

**THE KING'S BENCH
WINNIPEG CENTRE**

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO
SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3 AS AMENDED, AND SECTION 55 OF *THE
COURT OF KING'S BENCH ACT*, C.C.S.M. c. C280

BETWEEN:

PEOPLES TRUST COMPANY,

Applicant,

-and-

BOKHARI DEVELOPMENT INC.,

Respondent.

**FIRST REPORT OF KPMG INC.
In its capacity as Receiver and Manager**

November 16, 2023

**RECEIVER
KPMG INC.**

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I. INTRODUCTION

1. On August 29, 2023 (the “**Receivership Date**”), upon application by Peoples Trust Company (the “**Applicant**”), KPMG Inc. (“**KPMG**”) was appointed as receiver and manager (the “**Receiver**”) pursuant to an Order (the “**Receivership Order**”) in Manitoba Court of King’s Bench (the “**Court**”) File No. CI23-01-42328 under section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 55 of *The Court of King's Bench Act*, C.C.S.M. c. C280 without security, of all the assets, undertakings and properties of the Respondent Bokhari Development Inc. (“**BDI**”, or the “**Debtor**”) comprising, located at, arising from, or in any way relating to the property commonly known as 1801-1825 Park Drive in Portage la Prairie, Manitoba (the “**Property**”), including the development of the project (the “**Project**”).

II. PURPOSE OF REPORT

2. The purpose of this first report of the Receiver (the “**First Report**”) is to provide this Honourable Court with information pertaining to:
 - (a) the activities of the Receiver since the Receivership Date in these receivership proceedings (the “**Proceedings**”);
 - (b) the Receiver’s contractor selection process, and proposed engagement of a selected contractor in respect of certain construction work to be performed on the Project;
 - (c) the interim statement of receipts and disbursements of the Receiver (the “**Interim R&D**”) from the Receivership Date to and including November 10, 2023 (the “**Period**”);
 - (d) the accounts of the Receiver and the Receiver’s independent counsel, MLT Aikins LLP (“**MLT Aikins**”, or the “**Receiver’s Counsel**”);
 - (e) efforts by the Receiver’s Counsel to register a notice of appointment of a receiver/manager (“**Notice of Appointment**”) and a Caveat (the “**Caveat**”) to provide notice of the Receiver’s Charge and Receiver’s Borrowing Charge (each as defined in the Receivership Order) on title to the real property located at 1801 – 1825 Park Drive in Portage la Prairie, Manitoba (the “**Project Premises**”); and
 - (f) the Receiver’s conclusions and recommendations.

III. QUALIFICATIONS & TERMS OF REFERENCE

3. In preparing this First Report and making the comments herein, the Receiver has been provided with, or has relied upon certain unaudited, draft, and/or internal financial information, the Debtor's records and financial information and information from other third-party sources (collectively, the "**Information**"). The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
4. Some of the information referred to in this First Report consists of financial forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.
5. Certain information referred to in this First Report is based on estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable and as a consequence no assurance can be provided regarding the forecasted or projected results. The reader is cautioned that the actual results will likely vary from the forecasts or projections, even if the assumptions materialize, and the variations could be significant.
6. The Receiver has prepared this First Report in connection with the motion scheduled to be heard on November 20, 2023. This First Report should not be relied on for other purposes.
7. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

IV. BACKGROUND AND EVENTS LEADING TO THE APPOINTMENT OF THE RECEIVER

8. While this First Report summarizes some of the Applicant's application materials for the Receivership Order (the "**Application Materials**"), certain information contained therein has not been included herein to avoid unnecessary duplication. Accordingly, for additional context, readers are directed to the Affidavit of Brian Jahoor sworn on August 23, 2023 (the "**Jahoor Affidavit**") which is contained in the Application Materials. A copy of the Application Materials can be found on the Receiver's website at <https://home.kpmg/ca/BokhariDevelopment> (the "**Receiver's Website**").

Background

9. The Property primarily comprises the Project, an affordable housing complex consisting of 13 mid-rise buildings (the “**Buildings**”) consisting of 208 rental units in aggregate, located at 1801-1825 Park Drive in Portage la Prairie. The Receiver understands that, prior to the Receivership Date, the Project was estimated to be 67% complete, based on the construction costs incurred to date.
10. BDI and the Applicant are parties to a commitment letter executed on July 2, 2021, in respect of a construction loan to be provided by the Applicant in connection with the Project (the “**Loan**”). The Loan was in an amount of up to \$32,815,800.00, to be secured by way of a first-ranking mortgage against the Property.
11. The Receiver understands that according to the Application Materials, both Darcy Shaver (“**Mr. Shaver**”) and Syed Bokhari (“**Mr. Bokhari**”) were directors of BDI, and BDI was purported to be 100% owned by Mr. Shaver.
12. The Project was to be constructed on a fixed price basis, pursuant to an agreement between BDI, as owner, and Gateway Projects (“**Gateway**”), as general contractor (the “**Gateway Contract**”). The Receiver understands that all work performed on the Project by subcontractors was pursuant to agreements between the respective contractors and Gateway.
13. As noted in the Jahoor Affidavit, construction on the Project was initially intended to be completed by March 30, 2023, which completion date was subsequently revised to September 30, 2023 (the “**Completion Date**”). However, the Receiver understands that in or about July 2023, it became evident to the Applicant that the Completion Date would not be met.
14. Between October 6, 2021, and May 26, 2023, the Applicant advanced a total of \$20,561,138.10 under the Loan. The Application Materials disclose that as of August 18, 2023, the total amount of indebtedness owing by BDI pursuant to the Loan was \$21,677,008.06, inclusive of interest and costs, and that interest has continued to accrue thereafter at 2.45% per annum.
15. The Receiver understands that in or around July, 2023, BDI defaulted on the monthly interest payments due under the Loan, and that around that same time, BDI refused to approve a further draw on the Loan, which draw was required to facilitate payment to the contractor and subcontractors working at, and providing services and materials in connection with, the Project.

16. As noted in the Jahoor Affidavit, in July 2023, the Applicant also received a letter from counsel to Mr. Shaver, notifying them of various concerns surrounding BDI's inability to complete the Project by the Completion Date, or within budget. The letter also suggested certain inconsistencies between construction progress according to the draws on the Loan and amounts paid by BDI to contractors.
17. The Receiver further understands that on August 9, 2023, the Applicant was made aware that an order of the Court had been granted against Mr. Shaver in relation to a legal dispute between Mr. Shaver and Mr. Bokhari over the ownership of the shares of BDI (the "**Dispute**"). With this order and the materials submitted by the parties in connection with the Dispute, according to the Jahoor Affidavit, the Applicant became aware, among other things, that the ownership structure of BDI may have been in question, and that all work had ceased on the Project.

