Court of Appeal File No. CA-47585
Supreme Court File No. S-205095
Supreme Court Registry: Vancouver

**COURT OF APPEAL**

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

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002 c. 57, AS AMENDED

AND

IN THE MATTER OF THE PLAN AND COMPROMISE AND ARRANGEMENT OF PORT CAPITAL DEVELOPMENT (EV) INC. AND EVERGREEN HOUSE DEVELOPMENT LIMITED PARTNERSHIP

BETWEEN:

PORT CAPITAL DEVELOPMENT (EV) INC. AND EVERGREEN HOUSE DEVELOPMENT LIMITED PARTNERSHIP

RESPONDENTS
(PETITIONER/APPLICANTS)

AND:

1296371 B.C. LTD.

APPELLANT
(RESPONDENT/APPLICANT)

AND:

CENTURA BUILDING SYSTEMS (2013) LTD. AND SOLTERRA ACQUISITIONS CORP.

RESPONDENTS
(RESPONDENTS)

---

**REPLY BOOK FOR LEAVE TO APPEAL/STAY OF EXECUTION PENDING APPEAL/APPLICATION TO CONVENE A FIVE JUDGE PANEL OF CMLS FINANCIAL LTD. AND DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY**

---

| COUNSEL | PARTIES |
|---|---|
| Dentons Canada LLP<br>20th Floor, 250 Howe Street<br>Vancouver, BC V6C 3R8<br>**Attention: John Sandrelli / Jordan Schultz / Eamonn Watson** | **1296371 B.C. LTD. (APPELLANT)** |
| Blake, Cassels & Graydon LLP<br>Suite 2600, Three Bentall Centre<br>595 Burrard Street, P.O. Box 49314<br>Vancouver, BC V7X 1L3<br>**Attention: Peter Rubin / Claire Hildebrand** | **ERNST & YOUNG INC. (MONITOR)** |
| Bennett Jones LLP<br>Suite 2500 – 666 Burrard Street<br>Vancouver, BC V6C 2X8<br>**Attention: David Gruber / Keely Cameron** | **PORT CAPITAL DEVELOPMENT (EV) INC. AND EVERGREEN HOUSE DEVELOPMENT LIMITED PARTNERSHIP** |
| Fasken Martineau DuMoulin LLP<br>550 Burrard Street, Suite 2900<br>Vancouver, BC V6C 0A3<br>**Attention: Kibben Jackson / Glen Nesbitt / Thomas Posyniak** | **CENTURA BUILDING SYSTEMS (2013) LTD. AND SOLTERRA ACQUISITIONS CORP.** |
| DLA Piper (Canada) LLP<br>Suite 2800, Park Place<br>666 Burrard Street<br>Vancouver, BC V6C 2Z7<br>**Attention: Colin D. Brousson** | **CMLS FINANCIAL LTD. AND DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY** |
| Turner & Co. Legal Counsel<br>The United Kingdom Building<br>#1600 – 409 Granville Street<br>Vancouver, BC V6C 1T2<br>**Attention: Scott A. Turner / Balpreet Khatra** | **LANDA GLOBAL ACQUISITIONS LTD.** |
| Lawson Lundell LLP<br>Suite 1600 Cathedral Place<br>925 West Georgia Street<br>Vancouver, BC V6C 3L2<br>**Attention: William Roberts** | **AVIVA INSURANCE COMPANY OF CANADA** |

## INDEX

| DESCRIPTION |
| --- |
| Memorandum of Argument of CMLS Financial Ltd. and Desjardins Financial Security Life Assurance Company |
| **EVIDENCE REFERRED TO** |
| Affidavit #2 of Macario Teodoro Reyes made on May 21, 2021 |

# MEMORANDUM OF ARGUMENT

## PART I: STATEMENT OF FACTS

### A. Overview

1. On May 29, 2020, Ernst & Young Inc. (the "**Monitor**"), was appointed by the Court as the Monitor of the CCAA proceedings[1] and the Monitor was directed by Madam Justice Fitzpatrick, an experienced insolvency judge seized of the matter, to implement a sales and investment solicitation process ("**SISP**") over the Petitioners' real estate development project called the "**Terrace House Project**".[2]

2. The SISP contemplated a transaction being completed in the CCAA on or about August 31, 2020.[3] However, the SISP "charted a very long and crooked path"[4] and it was not until June 15, 2021 when a reverse vesting order (the "**RVO**") was approved for an offer from Solterra Acquisitions Corp. ("**Solterra**") to purchase the assets of the Petitioners, including the Terrace House Project (the "**Solterra PSA**").

3. In granting the RVO, the chambers judge made a discretionary decision to dismiss the cross-application of 129637 B.C. Ltd. ("**129**") that sought approval of its revised offer to refinance the Terrace House Project (the "**129 Revised Offer**"). [5]

4. 129 seeks leave to appeal the chamber judge's order dismissing 129's application to refinance the Terrace House Project by way of the 129 Revised Offer.

5. CMLS Financial Ltd. ("**CMLS**"), as the priority secured creditor, opposes 129's leave application and its appeal. In doing so, CMLS wishes to adopt and support the Memorandum of Argument of the Respondents Centura Building Systems (2013) Ltd. ("**Centura**") and Solterra (the "**Solterra Memorandum of Argument**").[6]

6. CMLS also wishes to specifically highlight the following:

---

[1] *Port Capital Development (EV) Inc. (Re)*, 2021 BCSC 1272 [*Chambers Reasons*] at para. 6; Sixth Report of the Monitor dated May 20, 2021 ("**Sixth Report**"), paras. 1-2.
[2] *Chambers Reasons, supra* note 1 at para. 12.
[3] *Port Capital Development (EV) Inc. (Re)*, Initial Order made May 29, 2020, and filed June 2, 2020, at page 26.
[4] *Chambers Reasons, supra* note 1 at para. 110.
[5] *Chambers Reasons, supra* note 1 at para. 4; Affidavit #3 of Macario Teodoro Reyes made on June 4, 2021 ("**Reyes Affidavit #3**") at para. 7; Affidavit #5 of Macario Teodoro Reyes made on July 30, 2021 ("**Reyes Affidavit #5**") at para. 7.
[6] Reply Book for Leave to Appeal/Stay of Execution Pending Appeal/Application to Convene a Five Judge Panel of the Respondents, Centura Building Systems (2013) Ltd. and Solterra Acquisitions Corp. ("**Solterra Memorandum of Argument**"), at paras. 1-5.

(a) CMLS has consistently raised throughout the CCAA that the certainty of the completion of the offers from Solterra and Landa Global Acquisitions Inc. ("**Landa**") should not be put at risk by the proposed refinancing under the 129 Revised Offer and CMLS only supported the 129 refinancing if ether a Landa or Solterra cash offer was approved as a back up;

(b) CMLS has always been uncertain about the 129 Revised Offer completing, however recent developments have increased this concern; and

(c) leave, if granted, will cause prejudice to CMLS since the appeal proceeding would necessitate the parties incurring further substantial professional fees and costs, all of which will reduce the amount of funds available for recovery to CMLS if either the appeal is ultimately dismissed or if the 129 appeal was allowed, but 129's conditional refinancing did not complete.

## B. Background

### *i. CMLS Only Conditionally Supported the 129 Revised Offer*

7. The Memorandum of Argument of the Appellant 1296371 B.C. Ltd. ("**129 Memorandum of Argument**") suggests that CMLS unconditionally supported the 129 refinancing.[7] This is an unfair characterization.

8. CMLS was clear that it only supported the 129 Revised Offer *on the condition* that either Landa Offer #3 or Solterra's Backup Offer was approved as a backup in case the 129 Revised Offer[8] did not complete. Since through most of the chambers hearing only Landa agreed to allow its higher offer to stand as a back up to the 129 Revised Offer, CMLS supported Landa Offer #3 as a back up rather than the Solterra Backup Offer which was ultimately approved by the Court below.

9. CMLS elucidated this condition because it doubted the ability of 129 to complete the proposed conditional refinancing. In other words, CMLS was not willing to risk losing the "bird-in-hand" offers of Solterra and Landa to unconditionally support the 129 Revised Offer.

---

[7] Memorandum of Argument of the Appellant 1296371 B.C. Ltd. ("**129 Memorandum of Argument**") at paras. 24, 42, and 51.

### ii. *129's Multiple Revisions to the 129 Revised Offer*

10. 129 has continually revised components of the 129 Revised Offer.

11. One component of the 129 Revised Offer that has been continually revised is the funding pledged by Domain Mortgage Company ("**Domain**") through a commitment letter (the "**Commitment Letter**").

12. Three iterations of the Commitment Letter have been put into evidence.[9] The chambers judge evaluated the second iteration of the Commitment Letter.[10] Almost two months after the chamber judge's decision, Macario Teodoro Reyes ("**Reyes**") submitted a third iteration of the Commitment Letter into evidence.[11]

13. CMLS' concern that 129 does not have the ability to complete the refinancing is amplified following its review of the third iteration of the Commitment Letter, given that, *inter alia*:

    (a) the loan funding date was pushed back from June 30, 2021,[12] to be as late as after October 22, 2021,[13] creating concerns that 129 has not been able to, and will not be able to, obtain funding in a timely manner, or at all;

    (b) effectively all of the conditions precedents to the Commitment Letter as of the second iteration remain outstanding almost two months later in the third iteration; and

    (c) at the conclusion of the appeal proceedings the pay outs for various parties will have substantially increased in quantum because of increased professional fees and accrual of loan interest thereby making completion more difficult for 129.

14. 129 has not provided any explanation or evidence to address CMLS's valid concerns discussed above, despite having the opportunity to do so in the 129 Memorandum of Argument.

### *iii. 129 Failed to Address Significant Evidentiary Gaps Identified by the Chambers Judge*

---

[9] Affidavit #2 of Macario Teodoro Reyes made on May 21, 2021 ("**Reyes Affidavit #2**") at Exhibit A; *Reyes Affidavit #3, supra* note 5 at Exhibit A; *Reyes Affidavit #5, supra* note 5 at Exhibit A.
[10] *Chambers Reason, supra* note 1 at para. 40.
[11] *Reyes Affidavit #5, supra* note 5 at Exhibit A.
[12] *Reyes Affidavit #3, supra* note 5 at Exhibit A.
[13] *Reyes Affidavit #5, supra* note 5 at Exhibit A.

15. 129 failed to address significant evidentiary gaps identified by the chambers judge, despite having the chance to address them in the Reyes Affidavit #5 or in the 129 Memorandum of Argument.[14] More particularly, 129 fails to address the following evidentiary gaps articulated by the Chambers judge:

   (a) whether the loan would enhance the prospects of a viable compromise or arrangement being made by the Petitioners;[15]

   (b) whether 129, the Petitioners, or any other party intend to put forward a "kernel of a plan" of arrangement or compromise on which the Petitioners' creditors may vote;[16]

   (c) whether 129 will use the "breathing space" under a further stay of proceedings to permit some, or potentially full, recovery by Aviva Insurance Company of Canada and the other creditors;[17] and

   (d) whether the completion of the Terrace Project is still feasible while also allowing for a full credit of over $16 million from the pre-sale deposits, which would reduce sale revenue.[18]

16. As a result of the above evidentiary gaps, the chambers judge found that the ability and credibility of 129 to obtain the new construction financing as proposed by the 129 Revised Offer was "speculative at best".[19]

***iv. Reyes Directed the Funds Pledged to the 129 Revised Offer to Other Projects and Proceedings; Funds are Currently Missing***

17. Finally, during these *CCAA* proceedings, the full amount of the funding proposed by the 129 Revised Offer has moved back and forth between two different appeal proceedings involving Reyes.

18. As one example, 129 pledged the $2.9 million loan from 126 in two different proceedings. As recently as July 2, 2021, 129 pledged the $2.9 million loan from 126 in

---

[14] *Reyes Affidavit #5, supra* note 5 at Exhibit A.
[15] *Chambers Reasons, supra* note 1 at para. 70
[16] *Chambers Reasons, supra* note 1 at para. 87
[17] *Chambers Reasons, supra* note 1 at para. 88
[18] *Chambers Reasons, supra* note 1 at para. 89
[19] *Chambers Reasons, supra* note 1 at para. 89.

connection with a proposed redemption of one secured creditor and the receivership costs in *Kruger v. Wild Goose Vintners Inc.*, 2021 BCSC 1406 [“***Wild Goose***”].[20] However, 129 had also pledged the entirety of the $2.9 million to the 129 Revised Offer in connection with these proceedings.[21]

19. As another example, $400,000 of the funds 129 pledged to finance the 129 Revised Offer “were directed to other projects” and it is unclear if these funds have been replaced.[22]

20. Prior to 129 moving pledged funds around, CMLS already questioned the ability of 129 to complete the proposed refinancing. In light of the evidence that 129 movement of pledged funds, and in light of the additional reasons above, CMLS has even less confidence in 129 and Reyes’ ability to complete the proposed 129 Revised Offer.

## PART II: STATEMENT OF THE POINTS IN ISSUE

21. CMLS and Desjardins Financial Security Life Assurance Company (“**Desjardins**”) agree that if leave is granted execution of the order approving the Solterra PSA should be stayed and the appeal should be heard on an expedited basis. CMLS and Desjardins take no position on 129’s application to adduce new evidence. The issues on this application are: (a) whether leave to appeal should be granted; and (b) if leave is granted, whether a five-justice division should be convened.

## PART III: ARGUMENT

22. CMLS adopts the Solterra Memorandum of Argument.[23].

23. CMLS highlights that the fourth factor to consider on an application for leave to appeal, namely, whether the appeal will unduly hinder the progress of the action,[24] has traditionally been considered the most important factor in the test for leave to appeal.[25]

---

[20] *Kruger v. Wild Goose Vintners Inc.*, 2021 BCSC 1406 at para 66.
[21] 126 had pledged $1.5 million to 129 on May 7, 2021, in *Reyes Affidavit #2, supra* note 9, at Exhibit B. This amount was increased to $2.15 million on June 4, 2021, in *Reyes Affidavit #3, supra* note 5 at Exhibit D, and increased to $2.9 million on June 7, 2021, in Affidavit #4 of Macario Teodoro Reyes made on June 7, 2021 (“**Reyes Affidavit #4**”).
[22] *Reyes Affidavit #5, supra* note 5 at para 7.
[23] *Solterra Memorandum of Argument, supra* note 6 at paras. 6-12.
[24] *Southern Star Developments Ltd. V Quest University Canada,* 2020 BCCA 364 (“***Southern Star***”) at paras 21-25.
[25] *Southern Star*, at para. 35, citing *Hockin v Bank of British Columbia* (1989), 37 B.C.L.R. (2d) 139 (B.C.C.A.) at para 20 (Wallace J.A. in C.A. Chambers).

24. Leave, if granted, will unduly hinder the progress of the action. The much prolonged SISP finally resulted in the chambers judge ordering the RVO and approving the Solterra PSA. The Solterra PSA has an outside closing deadline of September 30, 2021.

