

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
BONDFIELD CONSTRUCTION COMPANY LIMITED, 950504 ONTARIO INC., 352021
ONTARIO LIMITED, 2433485 ONTARIO INC. AND 2433486 ONTARIO INC.**

EIGHTH REPORT OF THE MONITOR

January 24, 2020

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INTRODUCTION

- 1 On March 5, 2019, Bondfield Construction Company Limited ("**BCCL**"), 352021 Ontario Limited ("**352021**"), 950504 Ontario Inc., 2433485 Ontario Inc., and 2433486 Ontario Inc. (each an "**Applicant**", and collectively, the "**Applicants**") filed an application (the "**CCAA Application**"), returnable on March 6, 2019, seeking an Initial Order pursuant to the *Companies' Creditors Arrangement Act* ("**CCAA**") to, among other things, obtain a stay of proceedings to allow them an opportunity to restructure their business and affairs.
- 2 The principal operating entity among the Applicants is BCCL, which is a full service construction company operating throughout Ontario.
- 3 On March 6, 2019, the CCAA Application was adjourned. The Honourable Mr. Justice Hailey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") issued an endorsement that, among other things, imposed an interim stay of proceedings to allow the Applicants to continue their ordinary course business operations pending further Order of the Court.
- 4 The Applicants, Zurich Insurance Company Ltd. ("**Zurich**"), as principal surety for BCCL's bonded construction projects, and Bridging Finance Inc. (the "**Agent**"), as agent for the secured lenders to the Applicants, engaged in extensive discussions resulting in an

agreement to support a CCAA Application by the Applicants dated as of March 15, 2019 (the “**CCAA Filing Agreement**”).

- 5 On April 3, 2019, the Court granted an Initial Order in these proceedings (the “**Initial Order**”) that, among other things, appointed Ernst & Young Inc. as monitor (in such capacity, the “**Monitor**”), approved a continued stay of proceedings in favour of the Applicants until May 3, 2019 (the “**Stay Period**”), approved the CCAA Filing Agreement, approved interim financing facilities to be provided by Zurich (the “**Zurich DIP Facility**”) and certain lenders for which the Agent acts as agent (the “**Agent DIP Facility**”), and granted certain other orders to give effect to the CCAA Filing Agreement.
- 6 Pursuant to an Order granted by the Court on June 27, 2019 (the “**Second Stay Extension Order**”), the Stay Period was most recently extended to January 31, 2020.

PURPOSE

- 7 This Eighth Report (the “**Eighth Report**”) has been prepared by the Monitor to provide information to the Court on:
 - (a) the Applicants’ operations since the last extension of the Stay Period on June 27, 2019;
 - (b) the current status of the P3 Projects (as defined below);
 - (c) an update on the Finch West Litigation (as defined below);
 - (d) an update on other litigation proceedings;
 - (e) the current status of HST refunds owing from Canada Revenue Agency (“**CRA**”) and the CRA audits;
 - (f) An update on the motion regarding HST refunds and the LC Funds (as defined below);
 - (g) the status of the Monitor’s proceedings related to certain financial irregularities;

- (h) the Applicants' receipts and disbursements for the period from June 8, 2019 through December 27, 2019 compared to the cash flow forecast appended to the Third Report of the Monitor, dated June 21, 2019 (the "**Third Report**");
- (i) the Applicants' updated cash flow forecast for the period from December 28, 2019 to January 29, 2021;
- (j) the Potential Transaction (as defined below); and
- (k) The Applicants' motion for an order extending the Stay Period to May 15, 2020 substantially in the form attached to the Applicants' Notice of Motion.

TERMS OF REFERENCE AND DISCLAIMER

8 In preparing this Eighth Report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records prepared by the Applicants, discussions with management of the Applicants ("**Management**"), and information from other third party sources (collectively, the "**Information**"). Except as described in this Eighth Report:

- (a) the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information; and
- (b) some of the information referred to in this Eighth Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.

- 9 Future oriented financial information referred to in this Eighth Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
- 10 Unless otherwise indicated, the Monitor’s understanding of factual matters expressed in this Eighth Report concerning the Applicants and their business is based on the Information, and not independent factual determinations made by the Monitor.
- 11 Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.
- 12 Copies of the Monitor’s reports, including a copy of this Eighth Report, and motion records and Orders in the CCAA proceedings are available on the Monitor’s website at www.ey.com/ca/bondfield. The Monitor has also established a toll-free phone number that is referenced on the Monitor’s website so that parties may contact the Monitor if they have questions with respect to the CCAA proceedings.

UPDATE ON THE APPLICANTS’ OPERATIONS

Bonded Projects

- 13 As described in the affidavit of Steven Aquino sworn January 23, 2020, the Applicants, with the assistance of Perini Management Services Inc. (“**Perini**”), an advisor to Zurich, and the Monitor, continue to advance various construction projects.
- 14 The Third Report provided an update on the Applicants’ operations. Since then, BCCL has completed two bonded projects ¹ that had completed the certification process of substantial performance in accordance with the *Construction Act* (“**Substantial Completion**”) at the

¹ The three completed projects are: Trent University Bata Research Library and Innovation Cluster and École Élémentaire Catholique Monseigneur-Jamot.

time of the Third Report. BCCL has also reached Substantial Completion on eight additional bonded projects as listed in **Appendix “A”**.

- 15 The Applicants, in consultation with Perini and the Monitor, have assessed the financial and operational position of certain construction projects from time to time in order to evaluate alternatives to limit expenditures. In August 2019, BCCL ended its involvement as general contractor on one money-losing bonded project by assigning its obligations (and any claims and future cash receipts) under the project to an arm’s length third-party replacement contractor who assumed those obligations in return for a cash payment from Zurich. Following the assignment, BCCL was engaged by the replacement contractor to provide construction services. The assignment transaction allowed BCCL and Zurich to crystalize their losses on the project. As noted above, this project had no net future economic benefit to BCCL.
- 16 The Applicants currently have 24 remaining bonded projects² (excluding the P3 Projects as further discussed below). A list of the Applicants’ remaining bonded projects is set out in **Appendix “A”**.
- 17 As summarized in the chart below, the Applicants anticipate that, in or around December 2020, 17 of these projects will be completed and all the remaining seven projects will reach Substantial Completion, barring any unforeseen delays.

Number of BCCL's Remaining Bonded Projects (excluding P3 Projects)			
	Current Status	Forecast	
(# of projects)	Jan 2020	Jun 2020	Dec 2020
In Progress	16	7	-
Substantial Completion	8	9	7
Completion	N/A	8	17
Total	24	24	24

- 18 At the time of this Eighth Report, the Applicants continue to employ approximately 220 salaried and hourly employees, as well as independent contractors.

² See Appendix A.

- 19 Pursuant to the Initial Order, the Applicants, with the assistance of the Monitor, continue to process disbursements to subcontractors and suppliers and other parties, funded by customer payments and advances from Zurich pursuant to both its bonded obligations and, in the case of overhead and other non-bonded expenditures, the Zurich DIP Facility.

Inter-company Claims

- 20 1033803 Ontario Inc. (“**Forma Con**”) is a related entity of the Applicants. On November 19, 2018, Forma Con was placed into receivership on Application by the Agent. On December 19, 2019, the receiver of Forma Con (the “**Forma Con Receiver**”) filed an assignment in bankruptcy on behalf of Forma Con. The Forma Con Receiver was appointed trustee in bankruptcy (the “**Forma Con Trustee**”).

- 21 The Applicants’ financial records reflect that BCCL, 950504 Ontario Inc. and 352021 are owed money by Forma Con. BCCL, 950504 Ontario Inc. and 352021 have each filed with the Forma Con Trustee a proof of claim against the estate of Forma Con in the following amounts:

- (a) BCCL: \$94,308,178.02;
- (b) 352021: \$12,512,917.45; and
- (c) 950504 Ontario Inc.: \$25,000.00.

New Office Lease

- 22 BCCL’s lease of its office premises at 407 Basaltic Road was entered into with the Forma Con Receiver in accordance with the CCAA Filing Agreement on April 3, 2019. The right, title and interest of Forma Con in the 407 Basaltic Road property was subsequently sold during the receivership proceedings of Forma Con. BCCL’s lease is set to expire on March 31, 2020.
- 23 BCCL, with the support of Zurich, and in consultation with the Monitor, has entered into an offer to lease for a two-year term of an office property in Toronto, Ontario starting from January 1, 2020. BCCL is currently in the process of finalizing the lease agreement with the landlord, while preparing the new office for move-in by the end of March 2020. The

newly leased premises are significantly smaller, and the monthly rental cost is significantly lower, than the 407 Basaltic Road premises.

FINCH WEST LITIGATION

- 24 The background to the Finch West Litigation is set out in the Second Report of the Monitor, dated May 24, 2019 (the “**Second Report**”). Defined terms used in this section are as set out in the Second Report.
- 25 The Finch West Litigation is now subject to case management by the Court. A detailed history of the pre-filing steps taken in the Finch West Litigation and negotiation of a Litigation Timetable is contained in the Second Report and Third Report of the Monitor.
- 26 The Finch West Litigation is currently in the discovery phase of pre-trial procedures. Pleadings and exchange of Scott Schedules are substantially complete. Examinations for discovery are taking place in accordance with the schedule discussed with the Court at the case management conference held on September 24, 2019, as amended on consent by counsel for affected parties thereafter. A copy of the current case management schedule (the “**FW Litigation Schedule**”) is attached as **Appendix “B”**.
- 27 In conjunction with the case management of the action, the Court heard and determined a motion for security for costs. By order dated October 17, 2019, the Court granted security for costs to the TTC in the amount of \$1,000,000, which amount has now been posted in accordance with the terms of the Court’s order.
- 28 The current FW Litigation Schedule anticipates discoveries concluding on or about April 3, 2020, with answers to undertakings being concluded by on or about June 1, 2020.
- 29 The FW Litigation Schedule also anticipates mediation being conducted by September 30, 2020. After consultation with the parties, the Monitor consulted with a potential mediator with respect to his availability for mediation. That potential mediator is unavailable. The Monitor has conducted further consultation and understands that the Applicants and the TTC are agreeable to certain other mediators. The Monitor has provided these names to, and received some comment back from the Finch West Litigation service list. Subject to

any additional comment and availability, the Monitor expects to confirm an appointment from this roster shortly.

30 In addition to and in connection with the fixing of the mediator and mediation date, there are two other primary issues outstanding in connection with the FW Litigation Schedule, being:

- (a) the timing of delivery of full expert reports, which the Monitor had sought prior to mediation; and
- (b) the establishment of a fixed trial date.

31 Those issues were deferred at the prior case conference pending the mediator selection. Once the mediator is selected, the Monitor expects to seek imminent direction of the Court at a chambers appointment, absent agreement, for the resolution of those issues.

32 In connection with the Finch West project, TTC, BCCL, Zurich and Travelers Insurance Company of Canada entered into a letter agreement dated on or about December 13, 2019 (the “**Deficiency Correction Agreement**”). Pursuant to the Deficiency Correction Agreement:

- (a) TTC acknowledged that it has retained a total of \$6,247,912.24 from BCCL on the Finch West project on account of the costs of certain alleged deficiencies and for lien notice holdback and finishing holdback (the “**DCA Holdback Amounts**”);
- (b) TTC would agree to release a portion of the DCA Holdback Amounts of \$3,982,367.24 inclusive of taxes as well as amounts to satisfy invoices for rectified deficiencies provided that, among other things, Zurich provides a Holdback Release Bond in the amount of \$6,247,912.24 and BCCL executes a consent to an order directing that the registration of certain claims for lien and certificates of action be vacated against certain properties specified therein and dismissing BCCL’s claim in the Finch West Litigation against certain specified defendants.