Causes of Insolvency

18. As detailed in the Jahoor Affidavit, the Debtor had failed to make scheduled loan payments on Loan since July, 2023. In August, 2023, as stated above, the Applicant became aware of the Dispute and abandonment of the Project, with no clear path towards the completion of the Project.
19. On August 3, 2023, the Applicant, among other things, issued to the Debtor, a demand letter and notice of intention to enforce its security under section 244 of the BIA.
20. On August 29, 2023, upon application by the Applicant, KPMG was appointed as Receiver over the Property.

V. ACTIVITIES OF THE RECEIVER

21. The Receiver's activities since the Receivership Date have included:
 - (a) forthwith after its appointment and as authorized by the Receivership Order, taking steps to preserve and protect the Property, including engaging 24-hour onsite security personnel, installing CCTV surveillance and monitoring, and erecting a fenced perimeter around the Project site. Due to the upcoming expiry of the builder's risk policy for the Project (the "**Policy**"), per the terms of the Receivership Order, the Receiver was not deemed to take possession and control of the Property until it elected to do so, and only once it was satisfied that there was adequate insurance in place in respect of the Property. Further pursuant to the terms of the Receivership Order, the Receiver was to provide notice to the Service List upon taking possession and control of the Property;

- (b) forthwith after its appointment, engaging with the Debtor's insurance broker, Westland Insurance Group Ltd. ("**Westland**") in respect of the insurance policies covering the Project. Most urgently, the Receiver attempted to understand the status of the Policy and to extend its term, which renewal period was set to expire two (2) days following the Receiver's appointment, on August 31, 2023. On or about November 3, 2023 (the "**Binding Date**"), the Policy was ultimately extended for the period from August 31, 2023, through to February 29, 2024, subject to certain subjectivities to be addressed by the Receiver in the near-term following the Binding Date. The Receiver is currently working to address the subjectivities required by the insurer, and has addressed those which were required to be met prior to the date of this First Report. Among other things, the Policy is also conditional on work progressing on the Project by December 3, 2023;
- (c) on August 30, 2023, attending at the Project Premises to perform a walkthrough of the site, liaising with security personnel, and obtaining an understanding of the condition of the Project, and the equipment and materials onsite;
- (d) liaising with the City of Portage la Prairie manager, fire department, and representatives of the planning district with respect to the condition of the Project site, the status of permits and related inspections, the development agreement registered on title to the Project Premises, and outstanding issues with respect to the Project;
- (e) requesting books and records from various parties anticipated to have information in respect of the Property including the Debtor, the Debtor's counsel, and Gateway. As at the date of this First Report, the Receiver has received limited financial information in respect of the Project;
- (f) assessing claims made by Gateway and certain subcontractors related to materials left on site prior to the Receiver's appointment. Due to the lack of books and records available, the Receiver has thus far been unable to substantiate the ownership of these materials. The Receiver has requested additional information from claimants and is working towards a methodology to determine ownership of said materials. Due to the fixed price nature of the Gateway Contract, the supporting invoices of materials and subcontractor costs substantiating payments made from BDI to Gateway, and information on payments made to subcontractors, is only available from Gateway. As at the date of this First Report,

Gateway has provided insufficient information in order to determine payments ultimately made for materials, despite repeated requests from the Receiver;

- (g) assessing third party property claims made by Gateway and certain subcontractors, pertaining to large equipment left at the Project Premises prior to the Receivership Date, and arranging for the retrieval of said equipment by the claimants, as appropriate;
- (h) engaging with the Project's structural engineer, Charleson Engineering (the "**Structural Engineer**"), to conduct a review of the building's structure and prepare a Project status report;
- (i) engaging a local contractor, Bailey Homes, to perform certain site protection and maintenance activities including to secure open windows and doorways, and to complete roofs on certain of the Buildings;
- (j) corresponding with Westland to extend the term of the wrap up insurance policy on the Project through to February 29, 2024, and providing details to Westland as requested by the insurance provider;
- (k) borrowing the amount of \$915,000 in aggregate from the Applicant, through a series of Receiver's borrowing certificates, pursuant to the Receiver's Borrowings (as hereinafter defined). Pursuant to the terms of the Receivership Order, the Receiver was authorized to borrow up to \$12,254,662 by way of Receiver's borrowings certificates (the "**Receiver's Borrowings**"), and was granted a Receiver's Borrowings Charge (as defined in the Receivership Order) as security for such borrowings, which charge has the customary super-priority to other liens and encumbrances, as set out in the Receivership Order;
- (l) as described in more detail in a later section to this First Report, preparing the Package A RFP (as later defined) for the completion of, among other things, the exterior envelope of the Buildings;
- (m) communicating with several persons having knowledge of the Project, including architects, engineers, and the Project's payment certifier, to obtain information on the Project, and gathering Project drawings and other pertinent information for purposes of the Phase A RFP, and the Project generally;

- (n) corresponding with the Debtor’s counsel, Knight Law Office (“**Knight Law**”), in respect of holdback funds understood to be held by Knight Law, in trust, from Project progress payments made prior to the Receivership Date (the “**Holdback Funds**”). The Receiver and the Receiver’s counsel have corresponded with Knight Law, Gateway’s counsel, and the Applicant’s counsel in respect of the Holdback Funds and the options as to how to expeditiously and cost effectively deal with the Holdback Funds;
- (o) attending site visits with, and responding to questions of Prospective Contractors (as later defined) in connection with the Package A RFP;
- (p) liaising with, and preparing a request for proposals from certain interested project lead firms to act as the Receiver’s representative with respect to further construction on the Project, including the Phase A (as later defined) work;
- (q) reviewing the Bids (as later defined) received as a result of the Package A RFP, and corresponding with Prospective Contractors to clarify the Bids;
- (r) preparing, with the assistance of the Receiver’s Counsel, the draft Contractor Agreement in respect of the Package A work;
- (s) responding to calls and inquiries from the Debtor’s stakeholders, including creditors, service providers, Gateway and subcontractors regarding purported third-party materials and equipment on site, and lien claims, and the Proceedings generally;
- (t) establishing an email address for the Receiver at ca-fmbokharidevelop@kpmg.ca for correspondence with creditors and other stakeholders of the Legal Owners as they pertain to the Proceedings;
- (u) establishing and maintaining the Receiver’s Website where copies of all Court and other statutory materials are available in electronic format;
- (v) mailing, on September 8, 2023, the Notice and Statement of the Receiver pursuant to subsections 245(1) and 246(1) of the BIA;
- (w) instructing the Receiver’s Counsel to register the Notice of Appointment and Caveat on title to the Project Premises;

- (x) on November 14, 2023, providing notice to the Service List, in accordance with the terms of the Receivership Order, that the Receiver had taken possession and control of the Property;
- (y) communicating with the Receiver's Counsel in respect of various aspects of these Proceedings; and
- (z) communicating with the Applicant and its counsel in respect of the status of the Project, insurance matters, the Package A RFP, the Bids and the proposed Contractor, the Receiver's Borrowings, and various other aspects of these Proceedings.