25. If leave is granted and a five-justice division is allowed to hear the appeal there is no certainty of a decision being reached before September 30, 2021. Even if a determination was reached in favour of 129 before September 30, 2021, the 129 conditional refinancing is not set to complete until late October 2021. As such, the Solterra PSA is clearly in jeopardy of being lost.

26. Further, leave, if granted, will cause significant prejudice to CMLS. The total costs of this CCAA have already been substantial. A priority Interim Financing Loan from Desjardins in the approximate amount of $1.55 million has already has been advanced to the Petitioners as of the date of this memorandum[26] in order to fund the CCAA proceedings. This priority funding ahead of CMLS includes payment of the professional fees of the Monitor and its legal counsel as well as the Petitioners' counsel. The appeal would necessitate further payment of these three groups of professionals as well as CMLS and Desjardins incurring its own increased legal fees. These additional expenses will reduce the amount of funds available for recovery to CMLS if either the appeal is ultimately dismissed or if the 129 Revised Offer appeal was allowed, but 129's conditional refinancing did not complete.

27. As noted in the chambers judge's own words, the:

(a) "Solterra Backup Offer represents the best outcome for the stakeholders in all the circumstances"; and

(b) "the time has come to end the process."[27]

## PART IV: NATURE OF ORDER REQUESTED

28. That 129's application for leave to appeal be dismissed with costs.

---

[26] *Port Capital Development (EV) Inc. (Re)*, Order approving a stay extension and an increase in interim financing, made June 11, 2021, and filed June 16, 2021, at paras. 2-4.
[27] *Chambers Reasons, supra* note 1 at para. 111.

Date: August 9, 2021

DocuSigned by:
Colin Brousson
028B7D8486BA463...

Colin D. Brousson, Counsel for CMLS Financial Ltd. and Desjardins Financial Security Life Assurance Company

**PART V: TABLE OF AUTHORITIES**

| TAB | CASES | PARA(S) |
|---|---|---|
| 1 | *Hockin v Bank of British Columbia* (1989), 37 B.C.L.R. (2d) 139 (B.C.C.A.) (Wallace J.A. in C.A. Chambers). | 20 |
| 2 | *Kruger v. Wild Goose Vintners Inc.,* 2021 BCSC 1406 | 66 |
| 3 | *Port Capital Development (EV) Inc. (Re)*, 2021 BCSC 1272 | 4, 6, 12, 40, 70, 87-89 |
| 4 | *Southern Star Developments Ltd. V Quest University Canada*, 2020 BCCA 364 | 21-25, 35 |

Court of Appeal File No. CA-47585

Supreme Court File No. S-205095
Supreme Court Registry: Vancouver

**COURT OF APPEAL**

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

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002 c. 57, AS AMENDED

AND

IN THE MATTER OF THE PLAN AND COMPROMISE AND ARRANGEMENT OF PORT CAPITAL DEVELOPMENT (EV) INC. AND EVERGREEN HOUSE DEVELOPMENT LIMITED PARTNERSHIP

---

**MEMORANDUM OF ARGUMENT**

---

DLA Piper (Canada) LLP
Barristers & Solicitors
2800 Park Place
666 Burrard Street
Vancouver, BC V6C 2Z7

Tel. No. 604.687.9444
Fax No. 604.687.1612

File No.: 087794-00003 AGM/day

This is the 2st affidavit
of Macario Teodoro Reyes in this case
and was made on 21/MAY/2021

No. S-205095
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF PORT CAPITAL DEVELOPMENT (EV) INC. and EVERGREEN HOUSE DEVELOPMENT LIMITED PARTNERSHIP

## AFFIDAVIT

I, **MACARIO TEODORO REYES**, businessman, of 328 West 2nd Avenue, Vancouver, BC V5Y 1C8, SWEAR (OR AFFIRM) THAT:

1. I am a director and officer of Port Capital Group Inc. ("**Port Capital Group**"), the petitioner Port Capital Development (EV) Inc. (the "**General Partner**") and 1296371 B.C. Ltd. ("**129**"), and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be made upon information and belief, and, as to such facts, I verily believe the same to be true.

2. The General Partner and Evergreen House Development Limited Partnership ("**Evergreen LP**", and together with the General Partner, the "**Petitioners**") own a real estate development project called the "**Terrace House Project**".

3. The Petitioners are subsidiaries of Port Capital Group.

4. The Terrace House Project is an ongoing development project located at 1250 West Hastings Street, Vancouver, BC, on lands legally described as:

> PID: 006-721-397
> Lot 18, Except that part of the Canadian Pacific Railway Right-Of-Way as described in Absolute Fee Parcels Book, Volume 9, Folio 317, No. 1154C, and Except the South 7 Feet now Road, Block 29 District Lot 185 Plan 92
>
> (the "**Lands**").

5. The following persons (collectively, the "**Pre-Sale Purchasers**") have entered into pre-sale purchase agreements with the Petitioners (collectively, the "**Pre-Sale Purchase Agreements**"), and have paid the following deposit amounts totaling $8,005,201 (collectively, the "**Deposits**") to Dentons Canada LLP ("**Dentons**"), in trust, pursuant to such Pre-Sale Purchase Agreements:

(a) Luz Consuelo Reyes, who has paid a deposit in the amount of $2,800,000;

(b) 1192706 B.C. Ltd., who has paid a deposit in the amount of $1,155,000;

(c) 1208596 B.C. Ltd., who has paid deposits in the amount of $975,201;

(d) 1301981 B.C. Ltd., as assignee from Hudani Investment Corp., who has paid a deposit in the amount of $1,162,500;

(e) 1207867 B.C. Ltd., who has paid a deposit in the amount of $645,000;

(f) Robert Davis, who has paid a deposit in the amount of $592,500; and

(g) Simon Wong, who has paid a deposit in the amount of $675,000.

6. On May 29, 2020, the Petitioners obtained an order in these proceedings (the "**Initial Order**") granting them various relief pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 [***CCAA***].

7. The Initial Order included a stay of proceedings (the "**Stay of Proceedings**") effective until June 8, 2020, later extended to June 11, 2021, and appointed Ernst & Young, Inc. as monitor (in that capacity, the "**Monitor**").

8. On June 8, 2020, the Petitioners obtained an amended and restated initial order in these proceedings (the "**ARIO**"). Among other things, the ARIO approved an interim financing facility (the "**Interim Financing Facility**") from Desjardins Financial Security Life Assurance Company and granted a related interim lender's charge (the "**Interim Lender's Charge**").

9. The Petitioners' granted a first mortgage on the Lands to secure construction financing provided by CLMS Financial Ltd. ("**CLMS**"). I am a covenantor on this mortgage.

10. The Petitioners' granted a second mortgage on the Lands in favour of Aviva Insurance Company of Canada ("**Aviva**"), the Terrace House Project's insurer. I am a guarantor of this mortgage.

11. In addition, I am a covenantor or guarantor to most credit facilities advance by the Port Capital Group's various project specific limited partnerships and general partners.

12. On April 16, 2021, the Court approved the execution of a purchase and sale agreement between Landa Global Acquisition Inc. and the Petitioners, dated March 25, 2021 (the "**Landa PSA**"). This was not a final approval of the transaction or vesting of the Lands. By order of the Court, any other party could submit an alternative bid to the Landa PSA by May 7, 2021.

13. On May 7, 2021, 129, through its counsel, submitted an offer to the Monitor, CMLS and Aviva (the "**129 Offer**").

14. The 129 Offer is a loan facility from Domain Mortgage Company ("**Domain**"), 1260780 B.C. Ltd. ("**NumberCo**") and 129 to the Petitioners (the "**New Loan Facility**"). The purposes of the New Loan Facility is to:

(a) Pay in full the Interim Financing Facility and discharge of the Interim Lender's Charge; and

(b) Purchase and take an assignment of the loan and security held by CMLS.

15. The funding for the New Loan Facility will come from three sources:

(a) A loan from Domain to the Petitioners, in the amount of $14.5 million, pursuant to a term sheet dated May 11, 2021 (the "**Domain Term Sheet**"). Now produced and shown to me and marked as **Exhibit "A"** to this affidavit is a true copy of the Domain Term Sheet;

(b) A loan from NumberCo to the Petitioners, in the amount of $1.5 million, pursuant to a commitment letter and acknowledgment dated May 7, 2021 (the "**NumberCo Loan**"). Now produced and shown to me and marked as **Exhibit "B"** to this affidavit is a true copy of the NumberCo Loan. I am informed by Robert Quon, of Dentons, and verily believe the same to be true, that Dentons holds the NumberCo Loan funds in trust; and

(c) A loan from 129 to the Petitioners, in the amount of $8,005,201, funded by a release of the Deposits held in trust by Dentons. Now produced and shown to me and marked as **Exhibit "C"** to this affidavit are true copies of the written irrevocable directions provided by the Pre-Sale Purchasers.

16. The 129 Offer does not seek to terminate any pre-sale contracts, or vest off or compromise any other claims against the Petitioners. The 129 Offer is a refinancing, intended to provide breathing room to secure new construction financing for the Terrace House Project.

17. There is strong interest from lenders to provide new construction financing, and several lenders have already conducted extensive due diligence. However, the New Loan Facility needs to be in place before new construction financing can be secured. Without control of the Terrace House Project, it is not possible to satisfy the conditions associated with new construction financing.

18. These CCAA proceedings have, to date, been focused on repayment of the construction loan provided by CLMS. The New Loan Facility, along with cooperation from Domain, will provide the opportunity to shift the focus to a long-term restructuring.

19. Generally, securing new construction financing will require:

(a) Review of all trades and consultants. This includes confirm drawings and specifications with lead consultants, architects and engineers; updating contracts with existing trades and consultants; and replacing contracts as necessary;

(b) Confirm construction schedule and budget;

(c) Renew and extend permits; and

(d) Review and continue pre-sale program. This includes reviewing the existing contracts; engaging new marketing partners and sales group, and may require re-drafting the disclosure statement and updated purchase contracts.

20. The above steps will be conditions of any term sheet for new construction financing, and advances under any new facility will not occur until these have been satisfied.

21. In the interim, working capital will be funded by existing limited partners and new third party investors. This working capital is expected to be in the range of $3 to $5 million, which will be sourced externally and will not encumber the Lands or other assets.

22. The most advanced negotiation on a new contraction loan is with Goldman Sachs. The parties are close to finalizing a term sheet, however I do not expect negotiations can progress further until the Petitioners have regained control of the Terrace House Project. I estimate, with control of the project and the breathing room provided by the New Loan Facility, it will take 30 to 60 days to finalize a term sheet with Goldman Sachs or another lender.

23. The proposed Goldman Sachs financing would be advanced in two tranches. The first tranche would repay the New Loan Facility and provide pre-construction working capital. The second tranche would finance the full construction of the Terrace House Project.

24. The Terrace House Project is an innovative mass timber development. When completed, the Terrace House Project will become one of the tallest hybrid timber structure in the world, constructed from concrete, wood and steel. The existing trades and consultants are specialists in mass timber construction and are essential to moving the Terrace House Project forward. The project has many stakeholders who will benefit from the completion of the Terrace House Project as designed. The Terrace House Project will contribute to the development of the mass timber industry. The City of Vancouver is invested in seeing the Terrace House Project competed, as are investors and other supporters of the project.

25. These efforts demonstrate there is a reasonable prospect that the Terrace House Project will be successful restructured for the benefit of all stakeholders.

| | |
|---|---|
| SWORN (OR AFFIRMED) BEFORE ME at Vancouver, BC, on 21/MAY/2021 | |
| A Commissioner for taking Affidavits within British Columbia | **MACARIO TEODORO REYES** |

EAMONN WATSON
*Barrister & Solicitor*
DENTONS CANADA LLP
20th Floor, 250 Howe Street
Vancouver, B.C. V6C 3R8
Telephone (604) 687-4460

1

This is **Exhibit "A"** referred to in the
Affidavit of T. REYES sworn
this 21ST day of MAY, 2021.

A Commissioner for taking Affidavits within
British Columbia

2

DOMAIN FUNDING

Domain Funding
1100–1040 West Georgia St.
Vancouver, BC V6E 4H1
604.681.3000

Tuesday, May 11, 2021

Loan #: 2021-BC011

**Evergreen House Development LP**
**Port Capital Development (EV) Inc.**
**Port Capital Development Inc.**
**Mr. Macario Teodoro Reyes**
c/o 325 West 4th Avenue,
Vancouver, B.C. V5Y 1H3

E-mail: tobi@portliving.com

Dear Sir:

## REVISED COMMITMENT LETTER

Bankers Mortgage Corporation doing business as Domain Funding is pleased to present you with a commitment to provide a loan with terms and conditions described herein and on the attached Schedules (the "Loan").

**1. SECURED PROPERTY:**

| | |
|---|---|
| Civic Address: | 1250 West Hastings Street, Vancouver B.C. V6E 4H1 |
| Legal Description: | LOT 18, EXCEPT THAT PART OF THE CANADIAN PACIFIC RAILWAY RIGHT-OF-WAY AS DESCRIBED IN ABSOLUTE FEE PARCELS BOOK, VOLUME 9, FOLIO 317, NO. 1154C, AND EXCEPT THE SOUTH 7 FEET NOW ROAD, BLOCK 29 DISTRICT LOT 185 PLAN 92 |
| PIDs: | 006-721-397 |

The above property(s) is referred to herein as the "Secured Property".

**2. LENDER/MORTGAGEE:**

| | |
|---|---|
| Name: | **Domain Mortgage Corp.** syndicated in trust for private mortgage investors, and/or nominee. |
| Address: | 1100 – 1040 W. Georgia St. Vancouver, BC V6E 4H1 |

Hereinafter referred to as the "Lender".

**3. BORROWER(S)/MORTGAGOR(S) AND ASSIGNEE(S) AND/OR NOMINEE(S):**

| | |
|---|---|
| Name: | **Evergreen House Development Limited Partnership** |
| Relationship: | The beneficial owner of the Secured Property |
| Address: | 325 West 4th Avenue, Vancouver, B.C. V5Y 1H3 |

| | |
|---|---|
| Name: | **Port Capital Development (EV) Inc.** |
| Relationship: | The registered owner of the Secured Property and the General Partner of Evergreen House Development Limited Partnership |
| Address: | 325 West 4th Avenue, Vancouver, B.C. V5Y 1H3 |

Initials of Borrower(s)/Covenantor(s):

**4. COVENANTOR(S):**

The Lender(s) will require the Loan to be guaranteed by the personal and/or corporate shareholders of the Borrowing Company(s) and/or others (the "Covenantors").