33 The Deficiency Correction Agreement is currently being implemented.

OTHER LITIGATION AND SETTLEMENTS

Overview

- 34 The Applicants are currently parties to numerous individual litigation claims, as plaintiff or defendant, in relation to the Applicants' construction projects and otherwise. Claims against the Applicants generally remain stayed in accordance with the terms of the Initial Order, which has permitted the Applicants to focus on their ongoing operations.
- 35 Paragraph 29 of the Initial Order provides that the Monitor, in consultation with the Applicants, Zurich and Bridging as may be reasonably requested, and in certain circumstances with the consent of Zurich and Bridging, may settle or compromise any such claims, with the exception of the Finch West Litigation, which is subject to the terms of the CCAA Filing Agreement. Any proposed settlements are reviewed by the Monitor.
- 36 Following the issuance of the Third Report, the Monitor has consented to 37 orders and notices of discontinuances in furtherance to the discharge of subcontractor liens and to settlements reached by BCCL and the surety on bonded projects.³ To date, the Monitor has agreed to a total of 56 orders and notices of discontinuances with respect to settlements reached by BCCL and the surety on bonded projects. The Monitor has also consented to a total of 11 orders to date for the posting of lien bonds by Bondfield to bond off liens registered on title on various projects.
- 37 In addition, the Monitor has consented to certain settlements relating to non-bonded projects.

Walsh Bondfield (Women's College)

- 38 In addition to litigation to which the Applicants are direct parties, BCCL also has an interest in litigation involving a partnership between BCCL and Walsh Construction Company Canada (the "**Walsh Bondfield Partnership**"), as described in the First Report of the Monitor, dated April 26, 2019.

³ Where Zurich has made payments to subcontractors in connection with Bondfield's settlement of such subcontractor claims, Zurich may assert that it is subrogated to the claims of these subcontractors.

- 39 Walsh Bondfield Partnership has asserted a number of claims related to work on the Women's College Hospital Project. One such claim against Yuanda Canada Enterprises Ltd., a subcontractor on the project, was settled in November 2019. Walsh Bondfield Partnership continues to pursue material claims against the design consultant and an elevator subcontractor on the project. BCCL is entitled to a prescribed 35% proportionate share of distributions from the Walsh Bondfield Partnership.

P3 PROJECTS

- 40 As described in the Monitor's previous reports, BCCL, together with special purpose wholly owned subsidiaries provided construction services in respect of the following three P3 projects:
- (a) Hôpital General de Hawkesbury & District General Hospital (the "**HGH Project**") through the special purpose entity 2423403 Ontario Inc. ("**HGH Project Co**");
 - (b) Cambridge Memorial Hospital (the "**Cambridge Project**") through the special purpose entity 2423402 Ontario Inc. ("**Cambridge Project Co**"); and
 - (c) Providence St. Joseph's and St. Michael's Healthcare (the "**SMH Project**") through the special purpose entity 2442931 Ontario Inc. (the "**SMH Project Co**") (all three projects, together, the "**P3 Projects**").
- 41 In December 2018, the three project entities, HGH Project Co, Cambridge Project Co and SMH Project Co, were each placed into receivership upon the application of the Toronto Dominion Bank with respect to the HGH Project and the Bank of Montreal with respect to the Cambridge Project and the SMH Project.

The SMH Project

- 42 On December 18, 2019, the Monitor sent correspondence to the known subcontractors and suppliers of BCCL on the SMH Project (the "**SMH Subs**") advising, among other things, that the Monitor was informed that BCCL no longer had any sources of funding to continue work on the project. The Monitor provided this notice so that these subcontractors and suppliers may cease incurring additional costs in connection with the project at that time pending any resolution of funding issues.

- 43 On December 20, 2019, the Court granted an Order (the “**SMH Order**”) that, among other things, permitted Unity Health Toronto (formerly St. Michael’s Hospital) to exercise a remedy pursuant to Section 34.4(d) of the Project Agreement to engage and directly make payment to suppliers of labour, services, or materials to the SMH Project from and after the date thereof to Tower Interim Completion (all as defined in the SMH Order).
- 44 As a result of Unity Health Toronto exercising this remedy, BCCL’s role as Construction Contractor in connection with the Construction Contract and the Project Agreement has been discontinued as of December 20, 2019. To the extent any subcontractors and suppliers are engaged in connection with the SMH Project thereafter, such engagement will be with or as directed by Unity Health Toronto.
- 45 Following December 20, 2019, Unity Health Toronto has engaged BCCL to assist with certain health and safety work on the SMH Project.
- 46 On January 8, 2020, the Monitor sent a letter to the SMH Subs, advising of the above developments and that BCCL is no longer responsible for any engagement of subcontractors and suppliers on the SMH Project after December 20, 2019.
- 47 As of November 30, 2019, BCCL is owed approximately \$9.1 million on account of certified progress billings for the work performed under the Construction Contract during the period from February 2018 to October 2018. In addition, approximately \$5.8 million of BCCL’s progress billings relating to the work performed in the period from November 2018 to May 2019 remain to be certified.
- 48 As at December 31, 2019, accounts payable (excluding holdback) owing to the SMH Subs is approximately \$3.6 million according to BCCL’s financial records. This amount remains subject to changes as BCCL continues to receive invoices from the SMH Subs. Further, certain SMH Subs have registered, or are seeking to register, lien claims on title.

The Hawkesbury Project

- 49 On December 3, 2019, the Court issued an Order approving BCCL’s entry into and performance of a settlement agreement (the “**HGH Settlement**”) in respect of the HGH

Project. Under the HGH Settlement, the HGH Project owner has contracted directly with Zurich in place of the HGH Project Co and BCCL for the completion of the remaining work. BCCL would perform ongoing construction work on the project at the direction of Zurich. The HGH Settlement is described in detail in the Sixth Report of the Monitor dated December 1, 2019.

- 50 The anticipated completion date for the project is around September 2020. BCCL’s work on the HGH Project continues to be funded by Zurich under its bonded obligations.

The Cambridge Project

- 51 The Cambridge Project reached Interim Completion on November 8, 2019. BCCL has advised that a replacement contractor will take over and complete the remainder of the Cambridge Project, while BCCL’s remaining work will be limited to addressing deficiencies in the next several months.

TAX MATTERS

- 52 As discussed in the Monitor’s previous reports, CRA has not released certain HST refunds to BCCL pending the completion of the examination of certain pre- and post-filing period transactions (the “**Pending HST Refunds**”). As set out below, the Pending HST Refunds amounted to approximately \$9.3 million⁴ and \$6.5 million as at November 30, 2019 for the pre-filing and post-filing periods, respectively.

⁴ In previous reports of the Monitor, Pending HST Refunds for the period from January to March 2019 were reported to be \$8.7 million. After additional HST refunds attributable to the April 1, 2019 to April 3, 2019 period are accounted for, the total Pending HST Refunds for the pre-filing period increases to approximately \$9.3 million.

HST Filing Period	Pending HST Refunds	Note
Pre-filing Period (Jan 1 to Apr 3, 2019)	\$ 9,259,363	
Post-Filing Period		
April 4 to April 30, 2019	214,119	
May 2019	N/A	(i)
June 2019	1,189,563	
July 2019	164,146	
August 2019	1,785,717	
September 2019	1,573,916	
October 2019	1,601,863	
November 2019	N/A	(i)
Total Post-filing Period	6,529,324	
Grand Total	\$ 15,788,687	

Note (i): BCCL was in a net payable position for the month of May 2019 and November 2019.

- 53 CRA has agreed to conduct separate HST audits in respect of the pre- and post-filing periods. None of these audits are completed at the time of this Eighth Report.
- 54 BCCL has advised that CRA’s audit process in respect of the period April to August 2019⁵ (the “**Post-filing Period Audit**”) started before September 2019. Subsequently, CRA has selected additional post-filing HST returns for the period September to November 2019 for audit. The Monitor understands from BCCL that it has addressed the vast majority of the information requests regarding the Post-Filing Period Audit. However, the Monitor does not know when the Post-filing Period Audit is expected to be completed, despite numerous inquiries to CRA by the BCCL and the Monitor.
- 55 Since the date of the Initial Order, BCCL has remained compliant with HST filing obligations as well as the remittance obligations regarding HST and source deductions.
- 56 The Monitor and BCCL will follow up with both CRA and the Department of Justice to seek the release of the Pending HST Refunds for the post-filing period. In the absence of a reasonable and timely resolution, the Monitor may report to the Court and seek direction.

⁵ Includes the stub period April 4 to April 30, 2019, and the months of May, June, July and August, 2019.

PHASE II INVESTIGATION

- 57 On May 30, 2019, the Court authorized the Monitor and its counsel to undertake an investigation, engage Ernst & Young LLP to assist in that investigation and deliver a report on the investigation into certain financial irregularities relating to the Applicants and others. This investigation has been referred to as the “**Phase II Investigation**”.
- 58 On October 30, 2019, the Monitor delivered its Phase II Investigation Report as directed by the Court.
- 59 The Phase II Investigation Report provided the Monitor’s recommendation that it be authorized to commence an application to seek specific relief against John Aquino, the Estate of Michael Solano and individuals known to the Monitor as Marco Caruso, Joe Ana, Lucia Coccia/Canderle, John Siracusa and certain purported suppliers to BCCL. The recommended applications would seek declarations that transactions between BCCL and certain purported suppliers were transfers at undervalue for the purposes of Section 96 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as incorporated into the CCAA and that the respondents were all jointly and severally liable for the value of those transactions (the “**TUV Application**”).
- 60 The transactions identified to date that are the subject of the Monitor’s TUV Application total in excess of CDN \$33 million.
- 61 Additional details regarding the Phase II Investigation and these applications can be found in the Monitor’s Phase II Investigation Report.
- 62 The Monitor was authorized by the Court to commence the TUV Application on November 5, 2019.
- 63 The Monitor was also previously authorized to commence an application for similar relief against Domenic Dipede, the former Chief Financial Officer of Bondfield (the “**Dipede Application**”).
- 64 The Dipede Application and the TUV Application have now been served.

- 65 Various respondents to the TUV Application have brought motions to covert the TUV Application to an action. Those motions are scheduled to be heard on February 27, 2020.
- 66 On December 12, 2019, the Court heard a motion by the Monitor seeking an order freezing the proceeds of a proposed sale of a property located at 60-74 Gervais Drive in Toronto to the extent those proceeds were to be paid to or for the benefit of John Aquino (directly or indirectly). The Monitor believed, as was subsequently confirmed, that John Aquino had an interest in this property. The Court granted the Monitor's requested order. That order is now the subject of a motion for leave to appeal by John Aquino.