VI. CONTRACTOR SELECTION PROCESS

- 22. As noted earlier in this First Report, prior to the Receiver's appointment, construction on the Project was partially completed, but had been halted. Upon its appointment, the Receiver took steps to preserve and protect the Property, and to evaluate the status of the Project.
- 23. It was determined that construction on the Project had ceased, among other things, before the exteriors of the Buildings had been completed and sealed. In addition to certain time sensitive work undertaken to protect the Project in its unfinished state, the Receiver also determined that in order to stabilize the Project, certain work would need to be performed in the near term to protect the Buildings from fire and weather risk, among other things. In order to attempt to maximize value for stakeholders, the Receiver determined that the initial substantial scope of work to be undertaken should be to complete the exterior envelopes of the Buildings in accordance with the Project design documents to fully enclose the Buildings, and to make the Buildings weather tight (such work being "**Package A**").
- 24. Representatives of the Receiver who are experienced with construction projects consistent with the Project have liaised with those technical experts who were involved in the Project prior to the Receiver's appointment, and as noted in an earlier section to this First Report, the Receiver has engaged with the Structural Engineer. The Structural Engineer is in the process of preparing a report detailing its review of the status of the Project.
- 25. In the Receiver's view, the completion of the Package A work will bring the construction progress on the Project to a clear and determinable point. With the exteriors of the Buildings completed:
 - (a) the value of the Project will have been improved; and

- (b) the Receiver will be in a better position in which to evaluate its options with respect to the Property, which may include completing the Project in its entirety prior to a sale, in accordance with the terms of the development agreement registered on title to the Project Premises, or commencing a sale process for the Project in its current state at that time.
- 26. The following provides the Receiver's description of the request for proposals undertaken with respect to Package A (the "**Package A RFP**"), bids received thereunder, and the Receiver's proposed engagement of the Contractor.
- 27. On October 13, 2023, the Receiver distributed the Package A RFP to five (5) contractors (the "**Solicited Contractors**"), requesting that they submit to the Receiver a proposal to complete the Package A work. The list of Solicited Contractors comprised contractors which, in the Receiver's view, were likely to have sufficient local presence, resources and expertise with projects of similar scope to appropriately address the Package A work, in the timeline (and with the local oversight) the circumstances required.
- 28. The Package A RFP specifically requested that the Solicited Contractors include in their proposals, among other things, information pertaining to:
 - (a) previous projects, including the project size, building type, and cost, as well as any experience where work in process was continued from another contractor;
 - (b) proposed mobilization date, and estimated completion date;
 - (c) hourly rates for labour and equipment along with margins for material and subcontractors under a cost-reimbursable contract, as well as anticipated high-level pricing for the Package A work; and
 - (d) qualifications of key personnel, including copies of relevant CVs.
- 29. Following the distribution of the Package A RFP, one contractor that was not included in the list of Solicited Contractors contacted the Receiver and requested to participate in the Package A RFP (the "**Unsolicited Contractor**", and together with the Solicited Contractors, the "**Prospective Contractors**"), to which the Receiver obliged.
- 30. The Package A RFP requested that all proposals be delivered to the Receiver by no later than October 30, 2023 (the "**Bid Deadline**"). Prior to the Bid Deadline, the Receiver received proposals

from four (4) Prospective Contractors, including the Unsolicited Contractor (the “**Bids**”). Of the two (2) Prospective Contractors who declined to submit bids, those parties who provided reasons for declining did so on the basis of possessing insufficient resources to dedicate to the Package A work in the timeline. The Receiver reviewed the Bids and engaged in discussions with each of the relevant Prospective Contractors to review their respective Bids and to clarify certain matters therein.

31. Given that the Bids were submitted to the Receiver by competitor contracting firms and contain sensitive commercial and competitive information, a schedule summarizing and comparing the key evaluation considerations of the Bids, redacted for the identity of the applicable Prospective Contractors (other than the selected Contractor) is attached hereto as **Confidential Appendix “1”** (the “**Bid Comparison Summary**”). In the Receiver’s view, the disclosure of the commercially sensitive and confidential information, including commercial terms and competitive information contained in the Bid Comparison Summary would have a detrimental impact on (i) each of the applicable Prospective Contractors, as it would reveal confidential information, including pricing information, to their competitors, (ii) efforts to engage an alternative Prospective Contractor in respect of Package A on same or similar terms to their respective Bid, should the Court not grant the Receiver’s requested relief, and (iii) efforts to engage an alternative contractor, in the future should the need arise, thereby prejudicing the interests of Debtor and its stakeholders.
32. Following a thorough review of the Bids and clarifying discussions with each of the applicable Prospective Contractors, the Receiver, in consultation with the Applicant determined that NDC Construction Ltd (“**NDC**”, or the “**Contractor**”) submitted the leading Bid for the Package A work. As is apparent from the Bid Comparison Summary, NDC’s Bid is anticipated to result in a Package A project cost that was more economical than the other Bids. Further, in the Receiver’s view, NDC’s proposed approach to the Package A work, together with its expertise and experience with similar projects make it best suited to assist the Receiver in completing Package A in a manner that will maximize value.
33. The Receiver intends to engage the Contractor pursuant to a *Canadian Construction Documents Committee* (“**CCDC**”) cost plus contract (together with certain supporting contract documents, the “**Contractor Agreement**”), subject to this Court’s approval. A copy of the draft Contractor Agreement is attached hereto as **Appendix “A”**.