To date the following Covenantors have been identified:

| | |
|---|---|
| Name: | **Macario Teodoro Reyes** |
| Relationship to Borrower: | Principal of Port Capital Development Inc. |
| Address: | #801-2211 Cambie Street, Vancouver, B.C. V5Z 2T5 |
| Name: | **Port Capital Development Inc.** |
| Relationship to Borrower: | 100% shareholder of Port Capital Development (EV) Inc. |
| Address: | 325 West 4th Avenue, Vancouver, B.C. V5Y 1H3 |

**5. LOAN TYPE AND PURPOSE:**

To assist in (i) the redemption and repayment of the interim financing ("Interim Financing") provided by Desjardins Financial Security Life Assurance Company ("Desjardins") and, (ii) together with 1296371 B.C. Ltd. (the "Junior Lender"), the purchase and assignment of the existing loans and security (the "Existing Security") provided by CMLS Financial Ltd., as agent for and on behalf of certain lenders (collectively the "Existing Lenders").

The Interim Financing is in the principal amount of $1,287,274.88 (subject to verification), secured by a super-priority court-ordered charge over all assets, undertakings and property of the Borrowers.

The Existing Loan is in the principal amount of $21,233,416.87 (subject to verification).

The Interim Financing and the Existing Loan are secured by the following Mortgages and Assignments of Rents registered on title to the Secured Property:

| | |
|---|---|
| Nature: | MORTGAGE |
| Registration Number: | CA7337616 |
| Registration Date and Time: | 2019-02-06 15:25 |
| Registered Owner: | CMLS FINANCIAL LTD.<br>INCORPORATION NO. BC0124226 |
| Nature: | ASSIGNMENT OF RENTS |
| Registration Number: | CA7337617 |
| Registration Date and Time: | 2019-02-06 15:25 |
| Registered Owner: | CMLS FINANCIAL LTD.<br>INCORPORATION NO. BC0124226 |
| Nature: | MORTGAGE |
| Registration Number: | CA8277031 |
| Registration Date and Time: | 2020-06-30 16:49 |
| Registered Owner: | DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY<br>INCORPORATION NO. A0056166 |

**(collectively, the foregoing loans, the "Existing Loan", and the foregoing security interests, are referred to herein as the "Existing Security").**

## 6. USES AND SOURCES OF FUNDS:

Loan proceeds to be used in accordance with the following Uses and Sources of Funds budget:

**Uses of Funds**

| | | |
|---|---|---|
| Payout CMLS Financial Ltd. (estimate) | $ | 21,233,416.87 |
| Payout Desjardins Financial Security Life Assurance Company (estimate) | $ | 1,287,274.88 |
| Provision of a Payment Reserve to the CCAA Monitor (estimate) | $ | 250,000.00 |
| Domain Mortgage Corp Loan Servicing Fee (0.25% of the Loan amount) | $ | 18,125.00 |
| Monthly Interest Reserve (12 months - see below) | $ | 851,250.00 |
| Domain Funding Mortgage Broker Fee (2.0% of the Loan amount) | $ | 290,000.00 |
| Domain Securities Corp Fund Raising Fee (1.0% of the Loan amount) | $ | 145,000.00 |
| Lender's CCAA Reporting Consultant - (estimate) | $ | 60,000.00 |
| Lender's legal fees, title insurance, misc., etc. (estimate) | $ | 40,000.00 |
| **Total Uses of Funds** | **$** | **24,175,066.75** |

**Sources of Funds**

| | | |
|---|---|---|
| Domain Mortgage Corp. Mortgage Loan Amount (First Loan Segment) | $ | 10,500,000.00 |
| Domain Mortgage Corp. Mortgage Loan Amount (Second Loan Segment) | $ | 4,000,000.00 |
| Additional Equity requirement and/or Junior Lender requirement (est.) | $ | 9,676,000.00 |
| **Total Sources of Funds** | **$** | **24,176,000.00** |

NOTE 1: The above budget has been prepared by Domain Funding based on information provided by the Borrower(s) and Covenantor(s) and is subject to change.

NOTE 2: All figures listed in above budget are subject to verification and approval by the Lender.

NOTE 3: At the option of the Lender, any Loan proceeds will be controlled and/or disbursed by the Lender or its solicitor for the purposes outlined above or for other Lender-approved purposes.

NOTE 4: Any shortfall of funds to refinance and take an assignment of the Existing Mortgage is the responsibility of the Borrower(s), Covenantor(s), and 1296371 B.C. Ltd.

NOTE 5: The Borrower(s) will assign $100,000 (or such other amount recommended by the Monitor of the CCAA proceedings pursuant to their budget as approved by the Lender) from the Loan proceeds representing a Provision of a Payment Reserve to be advanced to the Monitor on closing to cover anticipated future costs of the Monitor (including their counsel in the CCAA proceeding. The balance of the $250,000 will be held by the Lender in a reserve as against protective disbursements including without limitation monitor's or other costs. If the monitor's costs exceed the amount advanced to the monitor the Borrower(s) shall pay those costs and the Lender shall not be obligated to pay any additional costs from the said reserve.

NOTE 6: The Borrower(s) will assign $60,000 (or such other amount recommended by the Lender's solicitor) from the Loan proceeds representing a provision for a CCAA Reporting Consultant to provide reporting to and to advise the Lender with respect to the CCAA proceedings.

## 7. JUNIOR LENDER PARTICIPATION WITHIN THE EXISTING SECURITY:

1296371 B.C. Ltd. will become a Junior-ranking participant in the proposed new ownership of the Existing Security subordinate in all respects to the $14,500,000 aggregate amount of the Loan and will enter into a participation Agreement (the "**Participation and Stand Still Agreement**") with Domain Mortgage Corp. to be prepared by the Lender's Lawyer, or in the alternative, there will be sufficient recapitalization of the Borrower(s) to fund monies required (in addition to the Loan) to refinance the Existing Lenders and retire the Interim Financing, without participating in the Loan and the related security.

The Participation and Stand Still Agreement will contain a provision allowing the Junior Lender to purchase the Loan and the interest of the Lender in the Existing Security and to transfer the administration of the Existing Security upon payment to eth Lender of the amount owing under the Loan and subject to the Lender receiving the minimum interest provisions contained herein and otherwise as required by the Lender's lawyer.

The Participation and Stand Still Agreement will subordinate the Junior Lender to the Lender in all respects and the Lender or the Lender's nominee will administer the Loan and the interest of the Junior Lender in the Existing Security.

The Participation and Stand Still Agreement will contain provision(s) to cause unpaid interest, if and when due, to be made by Borrower(s), the Covenantor(s), and/or by 1296371 B.C. Ltd. and to apply interest due under the Loan exceeding the interest prescribed under the Existing Security to be deducted from the ownership interest of 1296371 B.C. Ltd. in the Existing Security.

The standstill provisions of the Participation and Stand Still Agreement will prohibit the Junior Lender from taking any action in respect of the Loan unless and until either:
a) the Loan is repaid in full; or
b) the Junior Lender purchases the Loan and the interest of the Lender from the Lender.

**8. LOAN FUNDING DATE:**

**June 11, 2021, subject to the following prior events:**

(i) CMLS Financial Ltd. to approve assignment and transfer of the Existing Security by May 19, 2021
(ii) CCAA Monitor and Court to approve assignment and transfer of the Existing Security by May 26, 2021

The Borrower(s) acknowledges that interest on the Loan shall accrue from the date that funds are provided by the Lender to its solicitor in preparation for the funding of the Loan, whether or not the Borrower(s) and Covenantor(s) are in a position to draw funds in accordance with the terms and conditions of this Commitment Letter.

**9. PAYMENT PROVISIONS:**

The Loan will be divided into the following (2) Loan Segments with (2) differing interest rates in recognition of differing risk profiles within the $14,500,000 composition of the Loan.

| | |
|---|---|
| Loan Amount: | $10,500,000.00 (the "First Loan Segment") |
| | $ 4,000,000.00 (the "Second Loan Segment") |
| | $14,500,000.00 (the "Loan") |

Terms of $10,500,000 First Loan Segment

| | |
|---|---|
| Term: | 12 months from Interest Adjustment Date. Closed during the first 6 months of the Loan Term then open for early repayment in full. |
| Amortization: | Interest Only |
| Interest Rate: | Prior to the first day of the last month of the Loan Term: The greater of Prime + 8.05% per annum or 10.50% per annum, compounded monthly<br>Commencing the first day of the last month of the Loan Term: 12.00% per annum, compounded monthly |
| Interest Calculation Period: | Monthly |
| Payment Dates: | 1st day of month during Loan Term |

| | | |
|---|---|---|
| Interest Adjustment Date: | July 1, 2021 | |
| First Payment Date: | August 1, 2021 | |
| Periodic Payment Amounts: | $91,875.00 | interest payment |
| | $ 2,187.50 | Loan servicing fee (0.25% of Loan Amount) |
| | $94,062.50 | |

Monthly interest payments during the term of the Loan will be made using Monthly Payment Reserve(s) held by the Lender. If and when Monthly Payment Reserve(s) held by the Lender are depleted, interest due under the Loan be made by the Borrower(s), the Covenantor(s), and/or by 1296371 B.C. Ltd.

Balance Due Date: Jan. 1, 2022

Terms of $4,000,000 Second Loan Segment

Term: 12 months from Interest Adjustment Date. Closed during the first 6 months of the Loan Term then open for early repayment in full.

Amortization: Interest Only

Interest Rate: Second Loan Segment:

Prior to the first day of the last month of the Loan Term:

18.00% per annum, compounded monthly

Commencing the first day of the last month of the Loan Term:

24.00% per annum, compounded monthly

| | | |
|---|---|---|
| Interest Calculation Period: | Monthly | |
| Payment Dates: | 1st day of month during Loan Term | |
| Interest Adjustment Date: | July 1, 2021 | |
| First Payment Date: | August 1, 2021 | |
| Periodic Payment Amounts: | $ 50,000.00 | interest payment |
| | $ 833.33 | Loan servicing fee (0.25% of Loan Amount) |
| | $ 50,833.33 | subtotal |

Monthly interest payments during the term of the Loan will be made using Monthly Payment Reserve(s) held by the Lender. If and when Monthly Payment Reserve(s) held by the Lender are depleted, interest due under the Loan be made by the Borrower(s), the Covenantor(s), and/or by 1296371 B.C. Ltd.

Balance Due Date: Jan. 1, 2022

**10. EARLY REPAYMENT TERMS:**

The Loan may be repaid in full without penalty provided the Lender has first earned and received payment of interest of not less than $851,250.00. Unless otherwise specified herein, partial repayment of the Loan is not permitted without the written consent of the Lender.

**11. LOAN RESERVE(S):**

The Lender requires the Borrower(s) to assign the following Monthly Payment Reserve to the Lender from the Loan Proceeds (collectively the "Loan Reserve(s)"). Upon payout of the Loan in full, any unused amounts in the Loan Reserve(s) will be returned to the Borrower(s) subject to the Early Repayment Terms outlined herein.

**11.1 MONTHLY PAYMENT RESERVE:**

The Borrower(s) will assign $869,375.00 to the Lender from the Loan proceeds representing a Monthly Payment Reserve which, upon the occurrence of an event of default of the Loan, the Borrower(s) agrees to and so directs the Lender to withdraw from the Monthly Payment Reserve payments to maintain monthly Loan interest and Loan Servicing Fee payments, to pay for any costs to enforce the terms of the Loan, including legal, and/or receivership costs, and/or for any costs to realize on the Loan Security, at the Lender's sole discretion.

Such payments shall be of the same force and effect as if made personally by the Borrower(s), however, shall not constitute a cure or waiver of a default by virtue of the failure to comply with any other payment terms herein.

**12. SPECIAL TERMS AND CONDITIONS:**

The Lender will require the following SPECIAL TERMS AND CONDITIONS, all of which must be found satisfactory to the Lender and its Solicitor:

a) Approval of the proposed form of Order and Court approval in CCAA Proceeding No. S-205095 approving the transfer and assignment of the Existing Loans and the Existing Security.

b) DIP Financing to be fully paid out and a Court Order terminating the DIP Financing.

c) Review of monitor's budget through the term of the Loan.

d) Administration charge removed and replaced by the funding of the security to the Monitor or alternatively the Administration charge limited to an amount satisfactory to the Lender.

e) Provision of a payment reserve (with a current estimate of $250,000, but subject to change), to be advanced to the Monitor on closing, to cover anticipated future costs of the Monitor and its counsel in the CCAA Proceedings.

f) Consent of Aviva Insurance Company of Canada to the transfer and assign of the Existing Loan and Existing Security to the Lender and agreement to not seek a reverse vesting order or otherwise to seek to modify the registration of the Existing Loans and the Existing Security as a first-ranking charge registered on title to the Secured Property.

g) Court approval referred to in 10.a), above, to include the following provisions:

- Carve out of the Existing Loans and the Existing Security from the stay of proceedings in connection with CCAA Proceeding No. S-205095.
- Stays of proceedings to be extended to the term of the Loan.
- No further DIP financing without consent of the Lender;
- CCAA Monitor's powers to be reduced to allow Borrower(s) to complete the Project;
- CCAA to go into "dormant status" for the term of the Loan, meaning that no further steps are to be taken in the CCAA Proceeding during the stays of proceedings without the consent of the Lender

**13. PERMISSIBLE PRIOR ENCUMBRANCES:**

The Lender will permit the following prior charge(s) to be registered against the Secured Property:

The Administration charge, if not removed and replaced by reserve funding, subject to limitation to the satisfaction of the Lender as contemplated by Section 12(d) hereof.

**14. PERMISSIBLE SUBSEQUENT ENCUMBRANCES:**

The Lender will permit the following subsequent-ranking financial charge(s) to be registered against title to the Secured Property:

Those charges registered against Land Title No. CA7287055 set out in Schedule "D".

**15. LOAN SECURITY:**

The Lender will require the following Loan Security and other or further Loan Security (the "Loan Security"), all of which must be found satisfactory to the Lender and its Solicitor:

a) An assignment of the Existing Loans and Existing Security to the Lender.

b) Assignment of a $869,375.00 Monthly Payment Reserve to the Lender.

c) Assignment of a $60,000 CCAA Reporting Consultant allowance to the Lender.

d) Assignment of the Lender-approved Payment Reserve to the Monitor of the CCAA proceeding.

e) To the extent not included in the Existing Security:

   i. General Security Agreement with respect to the Borrower(s) and Covenantor(s) under the P.P.S.A.
   ii. Personal and/or corporate covenants as required by the Lender.
   iii. Principals of the Borrowing Company and any Corporate Covenantor(s) to postpone any Shareholder Loans to the Lender.
   iv. Property insurance, acceptable to the Lender.
   v. Title insurance in favour of the Lender including the Extended Super Priority Lien Coverage under the Lender's Master Policy with First Canadian Title.
   vi. Hazardous substances and environmental indemnity agreement by the Borrower(s)/Covenantor(s) in favour of the Lender

f) Court approval of the security and the transaction including a declaration the Lender has a first charge on the assets.

g) Such other and further Loan security in connection with the Secured Property as may be required by the Lender or its solicitor.

**16. STANDARD CLAUSES:**

Standard terms, conditions, covenants, representations and warranties are attached to and form part of this Commitment Letter as outlined in Schedule "A".

