

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

ORDER MADE AFTER APPLICATION

(Claims Process Order)

BEFORE THE HONOURABLE	)	
MADAM JUSTICE FITZPATRICK	)	17/June/2022
	)	

ON THE APPLICATION of the Petitioners coming on for hearing before me at Vancouver, British Columbia, on the 17 day of June 2022 AND ON HEARING Michael W. Selnes, counsel for the Petitioners and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the Twelfth Report of Ernst & Young, Inc. in its capacity as court appointed monitor; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "CCAA"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

SERVICE OF APPLICATION

1. Service of notice of this Application and supporting documents is hereby deemed to be

good and sufficient, the time for notice is hereby abridged to the time provided, and no other person is required to have been served with notice of this Application.

DEFINITIONS AND INTERPRETATION

2. For the purposes of this Order (the "**Claims Process Order**") and the Schedules attached hereto, all capitalized terms not otherwise defined in this Claims Process Order shall have the meanings as defined in **Schedule "B"** hereto.

3. All references herein as to time shall mean local time in Vancouver, British Columbia, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein and any event that occurs on a day that is not a Business Day shall be deemed to occur on the next Business Day.

4. All references to the singular herein include the plural and the plural include the singular.

5. All Claims shall be denominated in Canadian dollars. Any Claims denominated in a foreign currency shall be converted to Canadian dollars for purposes of any Plan at the Bank of Canada's noon exchange rate in effect on the Filing Date.

6. Interest and penalties that would otherwise accrue after the Filing Date shall not be included in any Claims.

CLAIMS PROCESS

7. The Claims Process, including the Claims Bar Date and the Post-Filing Claims Bar Date, is hereby approved.

8. The Monitor is hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed and the time in which they are submitted, and may, where the Monitor is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Claims Process Order, including in respect of the completion, execution and time of delivery of such forms, and may request any further documentation from a Creditor that the Petitioners or the Monitor may require in order to enable them to determine the validity of a Claim.

9. Copies of all forms delivered by or to a Creditor hereunder, as applicable, and determinations of Claims by the Monitor, or the Court, as the case may be, shall be maintained by the Monitor and, subject to further order of the Court, such Creditor will be entitled to have access thereto by appointment during normal business hours on written request to the Monitor.

MONITOR'S ROLE IN CLAIMS PROCESS

10. The Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Initial Order, shall have the rights, duties and responsibility set out in this Claims Process Order in connection with the administration of the Claims Process and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this Claims Process Order.

11. In carrying out the terms of this Order, the Monitor shall:

- (a) have all of the protections given to it by the CCAA and any subsequent orders and extensions related thereto, and this Order, or as an officer of the Court, including the stay of proceedings in its favour;
- (b) incur no liability or obligation as a result of the carrying out of the provisions of this Order, save and except for any gross negligence or willful misconduct on its part;
- (c) be entitled to rely on the books and records of the Applicant and any information provided by the Applicant, all without independent investigation; and
- (d) not be liable for any claims or damages resulting from any errors or omissions in such books, records or information, save and except for any gross negligence or willful misconduct on its part.

NOTICE OF CLAIMS

12. Forthwith after the date of this Claims Process Order, and in any event within two (2) Business Days following the date of this Claims Process Order, the Monitor shall cause a Claims Package to be sent to each Creditor with a Claim as evidenced by the books and records of the Petitioners as of the Initial Order Date;

13. Forthwith after the date of this Claims Process Order, and in any event within two (2) Business Days following the date of this Claims Process Order, the Monitor shall post on the Monitor's Website a copy of this Claims Process Order and the Claims Package.

14. To the extent that any Creditor requests documents relating to the Claims Process prior to the Claims Bar Date or the Post-Filing Claims Bar Date, as applicable, or the Monitor becomes aware of any further Claims, the Monitor shall forthwith cause a Claims Package to be sent to the Creditor, direct the Creditor to the documents posted on the Monitor's Website, and otherwise respond to the request relating to the Claims Process as may be appropriate in the circumstances.

15. Except with respect to Post-Filing Claims, and subject to further order of the Court, any Notice of Disclaimer or Resiliation issued by the Petitioners, with the approval of the Monitor, must be issued at least **ten (10) days** prior to a scheduled Meeting of Creditors, if any, or any adjournment thereof.