APPLICANTS' RECEIPTS AND DISBURSEMENTS

- 67 A redacted summary of the Applicants' actual receipts and disbursements during the period from June 8 to December 27, 2019 (the "**Reporting Period**") as compared to the cash flow forecast set out in Appendix "G" to the Third Report is attached as **Appendix "C"** to this Eighth Report. An unredacted copy of this summary will be provided to the Court as **Confidential Appendix "D"**. During the Reporting Period, the Applicants' combined net cash flow is approximately \$1.4 million, which is \$0.8 million higher than forecast primarily due to certain timing differences, as detailed in **Appendix "C"**.
- 68 During the Reporting Period, the Applicants' operations generated a net cash flow of approximately \$1.4 million, which includes draws of \$7.7 million under the Zurich DIP Facility and funding of \$53.1 million from Zurich on bonded projects. Activities under the Agent DIP Facility are not included in the above net cash flow, and have been redacted to protect certain commercially sensitive information in connection with the Finch West Litigation. As at December 28, 2019, the Applicants' cash on hand was approximately \$10.7 million, comprising approximately \$10.0 million of funds for bonded obligations and \$0.7 million of Zurich DIP Facility funds. The outstanding balance of the Zurich DIP Facility was approximately \$15,061,000, and the borrowings under the Agent DIP are described in **Confidential Appendix "D"**.
- 69 Since the date of the Initial Order, Zurich and its agent, BBCG Claims Services, paid approximately \$24.5 million directly to BCCL's subcontractors and suppliers in

connection with settlements. These costs are not reflected in the Applicants' actual receipts and disbursements as summarized in Appendix "C", although BCCL has record these payments in its project-by-project accounting to the extent appropriate.

MOTIONS RE HST REFUNDS AND LC FUNDS

- 70 BCCL has been issued, or otherwise believes it is entitled to, substantial HST refund amounts from Canada Revenue Agency ("**CRA**"). As described in the Monitor's prior reports:
- (a) before the CCAA filing date, BCCL received two HST refund cheques totalling approximately \$3.6 million relating to HST Returns for the periods of September to October 2018 and December 2018 (the "**Released HST Refunds**"); and
 - (b) the Pending HST Refunds have not been released to BCCL and total approximately \$9.3 million for the pre-filing period and \$6.5 million for the post-filing period.
- 71 BCCL has also received certain cash collateral in the amount of approximately \$728,000 that was previously either (i) held by National Bank in connection with now expired letters of credit and certain contingent credit card obligations; or (ii) held by beneficiaries of expired letters of credit who drew down on those letters of credit to secure obligations of BCCL that did not materialize (the "**LC Funds**").
- 72 A dispute has arisen regarding the entitlements of BCCL to use the Released HST Refunds, Pending HST Refunds and the LC Funds and a competing claim that has been asserted by the Agent to those funds.
- 73 On November 4, 2019, the Applicants served a motion for an Order directing that the Released HST Refunds be delivered to BCCL's daily operating account and authorizing the Applicants to use the Released HST Refunds in the ordinary course of their business operations.
- 74 On January 20, 2020, the Agent served a motion also asserting an entitlement to the Released HST Refunds, as well as the Pending HST Refunds, the Post-Filing HST Refunds and the LC Funds.

- 75 These motions remain to be scheduled at this time.
- 76 The Monitor will hold the Released HST Refunds, the LC Funds and any Pending HST Refunds that are received pending either agreement between Zurich, the Agent, the Applicants and the Monitor regarding the use of and entitlement to these funds, or further order of the Court.

APPLICANTS' UPDATED CASH FLOW FORECAST

- 77 The Applicants, with the assistance of the Monitor, have updated the Cash Flow Forecast for the period from December 28, 2019 to January 29, 2021 (the “**January 2020 Forecast**”). A redacted copy of the January 2020 Forecast is attached hereto as **Appendix “E”**. While the Applicants do not seek an extension of the Stay Period to January 2021 at this time, this forecast is provided to provide general information regarding the future liquidity needs of the Applicants.
- 78 During the 13-month forecast period, the Applicants are projected to incur net cash outflows of \$64.0 million on bonded projects and \$12.1 million on corporate overhead and other operating expenses. The January 2020 Forecast reflects these cash outflows will be funded in part by the Applicants’ cash on hand and additional funding of \$58.5 million from Zurich pursuant to its bonded obligations. Additional funding of \$11.3 million is forecasted to be required during the forecast period. The balance of the Zurich DIP Facility is projected to reach \$21.4 million by the end of May 2020, which approaches the availability limit currently under the Zurich DIP Facility of \$22 million. The January 2020 Forecast does not reflect the impact of the Potential Transaction as further discussed below.
- 79 Forecast activities under the Agent DIP Facility are not included in the above cash flow, and have been redacted in the January 2020 Forecast. This information is commercially sensitive as it provides details regarding the Applicants’ funding expectations at relevant times in connection with the Finch West Litigation. In the Monitor’s view, the redaction of this information is appropriate as the potential prejudice of disclosing this specific information publicly outweighs the benefit of disclosure. A copy of the unredacted January 2020 Forecast will be provided to the Court as **Confidential Appendix “F”**.

80 The January 2020 Forecast also does not include any funding or expenditures related to the Phase II Investigation. The Phase II Investigation is to be funded in accordance with the May 30th Order.

POTENTIAL TRANSACTION

81 BCCL is engaged in ongoing negotiations with Zurich and its advisors, project owners and other parties with respect to a potential transaction (the “**Potential Transaction**”) to either terminate BCCL’s involvement in, or assign, certain bonded projects, all of which are projected to be in a loss position. This transaction, if completed, would allow Corebuild Construction Ltd. (“**Corebuild**”), a company jointly owned by Maria Bot (the sister of Steven Aquino) and a third party, to take over these projects with new bonding arrangements. BCCL intends to seek Court approval of this Potential Transaction after concluding the negotiations and consulting with Zurich and the Agent. Subject to Court approval, the Potential Transaction contemplates that BCCL and Corebuild would provide each other certain services and share resources and premises during a transition period. Additional details on the Potential Transaction will be provided in a further report of the Monitor if the Potential Transaction proceeds for Court approval.

STAY EXTENSION

82 The Stay Period is currently set to expire on January 31, 2020. The Applicants are requesting an extension of the Stay Period until May 15, 2020.

83 The Monitor is of the view that the requested extension of the Stay Period is appropriate for the following reasons:

- (a) the Applicants require the extension in order to continue their restructuring efforts, including: (i) completing ongoing construction projects, which are scheduled to run for at least the duration of the proposed stay extension period and beyond, (ii) continuing to pursue the Finch West Litigation, which is scheduled to run beyond the proposed stay extension period, and (iii) allowing the Monitor to continue the Phase II Investigation; and
- (b) the Applicants continue to operate in good faith and with due diligence.

- 84 The January 2020 Forecast projects that the Applicants will have sufficient liquidity to fund their operations until May 15, 2020, assuming sufficient bonded project funding from Zurich.
- 85 For the foregoing reasons, the Monitor supports the Applicants' request for an Order extending the Stay Period to May 15, 2020.
- 86 The Monitor notes that the proposed extension of the Stay Period will not provide sufficient time for BCCL to complete its remaining projects based upon BCCL's most recent forecasts. BCCL expects to require until at least January 31, 2021 to complete most of its remaining projects. Accordingly, the Monitor expects that further stay extensions will be sought and additional liquidity beyond the funding currently provided under the Zurich DIP Facility will be necessary to satisfy overhead costs incurred during any further extensions of the stay period. The Monitor understands that Zurich does not agree to increase the size of the Zurich DIP Facility at this time unless additional advances are also secured by the Zurich DIP Charge. The Monitor further understands that the Agent currently does not support further increases in the Zurich DIP Facility that would be secured by the Zurich DIP Charge. The Monitor understands the Applicants would prefer to proceed with a longer stay extension at this time, but due to the absence of agreement among the stakeholders on the ranking of additional financing from Zurich to further extend the stay period, the Applicants have limited the current proposed stay extension such that no further funding will be required. However, the Monitor expects that in the near future, and in advance of the expiry of the current proposed Stay Period, the matter of additional funding beyond the current Stay Period will need to be resolved in the April – May period.

All of which is respectfully submitted this 24th day of January, 2020.

ERNST & YOUNG INC.

Solely in its role as Court-appointed Monitor
of the Bondfield Group, and not in its personal capacity

Per:

A handwritten signature in blue ink, appearing to read "Alex Morrison", with a stylized flourish at the end.

Alex Morrison, CPA, CA
Senior Vice President

Appendix “A”

BCCL's Remaining Bonded Projects (Excluding P3 Projects)
January 2020

Substantial Completion

- 1 Avondale Public School
- 2 St. Augustine of Canterbury Catholic School
- 3 Sunnybrook Pet MRI
- 4 Vaughan Fire Station
- 5 Ecole Scarborough
- 6 TTC Davisville
- 7 Centennial College - Downsview Park
- 8 St. Joseph Care Group

In Progress

- 1 AGO 25 Grosvenor
- 2 TTC Greenwood Shop Failure Analysis Room
- 3 Ed Sackfield Arena
- 4 TTC Glencairn
- 5 University of Guelph
- 6 Integrated Health Services, Petawawa
- 7 Clearview Library
- 8 Sunnybrook Renovation & Morgue
- 9 TTC Greenwood Complex Track
- 10 Vaughan Metropolitan Centre
- 11 Kingston High School
- 12 University of Waterloo
- 13 Union Station Revitalization
- 14 Sunnybrook Clinical Dialysis
- 15 MTO Centre for Excellence
- 16 St. Joseph Morrow

Appendix “B”

ONTARIO
SUPERIOR COURT OF JUSTICE
In the Matter of the Construction Act,
R.S.O. 1990 c. C.30

B E T W E E N:

BONDFIELD CONSTRUCTION COMPANY LIMITED

Plaintiff

- and -

**TORONTO TRANSIT COMMISSION, MINISTRY OF INFRASTRUCTURE, CITY OF
TORONTO, IMPERIAL OIL LIMITED, ONT GTA PROPERTIES INC., POLICY
INVESTMENTS LTD., JEROME BECKER, SAMUEL BROWN, VICTOR DIRENFELD,
CFG CENTENNIAL PLAZA INC., AND CANADIAN IMPERIAL BANK OF
COMMERCE**

Defendants

LITIGATION TIMETABLE AND DISCOVERY PLAN

1. Agreement

This Litigation Timetable and Discovery Plan sets out the formal agreement between the parties with respect to the Finch West Station, constructed as part of the Toronto York Spadina Subway Extension for the Toronto Transit Commission, and is intended by all parties to constitute a Discovery Plan in accordance with the requirements of Rule 29.1 of the *Rules of Civil Procedure*.

A list of all of the actions to which this Litigation Timetable and Discovery Plan applies is set out in the attached Appendix “A” (the “**Actions**”). For greater certainty, any third party claim, fourth party claim or subsequent party claim brought in any of the Actions shall be deemed to be included in this Discovery Plan without the need to amend the Discovery Plan to include such claim.

**2. Completion
of Pleadings**

For all claims served to date, any responding pleading shall be delivered by no later than April 18, 2019.

For all claims served to date, any Third Party Claims arising from any such claim must be served by no later than June 4, 2019. All third party defences shall be delivered by no later than Friday, July 5, 2019, or as a Companies’

Creditors Arrangement Act (“CCAA”) Judge, or CCAA directed Judge may direct.

