address such non-conformance. The *Design-Builder* shall inform the *Owner* in writing of any revisions other than those requested by the *Owner*.
- 2.5.5 The *Owner* may order any portion or portions of the *Work* to be examined to confirm that the *Work* performed 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 *Design-Builder* 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 all costs incurred by the *Design-Builder* as a result of such examination and restoration.

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GC 2.6 WORK BY OWNER OR OTHER CONTRACTORS

- 2.6.1 The *Owner* reserves the right to award separate contracts in connection with other parts of the *Project* to other contractors and to perform other design or other work with its own forces.
- 2.6.2 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Owner* shall:
- .1 provide for the co-ordination of the activities and work of other contractors and *Owner's* own forces with the *Design Services* and the *Work*;
 - .2 assume overall responsibility for compliance with the applicable health and construction safety legislation at the *Place of the Work*;
 - .3 enter into separate contracts with other contractors under conditions of contract which are compatible with the conditions of the *Contract*;
 - .4 ensure that insurance coverage is provided to the same requirements as are called for in GC 11.1 – INSURANCE and co-ordinate such insurance with the insurance coverage of the *Design-Builder* as it affects the *Design Services* and the *Work*; and
 - .5 take all reasonable precautions to avoid labour disputes or other disputes on the *Project* arising from the work of other contractors or the *Owner's* own forces.
- 2.6.3 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Design-Builder* shall:
- .1 afford the *Owner* and other contractors reasonable opportunity to store their products and execute their work;
 - .2 cooperate with other contractors and the *Owner* in reviewing their construction schedules; and
 - .3 promptly report to the *Owner* in writing any apparent deficiencies in the work of other contractors or of the *Owner's* own forces, where such work affects the proper execution of any portion of the *Design Services* or of the *Work*, prior to proceeding with that portion of the *Design Services* or of the *Work*.
- 2.6.4 Where the *Contract Documents* identify work to be performed by other contractors or the *Owner's* own forces, the *Design-Builder* shall co-ordinate and schedule the *Design Services* and the *Work* with the work of other contractors and the *Owner's* own forces as specified in the *Contract Documents*.
- 2.6.5 Where a change in the *Design Services* or in the *Work* is required as a result of the co-ordination and integration of the work of other contractors or *Owner's* own forces with the *Design Services* or 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.
- 2.6.6 Disputes and other matters in question between the *Design-Builder* and the *Owner's* 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 *Design-Builder* shall be deemed to have consented to arbitration of any dispute with any other contractor whose contract with the *Owners* contains a similar agreement to arbitrate.

PART 3 DESIGN-BUILDER'S RESPONSIBILITIES

GC 3.1 CONTROL OF THE DESIGN SERVICES AND THE WORK

- 3.1.1 The *Design-Builder* shall have total control of the *Design Services* and of the *Work* and shall direct and supervise the *Design Services* and the *Work* so as to ensure conformity with the *Contract Documents*.
- 3.1.2 The *Design-Builder* shall be solely responsible for the *Design Services* and construction means, methods, techniques, sequences, and procedures with respect to the *Work*.
- 3.1.3 The *Design-Builder* shall preserve and protect the rights of the parties under the *Contract* with respect to the *Design Services* to be performed by the *Consultant* and *Other Consultants*, and shall enter into a contract with the *Consultant* and *Other Consultants* to perform *Design Services* as provided in the *Contract*, in accordance with laws applicable at the *Place of the Work*.
- 3.1.4 The *Design-Builder's* contract with the *Consultant* shall:
- .1 be based on the version of CCDC 15 – Design Services Contract between Design-Builder and Consultant in effect as at the date of this *Contract* or incorporate terms and conditions consistent with this version of CCDC 15, and
 - .2 incorporate terms and conditions of the *Contract Documents*, insofar as they are applicable.
- 3.1.5 Upon the *Owner's* request, the *Design-Builder* shall promptly provide the *Owner* with proof of compliance with paragraph 3.1.4.

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- 3.1.6 The *Design-Builder* shall be as fully responsible to the *Owner* for acts and omissions of the *Consultant* and *Other Consultants*, and of persons directly or indirectly employed by the *Consultant* and *Other Consultants*, as for acts and omissions of persons directly employed by the *Design-Builder*.
- 3.1.7 The *Design-Builder's* responsibility for *Design Services* performed by the *Consultant* and *Other Consultants* shall be limited to the degree of care, skill and diligence normally provided by consultants in the performance of comparable services in respect of projects of a similar nature to that contemplated by this *Contract*. The *Design-Builder* shall ensure that the *Consultant* and *Other Consultants* perform the *Design Services* to this standard.
- 3.1.8 The *Design-Builder* shall ensure that the *Consultant* and *Other Consultants* provide documentation required by authorities having jurisdiction in accordance with regulations and by-laws in effect at the *Place of the Work*.
- 3.1.9 The *Design-Builder* is solely responsible for the quality of the *Design Services* and of the *Work* and shall undertake any quality control activities specified in the *Contract Documents* or, if none are specified, as may be reasonably required to ensure such quality.
- 3.1.10 The *Design Builder* shall provide access to the *Work*, including parts being performed at locations other than the *Place of the Work* and to the location where the *Design Services* are performed, that the *Owner*, or the *Payment Certifier* may reasonably require to verify the progress of the *Work* or *Design Services* and their conformity to the requirements of the *Contract Documents*. The *Design-Builder* shall also provide sufficient, safe, and proper facilities at all times for such reviews of the *Design Services* or the *Work* and for inspection of the *Work* by authorized agencies.
- 3.1.11 If work is designated for tests, inspections, or approvals in the *Contract Documents*, or by the instructions of the *Owner*, the *Consultant*, or *Other Consultants*, or the laws or ordinances of the *Place of the Work*, the *Design-Builder* shall give the *Owner* reasonable notice of when the work will be ready for review and inspection.
- 3.1.12 The *Design-Builder* shall arrange for and shall give the *Owner* reasonable notice of the date and time of inspections by other authorities.
- 3.1.13 If the *Design-Builder* 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 *Design-Builder* shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and restore the covering work at the *Design-Builder's* expense.
- 3.1.14 The *Design-Builder* shall furnish promptly to the *Owner*, on request, a copy of certificates, test reports and inspection reports relating to the *Work*.

GC 3.2 DESIGN-BUILDER'S REVIEW OF OWNER'S STATEMENT OF REQUIREMENTS OR OTHER INFORMATION

- 3.2.1 The *Design-Builder* shall promptly notify the *Owner* of any significant error, inconsistency, or omission discovered in the *Owner's Statement of Requirements* or other information provided by or on behalf of the *Owner*. The *Design-Builder* shall not proceed with the *Design Services* or *Work* affected until the *Design-Builder* and the *Owner* have agreed in writing how the information should be corrected or supplied.
- 3.2.2 The *Design-Builder* shall not be liable for damages or costs resulting from such errors, inconsistencies, or omissions in the *Owner's Statement of Requirements* or other information provided by or on behalf of the *Owner*.

GC 3.3 ROLE OF THE CONSULTANT

- 3.3.1 The *Consultant* or *Other Consultants* will be, in the first instance, the interpreter of the requirements of the *Construction Documents* that they have prepared.
- 3.3.2 The duties, responsibilities and limitations of authority of the *Consultant* shall be in accordance with paragraph 3.1.4 of GC 3.1 – CONTROL OF THE DESIGN SERVICES AND THE WORK and shall be modified only with the written consent of the *Owner*, which consent shall not be unreasonably withheld.
- 3.3.3 If the *Consultant's* engagement is terminated, the *Design-Builder* shall immediately appoint or reappoint a *Consultant* against whom the *Owner* makes no reasonable objection and whose status under the *Contract Documents* shall be that of the former *Consultant*.

GC 3.4 OTHER CONSULTANTS, SUBCONTRACTORS AND SUPPLIERS

- 3.4.1 The *Design-Builder* 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 *Other Consultants* to require them to perform *Design Services* as provided in the *Contract Documents*;
 2. enter into contracts or written agreements with *Subcontractors* and *Suppliers* to require them to perform *Work* as required by the *Contract Documents*;
 3. incorporate the terms and conditions of the *Contract Documents* into all contracts or written agreements with *Other Consultants*, *Subcontractors* and *Suppliers* insofar as they are applicable; and
 4. be as fully responsible to the *Owner* for acts and omissions of *Other Consultants*, *Subcontractors*, *Suppliers* and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the *Design-Builder*.
- 3.4.2 The *Design-Builder* shall indicate in writing, at the request of the *Owner*, the names of *Other Consultants*, *Subcontractors*, or *Suppliers* whose proposals or bids have been received by the *Design-Builder* which the *Design-Builder* would be prepared to accept for the performance of a portion of the *Design Services* or of the *Work*. Should the *Owner* not object before signing the subcontract, the *Design-Builder* shall employ *Other Consultants*, *Subcontractors* or *Suppliers* so identified by the *Design-Builder* in writing for the performance of that portion of the *Design Services* or of the *Work* to which their proposal or bid applies.
- 3.4.3 The *Owner* may, for reasonable cause, at any time before the *Design-Builder* has signed the subcontract, object to the use of a proposed *Other Consultant*, *Subcontractor* or *Supplier* and require the *Design-Builder* to employ another proposed *Other Consultant*, *Subcontractor* or *Supplier* bidder.
- 3.4.4 If the *Owner* requires the *Design-Builder* to change a proposed *Other Consultant*, *Subcontractor* or *Supplier*, the *Contract Price* and *Contract Time* shall be adjusted by the differences resulting from such required change.
- 3.4.5 The *Design-Builder* shall not be required to employ any *Subcontractor*, *Supplier*, *Other Consultant*, person or firm to whom the *Design-Builder* may reasonably object.

GC 3.5 CONSTRUCTION DOCUMENTS

- 3.5.1 The *Design-Builder* shall submit the proposed *Construction Documents* to the *Owner* to review in orderly sequence and sufficiently in advance so as to cause no delay. The *Owner* and the *Design-Builder* shall jointly prepare a schedule of the dates for submission and return of proposed *Construction Documents*.
- 3.5.2 During the progress of the *Design Services*, the *Design-Builder* shall furnish to the *Owner* documents that describe details of the design required by the *Contract Documents*.
- 3.5.3 At the time of submission the *Design-Builder* shall advise the *Owner* in writing of any significant deviations in the proposed *Construction Documents* from the requirements of the *Contract Documents*. The *Owner* may or may not accept such deviations. Accepted deviations from the *Owner's Statement of Requirements* will be recorded in a *Change Order*.
- 3.5.4 When a change is required to the *Construction Documents* it shall be made in accordance with GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER, or GC 6.3 – CHANGE DIRECTIVE.

GC 3.6 DESIGN SERVICES AND WORK SCHEDULE

- 3.6.1 The *Design-Builder* shall:
1. promptly after signing the Agreement, prepare and submit to the *Owner* a *Design Services* and *Work* schedule that indicates the timing of the major activities of the *Design Services* and of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate that the *Design Services* and the *Work* will be performed in conformity with the schedule;
 2. monitor the progress of the *Design Services* and of the *Work* relative to the schedule and update the schedule on a monthly basis or as stipulated by the *Contract Documents*; and
 3. advise the *Owner* of any revisions required to the schedule as a result of extensions to the *Contract Time* as provided in Part 6 of the General Conditions – CHANGES IN THE CONTRACT.

GC 3.7 SUPERVISION

- 3.7.1 The *Design-Builder* shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the *Place of the Work* while work is being performed. The appointed representative shall not be changed except for valid reason.
- 3.7.2 The appointed representative shall represent the *Design-Builder* at the *Place of the Work*. Information and instructions provided by the *Owner* to the *Design-Builder's* appointed representative shall be deemed to have been received by the *Design-Builder* except that *Notices in Writing* otherwise required under the *Contract* shall be given as indicated in Article A-6 of the Agreement—RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

GC 3.8 LABOUR AND PRODUCTS

- 3.8.1 The *Design-Builder* 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*.
- 3.8.2 Unless otherwise specified in the *Contract Documents*, *Products* provided shall be new. *Products* which are not specified shall be of a quality consistent with the *Contract Documents* and their use acceptable to the *Owner*.
- 3.8.3 The *Design-Builder* shall maintain good order and discipline among the *Design-Builder's* employees involved in the performance of the *Work* and shall not employ anyone not skilled in the tasks assigned.

GC 3.9 DOCUMENTS AT THE SITE

- 3.9.1 The *Design-Builder* shall keep one copy of current *Owner's Statement of Requirements*, *Construction Documents*, *Shop Drawings*, reports, and records of meetings at the *Place of the Work*, in good order and available to the *Owner*.

GC 3.10 SHOP DRAWINGS

- 3.10.1 The *Design-Builder* shall provide *Shop Drawings* as described in the *Contract Documents* or as the *Owner* may reasonably request.
- 3.10.2 *Shop Drawings* which require approval of any legally constituted authority having jurisdiction shall be provided to such authority by the *Design-Builder* for approval.
- 3.10.3 The *Design-Builder* shall review all *Shop Drawings* before providing them to the *Owner*. The *Design-Builder* represents by this review that the *Design-Builder* has:
- .1 determined and verified all applicable field measurements, field construction conditions, *Product* requirements, catalogue numbers and similar data, or will do so, and
 - .2 checked and co-ordinated each *Shop Drawing* with the requirements of the *Contract Documents*.
- 3.10.4 If the *Owner* requests to review shop drawings, the *Design-Builder* shall submit them in an orderly sequence and sufficiently in advance so as to cause no delay in the *Design Services* or the *Work* or in the work of other contractors. The *Owner* and the *Design-Builder* shall jointly prepare a schedule of the dates for submission and return of *Shop Drawings*.
- 3.10.5 The *Owner's* review under paragraph 3.10.4 is for conformity to the intent of the *Contract Documents* and for general arrangement only. The *Owner's* review shall not relieve the *Design-Builder* of the responsibility for errors or omissions in the *Shop Drawings* or for meeting all requirements of the *Contract Documents* unless the *Owner* expressly accepts a deviation from the *Contract Documents* by *Change Order*.

GC 3.11 NON-CONFORMING DESIGN AND DEFECTIVE WORK

- 3.11.1 Where the *Owner* has advised the *Design-Builder*, by *Notice in Writing*, that designs or *Specifications* fail to comply with the *Owner's Statement of Requirements*, the *Design-Builder* shall ensure that the design documents or proposed *Construction Documents* are promptly corrected or altered.
- 3.11.2 The *Design-Builder* shall promptly correct defective work that has been rejected by *Notice in Writing* by the *Owner* 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, design, use of defective products, or damage through carelessness or other act or omission of the *Design-Builder*.
- 3.11.3 The *Design-Builder* shall promptly make good other contractors' work destroyed or damaged by such removals or replacements at the *Design-Builder's* expense.

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- 3.11.4 If, in the opinion of the *Owner*, 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 *Design-Builder* the difference in value between the work as performed and that called for by the *Contract Documents*. If the *Design-Builder* does not agree on the difference in value, the *Design-Builder* shall refer the dispute to Part 8 of the General Conditions – DISPUTE RESOLUTION.

PART 4 ALLOWANCES

GC 4.1 CASH ALLOWANCES

- 4.1.1 The *Contract Price* includes the cash allowances, if any, stated in the *Owner's Statement of Requirements*. The scope of work or costs included in such cash allowances shall be as described in the *Owner's Statement of Requirements*.
- 4.1.2 The *Contract Price*, and not the cash allowances, includes the *Design-Builder's* overhead and profit in connection with such cash allowances.
- 4.1.3 Expenditures under cash allowances shall be authorized by the *Owner*.
- 4.1.4 Where the actual cost of the work performed under any cash allowance exceeds the amount of the allowance, the *Design-Builder* 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 performed 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 *Design-Builder'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 each cash allowance and the actual cost of the work performed 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 *Design-Builder* and the *Owner* shall jointly prepare a schedule that shows when the *Owner* must authorize ordering of items called for under cash allowances to avoid delaying the progress of the *Design Services* or of the *Work*.

GC 4.2 CONTINGENCY ALLOWANCE

- 4.2.1 The *Contract Price* includes the contingency allowance, if any, stated in the *Owner's Statement of Requirements*.
- 4.2.2 The contingency allowance includes the *Design-Builder'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 *Design-Builder*, before signing the *Contract*, and promptly from time to time thereafter, furnish to the *Design-Builder* 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 *Design-Builder Notice in Writing* of any material change in the *Owner's* financial arrangements to fulfill the *Owner's* obligations under the *Contract* during the performance of the *Contract*.

GC 5.2 APPLICATIONS FOR PROGRESS PAYMENT

- 5.2.1 Applications for payment on account as provided in Article A-5 of the Agreement – PAYMENT may be made monthly as the *Design Services* and the *Work* progress.
- 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 to in writing by the parties.
- 5.2.3 The amount claimed shall be for the value, proportionate to the amount of the *Contract*, of the *Design Services* and of the *Work* performed and *Products* delivered to the *Place of the Work* as of the last day of the payment period.

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- 5.2.4 The *Design-Builder* shall submit to the *Payment Certifier*, at least 15 calendar days before the first application for payment, a schedule of values for the parts of the *Design Services* and 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 direct, 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 *Design-Builder* shall include a statement based on the schedule of values with each application for payment.
- 5.2.7 A declaration by the *Design-Builder* as to the distribution made of the amounts received using document CCDC 9A – Statutory Declaration of Progress Payment Distribution by Contractor shall be joined to each application for progress payment except the first one.
- 5.2.8 Applications for payment for *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall be supported by such evidence as the *Payment Certifier* may reasonably require to establish the value and delivery of the *Products*.

GC 5.3 PROGRESS PAYMENT

- 5.3.1 After receipt by the *Payment Certifier* of an application for payment submitted by the *Design-Builder* in accordance with GC 5.2 – APPLICATIONS FOR PROGRESS PAYMENT:
- .1 the *Payment Certifier* will promptly inform the *Owner* of the date of receipt and value of the *Design-Builder's* application for payment,
 - .2 the *Payment Certifier* will issue to the *Owner* and copy to the *Design-Builder*, no later than 10 calendar days after the receipt of the application for payment, a certificate for payment in the amount applied for, or in such other amount as the *Payment Certifier* determines to be properly due. If the *Payment Certifier* amends the application, the *Payment Certifier* will promptly advise the *Design-Builder* in writing giving reasons for the amendment,
 - .3 the *Owner* shall make payment to the *Design-Builder* 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 *Payment Certifier* 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 *Design-Builder* considers that the *Work* is substantially performed or, if permitted by the lien legislation applicable at the *Place of the Work*, a designated portion thereof which the *Owner* agrees to accept separately is substantially performed, the *Design-Builder* shall prepare and submit to the *Payment Certifier* appropriate documents as required by the *Contract Documents* together with a written application for a review by the *Payment Certifier* to establish *Substantial Performance of the Work* or substantial performance of the designated portion of the *Work*. Failure to include this information does not alter the responsibility of the *Design-Builder* to complete the *Contract*.
- 5.4.2 The *Design-Builder's* application for *Substantial Performance of the Work* shall include a statement from the *Consultant*, and *Other Consultants* in support of the submitted information and the date of *Substantial Performance of the Work* or designated portion of the *Work*.
- 5.4.3 The *Payment Certifier* shall, within 7 calendar days after receipt of the *Design-Builder's* application for *Substantial Performance of the Work*, issue a certificate of the *Substantial Performance of the Work* which shall state the date of *Substantial Performance of the Work* or designated portion thereof or advise the *Design-Builder* in writing of the reasons for which such a certificate is not issued.
- 5.4.4 If the applicable lien legislation requires the *Consultant* to determine whether the *Work* has been substantially performed, the *Consultant* shall issue a certificate of the *Substantial Performance of the Work* which shall state the date of *Substantial Performance of the Work* or designated portion of the *Work* or advise the *Design-Builder* in writing of the reasons for which such a certificate is not issued.
- 5.4.5 Immediately following the issuance of the certificate of *Substantial Performance of the Work*, the *Design-Builder*, in consultation with the *Owner* 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 *Design-Builder* shall:
- .1 submit an application for payment of the holdback amount,
 - .2 submits a CCDC 9A Statutory Declaration of Progress Payment Distribution by Contractor.

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- 5.5.2 After the receipt of an application for payment from the *Design-Builder* and the statement as provided in paragraph 5.5.1, the *Payment Certifier* 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 Work*, place the holdback amount in a bank account in the joint names of the *Owner* and the *Design-Builder*.
- 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 calendar day following the expiration of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*. Where lien legislation does not exist or apply, the holdback amount shall be due and payable in accordance with other legislation, industry practice or provisions which may be agreed to between the parties. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Design-Builder* which are enforceable against the *Owner*.
- 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 *Design-Builder* 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 *Design-Builder*, the *Payment Certifier* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Design-Builder* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, on the first calendar day following the expiration of the holdback period for such work stipulated in the lien legislation applicable to the *Place of the Work*. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Design-Builder* which are enforceable against the *Owner*.
- 5.6.2 In the Province of Quebec, where, upon application by the *Design-Builder*, the *Payment Certifier* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Design-Builder* 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 *Design-Builder* which are enforceable against the *Owner*.
- 5.6.3 Notwithstanding the provisions of the preceding paragraphs, and notwithstanding the wording of such certificates, the *Design-Builder* shall ensure that such subcontract work or *Products* are protected pending the issuance of a *Substantial Performance of the Work* certificate 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 *Design-Builder* considers that the *Design Services* and the *Work* are completed, the *Design-Builder* shall submit an application for final payment.
- 5.7.2 The *Payment Certifier* will, no later than 10 calendar days after the receipt of an application from the *Design-Builder* for final payment, verify the validity of the application and advise the *Design-Builder* in writing that the application is valid or give reasons why it is not valid.
- 5.7.3 When the *Payment Certifier* finds the *Design-Builder's* application for final payment valid, the *Payment Certifier* 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 Work*, the *Owner* shall, no later than 5 calendar days after the issuance of a final certificate for payment, pay the *Design-Builder* as provided in Article A-5 of the Agreement – PAYMENT.

GC 5.8 DEFERRED WORK

- 5.8.1 If because of climatic or other conditions reasonably beyond the control of the *Design-Builder*, there are items of work that cannot be performed, payment in full for that portion of the *Design Services* or *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 portions of the *Design Services* and *Work* are finished, only such amount that the *Payment Certifier* determines is sufficient and reasonable to cover the cost of performing such remaining work.

GC 5.9 NON-CONFORMING DESIGN SERVICES AND 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 *Design Services* and the *Work* which are not in accordance with the requirements of the *Contract Documents*.

PART 6 CHANGES IN THE CONTRACT**GC 6.1 OWNER'S RIGHT TO MAKE CHANGES**

- 6.1.1 The *Owner* without invalidating the *Contract*, may make:
- .1 changes to the *Work* or to the *Owner's Statement of Requirements* consisting of additions, deletions or revisions to the *Design Services* or to the *Work*, by *Change Order* or *Change Directive*, and
 - .2 changes to the *Contract Time* by *Change Order*.
- 6.1.2 The *Design-Builder* shall not perform a change in the *Design Services*, *Construction Documents* or to the *Work* without a *Change Order* or a *Change Directive*.

GC 6.2 CHANGE ORDER

- 6.2.1 When a change is proposed or required, the *Owner* or the *Design-Builder* shall provide a written description of the proposed change to the other party. The *Design-Builder* shall present, in a form acceptable to the *Owner*, 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.
- 6.2.2 When the *Owner* and *Design-Builder* 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 *Design Services* or the *Work* performed as the result of a *Change Order* shall be included in applications for progress payment.
- 6.2.3 If the *Owner* requests the *Design-Builder* to submit a proposal for a change and then elects not to proceed with the change, a *Change Order* shall be issued by the *Owner* to reimburse the *Design-Builder* for all costs incurred by the *Design-Builder* in developing the proposal, including the cost of the related *Design Services*.

GC 6.3 CHANGE DIRECTIVE

- 6.3.1 If the *Owner* requires the *Design-Builder* to proceed with a change prior to the *Owner* and the *Design-Builder* agreeing upon the corresponding adjustment in *Contract Price* and *Contract Time*, the *Owner* shall issue a *Change Directive*.
- 6.3.2 A *Change Directive* shall only be used to direct a change 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 *Design-Builder* shall proceed promptly with the change.
- 6.3.5 For the purpose of valuing *Change Directives*, changes 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 *Design-Builder'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 *Design-Builder's* cost, the *Contract Price* shall be increased by the amount of the net increase in the *Design-Builder's* cost, plus the *Design-Builder's* percentage fee on the net increase.

- 2 If the change results in a net decrease in the *Design-Builder's* cost, the *Contract Price* shall be decreased by the amount of the net decrease in the *Design-Builder's* cost, without adjustment for the *Design-Builder's* percentage fee.
- 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 *Design-Builder* under a salary or wage schedule agreed upon by the *Owner* and the *Design-Builder*, or in the absence of such a schedule, actual salaries, wages and benefits paid under applicable bargaining agreement, and in the absence of a salary or wage schedule and bargaining agreement, actual salaries, wages and benefits paid by the *Design-Builder*, for personnel:
 - (1) stationed at the *Design-Builder'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, coordination drawings, and project record drawings; or
 - (4) engaged in the processing of changes in the *Design Services* or 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 *Design-Builder* and included in the cost of the work as provided in paragraphs 6.3.7.1;
 - .3 travel and subsistence expenses of the *Design-Builder's* personnel described in paragraphs 6.3.7.1;
 - .4 all *Products* including cost of transportation thereof;
 - .5 materials, supplies, *Construction Equipment*, *Temporary Work*, and hand tools not owned by the workers, including transportation and maintenance thereof, which are consumed in the performance of the *Work*; and cost less salvage value on such items used but not consumed, which remain the property of the *Design-Builder*;
 - .6 all tools and *Construction Equipment*, exclusive of hand tools used in the performance of the *Work* whether rented from or provided by the *Design-Builder* or others, including installation, minor repairs and replacements, dismantling, removal, transportation, and delivery cost thereof;
 - .7 all equipment and services required for the *Design-Builder's* field office;
 - .8 deposits lost;
 - .9 the cost of *Design Services* including all fees and disbursements of the *Consultant* and *Other Consultants* engaged to perform such services;
 - .10 the amounts of all subcontracts;
 - .11 quality assurance such as independent inspection and testing services;
 - .12 charges levied by authorities having jurisdiction at the *Place of the Work*;
 - .13 royalties, patent license fees, and damages for infringement of patents and cost of defending suits therefore subject always to the *Design-Builder's* obligations to indemnify the *Owner* as provided in paragraph 10.3.1 of GC 10.3 – PATENT FEES;
 - .14 any adjustment in premiums for all bonds and insurance which the *Design-Builder* is required, by the *Contract Documents*, to purchase and maintain;
 - .15 any adjustment in taxes, other than *Value Added Taxes*, and duties for which the *Design-Builder* is liable;
 - .16 charges for long distance telephone and facsimile communications, courier services, expressage, and petty cash items incurred in relation to the performance of the *Work*;
 - .17 removal and disposal of waste products and debris; and
 - .18 safety measures and requirements.
- 6.3.8 Notwithstanding 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 *Design-Builder* to exercise reasonable care and diligence in the *Design-Builder's* attention to the *Design Services* or to the *Work*. Any cost due to failure on the part of the *Design-Builder* to exercise reasonable care and diligence in the *Design-Builder's* attention to the *Design Services* or to the *Work* shall be borne by the *Design-Builder*.
- 6.3.9 The *Design-Builder* 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 *Owner* with copies thereof when requested.
- 6.3.10 For the purpose of valuing *Change Directives*, the *Owner* shall be afforded reasonable access to all of the *Design-Builder'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 to be included in progress payments.
- 6.3.12 If the *Owner* and *Design-Builder* do not agree on the proposed adjustment in the *Contract Time* attributable to the change, or the method of determining it, the adjustment shall be referred to the provisions of PART 8 – DISPUTE RESOLUTION, for determination.
- 6.3.13 When the *Owner* and the *Design-Builder* 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* or the *Design-Builder* discovers conditions at the *Place of the Work* which are:
- .1 subsurface or otherwise concealed physical conditions which existed before the commencement of the *Contract* and which differ materially from those indicated in the *Contract Documents*; or
 - .2 physical conditions, other than conditions due to weather, that are of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the *Contract Documents*,
- then the observing party shall give *Notice in Writing* to the other party of such conditions before they are disturbed and in no event later than 5 *Working Days* after first observance of the conditions.
- 6.4.2 The *Owner* will promptly investigate such conditions. If the conditions differ materially from the *Contract Documents* and this would cause an increase or decrease in the *Design-Builder's* cost or time to perform the *Design Services* or the *Work*, the *Owner* will issue appropriate instructions for a change in the *Contract* as provided in GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE.
- 6.4.3 If the *Owner* is of the opinion that the conditions at the *Place of the Work* are not materially different or that no change in the *Contract Price* or the *Contract Time* is justified, the *Owner* will advise the *Design-Builder* in writing of the grounds on which this opinion is based.
- 6.4.4 The *Design-Builder* shall not be entitled to an adjustment in the *Contract Price* or the *Contract Time* if such conditions were reasonably apparent during the request for proposal period or bidding period and prior to proposal closing or bid closing.
- 6.4.5 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 AND MATERIALS, GC 9.3 – ARTIFACTS AND FOSSILS and GC 9.5 – MOULD.

GC 6.5 DELAYS

- 6.5.1 If the *Design-Builder* is delayed in the performance of the *Design Services* or the *Work* by an action or omission of the *Owner* or anyone employed or engaged by the *Owner* directly or indirectly, contrary to the provisions of the *Contract Documents*, then the *Contract Time* shall be extended for such reasonable time as agreed between the *Owner* and the *Design-Builder*. The *Design-Builder* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Design-Builder* as the result of such delay.
- 6.5.2 If the *Design-Builder* is delayed in the performance of the *Design Services* or 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 *Design-Builder* or any person employed or engaged by the *Design-Builder* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as agreed between the *Owner* and the *Design-Builder*. The *Design-Builder* shall be reimbursed by the *Owner* for reasonable costs incurred by the *Design-Builder* as the result of such delay.
- 6.5.3 If the *Design-Builder* is delayed in the performance of the *Design Services* or 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 *Design-Builder* is a member or to which the *Design-Builder* is otherwise bound), or
 - .2 fire, unusual delay by common carriers or unavoidable casualties, or
 - .3 abnormally adverse weather conditions, or
 - .4 any cause beyond the *Design-Builder's* control other than one resulting from a default or breach of *Contract* by the *Design-Builder*,
- then the *Contract Time* shall be extended for such reasonable time as agreed between the *Owner* and the *Design-Builder*. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the *Design-Builder* agrees to a shorter extension. The *Design-Builder* shall not be entitled to payment for costs

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incurred by such delays unless such delays result from actions of the *Owner*, or anyone employed or engaged by the *Owner* 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 *Owner* no later than 10 *Working Days* after the commencement of the delay. In the case of a continuing cause of delay only one *Notice in Writing* shall be necessary.
- 6.5.5 Any adjustment to *Contract Price* and *Contract Time* required as a result of GC 6.5 – DELAYS shall be made as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER, and GC 6.3 – CHANGE DIRECTIVE.

GC 6.6 CLAIMS FOR A CHANGE IN CONTRACT PRICE

- 6.6.1 If the *Design-Builder* intends to make a claim for an increase to the *Contract Price*, or if the *Owner* intends to make a claim 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, to give the other party the opportunity to take actions to mitigate the claim.
- 6.6.2 Upon commencement of the event or series of events giving rise to a claim, the party intending to make the claim shall:
 - .1 take all reasonable measures to mitigate any loss or expense which may be incurred as a result of such event or series of events, and
 - .2 keep such records as may be necessary to support the claim.
- 6.6.3 The party making the claim shall submit within a reasonable time to the other party a detailed account of the amount claimed and the grounds upon which the claim is based.
- 6.6.4 Where the event or series of events giving rise to the claim has a continuing effect, the detailed account submitted under paragraph 6.6.3 shall be considered to be an interim account and the party making the claim shall, at regular intervals as agreed between the parties, submit further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 6.6.5 If the *Owner* and *Design-Builder* are in disagreement regarding the basis for the claim or its valuation, the matter shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION.

PART 7 RIGHT TO SUSPEND OR TERMINATE

GC 7.1 OWNER'S RIGHT TO SUSPEND THE DESIGN SERVICES OR TERMINATE THE CONTRACT BEFORE THE WORK COMMENCES

- 7.1.1 The *Owner* may, at any time before the *Work* commences at the *Place of the Work*, suspend performance of the *Design Services* by giving *Notice in Writing* to the *Design-Builder* indicating the expected length of the suspension. Such suspension shall be effective in the manner as stated in the *Notice in Writing* and shall be without prejudice to any claims which either party may have against the other.
- 7.1.2 Upon receiving a notice of suspension, the *Design-Builder* shall, subject to any directions in the notice of suspension, suspend performance of the *Design Services*.
- 7.1.3 If the *Design Services* are suspended for a period of 20 *Working Days* or less, the *Design-Builder*, upon the expiration of the period of suspension, shall resume the performance of the *Design Services* in accordance with the *Contract Documents*. The *Contract Price* and *Contract Time* shall be adjusted as provided in paragraph 6.5.1 of GC 6.5 – DELAYS.
- 7.1.4 If, after 20 *Working Days* from the date of delivery of the *Notice in Writing* regarding the suspension of the *Design Services*, the *Owner* and the *Design-Builder* agree to continue with and complete the *Design Services* and the *Work*, the *Design-Builder* shall resume the *Design Services* in accordance with any terms and conditions agreed upon by the *Owner* and the *Design-Builder*. Failing such an agreement, the *Owner* shall be deemed to have terminated the *Contract* and the *Design-Builder* shall be entitled to be paid for all *Design Services* performed and for such other damages as the *Design-Builder* may have sustained, including reasonable profit, as a result of the termination of the *Contract*.