16. The forms of Notice to Creditor, Proof of Claim, Notice of Revision or Disallowance substantially in the forms attached to this Claims Process Order as **Schedules "C", "D" and "E"** respectively, are hereby approved. Despite the foregoing, the Petitioners and the Monitor may, from time to time, make minor changes to such forms as the Petitioners and the Monitor consider necessary or desirable.

NOTICE SUFFICIENT

17. The sending to the Creditors of a Claims Package in accordance with this Claims Process Order, and completion of the other requirements of this Claims Process Order, shall constitute good and sufficient service and delivery of notice of this Claims Process Order, the Claims Bar Date, and the Post-Filing Claims Bar Date on all Persons who may be entitled to receive notice and who may wish to assert a Claim, and no other notice or service need to be given or made and no other document or material need be sent or served upon any Person in respect of this Claims Process Order.

DEEMED ACCEPTANCE OF CLAIMS (Other than Post-Filing Claims)

18. Subject to paragraphs 24 and 25, if a Creditor does not file a Proof of Claim in respect of a Claim included in the List of Claims and the Notice to Creditor, that Creditor's Allowed Claim shall be deemed to be equal to the amount of that listed in the List of Claims for voting and distribution purposes under any Plan, without any further act of any such Creditor.

19. If a Creditor receiving a Claims Package wishes to object to the amount listed on the List of Claims and the Notice to Creditor to that Creditor in respect of its Claim, the Creditor must, on or before the Claims Bar Date, file a Proof of Claim with the Monitor in the manner set out in paragraph 44 hereof so that the Proof of Claim is received by the Monitor by no later than the Claims Bar Date.

20. Notwithstanding paragraph 18 or any other provision of this Claims Process Order, the Monitor may, by notice in writing, require any Creditor with a Claim included in the List of Claims and the Notice to Creditor to deliver a Proof of Claim and all of the provisions and deadlines of this Claims Process Order relating to Proofs of Claim shall apply.

21. Before the Claims Bar Date, the Monitor may revise the amount of a Claim to correct any error, defect, or omission in the List of Claims. If the Monitor revises the amount of a Claim listed in the List of Claims then the Monitor shall send a revised Notice to Creditor to the affected Creditor at least **seven days** before the Claims Bar Date.

FILING OF PROOFS OF CLAIM

22. Subject to paragraphs 24 and 25, any Person who is not listed on the List of Claims, or wishing to assert a Directors/Officers Claim related to a Pre-Filing Claim against any Director and/or Officer of the Petitioners, or any Creditor required pursuant to paragraph 20 of this Claims Process Order to deliver a Proof of Claim shall file a Proof of Claim with the Monitor in the manner set out in paragraph 44 hereof so that the Proof of Claim is received by the Monitor by no later than the Claims Bar Date.

23. Subject to paragraphs 24 and 25, any Person that does not file a Proof of Claim as provided for in paragraph 22 hereof shall:

- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any Claim against the Petitioners and/or any of its Directors and/or Officers and all such Claims shall be forever extinguished;
- (b) not be permitted to vote on any plan of arrangement or compromise proposed by the Petitioners in these proceedings (a "**Plan**") if applicable, on account of such Claim(s); and
- (c) not be permitted to participate in any distribution under any Plan, from the proceeds of any sale of the Petitioners' assets, or otherwise on account of such Claim(s); and
- (d) not be entitled to receive further notice in respect of the Claims Process or these CCAA Proceedings.

POST-FILING CLAIMS

24. Any Creditor who wishes to assert a Post-Filing Claim against the Petitioners or a Directors/Officers Claim related to a Post-Filing Claim against any Director and/or Officer of the Petitioners shall file a Proof of Claim with the Monitor in the manner set out in paragraph 44 hereof so that the Proof of Claim is received by the Monitor by no later than the Post-Filing Claims Bar Date. All other dates contained herein (other than the Claims Bar Date) shall apply equally to any Post-Filing Claims.

25. Any Person that does not file a Proof of Claim in respect of a Post-Filing Claim as provided for in paragraph 24 hereof so that such Proof of Claim is received by the Monitor on or before the Post-Filing Claims Bar Date, or such later date as the Monitor and the Petitioners may agree in writing or the Court may otherwise direct, shall:

- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any Post-Filing Claim against the Petitioners or a Directors/Officers

Claim against any of the Directors or Officers of the Petitioners and all such Claims shall be forever extinguished;

- (b) not be permitted to vote on the Plan, if applicable, on account of such Claim(s);
- (c) not be permitted to participate in any distribution under any Plan, from the proceeds of any sale of the Petitioners' assets, or otherwise on account of such Claim(s); and
- (d) not be entitled to receive further notice in respect of the Claims Process or these CCAA Proceedings.