For all claims served to date, any Fourth Party Claims arising from any Third Party Claims shall be served by no later than Friday, July 26, 2019, or as a CCAA Judge or CCAA directed Judge may direct. All fourth party defences to Fourth Party Claims shall be delivered by no later than Friday, August 16, 2019, or as a CCAA Judge or CCAA directed Judge may direct.

For all claims served to date, any Fifth Party Claims arising from any Fourth Party Claims shall be served by no later than Friday, August 16, 2019, or as a CCAA Judge or CCAA directed Judge may direct. All fifth party defences to Fifth Party Claims shall be delivered by no later than Friday, September 6, 2019, or as a CCAA Judge or CCAA directed Judge may direct.

For all claims served to date, any Sixth Party Claims arising from any Fifth Party Claims shall be served by no later than Friday, September 6, 2019, or as a CCAA Judge or CCAA directed Judge may direct. All sixth party defences to Sixth Party Claims shall be delivered by no later than Friday, September 27, 2019, or as a CCAA Judge or CCAA directed Judge may direct.

**3. Timing and
Format of
Affidavits of
Documents and
Schedule “A”
Productions**

Deadline

Affidavit of Documents and Schedule “A” productions for all Actions shall be delivered on or before Friday, August 2, 2019.

The Parties shall not deliver itemized Schedules “B” and “C” for the Affidavit of Documents.

Size of Production:

For all parties with less than 300 documents, Schedule “A” productions may be delivered by way of hard copy production, with the cost of such production to be borne by the party producing the documents.

For all parties with more than 300 documents, documents are to be provided by way of generic electronic load files, with standard Concordance delimiters, by Friday, August 2, 2019.

Format for Production

Format and Specifications for Exchange of Productions (including Paper and Electronic Documents) is as set out in the attached Appendices B and C.

Copies of productions are to be exchanged electronically on compact disc, hard drive, USB memory key, or FTP (secure file transfer).

Protection Measures:

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The Parties acknowledge and agree to the Protection and Clawback Measures set out in the attached Appendix D.

4. Scope of Document Production

Preservation/Litigation Hold:

The parties understand their obligations to preserve all original copies of all documents, including electronic copies, of any relevant documents in their possession, power and control. The parties agree that any practices by which relevant documents or information might be automatically or otherwise disposed of, deleted or archived shall be immediately suspended. This includes, but is not limited to, the automatic deletion of email records, electronic records and paper documents.

Relevance:

The parties agree that for the purpose of searching for and producing an Affidavit of Documents and Schedule “A” productions, the relevance of a document is defined by the issues raised in the pleadings in the Actions.

Searches and Production:

The parties agree that each party shall search for and collect documents by search all sources of electronic data in the party’s power, possession and control, including all servers, for all relevant documentation.

5. Procedures to Confirm Record Authenticity/ Integrity:

The Parties admit that all producible electronically stored information exchanged between them are authentic for purposes of subrule 51.02(1) of the *Rules of Civil Procedure*. Subject to the terms of this agreement, the Parties admit the integrity of all producible electronically stored information exchanged between the Parties, for purposes of complying with the best evidence provisions set out in subsection 34.1(5.1) of the *Evidence Act* (Ontario) and section 31.2 of the *Canada Evidence Act*.

Notwithstanding any other provision of this agreement, any Party may object in writing to the authenticity of producible electronically stored information, or to the integrity of the electronically stored information, provided such objection is made in good faith and within 60 days before the trial of the action.

6. Insurance Disclosure

By ●, the Parties will disclose to all parties the insurance limits of any insurance policy under which an insurer may be liable (a) to satisfy all or part of a judgment in the Actions or (b) to indemnify or reimburse a party for money paid in satisfaction of all or part of the judgment. No information concerning the insurance policy is admissible in evidence unless it is relevant to an issue in the Actions.

The Parties reserve all rights to request additional information and/or

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production of the insurance policies (and the Parties reserve all rights to object to such additional information and/or production).

[NTD: This item has not yet been agreed to]

7. Scott Schedules

(a) All plaintiffs to any of the Actions, and all defendants who counterclaim against a plaintiff in any of the Actions, shall deliver Scott Schedules with respect to all of their claims by Friday, September 20, 2019.

(b) All defendants shall, by Friday, October 25, 2019, deliver Scott Schedules (i) in response to any claim against them; (ii) with respect to any third parties they have joined; and (iii) with respect to any other defendants against whom they have a claim over.

(c) Any plaintiffs who are the subject of a counterclaim shall respond to any Scott Schedules delivered by the defendants against a plaintiff pursuant subparagraph 6(a) above by Friday, October 25, 2019.

(d) All third parties and defendants who are the subject of Scott Schedules delivered pursuant to subparagraph 6(b) above shall deliver a responding Scott Schedule by Friday, November 29, 2019. Similarly, all third parties who are the subject of Scott Schedules delivered pursuant to subparagraph 6(b) above shall deliver Scott Schedules with respect to any fourth parties they have joined by Friday, November 29, 2019.

(e) All fourth parties who are the subject of Scott Schedules delivered pursuant to subparagraph 6(d) above shall deliver a responding Scott Schedule by Friday, December 20, 2019.

8. Examinations for Discovery

Timing:

The parties agree that examinations for discovery shall be conducted between January 27, 2020 and April 2, 2020.

Party Representatives:

Each party shall advise of its proposed representative it intends to produce for examinations for discovery by December 13, 2019.

Location of Examination:

All examinations for discovery shall be conducted at the offices of ASAP Reporting, located at Arbitration Place, Bay Adelaide Centre West, Suite 900, Toronto, ON, M5H 2R2

Order of Examination:

Construction Claims

Toronto Transit Commission – 3 days (2 days by Bondfield January 27-28 and 1 day by subcontractors with direct claim January 29)

Bondfield Construction Company Limited – 4 days (2 days by TTC January

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30-31 and 2 days by subcontractors February 3-4)

Subcontractors – 12 days (2 days by Bondfield February 5-6, 8 days by TTC February 7, 10, 12-14, 18-20 and 2 days by designers/consultants February 21, 24)

Design Claims

Toronto Transit Commission – 12 days (12 days by designers/consultants February 25-28, March 2-6, 9-11)

Designers/Consultants – 6 days (6 days by TTC March 12-13, 30-31, and April 1-2)

Sureties

Sureties – 1 day (April 3)

9. Answers to Undertakings

All answers to undertakings arising from the examinations for discovery will be delivered within 60 days of the completion of the last day of those discoveries (i.e., by June 1, 2020).

A Case Management Master or CCAA directed Master shall hear all refusals motions arising out of the examination for discovery of any witness. Any refusal ordered answered shall be done so within thirty (30) days from the date the refusal is ordered to be answered, as is agreed to be answered by the party, or as is ordered by the court.

10. Mediation

The parties agree to mediate this dispute, with the mediator and length of mediation to be subsequently determined.

The parties agree that such mediation session shall be scheduled for no later than September 30, 2020, subject to the availability of the mediator.

The parties agree that to discuss the conduct and requirements for the mediation with the mediator, once the mediation has been scheduled.

11. Requests to Admit

Subject to Article 5 above, any party who wishes to serve a Request to Admit must serve a Request to Admit not less than 120 days before the trial of the Actions.

12. Expert Evidence

All affirmative expert reports shall be delivered not less than 60 days before mediation, and in any event, by no later than July 31, 2020.

All responding expert reports shall be delivered not less than 30 days before mediation, and in any event, by no later than August 31, 2020.

[NTD: This item has not been agreed to. To be determined after mediator retained whether these will be trial ready or without prejudice reports. Timing for exchange of reports to be determined.]

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13. Trial Date

To commence **[NTD: To be determined]**, or as a CCAA Judge or CCAA directed Judge may direct.

14. E-Service Order

The Parties agree to the issuance of an e-service order permitting the Parties to effect service of documents (including originating process for the Third, Fourth, Fifth and Sixth Party Claims) by email in the Actions, in accordance with the E-Service Guide of the Commercial List.

Any PDF documents served by email shall include bookmarks if there are multiple PDF documents combined into one file.

15. General Provisions

Any element, timeline, due date or time limit imposed by this Discovery Plan may be amended or modified by agreement between the Parties, at any time and for any reason, so long as such agreement is made in writing, or with leave of the Court.

Should it become apparent that it is impractical or impossible for a party to complete all of the steps contemplated by the Discovery Plan or to do so in a cost and time-efficient manner, or that further steps not contemplated herein are required, the parties agree to notify each other promptly of such changes in circumstances and agree to confer and negotiate in good faith any potential changes or, in appropriate cases, seek the assistance of the Court.

This Discovery Plan may be signed by the Parties, or by the Parties' lawyers on their behalf, may be signed in counterparts, and may be delivered to all parties by email or fax transmission.

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Prepared and agreed upon by:

Date: _____

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formerly known as DMC reinforcing Products
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Date: _____

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a.k.a. Besam Canada Inc.

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Lawyers for Lea Consulting Ltd.

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APPENDIX A
LIST OF ACTIONS

Court File Number	Style of Cause
CV-18-594533 CV-18-594533-A1	Bondfield Construction Company Limited v. Toronto Transit Commission et al.
CV-13-489730	Toronto Transit Commission v. Lea Consulting Ltd., SGA-IBI Inc., (formerly Stevens Group Architects Inc.), Parsons Brinckerhoff Halsall Inc. (formerly Halsall Associates Limited), IBI Group Architects and The Spadina Group Associates
CV-15-543342	Toronto Transit Commission v. Lea Consulting Ltd., SGA-IBI Inc., (formerly Stevens Group Architects Inc.), WSP Canada Inc. (formerly Parsons Brinckerhoff Halsall Inc. and Halsall Associates Limited), IBI Group Architects and The Spadina Group Associates
CV-17-588597	Toronto Transit Commission v. Lea Consulting Ltd., IBI Group Architects (Canada) Inc., WSP Canada Inc. (formerly Parsons Brinckerhoff Halsall Inc. and Halsall Associates Limited), and The Spadina Group Associates
CV-17-579420	Tam-Kal Limited v. Urban Mechanical Contracting Ltd. et al.
CV-17-575533	AGF - Rebar Inc. DMC Division formerly known as DMC Reinforcing Products Ltd. v. Her Majesty the Queen in Right of Ontario as represented by the Minister of Infrastructure et al.
CV-17-579923 CV-17-579923-A1	AGF – Rebar Inc. DMC Division, formerly known as DMC reinforcing Products Ltd. v. Bondfield Construction Company Limited et al.
CV-17-576313	1086289 Ontario Inc., operating as Urban Electrical Contractors v. Bondfield Construction Company Limited
CV-17-581732	1086289 Ontario Inc., operating as Urban Electrical Contractors v. Bondfield Construction Company Limited et al.
CV-17-576314	Urban Mechanical Contracting Ltd. v. Bondfield Construction Company Limited
CV-18-590001 CV-18-590001-A1	Urban Mechanical Contracting Ltd. v. Bondfield Construction Company Limited et al.
CV-18-589639	Wintech Air Systems Inc. v. Corporation of the City of Toronto et al.
CV-18-590333	General Sprinklers Inc. v. Bondfield Construction Company Limited
CV-18-607825	General Sprinklers Inc. v. Bondfield Construction Company Limited et al.
CV-18-607828	General Sprinklers Inc. v. Bondfield Construction Company Limited et al.
CV-18-590691	Nelmar Drywall Company Limited v. Bondfield Construction Company Limited
CV-18-607824	Nelmar Drywall Company Limited v. Bondfield Construction Company Limited et al.
CV-18-607827	Nelmar Drywall Company Limited v. Bondfield Construction Company