**17. CONDITIONS PRECEDENT TO FUNDING:**

**17.1** Funding of the Loan is conditional upon receipt of the following items from the Borrower(s) and Covenantor(s), on or **before Thursday, May 27, 2021**, all to be found satisfactory to the Lender and its solicitor:

a) An executed copy of this Commitment Letter.

b) Payment of the Non-Refundable Working Fee of $25,000.00 payable to "Domain Funding" by way of bank draft upon your acceptance of this Term Sheet. **SATISFIED**

c) Review and approval of the executed assignment and transfer agreement with respect to the purchase and assignment of the Existing Loans and the Existing Security, and all supporting documents including the commitment letter issued by CMLS Financial Ltd. as amended and its replacement by this Commitment Letter. **PENDING**

d) Verification of minimum of $9,676,000 of funds required to be contributed by the Borrower(s), the Covenantor(s), and/or by 1296371 B.C. Ltd. to complete the refinance of the Existing Lenders and purchase and assignment of the Existing Loans and the Existing Security. **PENDING**

e) Satisfactory review of and opinion with respect to the following by the Lender' solicitor:

   i. Mortgage CA7337616 registered i/n/o CMLS Financial Ltd.
   ii. Assignment of rents CA7337617 registered i/n/o CMLS Financial Ltd.
   iii. Mortgage CA8277031 registered i/n/o Desjardins Financial Security Life Assurance Co.

   **PENDING**

f) Satisfactory review of and opinion with respect to the following by the Lender' solicitor:

   i. Commitment Letter, issued by CMLS Financial Ltd. dated July 4, 2018 and all amendments, including, without limitation,
      - Amendment to Commitment Letter, issued by CMLS Financial Ltd. dated December 12, 2018, and
      - Amendment to Commitment Letter, issued by CMLS Financial Ltd. dated February 1, 2019, and
      - Amendment to Commitment Letter, issued by CMLS Financial Ltd. dated June 25, 2019,

   and its replacement by this Commitment Letter on funding.

   **PENDING**

g) Satisfactory inspection of the Secured Property by the Lender. **SATISFIED**

h) Satisfactory review by the Lender of the Certificate of Title for the Secured Property. **SATISFIED**

i) Satisfactory review by the Lender of the Organizational Chart of the Borrowers and any company providing a corporate covenant. **SATISFIED**

j) Satisfactory review by the Lender of the most recent Financial Statements for the Borrowing Company(s) and any company providing a corporate covenant (unless newly formed), prepared by a qualified accounting firm. **SATISFIED**

k) Confirmation of legal and beneficial ownership of the Secured Property, the Borrowing Company, and any company providing a corporate covenant including copies of any trust, joint venture, and/or limited partnership agreement(s). **SATISFIED**

l) Current, signed and dated Personal Net Worth Statement of any personal Borrower(s) or person(s) providing a covenant including details of all assets and liabilities. The PNW Statement should be prepared on Domain Funding forms with explanatory notes and/or attachments where necessary. **SATISFIED**

m) Credit Bureau Report for any personal Borrower(s) or person(s) providing a covenant. **SATISFIED**

n) Detailed real estate development resume of the Borrower(s)/Covenantor(s). **SATISFIED**

o) Satisfactory review by the Lender of Development and Building Permits issued by the City of Vancouver related to the Project. **SATISFIED**

p) A complete set of current architectural drawings (11" x 17") of the Project (Issued for Construction). **SATISFIED**

q) Geotechnical Report, acceptable to the Lender, confirming the Secured Property contains satisfactory soil conditions to permit development of the Secured Property. **SATISFIED**

r) Transmittal Letter(s), acceptable to the Lender, from the Geotechnical Engineer authorizing the use of their report for mortgage financing purposes. **PENDING**

s) Environmental Report(s), acceptable to the Lender, demonstrating that the Secured Property is environmentally clean. **SATISFIED**

t) Transmittal Letter(s), acceptable to the Lender, from the Environmental Consultant authorizing the use of their report for mortgage financing purposes. **PENDING**

u) Appraisal Report and Transmittal Letter from a Lender-approved appraisal firm demonstrating $22,300,000 minimum "as is" land value for the Secured Property. **SATISFIED**

v) Transmittal Letter(s), acceptable to the Lender, from the Appraisal Firm authorizing the use of their report for mortgage financing purposes. **PENDING**

w) Satisfaction of the SPECIAL TERMS AND CONDITIONS outlined in Section 10., herein. **PENDING**

x) Such other and further information, material or requirements that may be required by Domain Funding, the Lender or the Lender's solicitor.

**17.2** Funding of the Loan is conditional upon receipt of the following items from the Borrower(s) and Covenantor(s), on or **before Wednesday, June 9, 2021**, all to be found satisfactory to the Lender and its solicitor:

a) Receipt of insurance policies, including confirmation of paid insurance premiums, satisfactory to the Lender and/or its solicitor.

b) Registered Loan Security satisfactory to Lender's solicitor.

c) Such other and further information, material or requirements that may be required by Domain Funding, the Lender or the Lender's solicitor.

**17.3** Funding of the Loan is conditional upon the successful offering of the Loan as a syndicated mortgage investment to private mortgage investors by Domain Securities Corp., a related-party to Domain Funding.

**17.4** Upon satisfaction of all Conditions Precedent to Funding, as determined by the Lender and its solicitor at their sole discretion, the entire Loan Amount will be advanced to the Borrower(s) in one advance in accordance with the terms and conditions of this Commitment Letter.

## 18. POST FUNDING CONDITIONS:

None.

## 19. PAYMENT OF LOAN FEES:

Pursuant to Schedule "A" of the Loan Retainer Agreement dated Thursday, April 29, 2021, the $25,000 Non-Refundable Working Fee has been received.

The following further amounts are due as follows:

$ 80,000.00 Initial MORTGAGE BROKER FEE due upon issuance of this Loan Commitment Letter(s). **RECEIVED**

$ 65,000.00 Second MORTGAGE BROKER FEE due upon court approval in CCAA Proceeding No. S-205095 approving the transfer and assignment of the Existing Loans and the Existing Security.

$145,000.00 Third MORTGAGE BROKER FEE due upon the earlier of: (a) the funding of the Loan; or (b) the Loan Funding Date specified in the Loan Commitment Letter(s); or (c) the cancellation of the Loan Commitment Letter(s) by the Borrower(s). The $145,000.00 balance of the Mortgage Broker Fee will be further evidenced and secured by a Promissory Note to be issued and executed by the Borrower(s) and Covenantor(s) along with the Loan Commitment Letter(s).

$145,000.00 Fund Raising Fee payable to Domain Securities Corp. due upon the funding of the Loan.

**20. LOAN SERVICING AND ADMINISTRATIVE FEES:**

The Borrower(s) and Covenantor(s) agree to pay the following Loan Servicing and Administrative Fees during the Loan term:

a) Loan Servicing Fee of 0.25% per annum, calculated and paid monthly. The Loan Servicing Fee is payable by the Borrower to the Lender as the administrator of the Loan, as compensation for collecting and making interest payments, Loan record-keeping, and post funding administration of the Loan in the normal course;

b) $500.00 non-sufficient funds (NSF) fee, per occurrence.

c) $500.00 late payment fee, per occurrence.

d) $500.00 discharge fee, per title to be discharged.

e) $500.00 per hour (or portion thereof) administration fee for each occasion Domain Funding or the Lender provides administrative services outside the normal course administration of the Loan.

**21. LENDER'S SOLICITOR:**

Legal work and documentation will be performed, at the Borrower(s)' expense, by the Lender's solicitor, as follows:

| | |
|---|---|
| Name: | Alan Frydenlund |
| Firm: | Owen Bird |
| Address: | Bentall 3, Suite 2900, 595 Burrard Street<br>Vancouver, BC V7X 1J5 |
| Telephone: | (604) 691-7511 |
| Email: | afrydenlund@owenbird.com |

**22. BORROWER(S)' INFORMATION:**

The Borrower(s) must complete the information required in Schedule "C" attached to this Commitment Letter upon acceptance of this Commitment Letter.

**23. DEDUCTIONS FROM LOAN PROCEEDS BY LENDER'S SOLICITOR:**

The Borrower(s) and Covenantor(s) acknowledge and agree that the Lender's solicitor will be deducting the following amounts from the Loan Proceeds:

| | |
|---|---|
| Interest Adjustment: | Lender's solicitor to advise. |
| Balance of Mortgage Broker Fee: | $145,000.00 (payable to Domain Funding) |
| Fund Raising Fee: | $145,000.00 (payable to Domain Securities Corp.) |
| Monthly Payment Reserve: | $869,375.00 (payable to Domain Mortgage Corp.) |
| Provision of a Payment Reserve for the CCAA Monitor: | $250,000.00 (payee to be named) |
| Lender's CCAA Reporting Consultant: | $60,000.00 (payee to be named) |
| Lender's Legal Fees: | $40,000.00 (estimate) |

NOTE: Payouts of existing mortgages, outstanding taxes, utilities, etc. are to be deducted from mortgage proceeds and paid by the Lender's solicitor and/or paid by the Borrower(s)' solicitor subject to the appropriate undertakings.

## 24. LOAN FUNDING EXPIRY DATE:

Unless the Loan is funded by the Lender and funds are drawn by the Borrower(s) in accordance with the terms and conditions of this Commitment Letter on or before **Friday, June 11, 2021**, then, the Lender's obligation to fund the Loan will become null and void.

## 25. ACCEPTANCE:

The Borrower(s) and Covenantor(s) must indicate their acceptance of this Commitment Letter by completing, signing and initialing where indicated, and by completing, signing, and initialing Schedule "A", Schedule "B", Schedule "C", and Schedule "D" attached, and returning to Domain Funding along on or before 6:00 P.M. on Tuesday, May 11, 2021.

The $80,000 Initial Mortgage Broker Fee has been previously received in connection with the Commitment Letter dated Friday, May 7, 2021.

If this Commitment Letter is not accepted by the Borrower(s) and Covenantor(s) by the indicated date(s)/time(s), then the Lender's obligation to fund the Loan will cease.

Yours truly,

DOMAIN Funding

PER: Authorized Signatory

*Commitment Letter Dated May 11, 2021*
*Loan #: 2021-BC010*

## ACCEPTANCE OF COMMITMENT LETTER

I/We hereby understand and accept the terms and conditions of this Commitment Letter and the attached Schedules.

Accepted this 11th day of May, 2021

| BORROWER(S): | COVENANTOR(S): |
|---|---|
| **Evergreen House Development Limited Partnership** | **Port Capital Development Inc.** |
| PER: Authorized Signatory | PER: Authorized Signatory |
| **Port Capital Development (EV) Inc. as the General Partner of Evergreen House Development Limited Partnership** | **Mr. Macario Teodoro Reyes** |
| PER: Authorized Signatory | **Mr. Macario Teodoro Reyes** |

## SCHEDULE "A" – STANDARD CLAUSES

*(ATTACHED TO AND FORMING PART OF THE COMMITMENT LETTER DATED TUESDAY MAY 11, 2021)*

**1. PROPERTY TAXES AND OTHER CHARGES:**

The Borrower(s) will pay all taxes, assessments, utilities, strata and/or condominium fees and all other amounts charged or levied against the Secured Property when the same are due and payable, and provide evidence to the Lender on an annual basis by no later than August 31 of each year, that they are fully paid and up to date.

Subject to the discretion of the Lender, any advance under the Loan will be conditional on the Borrower(s) providing evidence to the Lender that all taxes, assessments, utilities, strata and/or condominium fees and all other amounts charged or levied against the Secured Property have been paid in full.

**2. INSURANCE:**

The Borrower(s) will insure and keep insured the Secured Property and all chattel property against the following perils:

a) With respect to all buildings and other improvements, if any, now or hereinafter situated on the Secured Property, and all insurable property included within the buildings, coverage against loss or damage by fire and other insurable hazards, including earthquakes, defined in an "all risks" policy for the full replacement cost with provision for permission to occupy and with automatic vacancy permit.

b) If applicable, during construction for the full contract price plus extras and additions which, from time to time, may be added thereto using standard Builders' Risk - "all risk" form or equivalent. The policy is to grant permission for partial occupancy.

c) If applicable, standard comprehensive boiler and pressure vessel insurance for the full replacement cost of the Secured Property and all improvements thereon or such lesser amount as shall be acceptable to the Lender.

d) If applicable, business interruption insurance or rental loss insurance acceptable to the Lender for an indemnity period of not less than 100% of the resulting loss of rent and/or other revenue received from the operation of the building.

e) Loss or damage of all personal property by fire or other insurable hazards, including theft, in an amount not less than the full replacement cost thereof.

f) Public liability insurance to an amount not less than $2,000,000 on an occurrence basis.

The policies of insurance to be maintained shall not contain any co-insurance clauses and shall be in a form and with insurers satisfactory to the Lender, and/or its insurance consultant, and shall include the agreement of the insurer that the policy will not be cancelled without at least 15 days prior written notice of intended cancellation to the Lender. The Lender shall be named in all policies as "Loss Payee" and/or as "Additional Insured", as its interest may appear, and the Borrower shall provide to the Lender an updated Certificate of Insurance upon renewal, and in any event,15 days prior to the expiration of any insurance policy for the Secured Property.

The Lender reserves the right to engage the services of an insurance consultant, at the Borrower(s)' expense, to verify the adequacy of the policies of insurance.

**3. DOCUMENTATION AND SOLICITOR'S APPROVAL:**

Loan documentation will be drawn by the Lender's solicitor using the Lender's specified forms. The full Loan amount will be advanced to the Borrower(s) only when the title to and all security in connection with the Loan and all other documents and matters with respect to the Loan being necessary or advisable to the Lender's solicitors are complete, satisfactory and acceptable to the Lender's solicitors.

**4. COSTS:**

The Borrower(s) and Covenantor(s) shall pay, whether or not all or any part of the Loan is advanced, all legal costs, registration fees, appraisal fees, consulting fees and all out-of-pocket expenses incurred by the Lender relating to the Loan in preparation for and completion of the transaction contemplated by this Commitment Letter. Such costs, fees and expenses may be deducted out of the Loan funds to be disbursed, and this Commitment Letter shall constitute an irrevocable direction by the Borrower(s) and Covenantor(s) in that regard.

Upon the Borrower(s)' repayment of the Loan in full, including all interest and other charges owing thereon, the Lender shall provide the Borrower with a discharge of the Loan security registered against the Borrower(s), Covenantor(s) and Secured Property (to be prepared and delivered to the Lender by the Borrower(s) or its solicitor at its own cost) upon payment to the Lender of the discharge fee outlined herein (where permissible by provincial law).