UNAFFECTED CLAIMS

26. Notwithstanding anything contained in this Claims Process Order, Unaffected Claims shall not be extinguished or affected by this Claims Process Order and, for greater certainty, neither paragraph 23 or 25 shall apply to Unaffected Claims.

ADJUDICATION OF CLAIMS

27. Any Creditor filing a Proof of Claim must include all relevant material and evidence in support of its Claim at the time it files its Proof of Claim. The Monitor is not required, but has the discretion, to make such inquiries with the Creditor, Petitioners, or other parties, or request further documents, and undertake such investigations as it deems appropriate to consider and adjudicate the Claim.

28. The Monitor shall provide the Petitioners' counsel with copies of all Proofs of Claim and other documents delivered to the Monitor pursuant to this Claims Process Order within a reasonable period of time of receipt of same by the Monitor.

29. With the assistance of the Petitioners, the Monitor shall review all Proofs of Claim received on or before the Claims Bar Date or the Post-Filing Claims Bar Date, as applicable, and shall accept, revise or disallow each Claim as set out therein, or refer the adjudication of the claim to the Court in accordance with paragraph 35.

30. If the Monitor wishes to revise or disallow a Claim, the Monitor shall, by no later than **fifteen (15) Business Days** after the Claims Bar Date or the Post-Filing Claims Bar Date, as applicable, send the Creditor who has delivered such Proof of Claim a Notice of Revision or Disallowance advising that the Creditor's Claim as set out in its Proof of Claim has been revised or disallowed and the reasons therefor. If the Monitor does not send a Notice of Revision or Disallowance to a Creditor within the time set out in this paragraph, the Claim set out in the applicable Proof of Claim shall be an Allowed Claim. For clarity, the Monitor is at liberty to accept, revise or disallow a Claim at any time prior to the Claims Bar Date or the Post-Filing

Claims Bar Date, as applicable, and shall proceed expeditiously with the adjudication of all Proofs of Claim received on or before the Claims Bar Date or the Post-Filing Claims Bar Date, as applicable, from the date of receipt.

31. Unless otherwise ordered by the Court, all Claims set out in Proofs of Claim that are received by the Monitor after the Claims Bar Date or the Post-Filing Claims Bar Date, as applicable, are deemed to be disallowed and the Monitor need not deliver a Notice of Revision or Disallowance in respect of such Claim.

APPEALS OF REVISIONS OR DISALLOWANCES BY FILING CREDITOR

32. Any Creditor who is sent a Notice of Revision or Disallowance pursuant to paragraph 30 hereof and wishes to dispute such Notice of Revision or Disallowance shall bring an application before the Court in the CCAA Proceedings by filing and serving upon counsel for the Petitioners and the Monitor, a Notice of Application (the "**Appeal**") supported by an affidavit containing evidence limited to the materials filed in support of the Creditor's Claim within **ten (10) Business Days** of the Notice of Revision or Disallowance being delivered to such Creditor (the "**Appeal Deadline**"). The hearing of any such Appeal filed with the Court pursuant to this paragraph shall be determined as a true appeal on the record before the Monitor, and not as a trial *de novo*.

DETERMINATION OF CLAIMS NOT OTHERWISE APPEALED

33. Subject to paragraphs 23 and 25, the Claim of any Creditor that does not file and serve an Appeal in accordance with paragraph 32 of this Claims Process Order shall be deemed to be conclusively accepted as an Allowed Claim in accordance with:

- (a) paragraph 18 above, or
- (b) subject to subparagraph (c) immediately below, as filed pursuant to paragraphs 19, 22 or 24; or
- (c) in the amount as set forth in the Notice of Revision or Disallowance, if one delivered,

as applicable.

34. Upon receipt of an Appeal, the Monitor, in consultation with the Petitioners, may attempt to, but is not obligated to, consensually resolve the Appeal and if a resolution satisfactory to the

appellant, Monitor and Petitioners is reached, the Appeal or may be determined by filing a Consent Order, signed by those parties, with the Court.

REFERRALS TO COURT

35. Notwithstanding any other provision of this Claims Process Order, the Monitor may, in its discretion, at any time refer the determination of any Proof of Claim to the Court where the Monitor believes it is preferable or necessary for the determination of the validity or valuation of such Claim, by delivering a written notice to the filing Creditor, with a copy being sent to counsel for the Petitioners (the "**Notice to Prove Claim**") that it must prove its Claim before the Court.