Court File Number	Style of Cause
	Limited et al.
CV-18-596309	Schindler Elevator Corporation v. Bondfield Construction Company Limited et al.
CV-18-594197	Schindler Elevator Corporation v. Toronto Transit Commission et al.
CV-18-594602	Mometal Structures Inc. v. Bondfield Construction Company Limited et al.
CV-18-595919	Mometal Structures Inc. v. Bondfield Construction Company Limited
CV-18-595430	Mometal Structures Inc. v. Bondfield Construction Company Ltd. et al.
CV-18-593174	Inter-Co Inc. v. Bondfield Construction Company Limited et al.
CV-18-595789	Gregory Signs & Engraving Ltd. v. Bondfield Construction Company Limited
CV-18-591212	Selco Elevators Ltd. v. City of Toronto et al.
CV-18-593810	Pollard Enterprises Ltd. v. Bondfield Construction Company Limited et al.
CV-18-604153	Pollard Enterprises Ltd. v. Bondfield Construction Company Limited et al.
C-289-18	Ginkgo Sustainability Inc. v. Pollard Enterprises Ltd. et al.
CV-18-596648	Johnson Controls Canada LP by its general partner Johnson Controls BE Ltd. v. Urban Mechanical Contracting Ltd. et al.
18-65348	F&M Caulking Limited v. Bondfield Construction Company Limited et al.
CV-18-596514	Pave-Al Limited v. Bondfield Construction Company Limited et al.
CV-18-604684	Terrazzo, Mosaic & Tile Co. Ltd. v. Zurich Insurance Company Ltd. et al.
CV-18-597469	Gage Metal Cladding Limited v. Bondfield Construction Company Ltd. et al.
CV-18-594253	Assa Abloy Entrance Systems Canada Inc. v. Bondfield Construction Company Limited et al.
CV-18-134707	Aqua-Tech Dewatering Company Inc. v. Bondfield Construction Company Limited
496/18	Exterior Wall Systems Limited COB as Ontario Panelization v. Bondfield Construction Company Limited
CV-17-582463	Peregrine Protection Inc. v. Bondfield Construction Equipment Ltd.
CV-18-597973	Gengroup Inc. v. Bondfield Construction Company Limited et al.

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APPENDIX B DOCUMENT EXCHANGE PROTOCOL FOR ESI AND PAPER PRODUCTIONS

1 Document Production Format.

- (a) *TIFF Images.* Unless otherwise stated in this agreement, each document shall be provided in black and white, 300 DPI resolution, single-page Tagged Image File Format (“**TIFF**”), with the exception of Autocad drawings, construction schedules and photographs which shall be produced in colour in accordance with s.1(e) below, regardless of whether such documents are stored by the Parties in the ordinary course of business in electronic or hard copy form. All documents will be produced in TIFF format showing track changes, to the extent any exist in a particular document. Parties may request that specific documents be produced in native format, and, notwithstanding the foregoing, all Excel spreadsheets, audio/video files and Microsoft Project Files and/or Primavera P6 and Autocad drawings will be exchanged in native format (unless redactions are required).
- (b) *Load File(s).* Document productions shall include Concordance-compatible Load File(s) that indicates document breaks of the TIFF or PDF, as referenced in section 1(a) above, images and additional fields as identified in Section 4 below. Load Files formats to be provided including .DAT, OPT and .LST with standard Concordance delimiters.
- (c) *Image File Name.* Each document image file shall be named with the unique Bates Number of the page of the document in question followed by the file extension “TIF”, as referenced in section 1(a) above. Each document shall be identified with a unique eight digit serial number, as well as a four digit page number, prefixed by a three letter code identifying the producing party.
- (d) *Document Unitization.* If a document is more than one page, the unitization of the document and any attachments and/or affixed notes shall be logically unitized.
- (e) *Colour.* With the exception of Autocad drawings, construction schedules and photographs, documents shall be produced as black and white TIFF images in accordance with section 1(a) above. Upon written request, a Party shall produce colour images for a reasonable number of selected documents. Documents produced in colour shall be produced as JPEG images with Exif compression and 24-bit colour depth. Each colour document image file shall be named with the unique Bates Number of each page of the document in question followed by the file extension “JPG”.
- (f) *Redacted Images:* The redacted portion of a document will be identified by a redaction box, a redaction field identifying that a document has been redacted will also be included in the load files. The redaction field will also provide the reason for the redaction, or the type of privilege claimed over the portion of the document that is redacted.

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- (g) *Hard Copies*: Parties may also request that specific documents, such as design drawings, construction drawings and shop drawings, be produced in hard copy, in their original size and format. The cost associated with the production of these documents, should the receiving party agree to produce such documents, shall be paid for by the requesting party.
- (h) *Sedona Principles*: As contemplated by Principle 7 of the *Sedona Canada Principles*, Second Edition (“**Sedona**”) the Parties agree that search terms or other searching methodologies may be used to cull any electronically stored information (“**ESI**”) collected to locate potentially relevant documentation so long as those methodologies are validated through appropriate testing.
- (i) As further contemplated by Principle 7 of Sedona, the Parties may utilize industry standard technology for global deduplication and email threading in order to reduce the volume of potentially relevant documentation for review and production. More specifically, a Party is:
- (i) only required to produce one copy of a relevant document, but without breaking up a family of document;
 - (ii) permitted to remove from its review and production exact duplicates of any particular document so long as a record is kept indicating from which data source any duplicate document removed was found; and
 - (iii) permitted to utilize email threading technology such that a Party may review and produce only the most inclusive email chain in an email conversation.

2 **Searchable Text**. In addition to TIFF images, as referenced in section 1(a) above, each production will include text files corresponding to the TIFF image files described above. There shall be one TXT file per document, representing all pages in a single file.

- (a) *Hard Copy Documents*. Hard copy documents shall be scanned using Optical Character Recognition (“**OCR**”) technology and searchable ASCII text (or Unicode text if the text is in a language requiring characters outside of the ASCII character set) files shall be produced. Each file shall be named with the unique Bates Number of the first page of the corresponding TIFF or PDF document followed by the extension “TXT”.
- (b) *Electronic Documents*. The full text of each native electronic document shall be extracted (“**Extracted Text**”) and produced in a text file. The Extracted Text shall be provided in searchable ASCII text format (or Unicode text format if the text is in a language requiring characters outside of the ASCII character set) and shall be named with the unique Bates Number of the first page of the corresponding TIFF or PDF document followed by the extension “TXT”. Searchable text files corresponding to the TIFF or PDF image files for redacted Electronic Documents must include Extracted Text or OCR text only to the extent that it will not disclose redacted information. Parties to ensure that any documents with

comprehensive content shall have associated OCR and/or Extracted Text (for example, non-searchable PDF or powerpoint presentations).

- 3 **Production Media.** Documents shall be produced on external hard drives or readily accessible computer or electronic media (the “**Production Media**”). If issues are discovered after production with respect to certain documents, the producing Party must re-issue the full/entire document (metadata, OCR, image) as a complete load file and not only the affected portion of a document.
- (a) Recognizing that each Party may use different software for managing productions, the Parties agree to exchange sample load files together with sample native and TIFF or PDF productions (all as otherwise in accordance with this Appendix A) to ensure that the protocol works and that parties are able to comply in a time-efficient and cost-effective way. The parties agree that the exchange of sample load files should not delay the production deadline of August 2, 2019.
- 4 **Metadata.** For all Electronic Documents, an ASCII text (or Unicode text if the text is in a language requiring characters outside of the ASCII character set) Load File shall be produced setting forth the Data Fields listed in Appendix C. For redacted Electronic Documents, metadata fields must be produced only to the extent such fields will not disclose redacted information.
- The Parties reserve the ability to request that additional Data Fields be set forth or provided for certain specified Electronic Documents upon review of the other Party’s production.
- A Party is not obligated to produce metadata from a document if metadata does not exist in the document, or if the metadata is not machine-extractable. No Party is required to manually code any ESI for any feature or characteristic.
- 5 **Databases.** Databases are not included in this agreement but shall have a record holder identify the type of database. Should such databases exist, a further discussion will be scheduled to discuss how to manage database production.
- 6 **Native Production.** The Parties will produce spreadsheet files and recordings (e.g. excel spreadsheets, audio/video files, Autocad Drawings and Microsoft Project Files and/or Primavera P6) in native format. Such native file productions shall include Metadata as set forth in Section 4 and a single-page TIFF image indicating that the associated file was produced in native form. Each produced native file shall be named with a unique Bates Number (e.g., ABC00000001.xls).
- 7 **Additional Native Production.** The Parties reserve the ability to request other file types be produced in native form or in another reasonably usable form upon review of the other Party’s production. The Parties reserve their respective rights to object to any such request.
- 8 **Paper Collection.** Although it is understood that the descriptive information from an electronic document will be derived from the extraction of the metadata, the appropriate

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subjective coding for any paper collection will also be provided. (see Appendix C where subjective coding is identified).

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APPENDIX C

1. Document Identifiers, Family Relationships, Common Fields for Hard Copy and Electronic Documents:

DATA FIELD	DESCRIPTION
BEGDOC/DOCID/PROD BEG BATES	Beginning Bates number assigned to each document
ENDDOC	Ending Bates number assigned to each document
BEGATTACH	Beginning Bates number assigned to the group of documents to which the parent document and any attachment documents are associated. Must reflect the Begdoc/DocID/Prod_Beg Bates of the Parent Document
ENDATTACH	Ending Bates number assigned to the group of documents to which the parent document and any attachment documents are associated
PARENTDATE/LEADDATE	Date of parent document or date email sent of parent document for all attachment family members and date last modified for loose files; field allows for attachment families to sort together (MMDDYYYY)
PARENTTIME/LEADTIME	Time of the parent document/email was sent, populated to all attachments for use with chronological sorting while keeping document families together; allows for a further sorting of documents dated the same day, by time
TEXTFILE	The location of the extracted text/OCR text for a document
REDACT	Tagging of documents which have been redacted together with the reason for redaction (subjectively coded) or the type of privilege claimed over the portion of the document that is redacted.