**5. TITLE:**

The Borrower(s) are, or shall become, the registered and beneficial freehold interest owner of the Secured Property at the time of the disbursement of any part of the Loan. The Borrower(s) will have, as the registered owner of the Secured Property, a good and marketable title in fee simple to the Secured Property, and the Lender will be in priority over all other encumbrances, leases, agreements for leases, restrictions, agreements, liens, assignments, easements, mortgages and charges whatsoever to the extent of the Loan except for such encumbrances to which the Lender may consent to in writing.

The Secured Property and all improvements thereon shall have been duly authorized and comply in all respects with all applicable laws, bylaws, government requirements, whether federal, provincial, or municipal, including without restriction, those dealing with zoning, use, occupancy, liquor license, subdivision, parking, historical designations, fire access, loading facilities, landscaped areas, pollution of the environment, toxic materials or other environmental hazards, building construction, public health and safety, and there shall be no outstanding work orders, judicial or administrative actions, suits, or proceedings pending or threatened against the Secured Property or the improvements or any part thereof.

**6. REPRESENTATIONS AND WARRANTIES OF DOMAIN FUNDING:**

The Borrower(s) and Covenantor(s) acknowledge that Domain Funding has made no verbal or written representations or warranties related to the Loan, the Secured Property, or the ability to provide future financing of the Secured Property after the Loan Funding Date, except as expressly outlined in this Commitment Letter.

**7. REPRESENTATIONS AND WARRANTIES OF BORROWER(S) AND COVENANTOR(S):**

The Borrower(s) and Covenantor(s) represent and warrant the following to Domain Funding and the Lender:

a) The Borrower(s) are, or shall become, the registered and beneficial freehold interest owner of the Secured Property at the time of the disbursement of any part of the Loan.
b) The Borrower(s) is the legal and beneficial owner of all the right, title and interest to the Secured Property and holds no portion of the legal or beneficial interest in the Secured Property in trust for any party(s).
c) All other mortgage loans to the Borrower(s) with any lender have not been in arrears in the last 12 months, except as disclosed to and approved by Domain Funding.
d) All financial statements and other documents and information delivered by the Borrower(s) and Covenantor(s) in connection with the Borrower(s)' application for the Loan are true, complete and accurate and representative of the financial condition of the Borrower(s) and Covenantor(s).
e) Neither the Borrower(s) nor the Covenantor(s) are in default under any agreement or instruments to which any of them are a party that materially affects any of their businesses, property, assets or financial condition.
f) At the time of disbursement of any part of the Loan, no default shall have occurred and be continuing, nor any state of affairs or event shall be existing which, with the passage of time or the giving of notice or both, would constitute a default under any of the Loan Security documents, and neither the Borrower(s) nor the Covenantor(s) shall be deceased, insolvent or be subject to any bankruptcy, arrangement with creditors, proposal, amalgamation, outstanding claims, actions, suits, judgments, investigations, reorganization, liquidation, winding up, dissolution, receivership or material litigation or continuation under laws of any jurisdiction, nor, to the best of the knowledge of the Borrower(s) or Covenantor(s) are there any pending or threatened. Any default herein shall be deemed to be a default under the Loan. Any default under the Loan shall be deemed to be a default hereunder.
g) The purpose of the Loan is primarily for business, investment or commercial purposes and is not primarily for personal, family or household purposes. The Borrower(s) will only use the Loan proceeds for the Loan purposes set out in the "Uses and Sources of Funds" section of this Commitment Letter.
h) Once executed by the Borrower(s) and Covenantor(s), this Commitment Letter and all other Loan security documentation will each be a valid and binding obligation of each of the Borrower(s) and Covenantor(s) in accordance with their terms.
i) All remittances required to be made by the Borrower(s) or Covenantor(s) to federal, provincial and municipal governments have been made, are currently up to date and not in arrears.
j) The Borrower(s) and/or Covenantor(s) have the ability to service the Loan debt.

The Borrower(s) and Covenantor(s) agree that the above representations and warranties will be true and correct as of the execution of this Commitment Letter and at the time of disbursement of any part of the Loan, and any extension or renewal of the Loan, and will survive the completion of the Loan and any extension or renewal thereof.

The Borrower(s) and Covenantor(s) represent and warrant that all financial and other information provided in connection with the Borrower(s)' Application to Finance the Secured Property is true, accurate and complete, and acknowledges that the terms and conditions contained in this Commitment Letter are based on reliance by Domain Funding and the Lender on the truth, accuracy and completeness of the information provided and the above representations.

## 8. COVENANTS OF BORROWER(S) AND COVENANTOR(S):

The Borrower(s) and Covenantor(s) hereby covenant to:

a) Comply with all Loan terms outlined in this Commitment Letter.
b) Keep all prior and subsequent mortgages registered against the Secured Property, as permitted by the Lender, current and in good status while the Loan remains outstanding.
c) If applicable, comply with all provisions of the Builders Lien Act (or equivalent provincial statute where the Secured Property is located).
d) If applicable, supply to the Lender a statutory declaration in conjunction with each advance under the Loan, confirming the status of any holdback account(s) as at the date of the statutory declaration.
e) Promptly deliver to the Lender the information and documentation required hereunder and such further information and documentation, such as financial reports, as is requested by the Lender or its solicitor, concerning the Borrower(s), Covenantor(s), the Secured Property, or the Project (if applicable), and to advise the Lender immediately upon a material adverse change or the discovery of a discrepancy or inaccuracy in or to the information and documentation provided to the Lender in connection with the Loan.
f) Take all appropriate remedial action in the event of a violation of any environmental law, release of hazardous substances on the Secured Property or any other contamination of the Secured Property.
g) Not further encumber the Secured Property without the written consent of the Lender.
h) Comply with provincial securities acts and mortgage broker acts, where applicable.
i) Remain in good standing with the Canada Revenue Agency (CRA) with respect to tax filings and remittances.
j) Neither the Borrower(s) nor their employees, officers, directors, or agents will represent that financing is available from Domain Funding or Domain Mortgage Corp. to any contractors, trades, or suppliers performing work on the Secured Property.

## 9. PUBLISHING, MARKETING AND SIGNAGE:

The Borrower(s) and Covenantor(s) agree to allow Domain Funding to photograph or utilize existing photographs of the Secured Property and to publish such photographs along with details of the Loan in internal and/or external marketing programs.

The Borrower(s) and Covenantor(s) also agree to allow Domain Funding the right to install on the Secured Property, at Domain Funding's expense, up to four "Domain Funding" financing signs, the location(s) of which shall be mutually agreed to by the parties.

## 10. CONFIDENTIALITY AND DISCLOSURE:

The Borrower(s) and Covenantor(s) acknowledge and agree that the terms and conditions of this Commitment Letter are confidential between the Borrower(s), the Covenantor(s), Domain Funding and the Lender. The Borrower(s) and Covenantor(s) agree not to disclose the information contained herein to any third party without the written consent of the Lender.

The Borrower(s) and Covenantor(s) also acknowledge and agree that the Lender may, at its sole discretion, syndicate the Loan, including to affiliates or associates of the Lender as co-lenders or the sole lender of the Loan, and may disclose to co-lenders, investors and their share or unit holders, as applicable, any or all information provided to the Lender by the Borrower(s) and Covenantor(s), including but not limited to corporate and personal financial information.

## 11. CONSENT TO COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION:

The Borrower(s) and Covenantor(s) hereby authorize Domain Funding and/or the Lender to obtain information from any credit reporting agency or credit granting organization as required at any time and consents to the disclosure of such information at any time to any credit reporting agency or credit granting organization.

In addition, without limiting the foregoing, the Borrower(s) and Covenantor(s), if an individual, hereby acknowledge that they have read and understood Domain Funding's current privacy policy, including specifically the provisions respecting the collection, use and disclosure of personal information, and hereby consents to the collection, use and disclosure of their personal information by Domain Funding and/or the Lender in accordance with Domain Funding's current privacy policy, as described on Domain Funding's company website: www.domainfunding.ca.

**12. ASSIGNMENT:**

The Loan may be assigned by the Lender at which time the Lender shall be relieved by the Borrower(s) and Covenantor(s) of all liabilities and claims relating to the Loan hereunder. The Loan is neither assignable nor transferable by the Borrower(s) or Covenantor(s) without the written approval of the Lender. In addition, the Lender may appoint or engage another party to service and administer the Loan, including collection of payments under the Loan and the approval of Conditions Precedent to Funding the Loan, without prior notice to or consent of the Borrower(s) and/or Covenantor(s).

**13. ADVERSE CHANGE:**

It is a term and condition of the granting, approval and continuation of the Loan, both before and after the disbursement of funds, that, in the Lender's sole opinion, an adverse change relating to the Borrower(s), the Covenantor(s), the Project (if applicable), the Secured Property, the Loan Security or the risk associated with the Loan shall not have occurred, including that there are no actions, suits or pending proceedings involving the Borrower(s) or any Covenantor(s). In the event of an adverse change, the Lender may, in its sole discretion, declare or treat it as an event of default under the Loan, may cease or delay further funding, may terminate this Commitment Letter and may exercise any and all remedies available to it under this Commitment Letter and the Lender's Loan Security or at law or in equity.

**14. COUNTERPARTS AND FACSIMILE/E-MAIL EXECUTION:**

This Commitment Letter may be executed in one or more counterparts, each of which when so executed will constitute an original, and all of which will constitute one and the same Commitment Letter. Also, this Commitment Letter may be executed by the parties and transmitted by facsimile or by e-mail (with PDF attachment), and if so executed and transmitted this Commitment Letter shall be for all purposes as effective as if the parties had delivered an executed original copy of this Commitment Letter.

**15. SEVERABILITY:**

Each of the provisions in this Commitment Letter is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision of this Commitment Letter. To the extent permitted by applicable law, the parties waive any provision of law that renders any provision of this Commitment Letter invalid or unenforceable in any respect.

**16. GOVERNING LAWS:**

The agreement constituted by the Borrower(s)' and Covenantor(s)' acceptance of this Commitment Letter shall be governed by the laws of the province of British Columbia.

**17. BORROWER'S SOLICITOR:**

The Lender shall have the right to approve the solicitor(s) for the Borrower(s) and the Lender may, in its sole discretion, require the Borrower to change its solicitors at any time.

**18. DISCHARGE OF LOAN SECURITY:**

Prior to the discharge of the Lender's mortgage security, the Borrower(s)/Covenantor(s) must provide the Lender, at the Lender's request, a CRA Clearance Certificate, satisfactory to the Lender, indicating that the Borrower(s)/Covenantor(s) are in good standing with the CRA with respect to tax filings and remittances and that no funds are owing to the CRA.

**19. SURVIVAL:**

The obligation and promise of the Borrower(s) and Covenantor(s) to pay the Loan Fee(s), interest on the Loan amount at the interest rate from the time the Loan amount was available for advance, up to and including the date the Loan is repaid or no longer available, including minimum interest, legal fees and disbursements, shall survive the lapse, termination or cancellation of this Commitment Letter.

The terms and conditions of this Commitment Letter shall, after acceptance by the Borrower(s) and Covenantor(s), survive the execution and registration of all security documentation and there shall be no merger of these provisions or conditions in the security provided that in the case of a conflict between the provisions hereof and of any of the security documents, the Lender shall be entitled to elect which provisions shall prevail.

**20. TIME SHALL BE OF THE ESSENCE:**

It is understood that, with reference to all terms and conditions of this Commitment Letter, time shall be of the essence.

*Commitment Letter Dated May 11, 2021*
*Loan #: 2021-BC010*

**SCHEDULE "B" – PROMISSORY NOTE**

*(ATTACHED TO AND FORMING PART OF THE COMMITMENT LETTER DATED TUESDAY MAY 11, 2021)*

| | |
|---|---|
| **Date of Promissory Note:** | **May 11, 2021** |
| **Principal Sum of Promissory Note:** | **$145,000.00** |
| **Interest Commencement Date of Promissory Note:** | **May 26, 2021** |
| **Maturity Date of Promissory Note:** | **June 11, 2021** |

FOR VALUE RECEIVED including TEN DOLLARS (the receipt and sufficiency of which is hereby acknowledged by the parties signing this Promissory Note) and other good and valuable consideration, we promise to pay on demand to Bankers Mortgage Corporation d/b/a Domain Funding at its office located at #1100 – 1040 West Georgia Street, Vancouver, British Columbia, the sum of ONE HUNDRED FORTY-FIVE THOUSAND DOLLARS (hereinafter called the "Principal Sum") with interest thereon at the rate of 18.00% per annum, calculated monthly as well after as before maturity, default and judgment with overdue interest at the same rate as on the Principal Sum, on the maturity date of this Promissory Note.

We agree that, as security for payment of the PROMISSORY NOTE, we hereby mortgage and charge our right, title and interest in the real property located at;

| | |
|---|---|
| Civic Address: | 1250 West Hastings Street, Vancouver B.C. V6E 4H1 |
| Legal Description: | Lot 18, Block 29, Plan VAP92, District Lot 185, New Westminster Land District, Exc That Pt of Canadian Pacific Railway Srw as Described in Absolute Fee Parcels Book, Volume 9, Folio 317, No. 1154c, & Exc S 7 Ft Now Rd |
| PIDs: | 006-721-397 |

as and by way of an equitable mortgage, in favour of Bankers Mortgage Corporation d/b/a Domain Funding. The equitable mortgage created hereby shall remain in effect until the PROMISSORY NOTE is paid in full.

The undersigned hereby jointly and severally waive demand or presentment for payment, notice of dishonor, protest and notice of protest, and hereby agree to pay, upon the default of any payment hereof, all expenses related or incidental to the PROMISSORY NOTE including all costs for enforcement on a true indemnity, solicitor and own client costs basis.