36. Any Creditor who receives a Notice to Prove Claim (a "**Proving Creditor**") shall, within **fifteen (15) Business Days** after receipt of the notice to Prove Claim (the "**Filing Deadline**") file with the Court in these CCAA Proceedings a Notice of Application seeking an order determining their Claim along with any supporting affidavits (collectively, the "**Claim Application**"), and serve such Claim Application and any supporting affidavits upon the Service List.

37. The Claim Application shall be heard on a summary basis, as a trial de novo, on such date and time as may be agreed upon by the Proving Creditor, the Petitioners and the Monitor, subject to the availability and subsequent orders of the Court. The Monitor and the Petitioners may, but shall not be required to, participate in the hearing of such Claim Application.

38. Any Creditor who receives a Notice to Prove Claim but fails to file and serve a Claim Application in accordance with the terms of this Claims Process Order shall be deemed to have withdrawn its Proof of Claim, and will be subject to paragraphs 23 or 25 as may be applicable.

SET-OFF

39. The Petitioners may set-off (whether by way of legal, equitable or contractual set-off) against payments or other distributions to be made to any Claimant, any claims of any nature whatsoever that the Petitioners may have against such Claimant, however, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Petitioners of any such claim that the Petitioners may have against such Claimant.

NOTICE OF TRANSFEREES

40. If, after the Initial Order Date, the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the Monitor nor the Petitioners shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual written notice of such transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the Petitioners and the Monitor in writing and thereafter such transferee or assignee shall for the purposes hereof constitute the "**Creditor**" in respect of such Claim. Any such transferee or assignee of a

Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with the Claims Process prior to receipt and acknowledgement by the Petitioners and the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any rights which the Petitioners may have thereunder including any rights of set-off to which the Petitioners may be entitled to. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such person to the Petitioners. Reference to a transfer in this Order includes a transfer or assignment whether absolute or intended as security.

SERVICE AND NOTICES

41. The Petitioners and the Monitor may, unless otherwise specified by this Claim Order, serve and deliver the Claims Package as applicable, any letters, notices or other documents to Creditors, or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission, including without limitation email, to such Persons at their respective addresses or contact information as last shown on the records of the Petitioners or set out in a Proof of Claim.

42. Any Creditors or interested parties required to serve any Appeal or Claim Application or applicable responses, and supporting materials, notices or other documents may do so by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission, including email, to such Persons at their respective addresses or contact information as last shown on the Service List or, if not on the Service List, at the address or contact information last given to the Monitor.

43. Any service or delivery under this Claim Order shall be deemed to have been received:

- (a) if sent by ordinary mail, on the third Business Day after mailing within British Columbia, the fifth Business Day after mailing within Canada (other than within British Columbia), and the tenth Business Day after mailing internationally;
- (b) if sent by courier or personal delivery, on the next Business Day following dispatch; and
- (c) if delivered by electronic transmission, by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

44. Any notice or communication required to be provided or delivered by a Creditor or any other Person to the Monitor under this Claims Process Order shall be in writing in substantially the form, if any, provided for in this Claims Process Order or the Supreme Court Civil Rules of Court and will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery or email addressed to:

Ernst & Young, Inc
Oceanic Plaza, 1066 W. Hastings St.
Suite 2300
Vancouver, BC
V6E 3X2

Attention: Jason Eckford
Email: Jason.Eckford@parthenon.ey.com

Any such notice or communication delivered by a Creditor shall be deemed to be received upon actual receipt thereof by the Monitor before 5:00 p.m. (Vancouver time) on a Business Day or, if delivered after 5:00 p.m. (Vancouver time), on the next Business Day.

45. If, during any period which notice or other communications are being given pursuant to this Claims Process Order, a postal work stoppage of general application should occur, such notice or other communications sent by ordinary mail and then not received shall not, absent further order of this Court, be effective and notices and other communications given hereunder during the course of any such postal work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Claims Process Order. For certainty, paragraphs 42 and 43 apply without any limitation during any period of time which notice or other communications are being given pursuant to this Claims Process Order during the occurrence of rotating postal strikes.

46. In the event this Claims Process Order is later amended by further order of the Court, the Monitor may post such further order on the Monitor's Website and serve such further order on the Service List and such posting and service shall constitute adequate notice to Creditors of the amendments made hereto.