GC 7.2 OWNER'S RIGHT TO TERMINATE THE DESIGN-BUILDER'S RIGHT TO CONTINUE WITH THE DESIGN SERVICES OR WORK, OR TERMINATE THE CONTRACT

- 7.2.1 If the *Design-Builder* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Design-Builder's* insolvency, or if a receiver is appointed because of the *Design-Builder's* insolvency, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, terminate the *Design-Builder's* right to continue with the *Design Services* or *Work*, by giving the *Design-Builder* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.2.2 If the *Design-Builder* neglects to properly perform the *Design Services* or *Work*, or otherwise fails to comply with the requirements of the *Contract* to a substantial degree, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, give the *Design-Builder Notice in Writing* that the *Design-Builder* is in default of the *Design-Builder's* contractual obligations and instruct the *Design-Builder* to correct the default in the 5 *Working Days* immediately following the receipt of such *Notice in Writing*.
- 7.2.3 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 *Design-Builder* shall be in compliance with the *Owner's* instructions if the *Design-Builder*:
- .1 commences the correction of the default within the specified or agreed time, as the case may be, 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.
- 7.2.4 If the *Design-Builder* fails to correct the default in the time specified or in such other time period as may be subsequently agreed in writing by the parties, without prejudice to any other right or remedy the *Owner* may have, the *Owner* may:
- .1 correct such default and deduct the cost thereof from any payment then or thereafter due the *Design-Builder* provided the *Payment Certifier* has certified such cost to the *Owner* and the *Design-Builder*, or
 - .2 terminate the *Design-Builder's* right to continue with the *Design Services* or *Work* in whole or in part, or
 - .3 terminate the *Contract*.
- 7.2.5 If the *Owner* terminates the *Design-Builder's* right to continue with the *Design Services* or *Work* as provided in paragraphs 7.2.1 and 7.2.4, or if the *Owner* terminates the *Contract*, the *Owner* shall be entitled to:
- .1 use the plans, sketches, *Drawings*, graphic representations and *Specifications* pursuant to paragraph 1.1.8 of GC 1.1 – CONTRACT DOCUMENTS, as reasonably required for the completion of design and construction of the *Project*, but unless otherwise agreed, the *Consultant* and *Other Consultants* shall not assume any responsibility or liability resulting from use of such documents which may be incomplete;
 - .2 take possession of the *Work* and *Products* at the *Place of the Work*, and subject to the rights of third parties, utilize the *Construction Equipment* at the *Place of the Work*, and finish the *Design Services* and *Work* by whatever method the *Owner* may consider expedient, but without undue delay or expense;
 - .3 withhold further payment to the *Design-Builder* until final payment is determined in accordance with paragraphs 7.2.5.4 and 7.2.5.5;
 - .4 charge the *Design-Builder* the amount by which:
 - (1) the full cost of finishing the *Design Services* and the *Work*, as certified by the *Payment Certifier*, including compensation to the *Payment Certifier* for the *Payment Certifier's* additional services, plus
 - (2) a reasonable allowance as determined by the *Payment Certifier* to cover the cost of corrections to work performed by the *Design-Builder* that may be required under GC 12.5 – WARRANTY, together exceeds the unpaid balance of the *Contract Price*; however, if such cost of finishing the *Design Services* and the *Work* is less than the unpaid balance of the *Contract Price*, the *Owner* shall pay the *Design-Builder* the difference; and
 - .5 on expiry of the warranty period, charge the *Design-Builder* the amount by which the cost of corrections to the *Design-Builder's* work under GC 12.5 – WARRANTY exceeds the allowance provided for such corrections, or if the cost of such corrections is less than the allowance, pay the *Design-Builder* the difference.
- 7.2.6 The *Design-Builder's* obligation under the *Contract* as to quality, correction and warranty of the *Work* performed by the *Design-Builder* up to the time of termination shall continue after such termination of the *Contract*.

GC 7.3 DESIGN-BUILDER'S RIGHT TO SUSPEND THE DESIGN SERVICES OR WORK, OR TERMINATE THE CONTRACT

- 7.3.1 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 *Design-Builder* may, without prejudice to any other right or remedy the *Design-Builder* may have, terminate the *Contract* by giving the *Owner* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.3.2 If the *Design Services* or *Work* are suspended or otherwise delayed for a period of more than 20 *Working Days* 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 *Design-Builder* or of anyone directly or indirectly employed or engaged by the *Design-Builder*, the *Design-Builder* may, without prejudice to any other right or remedy the *Design-Builder* may have, terminate the *Contract* by giving the *Owner* *Notice in Writing* to that effect.
- 7.3.3 The *Design-Builder* may give *Notice in Writing* to the *Owner* that the *Owner* is in default of the *Owner's* contractual obligations if:
- .1 the *Owner* fails to furnish, when so requested by the *Design-Builder*, 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 GC 5.3 – PROGRESS PAYMENT, or
 - .3 the *Owner* fails to pay the *Design-Builder* 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.
- 7.3.4 The *Design-Builder's* *Notice in Writing* to the *Owner* provided under paragraph 7.3.3 shall advise that if the default is not corrected within 5 *Working Days* following the receipt of the *Notice in Writing*, the *Design-Builder* may, without prejudice to any other right or remedy the *Design-Builder* may have, suspend the *Design Services* or the *Work*, or terminate the *Contract*.
- 7.3.5 If the *Design-Builder* suspends the *Work* pursuant to paragraph 7.3.4, the *Design-Builder* shall:
- .1 at the cost of the *Owner* maintain operations necessary for safety reasons and for care and preservation of the *Work*,
 - .2 make reasonable efforts to delay *Product* deliveries, and
 - .3 not remove from the *Place of the Work* any part of the *Work* or any *Products* not yet incorporated into the *Work*.
- 7.3.6 If the *Design-Builder* terminates the *Contract* under the conditions set out above, the *Design-Builder* shall be entitled to be paid for all *Design Services* and *Work* performed including reasonable profit, for loss sustained upon *Products* and *Construction Equipment*, and for such other damages as the *Design-Builder* may have sustained as a result of the termination of the *Contract*.

PART 8 DISPUTE RESOLUTION

GC 8.1 NEGOTIATION, MEDIATION AND ARBITRATION

- 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, shall be settled in accordance with the requirements of Part 8 of the General Conditions – DISPUTE RESOLUTION.
- 8.1.2 If a dispute does arise, 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.
- 8.1.3 If the parties do not reach an agreement, either party shall send a *Notice in Writing* of dispute to the other party which contains the particulars of the matter in dispute, the relevant provisions of the *Contract Documents* and, if a Project Mediator has not already been appointed, a request that a Project Mediator be appointed. 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 the response and any relevant provisions of the *Contract Documents*.
- 8.1.4 If a dispute is not resolved promptly, the *Owner* will issue such instructions as necessary 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 *Design-Builder* costs incurred by the *Design-Builder* in carrying out such instructions which the *Design-Builder* was required to do beyond what the *Contract Documents* correctly understood and interpreted would have required, including costs resulting from interruption of the *Design Services* or the *Work*.

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- 8.1.5 The parties shall, in accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of proposal closing or bid closing, 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.
- 8.1.6 After a period of 10 *Working Days* following receipt of a responding party's *Notice in Writing* of reply under paragraph 8.1.3, 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 Rules for Mediation and Arbitration of Construction Disputes in effect at the time of proposal closing or bid closing.
- 8.1.7 If the dispute has not been resolved within 10 *Working Days* after the Project Mediator was requested under paragraph 8.1.6 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* and the *Design-Builder*.
- 8.1.8 By giving a *Notice in Writing* to the other party not later than 10 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.1.7, either party may refer the dispute to be finally resolved by arbitration conducted in accordance with the Rules for Mediation and Arbitration of Construction Disputes as provided in CCDC 40 in effect at the time of proposal closing or bid closing. The arbitration shall be conducted in the jurisdiction of the *Place of the Work*.
- 8.1.9 On expiration of the 10 *Working Days* stipulated in paragraph 8.1.8, the arbitration agreement under paragraph 8.1.8 is not binding on the parties and, if a *Notice in Writing* is not given under paragraph 8.1.8 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.
- 8.1.10 If neither party, by *Notice in Writing*, given within 10 *Working Days* of the date of *Notice in Writing* requesting arbitration in paragraph 8.1.8, requires that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 8.1.8 shall be
- .1 held in abeyance until
 - (1) *Substantial Performance of the Work*,
 - (2) the *Contract* has been terminated, or
 - (3) the *Design-Builder* has abandoned the *Design Services* or the *Work*,
 whichever is earlier; and
 - .2 consolidated into a single arbitration under the rules governing the arbitration under paragraph 8.1.8.

GC 8.2 RETENTION OF RIGHTS

- 8.2.1 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 8.1.4.
- 8.2.2 Nothing in Part 8 of the General Conditions – DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the *Place of the Work* and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.1.9 of GC 8.1 – NEGOTIATION, MEDIATION AND ARBITRATION to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.
- 8.2.3 Part 8 of the General Conditions – DISPUTE RESOLUTION shall survive suspension or termination of the *Contract*.

PART 9 PROTECTION OF PERSONS AND PROPERTY

GC 9.1 PROTECTION OF WORK AND PROPERTY

- 9.1.1 The *Design-Builder* shall protect the *Work* and the *Owner's* property and property adjacent to the *Place of the Work* from damage which may arise as the result of the *Design-Builder's* operations under the *Contract*, and shall be responsible for such damage, except damage which occurs as the result of:
- .1 errors in the *Owner's Statement of Requirements*, or
 - .2 acts or omissions by the *Owner*, the *Owner's* agents and employees.
- 9.1.2 Before commencing any work, the *Design-Builder* shall determine the location of all underground utilities and structures that are reasonably apparent in an inspection of the *Place of the Work*.

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- 9.1.3 Should the *Design-Builder* in the performance of the *Contract* damage the *Work*, the *Owner's* property, or property adjacent to the *Place of the Work*, the *Design-Builder* shall be responsible for making good such damage at the *Design-Builder's* expense.
- 9.1.4 Should damage occur to the *Work* or *Owner's* property for which the *Design-Builder* is not responsible, as provided in paragraph 9.1.1, the *Design-Builder* shall make good such damage to the *Work* and, if the *Owner* 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 AND MATERIALS

- 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 Work* with respect to existing conditions.
- 9.2.2 Prior to the *Design-Builder* commencing the *Design Services* or *Work*, the *Owner* shall, subject to legislation applicable to the *Place of the Work*:
- .1 take all reasonable steps to determine whether any toxic or hazardous substances are present at the *Place of the Work*, and
 - .2 provide the *Design-Builder* with a written list of any such substances that are known to exist and their locations.
- 9.2.3 The *Owner* shall take all reasonable steps to ensure that no person's exposure to any toxic or hazardous substance exceeds the time weighted levels prescribed by applicable legislation at the *Place of the Work* and that no property is damaged or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances which were at the *Place of the Work* prior to the *Design-Builder* commencing the *Work*.
- 9.2.4 Unless the *Contract* expressly provides otherwise, the *Owner* shall be responsible for taking all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the *Place of the Work* prior to the *Design-Builder* commencing the *Work*.
- 9.2.5 If the *Design-Builder* encounters toxic or hazardous substances at the *Place of the Work* or has reasonable grounds to believe that toxic or hazardous substances are present at the *Place of the Work*, which were not brought to the *Place of the Work* by the *Design-Builder* or anyone for whom the *Design-Builder* 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 *Design-Builder* shall:
- .1 take all reasonable steps, including stopping the *Work*, to ensure that no person's exposure to any toxic or hazardous substances exceeds any applicable time weighted levels prescribed by legislation applicable to the *Place of the Work*, and
 - .2 immediately report the circumstances to the *Owner* in writing.
- 9.2.6 If the *Owner* and *Design-Builder* do not agree on the existence or significance of the toxic or hazardous substances, or whether the toxic or hazardous substances were brought onto the *Place of the Work* by the *Design-Builder* or anyone for whom the *Design-Builder* is responsible, the *Owner* shall retain and pay for an independent qualified expert to investigate and make a determination on such matters. The expert's report shall be delivered to the *Owner* and the *Design-Builder*.
- 9.2.7 If the *Owner* and *Design-Builder* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were not brought onto the *Place of the Work* by the *Design-Builder* or anyone for whom the *Design-Builder* 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 *Design-Builder* for the costs of all steps taken pursuant to paragraph 9.2.5;
 - .3 extend the *Contract Time* for such reasonable time as agreed between the *Design-Builder* and the *Owner* in consultation with the expert referred to in 9.2.6 and reimburse the *Design-Builder* for reasonable costs incurred as a result of the delay; and
 - .4 indemnify the *Design-Builder* as required by GC 12.2 – INDEMNIFICATION.
- 9.2.8 If the *Owner* and *Design-Builder* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substance was brought onto the *Place of the Work* by the *Design-Builder* or anyone for whom the *Design-Builder* is responsible, the *Design-Builder* shall promptly at the *Design-Builder's* own expense:
- .1 take all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to safely remove and dispose the toxic or hazardous substances;
 - .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the *Place of the Work* as provided in paragraph 9.1.3 of GC 9.1 – PROTECTION OF WORK AND PROPERTY;

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- .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.2.6; and
- .4 indemnify the *Owner* as required by GC 12.2 – 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 in paragraphs 9.2.7 or 9.2.8.

GC 9.3 ARTIFACTS AND FOSSILS

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

GC 9.4 CONSTRUCTION SAFETY

- 9.4.1 Except as provided for in paragraph 2.6.2.2 of GC 2.6 – WORK BY OWNER OR OTHER CONTRACTORS, the *Design-Builder* shall assume overall responsibility for:
 - .1 construction health and safety at the *Place of the Work* in compliance with the rules, regulations and practices required by the applicable construction health and safety legislation, and
 - .2 establishing, initiating, maintaining, and supervising all health and safety precautions and programs in connection with the performance of the *Work*.

GC 9.5 MOULD

- 9.5.1 If the *Design-Builder* or *Owner* observes or reasonably suspects the presence of mould at the *Place of the Work*, the remediation of which is not expressly part of the *Work*,
 - .1 the observing party shall promptly report the circumstances to the other party in writing, and
 - .2 the *Design-Builder* 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.
- 9.5.2 If the *Owner* and *Design-Builder* 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 make a determination on such matters. The expert's report shall be delivered to the *Owner* and *Design-Builder*.
- 9.5.3 If the *Owner* and *Design-Builder* agree, or if the expert referred to in paragraph 9.5.2 determines that the presence of mould was caused by the *Design-Builder's* operations under the *Contract*, the *Design-Builder* shall promptly, at the *Design-Builder's* own expense:
 - .1 take all reasonable and necessary steps to safely remediate or dispose of the mould, and
 - .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the *Place of the Work* as provided in paragraph 9.1.3 of GC 9.1 – PROTECTION OF WORK AND PROPERTY, and
 - .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.5.2, and
 - .4 indemnify the *Owner* as required by GC 12.2 – INDEMNIFICATION.
- 9.5.4 If the *Owner* and *Design-Builder* agree, or if the expert referred to in paragraph 9.5.2 determines that the presence of mould was not caused by the *Design-Builder'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 *Design-Builder* 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 agreed between the *Design-Builder* and the *Owner* in consultation with the expert referred to in paragraph 9.5.2 and reimburse the *Design-Builder* for reasonable costs incurred as a result of the delay, and

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.4 indemnify the *Design-Builder* as required by GC 12.2 – INDEMNIFICATION.

- 9.5.5 If either party does not accept the expert's finding under paragraph 9.5.2, 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 9.5.3 or 9.5.4, it being understood that by so doing neither party will jeopardize any claim the party may have to be reimbursed as provided in paragraphs 9.5.3 or 9.5.4.

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 proposal closing or bid closing except for *Value Added Taxes* payable by the *Owner* to the *Design-Builder* as stipulated in Article A-4 of the Agreement – CONTRACT PRICE.
- 10.1.2 Any increase or decrease in costs to the *Design-Builder* due to changes in such included taxes and duties after the time of the proposal closing or bid closing shall increase or decrease the *Contract Price* accordingly, and either party may submit a claim in accordance with the requirements of GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE.

GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- 10.2.1 The laws of the *Place of the Work* shall govern the *Design Services* and the *Work*.
- 10.2.2 The *Owner* shall obtain and pay for the permanent easements and rights of servitude.
- 10.2.3 Unless otherwise stated, the *Design-Builder* shall obtain and pay for the building permit and other permits, licences, or certificates necessary for the performance of the *Work* at the time of the proposal closing or bid closing. The *Contract Price* includes the cost of these permits, licences, inspections, and certificates, and their procurement.
- 10.2.4 The *Design-Builder* shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the *Design Services* or the performance of the *Work* and which relate to the *Design Services* or the *Work*, to the preservation of the public health, and to construction safety.
- 10.2.5 The *Design-Builder* shall not be responsible for verifying that the *Owner's Statement of Requirements* is in substantial compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the *Design Services* or the *Work*. If after the time of the proposal closing or bid closing, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the *Contract Documents*, the *Design-Builder* shall advise the *Owner* in writing requesting direction immediately upon such variance or change becoming known. Changes shall be made 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 *Design-Builder* fails to advise the *Owner* in writing and 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 *Design-Builder* 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 proposal closing or bid closing, changes are made to applicable laws, ordinances, rules, regulations, or codes of authorities having jurisdiction which affect the cost of the *Design Services* or 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 *Design-Builder* shall pay the royalties and patent licence fees required for the performance of the *Contract*. The *Design-Builder* shall hold the *Owner* harmless from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Design-Builder's* performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention by the *Design-Builder* or anyone for whose acts the *Design-Builder* may be liable.
- 10.3.2 The *Owner* shall hold the *Design-Builder* harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Design-Builder'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*, the model, plan or design of which was supplied by the *Owner* to the *Design-Builder* as part of the *Contract Documents*.

GC 10.4 WORKERS' COMPENSATION

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

PART 11 INSURANCE AND CONTRACT SECURITY

GC 11.1 INSURANCE

- 11.1.1 Without restricting the generality of GC 12.2 – INDEMNIFICATION, the *Design-Builder* shall provide, maintain and pay for the following insurance coverages, the minimum requirements of which are specified in CCDC 41 – CCDC INSURANCE REQUIREMENTS in effect at the time of proposal closing or bid closing except as hereinafter provided:
- .1 Everywhere used in CCDC 41 – CCDC INSURANCE REQUIREMENTS, the term "*Contractor*" shall be replaced with the term "*Design-Builder*".
 - .2 General liability insurance in the name of the *Design-Builder* and include, or in the case of a single, blanket policy, be endorsed to name, the *Owner*, the *Consultant*, *Other Consultants*, the *Owner's Advisor*, and the *Payment Certifier* as insured but only with respect to liability arising out of the operations of the *Design-Builder* with regard to the *Design Services* or *Work*. All liability coverage shall be provided for completed operations hazards from the date of *Substantial Performance of the Work*, as set out in the certificate of *Substantial Performance of the Work*, on an ongoing basis for a period of 6 years.
 - .3 Automobile Liability Insurance from the date of commencement of the *Design Services* or the *Work* until one year after the date of *Substantial Performance of the Work*.
 - .4 If owned or non-owned aircraft and watercraft are used directly or indirectly in the performance of the *Design Services* or *Work*, Aircraft and Watercraft Liability Insurance from the date of commencement of the *Design Services* or *Work* until one year after the date of *Substantial Performance of the Work*.
 - .5 "All risks" property insurance in the joint names of the *Design-Builder*, the *Owner*, the *Consultant*, the *Owner's Advisor*, and the *Payment Certifier*. The policy shall include as Additional Insureds all *Subcontractors*. Where the full insurable value of the *Work* is substantially less than the *Contract Price*, the *Owner* may reduce the amount of insurance required or waive the insurance requirement. The "all risks" 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*; or
 - (3) when left unattended for more than 30 consecutive calendar days or when construction activity has ceased for more than 30 consecutive calendar days.
 - .6 Boiler and machinery insurance in the joint names of the *Design-Builder* and the *Owner*. 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*.
 - .7 The "all risks" property and boiler and machinery policies shall provide that, in the case of a loss or damage, payment shall be made to the *Owner* and the *Design-Builder* as their respective interests may appear. In the event of loss or damage:
 - (1) the *Design-Builder* shall act on behalf of the *Owner* for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the *Design-Builder* 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 *Design-Builder* shall be entitled to such reasonable extension of *Contract Time* as agreed by the *Owner* and *Design-Builder*;
 - (2) the *Design-Builder* shall be entitled to receive from the *Owner*, in addition to the amount due under the *Contract*, the amount at 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 of the *Contract*. In addition the *Design-Builder* shall be entitled to receive from the payments made by the insurer the amount of the *Design-Builder's* interest in the restoration of the *Work*; and

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- (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, the *Owner* shall pay the *Design-Builder* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as in accordance with the progress payment provisions of the *Contract*.
- .8 *Design-Builders' Equipment Insurance* from the date of commencement of the *Work* until one year after the date of *Substantial Performance of the Work*.
- .9 In addition to the insurance requirements specified in CCDC 41 – CCDC INSURANCE REQUIREMENTS, the *Design-Builder* shall carry professional liability insurance with limits of not less than \$1,000,000 per claim and with an aggregate limit of not less than \$2,000,000 within any policy year, unless specified otherwise in the *Contract Documents*. The policy shall be maintained continuously from the commencement of the *Contract* until 2 years after *Substantial Performance of the Work*.
- 11.1.2 Prior to commencement of the *Design Services* or *Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the *Design-Builder* shall promptly provide the *Owner* with confirmation of coverage and, if required, a true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the *Design Services* or *Work*.
- 11.1.3 The *Design-Builder* shall be responsible for deductible amounts under the policies except where such amounts may be excluded from the *Design-Builder's* responsibility by the terms of GC 9.1 – PROTECTION OF WORK AND PROPERTY and GC 12.2 – INDEMNIFICATION.
- 11.1.4 If the *Design-Builder* 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 of same to the *Design-Builder* and the *Consultant*. The *Design-Builder* 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 *Design-Builder*.
- 11.1.5 All required insurance policies shall be with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Work*.
- 11.1.6 If a revised version of CCDC 41 – CCDC INSURANCE REQUIREMENTS is published, which specifies reduced insurance requirements, the parties shall address such reduction, prior to the *Design-Builder's* insurance policy becoming due for renewal, and record any agreement in a *Change Order*.
- 11.1.7 If a revised version of CCDC 41 – CCDC INSURANCE REQUIREMENTS is published, which specifies increased insurance requirements, the *Owner* may require the increased coverage from the *Design-Builder* by way of a *Change Order*.
- 11.1.8 A *Change Directive* shall not be used to direct a change in the insurance requirements in response to any revision of CCDC 41 – CCDC INSURANCE REQUIREMENTS.

GC 11.2 CONTRACT SECURITY

- 11.2.1 The *Design-Builder* shall, prior to commencement of the *Design Services* or *Work* or within such other time as may be specified in the *Contract Documents*, provide to the *Owner* 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 Work* 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, LIMITATION OF LIABILITY, WAIVER OF CLAIMS, AND WARRANTY

GC 12.1 DEFINITION AND SURVIVAL

- 12.1.1 For the purposes of Part 12 – INDEMNIFICATION, LIMITATION OF LIABILITY, WAIVER OF CLAIMS, AND WARRANTY, “claim” or “claims” shall mean claims, demands, losses, costs, damages, actions, suits or proceedings, whether in contract or tort.
- 12.1.2 Part 12 of the General Conditions – INDEMNIFICATION, LIMITATION OF LIABILITY, WAIVER OF CLAIMS, AND WARRANTY shall survive suspension or termination of the *Contract*.

GC 12.2 INDEMNIFICATION

- 12.2.1 Without restricting the parties' obligations to indemnify one another as described in paragraph 12.2.4 and the Owner's obligation to indemnify as described in paragraph 12.2.5, the *Owner* and the *Design-Builder* shall each indemnify and hold harmless the other from and against all claims, 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) errors, omissions, or negligence of the party from whom indemnification is sought or anyone for whom that party is responsible, or
 - (2) a breach of this *Contract* by the party from whom indemnification is sought; 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 5.4.3 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 Work*.
- The parties expressly waive the right to indemnity for claims other than those provided for in this *Contract*.
- 12.2.2 The obligation of either party to indemnify as set forth in paragraph 12.2.1 shall be limited as follows:
- .1 In respect to losses suffered by the *Owner* and the *Design-Builder* for which insurance is to be provided by either party pursuant to GC 11.1 – INSURANCE, the general liability insurance limit for one occurrence as referred to in CCDC 41 – CCDC INSURANCE REQUIREMENTS in effect at the time of proposal or bid closing.
 - .2 In respect to losses suffered by the *Owner* and the *Design-Builder* 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 of the Agreement – 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 12.2.2.1 and 12.2.2.2 shall apply.
- 12.2.3 The obligation of either party to indemnify the other as set forth in paragraphs 12.2.1 and 12.2.2 shall be inclusive of interest and all legal costs.
- 12.2.4 The *Owner* and the *Design-Builder* shall indemnify and hold harmless the other from and against all claims arising out of their obligations described in GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS.
- 12.2.5 The *Owner* shall indemnify and hold harmless the *Design-Builder* from and against all claims:
- .1 as described in paragraph 10.3.2 of GC 10.3 – PATENT FEES, and
 - .2 arising out of the *Design-Builder's* performance of the *Contract* which are attributable to a lack of or defect in title or an alleged lack of or defect in title to the *Place of the Work*.
- 12.2.6 In respect to any claim for indemnity or to be held harmless by the *Owner* or the *Design-Builder*:
- .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; and
 - .2 should any party be required as a result of its obligation to indemnify another to 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 12.3 LIMITATION OF LIABILITY FOR DESIGN SERVICES

- 12.3.1 Notwithstanding any other provisions of this *Contract*, the *Design-Builder's* liability for claims which the *Owner* may have against the *Design-Builder*, including the *Design-Builder's* officers, directors, employees and representatives, that arise out of, or are related to, the *Design Services*, shall be limited:
- .1 to claims arising from errors, omissions, or negligent performance of the *Design Services* by the *Consultant* or *Other Consultant* and
 - .2 where claims are covered by insurance the *Design-Builder* is obligated to carry pursuant to GC 11.1 – INSURANCE, to the amount of such insurance.

Note: This contract is protected by copyright. Use of a CCDC 14 document not containing a CCDC 14 copyright seal constitutes an infringement of copyright. Only sign this contract if the document cover page bears a CCDC 14 copyright seal to demonstrate that it is intended by the parties to be an accurate and unamended version of CCDC 14 – 2013 except to the extent that any alterations, additions or modifications are set forth in supplementary conditions.

GC 12.4 WAIVER OF CLAIMS

- 12.4.1 Subject to any lien legislation applicable at the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Design-Builder* waives and releases the *Owner* from all claims which the *Design-Builder* has or reasonably ought to have knowledge of that could be advanced by the *Design-Builder* against the *Owner* arising from the *Design-Builder's* involvement in the *Design Services* or *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 *Design-Builder* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;
 - .2 indemnification for claims advanced against the *Design-Builder* by third parties for which a right of indemnification may be asserted by the *Design-Builder* against the *Owner* pursuant to the provisions of this *Contract*;
 - .3 claims for which a right of indemnity could be asserted by the *Design-Builder* pursuant to the provisions of paragraphs 12.2.4 or 12.2.5 of GC 12.2 – INDEMNIFICATION; and
 - .4 claims resulting from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.4.2 The *Design-Builder* waives and releases the *Owner* from all claims referenced in paragraph 12.4.1.4 except for those referred in paragraphs 12.4.1.2 and 12.4.1.3 and claims for which *Notice in Writing* of claim has been received by the *Owner* from the *Design-Builder* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.4.3 Subject to any lien legislation applicable at the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Owner* waives and releases the *Design-Builder* from all claims which the *Owner* has or reasonably ought to have knowledge of that could be advanced by the *Owner* against the *Design-Builder* arising from the *Owner's* involvement in the *Design Services* or *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 *Design-Builder* from the *Owner* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;
 - .2 indemnification for claims advanced against the *Owner* by third parties for which a right of indemnification may be asserted by the *Owner* against the *Design-Builder* pursuant to the provisions of this *Contract*;
 - .3 claims for which a right of indemnity could be asserted by the *Owner* against the *Design-Builder* pursuant to the provisions of paragraph 12.2.4 of GC 12.2 – INDEMNIFICATION;
 - .4 damages arising from the *Design-Builder'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 12.5 – WARRANTY; and
 - .6 claims arising from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.4.4 The *Owner* waives and releases the *Design-Builder* from all claims referred to in paragraph 12.4.3.4 except claims for which *Notice in Writing* of claim has been received by the *Design-Builder* from the *Owner* within a period of six years from the date of *Substantial Performance of the Work* should any limitation statute of the Province or Territory of the *Place of the Work* permit such agreement. If the applicable limitation statute does not permit such agreement, within such shorter period as may be prescribed by:
- .1 any limitation statute of the Province or Territory of the *Place of the Work*; or
 - .2 if the *Place of the Work* is the Province of Quebec, then Article 2118 of the Civil Code of Quebec.
- 12.4.5 The *Owner* waives and releases the *Design-Builder* from all claims referenced in paragraph 12.4.3.6 except for those referred in paragraph 12.4.3.2, 12.4.3.3 and those arising under GC 12.5 – WARRANTY and claims for which *Notice in Writing* has been received by the *Design-Builder* from the *Owner* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.4.6 "Notice in Writing of claim" as provided for in GC 12.4 – WAIVER OF CLAIMS to preserve a claim or right of action which would otherwise, by the provisions of GC 12.4 – 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.
- 12.4.7 The party giving "*Notice in Writing* of claim" as provided for in GC 12.4 – WAIVER OF CLAIMS shall submit within a reasonable time a detailed account of the amount claimed.
- 12.4.8 Where the event or series of events giving rise to a claim made under paragraphs 12.4.1 or 12.4.3 has a continuing effect, the detailed account submitted under paragraph 12.4.7 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.
- 12.4.9 If a *Notice in Writing* of claim pursuant to paragraph 12.4.1.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim is received pursuant to paragraph 12.4.3.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.
- 12.4.10 If a *Notice in Writing* of claim pursuant to paragraph 12.4.3.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim is received pursuant to paragraph 12.4.1.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.

GC 12.5 WARRANTY

- 12.5.1 Except for extended warranties as described in paragraph 12.5.6, the warranty period under the *Contract* is one year from the date of *Substantial Performance of the Work*.
- 12.5.2 The *Design-Builder* warrants that the *Work* is in accordance with the *Contract Documents*.
- 12.5.3 The *Owner* shall promptly give the *Design-Builder* *Notice in Writing* of observed defects and deficiencies which occur during the one year warranty period.
- 12.5.4 The *Design-Builder* shall promptly correct, at the *Design-Builder's* expense, any work which is not in accordance with the *Contract Documents* or defects or deficiencies in the *Work* which appear at any time until the end of the warranty periods specified in the *Contract Documents*.
- 12.5.5 The *Design-Builder* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.5.4.
- 12.5.6 Any extended warranties required beyond the one year warranty period as described in paragraph 12.5.1, shall be as specified in the *Contract Documents*. Extended warranties shall be issued by the warrantor for the benefit of the *Owner*. The *Design-Builder'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.
- 12.5.7 The *Design-Builder* does not warrant against the effects of corrosion, erosion or wear and tear of any *Product* or failure of any *Product* due to faulty operations or maintenance by the *Owner* or conditions of operation more severe than those specified for the *Product*.
- 12.5.8 The warranties specified in GC 12.5 – WARRANTY or elsewhere in the *Contract Documents* are the only warranties of the *Design-Builder* applicable to the *Work* and no other warranties, statutory or otherwise, are implied.

BRITISH COLUMBIA HOUSING MANAGEMENT COMMISSION

SUPPLEMENTARY GENERAL CONDITIONS OF THE STIPULATED PRICE CONTRACT

CCDC14 - 2013

DESIGN-BUILD AGREEMENT

(Owner Procured Land)

(March 2019 Version)

The Agreement is amended as follows:

Add:

"ARTICLE A - 1A CONDITION PRECEDENT

It is a condition precedent to the *Owner's* obligation to fulfill the terms and conditions of this *Contract*, but not to there being a binding agreement between the *Owner* and the *Design-Builder*, that BC Housing has issued a Loan Commitment for the *Project*. The *Owner* will provide to the *Design-Builder* a letter confirming that the Loan Commitment for the *Project* has been issued."

ARTICLE A-1 DESIGN SERVICES AND THE WORK

Add:

- "1.4 The *Design-Builder* shall properly design and fully construct the *Work* in accordance with BC Housing requirements, the requirements of all federal, provincial and local government authorities having jurisdiction and the rules and customs of best trade practice (meaning practice of the industry and not necessarily "local practice") with the object of constructing modestly priced housing. Without limiting the generality of the foregoing, the *Work* shall include;
- .1 the provision of all professional design and engineering services necessary to properly prepare fully detailed and professionally sealed plans and specifications which meet, as determined by BC Housing, the requirements of the applicable *BC Housing Design and Construction Standards*;
 - .2 inspection during and upon completion of construction by the *Consultant* to ensure conformance of the *Work* to the *Contract Documents*; and
 - .3 all necessary approvals, licences, permits, charges and certificates including the building permit for the *Work*.

- 1.5 The *Design-Builder* shall at all times be fully responsible to the *Owner* for any errors, omissions, or deficiencies in the *Contract Documents*, including any revisions and addenda thereto and shall be fully liable for all direct, consequential and additional costs incurred by the *Owner* as a direct or indirect result of such errors, omissions or deficiencies.
- 1.6 At least 7 calendar days prior to the commencement of construction, the *Design-Builder* shall deliver to the *Owner* all of the following:
- .1 Proof of all necessary permits, licences, certificates and other authorizations required by all municipal, provincial or federal authorities, for the *Work* and proof of payment of all applicable fees;
 - .2 Certified copies of all insurance policies required by this *Contract*;
 - .3 The performance and labour and material payment bonds required by this *Contract*;
 - .4 A construction schedule satisfactory to the *Owner* as required by paragraph 3.6.1 of the Supplementary Conditions of the *Contract* including, in a graphic form, the proposed dates of commencement and completion of each of the various subdivisions of the *Work*, and corresponding to the breakdown of work shown on the schedule of values, as required by paragraph 5.2.4 of the *Contract* so as to facilitate evaluation of applications for payment;
 - .5 A schedule of values of the various parts of the *Work* as required by paragraph 5.2.4 of the *Contract*;
 - .6 A schedule of anticipated monthly progress payments as required by paragraph 5.2.5 of the Supplementary Conditions of the *Contract*;
 - .7 Proof that the *Design-Builder* has obtained Workers' Compensation Board registration and clearance;
 - .8 Proof that the *Design-Builder* is in compliance with all applicable Licensing & Consumer Services regulations and requirements, including the following:
 - (1) proof that the *Design-Builder* has a residential builder licence (provide licence number and expiry date);
 - .9 A statutory declaration pursuant to BC Housing's Conflict of Interest Guidelines.
- 1.7 The *Design-Builder* will give to the *Owner* a minimum of forty-five (45) calendar days' written notice that the *Design-Builder* will meet the date set in Article A-1 for *Substantial Performance of the Work*.
- 1.8 The *Owner* supports the provision of opportunities for work experience and training in the construction industry for entry level workers to trade apprentices. The Contractor's work force is required, where such programs exist, to include individuals placed through

agencies such as Bladerunners, Tradeworks and Embers that provide ongoing training and support to persons with barriers to employment. Individual placed through these programs will be considered employees of the Contractor Subcontractor. If no applicable program(s) exist within the geographic area of the Work the Contractor may seek a waiver from the *Owner*. The *Owner*, at its discretion, may require the Contractor or Subcontractor to provide sufficient evidence of the involvement of these employees in the Work.

- 1.9 The *Owner* is committed to reducing waste in all aspects of business. As such, construction and demolition (C&D) waste management targets have been set out in the BC Housing *livegreen* plan and BC Housing's Design Guidelines and Construction Standards, and shall be tracked and reported. The minimum targets for C&D waste diversion from landfill in the Lower Mainland and on Vancouver Island projects is 80%, and 60% for projects elsewhere in the province. The Design-Builder shall submit the Waste Management Plan before signing the construction contract and is responsible for tracking waste diversion rates throughout the construction project and submission of the completed Waste Management Reporting Form. Refer to BC Housing's Design Guidelines and Construction Standards.