34. The Contractor Agreement shall be in the form of a standard ‘CCDC 3 – 2016 Cost Plus Contract’ (a “**CCDC 3 Contract**”), with certain supplementary conditions, primarily for the purposes of reflecting the particularities of the Receiver’s role and the circumstances of the Proceedings. Under the cost-reimbursable CCDC 3 Contract, progress payments are made to the Contractor against the construction costs presented to the Receiver. The Contractor also earns certain fees payable as a percentage of costs incurred over the course of the Package A work.
35. In the Receiver’s view, structuring the Package A work under a CCDC 3 Contract is favourable in these circumstances to other potential structures for the following key reasons:
- (a) as the Package A work is intended to complete work that was commenced by another party, it avoids the administration of what would otherwise be expected to be multiple change orders from the original scope of work, as the Contractor evaluates more fulsomely the construction progress to date; and
 - (b) it provides for transparency on the costs of the Package A work. In addition to setting out the fees payable to the Contractor for Package A, the Contractor Agreement also sets out the labour rates permissible for the Contractor and subcontractors undertaking work on Package A.
36. As previously noted, the commencement of the Package A work is required as soon as possible in order to protect the Buildings from fire risk and from inclement weather over the winter months. Further, as stated earlier in this First Report, the subjectivities of the insurance Policy require that work be progressing on the Project by no later than December 3, 2023. The terms of the Contractor Agreement also set out a Contractor mobilization date and target completion date (together the “**Target Dates**”) for the Package A work that reflects the time-sensitive nature of the work required by the Receiver, and also provides for an incentive to the Contractor if the Target Dates are met.
37. Package A is limited to only a distinct portion of the remaining work that would be required to complete the Project, and the Package A work is of a definitive scope that is anticipated to begin shortly following this Court’s approval of the Contractor Agreement, should the Court see fit to grant the relief sought by the Receiver, and be completed by April, 2024. Following this Court’s approval, it is anticipated that the Contractor would require approximately two (2) weeks to put the required labour, equipment, and materials in place at the Project Premises in order to commence work.

38. In the Receiver's view, the terms of the Contractor Agreement are reasonable, provide the appropriate amount of control for the Receiver over the Package A work, and properly incentivizes and provides reasonable and fair remuneration of the Contractor to achieve the best outcome for the Project and for stakeholders. The Receiver understands that the Applicant supports the Receiver entering into the Contractor Agreement with the Contractor in respect of the Package A work.

VII. REGISTRATION OF NOTICES ON PROJECT PREMISES TITLE

39. On or about September 22, 2023, the Receiver was advised by Receiver's Counsel that the Land Titles Office refused to register the Notice of Appointment and Caveat on title to the Project Premises until and unless the Receivership Order is amended to include the title number and legal description of the Project Premises.

VIII. INTERIM STATEMENT OF RECEIPTS AND DISBURSMENTS

40. As noted in an earlier section to this First Report, the Receiver was authorized to borrow to fund the costs of these Proceedings under the Receiver's Borrowings, and to date, the Receiver has borrowed \$915,000 from the Applicant.
41. As shown in the Interim R&D below, during the Period, the Receiver had cash receipts (including borrowings) of approximately \$915,000 (net of banking fees), and cash disbursements of approximately \$471,886. As at November 10, 2023, the Receiver's cash on hand was approximately \$443,085.

Interim Statement of Receipts and Disbursements
For the period August 29, 2023 to November 10, 2023
(C\$)

Receipts	Notes	
Borrowings from Applicant		914,970.00
Total Receipts		<u>914,970.00</u>
Disbursements		
Insurance premiums and broker fees	1	318,450.50
Site security	2	98,473.40
Legal fees	3	36,844.87
OSB fees		75.30
GST paid		6,749.76
PST paid		11,291.80
Total Disbursements		<u>471,885.63</u>
Balance in Receiver's Account		<u>443,084.37</u>

Notes:

1. Premiums and broker fees relating to the renewal of the Builders Risk and Wrap up policy.
 2. Relates to 24 hour on site security personnel, CCTV and, fencing providers.
 3. Payment of Receiver's counsel for August and September 2023 services.
42. The amount of cash on hand is primarily a result of favourable timing differences in disbursements, the majority of which relate to payments of professional fees and emergency works. As at November 10, 2023, the Receiver had accrued and unpaid disbursements in the amount of approximately \$435,000 (the “**Accrued Obligations**”), a portion of which has since been paid as at the date of this First Report. As the Proceedings progress, the Receiver expects that cash on hand will decrease significantly over the coming months, as Accrued Obligations are paid and the disbursement timing differences reverse.

IX. REQUEST FOR APPROVAL OF FEES AND DISBURSEMENTS

43. Pursuant to paragraph 20 of the Receivership Order, the Receiver and its counsel shall pass their accounts from time to time. The Receiver and the Receiver’s Counsel, MLT Aikins, have maintained detailed records of their professional fees and disbursements prior to and since the

Receiver's appointment. In accordance with the Receivership Order, the Receiver is seeking approval of its fees and disbursements from August 22, 2023, to October 29, 2023 (the "**Receiver's Fee Period**"), and those of the Receiver's Counsel, from August 22, 2023, to October 31, 2023 (the "**Counsel Fee Period**") in connection with the performance of their duties in these Proceedings.

44. Total fees and disbursements of the Receiver during the Receiver's Fee Period amount to \$179,800 and \$2,812, respectively, both excluding sales taxes (collectively, the "**Receiver's Accounts**"). These amounts represent professional fees and disbursements not yet approved by the Court. The disbursements included in the Receiver's Accounts relate to disbursements incurred through September 30, 2023, only, and disbursements incurred thereafter have not yet been invoiced. Attached hereto as **Appendix "B"** is a summary of, and copies of, the invoices comprising the Receiver's Accounts.
45. The total fees and disbursements of MLT Aikins during the Counsel Fee Period amount to \$59,413 and \$668, respectively, both excluding sales taxes (collectively, the "**Counsel Accounts**"). These amounts represent professional fees and disbursements not yet approved by the Court. Attached hereto as **Appendix "C"** is a summary of, and copies of, the invoices comprising the Counsel Accounts.
46. The Receiver has reviewed the Counsel Accounts and confirms that the services reflected therein have been duly authorized and duly rendered and that, in the Receiver's opinion, the fees and disbursements are reasonable.
47. The fees and disbursements of the Receiver and the Receiver's Counsel have been reviewed by the Applicant. The Receiver understands that the Applicant supports the fee approvals sought in the within motion.

X. RECEIVER'S CONCLUSION AND RECOMMENDATION

48. Based on the forgoing, the Receiver respectfully requests that the Court grant an Order(s):
 - (a) approving and authorizing the engagement of the Contractor pursuant to an agreement substantially in the form of the Contractor Agreement;

- (b) amending the Receivership Order to include the title number and legal description of the Project Premises, which will allow the Receiver's Counsel to register the Notice of Appointment and Caveat on title to the Project Premises with the Land Titles Office;
- (c) Approving the Interim R&D;
- (d) approving this First Report, and the activities of the Receiver detailed herein, including but limited to the contractor selection process;
- (e) approving the Receiver's Accounts and the Counsel Accounts; and
- (f) sealing the confidential appendix to this Report, until the Receiver is discharged, or further order of the Court.