**Signed, sealed and delivered this 11 day of May, 2021.**

| **BORROWER(S):** | **COVENANTOR(S):** |
|---|---|
| **Evergreen House Development Limited Partnership** | **Port Capital Development Inc.** |
| PER: Authorized Signatory | PER: Authorized Signatory |
| **Port Capital Development (EV) Inc. as the General Partner of Evergreen House Development Limited Partnership** | **Mr. Macario Teodoro Reyes** |
| PER: Authorized Signatory | **Mr. Macario Teodoro Reyes** |

Initials of Borrower(s)/Covenantor(s):

*Commitment Letter Dated May 11, 2021*
*Loan #: 2021-BC010*

## SCHEDULE "C" – BORROWER(S)' INFORMATION

*(ATTACHED TO AND FORMING PART OF THE COMMITMENT LETTER DATED TUESDAY MAY 11, 2021)*

1. **BORROWER(S):**

Name: ______________________________

Registered Records Office: ______________________________

Telephone: ______________________________

Fax: ______________________________

E-Mail: ______________________________

2. **BORROWER(S)' SOLICITOR:**

Name: ______________________________

Address: ______________________________

______________________________

Telephone: ______________________________

Fax: ______________________________

E-Mail: ______________________________

3. **BORROWER(S)' INSURANCE AGENT:**

Name: ______________________________

Address: ______________________________

______________________________

Telephone: ______________________________

Fax: ______________________________

E-Mail: ______________________________

## SCHEDULE "D" – PERMISSIBLE SUBSEQUENT ENCUMBRANCES

Copy of Title No. CA7287055

**TITLE SEARCH PRINT** 2021-01-12, 16:30:30
File Reference: PortTerrace Requestor: Freeman Yee

**CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN**

**Land Title District** VANCOUVER
Land Title Office VANCOUVER

**Title Number** CA7287055
From Title Number CA3968148

**Application Received** 2019-01-09

**Application Entered** 2019-01-19

**Registered Owner in Fee Simple**
Registered Owner/Mailing Address: PORT CAPITAL DEVELOPMENT (EV) INC., INC.NO. BC1005887
325 WEST 4TH AVENUE
VANCOUVER, BC
V5Y 1H3

**Taxation Authority** Vancouver, City of

**Description of Land**
Parcel Identifier: 006-721-397
Legal Description:
LOT 18, EXCEPT THAT PART OF THE CANADIAN PACIFIC RAILWAY RIGHT-OF-WAY AS DESCRIBED IN ABSOLUTE FEE PARCELS BOOK, VOLUME 9, FOLIO 317, NO. 1154C, AND EXCEPT THE SOUTH 7 FEET NOW ROAD, BLOCK 29 DISTRICT LOT 185 PLAN 92

**Legal Notations**
HERETO IS ANNEXED EASEMENT BP238635 OVER PARCEL "L" BLOCK 29 DISTRICT LOT 185 GROUP 1 NEW WESTMINSTER DISTRICT PLAN LMP32821

NOTICE OF INTEREST, BUILDERS LIEN ACT (S.3(2)), SEE CA3968149
FILED 2014-09-18

**Charges, Liens and Interests**
Nature: RESTRICTIVE COVENANT
Registration Number: R18424
Remarks: SEE 151466L

Nature: EASEMENT AND INDEMNITY AGREEMENT
Registration Number: J7909
Registration Date and Time: 1981-01-28 13:30
Registered Owner: CITY OF VANCOUVER

**TITLE SEARCH PRINT** 2021-01-12, 16:30:30
File Reference: PortTerrace Requestor: Freeman Yee

| | |
|---|---|
| Nature: | EASEMENT |
| Registration Number: | BP238634 |
| Registration Date and Time: | 2000-10-04 12:45 |
| Remarks: | APPURTENANT TO PARCEL "L" BLOCK 29 DISTRICT LOT 185 GROUP 1 NWD PLAN LMP32821 |
| | |
| Nature: | MORTGAGE |
| Registration Number: | CA6395613 |
| Registration Date and Time: | 2017-10-25 14:37 |
| Registered Owner: | AVIVA INSURANCE COMPANY OF CANADA INCORPORATION NO. A0051421 |
| | |
| Nature: | ASSIGNMENT OF RENTS |
| Registration Number: | CA6395614 |
| Registration Date and Time: | 2017-10-25 14:37 |
| Registered Owner: | AVIVA INSURANCE COMPANY OF CANADA INCORPORATION NO. A0051421 |
| | |
| Nature: | MORTGAGE |
| Registration Number: | CA7337616 |
| Registration Date and Time: | 2019-02-06 15:25 |
| Registered Owner: | CMLS FINANCIAL LTD. INCORPORATION NO. BC0124226 |
| | |
| Nature: | ASSIGNMENT OF RENTS |
| Registration Number: | CA7337617 |
| Registration Date and Time: | 2019-02-06 15:25 |
| Registered Owner: | CMLS FINANCIAL LTD. INCORPORATION NO. BC0124226 |
| | |
| Nature: | PRIORITY AGREEMENT |
| Registration Number: | CA7337731 |
| Registration Date and Time: | 2019-02-06 16:03 |
| Remarks: | GRANTING CA7337616 PRIORITY OVER CA6395613 AND CA6395614 |
| | |
| Nature: | PRIORITY AGREEMENT |
| Registration Number: | CA7337732 |
| Registration Date and Time: | 2019-02-06 16:03 |
| Remarks: | GRANTING CA7337617 PRIORITY OVER CA6395613 AND CA6395614 |
| | |
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8047964 |
| Registration Date and Time: | 2020-02-21 12:07 |
| Registered Owner: | AR-CON HOLDINGS LTD. INCORPORATION NO. BC1172997 |

**TITLE SEARCH PRINT**

File Reference: PortTerrace

2021-01-12, 16:30:30

Requestor: Freeman Yee

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8140760 |
| Registration Date and Time: | 2020-04-15 16:55 |
| Registered Owner: | URBAN ONE BUILDERS CM INC.<br>INCORPORATION NO. BC1028882 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8148543 |
| Registration Date and Time: | 2020-04-21 11:42 |
| Registered Owner: | MATAKANA SCAFFOLDING B.C. INC.<br>INCORPORATION NO. BC0683439 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8154113 |
| Registration Date and Time: | 2020-04-23 17:28 |
| Registered Owner: | FRANCL ARCHITECTURE INC.<br>INCORPORATION NO. BC1143645 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8155198 |
| Registration Date and Time: | 2020-04-24 11:09 |
| Registered Owner: | DOKA CANADA LTD./LTEE<br>INCORPORATION NO. A0070064 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8170195 |
| Registration Date and Time: | 2020-05-01 11:14 |
| Registered Owner: | CAIRNS ELECTRIC LTD.<br>INCORPORATION NO. BC1191875 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | WX2147027 |
| Registration Date and Time: | 2020-05-01 13:44 |
| Registered Owner: | DYNAMIC STRUCTURES LTD. |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8187493 |
| Registration Date and Time: | 2020-05-13 14:07 |
| Registered Owner: | GLASTECH GLAZING CONTRACTORS LTD.<br>INCORPORATION NO. BC1188251 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8193236 |
| Registration Date and Time: | 2020-05-15 12:26 |
| Registered Owner: | TWO PILLARS CONSTRUCTION LTD.<br>INCORPORATION NO. BC0740590 |

**TITLE SEARCH PRINT** 2021-01-12, 16:30:30
File Reference: PortTerrace Requestor: Freeman Yee

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8198230 |
| Registration Date and Time: | 2020-05-20 12:53 |
| Registered Owner: | CENTURA BUILDING SYSTEMS (2013) LTD.<br>INCORPORATION NO. BC0959038 |

| | |
|---|---|
| Nature: | CERTIFICATE OF PENDING LITIGATION |
| Registration Number: | CA8208931 |
| Registration Date and Time: | 2020-05-27 11:24 |
| Registered Owner: | URBAN ONE BUILDERS CM INC.<br>INCORPORATION NO. BC1028882 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8213493 |
| Registration Date and Time: | 2020-05-28 15:40 |
| Registered Owner: | RDH BUILDING SCIENCE INC.<br>INCORPORATION NO. BC0549924 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8232262 |
| Registration Date and Time: | 2020-06-08 16:39 |
| Registered Owner: | COLUMBIA SEAL LTD.<br>INCORPORATION NO. 1091476 |

| | |
|---|---|
| Nature: | MORTGAGE |
| Registration Number: | CA8277031 |
| Registration Date and Time: | 2020-06-30 16:49 |
| Registered Owner: | DESJARDINS FINANCIAL SECURITY LIFE ASSURANCE COMPANY<br>INCORPORATION NO. A0056166 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8381710 |
| Registration Date and Time: | 2020-08-25 09:42 |
| Registered Owner: | HARRIS STEEL ULC<br>INCORPORATION NO. A0078280 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8381711 |
| Registration Date and Time: | 2020-08-25 09:42 |
| Registered Owner: | HARRIS STEEL ULC<br>INCORPORATION NO. A0078280 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8381712 |
| Registration Date and Time: | 2020-08-25 09:42 |
| Registered Owner: | HARRIS STEEL ULC DBA HARRIS REBAR<br>INCORPORATION NO. A0078280 |

**TITLE SEARCH PRINT** 2021-01-12, 16:30:30

File Reference: PortTerrace Requestor: Freeman Yee

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8381713 |
| Registration Date and Time: | 2020-08-25 09:42 |
| Registered Owner: | HARRIS STEEL ULC<br>INCORPORATION NO. A0078280 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8381714 |
| Registration Date and Time: | 2020-08-25 09:42 |
| Registered Owner: | HARRIS STEEL ULC<br>INCORPORATION NO. A0078280 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8381715 |
| Registration Date and Time: | 2020-08-25 09:42 |
| Registered Owner: | HARRIS STEEL ULC<br>INCORPORATION NO. A0078280 |

| | |
|---|---|
| Nature: | CLAIM OF BUILDERS LIEN |
| Registration Number: | CA8430537 |
| Registration Date and Time: | 2020-09-15 15:37 |
| Registered Owner: | INTEGRAL GROUP CONSULTING (BC) LLP |

**Duplicate Indefeasible Title** NONE OUTSTANDING

**Transfers** NONE

**Pending Applications** NONE

This is **Exhibit "B"** referred to in the
Affidavit of T. REYES sworn
this 21ST day of MAY, 2021.

A Commissioner for taking Affidavits within
British Columbia

**COMMMITMENT LETTER**
**AND ACKNOWLEDGEMENT**

**TO:** **Tobi Reyes**
325 West 4th Avenue
Vancouver, British Columbia
V5Y 1H3

**Re:** **$1,500,000 Loan**

Evergreen House Development Limited Partnership (the "**Old LP**") by its general partner, Port Capital Development (EV) Inc. (the "**Old GP**") pursued the development of a project located at 1250 West Pender Street, Vancouver, BC (the "**Terrace House Project**").

The undersigned lender (the "**Lender**") agrees to provide a loan in the amount of $1,500,000 (the "**Loan**") to Macario Teodoro Reyes or assignee (the "**Borrower**"). The Loan will be provided on or before May 24, 2021.

The Lender acknowledges that the Loan is being provided to the Borrower for the purpose of assisting the Borrower to acquire the CMLS Loan and the DIP Loan related to the Terrace House Project.

Dated this 7th day of May, 2021.

1260780 BC Ltd.
Print Legal Name of Company

Per: ______________________
Authorized Signatory

This is **Exhibit "C"** referred to in the
Affidavit of T. REYES sworn
this 21ST day of MAY, 2021.

A Commissioner for taking Affidavits within
British Columbia

Signed Irrevocable Direction for Deposits Held at Denton's

| | Unit # | | $'s |
|---|---|---|---|
| 1 | 801 | Luz Consuelo Reyes | $ 2,800,000 |
| 2 | 1001 | 1192706 B.C. Ltd. | $ 1,155,000 |
| 3 | CRU | 1208596 B.C. Ltd. | $ 975,201 |
| 4 | 901 | 1301981 B.C. Ltd. | $ 1,162,500 |
| 5 | 403 | 1207867 B.C. Ltd. | $ 645,000 |
| 6 | 503 | Robert Davis | $ 592,500 |
| 7 | 401 | Simon Wong | $ 675,000 |
| | | **TOTAL:** | **$ 8,005,201** |

**IRREVOCABLE DIRECTION TO PAY**

**TO:** **Dentons Canada LLP**
20th Floor, 250 Howe Street
Vancouver, British Columbia
V6C 3R8

**Re:** **Funds held in trust for Deposits for Terrace House Units**

Evergreen House Development Limited Partnership (the "**Old LP**") by its general partner, Port Capital Development (EV) Inc. (the "**Old GP**") pursued the development of a project located at 1250 West Pender Street, Vancouver, BC (the "**Terrace House Project**"). The undersigned has provided a deposit (the "**Deposit**") that is currently held in trust with Dentons Canada LLP ("**Dentons**") to acquire a unit in the Terrace House Project, the details of which are set out below.

CMLS Financial Ltd ("**CMLS**") was the Terrace House Project's construction lender pursuant to a commitment letter dated July 4, 2019 (the "**CMLS Loan**") as amended. The CMLS Loan is secured by, among other things, a first ranking mortgage against the Terrace House Project. The indebtedness on the CMLS Loan was approximately $20.1 million at the commencement of the CCAA Proceedings in 2020.

On May 29, 2020, Ernst & Young Inc. ("**EY**") was appointed as the monitor of the Terrace House Project pursuant to a court order of the BC Supreme Court (the "**CCAA Proceedings**"). The court also approved a debtor in possession loan (the "**DIP Loan**") in favour of Desjardins Financial Security Life Assurance Company ("**Desjardins**" or the "**DIP Lender**"). The indebtedness on the DIP Loan is projected to be $1.5 million as at April 30, 2021.

1296371 B.C. Ltd. (the "**Junior Lender**") has been created to participate in the acquisition of the CMLS Loan and the DIP Loan. Domain Mortgage Corp. and/or Bankers Mortgage Corp. doing business as Domain Funding (Domain Mortgage Corp. and Bankers Mortgage Corp., individually or collectively are "**Domain Funding**") as the new funder (the "**Senior Lender**") has agreed to provide the sum of $16M and Domain Funding has or will establish a new entity ("**Newco**") controlled by Domain Funding to acquire the CMLS Mortgage and the DIP Loan. The Senior Lender will have the first position of repayment under the acquired CMLS Mortgage and DIP Loan and the Junior Lender will have second position of repayment under the CMLS Mortgage pursuant to an interlender or co-lender agreement as between the Senior Lender and the Junior Lender. The CMLS Loan and DIP Loan will remain as charges on the real estate related to the Terrace House Project with the expectation that the Senior Lender would be repaid once new construction financing (the "**Construction Financing**") is obtained. The Construction Financing will be used to repay the Senior Lender and may be used as part of a plan to exit CCAA on terms to be determined. On the registration of the Construction Financing on the Terrace House Project, the Junior Lender would release the funds back into the Terrace House Project to be used as equity with each of the lenders to the Junior Lender being credited with a deposit against a unit in the Terrance House Project.

This Direction is intended to reflect the general agreement of the undersigned to the use of the Deposit on the terms herein, subject only to the consents (the "**Consents**") required to obtain the release of the Deposit from the trust account of Dentons being (1) the consent of the Monitor (on behalf of the developer), (2) the consent of CMLS and agreement to sell and assign the CMLS Loan, and (3) the consent of the DIP Lender and agreement to sell and assign the DIP Loan. The additional conditions (the "**Conditions**") to the release of the Deposit are that CMLS, the DIP Lender and Newco finalize and sign a purchase agreement to allow Newco to acquire the CMLS Loan and the DIP Loan as well as the necessary Court approvals in the CCAA Proceedings.

Please accept this as your irrevocable authority and direction to, once you have obtained the Consents and the Conditions have been satisfied, to transfer the Deposit to 1296371 B.C. Ltd. in order to facilitate the loan by the Junior Lender to Newco so that Newco can acquire the CMLS Loan and the DIP Loan. This irrevocable authority and direction will terminate on August 31, 2021, unless extended by the undersigned in writing.

**Name of Deposit Holder:** Luz Consuelo Reyes
**Deposit Amount Held in Trust at Dentons:** $2,800,000.00
**Unit:** 801

Dated this 13th day of April, 2021.