ARTICLE A-3 CONTRACT DOCUMENTS

- 3.1 Add the following:

"BC Housing Supplementary General Conditions of the Stipulated Price Contract CCDC 14-2013 Design- Build Agreement Owner Procured Land. Applicable BC Housing Design Guidelines and Construction Standards, as agreed upon between the *Owner* and BC Housing.

Add:

- "3.2: The *Design-Builder* acknowledges that it has reviewed and satisfied itself as to the *Contract Documents*, including without limitation, the plans, specifications, consultant reports, and other materials referred to in this Article, the observable site conditions, and all other materials it desires, prior to execution of this *Contract*. The *Design-Builder* agrees that, on execution of this *Contract*, the *Design-Builder* will assume full responsibility for completion of the *Project*, notwithstanding any defect or deficiency or incompleteness in any of the foregoing, it being acknowledged that, since this is intended to be a turnkey contract, the *Design-Builder* is taking the risk of any defects, deficiencies or incompleteness in any of the foregoing."

ARTICLE A-4 CONTRACT PRICE

Add:

- "4.6 The *Contract Price* includes all costs of the *Work*, including, without limitation, all costs incurred in the design and construction of the *Work*, whether foreseen or unforeseen, save and except for those costs which are the responsibility of the *Owner* as specifically set out in this *Contract*, and the *Contract Price* shall include, without limitation:

- .1 all professional design, engineering and construction services and products reasonably necessary to properly perform the *Work* and to permit the *Project* to operate as contemplated following *Substantial Performance of the Work*;
- .2 all labour and materials;
- .3 all permits, fees, licences and certificates of inspection and insurance in connection with the *Work* required by all authorities having jurisdiction including residential builder licensing fees, the building permit, the plumbing, electrical, sewer, water, and gas connections permits, and the gas, electricity and telephone service connection fees;
- .4 all inspections required for specific warranty conditions;
- .5 all inspections by all authorities having jurisdiction;
- .6 all material testing required under bylaws, ordinances, rules, regulations, orders and approvals of all public authorities having jurisdiction;
- .7 an updated survey of the Place of the Work prepared by a British Columbia Land Surveyor confirming the exact area of the property, the location of all registered easements or statutory rights of way, and confirming that the position of the buildings, including foundations and overhangs, building heights and finish grades comply with all municipal requirements;
- .8 all required soils reports;
- .9 a *Project* sign mutually agreed to between the *Owner* and the *Design-Builder*;
- .10 all warranties required under the Contract;
- .11 all bonds required under the Contract;
- .12 all insurance required under the Contract;
- .13 the construction or installation of all off site services or payments in lieu thereof as may be required by all authorities having jurisdiction to be constructed or installed as a condition of the construction of the *Project*;
- .14 two (2) complete sets of white prints and CAD file of all as built drawings for the *Project*; and
- .15 all requirements of any subdivision, site plan, development or other agreement with the municipality.

ARTICLE A-5 PAYMENT

In paragraph 5.1, line 3, after the words "the *Owner*" add:

", after receiving the prior written approval of *BC Housing*,".

Add:

"ARTICLE A-9 THE CONSULTANT

- 9.1 The *Design-Builder* will provide the architectural and engineering services required for the *Project* through the *Consultant* and the *Sub-Consultants*. The *Consultant* and *Sub-Consultants* will be:

<i>Consultant/Sub-Consultant</i>	Full Legal Name
<i>Consultant</i>	
Architect (if not the <i>Consultant</i>)	
Certified Professional	
Electrical Engineer	
Mechanical Engineer	
Structural Engineer	
Geotechnical Engineer	
Landscaping Consultant	
Civil Engineer	
Surveyor	
Construction & Project Manager	
Management Consulting Professional	

The *Design-Builder* shall not change any *Sub-Consultant* without cause and without the written consent of the *Owner*, which consent will not be unreasonably withheld. The *Consultant* shall not be changed excepted in accordance with paragraph 2.1.3 of GC 2.1.

The *Design-Builder* will ensure that the *Consultant* and all *Sub-Consultants* will sign an agreement and acknowledgement with the *Owner* in which such party:

- .1 agrees that, without regard to payment by the *Design-Builder*, the *Owner*, its successors and assigns, will have a licence to use the *Contract Documents* for the purposes of the *Project* and such party will act in an even handed fashion in the administration of the *Contract*; and
- .2 consents to an assignment to the *Owner* of the agreement between it and the *Design-Builder* effective on any default under this *Contract* by the *Design-Builder*, provided however that such party will not be obligated to provide services thereunder unless and until all payments then due thereunder are made in full, and the form of such agreement will be subject to the approval of both the *Owner* and *BC Housing*. Notwithstanding such agreements, acknowledgements and assignments, the *Design-Builder* will remain fully liable for defects or deficiencies in the *Work*, even if the parties to such agreements and acknowledgements are also liable.

ARTICLE A-10 LATE COMPLETION

10.1 If *Substantial Performance of the Work* is not certified on or before the date that *Substantial Performance of the Work* is to be certified as set out in paragraph 1.3 of Article A-1 THE WORK or as subsequently extended pursuant to GC6.5 DELAYS (the "*Scheduled Substantial Performance Date*"), the *Design-Builder* shall pay to the *Owner* an amount equal to all direct costs and damages incurred by the *Owner* as a result of the failure of the *Design-Builder* to attain *Substantial Performance of the Work* by the *Scheduled Substantial Performance Date*, where the costs and damages are a direct result of a default by the *Design-Builder*. The direct costs and damages suffered by the *Owner* are understood by the *Design-Builder* to include, without limitation:

- .1 The interest costs incurred by the *Owner* under its mortgage to finance the construction of the *Project* for each day from and including the *Scheduled Substantial Performance Date* until *Substantial Performance of the Work* is certified pursuant to GC5.4 SUBSTANTIAL PERFORMANCE OF THE WORK;
- .3 Temporary housing costs incurred by, or by the *Owner* on behalf of, the tenants of the *Owner*; and
- .4 Transportation and storage costs incurred by, or by the *Owner* on behalf of, such tenants due to the unavailability for occupancy of the housing units.

10.2 Notwithstanding anything to the contrary contained in this *Contract*, the *Owner* shall have the right to set off against any amount owing by the *Owner* to the *Design-Builder* pursuant to this *Contract* any and all such costs and damages due to the *Owner* by the *Design-Builder* pursuant to paragraph 10.1 of this Article A-10 LATE COMPLETION.

ARTICLE A-11 TIME OF THE ESSENCE

11.1 All time limits stated in this *Contract* are of the essence of the *Contract*."

DEFINITIONS

20 **Substantial Performance of the Work**

Delete and replace with the following:

"Substantial Performance of the Work shall have been reached when:

- .1 the *Work* is ready for use or is being used for the purpose intended and is so certified by the Consultant; and
- .2 a Certificate of Completion has been issued for the *Work* as a whole."

Other Consultant

Delete and replace with the following:

"Other-Consultant" means the person(s) or entity (entities) retained by the Design-Builder and identified as such in the Agreement. Other Consultant may be an architect, engineer or entity licensed to practice in British Columbia. The term Other Consultant means an Other Consultant or an Other Consultant's authorized representative.

Add:

"27. **BC Housing**

BC Housing means the British Columbia Housing Management Commission and its authorized agents or representatives.

28. **Builders Lien Act**

Builders Lien Act means the *Builders Lien Act*, S.B.C. 1997, c.45, as amended, and all regulations thereto, and any successor legislation in the Province of British Columbia in relation to builders liens.

29. **Certificate of Completion**

A Certificate of Completion is a certificate of completion as defined in the Builders Lien Act issued by the Payment Certifier."

GENERAL CONDITIONS

PART 1 GENERAL PROVISIONS GC1.1

CONTRACT DOCUMENTS

1.1.6.1 Delete and Replace with the following:

- .1 the order of priority of documents, from highest to lowest, shall be:
 - Supplementary Conditions (if any),
 - the Agreement between the *Owner* and the *Design Builder*,
 - the Definitions,
 - the General Conditions,
 - the *Construction Documents*
 - the *Owner's Statement of Requirements*,
 - the *Construction Documents*.

Add:

1.1.11 "The *Design-Builder* will provide to the *Owner*, without charge, sufficient copies of the *Contract Documents* to allow the *Owner* to monitor the *Work*."

Add:

1.1.12 "The *Owner* and its successors and assigns may use the *Contract Documents* for additions or alterations to the *Project*, without obtaining any consent or permission or making any payment. The *Design-Builder* warrants that it has and shall obtain any and all waivers, assignments and approvals needed to confer this perpetual right and license."

GC1.3 RIGHTS AND REMEDIES

Add:

"1.3.3 No inspection, review, approval, consent or any other act or omission on the part of the *Owner* or the *Payment Certifier* shall relieve the *Design-Builder* of any obligations under the *Contract* to complete the *Work* strictly in conformance with all applicable plans and specifications."

GC1.4 ASSIGNMENT

Add:

"1.4.2 Notwithstanding paragraph 1.4.1, the *Owner* may assign its interest in the *Contract* and any of its rights and remedies available at law to *BC Housing* at any time without the consent of the *Design-Builder* and, upon receipt of written notice as to the effective date thereof from *BC Housing*, the *Design-Builder* shall thereafter be bound thereunder to *BC Housing* for the performance of the *Design-Builder's* covenants and warranties."

PART 2 OWNERS RESPONSIBILITIES

GC2.4 ROLE OF THE PAYMENT CERTIFIER

Add:

- "2.4.10 "The *Payment Certifier* will conduct reviews of the *Work* from time to time and, based upon such reviews will determine the date of *Substantial Performance of the Work*, issue *Certificates of Completion* for all or designated portions of the *Work* and identify and estimate values for deficient and incomplete items of work as provided in GC5.4 SUBSTANTIAL PERFORMANCE OF THE WORK, GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK, GC5.6 PROGRESSIVE RELEASE OF HOLDBACK and GC5.7 FINAL PAYMENT."

GC2.6 WORK BY OWNER OR OTHER CONTRACTORS

Delete 2.6.2.2

Add:

- "2.6.3.4 take all reasonable precautions to avoid labour disputes or other disputes on the *Project* arising from the work of other contractors."
- "
- "2.6.3.5 as it applies to applicable health and construction safety legislation at the *Place of the Work* the *Design-Builder* shall assume overall responsibility and be designated as the "*Prime contractor*" in accordance with GC 9.4 Construction Safety."

Add:

- "2.6.3.6 If the *Design-Builder* has caused damage to the work of another contractor on the *Project*, the *Design-Builder* agrees to settle the matter with the other contractor by negotiation or arbitration. If the other contractor makes a claim against the *Owner* on account of damage alleged to have been so sustained, the *Owner* shall notify the *Design-Builder* and may require the *Design-Builder* to defend the action at the *Design-Builder's* expense. The *Design-Builder* shall satisfy a final order or judgment against the *Owner* and pay the costs incurred by the *Owner* arising from such action. Paragraph 12.2.6.2 of GC 12.1 INDEMNIFICATION shall apply."

PART 3 DESIGN-BUILDER'S RESPONSIBILITIES

GC3.1 CONTROL OF THE WORK

Add to the end of 3.1.1:

The *Design-Builder* warrants and represents that it possesses and will provide and apply all the skill, expertise and experience normally provided in the performance of professional design and construction services and reasonably required to complete the *Work* and ensure that the *Work* is performed in a good, proper and workmanlike manner. If, in the opinion of

the *Consultant* or the *Owner*, the *Design-Builder* makes use of methods or appliances which will not permit the proper execution of the *Work* or employs inefficient or insufficient labour which will not permit the proper execution of the *Work* within the *Contract Time*, the *Consultant* or the *Owner* may notify the *Design-Builder* to improve its construction methods whereupon the *Design-Builder* will comply without delay with such notification and will not be entitled to claim additional compensation or extension of the *Contract Time* as a result of such improvement in construction methods. If the *Design-Builder* refuses or neglects to comply with such notification within 5 *Working Days* of receipt of the notification, such refusal or neglect will be deemed to be a default by the *Design-Builder* with respect to its contractual obligations under the *Contract*. If the *Owner* acting reasonably approves or suggests any construction means, methods, techniques, sequences or procedures, it will be considered to mean only that no objection is taken thereto by the *Owner* and the adoption thereof, in whole or part, by the *Design Builder* shall be at the full risk and responsibility of the *Design Builder*."

GC3.3 ROLE OF THE CONSULTANT

3.3.3 Delete and replace with the following:

"If the employment of the *Consultant* is terminated, the *Design-Builder* will forthwith appoint a replacement for the *Consultant* following such termination or resignation, provided that the *Owner* and *BC Housing* first consent in writing to the replacement, which consent will not be unreasonably withheld or delayed."

Add:

3.3.4 "The *Consultant*'s duties and responsibilities will include, without limitation:

- .1 The coordination required to integrate all parts of the design of the *Work*;
- .2 The provision of assistance to the *Design-Builder* to obtain approvals, permits, and licenses for the construction of the *Work*;
- .3 The conducting of general review of the progress of the construction, to the extent necessary, in order to determine to the *Consultant*'s satisfaction that the construction of the *Work* is performed in compliance with the requirements of:
 - (1) the *Contract Documents*; and
 - (2) the applicable statutes, regulations, codes, and bylaws of all authorities having jurisdiction over the *Work*;
- .4 The assurances required to regulatory authorities respecting substantial conformance of the design with the applicable building regulations, excluding construction safety issues;

- .5 The reviewing of any defects or deficiencies in the *Work* during the period described in GC 12.5 - WARRANTY and the issuance of appropriate instructions for the correcting of same; and
- .6 Such other work that may be required from time to time that is agreed to by the *Design-Builder*, the *Consultant*, and the *Owner* in writing."

3.3.5 Add:

"The *Consultant* will deliver a copy of any *Supplemental Instructions* to the *Owner* at the same time as they are delivered to the *Design-Builder* and such *Supplemental Instructions* will not be effective until confirmed by the *Owner* if they are:

- .1 Inconsistent with Items in the Contract Documents; or
- .2 Material or substantial."

GC3.4 OTHER CONSULTANTS, SUBCONTRACTORS AND SUPPLIERS

3.4.1.4 Add:

"and shall take all reasonable steps to ensure that *Subcontractors* pay for their labour, products, tools, construction machinery and equipment, water, heat, light, power, transportation and other facilities and services necessary for the performance of the *Work* in accordance with the *Contract*."

3.4.2 Delete and replace with the following:

"Subject to paragraph 3.4.3, the *Design-Builder* agrees to employ only those *Subcontractors* proposed in writing, including the *Design-Builder's* own forces, if any, and accepted by the *Owner* with the acceptance of the tender or on entering into this *Contract*. The *Design-Builder* shall not change any *Subcontractor* without cause and without the written consent of the *Owner*, which consent will not be unreasonably withheld."

GC3.8 LABOUR AND PRODUCTS

3.8.1 Add:

"The *Design-Builder* agrees, with respect to the employment of all persons in the performance of the *Work*, including employment of *Subcontractors* and of persons employed by *Subcontractors*, to perform any and all obligations imposed upon employers under any employment insurance, pension, income tax and other similar and applicable Federal or Provincial laws now or hereafter in force, including the payment or deduction and remittance of any and all contributions, taxes, fees or charges under such laws and the *Design-Builder* agrees fully to comply with and to make all returns required by any and

all such laws and agrees to indemnify the *Owner* against all cost, loss, liability, obligation and lien which the *Owner* may sustain or incur by reason of the failure of the *Design-Builder*, or any *Subcontractor*, to perform any of the aforesaid obligations. The *Design-Builder* agrees immediately to qualify, and will require all of its *Subcontractors* to qualify, and remain qualified throughout the term of this *Contract*, as an employer or employers under any and all such laws."

3.8.3 Add: "The *Design-Builder* shall take all reasonable precautions to avoid labour disputes."

Add:

"3.8.4 A *Product*, construction method or system singly named is considered exclusive and its use is mandatory, unless an equal is approved in advance by the *Owner*. Where plurally named, each named *Product*, construction method or system is approved for use under the *Contract Documents* and the choice rests with the *Design-Builder*.

3.8.5 All *Products* shall be used strictly according to manufacturers' printed directions or recommendations unless specifically stated otherwise in the specifications. All *Products* shall be properly packed for delivery, must be delivered in their original containers, crates or wrappings, etc. as applicable and must be clearly identified with manufacturers' name and address, product type and name. All *Products* shall be stored as recommended by the manufacturer and kept dry at the recommended temperature where applicable. Any damaged *Products* shall be rejected and the *Design-Builder* shall remove such *Products* from the *Place of the Work* at the *Design-Builder's* own expense.

3.8.6 The *Design-Builder* shall provide to the *Owner* at least 2 weeks prior to the *Design-Builder's* deadline for choices, or such earlier time as is agreed between the *Owner* and the *Design-Builder*, for approval by the *Owner* such manufacturer's standard samples as the *Consultant* may reasonably require. Samples shall be labelled as to origin and intended use in the *Work* and shall conform to the requirements of the *Contract Documents*.

GC3.12 USE OF THE WORK

Add:

"3.12.1 The *Owner* reserves the right to take possession of and use any completed or partially completed portion of the *Work*, regardless of the date of *Substantial Performance of the Work*, providing it does not interfere with the *Design-Builder's* work. Such taking of possession or use of the *Work* or part thereof shall not be construed as *Substantial Performance of the Work* or an acknowledgement of fulfilment of the *Contract*.

3.12.2 The *Design-Builder* shall not use any service, plant or equipment installed as part of the *Work* without first receiving the written approval of the *Consultant* and the *Owner*. On receipt of such approval, the *Design-Builder* shall be subject to any conditions set out as part of such approval and shall be responsible for all costs including damage and compensation for wear."

PART 5 PAYMENT

GC5.2 APPLICATIONS FOR PROGRESS PAYMENT

5.2.3 In line 2, delete: "and *Products* delivered to the *Place of the Work*".

At the end thereof, add:

"No claim will be made by the *Design-Builder*, and no payment will be made by the *Owner*, for *Products* fabricated for the *Project* but stored off-site, or for *Products* delivered to the *Place of the Work* but not incorporated into the *Project* unless in the opinion of the *Payment Certifier* the *Products* will be installed within 30 calendar days of delivery, or as otherwise agreed to in writing by the *Owner*."

5.2.5 Add:

"The schedule of values shall be prepared in such a manner that each major item of work and each subcontracted item of work is shown as a separate line item and, in the case of each subcontract, shall accurately represent the subcontract price, and the *Consultant* and the *Owner* shall be entitled to rely on same. Separate amounts shall be shown for initial start up, continuing expenses and *Project* closeout. A schedule stating the anticipated monthly progress payments shall be submitted with the schedule of values."

Add:

5.2.9 Before any payment is made by the *Owner* to the *Design-Builder*, the *Payment Certifier* or the *Owner* may, by written notice, require that the *Design-Builder* furnish such further detailed information as the *Payment Certifier* or the *Owner* may determine is necessary to establish compliance by the *Design-Builder* with the *Contract Documents*.

5.2.10 Notwithstanding any application for payment or claim by the *Design-Builder*, the *Owner* will not be obligated to pay the *Design-Builder* an amount greater than that approved by *BC Housing*.

5.2.11 Every application for payment shall identify the *Value Added Taxes* payable by the *Owner* to the *Design-Builder* as a separate entry."

GC5.3 PROGRESS PAYMENT

5.3.1 Delete and replace with the following:

"No certificate for payment will be issued for any of the *Work* and no payment shall be approved, authorized or made unless the *Design-Builder* has provided all documents as required to be provided at that time under this *Contract*. After the receipt of a complete application for payment from the *Design-Builder* submitted in accordance with GC5.2 APPLICATIONS FOR PROGRESS PAYMENT, the *Payment Certifier* will issue to the *Owner* a certificate for payment in the amount applied for or in such other amount as the *Payment*

Certifier determines to be properly due, provided that if the *Payment Certifier* amends the application, the *Payment Certifier* will promptly notify the *Design-Builder* in writing giving reasons for the amendment."

Add:

- "5.3.2 "Subject to the *Owner* receiving the written approval of *BC Housing*, the *Owner* shall make payment of 90% of the amount as determined by the *Payment Certifier* to be due to the *Design-Builder* on account in accordance with the provisions of Article A-5 PAYMENT no later than 20 calendar days after the certificate for payment has been issued, provided that the *Owner*, at its sole and absolute discretion, may retain out of such payment the amount of any outstanding liens or claims or any other indebtedness which may have been incurred by the *Design-Builder* in performing the *Work* and for which the *Owner* may in any way be held responsible. "Other indebtedness" means only such debts incurred by the *Design-Builder* to persons in privity of contract with the *Design-Builder*, debts arising out of statutory requirements and, in the case of the *Design-Builder's* workers, any debts arising out of collective bargaining agreements, legislation applying to workers compensation, employment insurance and minimum wage standards where applicable. Upon request by the *Owner*, the *Design-Builder* shall forthwith provide a full accounting as to the disbursement of all monies paid by the *Owner* to the *Design-Builder*, including a complete list of all persons to whom monies remain due and the amounts due."

Add:

- 5.3.3 The *Design-Builder* is required to submit the Waste Management Reporting Form at the following stages in order for the *Owner* or *Payment Certifier* to issue the certificate for payment:
- .1 Completion of demolition (if applicable);
 - .2 50% construction progress claims; and
 - .3 Substantial completion.

GC 5.4 SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.4.1 Delete "permitted by the lien legislation applicable to the *Place of the Work*" on the first two lines.

Add at the end of paragraph 5.4.1:

"The *Design-Builder* shall submit the following documents with its request for *Substantial Performance* review by the *Consultant*. These requirements do not limit the *Design-Builder's Substantial Performance* obligations noted elsewhere in the *Contract*. A deficiency holdback will be retained for the estimated value of correcting or supplying the following items until they are all submitted, reviewed and accepted by the *Payment Certifier*:

- .1 The list of all deficient and incomplete items of work including the estimated value of each item;
- .2 Complete reports including a balancing report for the mechanical system and certification by all testing, cleaning or inspection authorities or associations as specified in the *Contract Documents*;
- .3 A complete demonstration of all mechanical and electrical systems and electrically operated devices to the *Owner's* operating and maintenance staff and any training required by the specifications, to the *Owner's* satisfaction;
- .4 All maintenance manuals, operating instructions, maintenance and operating tools, replacement parts or materials and warranties as specified in the *Contract Documents*;
- .5 A complete set of marked up construction drawings and other data in the form specified in the *Contract Documents*, or as required by the *Consultant*, for the production of as built drawings to show all significant *Changes to the Work* made during construction;
- .6 Current certification by the Workers Compensation Board that the *Design-Builder* and all *Subcontractors* are in good standing;
- .7 A statement that all claims and demands for extra work or otherwise, under or in connection with the *Contract*, have been presented to the *Payment Certifier* and that the *Design-Builder* expressly releases the *Owner* from all claims and demands except those made in writing prior to that date and still unsettled;
- .8 A statutory declaration in accordance with paragraph 5.2.8 of the Supplementary Conditions of the *Contract*;
- .9 A survey of the *Place of the Work* prepared by a British Columbia Land Surveyor confirming the exact area of the property and the lot and side yard dimensions and confirming that the position of the buildings, the side, front and back yard setbacks, building heights and finish grades comply with all municipal requirements;
- .10 All keys required for the entire Project; and
- .11 The completed Waste Management Reporting Form that includes all waste generated from the Work by type and weight. A whole building demolition prior to construction of the new development is considered as a separate project for the purpose of C&D waste management deficiency holdback. The Design-Builder shall submit a separate Waste Management Reporting Form for whole building demolition and new development in those instances.

5.4.3 Delete and replace with the following:

"Upon receipt of the *Design-Builder's* request for issuance of a *Certificate of Completion* for all or a designated portion of the *Work*, the *Payment Certifier* will forthwith review the *Work* to verify the validity of the request and, no later than 10 calendar days after the date of the request, will notify the *Design-Builder* and the *Owner* whether the *Work*, or the designated portion of the *Work*, is substantially performed by delivery of the applicable *Certificate of Completion*, together with verification of the holdback amount to be released pursuant to the *Builders Lien Act* with respect to any subcontract. With respect to a request from the *Design-Builder* for a review by the *Payment Certifier* for issuance of the *Certificate of Completion* for the *Work* in its entirety, the *Payment Certifier* will, in addition to making an inspection and assessment of the *Work* to verify the validity of the request, establish a list of all deficient and incomplete items of work as confirmed or provided by the *Consultant*, including an estimated value for each item, subject to the approval of such value by the *Owner* and *BC Housing*. The *Design-Builder* shall be responsible for all additional costs incurred by the *Owner* for inspection of the *Work* prior to the *Design-Builder* meeting all requirements set out in paragraph 5.4.1, and such costs shall be deducted from the monies due to the *Design-Builder* upon *Substantial Performance of the Work*. This shall not in any way be construed as limiting the applicant of the *Builders Lien Act*.

5.4.5 Delete and replace with the following:

"Immediately following the issuance of the *Certificate of Completion* for the *Work*, the *Design-Builder*, in consultation with the *Consultant* and the *Owner*, will establish a reasonable date for finishing the *Work*."

Add:

"5.4.6 No later than 30 calendar days following issuance of the *Certificate of Completion* for the *Work*, the *Design-Builder* shall provide to the *Owner* all service contracts, manufacturer's inspections, certifications, guarantees and warranties and assignments of all guarantees and warranties as specified in the *Contract Documents*.

5.4.7 No later than 30 calendar days following issuance of the *Certificate of Completion* for the *Work*, the *Owner* shall pay to the *Design-Builder* the balance of the *Contract Price* less:

- .1 Any holdback monies as required by the *Builders Lien Act* to be released in accordance with GC5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK;
- .2 The aggregate amount, if any, determined pursuant to paragraph 5.4.3 multiplied by two; and
- .3 The amount, if any, determined pursuant to GC5.8 DEFERRED WORK.

and until all of the deficient and incomplete work for which amounts are withheld pursuant to subparagraphs .2 and .3 of this paragraph 5.4.7 are rectified and completed to the satisfaction of all of the *Consultant*, the *Owner* and *BC Housing*, the *Owner* may

withhold the full amounts set out in subparagraphs .2 and .3 of this paragraph 5.4.7 respectively.

- 5.4.8 The *Design-Builder* shall complete the deficient and incomplete work speedily and at the discretion and convenience of the *Owner*. Acceptance of the *Work* or occupancy of the *Project* or any portion thereof by the *Owner*, the *Payment Certifier* or *BC Housing* shall not relieve the *Design-Builder* from the obligation of correcting deficiencies which are missed at the time of drawing up the list of deficient and incomplete items of work or those hidden deficiencies which become apparent during the warranty period."

GC5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.5.1 In line 1, delete "the *Certificate of Substantial Performance of the Work*" and replace with the following "the *Certificate of Completion* for the *Work*".

Add:

- "3 If specifically requested by the *Owner*, submit acknowledgements by the major *Subcontractors* and *Suppliers* that they have been paid in full, except for amounts properly retained as holdbacks, and that they have received notification of *Substantial Performance of the Work* by delivery of a notice that the *Certificate of Completion* for the *Work* has been issued, and
- .4 Submit a statement that all claims and demands for extra work or otherwise, under or in connection with the *Contract*, have been presented to the *Payment Certifier* and that the *Design-Builder* expressly releases the *Owner* from all claims and demands except those made in writing prior to that date and still unsettled."

- 5.5.2 Delete and replace with the following:

"The *Payment Certifier* shall be the payment certifier responsible under the *Builders Lien Act* for certifying substantial completion of the *Work* and, if required, the work of a *Subcontractor* or *Supplier*, and for issuing a *Certificate of Completion*. The *Design-Builder* shall promptly provide the *Payment Certifier* with all information and documentation requested by the *Payment Certifier* to assist the *Payment Certifier* in making its inquiries and determinations for issuing a *Certificate of Completion*, including without limitation for *Subcontractors* and *Suppliers*, and shall indemnify and save the *Owner* and the *Payment Certifier* harmless from all liability arising from a failure to issue a *Certificate of Completion* when required, or from a premature issuance of a *Certificate of Completion* for a *Subcontractor* or *Supplier*, arising directly or indirectly from a failure to promptly provide complete and accurate information and documentation requested by the *Payment Certifier*."

- 5.5.3 Delete.

- 5.5.5 Delete.

GC5.6 PROGRESSIVE RELEASE OF HOLDBACK

5.6.1 Add the following to the end of the first sentence:

“provided that:

- .1 The *Payment Certifier* has issued a *Certificate of Completion* for such subcontract work or the *Products* supplied by such *Supplier*; and
- .2 The *Design-Builder* and the *Owner* jointly agree to release the holdback amount retained for such subcontract work or the *Products* supplied by such *Supplier*, and the *Owner* has received the written approval of *BC Housing* with respect to such release.”

GC5.7 FINAL PAYMENT

5.7.1 Add:

“The *Design-Builder* may apply for final payment when the entire *Work*, except those items arising from the provisions of GC12.5 WARRANTY, has been performed to the requirements of the *Contract Documents*; all building systems have been brought to a state of full readiness for operation in accordance with the *Contract Documents* to the satisfaction of the *Consultant* and the *Owner*; all deficient and incomplete work previously identified has been rectified or completed to the satisfaction of the *Payment Certifier*; all cleanup has been performed (including (a) removal of waste products and debris, other than that resulting from the work of the *Owner*, other contractors or their employees, leaving the *Place of the Work* clean and suitable for use or occupancy by the *Owner* and (b) removal of any remaining products, tools, *Construction Equipment*, *Temporary Work*, and waste products and debris, other than those resulting from the work of the *Owner*, other contractors or their employees) and the *Owner* and the *Owner* has received the written approval of *BC Housing* with respect to the same; all landscaping has been completed in accordance with the *Contract Documents* to the satisfaction of the *Consultant* and the *Owner*; and when the *Design-Builder* has submitted to the *Owner* all of the following:

- .1 Current certification by the Workers Compensation Board that the *Design-Builder* and all *Subcontractors* are in good standing;
- .2 Proof of release and discharge of any builders or other liens;
- .3 Special Project Possession and Warranty Certificates pursuant to the applicable warranty program;
- .4 If specifically requested by the *Owner*, satisfactory evidence that all taxes, employment insurance premiums, Canada Pension Plan contributions, duties, royalties, and all other monies required by law to be paid by the *Design-Builder* and all *Subcontractors* have been paid in full;

- .5 A statutory declaration in accordance with paragraph 5.2.8; and
- .6 Two (2) complete sets of white prints and CAD file of all as built drawings for the *Project* satisfactory to the *Owner*, showing all significant changes in the *Work* made during construction."

5.7.2 Add:

"The *Design-Builder* shall be responsible for all additional costs incurred by the *Owner* for review and inspection of the *Work* where previously identified deficient or incomplete work has not been rectified or completed in a manner satisfactory to all of the *Owner*, the *Consultant* and *BC Housing*, making additional inspections by the *Payment Certifier* necessary, or where the *Design-Builder* has failed to satisfy all requirements set out in paragraph 5.7.1 and such costs shall be deducted from the monies due to the *Design-Builder* upon issuance of the final certificate for payment."

5.7.4 In line 2, delete the number "5" and replace with the following the number "20".

Add at the end thereof:

"less any monies properly retained by the *Owner* pursuant to the terms of this *Contract* and less any other third party monetary claims against the *Design-Builder* which are enforceable against the *Owner*."

PART 6 CHANGES IN THE WORK

GC6.1 OWNER'S RIGHT TO MAKE CHANGES

6.1.1 Add at the outset:

"Subject to the written approval of *BC Housing*"

Add:

- "6.1.3 Any substitution of *Products* specified in the *Contract Documents* or any variance from the *BC Housing Design Guidelines* and *Construction Standards* must be approved by the *Owner* and *BC Housing* in writing prior to such substitution or variation."

GC6.2 CHANGE ORDER

6.2.1 Add at the end:

"The adjustment for the *Contract Price* shall not exceed the actual cost of the *Design-Builder's* work for the change in the *Work*, plus an allowance for overhead and profit as follows:

- .1 For the *Design-Builder*, for overhead and profit, 10% of the actual cost of the *Design-Builder's* work;
- .2 For the *Design-Builder*, for overhead and profit, 5% of the amount for the *Subcontractor's* work, being the actual cost of the *Subcontractor's* work plus the amount determined as set out in subparagraph .3 below;
- .3 For the *Subcontractor*, for overhead and profit, 10% of the actual cost of the *Subcontractor's* work."

For the purpose of assessing the adjustment, only direct costs that are additional to the *Contract Price* will be permitted, if any of the following items are included as overhead costs in the *Contract Price* they shall not be permitted as a direct cost in the price of a *Change Order*:

- .1 Personnel including Project managers, Site Superintendents, estimators, schedulers, contract administrators, secretarial and clerical staff.
- .2 Office Equipment including telephones, photocopies, facsimile machines, computers, printers and office supplies.
- .3 Truck and other vehicle costs.
- .4 Field Equipment and Temporary Services: Survey and layout equipment, electrical distribution panels, radio communication, temporary power installation, temporary water distribution, temporary telephone, ladders, tools normally used by each trade designation to complete the work in a timely fashion, tools and accessories, rented or purchased and miscellaneous supplies (such as light bulbs, extension cords, safety tape and adhesives).
- .5 All labour burdens, benefits and WCB premium costs.

6.2.2 In line 1 after the word "*Owner*", insert ", upon the written approval of BC Housing,"

"6.2.4 If a change in the *Work* results in a net decrease in the *Contract Price*, the amount of the credit shall be the net cost, without deduction for overhead and profit. When both additions and deletions covering related work or substitutions are involved in a change in the *Work*, the allowance for overhead and profit shall be calculated on the basis of the net increase, if any, with respect to that change in the *Work*."

6.2.5 Where requested by the Consultant, the *Design-Builder* shall promptly provide itemized labour and material cost and quantity breakdowns, subcontractor costs, and other detailed information required to substantiate the *Design-Builder's* claim for a change to the *Design-Builder Price* or *Contract Time*.

GC6.3 CHANGE DIRECTIVE

6.3.6.3 Add:

"Unless otherwise agreed between the *Owner* and the *Design-Builder*, the allowance for overhead and profit shall be calculated as follows:

- .1 For the *Design-Builder*, for overhead and profit, 10% of the actual cost of the *Design-Builder's* work;
- .2 For the *Design-Builder*, for overhead and profit, 5% of the amount for *Subcontractor's* work, being the actual cost of the *Subcontractor's* work plus the amount determined as set out in subparagraph .3 below;
- .3 For the *Subcontractor*, for overhead and profit, 10% of the actual cost of the *Subcontractor's* work.”

For the purpose of assessing the adjustment, only direct costs that are additional to the *Contract Price* will be permitted, if any of the following items are included as overhead costs in the *Contract Price* they shall not be permitted as a direct cost in the price of a *Change Order*:

- .1 Personnel including Project managers, estimators, schedulers, contract administrators, secretarial and clerical staff.
- .2 Office Equipment including telephones, photocopies, facsimile machines, computers, printers and office supplies.
- .3 Truck and other vehicle costs.
- .4 Field Equipment and Temporary Services: Survey and layout equipment, electrical distribution panels, radio communication, temporary power installation, temporary water distribution, temporary telephone, ladders, tools normally used by each trade designation to complete the work in a timely fashion, tools and accessories, rented or purchased and miscellaneous supplies (such as light bulbs, extension cords, safety tape and adhesives).
- .5 All labour burdens, benefits and WCB premium costs.