All of which is respectfully submitted this 16th day of November, 2023.

KPMG Inc.

**In its capacity as Receiver of
Bokhari Development Inc.
And not in its personal or corporate capacity**

Per:



Katherine Forbes
CPA, CA, CIRP, LIT
Senior Vice President

Cost Plus Contract

CCDC 3 — 2016

Name of the Work

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- *Canadian Construction Association
- *Construction Specifications Canada
- *Royal Architectural Institute of Canada

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

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AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Agreement made on the _____ day of _____ in the year _____.

by and between the parties

_____ hereinafter called the "Owner"
and

_____ hereinafter called the "Contractor"

The Owner and the Contractor agree as follows:

ARTICLE A-1 THE WORK

The Contractor shall:

1.1 perform the Work required by the Contract Documents for

_____ insert above the name of the Work
located at

_____ insert above the Place of the Work
for which the Agreement has been signed by the parties, and for which

_____ insert above the name of the Consultant
is acting as and is hereinafter called the "Consultant" and

1.2 do and fulfill everything indicated by the Contract Documents, and

1.3 commence the Work by the _____ day of _____ in the year _____ and

1.4 attain Substantial Performance of the Work by the _____ day of _____ in the year _____ or in the event that no date of Substantial Performance of the Work is specified, in accordance with a date mutually agreed after the signing of this Contract or end the obligation to perform Work no later than the _____ day of _____ in the year _____.

ARTICLE A-2 AGREEMENTS AND AMENDMENTS

2.1 The Contract supersedes all prior negotiations, representations or agreements, either written or oral, including the bidding documents that are not expressly listed in Article A-3 of the Agreement – CONTRACT DOCUMENTS.

2.2 The Contract may be amended only as provided in the Contract Documents.

ARTICLE A-3 CONTRACT DOCUMENTS

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

- Agreement between *Owner* and *Contractor*
 - Definitions
 - The General Conditions
- *

* (Insert here, attaching additional pages if required, a list identifying all other *Contract Documents* e.g.

- *Supplementary conditions and amendments;*
- *Specifications, giving a list of contents with section numbers and titles, number of pages and date;*
- *Material finishing schedules;*
- *Drawings, giving drawing number, title, date, revision date or mark;*
- *Addenda, giving title, number, date;*
- *Rate schedule;*
- *Schedule of head office or other personnel as referred to in Article A-4 of the Agreement – COST OF THE WORK including the method of determining such costs;*
- *Method of calculating Project specific information technology support as referred to in Article A-4 of the Agreement – COST OF THE WORK;*
- *Method of accounting and audit as referred to in GC 5.2 – ACCOUNTING AND AUDIT;*
- *Method, details, and frequency of schedule presentation as referred to in GC 3.5 – CONSTRUCTION SCHEDULE;*
- *Schedule providing for advance or special payments;*
- *Any support documents required for applications for payment; and*
- *Any other special requirements or agreements.)*

ARTICLE A-4 COST OF THE WORK

4.1 The *Cost of the Work* is comprised of the following costs incurred by the *Contractor* in performing the *Work* except for costs incurred due to failure on the part of the *Contractor* to exercise reasonable care and diligence in the *Contractor's* performance of the *Work*, which shall be borne by the *Contractor*:

Labour

- .1 rates that are listed in the schedule or as agreed by the *Owner* and *Contractor* including wages, benefits, compensation, contributions, assessments, or taxes incurred for such items as employment insurance, provincial or territorial health insurance, workers' compensation, and Canada or Quebec Pension Plan for:
 - (1) trade labour in the direct employ of the *Contractor*;
 - (2) the *Contractor's* personnel when stationed at the field office, in whatever capacity employed;
 - (3) the *Contractor's* personnel engaged at shops or on the road, in expediting the production or transportation of materials or equipment; and
 - (4) the *Contractor's* office personnel engaged in a technical capacity, or other personnel identified in Article A-3 of the Agreement – CONTRACT DOCUMENTS for the time spent in the performance of the *Work*;

Material, Equipment and Supplier

- .2 all *Products* including cost of transportation thereof;
- .3 in the absence of agreed rates, cost less salvage value of *Construction Equipment, Temporary Work* and tools, exclusive of hand tools under \$1,000 owned by the *Contractor*;
- .4 rental cost of *Construction Equipment, Temporary Work* and tools, exclusive of hand tools under \$1,000;
- .5 cost of all equipment and services required for the *Contractor's* field office;

Subcontract

- .6 the amounts of all contracts with *Subcontractors*;
- .7 costs to the *Contractor* resulting from default, insolvency, abandonment, or termination of any *Subcontractor*;

Others

- .8 travel and subsistence expenses of the *Contractor's* personnel described in paragraph 4.1.1;
- .9 quality assurance such as independent inspection and testing services;
- .10 deposits lost provided that they are not caused by negligent acts or omissions of the *Contractor*;
- .11 charges levied by authorities having jurisdiction at the *Place of the Work*;
- .12 royalties, patent license fees, and damages for infringement of patents and cost of defending suits subject always to the *Contractor's* obligations to indemnify the *Owner* as provided in paragraph 10.3.1 of GC 10.3 – PATENT FEES;
- .13 premium for all contract securities and insurance for which the *Contractor* is required, by the *Contract Documents*, to provide, maintain and pay in relation to the performance of the *Work*;
- .14 losses and expenses sustained by the *Contractor* for matters which are the subject of insurance under the policies prescribed in GC 11.1 – INSURANCE when such losses and expenses are not recoverable because the amounts are in excess of collectible amounts or within the deductible amounts;
- .15 taxes and duties, other than *Value Added Taxes*, income, capital, or property taxes, relating to the *Work* for which the *Contractor* is liable;
- .16 charges for voice and data communications, transmittal and reproduction of documents, and petty cash items;
- .17 cost for removal and disposal of waste products and debris;
- .18 legal costs, incurred by the *Contractor*, in relation to the performance of the *Work* provided that they are not:
 - (1) relating to a dispute between the *Owner* and the *Contractor* unless such costs are part of a settlement or awarded by arbitration or court,
 - (2) the result of the negligent acts or omissions of the *Contractor*, or
 - (3) a breach of this *Contract* by the *Contractor*;
- .19 cost of auditing when requested by the *Owner*;
- .20 cost of *Project* specific information technology in accordance with the method determined by the parties; and

.21 other costs incurred in the performance of the *Work* as listed below:

4.2 The *Cost of the Work* excludes *Value Added Taxes*.

4.3 In the absence of an agreement, the *Cost of the Work* shall be at rates prevailing in the locality of the *Place of the Work*.