MISCELLANEOUS

47. Any Claim denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect at the Initial Order Date.

48. Notwithstanding any other provision of this Claims Process Order, the solicitation by the Monitor or the Petitioners of a Proof of Claim, and the filing by any Creditor of any Proof of Claim shall not, for that reason only, grant any person any standing in these proceedings or rights under any proposed Plan, if any, filed by the Petitioners in this proceeding.

49. The Claims Bar Date and the Post-Filing Claims Bar Date, and the amount and status of every Allowed Claim as determined under the Claims Process, including any determination as to the nature, amount, value, priority of any secured claim, shall be final for all purposes including in respect of any Plan and voting thereon (unless provided for otherwise in any subsequent Order of the Court), and, including for any distribution made to Creditors of the Petitioners, whether in

these CCAA Proceedings or in any of the proceedings authorized by this Court or permitted by statute, including a receivership proceeding or a bankruptcy affecting the Petitioners.

50. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to (i) make such orders and to provide such assistance to the Petitioners and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Claims Process Order, (ii) grant representative status to the Petitioners in any foreign proceeding, and (iii) assist the Petitioners, the Monitor and the respective agents of each of the foregoing in carrying out the terms of this Claims Process Order.

51. The Monitor (i) in carrying out the terms of this Claims Process Order, shall have all of the protections given to it by the CCAA and the Initial Order or as an officer of this Court, including the stay of Proceedings in its favour, (ii) shall incur no liability or obligation as a result of the carrying out of its obligations under this Claims Process Order, and (iii) shall be entitled to rely on the books and records of the Petitioners, and any information provided by the Petitioners or any other parties under this Claims Process Order, all without independent investigations, and (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

52. Notwithstanding the terms of this Claims Process Order, the Petitioners and the Monitor may apply to this Court from time to time for directions from this Court with respect to this Claims Process Order, including the Claims Process, and the Schedules to this Claims Process Order, or for such further order or orders as either of them may consider necessary or desirable to amend, supplement or replace this Claims Process Order, including any Schedules hereto.

APPROVAL

53. Endorsement of this Claims Process Order by counsel appearing on this application, other than counsel for the Petitioners, is hereby dispensed with.

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

Signature of Lawyer for the Petitioners
Lawyer: David E. Gruber

BY THE COURT

REGISTRAR

Schedule "A" – List of Counsel

<u>Name of Party</u>	<u>Counsel Name</u>
Domain Mortgage Corp.	Scott Stephens
Aviva Insurance Company of Canada	William Roberts
The Monitor	Peter Rubin
Macario Reyes and 1296371 B.C. Ltd.	Jordan Shultz

Schedule "B" – Definitions

- a) **"Allowed Claim"** means the amount, status and validity of the Claim of a Creditor finally determined in accordance with this Claims Process Order which shall be final and binding for voting and/or distribution purposes under the Plan or otherwise.
- b) **"Business Day"** means any day other than a Saturday, Sunday or a day on which banks in Vancouver, British Columbia, are authorized or obligated by applicable law to close or otherwise are generally closed;
- c) **"CCAA"** means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
- d) **"CCAA Charges"** means, collectively, the Administration Charge, the Interim Lender's Charge (as such terms are defined in the Initial Order) and any other charge over the Petitioners' assets created by other order of this Court;
- e) **"CCAA Proceedings"** means the proceedings commenced by the Petitioners in the British Columbia Supreme Court, Vancouver Registry, and bearing action no. S-205095, on the Initial Order Date pursuant to the CCAA;
- f) **"Claims Process Order"** means this claims process order establishing a Claims Process;
- g) **"Claim"** means: (i) any Pre-Filing Claim, (ii) any Property Claim; (iii) any Post-Filing Claim; (iv) Pre-Sale Purchaser Claim or (v) any Directors/Officers Claim, provided, however, that, in each case, a **"Claim"** shall not include an Unaffected Claim;
- h) **"Claimant"** means a Person asserting a Claim against the Petitioners and a Person asserting a Directors/Officers Claim against any Director or Officer of the Petitioners;
- i) **"Claims Bar Date"** means **5:00 p.m. (Vancouver time), July 8, 2022**, or such other date as may be ordered by the Court;
- j) **"Claims Package"** means the document package which includes a copy of (i) the Notice to Creditor; (ii) a Proof of Claim form substantially in the form attached hereto as **Schedule "D"**; (iii) the List of Claims, and (iv) such other materials as the Petitioners, in consultation with the Monitor, considers necessary or appropriate;
- k) **"Claims Process"** means the call for Claims to be administered by the Monitor, in consultation with the Petitioners, and the adjudication of those Claims pursuant to the terms of this Claims Process Order;
- l) **"Court"** means the Supreme Court of British Columbia;
- m) **"Creditor"** means any Person having a Claim and includes, without limitation, the transferee or assignee of a transferred Claim that is recognized as a Creditor in accordance with

paragraph 40 hereof, or a trustee, liquidator, receiver, manager, or other Person acting on behalf of such Person;