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2. **Fields of Metadata Extracted from Electronic Documents:**

DATA FIELD	DESCRIPTION
RECORDTYPE	The type of record (e.g., email, attachment)
EMAILSUBJECT	The subject line of a produced email
eAUTHOR	The extracted metadata author of an electronic document
FROM	The “From” line of an email
TO	The “To” line of a produced email
CC	The “CC” line of a produced email
BCC	The “BCC” line of a produced email
DOCDATE	Date sent or Date received for email or Date last modified or Date created for attachments or loose electronic files (In this hierarchy) (MMDDYYYY). Compilation field
DATESENT	The date (MMDDYYYY) an email was sent
TIMESENT	The time (HH:MM AM/PM) that an email was sent
DATELASTMOD	The date that a document was last modified (MMDDYYYY)
DATECREATED	The date that a document was created (MMDDYYYY)
FILENAME	The filename of an electronic file or attachment
DOCEXT	The file extension (e.g., .txt or .pdf) of a document
MD5HASH	Programmatic unique hash value of a document
NATIVEFILE	The location of the native version of a document

3. **Fields of Data Subjectively Coded for Hard Copy Documents:**

DATA FIELD	DESCRIPTION
DOCDATE	Date of document
TITLE/DESCRIPTION	Title of document

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DATA FIELD	DESCRIPTION
DOCTYPE	Type of Document
PARENTDATE/LEADDATE/ SORTDATE	Date of parent document or date email sent of parent document for all attachment family members and date last modified for loose files; field allows for attachment families to sort together (MMDDYYYY)
AUTHOR	Author(s) of document [Last Name, First Name – Corporate Affiliation]
RECIPIENTS	Recipient(s) of document [Last Name, First Name – Corporate Affiliation]
CC	The “CC” line of a produced email [Last Name, First Name – Corporate Affiliation]
BCC	The “BCC” line of a produced email [Last Name, First Name – Corporate Affiliation]
BEGATTACH	Beginning Bates number assigned to the group of documents to which the parent document and any attachment documents are associated. Must reflect the Begdoc/DocID/Prod_Beg Bates of the Parent Document

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APPENDIX D
PROTECTION MEASURES AND CLAWBACK AGREEMENT

PREAMBLE

1. Disclosure of any privileged material shall be deemed to be inadvertent and shall not result in the waiver of any associated privilege nor result in a subject matter waiver of any kind. Production of a legally privileged document will not preclude a Party from subsequently designating the document as legally privileged in accordance with the terms of this agreement. For avoidance of doubt, production of a document that is legally privileged will not constitute any intention by a Party to waive legal privilege.
2. A Party is not required to disclose any privileged documents. With the exception of correspondence to (i) external counsel; and (ii) experts and/or outside consultants retained for the purposes of actual or anticipated litigation, which privileged documents may be bulk-coded, any document excluded from production on the basis of privilege must be individually reviewed and determined to be privileged.
3. Privileged material may include a document in its entirety or portions thereof.
4. In the event a Party discloses, produces, or comes across a document that it believes should not have been disclosed and/or produced in whole or in part because the document is subject to a claim of privilege (an “**Inadvertently Disclosed Document**”), that Party shall immediately deliver written notice (the “**Privilege Notice**”) to the Party or Parties who received the Inadvertently Disclosed Document. The Party or Parties receiving the Privilege Notice (the “**Receiving Party**”) shall, subject to paragraphs 5 and 6 below:
 - (a) delete any electronic information associated with the Inadvertently Disclosed Document anywhere in that Party’s possession (except for on any backup media or server), and promptly return any removable media provided by the Party who produced the Inadvertently Disclosed Document from which the Inadvertently Disclosed Document and any related electronic information cannot be deleted;
 - (b) if any hard copies were made of the Inadvertently Disclosed Document, immediately destroy those hard copies;
 - (c) agree not to make any use of the Inadvertently Disclosed Document;
 - (d) advise all persons who may have been provided with an electronic or hard copy of the Inadvertently Disclosed Document not to make any use of it and to destroy any copies of it. If they were provided with Inadvertently Disclosed Documents on any storage device, they shall be replaced and the original one returned to the Party and destroyed; and
 - (e) provide written confirmation to the Party who produced the Inadvertently Disclosed Document that the above steps, as applicable, have been completed.

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5. A Receiving Party shall comply with paragraph 4 on receipt of a Privilege Notice for any Privilege Notice on which Solicitor Client privilege is claimed, regardless of whether the Receiving Party disputes the claim of privilege over the document subject to the Privilege Notice. The Party providing the Privilege Notice shall immediately list the Inadvertently Produced Document(s) on Schedule “B” to its Affidavit of Documents.
6. For greater certainty, except as expressly stated in this agreement, nothing contained in this agreement is intended to alter the applicable law in respect of inadvertent disclosure, and the Parties shall: (a) not read the Inadvertently Disclosed Document upon receipt of a Privilege Notice; and (b) immediately stop reading an Inadvertently Disclosed Document upon realization that it is privileged.
7. If an Inadvertently Disclosed Document that is the subject of the Privilege Notice is privileged only in part, the Party who disclosed that document will provide a replacement file (in the format set out in this agreement) appropriately redacted as soon as practicable after providing a Privilege Notice.
8. Should a Party identify a privileged document that has been disclosed to it by any other Party during the course of the litigation, that Party must forthwith notify the producing Party that it has possession of the privileged document and that it will follow the steps set out in paragraphs 4, 5 and 6 as applicable, unless the producing Party notifies such receiving Party that it waives privilege over the document.
9. If a claim of privilege over a document is withdrawn or expressly waived by the producing Party, then such document shall be produced as soon as practicable.
10. The Parties agree that should a dispute arise concerning a document over which privilege is asserted, the Parties retain any and all rights to assert or challenge any claim of privilege pursuant to the Rules and the *Canada Evidence Act*.

January

2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27 TTC examined by Bondfield	28 TTC examined by Bondfield	29 TTC examined by subs with direct claim	30 Bondfield examined by TTC	31 Bondfield examined by TTC	

February

2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 Bondfield examined by subs	4 Bondfield examined by subs	5 Subs examined by Bondfield	6 Subs examined by Bondfield	7 Subs examined by TTC	8
9	10 Subs examined by TTC	11 BREAK	12 Subs examined by TTC	13 Subs examined by TTC	14 Subs examined by TTC	15
16	17 <i>Family Day</i>	18 Subs examined by TTC	19 Subs examined by TTC	20 Subs examined by TTC	21 Subs examined by Designers/consultants	22
23	24 Subs examined by Designers/consultants	25 TTC examined by Designers/consultants	26 TTC examined by Designers/consultants	27 TTC examined by Designers/consultants	28 TTC examined by Designers/consultants	29

March

2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 TTC examined by Designers/consultants	3 TTC examined by Designers/consultants	4 TTC examined by Designers/consultants	5 TTC examined by Designers/consultants	6 TTC examined by Designers/consultants	7
8	9 TTC examined by Designers/consultants	10 TTC examined by Designers/consultants	11 TTC examined by Designers/consultants	12 Designers/consultants examined by TTC	13 Designers/consultants examined by TTC	14
15	16 <i>March Break</i>	17 <i>March Break</i>	18 <i>March Break</i>	19 <i>March Break</i>	20 <i>March Break</i>	21
22	23 <i>March Break</i>	24 <i>March Break</i>	25 <i>March Break</i>	26 <i>March Break</i>	27 <i>March Break</i>	28
29	30 Designers/consultants examined by TTC	31 Designers/consultants examined by TTC				

April

2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 Designers/consultants examined by TTC	2 Designers/consultants examined by TTC	3 Examination of Sureties	4
5	6	7	8	9	10 <i>Good Friday</i>	11
12	13 <i>Easter Monday</i>	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Appendix “C”

Bondfield CCAA Applicants
Cash Flow Variance Analysis
For the period from June 8, 2019 to December 27, 2019
CAD (Thousands)

	Actual	Forecast	Variance	Note
PROJECT CASH FLOWS				
<u>Receipts From Projects</u>	74,865	111,151	(36,285)	1
<u>Project Disbursements</u>				
Construction Expenses	(97,713)	(92,477)	(5,236)	2
Construction Payroll, Benefits & Union Dues	(20,242)	(21,140)	898	
Disbursements on Behalf of BBM & BMC	(8,366)	(6,843)	(1,523)	3
Total Operating Disbursements	(126,321)	(120,459)	(5,862)	
Project Cash Flow	(51,456)	(9,309)	(42,147)	
<u>Zurich Bonded Payments on Projects</u>	<i>a</i> 53,146	10,400	42,746	4
<u>Net Project Cash Flow</u>	<i>b</i> 1,691	1,091	599	
OTHER CASH FLOWS				
<u>Other Receipts</u>	986	2	984	5
<u>Operating and Other Disbursements</u>				
Non-bonded Construction Expenses	(164)	(543)	380	6
Non-bonded Construction Payroll, Benefits & Union Dues	(416)	(427)	11	
Corporate Payroll & Benefits	(1,532)	(1,232)	(300)	7
Taxes Receivable/(Payable)	(1,058)	(2,318)	1,259	8
Non-bonded Disbursements on Behalf of BBM & BMC	(447)	(666)	218	9
General, Office & Administration Costs	(1,520)	(2,391)	871	10
Restructuring Costs	(3,849)	(4,970)	1,121	11
Total Operating and Other Disbursements	(8,987)	(12,547)	3,560	
<u>Net Operating and Other Cash Flow</u>	<i>c</i> (8,001)	(12,545)	4,544	
Opening Available Cash Balance	9,306	9,304	2	
<i>Net Project Cash Flow</i>	<i>b</i> 1,691	1,091	599	
<i>Net Operating and Other Cash Flow</i>	<i>c</i> (8,001)	(12,545)	4,544	
<i>Zurich DIP Draw/(Payback)</i>	<i>d</i> 7,700	12,000	(4,300)	
Net Change in Cash	<i>b + c + d</i> 1,390	546	843	
Closing Available Cash Balance	10,696	9,851	845	12

<u>Zurich Bonded Payments on Projects</u>			
Opening Balance	14,368	18,950	(4,582)
Zurich Bonded Payments on Projects	<i>a</i> 53,146	10,400	42,746
Closing Balance	67,514	29,350	38,164
<u>Zurich DIP</u>			
Opening Balance	7,041	7,041	-
Draw/(Payback)	<i>d</i> 7,700	12,000	(4,300)
Interest	320	446	(126)
Closing Balance	15,061	19,487	(4,426)
<u>Agent DIP *Redacted in the Publicly Filed Version*</u>			

*Additions may not sum to total due to rounding.

In the Matter of the CCAA of Bondfield Construction Company Ltd., 352021 Ontario Limited, 950504 Ontario Inc., 2433485 Ontario Inc., 2433486 Ontario Inc. (collectively the “Bondfield Group” or the “Applicants”)

Cash flow variance analysis for the period June 8, 2019 to December 27, 2019.

This variance analysis sets out the significant variances between the Applicants’ actual receipts and disbursements compared to the cash flow forecast appended to the Third Report of the Monitor dated June 21, 2019.

1. Receipts From Projects

Project receipts include collections from project owners and approximately \$18 million of payments received by BBCG Claims Services Ltd (“BBCG”), Zurich’s agent. BBCG has subsequently transferred these funds to BCCL.

The unfavourable difference represents primarily a timing difference caused by delays in construction timelines on certain projects as well as certain disputes with project owners.

Certain project owners remitted payments to subcontractors directly, resulting in a reduction in the amount to be paid to the Applicants.

2. Construction Expenses

The unfavourable variance is primarily related to certain settlement payments that were not reflected in the projection.

The construction expenses do not include payments of \$24.5 million made directly by BBCG in connection with certain settlements with subcontractors and suppliers during this period.

3. Disbursements on Behalf of BBM & BMC

The variance is primarily related to higher than expected material and labour costs as the Applicants engaged BBM and BMC to perform certain work.

4. Zurich Bonded Payments on Projects

The unfavourable variance is driven by larger than the projected bonded funding requirement as described above.