**THE UNDERSIGNED HAS HAD THIS IRREVOCABLE DIRECTION TO PAY WITNESSED AND COMPLETED BY A LAWYER WHO HAS PROVIDED INDPEPENDENT LEGAL ADVICE TO THE UNDERSIGNED.**

**WITNESSED BY:**

Witness Signature

WENDY TAN LIM
Printed Name of Witness

#702-6240 MCKAY AVE, BURNABY, BC V5H4L8
Witness Address

LAWYER
Witness Occupation

**LUZ CONSUELO REYES**

Seal

## IRREVOCABLE DIRECTION TO PAY

**TO:** **Dentons Canada LLP**
20th Floor, 250 Howe Street
Vancouver, British Columbia
V6C 3R8

**Re:** **Funds held in trust for Deposits for Terrace House Units**

Evergreen House Development Limited Partnership (the "**Old LP**") by its general partner, Port Capital Development (EV) Inc. (the "**Old GP**") pursued the development of a project located at 1250 West Pender Street, Vancouver, BC (the "**Terrace House Project**"). The undersigned has provided a deposit (the "**Deposit**") that is currently held in trust with Dentons Canada LLP ("**Dentons**") to acquire a unit in the Terrace House Project, the details of which are set out below.

CMLS Financial Ltd ("**CMLS**") was the Terrace House Project's construction lender pursuant to a commitment letter dated July 4, 2019 (the "**CMLS Loan**") as amended. The CMLS Loan is secured by, among other things, a first ranking mortgage against the Terrace House Project. The indebtedness on the CMLS Loan was approximately $20.1 million at the commencement of the CCAA Proceedings in 2020.

On May 29, 2020, Ernst & Young Inc. ("**EY**") was appointed as the monitor of the Terrace House Project pursuant to a court order of the BC Supreme Court (the "**CCAA Proceedings**"). The court also approved a debtor in possession loan (the "**DIP Loan**") in favour of Desjardins Financial Security Life Assurance Company ("**Desjardins**" or the "**DIP Lender**"). The indebtedness on the DIP Loan is projected to be $1.5 million as at April 30, 2021.

1296371 B.C. Ltd. (the "**Junior Lender**") has been created to participate in the acquisition of the CMLS Loan and the DIP Loan. Domain Mortgage Corp. and/or Bankers Mortgage Corp. doing business as Domain Funding (Domain Mortgage Corp. and Bankers Mortgage Corp., individually or collectively are "**Domain Funding**") as the new funder (the "**Senior Lender**") has agreed to provide the sum of $16M and Domain Funding has or will establish a new entity ("**Newco**") controlled by Domain Funding to acquire the CMLS Mortgage and the DIP Loan. The Senior Lender will have the first position of repayment under the acquired CMLS Mortgage and DIP Loan and the Junior Lender will have second position of repayment under the CMLS Mortgage pursuant to an interlender or co-lender agreement as between the Senior Lender and the Junior Lender. The CMLS Loan and DIP Loan will remain as charges on the real estate related to the Terrace House Project with the expectation that the Senior Lender would be repaid once new construction financing (the "**Construction Financing**") is obtained. The Construction Financing will be used to repay the Senior Lender and may be used as part of a plan to exit CCAA on terms to be determined. On the registration of the Construction Financing on the Terrace House Project, the Junior Lender would release the funds, including the Deposit, back into the Terrace House Project to be used as equity with each of the lenders to the Junior Lender, including the undersigned, being credited with a deposit against a unit in the Terrance House Project (the "**Transaction**").

This Direction is intended to reflect the general agreement of the undersigned to the use of the Deposit on the terms herein, subject to the consents (the "**Consents**") required to obtain the release of the Deposit from the trust account of Dentons being (1) the consent of the Monitor (on behalf of the developer), (2) the consent of CMLS and agreement to sell and assign the CMLS Loan, (3) the consent of the DIP Lender and agreement to sell and assign the DIP Loan, and (4) the consent of the undersigned to release the Deposit after undersigned's counsel has reviewed the definitive documents required to effect the Transaction. The additional conditions (the "**Conditions**") to the release of the Deposit are that CMLS, the DIP Lender and Newco finalize and sign a purchase agreement to allow Newco to acquire the CMLS Loan and the DIP Loan as well as the necessary Court approvals in the CCAA Proceedings.



S. A.

Please accept this as your irrevocable authority and direction to, once you have obtained the Consents and the Conditions have been satisfied, to transfer the Deposit to 1296371 B.C. Ltd. in order to facilitate the loan by the Junior Lender to Newco so that Newco can acquire the CMLS Loan and the DIP Loan. This irrevocable authority and direction will terminate on August 31, 2021, unless extended by the undersigned in writing.

**Name of Deposit Holder:** 1192706 B.C. Ltd.
**Deposit Amount Held in Trust at Dentons:** $1,155,000.00
**Unit:** 1001

Dated this 18th day of April, 2021.

**THE UNDERSIGNED HAS HAD THIS IRREVOCABLE DIRECTION TO PAY WITNESSED REMOTELY BY VIDEO CONFERENCE AND COMPLETED BY A LAWYER WHO HAS PROVIDED INDEPENDENT LEGAL ADVICE TO THE UNDERSIGNED.**

**WITNESSED BY:**

Witness Signature

Nicholas J. Carlson

Printed Name of Witness

900 - 885 West Georgia St., Vancouver, BC

Witness Address

Lawyer

Witness Occupation

**1192706 B.C. LTD.**

**Authorized Signatory**

Seal



S.A.

**IRREVOCABLE DIRECTION TO PAY**

**TO:** **Dentons Canada LLP**
20th Floor, 250 Howe Street
Vancouver, British Columbia
V6C 3R8

**Re:** **Funds held in trust for Deposits for Terrace House Units**

Evergreen House Development Limited Partnership (the "**Old LP**") by its general partner, Port Capital Development (EV) Inc. (the "**Old GP**") pursued the development of a project located at 1250 West Pender Street, Vancouver, BC (the "**Terrace House Project**"). The undersigned has provided a deposit (the "**Deposit**") that is currently held in trust with Dentons Canada LLP ("**Dentons**") to acquire a unit in the Terrace House Project, the details of which are set out below.

CMLS Financial Ltd ("**CMLS**") was the Terrace House Project's construction lender pursuant to a commitment letter dated July 4, 2019 (the "**CMLS Loan**") as amended. The CMLS Loan is secured by, among other things, a first ranking mortgage against the Terrace House Project. The indebtedness on the CMLS Loan was approximately $20.1 million at the commencement of the CCAA Proceedings in 2020.

On May 29, 2020, Ernst & Young Inc. ("**EY**") was appointed as the monitor of the Terrace House Project pursuant to a court order of the BC Supreme Court (the "**CCAA Proceedings**"). The court also approved a debtor in possession loan (the "**DIP Loan**") in favour of Desjardins Financial Security Life Assurance Company ("**Desjardins**" or the "**DIP Lender**"). The indebtedness on the DIP Loan is projected to be $1.5 million as at April 30, 2021.

1296371 B.C. Ltd. (the "**Junior Lender**") has been created to participate in the acquisition of the CMLS Loan and the DIP Loan. Domain Mortgage Corp. and/or Bankers Mortgage Corp. doing business as Domain Funding (Domain Mortgage Corp. and Bankers Mortgage Corp., individually or collectively are "**Domain Funding**") as the new funder (the "**Senior Lender**") has agreed to provide the sum of $16M and Domain Funding has or will establish a new entity ("**Newco**") controlled by Domain Funding to acquire the CMLS Mortgage and the DIP Loan. The Senior Lender will have the first position of repayment under the acquired CMLS Mortgage and DIP Loan and the Junior Lender will have second position of repayment under the CMLS Mortgage pursuant to an interlender or co-lender agreement as between the Senior Lender and the Junior Lender. The CMLS Loan and DIP Loan will remain as charges on the real estate related to the Terrace House Project with the expectation that the Senior Lender would be repaid once new construction financing (the "**Construction Financing**") is obtained. The Construction Financing will be used to repay the Senior Lender and may be used as part of a plan to exit CCAA on terms to be determined. On the registration of the Construction Financing on the Terrace House Project, the Junior Lender would release the funds, including the Deposit, back into the Terrace House Project to be used as equity with each of the lenders to the Junior Lender, including the undersigned, being credited with a deposit against a unit in the Terrance House Project (the "**Transaction**").

This Direction is intended to reflect the general agreement of the undersigned to the use of the Deposit on the terms herein, subject to the consents (the "**Consents**") required to obtain the release of the Deposit from the trust account of Dentons being (1) the consent of the Monitor (on behalf of the developer), (2) the consent of CMLS and agreement to sell and assign the CMLS Loan, (3) the consent of the DIP Lender and agreement to sell and assign the DIP Loan, and (4) the consent of the undersigned to release the Deposit after undersigned's counsel has reviewed the definitive documents required to effect the Transaction. The additional conditions (the "**Conditions**") to the release of the Deposit are that CMLS, the DIP Lender and Newco finalize and sign a purchase agreement to allow Newco to acquire the CMLS Loan and the DIP Loan as well as the necessary Court approvals in the CCAA Proceedings.



S.A.

Please accept this as your irrevocable authority and direction to, once you have obtained the Consents and the Conditions have been satisfied, to transfer the Deposit to 1296371 B.C. Ltd. in order to facilitate the loan by the Junior Lender to Newco so that Newco can acquire the CMLS Loan and the DIP Loan. This irrevocable authority and direction will terminate on August 31, 2021, unless extended by the undersigned in writing.

**Name of Deposit Holder**: 1208596 B.C. Ltd.
**Deposit Amount Held in Trust at Dentons**: $417,057.00 and $558,144.00
**Unit**: CRU#1 and CRU#2

Dated this 18th day of April, 2021.

**THE UNDERSIGNED HAS HAD THIS IRREVOCABLE DIRECTION TO PAY WITNESSED REMOTELY BY VIDEO CONFERENCE AND COMPLETED BY A LAWYER WHO HAS PROVIDED INDEPENDENT LEGAL ADVICE TO THE UNDERSIGNED.**

**WITNESSED BY:**

Witness Signature

Nicholas J. Carlson

Printed Name of Witness

900 - 885 West Georgia St., Vancouver, BC

Witness Address

Lawyer

Witness Occupation

**1208596 B.C. LTD.**

**Authorized Signatory**



S.A.

**IRREVOCABLE DIRECTION TO PAY**

**TO:** **Dentons Canada LLP**
20th Floor, 250 Howe Street
Vancouver, British Columbia
V6C 3R8

**Re:** **Funds held in trust for Deposits for Terrace House Units**

Evergreen House Development Limited Partnership (the "**Old LP**") by its general partner, Port Capital Development (EV) Inc. (the "**Old GP**") pursued the development of a project located at 1250 West Pender Street, Vancouver, BC (the "**Terrace House Project**"). The undersigned has provided a deposit (the "**Deposit**") that is currently held in trust with Dentons Canada LLP ("**Dentons**") to acquire a unit in the Terrace House Project, the details of which are set out below.

CMLS Financial Ltd ("**CMLS**") was the Terrace House Project's construction lender pursuant to a commitment letter dated July 4, 2019 (the "**CMLS Loan**") as amended. The CMLS Loan is secured by, among other things, a first ranking mortgage against the Terrace House Project. The indebtedness on the CMLS Loan was approximately $20.1 million at the commencement of the CCAA Proceedings in 2020.

On May 29, 2020, Ernst & Young Inc. ("**EY**") was appointed as the monitor of the Terrace House Project pursuant to a court order of the BC Supreme Court (the "**CCAA Proceedings**"). The court also approved a debtor in possession loan (the "**DIP Loan**") in favour of Desjardins Financial Security Life Assurance Company ("**Desjardins**" or the "**DIP Lender**"). The indebtedness on the DIP Loan is projected to be $1.5 million as at April 30, 2021.

1296371 B.C. Ltd. (the "**Junior Lender**") has been created to participate in the acquisition of the CMLS Loan and the DIP Loan. Domain Mortgage Corp. and/or Bankers Mortgage Corp. doing business as Domain Funding (Domain Mortgage Corp. and Bankers Mortgage Corp., individually or collectively are "**Domain Funding**") as the new funder (the "**Senior Lender**") has agreed to provide the sum of $16M and Domain Funding has or will establish a new entity ("**Newco**") controlled by Domain Funding to acquire the CMLS Mortgage and the DIP Loan. The Senior Lender will have the first position of repayment under the acquired CMLS Mortgage and DIP Loan and the Junior Lender will have second position of repayment under the CMLS Mortgage pursuant to an interlender or co-lender agreement as between the Senior Lender and the Junior Lender. The CMLS Loan and DIP Loan will remain as charges on the real estate related to the Terrace House Project with the expectation that the Senior Lender would be repaid once new construction financing (the "**Construction Financing**") is obtained. The Construction Financing will be used to repay the Senior Lender and may be used as part of a plan to exit CCAA on terms to be determined. On the registration of the Construction Financing on the Terrace House Project, the Junior Lender would release the funds back into the Terrace House Project to be used as equity with each of the lenders to the Junior Lender being credited with a deposit against a unit in the Terrance House Project.

This Direction is intended to reflect the general agreement of the undersigned to the use of the Deposit on the terms herein, subject only to the consents (the "**Consents**") required to obtain the release of the Deposit from the trust account of Dentons being (1) the consent of the Monitor (on behalf of the developer), (2) the consent of CMLS and agreement to sell and assign the CMLS Loan, and (3) the consent of the DIP Lender and agreement to sell and assign the DIP Loan. The additional conditions (the "**Conditions**") to the release of the Deposit are that CMLS, the DIP Lender and Newco finalize and sign a purchase agreement to allow Newco to acquire the CMLS Loan and the DIP Loan as well as the necessary Court approvals in the CCAA Proceedings.

Please accept this as your irrevocable authority and direction to, once you have obtained the Consents and the Conditions have been satisfied, to transfer the Deposit to 1296371 B.C. Ltd. in order to facilitate the loan by the Junior Lender to Newco so that Newco can acquire the CMLS Loan and the DIP Loan. This irrevocable authority and direction will terminate on August 31, 2021, unless extended by the undersigned in writing.

**Name of Deposit Holder:** 1301981 B.C. Ltd.
**Deposit Amount Held in Trust at Dentons:** $1,162,500.00
**Unit:** 901

Dated this 6 day of May, 2021.

THE UNDERSIGNED HAS HAD THIS IRREVOCABLE DIRECTION TO PAY WITNESSED.

WITNESSED BY:

Witness Signature

Joseph Scott
Printed Name of Witness

935 Salsbury Dr. Van. BC
Witness Address

Property Manager
Witness Occupation

1301981 B.C. LTD.

Authorized Signatory

Seal

CONFIRMATION and AUTHORIZATION

Hudani Investment Corp. ("**Hudani**") confirms that the deposit in the amount of $1,162,500.00 and held by Dentons Canada LLP in trust for the purchase of Unit 901 of the Terrace House Project is hereby irrevocably assigned by it to 1301981 B.C. Ltd. ("**981 Ltd.**") in consideration for 981 Ltd. agreeing to fulfill the terms and conditions of the purchase contract for the Unit 901, as amended, and arranging for or causing the release of Hudani from such purchase.