- n) "**Director**" means any Person who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director of the Petitioners;
- o) "**Directors/Officers Claim**" means any right or claim of any Person against one or more of the Directors and/or Officers that relates to a Pre-Filing Claim or a Post-Filing Claim, howsoever arising, for which the Directors and/or Officers are by statute or otherwise by law liable to pay in their capacity as Directors and/or Officers or in any other capacity;
- p) "**includes**" means includes, without limitation, and "**including**" means including, without limitation;
- q) "**Initial Order**" means the Initial Order pronounced by the Court in these CCAA Proceedings on October 12, 2018 as may be amended and restated from time to time;
- r) "**Initial Order Date**" means May 29, 2020;
- s) "**List of Claims**" means the list of Claims and Creditors to be prepared by the Petitioners and approved by the Monitor, including all known Claims and Creditors, except Unaffected Claims and Creditors having an Unaffected Claim, and the amounts of each Claim;
- t) "**Meeting of Creditors**" means the meeting of the Petitioners' Creditors to be convened for the purposes of voting on the Plan, if any, and any adjournment thereof;
- u) "**Monitor**" means Ernst & Young, Inc., in its capacity as Court-appointed Monitor pursuant to the Initial Order;
- v) "**Monitor's Website**" means the Monitor's website for these CCAA Proceedings accessible at www.ey.com/ca/terracehouse;
- w) "**Notice of Disclaimer or Resiliation**" means a written notice in any form issued on or after the Initial Order Date by the Petitioners, and copied to the Monitor, advising a Person of the disclaimer, resiliation or termination of any contract including any employment agreement, lease or other agreement or arrangement of any nature whatsoever, whether written or oral, and whether such disclaimer, resiliation or termination took place or takes place before or after the date of this Claims Process Order;
- x) "**Notice of Revision or Disallowance**" means the notice that may be delivered by the Monitor to a Creditor advising that the Monitor has revised or disallowed in whole or in part such Creditor's Claim as set out in its Proof of Claim, which notice shall be substantially in the form attached hereto as Schedule "E";
- y) "**Officer**" means any Person who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer of the Petitioners;

- z) "**Person**" means any individual, firm, partnership, joint venture, venture capital fund, association, trust, trustee, executor, administrator, legal personal representative, estate, group, body corporation (including a limited liability company and an unlimited liability company), corporation, unincorporated association or organization, governmental authority, syndicate or other entity, whether or not having legal status;
- aa) "**Petitioners**" means Port Capital Development (Ev) Inc. and Evergreen House Development Limited Partnership;
- bb) "**Plan**" has the meaning given to it in paragraph 23(b) of the Claims Process Order;
- cc) "**Pre-Filing Claim**" means any right or claim of any Person that may be asserted or made in whole or in part against the Petitioners whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, in existence on, or which is based on, an event, fact, act or omission which occurred in whole or in part prior to the Initial Order Date, at law or in equity, including by reason of the commission of a tort (intentional or unintentional), any breach of contract or other agreement (oral or written), any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty), any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise) or for any reason whatsoever against the Petitioners or its property or assets, and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future, together with any other rights or claims not referred to above that are or would be claims provable in bankruptcy had the Petitioners become bankrupt on the Initial Order Date; provided, however, that "**Pre-Filing Claim**" shall not include an Unaffected Claim. For greater certainty, "**Unsecured Purchaser Claims**" constitute a "**Pre-filing Claim**";
- dd) "**Property Claim**" means any right or claim of any person that may be asserted or made in whole or in part against the Petitioners whether or not asserted or made, claiming any property, or interest therein, in the possession of the Petitioners at the Initial Order Date; provided, however, the "**Property Claim**" shall not include an Unaffected Claim;
- ee) "**Post-Filing Claim**" means any right or claim of any Person against the Petitioners in connection with any indebtedness, liability or obligation of any kind whatsoever owed by the Petitioners to such Person arising out of the disclaimer, resiliation or termination on or after the Initial Order Date of any contract including any employment agreement, lease or other agreement or arrangement, whether written or oral, and whether such disclaimer, resiliation or termination took place or takes place before or after the date of this Claims Process Order, and includes for greater certainty any right or claim of an employee of the Petitioners arising

from a termination of his or her employment after the Initial Order Date; provided, however, that "**Post-Filing Claim**" shall not include an Unaffected Claim;