4.4 All cash discounts shall accrue to the *Contractor* unless the *Owner* deposits funds with the *Contractor* with which to make payments, in which case the cash discounts shall accrue to the *Owner*.

4.5 All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment applicable to the *Work* shall accrue to the *Owner*, and the *Contractor* shall make provisions so that they can be secured.

4.6 The *Contractor's* percentage charges applicable to the *Cost of the Work* are:

.1 Labour: _____ % for items described in paragraphs 4.1.1.

.2 Material, Equipment and Supplier: _____ % for items described in paragraphs 4.1.2 to 4.1.5.

.3 Subcontract: _____ % for items described in paragraphs 4.1.6 to 4.1.7.

.4 Others: _____ % for items described in paragraphs 4.1.8 to 4.1.21.

ARTICLE A-5 CONTRACTOR’S FEE

5.1 The *Contractor’s Fee*, which excludes *Value Added Taxes*, is comprised of one or more of the following:

- .1 * A percentage fee of _____ percent (_____ %) of the *Cost of the Work*, earned as the *Cost of the Work* accrues. In the event the *Owner* furnishes labour or material below market cost or materials are re-used beyond that anticipated in the original scope of the *Work*, the *Cost of the Work* for purposes of establishing the *Contractor’s Fee* is the cost of all materials and labour necessary to complete the *Work* as if all materials had been new and as if all labour had been paid for at market prices at the time of construction; and
- .2 * A fixed fee of _____/100 dollars (\$ _____), earned as follows:

** Strike out inapplicable paragraph, if any.*

ARTICLE A-6 CONTRACT PRICE

- 6.1 The *Contract Price*, which excludes *Value Added Taxes*, is equal to the sum of the *Cost of the Work* as in accordance with Article A-4 of the Agreement – COST OF THE WORK, the percentage charges as stipulated in paragraph 4.6 of Article A-4 of the Agreement – COST OF THE WORK and the *Contractor’s Fee* as stipulated in paragraph 5.1 of Article A-5 of the Agreement – CONTRACTOR’S FEE.
- 6.2 The amounts specified in paragraph 6.1 shall be subject to adjustments as provided in the *Contract Documents*.
- 6.3 All amounts are in Canadian funds.

ARTICLE A-7 OPTIONS

7.1 The *Owner* and the *Contractor* may agree to exercise the options described in paragraphs 7.2 and 7.3 at the time of signing of this *Contract* or any time during the term of this *Contract*. Any agreement to exercise any of the following options after the signing of this *Contract* shall be recorded by a *Change Order*.

7.2 GUARANTEED MAXIMUM PRICE (“GMP”) OPTION

The *Contract Price* is guaranteed by the *Contractor* not to exceed _____/100 dollars

(\$ _____), subject to the adjustment as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE. Any amount, consisting of the sum of the *Cost of the Work*, the percentage charges for the *Cost of the Work* and the *Contractor’s Fee*, in excess of this *GMP* will be paid by the *Contractor* without reimbursement by the *Owner*.

7.3 TARGET CONTRACT PRICE OPTION

The *Target Contract Price* is _____/100 dollars

(\$ _____), subject to the adjustment as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE.

At the completion of the *Work*, any difference between the *Contract Price* and the *Target Contract Price* will be shared in accordance with the following formula:

- 7.4 In the event that no amount is stipulated in paragraphs 7.2 or 7.3, the provisions pertinent to the *GMP* or *Target Contract Price*, whenever they appear in the *Contract*, shall be individually inoperative and considered as deleted from this agreement.

ARTICLE A-8 PAYMENT

- 8.1 Subject to the provisions of the *Contract Documents* and Article A-7 of the Agreement – OPTIONS (if applicable), and in accordance with legislation and statutory regulations respecting holdback percentages and, where such legislation or regulations do not exist or apply, subject to a holdback of _____

percent (_____ %), the *Owner* shall:

- .1 make progress payments to the *Contractor* on account of the *Cost of the Work* when due in the amount certified by the *Consultant* together with such *Value Added Taxes* as may be applicable to such payments, and
- .2 make progress payments to the *Contractor* of the portion of the *Contractor's Fee* earned as described in Article A-5 of the Agreement – CONTRACTOR'S FEE together with such *Value Added Taxes* as may be applicable to such payments, and
- .3 upon *Substantial Performance of the Work*, pay to the *Contractor* the unpaid balance of the holdback amount when due together with such *Value Added Taxes* as may be applicable to such payment, and
- .4 upon the issuance of the final certificate for payment, pay to the *Contractor* the unpaid balance of the *Contract Price* when due together with such *Value Added Taxes* as may be applicable to such payment.

- 8.2 In the event of loss or damage occurring where payment becomes due under the property and boiler insurance policies, payments shall be made to the *Contractor* in accordance with the provisions of GC 11.1 – INSURANCE.

8.3 Interest

- .1 Should either party fail to make payments as they become due under the terms of the *Contract* or in an award by arbitration or court, interest at the following rates on such unpaid amounts shall also become due and payable until payment:
 - (1) 2% per annum above the prime rate for the first 60 days.
 - (2) 4% per annum above the prime rate after the first 60 days.

Such interest shall be compounded on a monthly basis. The prime rate shall be the rate of interest quoted by

(Insert name of chartered lending institution whose prime rate is to be used)

for prime business loans as it may change from time to time.

- .2 Interest shall apply at the rate and in the manner prescribed by paragraph 8.3.1 of this Article on the settlement amount of any claim in dispute that is resolved either pursuant to Part 8 of the General Conditions – DISPUTE RESOLUTION or otherwise, from the date the amount would have been due and payable under the *Contract*, had it not been in dispute, until the date it is paid.

ARTICLE A-9 RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING

- 9.1 *Notices in Writing* will be addressed to the recipient at the address set out below.
- 9.2 The delivery of a *Notice in Writing* will be by hand, by courier, by prepaid first class mail, or by facsimile or other form of electronic communication during the transmission of which no indication of failure of receipt is communicated to the sender.
- 9.3 A *Notice in Writing* delivered by one party in accordance with this *Contract* will be deemed to have been received by the other party on the date of delivery if delivered by hand or courier, or if sent by mail it shall be deemed to have been received five calendar days after the date on which it was mailed, provided that if either such day is not a *Working Day*, then the *Notice in Writing* shall be deemed to have been received on the *Working Day* next following such day.
- 9.4 A *Notice in Writing* sent by facsimile or other form of electronic communication shall be deemed to have been received on the date of its transmission provided that if such day is not a *Working Day* or if it is received after the end of normal business hours on the date of its transmission at the place of receipt, then it shall be deemed to have been received at the opening of business at the place of receipt on the first *Working Day* next following the transmission thereof.