5. Other Receipts

The variance is primarily due to receipts collected on non-bonded projects.

6. Non-bonded Construction Expenses

The favourable variance is primarily due to certain project owners funding and completing their projects thereby reducing the need for the Applicants to incur non-bonded construction expenses for supplies and subtrades.

7. Corporate Payroll & Benefits

The variance is primarily due to certain increased corporate payroll costs to satisfy ongoing corporate activities such as the ongoing CRA audit, financial reporting, health & safety and various other corporate matters.

8. Taxes Receivable/(Payable)

The variance is primarily due to lower than forecast billings from projects, thereby resulting in lower HST payments than originally forecast. Additionally, BBM and BMC were able to fund a significant portion of their taxes payable through collections from their own non-bonded projects.

9. Non-bonded Disbursements on Behalf of BBM & BMC

The favourable variance is due to certain disbursements being funded by BBM and BMC's collections from its own non-bonded projects.

10. General, Office & Administration Costs

Represents a permanent positive variance relating to the payment of certain corporate overhead and general payments.

11. Restructuring Costs

The favourable variance is primarily due to the timing of professional fee payments.

12. Closing Available Cash Balance

This consists of approximately \$10.0 million of funds for bonded obligations and \$0.7 million of Zurich DIP Facility funds either in the Applicants' bank accounts or held by the Monitor in trust accounts. The cash balance does not include the Released HST Refunds of \$3.6 million, the SMH Project HST refund of \$0.3 million or Letter of Credit funds of \$0.7 million held in the Monitor's trust accounts.

Confidential Appendix “D”

Appendix “E”

Bondfield Group															
Cash Flow Projection for the Period December 28, 2019 to March 27, 2020															
\$CAD in Thousands															
		Week Ending													
Notes		3-Jan-20	10-Jan-20	17-Jan-20	24-Jan-20	31-Jan-20	7-Feb-20	14-Feb-20	21-Feb-20	28-Feb-20	6-Mar-20	13-Mar-20	20-Mar-20	27-Mar-20	Total
PROJECT CASH FLOWS															
Receipts From Projects	2	-	785	1,942	1,700	1,600	1,900	1,800	1,800	1,800	1,900	1,900	1,900	1,900	20,927
Project Disbursements															
Construction Expenses	3	(90)	(5,807)	(2,773)	(519)	(2,052)	(3,880)	(1,672)	(1,705)	(3,380)	(3,697)	(1,592)	(1,626)	(3,197)	(31,989)
Construction Payroll, Benefits & Union Dues	4	(363)	(327)	(750)	(553)	(657)	(478)	(1,005)	(432)	(536)	(406)	(903)	(406)	(406)	(7,222)
Disbursements on Behalf of BBM & BMC	5	(40)	(84)	(312)	(212)	(314)	(282)	(451)	(252)	(284)	(239)	(426)	(239)	(268)	(3,402)
Total Operating Disbursements		(493)	(6,218)	(3,835)	(1,284)	(3,022)	(4,641)	(3,127)	(2,389)	(4,199)	(4,341)	(2,921)	(2,270)	(3,871)	(42,612)
Project Cash Flow		(493)	(5,433)	(1,893)	416	(1,422)	(2,741)	(1,327)	(589)	(2,399)	(2,441)	(1,021)	(370)	(1,971)	(21,685)
Zurich Bonded Payments on Projects	6	-	-	-	5,000	-	-	2,000	-	4,900	-	1,400	-	4,700	18,000
Net Project Cash Flow		(493)	(5,433)	(1,893)	5,416	(1,422)	(2,741)	673	(589)	2,501	(2,441)	379	(370)	2,729	(3,685)
OTHER CASH FLOWS															
Other Receipts	7	-	142	31	50	-	-	-	-	-	-	-	-	-	223
Operating and Other Disbursements															
Non-bonded Construction Expenses	8	-	(2)	(2)	(4)	(4)	(4)	(4)	(24)	(6)	(4)	(7)	(30)	(4)	(97)
Non-bonded Construction Payroll, Benefits & Union Dues	9	(14)	(17)	(23)	(66)	(14)	(14)	(19)	(14)	(8)	(9)	(18)	(9)	(9)	(233)
Corporate Payroll & Benefits	10	(44)	(61)	(72)	(65)	(68)	(70)	(62)	(60)	(53)	(55)	(57)	(55)	(48)	(770)
Taxes Receivable/(Payable)	11	-	-	-	-	(91)	-	-	-	(91)	-	-	-	(91)	(273)
Non-bonded Disbursements on Behalf of BBM & BMC	12	(8)	(21)	(9)	(21)	(27)	(21)	(29)	(28)	(27)	(27)	(27)	(15)	(15)	(276)
General, Office & Administration Costs	13	(35)	(28)	(74)	(95)	(89)	(79)	(64)	(81)	(583)	(44)	(44)	(44)	(34)	(1,297)
Restructuring Costs	14	(91)	(107)	(97)	(100)	(110)	(115)	(115)	(90)	(90)	(80)	(80)	(80)	(80)	(1,234)
Total Operating and Other Disbursements		(191)	(235)	(277)	(351)	(404)	(304)	(294)	(298)	(858)	(220)	(233)	(233)	(281)	(4,180)
Net Operating and Other Cash Flow		(191)	(93)	(246)	(301)	(404)	(304)	(294)	(298)	(858)	(220)	(233)	(233)	(281)	(3,957)
Cash Balance															
Opening Available Cash Balance	1	10,696	10,012	4,486	2,347	8,462	6,635	4,190	4,570	4,882	6,526	3,865	4,610	4,007	10,696
Net Project Cash Flow		(493)	(5,433)	(1,893)	5,416	(1,422)	(2,741)	673	(589)	2,501	(2,441)	379	(370)	2,729	(3,685)
Net Operating and Other Cash Flow		(191)	(93)	(246)	(301)	(404)	(304)	(294)	(298)	(858)	(220)	(233)	(233)	(281)	(3,957)
Zurich DIP Draw/(Payback)	15	-	-	-	1,000	-	600	-	1,200	-	-	600	-	600	4,000
Closing Available Cash Balance		10,012	4,486	2,347	8,462	6,635	4,190	4,570	4,882	6,526	3,865	4,610	4,007	7,054	7,054
Zurich Bonded Payments on Projects															
Opening Balance		67,514	67,514	67,514	67,514	72,514	72,514	72,514	74,514	74,514	79,414	79,414	80,814	80,814	67,514
Zurich Bonded Payments on Projects	6	-	-	-	5,000	-	-	2,000	-	4,900	-	1,400	-	4,700	18,000
Closing Balance		67,514	67,514	67,514	72,514	72,514	72,514	74,514	74,514	79,414	79,414	80,814	80,814	85,514	85,514
Zurich DIP															
Opening Balance		15,061	15,135	15,135	15,135	16,135	16,135	16,824	16,824	18,024	18,024	18,102	18,702	18,702	15,061
Draw/(Payback)	15	-	-	-	1,000	-	600	-	1,200	-	-	600	-	600	4,000
Interest	16	75	-	-	-	-	88	-	-	-	78	-	-	-	241
Closing Balance		15,135	15,135	15,135	16,135	16,135	16,824	16,824	18,024	18,024	18,102	18,702	18,702	19,302	19,302
Agent DIP *Redacted in the Publicly Filed Version*															

*Additions may not sum to total due to rounding.

Bondfield Group
Cash Flow Projection for the Period December 28, 2019 to January 29, 2021
\$CAD in Thousands

		Month Ending													
	Notes	Jan 2020	Feb 2020	Mar 2020	Apr 2020	May 2020	Jun 2020	Jul 2020	Aug 2020	Sep 2020	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Total
PROJECT CASH FLOWS															
Receipts From Projects	2	6,027	7,300	7,600	7,500	6,000	5,600	8,600	5,600	5,000	4,400	3,600	2,500	2,000	71,727
Project Disbursements															
Construction Expenses	3	(11,241)	(10,636)	(10,112)	(9,881)	(9,081)	(9,279)	(8,895)	(6,141)	(7,457)	(7,360)	(4,493)	(5,097)	(2,780)	(102,455)
Construction Payroll, Benefits & Union Dues	4	(2,651)	(2,451)	(2,120)	(2,620)	(1,945)	(2,037)	(2,418)	(1,594)	(1,487)	(1,410)	(541)	(693)	(564)	(22,532)
Disbursements on Behalf of BBM & BMC	5	(962)	(1,269)	(1,172)	(1,328)	(1,070)	(1,098)	(1,188)	(693)	(844)	(268)	(275)	(337)	(268)	(10,770)
Total Operating Disbursements		(14,853)	(14,356)	(13,404)	(13,829)	(12,096)	(12,414)	(12,501)	(8,429)	(9,788)	(9,038)	(5,309)	(6,128)	(3,612)	(135,757)
Project Cash Flow		(8,826)	(7,056)	(5,804)	(6,329)	(6,096)	(6,814)	(3,901)	(2,829)	(4,788)	(4,638)	(1,709)	(3,628)	(1,612)	(64,030)
Zurich Bonded Payments on Projects	6	5,000	6,900	6,100	3,700	6,200	7,000	3,700	2,900	6,700	3,800	2,500	2,300	1,700	58,500
Net Project Cash Flow		(3,826)	(156)	296	(2,629)	104	186	(201)	71	1,912	(838)	791	(1,328)	88	(5,530)
OTHER CASH FLOWS															
Other Receipts	7	223	-	-	-	-	-	-	-	-	-	-	-	-	223
Operating and Other Disbursements															
Non-bonded Construction Expenses	8	(13)	(39)	(45)	(38)	(25)	(25)	(26)	(16)	(16)	(9)	(8)	(6)	(6)	(273)
Non-bonded Construction Payroll, Benefits & Union Dues	9	(133)	(55)	(45)	(40)	(16)	(10)	(7)	(6)	(7)	(3)	(3)	-	-	(326)
Corporate Payroll & Benefits	10	(310)	(245)	(215)	(308)	(225)	(199)	(141)	(104)	(110)	(86)	(86)	(103)	(86)	(2,218)
Taxes Receivable/(Payable)	11	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(1,184)
Non-bonded Disbursements on Behalf of BBM & BMC	12	(86)	(106)	(84)	(135)	(79)	(84)	(87)	(54)	(59)	(20)	(23)	(26)	(20)	(862)
General, Office & Administration Costs	13	(321)	(808)	(168)	(277)	(143)	(182)	(202)	(167)	(232)	(137)	(128)	(202)	(137)	(3,104)
Restructuring Costs	14	(504)	(410)	(320)	(400)	(320)	(300)	(300)	(240)	(300)	(240)	(240)	(300)	(240)	(4,114)
Total Operating and Other Disbursements		(1,458)	(1,754)	(968)	(1,289)	(899)	(892)	(854)	(678)	(815)	(586)	(579)	(728)	(580)	(12,081)
Net Operating and Other Cash Flow		(1,235)	(1,754)	(968)	(1,289)	(899)	(892)	(854)	(678)	(815)	(586)	(579)	(728)	(580)	(11,858)
Cash Balance															
Opening Available Cash Balance	1	10,696	6,635	6,526	7,054	4,336	4,241	4,135	4,280	4,272	5,969	5,144	5,956	4,500	10,696
Net Project Cash Flow		(3,826)	(156)	296	(2,629)	104	186	(201)	71	1,912	(838)	791	(1,328)	88	(5,530)
Net Operating and Other Cash Flow		(1,235)	(1,754)	(968)	(1,289)	(899)	(892)	(854)	(678)	(815)	(586)	(579)	(728)	(580)	(11,858)
Zurich DIP Draw/(Payback)	15	1,000	1,800	1,200	1,200	700	600	1,200	600	600	600	600	600	600	11,300
Closing Available Cash Balance		6,635	6,526	7,054	4,336	4,241	4,135	4,280	4,272	5,969	5,144	5,956	4,500	4,608	4,608
Zurich Bonded Payments on Projects															
Opening Balance		67,514	72,514	79,414	85,514	89,214	95,414	102,414	106,114	109,014	115,714	119,514	122,014	124,314	67,514
Zurich Bonded Payments on Projects	6	5,000	6,900	6,100	3,700	6,200	7,000	3,700	2,900	6,700	3,800	2,500	2,300	1,700	58,500
Closing Balance		72,514	79,414	85,514	89,214	95,414	102,414	106,114	109,014	115,714	119,514	122,014	124,314	126,014	126,014
Zurich DIP															
Opening Balance		15,061	16,135	18,024	19,302	20,587	21,400	22,096	23,397	24,128	24,837	25,579	26,295	27,015	15,061
Draw/(Payback)	15	1,000	1,800	1,200	1,200	700	600	1,200	600	600	600	600	600	600	11,300
Interest	16	75	88	78	85	113	96	100	131	109	141	117	120	154	1,408
Closing Balance		16,135	18,024	19,302	20,587	21,400	22,096	23,397	24,128	24,837	25,579	26,295	27,015	27,769	27,769
Agent DIP *Redacted in the Publicly Filed Version*	17														