GC6.4 CONCEALED OR UNKNOWN CONDITIONS

6.4.2 and 6.4.3 Delete and replace with the following:

- “6.4.2 The *Design-Builder* warrants that it is fully acquainted with the site comprising the *Place of the Work* having physically inspected such site and has obtained and reviewed such reports and tests as to the subsurface conditions as may be necessary for the proper performance of the *Work* and evaluating the cost thereof.
- 6.4.3 The *Design-Builder* accepts full responsibility for having satisfied itself as to the nature, location and condition of the site including without limitation the subsurface conditions and the existing adjoining buildings and agrees as follows:
- .1 The *Owner* and *B.C. Housing* make no representations or warranties as to any aspect thereof and any information or documentation relating to the same and supplied to the *Design-Builder* is furnished solely for the *Design-Builder's* convenience; and

- .2 The failure of the *Design-Builder* to acquaint itself with any applicable condition will not relieve it from the responsibility for determining the proper methods of construction and properly estimating the difficulties, costs and time for successfully performing the *Contract*."

GC6.5 DELAYS

6.5.3.4 In line 1, after the words "any cause beyond the *Design-Builder's* control", insert:

"except for any cause related to the inability or unwillingness of the *Design-Builder* to make payments of monies for which the *Design-Builder* is responsible for"

Add the following after "... the *Design-Builder* agrees to a shorter extension.":

"Any such extension of time shall be deemed to be in full and final satisfaction for all actual and probable losses, claims, damages, causes of action or injuries sustained or sustainable by the *Design-Builder* in respect of any such extension."

Add:

"6.5.6 During any delays in the performance of the *Work* as set out in GC6.5 DELAYS, the *Design-Builder* shall maintain adequate surveillance of the *Work* and undertake such maintenance and protection of the *Work* as may be reasonable to maintain safety and when possible to protect *Products* already installed in the *Work* or delivered to the *Place of the Work*.

PART 7 RIGHT TO SUSPEND OR TERMINATE

GC7.2 OWNER'S RIGHT TO TERMINATE THE DESIGN-BUILDERS RIGHT TO CONTINUE WITH THE DESIGN SERVICES OR WORKOR TERMINATE THE CONTRACT

7.2.1 In line 1, after the word "bankrupt", insert "commits an act of bankruptcy or threatens to commit an act of bankruptcy,"

In line 2, after the word "insolvency" where it appears for the second time, insert:

"or if the *Design-Builder* at any time is in a conflict of interest as described in BC Housing's Conflict of Interest Guidelines unless the *Design-Builder* rectifies such conflict of interest within such time as may be specified by *BC Housing* or *BC Housing* approves the continuation of the *Contract* notwithstanding such conflict of interest,"

Add:

"7.2.7 Except as provided in paragraphs 7.2.5.4 and 7.2.5.5, the *Design-Builder* shall have no claim or right of action against the *Owner* for any damages, costs, expenses, loss of profits or otherwise as a result of the termination by the *Owner* of the *Design-Builder's* right to continue with the *Work* in whole or in part or the termination by the *Owner of the Contract*.

7.2.8 The *Owner* may terminate this *Contract*, in whole or part, during its term upon 14 calendar days' written notice to the *Design-Builder*.

7.2.9 If the *Owner* terminates the *Design-Builder's* right to continue with the *Services* and *Work* in whole or in part or terminates the *Contract*, the *Design-Builder* shall, safeguard the *Work* then completed and the materials and equipment then delivered to the *Place of the Work*, assign or novate any *Subcontractor* or *Supplier* contracts to the *Owner* or terminate any *Subcontractor* or *Supplier* contracts to the extent requested by the *Owner* during the term of the *Contract* and do such other extra work as may be ordered by the *Consultant* for the purpose of leaving the *Work* in a safe and useful condition."

GC7.3 DESIGN BUILDER'S RIGHT TO STOP THE DESIGN SERVICES OR WORK OR TERMINATE THE CONTRACT

7.3.3 Delete. 7.3.3.1.

Delete 7.3.3.2.

Add the following as a new paragraph after paragraph 7.3.3.4:

"The foregoing defaults in contractual obligations shall not apply to the withholding of certificates of payment or payment, or both, following receipt of court ordered garnishments of monies owing to the *Design-Builder*, notice of the *Design-Builder's* failure to pay claims against the *Design-Builder* or the filing of liens against the *Project* for as long as they remain outstanding."

7.34 In line 2, delete the number "5" and replace with the following the number "20".
Add to the end of the paragraph:

"provided that if the default is of the nature set out in paragraph 7.3.3.4 and such default cannot be reasonably corrected within 20 *Working Days*, the *Owner* shall no longer be considered to be in default if the *Owner*:

.1 provides the *Design-Builder* with a reasonable schedule for correction within 20 *Working Days*; and

.2 corrects the default in accordance with such schedule."

7.36 Delete and replace with the following:

"If the *Design-Builder* terminates the *Contract* under the conditions set out above, the *Design-Builder* shall be entitled to be paid for all *Work* performed to the date of termination, including a reasonable profit thereon, for loss sustained upon *Products* and construction machinery and equipment and for reasonable wind-up costs for the removal of construction machinery and equipment from the *Place of the Work*."

PART 8 DISPUTE RESOLUTION

GC8.1 NEGOTIATION, MEDIATION AND ARBITRATION

8.1.4 Delete the last sentence

Add:

"8.1.11 Unless both parties agree, the *Design-Builder* shall not stop the *Work*, or any part of the *Work*, pending the resolution of any dispute under the *Contract* between the parties."

PART 9 PROTECTION OF PERSONS AND PROPERTY**GC9.1 PROTECTION OF WORK AND PROPERTY**

Add:

"9.1.5 The *Design-Builder* shall be responsible generally for the care, maintenance and protection of the *Work* during construction and during any shut-down or suspension of the *Work*.

9.1.6 The *Design-Builder* shall ensure that all rights and privileges presently accorded to all properties adjacent to the *Place of the Work* are maintained."

GC9.2 TOXIC AND HAZARDOUS SUBSTANCES AND MATERIALS

Delete GC9.2.1 to GC9.2.9 and replace with the following the following:

"9.2.1 The *Design-Builder* acknowledges that any environmental assessment report with respect to the *Place of the Work* provided by the *Owner* or BC Housing has been furnished solely for the *Design-Builder's* information and convenience and neither the *Owner* nor *BC Housing* has any obligations with respect to the presence of any toxic or hazardous substances at the *Place of the Work*.

9.2.2 The *Design-Builder* shall be deemed to have control and management of the *Place of the Work* with respect to any toxic or hazardous substances which are on or in the *Place of the Work* or may be brought on to the *Place of the Work* by the *Design-Builder* or the *Subcontractors*. Prior to the *Design-Builder* commencing the *Work*, the *Design-Builder* shall:

- .1 Take all reasonable steps to determine whether any toxic or hazardous substances are present at the *Place of the Work* as may be recommended in any environmental assessment report or as may be prudent; and
- .2 Provide the *Consultant* and the *Owner* with a written list of any such substances.

9.2.3 The *Design-Builder* shall take all reasonable steps to ensure that no person suffers injury, sickness or death and that no property is damaged or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances at the *Place of the Work*.

9.2.4 The *Design-Builder* shall take all necessary steps in accordance with all applicable legislation to treat, store or otherwise dispose of toxic or hazardous substances present at the *Place of the Work*.

9.2.5 If the *Design-Builder*:

- .1 Encounters toxic or hazardous substances at the place of building; or
- .2 Has reasonable grounds to believe that toxic or hazardous substances are present at the *Place of the Work* which were not identified pursuant to paragraph 9.2.2, or which were identified but have not been dealt with as required under paragraph 9.2.4, the *Design-Builder* shall:
- .3 Take all reasonable steps, including stopping the *Work*, to ensure that no person suffers injury, sickness or death and that no property is damaged or destroyed as a result of exposure to or the presence of the substances; and
- .4 Immediately report the circumstances to the *Consultant* and the *Owner* in writing and take all necessary steps in accordance with the instructions of the *Consultant* and all applicable legislation to treat, store or otherwise dispose of the substances or materials.

9.2.6 The *Design-Builder* shall indemnify and hold harmless each of the *Owner* and *BC Housing*, their respective assigns, agents, directors, officers, authorized representatives and employees, from and against any claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of or resulting from exposure to, or the presence of, toxic or hazardous substances which are on or in the *Place of the Work* or brought on to the *Place of the Work* by the *Design-Builder* or its *Subcontractors*. This obligation will not be construed to negate, abridge, or reduce any other rights or obligations of indemnity set out in GC12.1 - INDEMNIFICATION or which otherwise exist respecting a person or party described in this paragraph.

9.2.7 In the event of conflict between the provisions of this GC9.2 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIAL and any other General Condition, the provisions of this GC9.2 - TOXIC AND HAZARDOUS SUBSTANCES AND MATERIAL will govern."

GC9.4 CONSTRUCTION SAFETY

9.4.1 In line 1, delete "Except as provided for to paragraph 2.6.2.2 of GC2.6 – WORK BY OWNER OR OTHER CONTRACTORS,"

Add the following to GC 9.4"

"9.4.2 The *Design-Builder* shall be responsible for and ensure the safety not only of the workers, *Subcontractors*, tradesmen and suppliers and their plant and equipment but also of all

other persons who enter the *Place of the Work* whether during working hours or not and for that purpose shall erect such boardings and signs and shall employ such safety measures as may be necessary to ensure the safety of such persons.

- 9.4.3 The *Design-Builder* acknowledges and agrees that the *Design-Builder* shall be the “prime contractor” for the workplace for the purposes of section 118 of the Workers Compensation Act, as amended from time to time. Without limiting the foregoing, the *Design-Builder* shall, as the “prime contractor”, comply with, and ensure compliance by *Subcontractor* and *Suppliers* with, the Workers Compensation Act of British Columbia and its regulations including the *Occupational Health & Safety Regulations*, *WHIMIS* regulation and the transportation of hazardous substances or dangerous goods requirements and obligations and shall pay assessments or compensation required to be paid under applicable legislation. If *Design-Builder* or any *Subcontractor* fails to pay any due assessment or compensation, the *Owner* may make such payment on behalf of *Design-Builder* or any *Subcontractor*, but will not be obliged to do so. *Design-Builder* shall reimburse *Owner* the amount of such payment on demand. The *Owner* may set off any amounts paid against money otherwise owed to the *Design-Builder*.
- 9.4.4 The *Design-Builder* shall deliver the Notice of Project required by Section 20.2 of B.C. Regulation 296/97 to the Workers’ Compensation Board of British Columbia, in accordance with the requirements of Section 20.2 of B.C. Regulation 296/97.
- 9.4.5 The *Design-Builder* shall be the “prime contractor” with respect to any work performed by the *Owner*’s own forces or other firms retained by the *Owner* carried out in the area of the *Place of the Work*. Without limiting the generality of the foregoing, the *Design-Builder* is responsible for ensuring that the work undertaken by the *Owner*’s own forces or other contractors retained by the *Owner* are coordinated with the *Work* so as to avoid or minimize any hazardous situations.
- 9.4.6 The *Design-Builder* shall immediately inform the *Owner* if the *Owner*’s own forces or other contractor firms retained by the *Owner* attend at the *Place of the Work* without prior notification to the *Design-Builder*.
- 9.4.7 The Workers’ Compensation Board of British Columbia operates under the name *WorkSafeBC*. References in the Contract to the Workers’ Compensation Board, WCB, compensation board, *WorkSafeBC*, and other similar terms shall be understood to refer to the Workers’ Compensation Board of British Columbia and *WorkSafeBC* and its operating bodies.

PART 10 GOVERNING REGULATIONS

GC10.1 TAXES AND DUTIES

Add:

- “10.1.3 Where documentation may be required for tax refund purposes, the *Design-Builder* shall be responsible for providing the *Owner* with such invoices and records as may be

necessary to substantiate the amount of tax paid during the performance of the Work for which the Owner may lawfully claim exemption.

GC10.2 LAWS, NOTICES, PERMITS AND FEES

10.2.3 Add "development permit" after "building permits."

10.2.5 Delete and replace with the following:

"The *Design-Builder* shall be responsible for verifying that the *Contract Documents* are in substantial compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the *Work*. If after the *Contract* is executed, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the *Contract Documents*, the *Design-Builder* shall notify the *Owner* in writing immediately upon such variance or change becoming known."

Add:

"10.2.8 The *Design-Builder* shall provide to the *Consultant* copies of all inspection reports from the various authorities having jurisdiction forthwith as they are received from time to time."

GC10.3 PATENT FEES

10.3.2 Delete

GC10.4 WORKERS COMPENSATION

10.4.1 In line 3, after the word "compliance" insert "by the *Design Builder* and *Subcontractors*".

Add:

"10.4.3 The *Design-Builder* shall abide by and comply with all provisions of the *Workers' Compensation Act* with respect to the performance of the *Work* and will make all payments, contributions and other remittances and all reports, returns and statements required of employers under the said Act. The *Design-Builder* shall ensure full compliance with the said Act by all *Subcontractors* and other persons employed by the *Design-Builder* or with whom the *Design-Builder* may make any contract for the performance of any part of the *Work*. The *Design-Builder* agrees to indemnify the *Owner* against all cost, loss, liability, obligation and lien which may arise as a consequence of any failure by the *Design-Builder* or any *Subcontractor* or other person fully to comply with the said Act. The *Design-Builder* agrees immediately to qualify, and shall require all *Subcontractors* to qualify, as an employer or employers under the said Act."

PART 11 INSURANCE AND CONTRACT SECURITY

GC11.1 INSURANCE

11.1 Delete in its entirety and replace with the following:

11.1.1 The *Owner* shall obtain, maintain and pay for, through *BC Housing*, the following types of insurance coverages described in this paragraph 11.1.1 issued by insurance companies licensed to carry on business in British Columbia:

.1 Course of Construction Policy

- i. The Owner shall provide, maintain and pay for Course of Construction coverage, against "All Risks" including Flood and Earthquake of direct physical loss or damage, and will cover all materials, property, structures and equipment purchased for, entering into, or forming part of the Work whilst located anywhere within Canada and continental United States of America during construction, erection, installation and testing, but such coverage shall not include coverage for Design-Builder's and subcontractor's equipment of any description. Such coverage shall be maintained until Substantial Performance of the Work. There will be a deductible of Ten Thousand Dollars (\$10,000.00) for each and every occurrence on projects valued at Ten Million Dollars (\$10,000,000.00) or less and a deductible of Twenty Five Thousand Dollars (\$25,000.00) on projects valued at more than Ten Million Dollars (\$10,000,000.00) except for the peril of earthquake which shall have a five percent (5%) (subject to minimum Two Hundred Fifty Thousand Dollars (\$250,000.00)) deductible based upon the total project value insured. A one day waiting period for each month of the project subject to a minimum waiting period of 30 days shall apply with respect to soft costs.
- ii. The coverage shall include as insureds the Design-Builder, Subcontractor, Architect, Engineer, or other consultants who are engaged in the Project.
- iii. The coverage will contain a waiver of the Owner's rights of subrogation against all insureds except where a loss is deemed to have been caused by or resulting from any error in design or any other professional error or omission or manufacturers (not employees of the Owner).
- iv. The Design-Builder shall, at his own expense, take special precaution to prevent fires occurring in or about the Work and shall observe, and comply with, all insurance policy warranties and all laws and regulations in force respecting fires.
- v. For modular construction, warranties will apply to both the Pre-Fabrication Site and the Project Site.

.2 Wrap Up Liability Policy

(1) This shall be a wrap up liability policy that shall:

- (a) be written in the joint names of the *Owner*, the fee simple owner of the *Place*

of the Work, BC Housing, the Design-Builder and Subcontractors, the Consultant, all Sub-consultants and any other consulting engineers or consulting architects and Suppliers who perform work at the Place of the Work provided however that such policy shall exclude Suppliers whose only function is to supply materials, machinery or other supplies to the project and who do not carry out any installation, construction, or supervisory work on the project and shall exclude security protection organizations or persons providing site protection on or at the project.

- (b) provide the following coverages:
 - (i) Premises and Operations Liability;
 - (ii) Products and Completed Operations Liability (24 months);
 - (iii) Blanket Contractual Liability;
 - (iv) Cross Liability (or Severability of Interests);
 - (v) Elevator and Hoist Liability;
 - (vi) Contingent Employer's Liability;
 - (vii) Personal Injury Liability;
 - (viii) Shoring, Blasting, Excavating, Underpinning, Demolition, Pile driving and Caisson Work, Work Below Ground Surface, Tunneling and Grading, as applicable;
 - (ix) Broad Form Completed Operations;
 - (x) Broad Form Property Damage; and
 - (xi) Employees as Additional Insureds,

provided however that the insurance does not extend to any activities, work, jobs or undertakings of the insureds other than those directly related to the Work under this Contract; and

- (c) Provide for a limit of liability not less than \$10,000,000 inclusive per occurrence for bodily injury, death, and damage to property including loss of use thereof, subject to a general aggregate limit of \$20,000,000 and a limit of liability not less than \$10,000,000 annual aggregate for completed operations.
- (2) Exclusions under the foregoing insurance will be as prescribed by the insurer.
- (3) Each claim under the foregoing insurance shall be adjusted separately.
- (4) Claims under the foregoing insurance shall be subject to a deductible of \$10,000 for each and every claim, except with respect to hot roofing activities, the deductible shall be \$50,000.00.
- (5) The foregoing insurance shall be maintained continuously from commencement of the Work until the insured project is completed and accepted by or on behalf of the Owner and BC Housing, provided that the

Broad Form Completed Operations coverage shall be maintained for twenty-four (24) months.

- 11.1.2 The *Design-Builder* shall be responsible for deductible amounts under all policies described in paragraph 11.1.1 except where such amounts may be excluded from the *Design-Builder's* responsibility by the terms of GC 9.1 – PROTECTION OF WORK AND PROPERTY and except for deductibles associated to perils of flood or earthquake insurances.
- 11.1.3 The *Owner* shall promptly provide a copy of each insurance policy described in paragraph 11.1.1 to any insured party upon request.
- 11.1.4 The *Owner* does not represent that the insurance policies described in paragraph 11.1.1 will be sufficient to protect the *Design-Builder* against all of its responsibilities under the *Contract* or as required by law. The *Design-Builder* shall obtain such additional insurance as it may consider necessary at its own expense. The insurance coverage described in paragraph 11.1.1 shall in no way limit the *Design-Builder's* obligations under GC 12.2 INDEMNIFICATION.
- 11.1.5 Without restricting the generality of GC 12.2 – INDEMNIFICATION, the *Design-Builder* shall obtain, maintain and pay for the following types of insurance coverages issued by insurance companies licensed to carry on business in British Columbia and shall cause all of its *Subcontractors* to maintain insurance in forms and with limits appropriate to the work conducted by the subcontractors engaged on the *Project*. If any of the insurance coverage required by the *Contract* is not provided or lapses for any reason whatsoever, the *Design-Builder* shall, if requested to do so by the *Owner* at the *Design-Builder's* risk and expense, stop all work on the *Project* until satisfactory evidence of coverage is produced. The insurance coverage required by this paragraph 11.1.5 shall be in forms and amounts acceptable to the *Owner* and shall be issued by an insurer licensed to conduct insurance business in British Columbia. The approval of any insurance policy by the *Owner* shall in no way relieve the *Design-Builder* of the obligation to provide the insurance referred to in this paragraph 11.1.5:

.1 Automobile Insurance

(1) The Design-Builder (or Design-Builder's Subcontractors, Consultants, and Sub-Consultants) shall provide, maintain and pay for Automobile Liability Insurance in respect of all owned or leased vehicles, subject to limits of not less than Two Million Dollars (\$2,000,000.00) inclusive per occurrence. The insurance shall be placed with such company or companies and in such form and deductibles as may be acceptable to Owner.

.2 Contractors Pollution Liability Insurance

When applicable, the Design-Builder (or Design-Builder's Subcontractors) shall provide, maintain and pay for:

Contractor's Pollution Liability, where the Design-Builder's performance (or Design-Builder's Subcontractors performance) of the work is associated with hazardous materials clean-up, removal and/or containment, transit and disposal. This insurance must have a limit of liability not less than \$2 million inclusive per occurrence insuring against bodily injury, death, and damage to property including loss of use thereof. The Owner must be included as an additional insured for its vicarious liability. Such insurance shall not be impaired by any time element limitations, biological contaminants (without limitation, mould and bacteria), asbestos, or lead based paint exclusions. Any "insured vs. insured" exclusion shall not prejudice coverage for the Owner and shall not affect the Owner's ability to bring suit against the Design-Builder as a third party.

If any such insurance is provided on a claims-made basis and that insurance is cancelled or not renewed, such policy must provide a twenty-four (24) month extended reporting period.

.3 Design-Builder's Equipment Insurance

- (1) This policy shall cover all *Design-Builder's* tools and equipment used at the *Place of the Work* against "all risks" of direct physical loss or damage, including the perils of earthquake and flood, subject to customary exclusions.
- (2) All such contractor's equipment insurance policies shall contain a waiver of subrogation against the *Owner*, the fee simple owner of the *Place of the Work*, *BC Housing*, the *Design-Builder*, the *Consultant*, the *Subcontractors*, architects, engineers, consultants and sub-consultants engaged on the *Project*, and shall provide for sixty (60) calendar days prior written notice of cancellation or material change to be given by the insurer(s) to the *Owner* and *BC Housing*.

.4 Professional (Errors and Omission) Liability Insurance

The Design-Builder or the Design-Builder's Consultant during the term of the Agreement shall provide and maintain continuously from the commencement of the Work, until two (2) years after Substantial Performance of the Work, the following insurance which shall be placed with such company or companies and in such form and amounts and with such deductibles as may be acceptable to the Owner:

Professional Errors and Omissions Liability Insurance protecting the Design Builder or the Design-Builder's Consultant, Sub-Consultant(s) and their respective servant(s), agent(s) or employee(s) against any loss or damage arising out of the Design Services under this Agreement. Such insurance shall be for the adequate amount acceptable to the Owner and shall in any event be not less than:

- i. For construction valued at \$0.00 to \$2.5 million: \$250,000;
- ii. For construction value at \$2.5 million to \$7.5 million: \$500,000;
- iii. For construction value at \$7.5 million to \$15 million: \$1,000,000; or

- iv. For construction value over \$15 million: as negotiated, not less than \$1,000,000.

Structural, Mechanical, Electrical and Civil Sub-Consultants Insurance coverage to be based on the value of their scope of work. All other specialty Consultants to carry a minimum \$250,000 Errors and Omissions Insurance despite the value of their scope of work.

If coverage is provided by the Design-Builder's Consultant, then such Professional Errors and Omissions Liability Insurance shall not contain a "Design-Build" exclusion.

- 11.1.6 The *Design-Builder* shall be responsible for deductible amounts under all policies described in paragraph 11.1.5 except where such amounts may be excluded from the *Design-Builder's* responsibility by the terms of GC 9.1 – PROTECTION OF WORK AND PROPERTY.
- 11.1.7 The *Design-Builder* shall, prior to the commencement of the Work, provide the *Owner* with *Certificates of Insurance* evidencing compliance with paragraph 11.1.5. For automobile liability the standard I.C.B.C. *Certificate of Insurance* Form #APV-47 shall be used.
- 11.1.8 The *Owner* shall not be responsible for injury to the *Design-Builder's* employees or for loss or damage to the *Design-Builder's* or to the *Design-Builder's* employees' machinery, equipment, tools or supplies which may be temporarily used or stored in, on or about the premises during construction and which may from time to time, or at the termination of the contract, be removed from the premises. The *Design-Builder* hereby waives all rights of recourse against the *Owner* or any other contractor with regard to damage to the *Design-Builder's* property.

Delete GC 11.2 CONTRACT SECURITY, including GC 11.2.1 and 11.2.2, and replace with the following:

"GC11.2 CONTRACT SECURITY

- 11.2.1 The *Design-Builder* shall, at least 7 calendar days prior to the commencement of construction, provide to the *Owner* a performance bond and a labour and material payment bond, each in the amount of 50% of the *Contract Price*.
- 11.2.2 All bonds shall be issued by a duly licensed surety company authorized to transact a business of suretyship in British Columbia and shall be maintained in good standing until the fulfilment of the *Contract* including all warranty obligations pursuant to GC12.5 WARRANTY.

Such bonds shall be in the form of the latest editions of CCDC Document 221 (2003) - Performance Bond and CCDC Document 222 (2003) - Labour and Material Payment Bond. The obligee on the bonds shall be the *Owner*, and BC Housings shall be named as dual

obligee on the bonds pursuant to a dual obligee rider acceptable to the *Owner* and *BC Housing*.

- 11.2.3 All bonds shall be held and be subject to enforcement by the *Owner* without prejudice to any other legal remedy available to the *Owner*.

PART 12 INDEMNIFICATION--WAIVER--WARRANTY

GC12.2 INDEMNIFICATION

- 12.2.1 Delete and replace with the following:

"12.2.1 Without restricting the parties' obligation to indemnify as described in paragraphs 12.2.4 and 12.2.5, and excepting always losses arising out of the independent acts of the party for whom indemnification is sought, the *Owner* and the *Design-Builder* 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:

- (a) the acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
- (b) 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 such periods as prescribed by the Limitation Act of the Province of British Columbia."

- 12.2.2 Delete and replace with the following:

"12.2.2 The obligation of either party to indemnify as set forth in paragraph 12.2.1 shall be limited as follows:

- .1 In respect to losses suffered by the *Owner* and the *Design-Builder* for which insurance is to be provided by the owner pursuant to GC 11.1 – INSURANCE, the limit of the COURSE OF CONSTRUCTION POLICY – GC11.1.1.1 or the limit of the WRAP UP LIABILITY COVERAGE – GC11.1.1.2 whichever is pertinent to the loss.
- .2 In respect to losses suffered by the *Owner* and the *Design-Builder* 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 \$20,000,000.00.
- .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 12.2.2.1 and 12.2.2.2 shall apply.”

GC12.4 WAIVER OF CLAIMS

- 12.4.1 Delete “Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable to the *Place of the Work*, the *Design-Builder* waives and releases the *Owner* from” and replace with the following:

“The *Design-Builder*’s request or application for the *Certificate of Completion* shall constitute a waiver and release by the *Design-Builder* of any and”.

- 12.4.1.1 Delete “no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*” and replace with the following: “together with or prior to the *Design-Builder*’s request or application for the *Certificate of Completion*”.

- 12.4.3 Delete “Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable to the *Place of the Work*, the *Owner* waives and releases the *Design-Builder* from” and replace with the following:

“The issuance of the *Certificate of Completion* shall constitute a waiver and release by the *Owner* of any and”.

- 12.4.3.1 Delete “no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*” and replace with the following: “together with or prior to the *Design-Builder*’s request or application for the *Certificate of Completion*”.

- 12.4.3.4 Add at the end:

“or for which the aggregate cost of repair or remedying the defects or deficiencies would be greater than 10% of the *Contract Price*”

- 12.4.4 Delete “should any limitation statute of the Province or Territory of the Place of the Work permit such agreement. If the applicable limitation period does not permit such agreement, within such shorter time as may be prescribed by:

.1 Any limitation statute of the Province or Territory of the Place of the Work; or

.2 If the Place of the Work is the Province of Quebec, then Article 2118 of the Civil Code of Quebec” and replace with the following:

“or, as to any defect or deficiency or other claim of which the *Owner* is not aware at the end of the said period of six years, a period of one year after the *Owner* has become aware”.

12.4.8 Immediately before the words “further interim” and again immediately before the words “submit a final account”, insert the following: “, upon request”.

12.4.9 Delete.

12.4.10 Delete.

Add:

“12.4.11 For greater certainty, in paragraphs 12.4.1, 12.4.2, 12.4.3 and 12.4.5 of GC 12.4 WAIVER OF CLAIMS, “claims” includes claims based on changes and delay (e.g. under Part 6 CHANGES IN THE CONTRACT.”

GC 12.5 WARRANTY

12.5.1 Add at the end:

“provided that if, as a result of the failure of the *Design-Builder* to fulfil its obligations under this *Contract*, there are any defects in the *Work* due to professional errors or omissions or defects in the *Work* which affect the *Work* to such extent that a significant part of the *Work* is unfit for the purpose intended, such one year limitation shall not apply and the *Owner* shall be entitled to claim for any losses or damages suffered on or before the date which is 6 years from the date of *Substantial Performance of the Work*.”

12.5.4 Delete and replace with the following:

“Except for the provisions of paragraphs 12.5.6 and 12.5.7, the *Design-Builder* shall correct promptly, at the *Design-Builder's* expense, to the satisfaction of the *Owner* and as approved by *BC Housing*, defects or deficiencies in the *Work*, including without limitation those due to faulty workmanship or *Products* or architectural, engineering or design errors or omissions by the *Design-Builder*, the *Consultant* or any *Subcontractor* or *Supplier* or by any of their respective consultants which appear prior to and during the warranty periods specified in the *Contract Documents*.”

12.5.3 Add at the end thereof:

“Such notice may specify the time within which the defects or deficiencies must be rectified.”

Add:

“12.5.9 Where specific warranties or guarantees are required by the *Contract Documents* relating to the *Work* and including without limitation those relating to any fixtures, improvements, appliances, equipment or other chattels for the *Project*, the *Design-Builder* shall secure

such warranties or guarantees from the *Subcontractors* and *Product* suppliers and they shall be assigned to or addressed to and in favour of the *Owner*. The *Design-Builder* shall cooperate and assist in the enforcement of such warranties or guarantees. The *Design-Builder* shall deliver the originals plus two copies of such warranties or guarantees to the *Owner* upon completion of the *Work*.

Add the following General Conditions:

"GC13.1 GAS AND ELECTRICITY

- 13.1.1 The *Design-Builder* is responsible for having all required gas and electric meters installed and ready on the date of *Substantial Performance of the Work*. This includes installation of individual meters for units as specified.
- 13.1.2 The occupancy date will be the date of turnover of all gas and electricity billings to the *Owner*. The *Design-Builder* shall notify the gas and electricity suppliers and the *Owner* in writing as to the date of billing turnover at least 45 calendar days prior to such date.
- 13.1.3 The *Owner* shall be responsible for notifying the gas and electricity suppliers of start-up billing, failing which the *Owner* shall reimburse the *Design-Builder* for all charges accruing thereafter.

GC14.1 PUBLIC STATEMENTS AND SIGNS

- 14.1.1 The *Design-Builder* shall not make any public statement with respect to the *Project* without the prior written consent of the *Owner* and *BC Housing*.
- 14.1.2 The *Design-Builder* shall not erect or permit the erection of any sign or advertising at the *Place of the Work* without the prior written approval of the *Owner*.

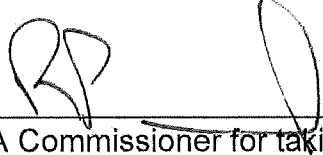
GC15.1 LIENS

- 15.1.1 The *Design-Builder* will pay or cause to be paid promptly when due all claims, debts and charges against the *Design-Builder* or *Subcontractors* engaged by the *Design-Builder* which might become a lien upon the *Project* arising out of the *Work* performed or materials furnished by the *Design-Builder* or any *Subcontractors* under the *Contract*, and will not suffer or permit any lien or encumbrance of any kind to be filed against or upon the *Project*, regardless of whether the basis of such lien is a claim against the *Design-Builder* or any *Subcontractor*.
- 15.1.2 If the *Owner* is not in default in making payment to the *Design-Builder* as required under this *Contract* and if a claim of builders lien is filed against title to the *Project* by anyone claiming under or through the *Design-Builder*, the *Owner* may notify the *Design-Builder* in writing that the filing of such claim or claims of builders lien is a material default by the *Design-Builder* of its contractual obligations and instruct the *Design-Builder* to obtain and file a release of the said claim or claims in the Land Title Office within 7 *Working Days* immediately following receipt of such notice.

- 15.1.3 If such default is not corrected within the time specified or subsequently agreed upon in writing, the *Owner*, without prejudice to any other right or remedy it may have, may:
- .1 pay, settle or compromise, or pay into Court (together with a reasonable amount for costs) the amount of, any such claim or claims of builders lien and deduct the amount of any such payment from the next ensuing payment which may become due to the *Design-Builder*; or
 - .2 pay into Court from the holdback account established by the *Owner* in accordance with the *Builders Lien Act* the total amount of the claim or claims filed and this provision shall constitute the agreement of the *Design-Builder* to make such payment as required under Section 5(2)(c) of the *Builders Lien Act*;
- and the *Owner* may deduct from the next ensuing payment which may become due to the *Design-Builder* all costs and expenses thereby incurred by the *Owner*, including any account for legal fees and disbursements incurred by the *Owner*.
- 15.1.4 If the *Owner* is not in default in making payment to the *Design-Builder* as required under this *Contract*, the *Design-Builder* will indemnify and save the *Owner* harmless from and against the costs of any and all actions commenced by any lien claimant claiming under or through the *Design-Builder* against the *Owner* pursuant to the *Builders Lien Act*, including solicitor and client costs.
- 15.1.5 Notwithstanding any other provision of the *Contract*, no payments whatsoever shall be due or owing to the *Design-Builder* so long as any liens filed by anyone claiming under or through the *Design-Builder* remain registered against title to the *Project*."

END OF DOCUMENT

This is **Exhibit "B"** referred to in the Affidavit of
Joel Holloway sworn before me at Vancouver,
British Columbia this 11th day of August, 2020



A Commissioner for taking Affidavits for
British Columbia



**Metric
Modular**
A Triple M Company

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Triple M Modular o/a Metric Modular

Asset Sale Tender Package

Tender Package includes:

Instructions	Page 1
Bid Summary	Page 3
Parcel A – Offer Form	Page 4
Parcel B – Offer Form	Page 5
Parcel C – Offer Form	Page 20
Parcel D – Offer Form	Page 42
Appendix “A” Terms and Conditions	Page 44
Enquiry Form	Page 48
Asset Purchase Agreement	Separate Word Document

Instructions & Explanations

- A) Please read through the instructions and the Terms and Conditions carefully.
- B) Triple M Modular Ltd. dba Metric Modular (the "Company" or "Metric Modular") filed a Notice of Intention to Make a Proposal ("NOI") with the Office of the Superintendent of Bankruptcy pursuant to Section 50.4(1) of the Bankruptcy and Insolvency Act (the "BIA") on June 1, 2020. As a result, the final sale of all or any parcel, sub parcel or individual lot is subject to the approval of the Supreme Court of British Columbia (the "Court"). Once notified as awarded, the party must sign the Purchase and Sale Agreement which is attached.
- C) The assets of the Company have been divided into four Parcels (A, B, C, & D) with subsequent Sub-parcels and Individual lots. Offering bids may bid on all or any, parcel, sub-parcel or individual lot:
- Parcel A - All Assets** (The complete asset inventory which includes all parcels, sub-parcels and individual lots)
 - Parcel B - Tooling** (This includes all Sub-Parcels of Parcel B (B1-B22) and its individual lots)
 - Parcel C - Material** (This includes all Sub-Parcels of Parcel C (C1-C21) and its individual lots)
 - Parcel D - Office** (This includes all Sub-Parcels of Parcel D (D1-D8) and its individual lots)
- D) All items are being sold on an "As is", "Where is" and "Without Recourse" basis. Please read Appendix A - Terms and Conditions carefully before submitting a bid.
- E) Each Parcel has an Offer Form which includes the entire Parcel bid, Sub-Parcel bid(s) and the Individual Lot bid(s). This must be filed out, signed and returned with a 10% deposit (wire transfer, certified cheque or bank draft) prior to August 26, 2020, 11:59 pm PDT. Please email the signed Offer Form(s) to:
Info@metricmodular.com
- F) Bids may be made simultaneously on Parcels, Sub-Parcels and Individual Lots. To be awarded a Parcel, the bid must exceed the total of either all Sub-Parcels or Individual Lots and/or a combination of each. The highest bid will be awarded in accordance to the Terms and Conditions and upon approval of the Court.
- G) An Excel Workbook is also supplied in the bid package to support the bidder this can be downloaded from www.metricmodular.com. Triple M Modular takes no responsibility to its accuracy or functionality. The workbook does not constitute the bid offer but is available only as a guide and support the bidder. Parcel Offer Forms must be used to submit an offer/bid.
- H) Each Sub-Parcel has a link to online information with pictures of each individual lot. Bidders are encouraged to view this information before bidding. There is also an online form to submit questions or request further information. Link is below and on each Offer Form.