- ff) "**Post-Filing Claims Bar Date**" means a date and time to be set by further order of the Court, on application by the Monitor;
- gg) "**Proof of Claim**" means the form to be completed and delivered to the Monitor by a Creditor setting forth its proposed Claim, which shall be substantially in the form attached hereto as Schedule "D";
- hh) "**Service List**" means the service list kept by the Monitor and the Petitioners in the CCAA Proceeding and posted on the Monitor's Website;
- ii) "**Unaffected Claim**" means, subject to further order of this Court,
 - i. any Post-Filing Claim;
 - ii. any Equity Claim;
 - iii. any Property Claims;
 - iv. any claim secured by any of the CCAA Charges;
 - v. any claim secured by a mortgage, including but not limited to security held by Domain Mortgage Corp, 1260780 B.C. Ltd., 1296371 B.C. Ltd. or Aviva Insurance Company of Canada;
 - vi. that portion of a Claim arising from a cause of action for which the Petitioners is covered by insurance, but only to the extent of such coverage; and
 - vii. Claims enumerated in sections 5.1(2) and 19(2) of the CCAA.
- jj) "**Unsecured Purchaser Claims**" means a Claim(s) against the CCAA Debtors in connection with an Agreement of Purchase and Sale.

Schedule "C" – Form of Notice to Creditor

NOTICE TO CREDITORS

**IN THE MATTER OF PORT CAPITAL DEVELOPMENT (EV) INC. and EVERGREEN
HOUSE DEVELOPMENT LIMITED PARTNERSHIP (the "Petitioners")**

TAKE NOTICE that on May 29, 2020, Petitioners filed for and were granted protection under the *Companies' Creditors Arrangement Act* (the "**CCAA Proceedings**") by order of the Supreme Court of British Columbia (the "**Court**"). Ernst & Young, Inc. was appointed as monitor (the "**Monitor**") in the CCAA Proceedings.

As part of the CCAA Proceedings, the Court ordered that notice to creditors of their requirement to file a Proof of Claim, so as to be entitled to receive distribution on account of claims against the above-noted companies, may be served by way of this notice.

Any person having a Claim (as defined in the Claims Process Order made June 17, 2022 in the CCAA Proceedings) against Petitioners and/or any of its Directors and/or Officers, including:

- (a) a Pre-Filing Claim arising on or before May 29, 2020;
- (b) a claim to property in the possession of Petitioners; or
- (c) a Post-Filing claim

whose claim is not already listed in the List of Claims included with this Claims Package, or who disputes the amount or nature of their Claim as listed in the List of Claims, must send a Proof of Claim to the Monitor, to be received by the Monitor by no later than 5:00 p.m. (Pacific Standard Time) on **Friday, July 8, 2022** (the "**Claims Bar Date**").

CLAIMS WHICH ARE NOT RECEIVED ON OR BEFORE THE CLAIMS BAR DATE WILL BE FOREVER BARRED AND CREDITORS HOLDING SUCH CLAIMS WILL BE FOREVER BARRED FROM MAKING OR ENFORCING ANY CLAIM AGAINST THE PETITIONERS AND THE CLAIM SHALL BE FOREVER RELEASED AND EXTINGUISHED.

A copy of the Claim Materials (including the Proof of Claim form) may be obtained from the Monitor's webpage located at www.ey.com/ca/Petitioners or by contacting the Monitor at the following:

Ernst & Young, Inc
Oceanic Plaza, 1066 W. Hastings St.
Suite 2300
Vancouver, BC
V6E 3X2

Attention: Jason Eckford
Email: Jason.Eckford@parthenon.ey.com
Telephone: (604) 648 3671
Facsimile: (604) 899-3530

Dated at Vancouver, British Columbia, this ___ day of June, 2022.