*Additions may not sum to total due to rounding.

In the Matter of the CCAA of Bondfield Construction Company Ltd., 352021 Ontario Limited, 950504 Ontario Inc., 2433485 Ontario Inc., 2433486 Ontario Inc. (collectively the “Bondfield Group” or the “Applicants”)

Notes to the Unaudited Cash Flow Forecast of the Applicants

Disclaimer:

In preparing this cash flow forecast (the “**Cash Flow Forecast**”), the Applicants with the assistance of Ernst & Young Inc., in its capacity as the Monitor of the Applicants (the “**Monitor**”) have relied upon unaudited financial information and the Applicants have not attempted to further verify the accuracy or completeness of such information. The Cash Flow Forecast includes estimates concerning the operations of the Applicants and additional assumptions discussed below with respect to the requirements and impact of a *Companies’ Creditors Arrangement Act* (“**CCAA**”) filing (the “**Probable and Hypothetical Assumptions**” or the “**Assumptions**”). Since the Cash Flow Forecast is based on Assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Cash Flow Forecast period will vary from the Cash Flow Forecast, even if the Assumptions materialize, and such variation may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

The Monitor has reviewed the Cash Flow Forecast to the standard required of a Court appointed Monitor pursuant to section 23(1)(b) of the CCAA, which requires a Monitor to review the debtor’s cash flow statements as to its reasonableness and to file a report with the Court on the Monitor’s findings.

Pursuant to this standard, the Monitor’s review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to information supplied to it by certain key members of the Applicants and other employees of the Applicants. Since the Probable and Hypothetical Assumptions need not be supported, the Monitor’s procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Monitor also reviewed the support provided by the Applicants for the Probable and Hypothetical Assumptions and the preparation and presentation of the Cash Flow Forecast.

Based on the Monitor’s review, nothing has come to the Monitor’s attention that causes the Monitor to believe, in any material respect, that:

- (a) The Probable and Hypothetical Assumptions are not consistent with the purpose of the Cash Flow Forecast;
- (b) As at the date of this report, the Probable and Hypothetical Assumptions are not suitably supported and consistent with the plans of the Applicants or do not provide a reasonable basis for the Cash Flow Forecast, given the Probable and Hypothetical Assumptions; or
- (c) The Cash Flow Forecast does not reflect the Probable and Hypothetical Assumptions.

Overview:

The Cash Flow Forecast includes estimated receipts and disbursements of all the Applicants related to the CCAA proceedings and the ongoing construction projects during the Cash Flow Forecast period.

For the purpose of the Cash Flow Forecast and variance reporting, cash flows directly attributable to bonded construction projects are presented separately from other cash flow activities, although actual disbursements may be managed through the same bank account(s). However, for accounting purposes, funds will be recorded in respect of the Bondfield Group's projects on a project-by-project basis.

Assumptions:

1. Opening Available Cash Balance

Represents, the opening cash balance as at December 28, 2019. The cash balance represents a combination of funds held in the Monitor's trust accounts, if any, in addition to the funds in the Applicant's operating accounts. Cash balance does not include the Released HST Refunds of \$3.6 million, the SMH Project HST refund of \$0.3 million or Letter of Credit funds of \$0.7 million held in the Monitor's trust accounts.

2. Receipts From Projects

This category includes estimated receipts from the Bondfield Group's ongoing bonded construction projects based on remaining work to be billed and discussions with the Applicants. Receipts are forecast assuming the collection of undisputed Accounts Receivable balances, revenues left to bill over the remaining construction contracts and estimated collectible holdbacks from the Applicants' bonded construction projects.

Currently some project payments are collected by an agent of Zurich before being released to the Bondfield Group. Project owners have been instructed to send payments directly to the Bondfield Group following the issuance of the Initial Order.

The projection is based on estimated construction schedules and possible timing of billings and collections; however, by their nature there is a high degree of uncertainty in construction schedules and timing of these collections.

3. Construction Expenses

These disbursements include estimated costs to be incurred for the Bondfield Group's bonded construction projects during the Cash Flow Forecast period. Such costs include trade, material & supplier disbursements as well as other bonded project specific expenses (e.g. fuel, site utilities, travel/accommodation for out of town projects, etc.). These costs are forecast assuming an estimated cost to complete the Applicants' ongoing bonded construction projects. These costs are forecast to reduce over time as construction projects are completed. The forecast includes costs

that the Applicants will continue to incur as BCCL performs construction work for Zurich on the HGH Project.

4. Construction Payroll, Benefits & Union Dues

These disbursements include payroll costs for all bonded project employees. These are forecast based on historical run rates and are paid weekly. Payroll deductions are forecast to be remitted in accordance with the statutory requirements. Forecast benefit payments for current employees are based on the estimated weekly activity rate and are forecast to be paid in the normal course. Union dues are paid monthly. These costs are forecast to reduce over time as construction projects are completed.

5. Disbursements on Behalf of BBM & BMC

These disbursements represent payments made on behalf of BBM Excavation Company and BMC Masonry for items such as payroll, materials and subcontracted work on bonded construction projects and other bonded projects. These have been estimated based on historical run rates. The projection reflects that the existing commercial arrangements between the Applicants and BBM & BMC will remain unchanged, subject to ongoing discussions. These costs are forecast to reduce over time as construction projects are completed.

6. Zurich Bonded Payments on Projects

This represents payments from Zurich under Zurich's bonded obligations that are administered by the Bondfield Group.

7. Other Receipts

This category includes any receipts, refunds, or credits related to non-project disbursements as well as receipts from the Bondfield Group's ongoing non-bonded construction projects. This also includes receipts from certain related parties.

8. Non-bonded Construction Expenses

These disbursements include estimated costs to be incurred for the Bondfield Group's remaining non-bonded construction projects during the forecast period. These costs are forecast to reduce over time as construction projects are completed.

9. Non-bonded Construction Payroll, Benefits & Union Dues

These disbursements include payroll costs for non-corporate employees not allocated to a bonded project. These are forecast based on historical run rates and are paid weekly. Payroll deductions are forecast to be remitted in accordance with the statutory requirements. Benefit payments for current employees are based on the estimated weekly activity rate and are forecast to be paid in the normal course. These costs are forecast to reduce over time as construction projects are completed.

10. Corporate Payroll & Benefits

These disbursements include payroll costs for all corporate employees. These are forecast based on historical run rates and are paid weekly. Payroll deductions are remitted in accordance with the statutory requirements. Benefit payments for current employees are based on the estimated weekly activity rate and are paid in the normal course. These costs are forecast to reduce over time as construction projects are completed.

11. Taxes Receivable/(Payable)

These primarily include estimated HST payable and refunds of the Applicants as well as BBM Excavation Company and BMC Masonry. Due to BCCL's ongoing HST audit, the Applicants anticipate delays in the release of post-filing HST refunds, and have therefore excluded them from the Cash Flow Forecast for conservatism reasons.

12. Non-bonded Disbursements on Behalf of BBM & BMC

These disbursements represent payments made on behalf of BBM Excavation Company and BMC Masonry for items such as payroll, materials and subcontracted work on certain non-bonded construction projects or other non-bonded projects. Included in this line item is certain corporate costs incurred by BBM Excavation Company and BMC Masonry including insurance premiums and benefits. These have been estimated based on historical run rates. The projection reflects that the existing commercial arrangements between the Applicants and BBM & BMC will remain unchanged, subject to ongoing discussions. These costs are forecast to reduce over time as construction projects are completed.

13. General, Office & Administration Costs

These disbursements include head office rent, corporate credit card payments, utilities, equipment repairs & maintenance, lease payments made on equipment and vehicles, office expenses, insurance premiums and ongoing IT expenses. These have been estimated based on historical run rates. These costs are forecast to reduce over time as construction projects are completed. The annual insurance premium payments are forecast to be paid in February 2020.

14. Restructuring Costs

These disbursements represent various restructuring fees including professional fee payments to the Bondfield Group's counsel, and the Monitor and its counsel.

15. Zurich DIP

The proposed Zurich DIP is provided to fund primarily the reasonable overhead and operational expenses of the Applicants during the CCAA proceedings, including all non-bonded construction obligations of the Bondfield Group, but excluding payments required to satisfy any construction or other cost that is the subject of Zurich's existing bonded obligations.

16. Zurich DIP Interest

Interest is estimated based on the drawn amount of the Zurich DIP at the rate of 6% per annum. For the purpose of this projection, all interest payments are assumed to be in the form of PIK Interest (i.e., accrued and unpaid interest are added to the principal amount).

17. Agent DIP

The proposed Agent DIP is provided to be used solely to fund (i) third party costs relating to the Finch West Litigation, subject to approval by the Monitor in accordance with the CCAA Filing Agreement; (ii) any Finch West Support Costs which have been approved by the Agent and the Monitor in accordance with the CCAA Filing Agreement; (iii) any Reimbursable DIP Lender Costs (as defined in the Agent DIP Agreement); and (iv) the Agent's portion of the Agent Expense Reimbursement pursuant to the CCAA Filing Agreement. This section has been redacted in the publically filed version since the forecast contains commercially sensitive information with respect to the Finch West Litigation.

Confidential Appendix “F”

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.
C-36, AS AMENDED

Court File No. CV-19-615560-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
BONDFIELD CONSTRUCTION COMPANY LIMITED, 950504 ONTARIO INC., 352021
ONTARIO LIMITED, 2433485 ONTARIO INC. AND 2433486 ONTARIO INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**EIGHTH REPORT OF THE MONITOR
January 24, 2020**

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