Click Here - for online enquiry form

- I) Physically viewing the Parcels and Lots is available, however COVID-19 Protocols are in place, and limit the number of visitors at any one time. All assets are located at 1825 Tower Road, Agassiz BC (the "Facility"). Viewing hours are Monday - Friday from 8:30am - 3 pm. Please contact Stephen Branch or Kevin Miller to make arrangements for viewing:

sbranch@metricmodular.com

kmiller@metricmodular.com

- J) Upon award of bid the purchaser shall pay immediately the full amount, including applicable taxes, less the 10% deposit. No items shall be removed until the purchaser has paid in full. No partial payments or partial removal will be allowed.
- K) Removal of purchased assets must be completed by September 25, 2020. No exceptions or extensions. Purchased assets not removed by September 25, 2020 will be forfeited by the purchaser and no refund will be provided to the purchaser for assets forfeited.
- L) The Company is not responsible for load out of purchased assets but will have forklifts and personnel available at the Facility to assist with load out. Due to COVID-19 restrictions, all visitors arriving at the facility to complete load out must be approved in advance by Stephen Branch or Kevin Miller.

sbranch@metricmodular.com

kmiller@metricmodular.com

- M) Where noted in Parcel B13 - three forklifts shall remain until September 25, 2020 at which time the purchaser shall remove said forklifts. Contact Stephen Branch for more details.

sbranch@metricmodular.com

Bid Amount
Parcel A: Includes Parcel B, C, & D

Bid Amount
Parcel B: Includes Parcel B1 - B22

	Bid Amount	Individual Bid Amount
Parcel B1:		0.00
Parcel B2:		0.00
Parcel B3:		0.00
Parcel B4:		0.00
Parcel B5:		0.00
Parcel B6:		0.00
Parcel B7:		0.00
Parcel B8:		0.00
Parcel B9:		0.00
Parcel B10:		0.00
Parcel B11:		0.00
Parcel B12:		0.00
Parcel B13:		0.00
Parcel B14:		0.00
Parcel B15:		0.00
Parcel B16:		0.00
Parcel B17:		0.00
Parcel B18:		0.00
Parcel B19:		0.00
Parcel B20:		0.00
Parcel B21:		0.00
Parcel B22:		0.00
Sub-Total:	0.00	0.00

Parcel C: Includes Parcel C1 - C21

	Bid Amount	Individual Bid Amount
Parcel C1:		0.00
Parcel C2:		0.00
Parcel C3:		0.00
Parcel C4:		0.00
Parcel C5:		0.00
Parcel C6:		0.00
Parcel C7:		0.00
Parcel C8:		0.00
Parcel C9:		0.00
Parcel C10:		0.00
Parcel C11:		0.00
Parcel C12:		0.00
Parcel C13:		0.00
Parcel C14:		0.00
Parcel C15:		0.00
Parcel C16:		0.00
Parcel C17:		0.00
Parcel C18:		0.00
Parcel C19:		0.00
Parcel C20:		0.00
Parcel C21:		0.00
Sub-Total:	0.00	0.00

Parcel D: Includes Parcel D1 - D8

	Bid Amount	Individual Bid Amount
Parcel D1:		0.00
Parcel D2:		0.00
Parcel D3:		0.00
Parcel D4:		0.00
Parcel D5:		0.00
Parcel D6:		0.00
Parcel D7:		0.00
Parcel D8:		0.00
Sub-Total:	0.00	0.00

Parcel A Offer Form

To: Triple M Modular dba Metric Modular
1825 Tower Road
Agassiz, BC, V0M 1A2

Name of Bidder:	
Address of Bidder:	
Contact:	
Telephone:	
Mobile:	
Email Address:	

1 I/We hereby offer to purchase from Triple M Modular Ltd dba Metric Modular (the "Company"), all of the right, title and interest, if any, in the following assets and undertakings (the "Assets") of the Company, en bloc or otherwise:

Parcel A

Description	Parcel A - Bid
All Parcels B, C, & D which includes all sub parcels, Lots 1 - 900 as described in Parcel B, Parcel C and Parcel D Offer Forms	Enter Bid

- 2 Enclosed or sent is my/our wire transfer, certified cheque or bank draft payable to "Triple M Modular Ltd", in the total amount of CDN\$_____ as a deposit, representing ten percent (10%) of the total amount of the Purchase Price submitted herein (the "Deposit").
- 3 This Offer is an en-bloc offer and is therefore conditional upon acceptance by the Company of a sale of all of the specific parcels for which bids are entered above.
- 4 The undersigned acknowledges and agrees that this Offer shall become irrevocable on August 26th, 2020 11:59 pm PDT and the Deposit shall be forfeited to the Company on account of liquidated damages if the Offer is withdrawn by the Bidder after August 26th, 2020.
- 5 The undersigned acknowledges the receipt of the Standard Terms and Conditions as set forth in Appendix A of this Offer Form (the "Standard Terms and Conditions"). The undersigned acknowledges that this Offer is subject to said Standard Terms and Conditions, including, without limitation, that the Company reserves the right not to accept the highest or any Offer submitted.
- 6 The undersigned acknowledges that it will be submitting an executed sale agreement for the purchase of the Assets (the "Agreement of Purchase and Sale"), as provided by the Company, with this Offer, along with a blackline against the form of agreement of purchase and sale provided by the Company outlining any changes or conditions of the Bidder. The Agreement of Purchase and Sale provided by the undersigned may be capable of acceptance by the Company, in its discretion, but there shall be no obligation for the Company to accept the Agreement of Purchase and Sale and the Company may request such additional terms as are necessary or desirable in its sole discretion.

Dated:

(Signature of Person)

- OR -

(Name of Corporation)

Authorized Signing Officer

Name: _____

Title: _____

(Signature of Witness)

Name: _____

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Parcel B Offer Form

To: Triple M Modular dba Metric Modular
1825 Tower Road
Agassiz, BC, V0M 1A2

Name of Bidder:	
Address of Bidder:	
Contact:	
Telephone:	
Mobile:	
Email Address	

1 I/We hereby offer to purchase from Triple M Modular Ltd dba Metric Modular (the "Company"), all of the right, title and interest, if any, in the following assets and undertakings (the "Assets") of the Company, en bloc or otherwise:

Parcel B - Tools

Parcel B Bid (Includes Parcel B1 - B22): enter bid

Parcel B1 - Hand Tools - Air

For More Information including pictures Click here - Parcel B1

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	SN	Parcel B1 Bid	Individual Bid
1	14		Bostich		3.5 in nailer				
2	12		Bostich	F21PL 3 in	Nailer				
3	Qty of		Various		Nailers & Staplers				
4	17		Bostich	2.5 Inch Coil	Nailer				
5	16		Bostich	2.5 in Coil	Nailer				
6	32		Bostich	438S2 1.5 in	Stapler				
7	16		Bostich	863S4 2.5 in	Stapler	c/w oil			
8	6		Bostich	650S5 2.5 inch	Nailer	c/w 7 - MCN250 2.5 in joist hanger nailer, 2 Bostich F21PL 3.5 in Nailer			
9	5		Senco	Pallet Pro 130 Coll 5 in	Nailer	c/w 3 Senco Duplex Nailer, 2 Hitachi 3 in Coil Nailer, 2 Senco 2.5 in pin nailer, 2 Senco 3 in stick nailer, 2 Peneu 2 in pin nailer, 2 Bostich 3.5 inch Gas frame nailer			
10	8		Evervin	3.5 in Coui	Nailer	c/w 1 Senco 3.5 in Coil Nailer, 5 Max 3.5 in Coil Nailer			
11	34		Max	2 in 16 gauge	Stapler				
12	5		Max	2 in 16 gauge	Stapler	c/w 6 Max 3/4 in stick nailer, 1 Max 2.5 pin nailer			
13	12		Max	3 1/4 in	Stick Nailer				
14	20		Max	NF255F18 2 1/8 in	Pin Nailer	c/w 5 Max 3 1/4 in stick nailer			
15	18		Max	TA238A18 1.5	Pin Nailer	c/w 9 Omar Stapler, 4 Senco 2 1/8 in Finishing Nailer, 1 Pasload Micro Pin Nailer, 2 Bostich Wide Crown Stapler, Bergen's Stapler			
16	12		Hitachi	N5024A2 2 in	Crown Stapler	c/w 4 Max coul nailer, 1 Bostich Coll Nailer, 8 Cade's Pin Nailer			
17	17		Chicago Pneumatic	1/2 drive	Air Impact	c/w Qty of Palm Nailers, palm sanders, routers air tools			
20	Qty of		Various		Nailers PARTS ONLY				

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23	Approx 40		Various		Air drills		
128	3		Legacy	Level Wind	Air hose reel	C/w hose, 8 bottle jacks	
129	Qty of		Misc		Air hose		
130	Qty of		Misc		Air hose		
131	Qty of		Misc		Air hose		
132	Qty of		Misc		Air hose		
190	4		Misc		Air hose reels		
							0.00

Parcel B2 - Hand Tools - Electric

For more information including picture click here - Parcel B2

Item #	Qty	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B2 Bid	Individual Bid
18	7		Makita	1/2 drive	Drills	c/w 4 Angle grinders, electric sanders			
19	16		Milwaukee	Hole Hogs	Drill	c/w 2 types			
21	9		Various		Routers				
22	4		Makita	3803A	Power Planer	c/w 3 Dewalt Power Planers, 2 Makita Power Planer, 2 Clarke Floor Sanders			
24	8		Various		Quick Drive Screws				
25	4		Makita	JN16 01	Nibblers	c/w 4 Makita JS1600 shears, 10 Leister CH6060 Hot air blower, 11 Dewalt jig saws, 4 Makita electric drill			
26	17		Dewalt		Drills	c/w 12 Sawsall, 16 electric routers, 4 1/2 electric impacts			
27	14		Senco	DS200AC	Dry wall screw guns	c/w 10 Bostich MA55 dry wall screw gun, 8 Sawsall			
28	Large Qty of		Various		Routers				
29	Large Qty of		Various		Routers				
30	10		Various		Power Planers	c/w 16 various heat guns			
31	3		Makita		Nibblers	c/w 1 Greenlee hyd knock punch, 2 misc sanders, 2 biscuit joiners, hot glue gun, Weller soldering gun			
32	15		Various		Skill saws				
33	21		Various		Skill saws				
34	12		Various		Skill saws	c/w 1 Stihl 25 in electric chainsaw			
35	7		Various		Plumbing presses				
36	2		Makita	16 in	Beam Saws	c/w 1 4-ton hyd press			
37	6		Makita	1/2 in	Drills	c/w 8 Dewalt jig saws, 4 Bostich 2 in Brad nailers			
56	2		Dewalt		Compound Miter Saw	c/w Bosch stand			
57	2		Bosch and Dewalt		Compound Miter saw	c/w Bosch stand			

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58	2		Bosch		Compound Miter Saw	c/w Bosch stand	
59	2		Milwaukee	12 in	Compound Miter Saw	c/w 1 Milwaukee stand	
60	2		Dewalt	10 in	Compound Miter Saw	c/w 1 Milwaukee stand	
61	2		Dewalt	10 in	Compound Miter Saw	c/w 1 Dewalt stand	
62	2		Dewalt	10 in	Compound Miter Saw	c/w 1 King Canada Stand	
63	2		Dewalt	10 in	Compound Miter Saw	c/w 1 Dewalt stand	
64	2		Dewalt	12 in	Slider chop saw	c/w 1 Dewalt stand	
65	2		Dewalt	10 in	Compound Miter Saw	c/w 1 Dewalt stand	
66	2		Dewalt	10 in	Compound Miter Saw	c/w 1 Dewalt stand	
67	2		Dewalt	10 in	Compound Miter Saw	c/w 1 Dewalt stand	
68	2		Dewalt	10 in	Compound Miter Saw	c/w 1 Dewalt stand	
69	2		Dewalt	12 in	Compound Miter Saw	c/w 1 Dewalt stand	
70	2		Dewalt	12 in	Compound Miter Saw		
71	2		Dewalt	12 in	Compound Miter Saw		
72	2		Dewalt	12 in & 10 in	Compound Miter Saw		
73	2		Dewalt	10 in	Compound Miter Saw		
74	2		Dewalt	10 in	Compound Miter Saw		
75	2		Dewalt	12 in	Sliding Compound Miter Saw		
76	1		Dewalt	12 in	Sliding compound Miter Saw		
77	3		Hitachi	12 in & 10 in	Compound Miter Saw	c/w 1 slider	
78	2		Milwaukee	12 in	Compound Miter Saw		
79	2		Milwaukee	12 in	Compound Miter Saw		
80	1		Makita	12 in	Sliding Compound Miter Saw		
81	2		Makita	LS1040	Chop Saw		
82	2		Porter Cable & Delta		Chop Saw		
83	2		Dewalt		Chop Saw		
84	2		Dewalt		Chop Saw	c/w 1 stand	
93	6		Various		Floor sander, polishers, carpet cleaner		
94	4		Ridgid	6.5 hp 16 gallon	Shop Vac		

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95	4		Ridgid		Shop Vac			
96	4		Various		Shop Vac			
97	6		Various		Shop Vac			
98	8		Ridgid		Portable Vacuum			
99	6		Milwaukee	Portable	Vacuum			
103	2		Makita and Bosch		Hammer drills			
387	Qty of				Extension cords			
388	Qty of			Various	Wobble Lights	C/w cart		
389	Qty of				LED and Haloolights			
390	Qty of				Standing Fluorescent lights			
391	Qty of				Telescoping Halogen lights			
405	Qty of				Electrical Cable			
406	Qty of				Electrical Cable			
								0.00

Parcel B3 - Hand Tools - Rechargeable

Former Information including Pictures click here - Parcel B3

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B3 Bid	Individual Bid
38	Large Qty of		Milwaukee	M18	Rechargeable Drills	C/w chargers			
39	Large Qty of		Milwaukee	M18	Impact	C/w chargers			
40	Large Qty of		Milwaukee	M18 M12	Impacts	C/w chargers, Lighting			
41	11		Milwaukee	M18	Skill Saws	c/w 6 Milwaukee jig saws, chargers			
42	8		Milwaukee	M18	Sawsall	c/w 6 Milwaukee hacksaw, 5 right angle drills, 3 Milwaukee routers, 3 Milwaukee multitools, 3 Milwaukee holehogs, chargers			
43	11		Milwaukee	M18	Caulking guns	c/w 6 Milwaukee sawsall, 1 Lion Millennium Applicator, chargers			
44	3		Porter	20v	Pin Nailer	c/w 2 Senco 18v Finish Nailer, chargers			
45	5		Milwaukee	18v	Press Tools	c/w 7 Ridgid 18v press tool, Ridgid assorted rechargeable tools			
46	7		Milwaukee	M18	Hammer Drills	c/w Misc Hilton tools (drills impact, drill wall screw attachments), chargers			
47	4		Makita	18v	Sawsall	c/w 2 Makita 18v jig saws, 4 Makita 18v drills, 10 Makita 18v impacts, 6 Makita 10.8v Impacts			
48	25		Makita	18v	Impact drivers	c/w 15 Makita 18v drills, 7 Makita 12v impacts			

50	16		Dewalt	18v	Impact drivers	c/w 6 Dewalt 18v Drills, 2 vacuums, 12v impact drill		
51	1		Dewalt	20v	Chop saw	c/w 5 Dewalt skill saws, 4 Dewalt 18v Shears, Dewalt router, Dewalt, angle grinder, large qty of lights		
52	4		Dewalt	20v	Skill saws	c/w 4 Dewalt 18v skill saws, 8 Dewalt 18v Sawsall, 12 Dewalt 18v lights, 5 Dewalt jig saws		
53	10		Dewalt	18v	Impacts	c/w 4 Dewalt 18v Drills, 20 Dewalt 18v lights		
54	7		Milwaukee		Lights	c/w 1 Pelican light, Pneumatic pop riveter, drill bit sharpener		
55	Large Qty of		Various		Rechargeable Batteries and charging stations			
								0.00

Parcel B4 - Power Tools

For more information including pictures click here - Parcel B4

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B4 Bid	Individual Bid
85	1		Bosch	4000 10 in	Table Saw				
86	1		Makita	2705 255mm	Table Saw	c/w Wooden Stand			
87	1		Makita	2704 255mm	Table Saw	c/w Stand			
88	1		Ridgid	10 in	Table Saw	c/w Stand			
100	1		Karcher	Professional KM 75/40W	Electric Floor Sweeper				
101	2		Blum	Minipress MSO	Hinge				
104	1		Dewalt		Tile Saw	C/w 3 tile cutters			
105	1		SawMaster	1010	Tile Saw	C/w stand			
106	1		Power Fist	10 in	Tile saw	C/w stand			
107	3		Various	Portable Electric	Air compressors				
108	1		Rolair Systems	Portable Gas Powered	Air Compressor	C/w Honda GX160			
112	1		Walton		Drill Press	C/w Pedestal			
113	1		General International	75-280M1	Drill Press	C/w Pedestal			
114	1		General International	3/4 Hp	Drill Press	C/w Pedestal			
115	1		Canwood	Pro	Drill Press				
116	1		Dewalt	DW758	Bench Grinder				
117	1		Miller	Millermatic 200	Wire feed welder				
118	1		Milwaukee	6260	Band Saw				
119	1		Wellsaw	Electric	Horizontal Band Saw				
120	1			Hyd electric	Horizontal Band Saw				
167	1		Abatement Technologies	H2KM	Hepa Negative Air Machine		B12618317507		
168	1		Abatement Technologies	H2KM	Hepa Negative Air Machine		B12618317506		
169	1		Abatement Technologies	H2KM	Hepa Negative Air Machine				
187	1		Karcher		Floor Sweeper	C/w charger, 17 in floor pads			
188	2		GIS	1.25 ton	Electric Hoists				
189	5		GIS		Electric Hoists				
220	1		Weeke	PROFIBHP 008/510	Overhead CNC Router	c/w feed table, overhead lift			

221	1		Allendorf	F45	Table Saw		
222	1		Brandt	High Flex 1220	Edge Bander	c/w feed and output tables	
223	1		Brandt	Optimat KTD 720	Profiler Edge Bander	c/w Brandt Optimat FTK 130 Profile Edge Band Trimmer s/n 0-260-20-3881	0-260-20-3881
224	1		Homag Automation	ZHR01/R/045	Case Clamp		0-305-66-9601
225	1		General International		Planer		
226	1		Dewalt		Bench grinder	C/w branch, vice	
233	1		King Canada		9in disc & 8 in Belt sander		
234	1			4x8	Panel saw		
235	1		General International		Pedestal Table Saw		
236	1		Cantek	C14RS	Taper saw		
237	1		Alpine Engineering	723A	Press	C/w 208 v hyd pump	
238	1		Ridgid	300	Pipe threader	C/w stands	
239	1		General International	105CFM1	Dust collector	C/w electric motor	
240	1		Delta	50763	Dust collector	c/w electric motor	
241	1		Star	SSS2015E	Insulation Blower		
242	1		Glass Master	SG220	Ridgid Insulation duct machine		
849	2		Mosquito Magnet	LPG	Mosquito	c/w Crib	
							0.00

Parcel B5 - Electrical Tools

For more information including pictures click here - Parcel B5

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B5 Bid	Individual Bid
133	Qty of				Electric extension cord				
134	Qty of				Electric extension cord				
135	Qty of				Electric extension cord				
136	Qty of				Electric wire and heavy duty extension cord				
137	Qty of				Electric extension cord				
141	Qty of				String Lights				
142	Qty of				String Lights				
143	Qty of				String Lights, wobble light, extension cord				
144	2				Portable Power Distribution Units				
									0.00

Parcel B6 - Safety Equipment

For more information including pictures click here - Parcel B6

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B6 Bid	Individual Bid
138	Qty of				Fire Extinguishers, Antifreeze				
148	Qty of		Safety Rail	2000	Safety rail system	C/w 42 base units, rails			
149	Large Qty of		DBI Sala	2103143	Beam Trolleys	C/w fall protection slings			

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150	1		Box		Safety Cable				
151	2		Boxes Various		Safety harnesses				
152	Qty of				Safety Harnesses				
153	6				Safety Blocks				
154	Qty of				Safety and First aid supplies				
155	Qty of				Safety cones	C/w 2 carts			
									0.00

Parcel B7 - Hand Tools Clamps

For more information including pictures click here - Parcel B7

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B7 Bid	Individual Bid
156	Qty of			Quick Grip	Clamps				
157	Qty of			Quick Grip	Clamps				
158	Qty of			Small	Pipe clamps				
159	Qty of			Medium	Pipe clamps				
160	Qty of			Large	Pipe clamps				
									0.00

Parcel B8 - Hand Tools - Pallet Jacks

For more information including pictures click here - Parcel B8

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B8 Bid	Individual Bid
171	11				Hand Trolleys				
172	11				Hand Trolleys				
173	3				Pallet Jacks				
174	3				Pallet Jacks				
174	3				Pallet Jacks				
176	3				Pallet Jacks				
177	2				Pallet Jacks				
									0.00

Parcel B9 - Hand Tools - Other

For more information including pictures click here - Parcel B9

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B9 Bid	Individual Bid
89	2		Ultimate	MX II 695	Paint sprayer				
90	Qty of		Misc		Paint and glue sprayer				

102	2		Makita	1/2 in 18v	Impact driver	C/w sockets, various tools	
109	2				Hyd Floor Jacks		
110	3			5 Ton	Hyd Floor Jacks		
111	2			5 Ton	Hyd Floor Jacks		
121	Qty of				Levels, Survey Equipment	C/w Dewalt Rotary Laser, Acculine Rotary laser, Bosch laser level, Stabila laser level, qty of levels, stands	
122	Large Qty of				Hand tools		
123	Qty of				Sledge Hammers	C/w crow bars, large chain wrench	
124	Qty of		Misc		Hand tools, drill bits, hand air pump, sheathing tape		
125	Qty of		Misc		Roller stands, clamps		
126	Qty of				Knee pads		
127	1		Westward	1JYU3A	Battery charger	C/w Dielectric AVC 25v strength tester, spray foam w/ applicator	
139	Qty of				Contractor supplies	C/w 2 Simplex 10 ton jacks, wire feed cable, tape measures, staple gun	
145	Qty of				Contractor Supplies	C/w 1 Husqvarna 141 gas chain saw	
146	Qty of				Carpet installation tools		
147	3 pallets				Contractor Supplies	C/w various new and used tools and parts	
161	4 pallets				Contractor supplies	C/w drill bits, auger bits, hole cutters, hand tools, plastic tool boxes, assorted small utility wheels	
162	Qty of				Dry wall squares		
163	Qty of				Pipe fitting tools and gauges		
164	2 Pallets				Dry wall tools		
165	Qty of				Sheet metal tools		
166	Qty of				Whole cutters, crimps, saw blades and hand tools		
181	1				Wheel Barrel		
186	7				Banding Carts	C/w crimping tools	
227	1		Pacific International	Snappet	Cement Board Shear		
465	1		Skyreach	Super Hoist 3.8	Dry Wall air lift		
856	1			Pump Jack	Platform lift		
							0.00

Parcel B10 - Lifting Equipment

For information including picture click here - Parcel B10

LOT#	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B10 Bid	Individual Bid
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178	5	2019	Rotary	MCHF214U1 A01 14,000 lbs	Portable Electric Synchronized Lifts	C/w remote, 110v			0.00
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Parcel B11 - Aerial Work Platform

For more information including pictures click here - Parcel B11

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B11 Bid	Individual Bid
196	1		Skyjack	SJ III - 3219	Scissor Lift	24 v, 2580 lbs	22013247		
197	1	2001	Skyjack	SJ III - 3220	Scissor Lift	24v, 2790 lb	232721		
198	1	1996	Skyjack	SJ III - 3221	Scissor Lift	24v, 2500 lb	24519		
199	1	2008	Skyjack	SJIII 3226	Scissor Lift	24v, 4135 lb	27004524		
200	1	2008	Genie	GS 3246	Scissor Lift		GS460889337		
201	1		Genie	GS 1930	Scissor Lift				
202	1		Genie	GS 1930	Scissor Lift				
203	1		Genie	GS 1930	Scissor Lift				
204	1	2012	JLG	1932RS	Scissor Lift	24v, 3064 lb	B200908562		
									0.00

Parcel B12 - Forklifts - Electric

For more information including pictures click here - Parcel B12

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B12 Bid	Individual Bid
205	1		Yale	NR046EANM 36TE119 4500 lbs	Electric Lift Truck	C/w 3-stage lift, charger	C861N03318J		
206	1		Raymond	311-S-R45TT 4500 lbs	Electric Lift Truck	C/w 2-stage lift, charger	031-91-19916		
									0.00

Parcel B13 - Forklifts

For more information including pictures click here - Parcel B13

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B13 Bid	Individual Bid
207	1		Toyota	7FGU35 7,000 lbs	Forklift	C/w LPG, canopy, 3-stage lift	63501		
208	1		Toyota	8FU32 6,000 lbs	Forklift	C/w LPG, canopy, 3-stage lift	13465		
209	1		Toyota	8FGU32 6,000 lbs	Forklift	C/w LPG, canopy, 3-stage lift	11939		
210	1		Yale	GLP070VXNL SE091 7,000 lbs	Forklift	C/w LPG, canopy, 3-stage lift	C875V02788M		
900	1		Yale	GLP080VXN GGV098 8,000 lbs	Forklift	C/w LPG, canopy, 2-stage lift Special Notice: This item will be used until final load out. Please call the office to make arrangements for load out timing.	H813V02072K		
901	1		Caterpillar	P11000 10,000 lbs	Forklift	C/w LPG, canopy, 3-stage lift	AT33C50172		
211	1		Caterpillar	GC45K-SWB 10,000lbs	Forklift	Special Notice: This item will be used until final load out. Please call the office to make arrangements for load out timing.	AT8701008		
212	1		Hyster	H155XL2 14,600lbs	Forklift	C/w LPG, canopy, 3-stage lift	F006D06468Y		
213	1		Caterpillar	DP100 22,000 lbs	Forklift	C/w Diesel, cab, 2-stage lift	3DP00342		
214	1		Hyster	H230HD 21,000lbs	Forklift	Special Notice: This item will be used until final load out. Please call the office to make arrangements for load out timing.	G007E02451C		
821	1		Doosan	G32P-3 6,000 lbs	Forklift	C/w LPG, canopy, 3-stage lift	KQ-00921		
822	1				Module move attachment for forklift				
823	1				Module move attachment for forklift	w/ pintle hitch			
824	1				Module move attachment for forklift				
825	1				Sweeper attachment for forklift				

826	1				Plow attachment for forklift			
								0.00

Parcel B14 - Electric Pallet Jacks

For more information including pictures click here - Parcel B14

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B14 Bid	Individual Bid
215	1		Crown	PW3520-60	Electric Pallet Jack	C/w charger	6A274501		
216	1		Crown	PW3520-60	Electric Pallet Jack	C/w charger	6A250861		
217	1		Yale	MPW060LEN 24T2748	Electric Pallet Jack	C/w charger	A987N05430H		
218	1		Yale	MPB040-EN24T2748	Electric pallet jack	C/w built in charger	B827N52515L		
219	1		Yale	MPE 080 VG	Electric Pallet Jack	C/w charger	A292N01539J		
								0.00	

Parcel B15 - Miscellaneous

For more information including pictures click here - Parcel B15

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B15 Bid	Individual Bid
91	2		Dayton	5EAJ4	Dehumidifier				
92	2		Dayton	5EAJ4	Dehumidifier				
140	Qty of				Contractor Supplies	C/w fittings			
179	2			SI235/B5R16	Tire and rim	C/w electric hoist			
180	1		Mosquito Magnet		Mosquito repellent				
183	2		Backyard Grill	Propane	Barbecue	C/w plastic container w/ supplies			
184	1		Broil King		Propane Barbecue				
185	2		Grill Chef		Propane Grills				
191	Qty of				Metal shelves				
192	Qty of				Wheels for carts				
193	2		Uline	H-127	Lifting clamp				
194	1		Panel Lift		Dry wall lift				
195	Qty of					Coffee maker w/pots, industrial cover, snow shovels			
272	1 Pallet				Contractor Supplies	w/ unused staplers, rollers, cutting disks			
273	1 Pallet				Contractor Supplies	w/ gloves, ear plugs, pest control			
274	1 Pallet				Contractor Supplies	w/ Wood bits, saw blades,			
275	Qty of				Orbital sand paper, joiner biscuits				
276	1 Pallet				Steel cable				
361	Qty of				Contractor supplies	w/ saw blades, cutting discs, grinding pads			
362	Qty of				Paint and Tape				
404	Qty of		AkroBins		Plastic storage bins				
464	1		Orlon		Wheel Chair				
605	Qty of		Keg River		Ice Melter				
615	Qty of		H&M		Pipe Beveling Machine	c/w case, tripod, hand crank pulley			
836	3				Aluminum Platforms				
839	Qty of				Steel	including, brackets			
840	Qty of				Steel Wheels	c/w steel carts			
857	11				Steel Garbage Bins				
858	3				Steel Garbage Bins				
859	5				Steel Garbage Bins				

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860	Qty of				Crib Blocks			
878	Qty of				Brooms			
879	Qty of				Garbage Palls			
								0.00

Parcel B16 - Carts

[For more information including pictures click here - Parcel B16](#)

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B16 Bid	Individual Bid
170	1				Lino Trolley				
182	2				4 wheeled trolley				
399	3				Wheeled Work benches				
400	1				Carpenter Mobile Work bench	C/w various hand tools			
401	1				Carpenter Mobile Work bench	C/w various hand tools			
402	2				Carts				
403	1				Trim Cart				
466	3				Work carts				
467	3				Angled Carts				
468	2				Angled Carts				
469	2				Angled Carts				
470	4				Angled Carts				
471	4				Angled Carts				
472	4				Angled Carts				
473	4				Angled Carts				
474	4				Angled Carts				
475	4				Angled Carts				
476	3				Angled Carts				
477	5		Various		Carts				
478	3				Assorted Carts				
479	3				Metal Carts				
480	3				Metal Carts				
481	3				Wooden Carts				
482	6				Material Wooden Carts				
483	6				Material Wooden Carts				
484	4				Wooden Carts				
485	4				Wooden Carts				
486	4				Wooden Carts				
487	4				Wooden Carts				
488	4		Misc		Steel and Wooden Carts				
489	4		Misc		Work Benches/ Carts				
490	3		Misc		Material Cart				
491	1		Misc		Work Bench/ Cart				
492	5		Misc		Wooden Carts				
493	1		Misc		Steel Material Cart				

494	3		Misc		Wooden Carts			
495	2		Misc		Wooden Material Carts			
496	5		Misc		Wooden Carts			
497	4				Wooden Carts			
498	3				Wooden Carts			
499	3				Mobile work station and cart			
500	4				Wooden Carts			
501	3				Wooden Carts			
502	5				Wooden Carts	Work station w/ drawers		
503	4				Wooden Carts			
504	4				Wooden Material Carts			
505	4				Wooden Carts			
829	2				Roof Stands			
830	2				Roof Stands			
831	2				Roof Stands			
841	5				Ease Move Metal Carts			
842	5				Ease Move Metal Carts			
843	5				Ease Move Metal Carts			
844	5				Ease Move Metal Carts			
845	5				Ease Move Metal Carts			
846	3				Ease Move Metal Carts			
847	3				Ease Move Metal Carts			
848	2				Ease Move Metal Carts			
								0.00

Parcel B17 - Metal Working Tools

For more information including pictures click here - Parcel B17

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B17 Bid	Individual Bid
228	1		Magnum	1.5 x 52 in	Foot shear				
229	1		Flager		Pittsburg machine				
230	1		Magnum	48 in	Finger brake	C/w wooden cart			
231	1		Tin Kocker	24	Sheet metal hemming machine				
232	1		Miller	M1840	Spot welder				
								0.00	

Parcel B18 - Heaters & Fans

For more information including pictures click here - Parcel B18

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B18 Bid	Individual Bid
407	1				Propane heater				
408	8			240 v	Fan forced heaters	C/w cart, extension cords			
409	22			240 v	Fan forced electrical heaters				
410	Qty of		Various	120 v	Electrical heaters				
411	11		Cool Works	18 in	High velocity floor fans	C/w Glacier fan w/ stand			
412	Qty of		Various		Floor fans				
413	Qty of		Various		Floor Fans				
414	3		Power Flst	40 in	Articulated Floor Fans				

415	5		Power Flst	40 in	Floor Fans			
416	4		Power Flst, BE	36 in	Floor Fans			
417	2		Power Flst, Orient	24 in	Floor Fans			
								0.00

Parcel B19 - Hand Tools - Ladders

[For more information including pictures click here - Parcel B19](#)

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B19 Bid	Individual Bid
418	Qty of		Featherlite and Louisville		Ladders				
419	1		Featherlite	10 ft	Platform Step Ladder				
420	2			8 ft	Platform Step Ladder				
421	4			6 ft	Platform Step Ladder				
422	3			6 ft	Platform Step Ladder				
423	4			4 ft	Platform Step Ladder				
424	4			4 ft	Platform Step Ladder				
425	3			4 ft	Platform Step Ladder				
426	3		Featherlite	4 ft	Platform Step Ladder				
427	4		Featherlite	5 ft	Platform Step Ladder				
428	1		Featherlite	12 ft	Step Ladder				
429	1		Louisville	12 ft	Step Ladder				
430	4		Featherlite	10 ft	Step Ladder				
431	2		Louisville	10 ft	Step Ladder	W/ 1 Sturdy 10 ft step ladder			
432	2		Allright	10 ft	Step Ladder	Wooden			
433	2		Sturdy	8 ft	Step Ladder	1 - 7 ft ladder			
434	6		Featherlite	8 ft	Step Ladder				
435	4		Louisville	8 ft	Step Ladder				
436	3		Louisville	8 ft	Step Ladder				
437	3		Featherlite	8 ft	Step Ladder				
438	2		Falcon	8 ft	Step Ladder				
439	3		Misc		Ladders				
440	3		Allright	6 ft	Step Ladders				
441	3		Allright	6 ft	Step Ladders				
442	4		Allright	6 ft	Step Ladders				
443	5		Featherlite	6 ft	Step Ladders				

444	5		Featherlite	6 ft	Step Ladders			
445	5		Featherlite	6 ft	Step Ladders			
446	5		Featherlite	6 ft	Step Ladders			
447	4		Featherlite	6 ft	Step Ladders			
448	4		Louisville	6 ft	Step ladders			
449	4		Louisville	6 ft	Step ladders			
450	3		Louisville	6 ft	Step ladders			
451	4		Sturdy	6 ft	Step ladders			
452	3		Werner	6 ft	Step ladders			
453	3		Misc	6 ft	Step ladders			
454	Qty of		Misc	Small	Step Ladders			
455	3				Mobile Stairs			
456	3				Mobile Stairs			
457	2				Mobile Stairs	1 - Parts Only		
458	1				Mobile Stairs			
462	7		Misc	Small	Step Ladders			
463	Qty of				Work Steps			
838	3				Portable Stairs			
								0.00

Parcel B20 - Work Platform

For more information including pictures click here - Parcel B20

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B20 Bid	Individual Bid
459	2				Mobile Work Platforms				
460	2				Mobile Work Platforms				
461	2				Mobile Work Platforms				
								0.00	

Parcel B21 - Trim Cart

For more information including pictures click here - Parcel B21

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B21 Bid	Individual Bid
392	1				Trim Cart	C/w Dewalt 10 in miter saw, stand, fan			
393	1				Trim Cart	C/w Dewalt 10 in miter saw, stand, fan			
394	1				Trim Cart	C/w Dewalt 10 in miter saw, stand, fan			
395	1				Trim Cart	C/w Dewalt 10 in miter saw, stand, fan			
396	1				Trim Cart	Stand			
397	1				Trim Cart	Dewalt 10 in miter saw			
398	1				Trim Cart	Dewalt 12 in Compound Miter Saw			
								0.00	

Parcel B22 - Module Transport

For more information including pictures click here - Parcel B22

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel B22 Bid	Individual Bid
816	6				Module house dollies				

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817	1				T/A Module dolly			
818	1				T/A Module dolly			
819	1				T/A Module dolly			
820	1				S/A Module dolly			
827	1	2010	General	53 ton	Tri/a trombone trailer	C/w a/r, forklift attachment w/ 5th wheel	1G9TAU0T79A00B024	0.00

2 Enclosed or sent is my/our wire transfer, certified cheque or bank draft payable to "Triple M Modular Ltd", in the total amount of CDN\$ _____ as a deposit, representing ten percent (10%) of the total amount of the Purchase Price submitted herein (the "Deposit").