9.5 An address for a party may be changed by *Notice in Writing* to the other party setting out the new address in accordance with this Article.

Owner

_____ *name of Owner**

_____ *address*

_____ *facsimile number* _____ *email address*

Contractor

_____ *name of Contractor**

_____ *address*

_____ *facsimile number* _____ *email address*

Consultant

_____ *name of Consultant**

_____ *address*

_____ *facsimile number* _____ *email address*

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

ARTICLE A-10 LANGUAGE OF THE CONTRACT

- 10.1 When the *Contract Documents* are prepared in both the English and French languages, it is agreed that in the event of any apparent discrepancy between the English and French versions, the English / French # language shall prevail.
Complete this statement by striking out inapplicable term.
- 10.2 This Agreement is drawn in English at the request of the parties hereto. La présente convention est rédigée en anglais à la demande des parties.

ARTICLE A-11 SUCCESSION

11.1 The *Contract* shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, legal representatives, successors, and assigns.

In witness whereof the parties hereto have executed this Agreement by the hands of their duly authorized representatives.

SIGNED AND DELIVERED
in the presence of:

WITNESS

OWNER

signature

signature

signature

signature

WITNESS

CONTRACTOR

signature

signature

signature

signature

*N.B. Where legal jurisdiction, local practice or Owner or Contractor requirement calls for:
(a) proof of authority to execute this document, attach such proof of authority in the form of a certified copy of a resolution naming the representative(s) authorized to sign the Agreement for and on behalf of the corporation or partnership; or
(b) the affixing of a corporate seal, this Agreement should be properly sealed.*

DEFINITIONS

The following Definitions shall apply to all *Contract Documents*.

Change Directive

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

Change Order

A *Change Order* is a written amendment to the *Contract* prepared by the *Consultant* and signed by the *Owner* and the *Contractor* stating their agreement upon a change in the *Contract* including, without limitation:

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

Construction Equipment

Construction Equipment means all machinery and equipment, either operated or not operated, that is required for preparing, fabricating, conveying, erecting, or otherwise performing the *Work* but is not incorporated into the *Work*.

Consultant

The *Consultant* is the person or entity engaged by the *Owner* and identified as such in the Agreement. The *Consultant* is the Architect, Engineer or entity licensed to practise in the province or territory of the *Place of the Work*.

Contract

The *Contract* is the undertaking by the parties to perform their respective duties, responsibilities and obligations as prescribed in the *Contract Documents* and represents the entire agreement between the parties.

Contract Documents

The *Contract Documents* consist of those documents listed in Article A-3 of the Agreement – CONTRACT DOCUMENTS and amendments agreed upon between the parties.

Contract Price

The *Contract Price* is the amount stipulated in Article A-6 of the Agreement – CONTRACT PRICE.

Contract Time

The *Contract Time* is the time stipulated in paragraphs 1.3 and 1.4 of Article A-1 of the Agreement – THE WORK from commencement of the *Work* to *Substantial Performance of the Work*.

Contractor

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

Contractor's Fee

The *Contractor's Fee* is the amount stipulated in Article A-5 of the Agreement – CONTRACTOR'S FEE which excludes the *Value Added Taxes*.

Cost of the Work

The *Cost of the Work* is the amount stipulated in Article A-4 of the Agreement – COST OF THE WORK which excludes the *Value Added Taxes*.

Drawings

The *Drawings* are the graphic and pictorial portions of the *Contract Documents*, wherever located and whenever issued, showing the design, location and dimensions of the *Work*, generally including plans, elevations, sections, details, and diagrams.

Guaranteed Maximum Price ("GMP")

The *Guaranteed Maximum Price* ("GMP") is the amount stipulated in paragraph 7.2 of Article A-7 of the Agreement – OPTIONS which excludes *Value Added Taxes*.

Notice in Writing

A *Notice in Writing*, where identified in the *Contract Documents*, is a written communication between the parties or between them and the *Consultant* that is transmitted in accordance with the provisions of Article A-9 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

Owner

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

Place of the Work

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

Product

Product or Products means material, machinery, equipment, fixtures, hardwares, and softwares forming part of the *Work*, but does not include *Construction Equipment*.

Project

The *Project* means the total construction contemplated of which the *Work* may be the whole or a part.

Provide

Provide means to supply and install.

Shop Drawings

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

Specifications

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

Subcontractor

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

Substantial Performance of the Work

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

Supplemental Instruction

A *Supplemental Instruction* is an instruction, not involving adjustment in the *Contract Price* or *Contract Time*, in the form of *Specifications*, *Drawings*, schedules, samples, models or written instructions, consistent with the intent of the *Contract Documents*. It is to be issued by the *Consultant* to supplement the *Contract Documents* as required for the performance of the *Work*.

Supplier

A *Supplier* is a person or entity having a direct contract with the *Contractor* to supply *Products*.

Target Contract Price

The *Target Contract Price* is the amount stipulated in paragraph 7.3 of Article A-7 of the Agreement – OPTIONS which excludes *Value Added Taxes*. In the event that no amount is stipulated in paragraph 7.3 of Article A-7 of the Agreement – OPTIONS, the provisions pertinent to the *Target Contract Price*, wherever they appear in the *Contract*, shall be individually inoperative and considered as deleted from this agreement.