Hudani irrevocably authorizes Dentons Canada LLP to accept instructions from 981 Ltd. regarding the deposit and its use for 981 Ltd.

HUDANI INVESTMENT CORP.

Per: ______________________

Print Name: Imtiyaz Hudani (CEO)

Date: May 6, 2021, 2021

______________________
Signature of Witness

A. Raver
Print Name of Witness

Acknowledged by:

1301981 B.C. LTD.

Per: ______________________

Print Name: AUTHORIZED SIGNATORY

Date: May 6, 2021

## IRREVOCABLE DIRECTION TO PAY

**TO:** **Dentons Canada LLP**
20th Floor, 250 Howe Street
Vancouver, British Columbia
V6C 3R8

**Re:** **Funds held in trust for Deposits for Terrace House Units**

Evergreen House Development Limited Partnership (the "**Old LP**") by its general partner, Port Capital Development (EV) Inc. (the "**Old GP**") pursued the development of a project located at 1250 West Pender Street, Vancouver, BC (the "**Terrace House Project**"). The undersigned has provided a deposit (the "**Deposit**") that is currently held in trust with Dentons Canada LLP ("**Dentons**") to acquire a unit in the Terrace House Project, the details of which are set out below.

CMLS Financial Ltd ("**CMLS**") was the Terrace House Project's construction lender pursuant to a commitment letter dated July 4, 2019 (the "**CMLS Loan**") as amended. The CMLS Loan is secured by, among other things, a first ranking mortgage against the Terrace House Project. The indebtedness on the CMLS Loan was approximately $20.1 million at the commencement of the CCAA Proceedings in 2020.

On May 29, 2020, Ernst & Young Inc. ("**EY**") was appointed as the monitor of the Terrace House Project pursuant to a court order of the BC Supreme Court (the "**CCAA Proceedings**"). The court also approved a debtor in possession loan (the "**DIP Loan**") in favour of Desjardins Financial Security Life Assurance Company ("**Desjardins**" or the "**DIP Lender**"). The indebtedness on the DIP Loan is projected to be $1.5 million as at April 30, 2021.

1296371 B.C. Ltd. (the "**Junior Lender**") has been created to participate in the acquisition of the CMLS Loan and the DIP Loan. Domain Mortgage Corp. and/or Bankers Mortgage Corp. doing business as Domain Funding (Domain Mortgage Corp. and Bankers Mortgage Corp., individually or collectively are "**Domain Funding**") as the new funder (the "**Senior Lender**") has agreed to provide the sum of $16M and Domain Funding has or will establish a new entity ("**Newco**") controlled by Domain Funding to acquire the CMLS Mortgage and the DIP Loan. The Senior Lender will have the first position of repayment under the acquired CMLS Mortgage and DIP Loan and the Junior Lender will have second position of repayment under the CMLS Mortgage pursuant to an interlender or co-lender agreement as between the Senior Lender and the Junior Lender. The CMLS Loan and DIP Loan will remain as charges on the real estate related to the Terrace House Project with the expectation that the Senior Lender would be repaid once new construction financing (the "**Construction Financing**") is obtained. The Construction Financing will be used to repay the Senior Lender and may be used as part of a plan to exit CCAA on terms to be determined. On the registration of the Construction Financing on the Terrace House Project, the Junior Lender would release the funds back into the Terrace House Project to be used as equity with each of the lenders to the Junior Lender being credited with a deposit against a unit in the Terrance House Project.

This Direction is intended to reflect the general agreement of the undersigned to the use of the Deposit on the terms herein, subject only to the consents (the "**Consents**") required to obtain the release of the Deposit from the trust account of Dentons being (1) the consent of the Monitor (on behalf of the developer), (2) the consent of CMLS and agreement to sell and assign the CMLS Loan, and (3) the consent of the DIP Lender and agreement to sell and assign the DIP Loan. The additional conditions (the "**Conditions**") to the release of the Deposit are that CMLS, the DIP Lender and Newco finalize and sign a purchase agreement to allow Newco to acquire the CMLS Loan and the DIP Loan as well as the necessary Court approvals in the CCAA Proceedings.

Please accept this as your irrevocable authority and direction to, once you have obtained the Consents and the Conditions have been satisfied, to transfer the Deposit to 1296371 B.C. Ltd. in order to facilitate the loan by the Junior Lender to Newco so that Newco can acquire the CMLS Loan and the DIP Loan. This irrevocable authority and direction will terminate on August 31, 2021, unless extended by the undersigned in writing.

**Name of Deposit Holder:** 1207867 B.C. Ltd.
**Deposit Amount Held in Trust at Dentons:** $645,000.00
**Unit:** 403

Dated this 30th day of April, 2021.

**THE UNDERSIGNED HAS HAD THIS IRREVOCABLE DIRECTION TO PAY WITNESSED AND COMPLETED BY A LAWYER WHO HAS PROVIDED INDPEPENDENT LEGAL ADVICE TO THE UNDERSIGNED.**

| | |
|---|---|
| **WITNESSED BY:** | |
| C. Gregg<br>Witness Signature | **1207867 B.C. LTD.** |
| Carol Gregg<br>Printed Name of Witness | Seal |
| 415 W High Ave, High Point NC<br>Witness Address | Dean Maltz<br>**Authorized Signatory** |
| Furniture Designer<br>Witness Occupation | |

# IRREVOCABLE DIRECTION TO PAY

**TO:** **Dentons Canada LLP**
**20th Floor, 250 Howe Street**
**Vancouver, British Columbia**
**V6C 3R8**

**Re:** **Funds held in trust for Deposits for Terrace House Units**

Evergreen House Development Limited Partnership (the "**Old LP**") by its general partner, Port Capital Development (EV) Inc. (the "**Old GP**") pursued the development of a project located at 1250 West [illegible] Street, Vancouver, BC (the "**Terrace House Project**"). The undersigned has provided a deposit (the "**Deposit**") that is currently held in trust with Dentons Canada LLP ("**Dentons**") to acquire a unit in the Terrace House Project, the details of which are set out below.

CMLS Financial Ltd ("**CMLS**") was the Terrace House Project's construction lender pursuant to a commitment letter dated July 4, 2019 (the "**CMLS Loan**") as amended. The CMLS Loan is secured by, among other things, a first ranking mortgage against the Terrace House Project. The indebtedness on the CMLS Loan was approximately $20.1 million at the commencement of the CCAA Proceedings in 2020.

On May 29, 2020, Ernst & Young Inc. ("**EY**") was appointed as the monitor of the Terrace House Project pursuant to a court order of the BC Supreme Court (the "**CCAA Proceedings**"). The court also approved a debtor in possession loan (the "**DIP Loan**") in favour of Desjardins Financial Security Life Assurance Company ("**Desjardins**" or the "**DIP Lender**"). The indebtedness on the DIP Loan is projected to be $1.5 million as at April 30, 2021.

1296371 B.C. Ltd. (the "**Junior Lender**") has been created to participate in the acquisition of the CMLS Loan and the DIP Loan. Domain Mortgage Corp. and/or Bankers Mortgage Corp. doing business as Domain Funding (Domain Mortgage Corp. and Bankers Mortgage Corp., individually or collectively are "**Domain Funding**") as the new funder (the "**Senior Lender**") has agreed to provide the sum of $16M and Domain Funding has or will establish a new entity ("**Newco**") controlled by Domain Funding to acquire the CMLS Mortgage and the DIP Loan. The Senior Lender will have the first position of repayment under the acquired CMLS Mortgage and DIP Loan and the Junior Lender will have second position of repayment under the CMLS Mortgage pursuant to an interlender or co-lender agreement [illegible] between the Senior Lender and the Junior Lender. The CMLS Loan and DIP Loan will remain as charges on the real estate related to the Terrace House Project with the expectation that the Senior Lender would be repaid once new construction financing (the "**Construction Financing**") is obtained. The Construction Financing will be used to repay the Senior Lender and may be used as part of a plan to exit CCAA on terms to be determined. On the registration of the Construction Financing on the Terrace House Project, the Junior Lender would release the funds back into the Terrace House Project to be used as equity with each of the lenders to the Junior Lender being credited with a deposit against a unit in the Terrance House Project.

This Direction is intended to reflect the general agreement of the undersigned to the use of the Deposit on the terms herein, subject only to the consents (the "**Consents**") required to obtain the release of the Deposit from the trust account of Dentons being (1) the consent of the Monitor (on behalf of the developer), (2) the consent of CMLS and agreement to sell and assign the CMLS Loan, and (3) the consent of the DIP Lender and agreement to sell and assign the DIP Loan. The additional conditions (the "**Conditions**") to the release of the Deposit are that CMLS, the DIP Lender and Newco finalize and sign a purchase agreement to allow Newco to acquire the CMLS Loan and the DIP Loan as well as the necessary Court approvals in the CCAA Proceedings.

Please accept this as your irrevocable authority and direction to, once you have obtained the Consents and the Conditions have been satisfied, to transfer the Deposit to 1296371 B.C. Ltd. in order to facilitate the loan by the Junior Lender to Newco so that Newco can acquire the CMLS Loan and the DIP Loan. This irrevocable authority and direction will terminate on August 31, 2021, unless extended by the undersigned in writing.

Name of Deposit Holder: Robert Davis
Deposit Amount Held in Trust at Dentons: $592,500.00
Unit: 503

Dated this _____ day of April, 2021.

**THE UNDERSIGNED HAS HAD THIS IRREVOCABLE DIRECTION TO PAY WITNESSED AND COMPLETED BY A LAWYER WHO HAS PROVIDED INDPEPENDENT LEGAL ADVICE TO THE UNDERSIGNED.**

**WITNESSED BY:**

Witness Signature

Jeffrey Welsh
Printed Name of Witness

9643 Amella Ave., Northridge CA 91325
Witness Address

Attorney
Witness Occupation

ROBERT DAVIS

## IRREVOCABLE DIRECTION TO PAY

**TO:** **Dentons Canada LLP**
20th Floor, 250 Howe Street
Vancouver, British Columbia
V6C 3R8

**Re:** **Funds held in trust for Deposits for Terrace House Units**

Evergreen House Development Limited Partnership (the "**Old LP**") by its general partner, Port Capital Development (EV) Inc. (the "**Old GP**") pursued the development of a project located at 1250 West Pender Street, Vancouver, BC (the "**Terrace House Project**"). The undersigned has provided a deposit (the "**Deposit**") that is currently held in trust with Dentons Canada LLP ("**Dentons**") to acquire a unit in the Terrace House Project, the details of which are set out below.

CMLS Financial Ltd ("**CMLS**") was the Terrace House Project's construction lender pursuant to a commitment letter dated July 4, 2019 (the "**CMLS Loan**") as amended. The CMLS Loan is secured by, among other things, a first ranking mortgage against the Terrace House Project. The indebtedness on the CMLS Loan was approximately $20.1 million at the commencement of the CCAA Proceedings in 2020.

On May 29, 2020, Ernst & Young Inc. ("**EY**") was appointed as the monitor of the Terrace House Project pursuant to a court order of the BC Supreme Court (the "**CCAA Proceedings**"). The court also approved a debtor in possession loan (the "**DIP Loan**") in favour of Desjardins Financial Security Life Assurance Company ("**Desjardins**" or the "**DIP Lender**"). The indebtedness on the DIP Loan is projected to be $1.5 million as at April 30, 2021.

1296371 B.C. Ltd. (the "**Junior Lender**") has been created to participate in the acquisition of the CMLS Loan and the DIP Loan. Domain Mortgage Corp. and/or Bankers Mortgage Corp. doing business as Domain Funding (Domain Mortgage Corp. and Bankers Mortgage Corp., individually or collectively are "**Domain Funding**") as the new funder (the "**Senior Lender**") has agreed to provide the sum of $16M and Domain Funding has or will establish a new entity ("**Newco**") controlled by Domain Funding to acquire the CMLS Mortgage and the DIP Loan. The Senior Lender will have the first position of repayment under the acquired CMLS Mortgage and DIP Loan and the Junior Lender will have second position of repayment under the CMLS Mortgage pursuant to an interlender or co-lender agreement as between the Senior Lender and the Junior Lender. The CMLS Loan and DIP Loan will remain as charges on the real estate related to the Terrace House Project with the expectation that the Senior Lender would be repaid once new construction financing (the "**Construction Financing**") is obtained. The Construction Financing will be used to repay the Senior Lender and may be used as part of a plan to exit CCAA on terms to be determined. On the registration of the Construction Financing on the Terrace House Project, the Junior Lender would release the funds back into the Terrace House Project to be used as equity with each of the lenders to the Junior Lender being credited with a deposit against a unit in the Terrance House Project.

This Direction is intended to reflect the general agreement of the undersigned to the use of the Deposit on the terms herein, subject only to the consents (the "**Consents**") required to obtain the release of the Deposit from the trust account of Dentons being (1) the consent of the Monitor (on behalf of the developer), (2) the consent of CMLS and agreement to sell and assign the CMLS Loan, and (3) the consent of the DIP Lender and agreement to sell and assign the DIP Loan. The additional conditions (the "**Conditions**") to the release of the Deposit are that CMLS, the DIP Lender and Newco finalize and sign a purchase agreement to allow Newco to acquire the CMLS Loan and the DIP Loan as well as the necessary Court approvals in the CCAA Proceedings.

Please accept this as your irrevocable authority and direction to, once you have obtained the Consents and the Conditions have been satisfied, to transfer the Deposit to 1296371 B.C. Ltd. in order to facilitate the loan by the Junior Lender to Newco so that Newco can acquire the CMLS Loan and the DIP Loan. This irrevocable authority and direction will terminate on August 31, 2021, unless extended by the undersigned in writing.

This irrevocable direction allows the use of the Deposit for participation into a loan to the Junior Lender secured against the purchased CMLS Loan mortgage. This direction does not convert this loan into equity. That would require a follow up equity conversion agreement. If no follow up agreement to convert into equity is accepted and signed by you, the Deposit would be repaid when the loan gets refinanced through the Construction Financing. If the Conditions are not met, then the Deposit will remain in trust at Dentons LLP.

**Name of Deposit Holder:** Simon Wong
**Deposit Amount Held in Trust at Dentons:** $675,000.00
**Unit:** 401

Dated this 7 day of May, 2021.

**THE UNDERSIGNED HAS HAD THIS IRREVOCABLE DIRECTION TO PAY WITNESSED.**

WITNESSED BY:

Mary Wong
Witness Signature

Mary Wong
Printed Name of Witness

987 Crystal Court Coq
Witness Address

housewife
Witness Occupation

SIMON WONG

Seal