3 This Offer is:

- a) ☐ an en-bloc offer and is therefore conditional upon acceptance of all of the specific parcels for which bids are entered above; or
 b) ☐ not an en-bloc offer whereby the Company may accept any, all, or any combination of the specific parcels, sub-parcel or individual lots for which bids are entered (please mark with an "X" in one of the two alternative subparagraph boxes above to indicate the type of offer)

4 In the event that I/we omit or neglect to mark one of the boxes in subparagraphs 3(a) and 3(b) above, I/we agree that my/our offer shall be an en-bloc offer and the provisions of subparagraph 3(a) shall apply as if I/we had selected and marked that same subparagraph.

5 The undersigned acknowledges and agrees that this Offer shall become irrevocable on August 26th, 2020 11:59 pm PDT and the Deposit shall be forfeited to the Company on account of liquidated damages if the Offer is withdrawn by the Bidder after August 26th, 2020.

6 The undersigned acknowledges the receipt of the Standard Terms and Conditions as set forth in Appendix A of this Offer Form (the "Standard Terms and Conditions"). The undersigned acknowledges that this Offer is subject to said Standard Terms and Conditions, including, without limitation, that the Company reserves the right not to accept the highest or any Offer submitted.

7 The undersigned acknowledges that it will be submitting an executed sale agreement for the purchase of the Assets (the "Agreement of Purchase and Sale"), as provided by the Company, with this Offer, along with a blackline against the form of agreement of purchase and sale provided by the Company outlining any changes or conditions of the Bidder. The Agreement of Purchase and Sale provided by the undersigned may be capable of acceptance by the Company, in its discretion, but there shall be no obligation for the Company to accept the Agreement of Purchase and Sale and the Company may request such additional terms as are necessary or desirable in its sole discretion.

Dated: _____

 (Signature of Person)

– OR –

 (Name of Corporation)

 Authorized Signing Officer

Name: _____

Title: _____

 (Signature of Witness)

Name: _____

Parcel C Offer Form

To: Triple M Modular dba Metric Modular
1825 Tower Road
Agassiz, BC V0M 1A2

Name of Bidder:	
Address of Bidder:	
Contact:	
Telephone:	
Mobile:	
Email Address:	

1 I/We hereby offer to purchase from Triple M Modular Ltd dba Metric Modular (the "Company"), all of the right, title and interest, if any, in the following assets and undertakings (the "Assets") of the Company, en bloc or otherwise:

Parcel C - Materials

Parcel C Bid (includes C1 - C21):

Parcel C1 - Doors

For more information including pictures click here - Parcel C1

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C1 Bid	Individual Bid
243	41		Lynden	36 in	5 panel door				
244	31		Lynden	32 in	5 panel door				
245	29		Lynden	36 in	3 panel door				
246	20		Lynden	36 in, 32 in	2 panel doors				
247	33		Lynden	32 in	3 panel doors				
248	12		Lynden	32 in	3 panel doors				
249	21		Lynden	30 in	5 panel doors				
250	15		Lynden	30 in	3 panel doors	C/w 4 24 in 2-panel doors, 7 28 in 3-panel doors			
251	15		Lynden	30 in	2 panel doors	C/w 7 24 in 2-panel doors			
252	36		Lynden	24 in	3-panel doors				
253	30		Lynden	24 in	3-panel doors				
254	4		Lynden	32 in	3 panel doors	C/w 3 30in 3-panel doors, 2 24in 3-panel doors			
255	2		Lynden			Crates of door frames			
256	10		Lynden	24 in	5-panel bifold doors				
257	30		Lynden	24 in	3-panel bifold doors				
258	10		Lynden	30 in	5-panel bifold doors				

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259	20		Lynden	36 in	3-panel bifold doors	C/w 5 30 in 3-panel bifold doors	
260	19		Lynden	24 in	Glass panel doors		
261	2		WSI	Exterior	Solid Core Doors	C/w frame	
262	1			Exterior	Steel door	C/w frame	
263	Qty of				Metal Frames		
264	Qty of				Bifold doors, tracks	c/w cart	
265	Qty of				Assorted metal and wood frames and doors		
266	17		Kristack	2 ft 8 in x 6 ft 8 in	Pocket door frame kits		
267	Qty of				Assorted glass shower doors		
268	2				Patio Doors	c/w Exterior Door and frame	
269	Qty of				Assorted Doors	c/w pallets	
270	6				Pallets for doors storage and delivery		
271	Qty of		Organized Living		12 in wire shelves		
311	Qty of		Assorted		lock sets		
337	Qty of				Exit signs, door closures, panic hardware		
565	Qty of		Taymor		Assorted door hardware	C/w locksets, passage, privacy, panic door closers, towel racks	
							0.00

Parcel C2 - Flooring

For more information including pictures click here - Parcel C2

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C2 Bid	Individual Bid
277	Qty of			6x24 in	Floor tile - Gray				
278	Qty of			12x12 in	Natural stone tile				
279	Qty of			12x24 in	Tile				
280	Qty of			12x12 in	Mosaic tile	Various colours, white, blue, gray, brown			
281	Qty of			4x12	Subway tile	Grey			
282	Qty of			4x12 in	Subway Tile - white				

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541	Qty of			Floor registers	Metal and plastic - white and brown	
542	Qty of			Carpet tile		
543	Qty of	Armstrong		Floor tile		
544	Qty of			Carpet Underlay		
545	Qty of			7-roll carpet cart	c/w contents	
546	3			Rolls of Paper		
547	5			Rolls of Lino	Idaho	
548	3			Rolls of Lino	Fumed Oak, Houston, Cracked Oak	
549	5	Misc		Rolls of Lino		
550	2			Rolls of Tarkett		
551	4	Polyfloor		Rolls of Autumn Bleige	W/ 2 rolls of rural deck wood	
552	6	Polyfloor		Rolls of Rural Deckwood		
553	5			Lino Rollers		
554	Qty of		8 in	Assorted kick plates		
555	Qty of		4 in	Assorted base cove		
556	Qty of		4 in	Assorted base cove		
557	Qty of		4 in	Assorted base cove		
558	Qty of		4 in & 2 in	Assorted base cove		
559	Qty of		4 in	Assorted base cove		
560	Qty of			Assorted floor sills		
575	Qty of			Flooring adhesive		
576	Qty of			Assorted Libo		
577	Qty of			Carpet nailing strip		

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578	Qty of		Jonageurd		Flooring protector			
579	Qty of				Assorted carpet and lino	Note: shelving units not included		
664	2			6 ft		Rolls of Carpet runners		
								0.00

Parcel C3 - Roof Material

For more information including pictures click here - Parcel C3

Item #	Qty	Year	Make	Model	Type	Description	S/N	Parcel C3 Bid	Individual Bid
283	Qty of		CertainTeed	9 in	Ridge Vents				
284	Qty of		Menzles	Spun 3 in	Aluminum Roof drains				
285	Qty of		Rhino Roof	42 in c 286 ft	Underlay				
286	Qty of		Rhino Roof	42 in c 286 ft	Underlay				
287	Qty of		Rhino Roof	42 in c 286 ft	Underlay				
288	Qty of		Rhino Roof	42 in c 286 ft	Underlay				
289	1 Pallet				Insulation Stops				
290	1 Pallet				Insulation Stops				
291	1 Pallet				Insulation Stops				
292	4		Big Whirly		Roof Vents				
606	Qty of				EPDM roofing supplies				
782	6 pallets		Owens Corning	Teak	Shingles				
783	5 pallets		Owens Corning	Estate Grey	Shingles				
784	5 pallets		Owens Corning	Estate Grey	Shingles				
785	5 pallets		Owens Corning	Estate Grey	Shingles				
786	4 pallets		Owens Corning	Estate Grey	Shingles				
787	6 pallets		Owens Corning	Quarry Grey	Shingles				
788	6 pallets		Owens Corning	Onyx Black	Shingles	39 per pallet			
789	5 pallets		Owens Corning	Onyx Black	Shingles	39 per pallet			

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790	5 pallets		Owens Corning	Onyx Black	Shingles	39 per pallet		
791	5 pallets		Owens Corning	Onyx Black	Shingles	39 per pallet		
792	5 pallets		Owens Corning	Onyx Black	Shingles	39 per pallet		
793	5 pallets		Owens Corning	Onyx Black	Shingles	39 per pallet		
794	7.5 pallets		Owens Corning		Starter			
795	Qty of		Owens Corning	Sierra Grey	Hip & Ridge			
796	3 pallets		Owens Corning	Driftwood	Hip & Ridge			
797	Qty of		Owens Corning	Teak	Hip & Ridge			
798	2 pallets		Owens Corning	Espresso Grey	Hip & Ridge			
799	3 pallets		Owens Corning	Quarry Grey	Hip & Ridge			
800	3 pallets		Owens Corning	Onyx Black	Hip & Ridge			
							0.00	

Parcel C4 - Fasteners

Former information including pictures elsewhere - Parcel C4

Lot #	Qty	Year	Make	Model	Type	Description	S/N	Parcel C4 Bid	Individual Bid
294	Qty of		Blisset		Hanger nails, coll nails, Grip Rite coll nails				
295	Qty of		Hilti	6x1-5/8 PBH S M1	Nails	W/ Simpson sheathing clips			
296	Qty of		Blisset	1x1-1/4	Staples	C/w Simpson Quick Drive screws, Brighton carriage bolts, Tremco tape, Bostich nails			
297	Qty of		Simpson	2 in	Subfloor screws				
298	Qty of		Blisset	2.25 in	Nails	C/w Beck and Senco nails			
299	Qty of		Hilti	6x1 5/8 PBH S CRS M1	Screws				
300	Qty of		Blisset		Assorted Fasteners on Shelf	Staples, finishing nails			
301	Qty of		Assorted		Fasteners on Shelf	Robertson flat and round screws, west man steel siding screws			
302	Qty of		Assorted		Fasteners on Shelf	Robertson flat and round screws, west man steel siding screws			
303	Qty of		Assorted		Fasteners on Shelf	Robertson flat and round screws, west man steel siding screws, dry wall screws			
304	Qty of		Assorted		Fasteners on Shelf	Dry wall screws, nails			

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305	Qty of		Assorted		Fasteners on Shelf	Lag bolts, washers, roofing nails	
306	Qty of		Assorted		Fasteners on Shelf	Lag bolts, carriage bolts, washers, caps	
307	Qty of		Assorted		Fasteners on Shelf	Carriage bolts, siding screws, fire alarm panel	
308	Qty of		Assorted		Fasteners on Shelf	GRK fasteners, siding screws, Tarkett welding rods	
309	Qty of		Assorted		Simpson straps,	c/w tape	
310	Qty of		Assorted		Simpson straps,	c/w toilet paper roll dispensers	
319	Qty of		Bisset		Fasteners	C/w 3.5 in nails, 7/16 staples	
320	Qty of		Bisset		Fasteners	Lag bolts , misc staples	
321	Qty of		Bisset		Fasteners	Nails, and lag bolts	
322	Qty of		Various		Fasteners	Lag bolts	
323	Qty of		Bisset		Fasteners	Various nails	
324	Qty of		Bisset	3 in	Coil nails		
325	Qty of		Various		Roofing nails, smooth shank nails		
326	Qty of		Bisset	1.25 in	Coil roofing nails		
327	Qty of		Bisset	2.25 in	Coil nails		
328	Qty of		Bisset	2.5 in	Coil nails		
329	Qty of		Simpson		Fasteners		
330	Qty of		Assorted		Nuts and bolts		
376	Qty of				Rigid insulation fasteners		
580	Qty of		Bisset		Assorted Nails and Staples	Note: Table not included	
581	Qty of				Assorted Screws	GRK Screws, Note: table not included	
582	Qty of		Simpson		Assorted Joist Hangers		
583	Qty of		Simpson		Assorted Joists Hangers		

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584	Qty of		Simpson	HHUS210-4	Joist Hangers		
585	Qty of		Simpson	LUS-26	Joist Hangers		
586	Qty of			5/5x13 In	Carriage Bolts		
587	Qty of		Simpson	HUC210-4	Joist Hangers		
588	Qty of		Simpson	LUS210-3	Joist Hangers		
589	Qty of		Simpson	LUS210-2	Joist Hangers		
590	Qty of		Simpson	LUS210	Joist Hangers		
591	Qty of		Simpson	LUS28	Joist Hangers		
592	Qty of		Milek	3x6 In	20 gauge gang nails		
593	Qty of		Milek	5x10 In	Gang nails		
594	Qty of		Simpson		Assorted hangers		
595	Qty of		Milek		RT15 Rafter Ties		
596	Qty of		Simpson	LUS28-3	Joist Hangers		
597	Qty of				Assorted screws		
598	Qty of		Simpson	HUC210-3	Joist Hangers		
599	Qty of		Milek	3x12	Gang nails		
600	Qty of				Assorted screws		
601	Qty of		Senco		Assorted strip nails		
602	Qty of		Simpson		Assorted Hangers	Note: shelf not included	
603	Qty of				Assorted Hangers and washers		
							0.00

Parcel C5 - Plumbing

For more information including pictures click here - Parcel C5

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C5 Bid	Individual Bid
341	1		Rheem	39 gallon	Electric water heater	C/w Rheem 23 litre electric hot water heater			
342	2		Rheem	40 gallon	Gas hot water heater				

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343	1		AO Smith	120 gallon	Electric Hot Water Heater		
344	1		AO Smith	120 gallon	Electric Hot Water Heater		
506	Qty of		Misc		Plumbing supplies	C/w water lines, elbows, assorted fittings	
507	Qty of		Misc		Plumbing supplies	Assorted fittings	
508	Qty of		Misc		Plumbing supplies	Assorted brass, copper fittings	
509	Qty of		Misc		Plumbing supplies	Assorted fittings	
510	Qty of		Misc		Plumbing supplies	Assorted fittings, wax toilet rings	
511	Qty of		Misc		Plumbing supplies	Assorted fittings, copper	
512	Qty of		Misc		Plumbing supplies	Assorted fittings	
513	Qty of		Misc		Plumbing supplies	Assorted fittings	
514	Qty of		Misc		Plumbing supplies	Assorted plumbing fittings w/ racks	
515	Qty of		Misc		Plumbing supplies	2 American Standard sinks, toilet bowl back, fittings and 10 taps	
517	Qty of		Odessa		Bathroom Sinks		
518	1				Utility Sink		
519	Qty of				Toilets seats		
520	Qty of		Owens Corning		Fibreglass pipe insulation		
521	Qty of		Owens Corning		Fibreglass pipe insulation		
522	Qty of		Tundra		Self sealing pipe insulation		
523	Qty of		Tundra		Self sealing pipe insulation		
524	Qty of				Contents of plumbing room	C/w toilet seats, 2 kitchen sinks, 2 toilets, flanges(beauty rings), sink down spouts, wax toilet rings	
525	Qty of				Assorted connectors		
526	Qty of				Assorted connectors		
527	Qty of				Copper Fittings		

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528	Qty of				Copper Fittings			
529	Qty of				Copper Fittings			
530	Qty of				Copper Fittings			
531	Qty of				Copper Fittings			
532	Qty of				PVC Fittings			
533	Qty of				PVC Fittings			
534	Qty of				PVC Fittings			
535	Qty of				PVC Fittings			
536	Qty of				PVC glue	w/ fire cabinet		
537	Qty of				Assorted clips and clamps plumbing			
538	Qty of			1.5 and 3 in	PVC pipe			
850	Qty of				Assorted Pipe	c/w PVC, Pex		
851	Qty of				Fiberglass Tubs and showers	6 showers, 5 tub showers		
852	Qty of				Fiberglass Tubs and showers	5 showers, 5 tub showers		
								0.00

Parcel C6 - Appliances

For more information including pictures click here - Parcel C6

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C6 Bid	Individual Bid
346	1 Set		Whirlpool	Top Load	Electric Washer & Dryer				
347	1 Set		Whirlpool	Top load	Electric Washer & Dryer				
348	1 Set		Electrolux	Front load	Electric Washer & Dryer				
349	1 Set		Electrolux	Front load	Electric Washer & Dryer				
350	1 Set		Whirlpool		Washer and Dryer				
351	1		Whirlpool		Clothes Dryer				
352	1		Whirlpool	5 burner	Gas cooktop	3 - Nutone 30 in range hood, 1 Brian 30 in range hood			
353	1		Whirlpool	Slide In	Electric Range	Black			

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354	1		Whirlpool	Ceran Top	Electric Range	Black		
355	1		Whirlpool	Ceran Top	Electric Range	Black		
356	1		Whirlpool	Ceran Top	Electric Range	Stainless		
357	1		Whirlpool	25 cubic ft	Refrigerator	C/w ice maker, Black		
358	1		Whirlpool	Stainless	Refrigerator	C/w ice maker, Stainless		
359	1		Fridgadeir	18 cubic ft Black	Refrigerator	White		
360	1		Whirlpool	18 cubic ft Black	Refrigerator	C/w ice maker, Black		
								0.00

Parcel C7 - Electrical

For more information including pictures click here - Parcel C7

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C7 Bid	Individual Bid
363	Qty of			Single	Light switches	C/w covers			
364	Qty of		Galaxy	2 - 60 watt bulbs, satin finish	Ceiling light				
365	Qty of		Russel		Ceiling Light	C/w pot lights, wall sconces			
366	Qty of				Electrical cable and plugs				
367	Qty of				Fluorescent lights, bulbs, wall and base board heaters				
368	Qty of				Exhaust fans, exterior lights				
369	Qty of				Button Ceiling lights				
370	Qty of		Nutek	Various	Electrical boxes				
371	Qty of				BX Electrical Cable				
372	Qty of			Low amperage	Electrical wire				
373	Qty of				Data cabling				
374	Qty of				Data cable				
375	Qty of		Siemens	Various	Electrical panels				
378	Qty of		Ipex Electrical	Various	Flexible conduit				
379	Qty of			Various	Electrical cable				

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380	Qty of				Electrical boxes			
381	Qty of				Electrical Boxes			
382	Qty of		Various		Electrical supplies	Fasteners, electrical, weather heads, metal cart		
383	Qty of		Various		Electrical supplies	Breakers, cover plates, fuses, Metal cart		
384	Qty of				Electrical Supplies	Cover plates, various connectors, metal cart		
385	Qty of		Various		Fluorescent lights			
386	Qty of		Various		Heaters, heat detectors			
								0.00

Parcel C8 - Siding, Walls & Ceilings

For more information including pictures click here - Parcel C8

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C8 Bid	Individual Bid
561	Qty of				Assorted T-bar ceiling supplies				
562	Qty of		Partition Systems		Assorted vinyl clad balcons				
563	Qty of				Assorted Base boards				
564	Qty of				Assorted Base boards				
607	Qty of		Home Slicker		Drainage mat				
612	Qty of				Dry Wall Supplies				
613	Qty of				Dry Wall corner beads				
649	Qty of				Oak trim	Various widths and lengths			
657	Qty of			4x8 ft	Smart Siding -Primed				
659	Qty of				Coragated siding				
660	Qty of				Aluminum soffits, flashing,				
661	Qty of				Aluminum siding supplies	C/w smart board trim			
662	Qty of		Quality Stone		Fire place Panel siding				
663	Qty of				Assorted Vinyl siding				
835	Qty of				Steel Studs				

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853	Qty of				Double Pane Windows	c/w steel crib			
854	Qty of				Double Pane Windows	c/w steel crib			
855	Qty of				Double Pane Windows	c/w steel crib			
									0.00

Parcel C9 - HVAC

For more information including pictures click here - Parcel C9

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	BIN	Parcel C9 Bid	Individual Bid
608	Qty of					Assorted HVAC Ducting			
609	Qty of					Assorted HVAC Ducting			
610	Qty of					Assorted furnace, condenser			
611	Qty of					Assorted furnace,			
614	Qty of					Assorted lights			
777	5		Intertherm	B6VMMX36K-B	Air handler	C/w heat element			
778	1		Electro Industries	EM-MA22-208-3-14	Air make up unit				
779	6		Intertherm	HSH1BE4M1SP3 6K	Condensers				
									0.00

Parcel C10 - Metal Rolls

For more information including pictures click here - Parcel C10

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	BIN	Parcel C10 Bid	Individual Bid
617	1,800 lbs			48"		Antique Linen aluminum			
618	4042 lbs			36", 31 gauge		Coffee Brown Steel			
619	9350 lbs			36", 29 gauge		Soft Tan steel			
620	4300 lbs			36", 26 gauge		Orange steel			
621	4200 lbs			36" 26 gauge		Galvalum aluminum			
622	900 lbs			48" 26 gauge		Dark Red steel			
623	Qty of					Antique Linen 12" 1,308 lbs 26 gauge steel, 36" 900 lbs 26 gauge steel			
624	2,600 lbs			36" 30 gauge		Royal blue stell			
625	450 lbs			36" 26 gauge		Heron Blue steel			
626	1,300 lbs			36" 26 gauge		Charcoal steel			

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627	2,800 lbs			36" 26 gauge	Metro Brown steel				
628	1,250 lbs			48" 26 gauge	Cashmere steel				
629	950 lbs			36" 30 gauge	Slate Blue steel				
630	600 lbs			36" 30 gauge	Bright Red steel				
631	2,000 lbs			36" 26 gauge	Dark Green steel				
632	2,000 lbs			36" 30 gauge	Bone White steel				
633	1,100 lbs			36" 30 gauge	Coffee Brown steel				
634	1,100 lbs			36" 30 gauge	Galvanize steel				
									0.00

Parcel C11 - Laminate

For more information including pictures click here - Parcel C11

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C11 Bid	Individual Bid
643	4 Lifts		Araucaria Prism	5/8" 4x8'	Laminate	Sandalwood			
644	2 Lifts		Araucaria Prism	5/8" 4x8'	Laminate	Pewter Pine			
645	2 Lifts		Araucaria Prism	5/8" 4x8'	Laminate	Fossil			
646	2 Lifts		Araucaria Prism	5/8" 4x8'	Laminate	Trytoo Savatre			
647	1 Lift		Araucaria Prism	5/8" 4x8'	Laminate	Diva			
648	5 lifts			5/8" 4x8'	Laminate	Various colours			
650	2 Lifts			5/8" 4x8'	Laminate	Oxford White			
651	Qty of			4x8 ft	Laminate	Various widths and lengths			
655	Qty of				Assorted MDF laminate				
658	Qty of				Arborite				
									0.00

Parcel C12 - Plywood & MDF

For more information including pictures click here - Parcel C12

LOT #	QTY	Year	MAKE	MODEL	INDIVIDUAL PICTURES CLICK	DESCRIPTION	S/N	Parcel C12 Bid	Individual Bid
652	1 Lift			3/4" 4x8'		Birch plywood			
653	Qty of					Assorted plywood and MDF			
						3/8" 4x8 finished birch, 5/8" 4x8 finished birch 5/8" 4x8 raw birch, qty of MDF			
654	Qty of					Assorted MDF			

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656	2			4x8 ft	Raw Particle board			
743	6 lifts			3/8" 4x8'	DFP Plywood			
744	4 lifts			3/8" 4x8'	DFP Plywood			
745	4 lifts			3/8" 4x8'	DFP Plywood			
755	3			5/8" 4x8'	Pressure Treated Plywood			
756	Qty of			3/8 4x8	Good one side plywood			
757	2 lifts			3/8" 4x8	Pressure Treated plywood			
758	8 lifts			8.5 mm 4x8'	Underlay			
759	4 1/2 lifts		Enstron	5/16" 4x8'	Underlay			
763	Qty of				Fire rated plywood	5/8" 4x8 fire rated 3/8" 4x8 fire rated		
764	Qty of			5/8" 4x8'	D RATED PLYWOOD			
765	3 lifts			7/16" 4x8	Sound Deadening panels			
0.00								

Parcel C13 - Dry Wall

For more information including pictures click here - Parcel C13

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C13 Bid	Individual Bid
665	2			5/8" 4x8'	Vinyl clad gyproc	Sherwood Biege			
666	3			5/8" 4x8' and 4x9'	Vinyl clad gyproc	Stardust Natural			
667	Qty of			1/2" 4x9' and 4x10'	Vinyl clad gyproc	Doreenlee Dawn			
668	Qty of			1/2" 4x9'	Vinyl clad gyproc	Doreenlee Ash			
669	Qty of			1/2" 4x8' and 4x9'	Vinyl clad gyproc	Tortise			
670	5			1/2" 4x8' and 5/8" 4x9"	Vinyl clad gyproc	Stardust Pearl			
671	9			1/2" 4x9'	Vinyl clad gyproc	Napa Biege			
672	2			1/2" 4x8'	Vinyl clad gyproc	Napa Biege			
673	Qty of			1/2" 4x9'	Vinyl clad gyproc	Norwich Pearl, 1			
674	4 lifts			1/2" 4x10'	Vinyl clad gyproc	Stardust Masonry			

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675	6			1/2" 4x8'	Vinyl clad gyproc	Stardust Masonry		
676	8			1/2" 4x8'	Vinyl clad gyproc	Portola Buckskin		
677	Qty of			4x8'	Vinyl clad gyproc	Portola Sand, Artisan Mist		
678	3 Lifts			1/2" 4x12'	Vinyl clad gyproc	Adobe White		
679	2 Lifts			1/2" 4x10'	Vinyl clad gyproc	Adobe White		
680	Qty of			1/2" 4x20'	Vinyl clad gyproc	20 sheets of 4x14		
681	Qty of			5/8" 4 x 10'	Silent Fx Gypsum Board			
682	Qty of			5/8" 4x12'	Type C Gypsum Board			
683	Qty of			1/2" 4x14	Type C Gypsum Board			
684	Qty of			5/8" 4x12'	Type X Gypsum Board			
685	Qty of			1/2" 4x12'	Ceiling Gypsum Board			
686	Qty of			1/2" 54"x12'	Gypsum Board			
687	2 lifts			1/2" 4x12'	Gypsum Board			
688	2 lifts			1/2" 4x12'	Gypsum Board			
689	2 lifts			1/2" 4x12'	Gypsum Board			
690	1 lift			1/2" 4x12'	Gypsum Board	C/w a few sheets extra		
691	Qty of			1/2" 4x8'	Moisture and Mold Resistance Gypsum Board			
692	Qty of			5/8" 4x8'	Type X Gypsum Board			
693	Qty of					Assorted Dens Armour, Dens Glass, Dens Deck		
694	Qty of			1/2" 4x8 and 4x9	Gypsum Board			
								0.00

Parcel C14 - Lumber

For more information including pictures click here - Parcel C14

Lot #	Qty	Year	Make	Model	Type	Description	SN	Parcel C14 Bid	Individual Bid
695	Qty of			2x10" x 16'	Lumber				
696	2 1/2 lifts			2x10 x 12	Lumber				

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697	2 Lifts			2x10 x 13	Lumber		
698	2 Lifts			2x10 x 14	Lumber		
699	2 Lifts			2x10 x 15	Lumber		
700	2 1/2 Lifts			2x6 x 16'	Lumber		
701	2 Lifts			2x4 x 16	Lumber		
702	2 Lifts			2x4 x 12	Lumber		
703	2 Lifts			2x4 x 13	Lumber		
704	1 Lift			2x4 x 14	Lumber		
705	2 Lifts			2x4 x 10	Lumber		
706	2 Lifts			2x4 x 11	Lumber		
707	2 Lifts			2x4 x 12	Lumber		
708	2 Lifts			2x6 x 10'	Lumber		
709	2 Lifts			2x6 x 10'	Lumber		
710	2 1/2 lifts			2x6 x 12'	Lumber		
711	1 lift			1x4 x 16'	Lumber		
712	1 lift			1x2 x12'	Lumber		
713	Qty of			2x2 x12'	Lumber		
714	1 lift			2x8 x 14'	Lumber		
715	2 Lifts			2x8 x 12	Lumber		
716	2 Lifts			2x8 x 13	Lumber		
717	Qty of			2x8 x 14'	Lumber		
718	2 lifts			2x8 x16'	Lumber		
719	2 1/2 lifts			2x12 x 14'	Lumber		

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720	2 1/2 lifts			2x12 x 14'	Lumber		
721	2 lifts			2x12 x 14'	Lumber		
722	3 lifts			2x8 x 10	Lumber		
723	1 1/2 lifts			2x12 x 16'	Lumber		
724	1 lift			2x6 x 20'	Lumber		
725	Qty of			2x12 x 10' 2x12 x 12'	Lumber		
880	4 1/2 lifts			2x4x8'	SPF Studs		
881	3 lifts			2x6x8	SPF Studs		
882	6 1/3 lifts			2x6' x 94.5'	Notched SPF Studs		
883	1 1/2 lifts			2x6 x 103 3/4"	Notched SPF Studs		
884	9 lifts			2x6 97 3/4"	Fir		
885	1 lift			2x6 97 3/4"	SPF Studs		
886	1 1/4 lifts			2x4' x 93"	SPF Studs		
887	1 lift			2x6' x 93"	SPF Studs		
888	5 lifts			2x6' x 8'	SPF Studs		
889	1 lift			2x6' x 105 1/4"	SPF Studs		
890	Qty of			2x4x8"	Pressure Treated		
891	Qty of			2x8x12'	Pressure Treated		
892	2 lifts			2x3x12'	SPF Studs		
893	Qty of			2x3x8'	SPF		
894	Qty of			2x8x12'	Pressure Treated		
895	Qty of			2x4x12'	Pressure Treated		
896	Qty of			Misc	Lumber		
898	Qty of			4x4x8'	Pressure Treated		
899	Qty of			1x6x12'D 1x6x16'	Decking boards		
900	Qty of				Treated Lumber	4x4x12' Pressure Treated 2x6x16 pressure Treated 2x10x16 Pressure Treated 2x8x16' Browns Treated	
							0.00

Parcel C15 - Casing & Trim

For more information including pictures click here - Parcel C15

LOT#	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C15 Bid	Individual Bid
726	Qty of				Assorted Smart Side trim and siding	5/4" x 6" x 16' trim 3/8" x 6" x 16' lap siding			
727	1 1/2 lifts				Assorted Primed Trim	1x3" x 16' trim casing and flat stock			
728	Qty of			2 1/4" x 14'	356 casing				
729	Qty of			2 1/4" x 14'	451 casing	White, Brown			
730	Qty of			1x5" x 14'	Flat stock	White			
731	Qty of				Stair Treads	Grey			
732	Qty of			1x5" x 14'	Flat stock moulding	White			
733	Qty of				Vinyl Batons				
									0.00

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Parcel C16 - OSB

For more information including pictures click here - Parcel C16

Lot #	Qty	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C16 Bid	Individual Bid
734	5 1/2 lifts			23/32 4x8'	OSB T&G				
735	5 Lifts			23/32 4x8'	OSB T&G				
736	5 Lifts			23/32 4x8'	OSB T&G				
737	5 Lifts			23/32 4x8'	OSB T&G				
738	5 Lifts			23/32 4x8'	OSB T&G				
739	5 Lifts			23/32 4x8'	OSB T&G				
740	5 Lifts			23/32 4x8'	OSB T&G				
741	6 lifts			23/32 4x8'	DFP Plywood T&G Subfloor				
742	5 lifts			23/32 4x8'	DFP Plywood T&G Subfloor				
746	3			3/8" 4x9'	OSB				
747	1 1/2 lifts			15/32 4x9'	OSB				
748	2 lifts			5/8" 4x8'	DFP OSB T&G				
749	2 lifts			5/8" 4x8'	DFP OSB T&G				
750	3 lifts			3/8" 4x8'	OSB				
751	2 lifts			3/8" 4x8'	OSB				
752	3 lifts			15/32" 4x8'	OSB				
753	2 lifts			15/32" 4x8'	OSB				
754	2 lifts			7/16" 4x8'	OSB				
760	4 lifts		Enstron	5/16" 4x8'	Underlay				
0.00									

Parcel C17 - Insulation

For more information including pictures click here - Parcel C17

Lot #	Qty	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C17 Bid	Individual Bid
568	Qty of		Dow	4 in	Roof mate Insulation				
569	Qty of		Dow	1.5 in	Roof mate Insulation				
570	Qty of			15x100 ft	6 mil Poly				

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571	Qty of			15x100 ft	6 mil Poly			
572	Qty of			15x100 ft	6 mil Poly			
573	Qty of			10x100 ft	6 mil Poly			
574	Qty of			20x100 ft	10 mil Poly			
766	24 bundles		Roxul	2"x24"x48"	Insulation			
767	36 bags			R40 24"	Insulation			
768	45 bags			R40 16"	Insulation			
769	15 bags			R22 16"	Insulation			
770	30 bags			R12 15"	Insulation			
771	72 Bags			R12 24"	Insulation			
772	30 bags			R31 24"	Insulation			
773	70 bags			R31 24"	Insulation			
774	50 bags			R14 15"	Insulation			
775	85 bags			R14 15"	Insulation			
776	39 bags			R20 15"	Insulation			
780	3 pallets			Sierra Grey	Shingles			
781	3 pallets			Driftwood	Shingles			
								0.00

Parcel C18 - Containers w/ Contents

For more information including pictures click here - Parcel C18

Item #	Qty	Year	Make	Model	Type	Description	S/N	Parcel C18 Bld	Individual Bld
801	1			40 ft High Capacity	Container	C/w approx 65 rolls of R13 72 in x 50 Insulation			
802	1			40 ft High Capacity	Container	C/w approx 32 rolls of R20 72 in x 39 ft Insulation			
803	1			40 ft	Container				
804	1			20 ft	Container	C/w approx 24 rolls of 72 in x 50 ft Insulation			
805	1			20 ft	Container	C/w approx 24 rolls of 72 in x 50 ft Insulation			

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806	1			20 ft	Container	C/w Maxilume pot lights, shelves, folding chairs, nails, plumbing supplies			
807	1			20 ft	Container	C/w assorted Lino, carpet			
808	1			20 ft	Container	C/w assorted carpet			
809	1			20 ft	Container	C/w rear door, shelves, light			
810	1			20 ft	Container	C/w rear door, shelves, light			
811	1			20 ft	Container	c/w HVAC ducting			
812	1			20 ft	Container	c/w contents, plumbing supplies, toilets			
813	1			20 ft	Container	c/w contents, drill press, Dewalt chop saw, 2 - work benches, banding cart			
814	1			20 ft	Container	c/w contents, various fittings, bathroom sinks, 7 a- Mainline Toilets			
815	1			20 ft	Container	c/w contents, Copper pipe and Canplas PVC fittings			
									0.00

Parcel C19 - Engineered Wood

For more information including pictures click here - Parcel C19

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C19 Bid	Individual Bid
762	Qty of				LVL	46 - 1 3/4 x 16 30 - 1 3/4" x 11 7/8			
832	7		Gulam		Assorted Beams				
833	Qty of		Gulam	5.125 x 21 x 60	Assorted Beams				
834	Qty of		Gulam		Assorted Beams	c/w pressure treated			
897	Qty of				LVL				
									0.00

Parcel C20 - Miscellaneous Material

For more information including pictures click here - Parcel C20

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C20 Bid	Individual Bid
293	Qty of				Medicine Cabinets and floor mats				
312	Qty of		Chemtron		Acoustical Sealant				
313	Qty of		Tremco		Acoustical / Curtainwall Sealant				
314	Qty of		Touch n Seal		Dry wall adhesive				
315	Qty of				Assorted Mirrors and glass				
316	Qty of				Assorted Caulking				
317	Qty of				Assorted Caulking				

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318	Qty of				Assorted pails, cans and plastic bags.			
331	16		Armstrong	24x24 in	Ceiling Tiles			
332	17		Armstrong	2x4 ft	Ceiling Tiles			
333	18		USG	x4 ft Radar High	Acoustical Tiles	C/W Armstrong acoustical tiles		
334	22		USG	2x4 ft Radar Basic	Acoustical Tiles			
335	24 boxes		USG	2x4 ft Twill Unperforated	Acoustical Tiles			
336	10 boxes		Armstrong	2x4 ft	Ceiling Tiles			
338	Qty of				Alarm clocks			
339	Qty of				Desk lamps			
340	Qty of				Fireplace B vent			
345	Qty of					Instant Asphalt patch, 12x24 in slate tile		
377	Qty of				T-bar supplies, caulking, shims			
516	Qty of		Primex		Floor registers			
539	1		Duropro	G2424FF	White Glue			
540	Qty of		Hilli		Fire sleeves			
566	Qty of				Hitch and boogie brackets			
567	Qty of				Ground anchor brackets			
604	Qty of				Foundation Damp Proofing			
761	6			205" x 3000' rolls	Bottom board reinforced black poly			
828	1			12' x 68'	House Frame			
837	Qty of				Steel Pipe			
								0.00

Parcel C21 - Cabinets & Counter Top Supplies

For more information including pictures click here - Parcel C21

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel C21 Bid	Individual Bid
635	Qty of				Cabinet Hardware	C/W assorted cabinet hinges			

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636	Qty of				Cabinet Hardware	Drawer Brackets, hinges		
637	Qty of				Cabinet Hardware	Drawer Brackets, hinges		
638	Qty of				Cabinet Hardware	C/w assorted brackets and screws		
639	Qty of				Cabinet Hardware			
640	Qty of				Wood Trim			
641	Qty of				Counter tops			
642	Qty of				Counter top trim pieces			
								0.00

2 Enclosed or sent is my/our wire transfer, certified cheque or bank draft payable to "Triple M Modular Ltd", in the total amount of CDN\$ _____ as a deposit, representing ten percent (10%) of the total amount of the Purchase Price submitted herein (the "Deposit").