ERNST & YOUNG INC.

in its capacity as Monitor appointed in the CCAA Proceedings

in relation to PETITIONERS and not in its personal or corporate capacity

SCHEDULE "D" – FORM OF PROOF OF CLAIM

No. S-205095
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

PROOF OF CLAIM

Please read carefully the instructions included in the Notice of Claim accompanying this Proof of Claim. Please print legibly.

Full Name of Creditor: _____
(the "Creditor")

Full Mailing Address of Creditor: _____
(All notices and correspondence
regarding your Claim will be
forwarded to this address) _____

Fax No. _____

Telephone No. _____

Email: _____

Attention: _____

CERTIFICATION AS TO CLAIM

Capitalized terms herein have the meaning given to them in the Claims Process Order made June 17, 2022.

I do hereby certify that (*please see notes below for further instructions*):

1. I am a Creditor, or representative of a Creditor, of Port Capital Development (EV) Inc. and/or Evergreen House Development Limited Partnership
2. I have knowledge of all of the circumstances connected with the claim referred to in this form.
3. As of May 29, 2020, Port Capital Development (EV) Inc. and/or Evergreen House Development Limited Partnership was, and still is, indebted to me in the amount of Cdn. \$[] including contract interest and charges.
4. A description of the basis on which the Claim arose is as follows:
5. I attach the following documents which support the Claim and any claim for contract interest or other charges.
 - (a)
 - (b)
 - (c)

DATED THIS _____ DAY OF _____, 2022.

Signature:

(Please Print Name)

Instructions for Completion of Proof of Claim:

- Ensure that you complete the full name and delivery address, including fax number and e-mail address, of the creditor making the claim.
- The Proof of Claim is incomplete unless you include a statement and description of the claim (item 4) and attach all supporting documents including statements of accounts and/or invoices in support, if applicable (item 5). The supporting documents must show the date, number and value of all invoices or charges, and must conform to the amount of the Claim as set out in item 3.
- The Proof of Claim is incomplete unless it is signed and dated by you.
- The signed and completed Proof of Claim, together with all supporting documents, must be returned to the Monitor at the following address on or before **5:00 p.m., July 8, 2022:**

Ernst & Young, Inc
 Oceanic Plaza, 1066 W. Hastings St.
 Suite 2300
 Vancouver, BC
 V6E 3X2

Attention: Jason Eckford
 Email: Jason.Eckford@parthenon.ey.com
 Telephone: (604) 648 3671
 Facsimile: (604) 899-3530

- The Monitor is entitled to disallow your Proof of Claim in whole or in part. If your Proof of Claim is disallowed in whole or in part, the Monitor will send you a Dispute Notice along with particulars as to how you may dispute the Dispute Notice. If you do not receive a Dispute Notice, then the Monitor has accepted your Proof of Claim.
- **PLEASE CONTACT THE MONITOR AT THE ADDRESS AND E-MAIL SET OUT ABOVE IF YOU HAVE ANY QUESTIONS ABOUT COMPLETING YOUR PROOF OF CLAIM. ANY FAILURE TO PROPERLY COMPLETE OR RETURN YOUR PROOF CLAIM TO THE MONITOR AT THE ABOVE ADDRESS BY 5:00 P.M. ON JULY 8, 2022 WILL RESULT IN YOUR CLAIM BEING EXTINGUISHED WITHOUT ANY FURTHER ENTITLEMENT TO RECOVER YOUR CLAIM FROM THE PETITIONERS.**

SCHEDULE "E" – FORM OF NOTICE OF REVISION OR DISALLOWANCE

No. S-205095
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

NOTICE OF REVISION OR DISALLOWANCE

Name of Creditor: _____

Pursuant to the Claims Process Order made herein on June 17, 2022, the Monitor gives you notice that your Proof of Claim has been reviewed and the Monitor has revised or disallowed your Proof of Claim for the following reasons:

If you wish to object to the Notice of Revision or Disallowance, you must, within 14 days of the date of delivery of the Notice of Revision or Disallowance, file and serve a Notice of Application to the address below to be heard by the Court on a date to be agreed to by counsel for the Monitor:

Blake, Cassels & Graydon LLP
595 Burrard Street, Suit 2600
Vancouver, B.C. V7X 1L3
Attention: Peter Rubin

AND

Ernst & Young, Inc
Oceanic Plaza, 1066 W. Hastings St.
Suite 2300
Vancouver, BC
V6E 3X2

Attention: Jason Eckford
Email: Jason.Eckford@parthenon.ey.com
Telephone: (604) 648 3671
Facsimile: (604) 899-3530