3 This Offer is:

- a) ☒ an en-bloc offer and is therefore conditional upon acceptance of all of the specific parcels for which bids are entered above; or
 not an en-bloc offer whereby the Company may accept any, all, or any combination of the specific parcels, sub-parcel or individual lots for
 b) ☐ which bids are entered above.

(please mark with an "X" in one of the two alternative subparagraph boxes above to indicate the type of offer)

- 4 In the event that I/we omit or neglect to mark one of the boxes in subparagraphs 3(a) and 3(b) above, I/we agree that my/our offer shall be an en-bloc offer and the provisions of subparagraph 3(a) shall apply as if I/we had selected and marked that same subparagraph.
- 5 The undersigned acknowledges and agrees that this Offer shall become irrevocable on August 26th, 2020 11:59 pm PDT and the Deposit shall be forfeited to the Company on account of liquidated damages if the Offer is withdrawn by the Bidder after August 26th, 2020.
- 6 The undersigned acknowledges the receipt of the Standard Terms and Conditions as set forth in Appendix A of this Offer Form (the "Standard Terms and Conditions"). The undersigned acknowledges that this Offer is subject to said Standard Terms and Conditions, including, without limitation, that the Company reserves the right not to accept the highest or any Offer submitted.
- 7 The undersigned acknowledges that it will be submitting an executed sale agreement for the purchase of the Assets (the "Agreement of Purchase and Sale"), as provided by the Company, with this Offer, along with a blackline against the form of agreement of purchase and sale provided by the Company outlining any changes or conditions of the Bidder. The Agreement of Purchase and Sale provided by the undersigned may be capable of acceptance by the Company, in its discretion, but there shall be no obligation for the Company to accept the Agreement of Purchase and Sale and the Company may request such additional

Dated: _____

 (Signature of Person)

— OR —

 (Name of Corporation)

 Authorized Signing Officer

Name: _____

Title: _____

 (Signature of Witness)

Name: _____

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Parcel D Offer Form

To: Triple M Modular dba Metric Modular
1825 Tower Road
Agassiz, BC, V0M 1A2

Name of Bidder:	
Address of Bidder:	
Contact:	
Telephone:	
Mobile:	
Email Address:	

I/We hereby offer to purchase from Triple M Modular Ltd dba Metric Modular (the "Company"), all of the right, title and interest, if any, in the following assets and undertakings (the "Assets") of the Company, en bloc or otherwise:

Parcel D - Office & IT Equipment

Parcel D Bid (includes D1- D8):

Parcel D1 - Computers & Laptops

For more information including pictures click here - Parcel D1

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel D1 Bid	Individual Bid
861	3		Think Center	M920x	Mini desktop computers	C/w screens, keyboards, mice, cables			
862	Qty of				Various Laptops	20 laptops- HP, Dell, Surfaces			
863	Qty of				Various Computers	8 HP Z420 workstations, 7 Dell Optiplex workstations, 7 misc workstations, keyboards and cables			
									0.00

Parcel D2 - Monitors

For more information including pictures click here - Parcel D2

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel D2 Bid	Individual Bid
864	Qty of				Various Monitors	Approx 40 monitors			
865	Qty of				Various Monitors	Approx 20 Hp monitors, 7 Samsung monitors, cables			
									0.00

Parcel D3 - Printers & Plotters

For more information including pictures click here - Parcel D3

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel D3 Bid	Individual Bid
866	Qty of				Various Printers	C/w colour and b&w laser, ink jet			
867	Qty of		HP	Laser Jet 700 Colour MFP m775					
868	1		Canon	OCE Plotwave 340	Plotter	c/w 6 rolls of paper			
									0.00

Parcel D4- Communication Equipment

For more information including pictures click here - Parcel D4

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel D4 Bid	Individual Bid
869	Qty of		Magone		Two-way radios	C/w chargers			
870	Qty of		Avaya	IP Office 500 V2	Phone system	C/w control unit, switches, digital station, 9611G Phone sets, conference phone, mobile hand sets			
									0.00

Parcel D5 - Network Gear, Rack

For more information including pictures click here - Parcel D5

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel D5 Bid	Individual Bid
871	Qty of		Meraki		Networking Gear	C/w switched, routers, access points, server rack			
872	Qty of				Misc electronics	C/w 2 projectors. Network attach storage devices			
									0.00

Parcel D6 - Steel Case Chairs

For more information including pictures click here - Parcel D6

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel D6 Bid	Individual Bid
873	27		Steel Case		Rolling Chairs				
874	11		Steel Case		Stationary Chairs				
									0.00

Parcel D7 - Office Chairs Other

For more information including pictures click here - Parcel D7

LOT #	QTY	Year	MAKE	MODEL	TYPE	DESCRIPTION	S/N	Parcel D7 Bid	Individual Bid
-------	-----	------	------	-------	------	-------------	-----	---------------	----------------

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875	24			Rolling Chairs			
876	22			Plastic Stationary Chairs			
							0.00

Parcel D8 - Office Supplies

For more information including pictures click here - Parcel D8

Lot #	Qty	Unit	MAKE	MODEL	TYPE	DESCRIPTION	Qty	Percent Of Bid	Individual Bid
616	Qty of				File cabinets				
877	Qty of				Office Supplies	Paper, pens, folders, misc stationary			
									0.00

2 Enclosed is my/our certified cheque or bank draft payable to "Triple M Modular Ltd.", in the total amount of CDN\$ _____ as a deposit, representing ten percent (10%) of the total amount of the Purchase Price submitted herein (the "Deposit").

3 This Offer is:

- a) ☐ an en-bloc offer and is therefore conditional upon acceptance of all of the specific parcels for which bids are entered above; or
 b) ☒ not an en-bloc offer whereby the Company may accept any, all, or any combination of the specific parcels, sub-parcel or individual lots for which bids are entered above.

(please mark with an "X" in one of the two alternative subparagraph boxes above to indicate the type of offer)

4 In the event that I/we omit or neglect to mark one of the boxes in subparagraphs 3(a) and 3(b) above, I/we agree that my/our offer shall be an en-bloc offer and the provisions of subparagraph 3(a) shall apply as if I/we had selected and marked that same subparagraph.

5 The undersigned acknowledges and agrees that this Offer shall become irrevocable on August 26th, 2020 11:59 pm PDT and the Deposit shall be forfeited to the Company on account of liquidated damages if the Offer is withdrawn by the Bidder after August 26th, 2020.

6 The undersigned acknowledges the receipt of the Standard Terms and Conditions as set forth in Appendix A of this Offer Form (the "Standard Terms and Conditions"). The undersigned acknowledges that this Offer is subject to said Standard Terms and Conditions, including, without limitation, that the Company reserves the right not to accept the highest or any Offer submitted.

7 The undersigned acknowledges that it will be submitting an executed sale agreement for the purchase of the Assets (the "Agreement of Purchase and Sale"), as provided by the Company, with this Offer, along with a blackline against the form of agreement of purchase and sale provided by the Company outlining any changes or conditions of the Bidder. The Agreement of Purchase and Sale provided by the undersigned may be capable of acceptance by the Company, in its discretion, but there shall be no obligation for the Company to accept the Agreement of Purchase and Sale and the Company may request such additional terms as are necessary or desirable in its sole discretion.

Dated: _____

 (Signature of Person)

– OR –

 (Name of Corporation)

 Authorized Signing Officer

Name: _____

Title: _____

 (Signature of Witness)

Name: _____

Appendix "A"

Terms and Conditions

- 1 The Company will consider written Offers to purchase the Company's right, title and interest, if any, in the Assets. Such Offers must be received by no later than 11:59 pm PDT on August 26th, 2020 (the "Offer Deadline") via email:
sbranch@metricmodular.com
RE: Offer - Metric Modular Assets
- 2 The Company's right, title and interest, if any, in the Assets are being sold on an "AS IS, WHERE IS" and "WITHOUT RECOURSE" basis, with no representations or warranties of any nature and kind whatsoever as to description, present or future use, fitness for use, environmental condition including the existence of hazardous substances, merchantability, quantity, condition, zoning or lawful use of the Assets, or any other matter or thing whatsoever, either stated or implied, including the existence any outstanding work orders or requirements by any regulatory authority. Each party making an Offer (the "Bidder") must rely entirely on its own judgment, inspection and investigation of the Assets and any rights necessary to, and appurtenant or otherwise to the Assets. Any documentation and/or information provided has been prepared or collected solely for the convenience of prospective purchasers and is not warranted to be complete or accurate and is not part of these Terms and Conditions.
- 3 All Offers must include a fully completed Offer Form, as provided by the Company, and Agreement of Purchase and Sale, capable of acceptance by the Company. Supplemental information must be in written form, signed by a duly authorized officer(s) of the Bidder.
- 4 The Company may, in its discretion, extend the deadlines for Offers.
- 5 All final agreements of sale contemplated by any Offers accepted by the Company are conditional upon and subject to the approval of the Supreme Court of British Columbia (the "Court").
- 6 All Offers must be accompanied by a bank draft, certified cheque or wire transfer payable to "Triple M Modular Ltd" in an amount equal to at least 10% of the gross purchase price offered for the Assets (the "Deposit"), which amount will be subject to the terms hereof.

Coporate Name: Triple M Modular Ltd o/a Metric Modular,
Remittance Address: 1825 Tower Road, Agassiz BC, V0M 1A2
email address: "Accounts-Receiveable@metricmodular.com"
Office Phone: 604.796.2257

Financial Institution: ATB Financial
Address: 601 Mayor Drive South, Lethbridge AB T1J 4M5
Instituion: 0219
Transit: 07609
Account: CAD: 00787788900
SWIFT code: ATBRCA6EXXX

- 7 If the contemplated sale is not completed by the successful Bidder (the "Purchaser") by reason of the Purchaser's default, the Deposit shall be retained by the Company and the Company shall be entitled to pursue all of its rights and remedies against the Purchaser. If the contemplated sale is not completed by the Company by reason of the Company's default, the Deposit shall be returned in full, without interest, to the Purchaser, the Purchaser shall have no further recourse against the Company, and the Agreement of Purchase and Sale is null and void.
- 8 Certified cheques or drafts accompanying Offers that are not accepted by the Company shall be returned, without interest, by regular wire transfer, mail or courier addressed to the Bidder at the address given in the Offer within twenty (20) days following the Offer Deadline of August 26, 2020, 11:59 p.m. PDT, unless otherwise arranged with the Bidder.
- 9 Where a Bidder withdraws its Offer after August 26, 2020, 11:59 p.m. PDT, but before the date on which the Bidder receives notification of the decision made regarding the Offers, at a minimum, the Deposit shall be forfeited on account of liquidated damages by the Bidder to the Company.
- 10 The Purchaser agrees to indemnify the Company and save the Company harmless from and against any and all costs, expenses, liabilities and damages incurred or suffered by the Company as a result of the failure of the Purchaser to pay any taxes, duties, fees and like charges eligible in connection with the Agreement of Purchase and Sale. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining, any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Assets. Furthermore, the Purchaser assumes any costs and claims for damages to the leased premises associated with the removal of the Asset(s) from its current location. The Company will ensure that access is provided to the current leased location at the Company's expense for 14 days following the closing of a Sale Transaction (the "Final Removal Date"), for the purpose of the removal of the Asset(s). The Purchaser is responsible for all occupation costs after the Final Removal Date and the Company will notify the landlord that it is no longer occupying the premises after that date. The Purchaser may negotiate a lease with the current landlord in order to continue storing the Assets on the leased premises.
- 11 The Purchaser shall assume, at its cost, complete responsibility for compliance with all municipal, provincial and federal laws insofar as the same apply to the Assets.
- 12 The highest or any Offer shall not necessarily be accepted and acceptance of any Offer shall be in the discretion of the Company. The Company shall not be obliged to negotiate with any Bidder or to give any Bidder an opportunity to resubmit an Offer, whether or not the Company negotiates with another Bidder(s). Upon receipt by the Company of an Offer, and subsequent to the Offer Deadline, the Bidder submitting the Offer shall not be entitled to retract, withdraw, revoke, vary or countermand the Offer and such offer shall be irrevocable. The Company reserves the right to accept an Offer prior to or after the Offer Deadline.

- 13 The Company reserves the right to amend or terminate the Sale Process, or to withdraw or amend the Assets offered for sale, at any time, at its sole discretion. With respect to any withdrawal or amendment, the sole obligation of the Company to the Purchaser shall be to inform them of the withdrawal of any asset or any amendment to any of the Assets offered for sale, and, if the Purchaser has paid a deposit in respect of those Assets, to return the deposit.
- 14 The submission of an Offer to the Company shall constitute an acknowledgement and an acceptance by the Bidder of these Terms and Conditions.
- 15 The Purchaser acknowledges and agrees that the Company is not required to inspect the purchased Assets or any part thereof and the Purchaser shall be deemed, at its own expense to have relied entirely on its own inspection and investigation. The Purchaser acknowledges that all warranties and conditions express or implied, pursuant to the Sale of Goods Act (British Columbia) or similar legislation in other jurisdictions does not apply hereto and are hereby waived by the Purchaser.
- 16 The Purchaser agrees that all the insurance maintained by the Company shall be cancelled on the closing of the transaction contemplated herein and that the Purchaser shall be responsible for placing its own insurance thereafter.
- 17 The Purchaser represents and warrants that, if it is a company:
- it is a company duly incorporated, organized and subsisting under the laws of Canada, British Columbia or another province of Canada;
 - it has the corporate power and authority to enter into and perform its obligations under the Agreement of Purchase and Sale and all necessary actions and approvals have been taken or obtained by the Purchaser to authorize the creation, execution, delivery and performance of the Agreement of Purchase and Sale and has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, and is enforceable against the Purchaser in accordance with its terms (if accepted by the Company); and,
 - it is not a non-Canadian for the purpose of the Investment Canada Act (Canada) and it is not a non-resident of Canada within the meaning of the Income Tax Act (Canada).
- 18 All stipulations as to time are strictly of the essence.
- 19 Any tender of documents or money hereunder may be made upon the Company and Purchaser at their respective addresses indicated in the Agreement of Purchase and Sale, or their respective solicitors.
- 20 The Purchaser shall not assign its rights and obligations under this Offer or the Agreement of Purchase and Sale without the written consent of the Company, which may be unreasonably or arbitrarily withheld.
- 21 The validity and interpretation of the Offer and the Agreement of Purchase and Sale shall be governed by the laws of the Province of British Columbia and the laws of Canada, and such Offer, and the Agreement of Purchase and Sale shall enure to the benefit of and be binding upon the parties thereto, and their respective heirs, executors, administrators, successors or permitted assigns as the case may be.
- 22 The Company shall not be required to pay any commission or brokerage fee, or finders' fee or remuneration to any person whatsoever in connection with any sale pursuant to the Agreement of Purchase and Sale.



23 Unless otherwise specifically stated herein, all obligations, representations and warranties of the Purchaser contained in the Agreement of Purchase and Sale shall survive the completion of the sale.

24 The Purchaser acknowledges that any information supplied to the Purchaser by the Company or its agents or representatives is, and was supplied, without any representation or warranty, and that the responsibility for the verification of any such information shall be wholly the responsibility of the Purchaser.

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To ensure that all questions are captured and responded quickly, please click on the link below for an online form. All enquiries will be responded to within 24 hours Monday thru Friday between the hours of 8 am - 3 pm Pacific Daylight Time.

[Click Here - for online enquiry form](#)

COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH
COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF
TRIPLE M MODULAR LTD. dba METRIC
MODULAR

**AFFIDAVIT #3 OF
JOEL HOLLOWAY**



Lindsay Kenney LLP
Barristers & Solicitors
Founded in 1980

Barristers & Solicitors
1800 – 401 West Georgia Street
Vancouver, British Columbia
V6B 5A1
Phone: (604) 687-1323
Attention: J. Reilly Pollard

TAB 6

Court File No. VLC-S-B-200257
Vancouver Registry
District of British Columbia
Division No. 03 – Vancouver
Estate File No. 11-2649058

**SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRIPLE M MODULAR LTD. O/A METRIC MODULAR**

**TRUSTEE'S SECOND REPORT TO COURT
Pursuant to Section 50.4(7)(b)(ii) of the *Bankruptcy and Insolvency Act* (Canada)**

AUGUST 10, 2020



**Grant Thornton Limited
Suite 1600, 333 Seymour Street
Vancouver, BC
Canada
V6B 0A4**



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INDEX OF APPENDICES

- Appendix 1** First Extension Order dated June 30, 2020
- Appendix 2** Second Cash Flow Projection for period from August 1, 2020 to October 30, 2020
together with the Company's Report on the Second Cash Flow Projection dated
August 10, 2020 and the Proposal Trustee's Report on the Second Cash Flow
Projection dated August 10, 2020
- Appendix 3** Initial Cash Flow Projection Comparison



**SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRIPLE M MODULAR LTD. O/A METRIC MODULAR**

**TRUSTEE'S SECOND REPORT TO COURT
Pursuant to Section 50.4(7)(b)(ii) of the *Bankruptcy and Insolvency Act* (Canada)**

AUGUST 10, 2020

INTRODUCTION AND BACKGROUND

1. This report (this "**Second Report**") is filed by Grant Thornton Limited ("**GTL**") in its capacity as proposal trustee (in such capacity, the "**Proposal Trustee**") in connection with a Notice of Intention to Make a Proposal ("**NOI**") filed on June 1, 2020 (the "**Filing Date**") by Triple M Modular Ltd. o/a Metric Modular ("**Metric Modular**" or the "**Company**") pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**").
2. On June 30, 2020, the Supreme Court of British Columbia in Bankruptcy and Insolvency (the "**Court**") granted an Order (the "**First Extension Order**") that, among other things, extended the time for Metric Modular to file a Proposal with the Official Receiver to and

including August 15, 2020. A copy of the First Extension Order is attached hereto as **Appendix “1”**.

3. Metric Modular is a modular construction company specializing in designing, building, delivering, and installing affordable multi-family and market housing, student accommodation and education space, hotels, workforce accommodation, and high-performance energy efficient modular buildings. The Company's head office and main production facility is located at 1825 Tower Road, Agassiz, British Columbia (the “**Agassiz Facility**”). Prior to the NOI, in addition to the Agassiz Facility, the Company also operated from a second facility located in Penticton, British Columbia (“**Penticton Facility**”).
4. Metric Modular is a wholly owned subsidiary of Triple M Modular LP (“**Triple M LP**”), an entity that is the sole shareholder of Metric Modular and its sister company, Triple M Housing Ltd. (“**Triple M Housing**”), an Alberta based corporation located in Lethbridge, Alberta.
5. Prior to and shortly after the Filing Date, the Company performed an analysis to determine the profitability of each of its 29 approved and/or active customer projects to determine which projects it would complete during these NOI proceedings. Upon completing the analysis, the Company decided to complete 23 of the 29 projects (collectively, the “**Remaining Projects**”) by no later than August 2020. The Remaining Projects specifically exclude the Gibsons Project, which is defined and discussed in detail later in this Second Report.
6. The first and second affidavits of Joel Holloway, Chief Financial Officer, both sworn on June 23, 2020 (the “**First Holloway Affidavit**” and the “**Second Holloway Affidavit**”, respectively), and the Proposal Trustee's First Report to Court dated June 23, 2020 (the



"First Report") provide additional background on the Company and the events leading up to the Filing Date. Copies of the First Holloway Affidavit, the Second Holloway Affidavit, and the First Report are available on the Proposal Trustee's case website: www.GrantThornton.ca/MetricModular.

7. The affidavit of Joel Holloway sworn on August 10, 2020 (the **"Third Holloway Affidavit"**, together with the First Holloway Affidavit and the Second Holloway Affidavit, the **"Holloway Affidavits"**), filed in connection with the Company's NOI proceedings (these **"Proceedings"**), describes, *inter alia*, the rationale for the requested relief.
8. This Second Report is submitted by the Proposal Trustee in conjunction with Metric Modular's motion for an order (the proposed **"Order"**) to extend the stay of proceedings granted upon the filing of the NOI on June 1, 2020, and extended to August 15, 2020, for 45 days up to and including September 29, 2020.

PURPOSE OF THIS SECOND REPORT

9. The purpose of this Second Report is to provide the Court with further information related to the relief sought by the Company. This Second Report specifically provides:
 - (a) information on the Proposal Trustee's activities since the First Extension Order;
 - (b) information on the Company's activities since the First Extension Order;
 - (c) the Proposal Trustee's comments and report on the Company's revised cash flow projection (the **"Second Cash Flow Projection"**) for the period of August 1, 2020 to October 30, 2020 (the **"Second Cash Flow Period"**);

- 
- (d) the Proposal Trustee's comments on the state of the Company's business and financial affairs since the NOI Filing Date, including the receipts and disbursements of Metric Modular; and
 - (e) a discussion of the Company's request for an extension of the stay of proceedings to September 29, 2020.

10. This Second Report should be read in conjunction with the Holloway Affidavits as such affidavits contain additional background information concerning Metric Modular, its structure, the business activities, and its stakeholders.

RESTRICTIONS

11. In preparing this Second Report, the Proposal Trustee has relied upon unaudited financial information, the Company's records, financial information and projections, and discussions with the Company's management. While the Proposal Trustee reviewed various documents provided by the Company and believes that the information therein provides a fair summary of the transactions and material, as reflected in the documents, such work does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("**GAAP**"), International Financial Reporting Standards ("**IFRS**"), or Generally Acceptance Auditing Standards ("**GAAS**"). Accordingly, the Proposal Trustee expresses no opinion or other form of assurance pursuant to GAAP, IFRS, or GAAS with respect to such information.
12. Some of the information used in preparing this Second Report consists of financial projections, including the Second Cash Flow Projection. The Proposal Trustee cautions that these projections are based upon assumptions about future events and conditions that are not ascertainable. The Company's actual results may vary from the Second Cash



Flow Projection, even if the hypothetical and probable assumptions contained therein materialize, and the variations could be significant. The Proposal Trustee's review of the future-oriented information used to prepare this Second Report did not constitute an audit of such information under GAAP, IFRS, or GAAS.

13. The Proposal Trustee also bases this Second Report on the Company's cash flow projections and underlying assumptions. The Proposal Trustee's review and commentary thereon was performed in accordance with the requirements set out in the Canadian Association of Insolvency and Restructuring Professionals' Standards of Professional Practice No. 9 (Trustee's Report on Cash Flow Statement).
14. To date, nothing has come to the Proposal Trustee's attention that would cause it to question the reasonableness of the information and explanations provided to it by the Company and its management. The Proposal Trustee has requested that management bring to its attention any significant matters which were not addressed in the course of the Proposal Trustee's specific inquiries. Accordingly, this Second Report is based on the information (financial or otherwise) made available to the Proposal Trustee by the Company.
15. This Second Report has been prepared for the use of this Court and the Company's stakeholders as general information relating to the Company and to assist the Court in determining whether to grant the relief sought by the Company. Accordingly, the reader is cautioned that this Second Report may not be appropriate for any other purpose. The Proposal Trustee will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Second Report contrary to the provisions of this paragraph.

16. All references to dollars are in Canadian currency unless otherwise noted.
17. Capitalized terms not defined in this Second Report have the meanings ascribed to them in the Holloway Affidavits and/or the First Report.

OVERVIEW OF THE PROPOSAL TRUSTEE'S ACTIVITIES

18. Since the issuance of its First Report, the Proposal Trustee has performed the following key activities:
- (a) filing the necessary prescribed forms required under the BIA for the NOI;
 - (b) filing a copy of the First Extension Order with the Official Receiver;
 - (c) continuing to review and evaluate the state of the Company's business and financial affairs in accordance with section 50.4(7)(b)(ii) of the BIA;
 - (d) corresponding with the Company's management and Metric Modular's restructuring counsel, Lindsay Kenney LLP ("**LK Law**");
 - (e) comparing the actual receipts and disbursements to the Initial Cash Flow Projection (as defined herein) and documenting reasons for variances, if any;
 - (f) corresponding and holding numerous discussions with various stakeholders and/or respective legal counsel to stakeholders;
 - (g) responding to numerous calls and emails from employees, creditors, suppliers, customers, and other stakeholders;
 - (h) maintaining a public website (www.GrantThornton.ca/MetricModular) (the "**Case Website**") for these NOI Proceedings;

- 
- (i) assisting the Company in developing the Sale Process (as defined and described herein);
 - (j) assisting the Company in preparing the Second Cash Flow Projection from August 1, 2020 to October 30, 2020, along with the prescribed forms, in order to satisfy section 50.4(2)(a) of the BIA;
 - (k) reviewing the assignment of Gibsons Project (as described and defined herein);
and
 - (l) preparing this Second Report.

SALE OF INVENTORY PRIOR TO FILING DATE

19. Prior to the Filing Date, the Company sold to a related company, Triple M Housing, various inventory and equipment (collectively, the **"Sold Assets"**) located at the Penticton Facility, with an aggregate book value of \$208,828. Under the terms of the sale, Metric Modular received cash consideration equal to the book value of the Sold Assets (i.e. \$208,828) subsequent to the Filing Date. The Proposal Trustee confirms that the cash consideration was received by Metric Modular and is reflected in the Company's actual receipts from the Filing Date.
20. The Proposal Trustee understands from the Company that the cash consideration received for the Sold Assets (i.e. the book value) exceeds the market value of same. Based on the Proposal Trustee's review of the Sold Assets, and its experience in liquidating similar assets, the cash consideration received from Triple M Housing appears to be fair and reasonable in the circumstances. Notwithstanding this, following the completion of the Sale Process (defined and discussed below), the Proposal Trustee



intends to compare the consideration received from potential bidders on similar assets to ensure the cash consideration received for the Sold Assets is fair and reasonable.

ASSET SALE PROCESS

21. On August 4, 2020, the Company commenced a sale process (the “**Sale Process**”) to solicit offers on, among other things, its inventory, tools and equipment. The Sale Process and the progress made by the Company on same is summarized as follows:

- (a) the details of the Sale Process were posted to the Company’s website on July 31, 2020 and subsequently posted to the Proposal Trustee’s Case Website;
- (b) the details of the Sale Process were distributed via email by the Company to approximately 8,665 parties on August 4, 2020 and August 5, 2020. The parties who received the information included (i) parties identified by the Company as potentially interested parties; (ii) parties that had previously subscribed to the Company’s email distribution list; (iii) parties that had expressed an interest in the Company’s assets to either the Proposal Trustee and / or the Company; and (iv) various auctioneers;
- (c) the Company’s assets have been segregated into various parcels, sub-parcels and lots. Interested parties will have an opportunity to submit an *en bloc* offer for all assets or bid on the individual parcels, sub-parcels or lots;
- (d) the deadline for the submission of offers by interested parties is August 26, 2020 at 11:59 pm PDT (the “**Bid Deadline**”), resulting in an approximate three (3) week timeline for parties to submit offers; and
- (e) the Sale Process utilized by the Company is similar to those conducted in other insolvency proceedings. For example, the Company is requesting offers on an “as



is, where is" basis, and any sale will be subject to Court approval, as required, pursuant to the BIA.

22. Following the Bid Deadline, the Company will review all offers submitted and seek Court approval of any sale(s). As any sale of these assets would be outside of the ordinary course of business, the Proposal Trustee will comment on the items outlined in section 65.13 of the BIA in a future report to the Court. As at the date of this Second Report, the Proposal Trustee can provide the following commentary on the Sale Process:

- (a) the Sale Process developed and currently underway is reasonable in the circumstances;
- (b) the Proposal Trustee assisted in the development of and reviewed the final Sale Process documents, and is supportive of the approach; and
- (c) the Company's secured creditor and primary economic stakeholder, ATB, is supportive of the Sale Process.

GIBSONS PROJECT CONTRACT ASSIGNMENT

23. As detailed in the First Report, subsequent to the Filing Date, the Company continued to complete a project (defined as the "**Gibsons Project**") pursuant to an agreement between Metric Modular and BC Housing Management Commission ("**BC Housing**"). Upon request by Metric Modular, Northbridge General Insurance Corporation, issued performance bonds and labour and material payment bonds (collectively, the "**Bonds**") on behalf of Metric Modular in respect of work performed by Metric Modular on the Gibsons Project.

24. As also outlined in the First Report, the Company had concluded that a cash loss would result if the Gibsons Project was completed due to the length of the Gibsons Project and the significant resources required for the execution of same. As such, prior to and after the Filing Date, the Company has been working to assign the Gibsons Project to Triple M Housing. As the Company continued to work with the various stakeholders to assign the Gibsons Project, the Company continued work on same to ensure it remained on schedule, thus limiting any delays upon the assignment being completed.

Gibsons Assignment Agreement

25. On July 27, 2020, the Gibsons Project was assigned to Triple M Housing pursuant to an assignment agreement dated June 15, 2020, as amended (collectively, the “**Gibsons Assignment Agreement**”). A copy of the Gibsons Assignment Agreement is attached to the Third Holloway Affidavit as Exhibit “A”, with its key terms summarized below:
- (a) the effective date of the assignment was June 15, 2020 (“**Effective Date**”);
 - (b) as at the Effective Date, Metric Modular assigned, transferred, and set over absolutely and unconditionally unto Triple M Housing all of its right, title, and interest in the Gibsons Project;
 - (c) as at the Effective Date, Triple M Housing assumed all obligations pursuant to the Gibsons Project, including but not limited to, any warranties on same;
 - (d) BC Housing consented to the assignment and the terms outlined therein; and
 - (e) Triple M Housing is to pay to Metric Modular cash consideration of \$456,783 (the “**Assignment Consideration**”).



26. The Proposal Trustee has reviewed the Gibsons Assignment Agreement and the analysis prepared by the Company to support the Assignment Consideration payable by Triple M Housing to Metric Modular. The Proposal Trustee offers the following comments in this regard:

- (a) BC Housing is supportive of the assignment, being that it was party to the agreement;
- (b) as Metric Modular is in the process of winding-down its business, it will not have the resources to complete the Gibsons Project, which is expected to be completed in January 2021. As previously outlined, the Remaining Projects are all expected to be completed by August 2020 and, as such, the Company would have to continue operating for an additional five (5) months to complete the Gibsons Project. As this would be the only project being completed, the overhead costs required to keep the Company operating would render the Gibsons Project unprofitable (i.e. as all overhead and costs would be absorbed by the Gibsons Project rather than being spread amongst multiple projects, as would be the case with Triple M Housing);
- (c) the Assignment Consideration reflects the estimated fair market value of the Gibsons Project (as detailed below);
- (d) the Company's secured creditor and primary economic stakeholder, ATB, was and is supportive of the assignment; and
- (e) Metric Modular has not yet received the Assignment Consideration proceeds, however, it is projected to receive same during the week ending August 14, 2020, which is reflected in the Second Cash Flow Projection.

Calculation of Assignment Consideration

27. Based on the analyses prepared by the Company, in consultation with Triple M Housing, the Assignment Consideration has been calculated as follows:

Post Assignment Cash Inflows	
Projected Revenue	\$ 6,915,620
Invoiced	(3,785,636)
Holdbacks	378,564
Total Post Assignment Cash Inflows [A]	3,508,548
Post Assignment Cash Outflows	
Forecasted Project Costs	(5,907,886)
Costs Incurred to Date	3,083,700
Assigned AP/HB Payable	(4,153)
Remaining Metric Spend	150,000
Financing Charge	(31,046)
Total Post Assignment Cash Outflows [B]	(2,709,385)
Budgeted Project Cash Flow [C = A + B]	799,163
Adjustments	
Margin Adjustment	(305,798)
Cost of Capital Charge	(36,582)
Total Adjustments [D]	(342,380)
Assignment Price [C + D]	\$ 456,783

Post Assignment Cash Flows – represents the remaining collections / cash inflows to be received throughout the completion of the Gibsons Project (i.e. the contract value less the amounts invoiced and collected).



Post Assignment Cash Outflows – represents the forecasted cash outflows required to complete the Gibsons Project, based on the Company's internal project management estimates used to bid on the Gibsons Project, as well as the payment of certain pre-filing accounts payable.

Margin Adjustment – reflects an adjustment to the budgeted net cash flow for the Gibsons Project to account for the inherent risks in completing same. Historically, the Company has generated a margin of approximately 5% in completing similar projects, which would result in a margin adjustment of \$156,499, however, Metric Modular and Triple M Housing have assumed that the Gibsons Project will generate a 0% margin (i.e. breakeven) due to the resulting inefficiencies and additional work required by Triple M Housing to assume responsibility of the Gibsons Project. The margin adjustment includes any costs that may be incurred by Triple M Housing in fulfilling the required warranty under the Gibsons Project. Both Metric Modular and Triple M Housing have advised that a breakeven margin for the remainder of the Gibsons Project is reasonable in the circumstances given the project management team has had the opportunity to tender much of the remaining work to give reasonable assurance to Triple M Housing that a breakeven margin is a reasonable allocation of risk / reward for its completion of the Gibsons Project.

Cost of Capital Charge – represents an adjustment to reflect the net present value of the cash flow generated from the Gibsons Project, which is expected to be completed on or around January 2021, at a rate of return of 18%.

28. Based on the foregoing and the Proposal Trustee's review, the Proposal Trustee is supportive of the Gibsons Assignment Agreement and believes that the Assignment Consideration to be paid by Triple M Housing is fair and reasonable in the circumstances.



PRE-FILING PAYMENTS

29. The Company issued / intends to issue certain payments to creditors who are owed amounts for work performed prior to the Filing Date (collectively, the “**Pre-Filing Amounts**”). Details of these Pre-Filing Amounts are summarized in the table immediately below and discussed thereafter.

Pre-Filing Payment	Pre-Filing Amount
G3 Project	\$ 136,788
UBC Project	36,983
Property Taxes	54,732
Gibsons Project	52,177
Project Manager	10,004
Total Pre-Filing Payments	\$ 290,684

Peter Kiewit G3 Project and UBC Health Services Building Project

30. The Company intends to issue payments to vendors / creditors that are owed amounts for work performed prior to the Filing Date in relation to the Peter Kiewit G3 Project (the “**G3 Project**”) and the UBC Health Services Building Project (the “**UBC Project**”, together with the G3 Project, the “**Projects**”), for the following reasons:
- (a) pursuant to the relevant contracts between Metric Modular and the Project owners, the issuance of a statutory declaration is required to receive the remaining payments owing from the Project owners;
 - (b) the statutory declarations require that the Company issue payments to certain pre-filing creditors, some of which have lien rights and some of which do not;

- (c) the Project owners are not willing to deviate from the requirement for a statutory declaration to be issued nor are they agreeable to the issuance of a revised statutory declaration that would carve-out any Pre-Filing Amounts;
- (d) all of the site-work on the Projects has been completed whereby the only remaining work required is the submission / approval of the close-out documents and other miscellaneous documentation; and
- (e) the Company has arranged for Triple M Housing to assume the warranty work on each of the Projects;

31. The Proposal Trustee further understands that the Projects, after the payment of lienable and non-lienable vendors / sub-trades, will generate a net cash inflow of approximately \$270,109, summarized as follows:

	G3 Project	UBC Project	Total
<u>Remaining Project Receipts</u>			
Progress Draws	\$ 84,000	\$ 52,033	\$ 136,033
Holdback	291,000	161,000	452,000
Liens Paid / Removed by Project Owners	-	(144,153)	(144,153)
Total Project Receipts	375,000	68,880	443,880
<u>Outstanding Accounts Payable (Pre-Filing)</u>			
Vendors with Lien Rights	116,275	-	116,275
Vendors without Lien Rights	20,513	36,983	57,496
Total Outstanding Accounts Payable	136,788	36,983	173,771
Net Project Cash Inflow	\$ 238,212	\$ 31,897	\$ 270,109

32. With respect to the payment of the Pre-Filing Amounts for the Projects totaling approximately \$173,771 (\$136,788 + \$36,983), as outlined in the above table, the Company's counsel reviewed this matter and confirmed the following:

- (a) approximately \$116,275 is owing to vendors / creditors that will likely have lien rights under the *Builders Lien Act* (British Columbia) (the "**BLA**"); and
- (b) the remaining amount (i.e. \$57,496) is owing to vendors / creditors that likely do not have lien rights, however, these creditors will likely have trust claims over the proceeds received from the Project owners pursuant to Section 10 of the BLA.

Property Taxes

33. The Company intends to issue payment on account of property taxes owing pursuant to the lease agreement for its Agassiz Facility which, under the terms of the lease, are due and payable on July 31, 2020. This payment would include \$54,732 of property taxes assessed for five (5) months prior to the Filing Date (i.e. January 2020 to May 2020). The Company's counsel has advised management that the landlord may have grounds to terminate the lease for the Agassiz Facility if payment for the property taxes is not made by the Company. As at the date of this Second Report, the Company continues to negotiate the payment of the property taxes with the landlord of the Agassiz Facility.

Gibsons Project

34. The Company paid \$52,177 in Pre-Filing Amounts owed to vendors / sub-trades for work performed on the Gibsons Project prior to the Filing Date. The payment of these Pre-Filing Amounts was factored into the Assignment Consideration as part of the assignment of the Gibsons Project whereby Metric Modular was essentially reimbursed by Triple M Housing for the payment of the Pre-Filing Amounts associated with the Gibsons Project.



Project Manager

35. A total of \$10,004 was paid to a project manager employed by the Company, in relation to the reimbursement of expenses incurred directly by the employee prior to the Filing Date. This employee was determined to be critical for the completion of certain Remaining Projects. Accordingly, the Company issued the above noted payment to ensure the employee continued to provide the services required by the Company.

Proposal Trustee Comments on Pre-Filing Payments

36. The Proposal Trustee is of the view that the Company has acted in good faith with respect to the foregoing, and that the payment of the Pre-Filing Amounts, and other immaterial pre-filing payments (as outlined in the Initial Cash Flow Comparison), were either necessary to support the completion of the Remaining Projects and wind-down of the business or completed inadvertently.

CASH FLOW PROJECTION

37. As stated above, in order to satisfy section 50.4(2)(a) of the BIA, the Company prepared the Second Cash Flow Projection, on a weekly basis, for the Second Cash Flow Period. The Second Cash Flow Projection together with the Company's Report on the Second Cash Flow Projection dated August 10, 2020 and the Proposal Trustee's Report on the Second Cash Flow Projection dated August 10, 2020, are collectively attached hereto as **Appendix "2"**. The Second Cash Flow Projection has been prepared by management using probable and hypothetical assumptions set out therein. (the "**Probable and Hypothetical Assumptions**").
38. The Proposal Trustee makes the following comments on the Second Cash Flow Projection:

- 
- (a) expenses appear to be consistent with the reduced level of operations, completion of the Remaining Projects, and wind-down of the business;
 - (b) a majority of the forecasted receipts relate to the various Remaining Projects;
 - (c) the Company has not included receipts for the eventual sale of the assets through the Sale Process as it is unable to accurately estimate the quantum and timing of same at this time;
 - (d) the net cash inflows projected by the Company are anticipated to be sufficient to meet the cash flow requirements of Metric Modular over the Second Cash Flow Period; and
 - (e) disbursements reflected are those to complete the Remaining Projects and administer the wind-down of the Company's operations.

39. The Proposal Trustee's review of the Second Cash Flow Projection consisted of inquiries, analytical procedures and discussions related to information supplied to the Proposal Trustee by the management of Metric Modular. Since hypothetical assumptions need not be supported, the Proposal Trustee's procedures with respect to such assumptions were limited to evaluating whether they were consistent with the purpose of the Second Cash Flow Projection. The Proposal Trustee has also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the Second Cash Flow Projection. Based on the Proposal Trustee's review, nothing has come to its attention that causes it to believe that, in all material respects:

- (a) the Probable and Hypothetical Assumptions are not consistent with the purpose of the Second Cash Flow Projection;

- 
- (b) as at the date of this Second Report, the Probable and Hypothetical Assumptions developed by management are not suitably supported and consistent with the Company's plans or do not provide a reasonable basis for the Second Cash Flow Projection, given the Probable and Hypothetical Assumptions; or
 - (c) the Second Cash Flow Projection does not reflect the Probable and Hypothetical Assumptions.

PERFORMANCE COMPARED TO THE INITIAL CASH FLOW PROJECTION

- 40. In accordance with section 50.4(7)(b)(ii) of the BIA, the Proposal Trustee has continued to review and evaluate the state of the Company's business and financial affairs since the Filing Date.
- 41. The Company has remained current in respect of their obligations that have arisen since the Filing Date.
- 42. A comparison of Metric Modular's receipts and disbursements to the cash flow projection filed on June 10, 2020, along with the prescribed forms, in order to satisfy section 50.4(2)(a) of the BIA (the "**Initial Cash Flow Projection**") and attached to the First Report as Appendix "1" for the period of June 1, 2020 to September 4, 2020 (the "**Post-Filing Reporting Period**"), with commentary, is attached to this Second Report as **Appendix "3"**.

Proposal Trustee's Comments

- 43. Actual ending cash was \$899,443 as at July 31, 2020 as compared to forecasted ending cash of \$822,029, resulting in a net ending favorable cash variance of \$77,414.

44. For the Post-Filing Reporting Period, Metric Modular had total cash receipts of \$3,141,298, which is approximately \$931,000 less than forecasted in the Initial Cash Flow Projection.
45. The Proposal Trustee recognizes the following material variances in expected receipts outlined in the Initial Cash Flow Projection against actual receipts:
- (a) Project Receipts / Other – an unfavourable variance of \$1,125,061 due primarily to timing differences in collections from customers on the following projects: (i) Langley Christian School (\$422,562); (ii) School District 73 (\$336,688); (iii) UBC Properties Trust (\$137,876); and (iv) School District 44 (\$109,718), representing \$1,006,844 of the unfavorable variance. The Company expects to receive these amounts in due course and has included these project receipts in its Second Cash Flow Projection; and
 - (b) CEWS – a favourable variance of \$111,887 as a result of higher than expected receipts under the Canada Emergency Wage Subsidy program implemented by the Government of Canada.
46. The Cash Flow Projection projected total disbursements of \$3,251,136 for the Post-Filing Reporting Period. Actual disbursements for the Post-Filing Reporting Period totaled \$2,241,855, resulting in a favourable variance of \$1,009,280. The favourable variance in disbursements are primarily a result of the following:
- (a) Rent – a favorable variance of \$131,256 related to a timing difference in payment of property taxes payable pursuant to the lease agreement for the Agassiz Facility. Payment of these property taxes is being projected in the Second Cash Flow Projection;

- (b) Plant Overhead, Selling, General and Administrative, and Plant Project Costs – favorable variances of \$119,652, \$142,884, and \$217,810, respectively, due to cost reductions implemented by the Company which resulted in greater reductions in these disbursements than initially forecasted in the Initial Cash Flow Projection. For example, the favourable variance in Plant Project Costs is due to improved performance on the Remaining Projects versus the budgets for same; and
- (c) Settlement of Potential Lien Obligations – a favorable variance of \$376,150 due to a combination of: (i) certain customers paying pre-filing lien obligations directly to creditors; (ii) timing differences in with respect to certain of these obligations; and (iii) further information being obtained by the Company to conclude that certain lien obligations are no longer valid.

COMPANY'S REQUEST FOR AN EXTENSION

47. The Company is seeking an extension of the time to file a Proposal with the Official Receiver to September 29, 2020.
48. The Proposal Trustee supports the Company's request for the following reasons:
- (a) the Company is acting in good faith and with due diligence;
 - (b) the Company requires additional time to complete the Remaining Projects and the Sale Process and time to develop a viable Proposal to creditors; and
 - (c) no creditor would be materially prejudiced if the extension being applied for is granted.



CONCLUSION AND RECOMMENDATION

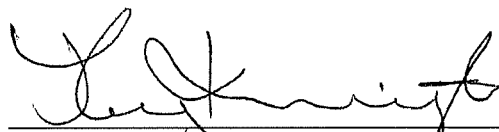
49. Granting an extension of time to file a Proposal will give Metric Modular time to continue complete the Remaining Projects which is expected to generate positive cash flow for the benefit of creditors, allow the Company to execute the Sale Process, and provide Metric Modular additional time to develop a viable Proposal for its creditors. The Proposal Trustee believes that the continuation of these proceedings is in the best interest of stakeholders, and preferable to a liquidation in a bankruptcy and/or receivership.
50. The Proposal Trustee supports the relief sought by Metric Modular.

All of which is respectfully submitted,

GRANT THORNTON LIMITED,
as Trustee under a Notice of Intention to Make a Proposal
filed by Triple M Modular Ltd. o/a Metric Modular,
and not in its personal capacity.



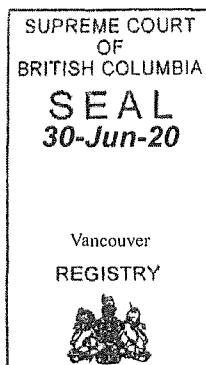
Andrew Basi, CPA, CA, CIRP, LIT
Senior Vice President



Jason Knight, CPA, CA, CIRP, LIT
Vice President

APPENDIX 1

[ATTACHED]



COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRIPLE M MODULAR LTD. dba METRIC MODULAR**

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE
JUSTICE GROVES

TUESDAY, THE 30TH
DAY OF JUNE, 2020

ON THE APPLICATION of Triple M Modular Ltd. dba Metric Modular ("**Metric Modular**"), coming on for hearing at Vancouver, on the 30th day of June, 2020, via telephone, and on hearing J. Reilly Pollard, counsel for Metric Modular; Lance Williams, counsel for Grant Thornton Limited in its capacity as Proposal Trustee; and Pantelis Kyriakakis, counsel for ATB Financial; and no one else appearing:

THIS COURT ORDERS that:

1. The time for filing a proposal by Metric Modular be and is hereby extended from 11:59pm on Wednesday July 1, 2020 to 11:59pm on August 15, 2020.
2. The stay of proceedings against Metric Modular be and is hereby extended from 11:59pm on Wednesday July 1, 2020 to 11:59pm on August 15, 2020.
3. A priority charge is hereby granted over the assets of Metric Modular in the amount of \$200,550 to fund a Key Employee Retention Plan (the "**KERP Charge**"). The KERP Charge shall have priority over all security interests and statutory charges affecting the assets of Metric Modular, including any deemed trust in favour of the federal or provincial Crown.

4. ATB Financial is unaffected by these proceedings to the extent of their perfected secured claim against the assets of Metric Modular with the sole exception that the KERP Charge shall have priority over their claim.

5. The time for service of the application materials in this matter be and is hereby abridged such that the application is properly returnable June 30, 2020.

6. Endorsement of this Order by counsel appearing on this application, other than counsel for Metric Modular, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



J. Reilly Pollard, Counsel for Metric Modular

BY THE COURT

REGISTRAR *IN BANKRUPTCY*

COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH
COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF
TRIPLE M MODULAR LTD. dba METRIC
MODULAR

ORDER MADE AFTER APPLICATION



Lindsay Kenney LLP
Barristers & Solicitors
Founded in 1980

Barristers and Solicitors
1800 - 401 West Georgia Street
Vancouver, British Columbia
V6B 5A1
Phone: (604) 687-1323
Attention: J. Reilly Pollard

File no. 20201024

APPENDIX 2

[ATTACHED]



Triple M Modular Ltd. o/a Metric Modular
Second Cash Flow Projection
August 1, 2020 to October 30, 2020

For the week ending, In CAD	Notes	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16	Week 17	Week 18	Week 19	Week 20	Week 21	Week 22	Total
		7-Aug-20	14-Aug-20	21-Aug-20	28-Aug-20	4-Sep-20	11-Sep-20	18-Sep-20	25-Sep-20	2-Oct-20	9-Oct-20	16-Oct-20	23-Oct-20	30-Oct-20	
Opening Cash	1	899,443	542,426	726,007	915,726	895,682	973,280	1,071,403	1,291,450	1,229,948	1,025,986	1,190,840	1,211,168	1,206,168	899,443
Receipts															
BC Housing - Gibsons	2	-	456,783	-	-	-	-	-	-	-	-	-	-	-	456,783
CEWS	3	-	-	-	40,656	-	-	20,328	-	-	-	20,328	-	-	81,312
Project Receipts / Other	4	-	-	324,462	163,120	260,633	300,000	207,720	-	71,306	168,854	-	-	-	1,496,095
Inventory / Equipment Liquidation	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Receipts		-	456,783	324,462	203,776	260,633	300,000	228,048	-	71,306	168,854	20,328	-	-	2,034,190
Disbursements															
Wages and Benefits	6	-	59,516	-	54,076	-	59,103	-	48,503	194,349	-	-	-	-	415,547
Rent	7	168,256	-	-	-	82,343	-	-	-	-	-	-	-	-	250,599
Leases		12,919	-	-	-	12,919	-	-	-	12,919	-	-	-	-	38,756
GST		-	-	-	35,000	-	-	-	5,000	-	-	-	5,000	-	45,000
Plant Overhead		4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	-	-	-	-	36,000
Selling, General & Admin		4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	-	-	-	40,000
Site Project Costs	4	46,969	46,969	46,969	46,969	-	-	-	-	-	-	-	-	-	187,876
Total Disbursements		236,144	114,485	54,969	144,045	103,262	67,103	8,000	61,503	215,268	4,000	-	5,000	-	1,013,778
Net cashflow from operations		(236,144)	342,298	269,493	59,731	157,372	232,897	220,048	(61,503)	(143,962)	164,854	20,328	(5,000)	-	1,020,412
Other Disbursements															
Legal Counsel Fees		-	15,000	-	-	-	20,000	-	-	20,000	-	-	-	-	55,000
Trustee Fees		-	20,000	-	-	-	20,000	-	-	25,000	-	-	-	-	65,000
Trustee's Legal Counsel Fees		-	10,000	-	-	-	15,000	-	-	15,000	-	-	-	-	40,000
Settlement of Potential Lien Obligations	8	120,873	113,717	79,774	79,774	79,774	79,774	-	-	-	-	-	-	-	553,687
Total Non-Operating Disbursements		120,873	158,717	79,774	79,774	79,774	134,774	-	-	60,000	-	-	-	-	713,687
Ending Cash Balance		542,426	726,007	915,726	895,682	973,280	1,071,403	1,291,450	1,229,948	1,025,986	1,190,840	1,211,168	1,206,168	1,206,168	1,206,168

Management of Triple M Modular Ltd. o/a Metric Modular ("Metric Modular" or the "Company") has prepared this second forecasted cash-flow statement (the "Second Cash Flow Projection") based on probable and hypothetical assumptions detailed in Notes 1 to 8. The Second Cash Flow Projection has been prepared solely for the purpose of supporting the Company's request for an extension of the stay of proceedings under the Notice of Intention to Make a Proposal ("NOI"), filed by the Company on June 1, 2020, up to and including September 29, 2020. As such, readers are cautioned that it may not be appropriate for their purposes. The Second Cash Flow Projection of the Company prepared in accordance with the provisions of the *Bankruptcy and Insolvency Act* ("BIA") should be read in conjunction with the Trustee's Report on the Cash-flow Statement.

Dated at the City of Langley in the Province of British Columbia, this 10th day of August 2020.

Triple M Modular Ltd. o/a Metric Modular

Per:

Joel Holloway, CPA, CA
Chief Financial Officer

Grant Thornton Limited

Per:

Jason Knight CPA, CA, CIRP, LIT
Vice President



Triple M Modular Ltd. o/a Metric Modular
Notes to the Second Cash Flow Projection
August 1, 2020 to October 30, 2020

Note 1

The Company had an opening cash balance of \$899,442.57 on August 1, 2020, the commencement date of this Second Cash Flow Projection.

Note 2

The "BC Housing (Gibsons Project)" line item relates to a project pursuant to an agreement between Metric Modular and BC Housing Management Commission (the "**Gibsons Project**"). Due to the length of the Gibsons Project and the significant resources required for the execution of same, the Company forecasted that it would incur a cash loss if it were to complete the Gibsons Project. As such, pursuant to an assignment agreement dated June 15, 2020, as amended, between Metric Modular, BC Housing Management Commission, and Triple M Housing Ltd. ("**Triple M Housing**"), a related party, the Gibsons Project was assigned to Triple M Housing for cash consideration of \$456,783. The Company anticipates that the receipt of the cash consideration will be received during the week ending August 14, 2020.

Note 3

The amount projected to be received under the Canadian Emergency Wage Subsidy ("**CEWS**") relates to eligible wages paid during the months of July, August and September. It is projected that CEWS will be received approximately 1-2 weeks following submission/payment of related wages.

Note 4

The projected receipts and disbursements related to the Company's ongoing projects have been estimated by Metric Modular on a project by project basis. The Company expects to have all of the outstanding projects completed during the month of August 2020. Collections forecasted for the months of September and October represent final collections on completed projects, including holdbacks.

Note 5

On August 4, 2020 the Company commenced a sale process (the "**Sale Process**") to solicit offers on, among other things, its inventory, tools and equipment. The Company is seeking "as is, where is" offers on these assets, which have been segregated into parcels, sub-parcels, and lots, by no later than August 26, 2020 at 11:59 pm PDT. As at the date of this Second Cash Flow Projection, the timing and quantum of proceeds of a potential sale cannot be reasonably estimated by the Company and, as such, the Second Cash Flow Projection does not include any proceeds from the Sale Process. Pursuant to the BIA, the Company will be seeking Court approval of the sale of its assets that are outside the normal course of business.

Note 6

Projected wages include payments to employees in respect of the Company's Key Employee Retention Program ("**KERP**"), which was approved by the Court pursuant to an order granted on June 30, 2020. The full \$200,500 KERP is included in the projected wages.

Note 7

Projected rent includes monthly rent payable for its manufacturing facility located in Agassiz, British Columbia. The payments represented in the Second Cash Flow Projection include base rent, property taxes, and landlord insurance coverage as per the lease agreement.

Note 8

Based on consultations with its legal counsel, the Company has estimated that its will be required to pay approximately \$553,687 over the next 13 weeks to creditors that have priority claims pursuant to provisions of the *Builders' Lien Act* (British Columbia) (the "**BLA**"). Approximately \$154,816 of the amounts forecasted to be paid in the weeks ending August 7, 2020 (Week 10) and August 14, 2020 (Week 11) relate to two (2) projects: (i) the Peter Kiewit G3 Project and; (ii) the UBC Health Services Building Project.

At this time, the Company is unable to determine the timing of the remaining forecasted payments of \$398,871 (i.e. \$553,687 - \$154,816) to creditors that have priority claims pursuant to provisions of the BLA. As such, for the purposes of the Second Cash Flow Projection, the Company has included a reserve of \$79,774 per week for the five (5) weeks ending September 11, 2020.

District of: British Columbia
Division No. 03 - Vancouver
Court No. 11-2649058
Estate No. 11-2649058

-- FORM 29 --
Trustee's Report on Cash-Flow Statement
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)

In the matter of the proposal of
Triple M Modular Ltd. o/a Metric Modular
of the City of Agassiz, in the Province of British Columbia

The attached statement of projected cash flow of Triple M Modular Ltd. o/a Metric Modular, as of the 10th day of August 2020, consisting of the attached summary, has been prepared by the management of the insolvent person (or the insolvent debtor) for the purpose described in the notes attached, using the probable and hypothetical assumptions set out in the notes attached.

Our review consisted of inquiries, analytical procedures and discussion related to information supplied to us by: ☒ the management and employees of the insolvent person or ☐ the insolvent person. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by: ☒ management or ☐ the insolvent person for the probable assumptions and preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects,

- (a) the hypothetical assumptions are not consistent with the purpose of the projection;
- (b) as at the date of this report, the probable assumptions developed are not suitably supported and consistent with the plans of the insolvent person or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or
- (c) the projection does not reflect the probable and hypothetical assumptions.

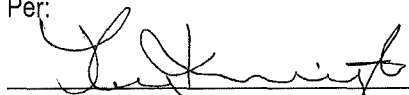
Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the purpose described in the notes attached, and readers are cautioned that it may not be appropriate for other purposes.

Dated at the City of Calgary in the Province of Alberta, this 10th day of August 2020.

Grant Thornton Limited - Licensed Insolvency Trustee

Per:



Jason Knight - Licensed Insolvency Trustee
1100, 332 - 6 Avenue SW
Calgary AB T2P 0B2
Phone: (403) 260-2500

District of: British Columbia
Division No. 03 - Vancouver
Court No. 11-2649058
Estate No. 11-2649058

FORM 29 - Attachment
Trustee's Report on Cash-flow Statement
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)

In the matter of the proposal of
Triple M Modular Ltd. o/a Metric Modular
of the City of Agassiz, in the Province of British Columbia

Purpose:

See attached summary.

Projection Notes:

See attached summary.

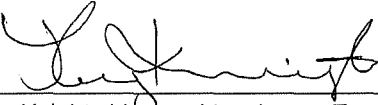
Assumptions:

See attached summary.

Dated at the City of Calgary in the Province of Alberta, this 10th day of August 2020.

Grant Thornton Limited - Licensed Insolvency Trustee

Per:



Jason Knight - Licensed Insolvency Trustee
1100, 332 - 6 Avenue SW
Calgary AB T2P 0B2
Phone: (403) 260-2500

District of: British Columbia
Division No. 03 - Vancouver
Court No. 11-2649058
Estate No. 11-2649058

- FORM 30 -

Report on Cash-Flow Statement by the Person Making the Proposal
(Paragraphs 50(6)(c) and 50.4(2)(c) of the Act)

In the matter of the proposal of
Triple M Modular Ltd. o/a Metric Modular
of the City of Agassiz, in the Province of British Columbia

The Management of Triple M Modular Ltd. o/a Metric Modular, has/have developed the assumptions and prepared the attached statement of projected cash flow of the insolvent person, as of the 10th day of August 2020, consisting of the attached summary.

The hypothetical assumptions are reasonable and consistent with the purpose of the projection described in the notes attached, and the probable assumptions are suitably supported and consistent with the plans of the insolvent person and provide a reasonable basis for the projection. All such assumptions are disclosed in the notes attached.

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

The projection has been prepared solely for the purpose described in the notes attached, using a set of hypothetical and probable assumptions set out in the notes attached. Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at the City of Langley in the Province of British Columbia, this 10th day of August 2020.



Triple M Modular Ltd. o/a Metric Modular
Debtor

Joel Holloway, CFO

Name and title of signing officer

Name and title of signing officer

District of: British Columbia
Division No. 03 - Vancouver
Court No. 11-2649058
Estate No. 11-2649058

FORM 30 - Attachment
Report on Cash-Flow Statement by the Person Making the Proposal
(Paragraphs 50(6)(c) and 50.4(2)(c) of the Act)

In the matter of the proposal of
Triple M Modular Ltd. o/a Metric Modular
of the City of Agassiz, in the Province of British Columbia

Purpose:

See attached summary.

Projection Notes:

See attached summary.

Assumptions:

See attached summary.

Dated at the City of Langley in the Province of British Columbia, this 10th day of August 2020.



Triple M Modular Ltd. o/a Metric Modular

APPENDIX 3

[ATTACHED]

Triple M Modular Ltd. o/a Metric Modular
Post-Filing Cash Flow Period Comparison
June 1, 2020 to July 31, 2020

	A	B	A - B	
For the week ending, In CAD	Actual Jun 1/20 to Jul 31/20	Post-Filing Reporting Period	Favourable / (Unfavourable) Variance	Notes
Opening Cash	\$ -	\$ -	\$ -	
Receipts				
BC Housing - Gibsons	258,678	237,639	21,039	
Triple M Housing	859,885	794,970	64,915	
CEWS	451,887	340,000	111,887	1
Project Receipts / Other	1,569,495	2,694,556	(1,125,061)	2
Inventory / Equipment Liquidation	1,353	6,000	(4,647)	
Total Receipts	3,141,298	4,073,165	(931,867)	
Disbursements				
Wages and Benefits	(870,514)	(884,850)	14,336	
Rent	(144,686)	(275,942)	131,256	3
Leases	(15,304)	(25,000)	9,696	
GST	(5,050)	(35,799)	30,749	
Plant Overhead	(19,168)	(138,820)	119,652	4
Selling, General & Admin	(52,474)	(195,358)	142,884	4
Plant Project Costs	(134,190)	(352,000)	217,810	4
Site Project Costs	(375,305)	(324,476)	(50,829)	
BC Housing - Gibsons Site Costs	(231,856)	(250,000)	18,144	
Total Operating Disbursements	(1,848,547)	(2,482,245)	633,698	
Other Disbursements				
Legal Counsel Fees	(32,948)	(34,737)	1,789	
Trustee Fees	(62,427)	(45,000)	(17,427)	
Trustee's Legal Counsel Fees	-	(15,000)	15,000	
Settlement of Potential Lien Obligations	(10,004)	(386,154)	376,150	5
Repayment of Payroll Advance	(287,930)	(288,000)	70	
Total Other Disbursements	(393,308)	(768,891)	375,582	
Total Disbursements	(2,241,855)	(3,251,136)	1,009,280	
Net Cash Flow	899,443	822,029	77,414	
Closing Cash	\$ 899,443	\$ 822,029	\$ 77,414	

Notes on Variances in Excess of \$100,000



1 - CEWS - due to higher than expected receipts under the Canada Emergency Wage Subsidy program implemented by the Government of Canada.

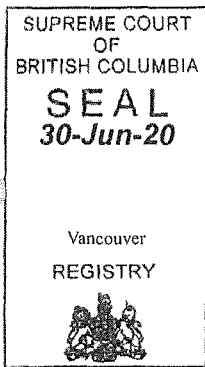
2 - Project Receipts / Other - due primarily to timing differences in collections from customers on the following projects: (i) Langley Christian School (\$422,562); (ii) School District 73 (\$336,688); (iii) UBC Properties Trust (\$137,876); and (iv) School District 44 (\$109,718), representing \$1,006,844 of the unfavorable variance. The Company expects to receive these amounts in due course and has included these project receipts in its Second Cash Flow Projection.

3 - Rent - due to a timing difference in payment of property taxes payable pursuant to the lease agreement for Company's Agassiz Facility. Payment of these property taxes is being projected in the Second Cash Flow Projection.

4 - Plant Overhead, Selling, General & Admin, and Plant Project Costs - due to cost reductions implemented by the Company which resulted in greater reductions in these disbursements than initially forecasted in the Initial Cash Flow Projection. For example, the favourable variance in Plant Project Costs is due to improved performance on the Remaining Projects versus the budgets for same. These variances also include a \$15,974 payment to Mastercard for credit card charges and a \$3,066 payment to a service provider, relating to goods and services provided prior to the Filing Date, both which were inadvertently withdrawn / paid from the Company's bank account.

5 - Settlement of Potential Lien Obligations - due to a combination of: (i) certain customers paying pre-filing lien obligations directly to creditors; (ii) timing differences in with respect to certain of these obligations; and (iii) further information being obtained by the Company to conclude that certain lien obligations are no longer valid.

TAB 7



COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TRIPLE M MODULAR LTD. dba METRIC MODULAR**

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE
JUSTICE GROVES

TUESDAY, THE 30TH
DAY OF JUNE, 2020

ON THE APPLICATION of Triple M Modular Ltd. dba Metric Modular ("**Metric Modular**"), coming on for hearing at Vancouver, on the 30th day of June, 2020, via telephone, and on hearing J. Reilly Pollard, counsel for Metric Modular; Lance Williams, counsel for Grant Thornton Limited in its capacity as Proposal Trustee; and Pantelis Kyriakakis, counsel for ATB Financial; and no one else appearing:

THIS COURT ORDERS that:

1. The time for filing a proposal by Metric Modular be and is hereby extended from 11:59pm on Wednesday July 1, 2020 to 11:59pm on August 15, 2020.
2. The stay of proceedings against Metric Modular be and is hereby extended from 11:59pm on Wednesday July 1, 2020 to 11:59pm on August 15, 2020.
3. A priority charge is hereby granted over the assets of Metric Modular in the amount of \$200,550 to fund a Key Employee Retention Plan (the "**KERP Charge**"). The KERP Charge shall have priority over all security interests and statutory charges affecting the assets of Metric Modular, including any deemed trust in favour of the federal or provincial Crown.

4. ATB Financial is unaffected by these proceedings to the extent of their perfected secured claim against the assets of Metric Modular with the sole exception that the KERP Charge shall have priority over their claim.

5. The time for service of the application materials in this matter be and is hereby abridged such that the application is properly returnable June 30, 2020.

6. Endorsement of this Order by counsel appearing on this application, other than counsel for Metric Modular, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



J. Reilly Pollard, Counsel for Metric Modular

BY THE COURT

Digitally signed by
Day, Kristen

REGISTRAR *IN BANKRUPTCY*

COURT FILE NO. VLC-S-B-200257
ESTATE NO. 11-2649058
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH
COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF
TRIPLE M MODULAR LTD. dba METRIC
MODULAR

ORDER MADE AFTER APPLICATION



Lindsay Kenney LLP
Barristers & Solicitors
Founded in 1980

Barristers and Solicitors
1800 - 401 West Georgia Street
Vancouver, British Columbia
V6B 5A1
Phone: (604) 687-1323
Attention: J. Reilly Pollard

File no. 20201024