Temporary Work

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

Value Added Taxes

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

Work

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

Working Day

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

GENERAL CONDITIONS

PART 1 GENERAL PROVISIONS

GC 1.1 CONTRACT DOCUMENTS

- 1.1.1 The intent of the *Contract Documents* is to include the labour, *Products* and services necessary for the performance of the *Work* by the *Contractor* in accordance with these documents. It is not intended, however, that the *Contractor* shall supply products or perform work not consistent with, not covered by, or not properly inferable from the *Contract Documents*.
- 1.1.2 Nothing contained in the *Contract Documents* shall create any contractual relationship between:
- .1 the *Owner* and a *Subcontractor*, a *Supplier*, or their agent, employee, or other person performing any portion of the *Work*.
 - .2 the Consultant and the Contractor, a Subcontractor, a Supplier, or their agent, employee, or other person performing any portion of the *Work*.
- 1.1.3 The *Contract Documents* are complementary, and what is required by any one shall be as binding as if required by all.
- 1.1.4 Words and abbreviations which have well known technical or trade meanings are used in the *Contract Documents* in accordance with such recognized meanings.
- 1.1.5 References in the *Contract Documents* to the singular shall be considered to include the plural as the context requires.
- 1.1.6 Neither the organization of the *Specifications* nor the arrangement of *Drawings* shall control the *Contractor* in dividing the work among *Subcontractors* and *Suppliers*.
- 1.1.7 If there is a conflict within the *Contract Documents*:
- .1 the order of priority of documents, from highest to lowest, shall be
 - the Agreement between the *Owner* and the *Contractor*,
 - the Definitions,
 - Supplementary Conditions,
 - the General Conditions,
 - Division 1 of the *Specifications*,
 - technical *Specifications*,
 - material and finishing schedules,
 - the *Drawings*.
 - .2 *Drawings* of larger scale shall govern over those of smaller scale of the same date.
 - .3 dimensions shown on *Drawings* shall govern over dimensions scaled from *Drawings*.
 - .4 later dated documents shall govern over earlier documents of the same type.
 - .5 noted materials and annotations shall govern over graphic indications.
 - .6 amendments to documents shall govern over documents so amended.
- 1.1.8 The *Owner* shall provide the *Contractor*, without charge, sufficient copies of the *Contract Documents* to perform the *Work*.
- 1.1.9 *Specifications*, *Drawings*, models, and copies thereof furnished by the *Consultant* are and shall remain the *Consultant's* property, with the exception of the signed *Contract* sets, which shall belong to each party to the *Contract*. All *Specifications*, *Drawings* and models furnished by the *Consultant* are to be used only with respect to the *Work* and are not to be used on other work. These *Specifications*, *Drawings* and models are not to be copied or altered in any manner without the written authorization of the *Consultant*.
- 1.1.10 Models furnished by the *Contractor* at the *Owner's* expense are the property of the *Owner*.

GC 1.2 LAW OF THE CONTRACT

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

GC 1.3 RIGHTS AND REMEDIES

- 1.3.1 Except as expressly provided in the *Contract Documents*, the duties and obligations imposed by the *Contract Documents* and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.
- 1.3.2 No action or failure to act by the *Owner*, *Consultant* or *Contractor* shall constitute a waiver of any right or duty afforded any of them under the *Contract*, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

GC 1.4 ASSIGNMENT

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

GC 1.5 PROJECT REPRESENTATIVES

1.5.1 The *Owner*, *Contractor* and *Consultant* shall appoint one or more project representatives to assist in carrying out their responsibilities under this *Contract*. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in writing.

PART 2 ADMINISTRATION OF THE CONTRACT

GC 2.1 AUTHORITY OF THE CONSULTANT

2.1.1 The *Consultant* will have authority to act on behalf of the *Owner* only to the extent provided in the *Contract Documents*, unless otherwise modified by written agreement as provided in paragraph 2.1.2.

2.1.2 The duties, responsibilities and limitations of authority of the *Consultant* as set forth in the *Contract Documents* may be modified or extended only with the written consent of the *Contractor* following consultation with the *Consultant*.

2.1.3 If the *Consultant's* employment is terminated, the *Owner* shall immediately appoint or reappoint a *Consultant* against whom the *Contractor* makes no reasonable objection and whose status under the *Contract Documents* shall be that of the former *Consultant*.

GC 2.2 ROLE OF THE CONSULTANT

2.2.1 The *Consultant* will provide administration of the *Contract* as described in the *Contract Documents*.

2.2.2 The *Consultant* will visit the *Place of the Work* at intervals appropriate to the progress of construction to become familiar with the progress and quality of the *Work* and to determine if the *Work* is proceeding in general conformity with the *Contract Documents*.

2.2.3 If the *Owner* and the *Consultant* agree, the *Consultant* will provide at the *Place of the Work*, one or more project representatives to assist in carrying out the *Consultant's* responsibilities.

2.2.4 The *Consultant* will promptly inform the *Owner* of the date of receipt of the *Contractor's* applications for payment as provided in paragraph 5.4.1.1 of GC 5.4 – PROGRESS PAYMENT.

2.2.5 Based on the *Consultant's* observations and evaluation of the *Contractor's* applications for payment, the *Consultant* will determine the amounts owing to the *Contractor* under the *Contract* and will issue certificates for payment as provided in Article A-8 of the Agreement – PAYMENT, GC 5.4 – PROGRESS PAYMENT and GC 5.8 – FINAL PAYMENT.

2.2.6 The *Consultant* will not be responsible for and will not have control, charge or supervision of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs required in connection with the *Work* in accordance with the applicable construction safety legislation, other regulations or general construction practice. The *Consultant* will not be responsible for the *Contractor's* failure to carry out the *Work* in accordance with the *Contract Documents*. The *Consultant* will not have control over, charge of or be responsible for the acts or omissions of the *Contractor*, *Subcontractors*, *Suppliers*, or their agents, employees, or any other persons performing portions of the *Work*.

2.2.7 Except with respect to GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, the *Consultant* will be, in the first instance, the interpreter of the requirements of the *Contract Documents*.

2.2.8 Matters in question relating to the performance of the *Work* or the interpretation of the *Contract Documents* shall be initially referred in writing to the *Consultant* by the party raising the question for interpretations and findings and copied to the other party.

2.2.9 Interpretations and findings of the *Consultant* shall be consistent with the intent of the *Contract Documents*. In making such interpretations and findings the *Consultant* will not show partiality to either the *Owner* or the *Contractor*.

2.2.10 The *Consultant's* interpretations and findings will be given in writing to the parties within a reasonable time.

2.2.11 With respect to claims for a change in *Contract Price*, the *Consultant* will make findings as set out in GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE, GMP OR TARGET CONTRACT PRICE.

- 2.2.12 The *Consultant* will have authority to reject work which in the *Consultant's* opinion does not conform to the requirements of the *Contract Documents*. Whenever the *Consultant* considers it necessary or advisable, the *Consultant* will have authority to require inspection or testing of work, whether or not such work is fabricated, installed or completed. However, neither the authority of the *Consultant* to act nor any decision either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the *Consultant* to the *Contractor*, *Subcontractors*, *Suppliers*, or their agents, employees, or other persons performing any of the *Work*.
- 2.2.13 During the progress of the *Work* the *Consultant* will furnish *Supplemental Instructions* to the *Contractor* with reasonable promptness or in accordance with a schedule for such instructions agreed to by the *Consultant* and the *Contractor*.
- 2.2.14 The *Consultant* will review and take appropriate action upon *Shop Drawings*, samples and other *Contractor's* submittals, in accordance with the *Contract Documents*.
- 2.2.15 The *Consultant* will prepare *Change Orders* and *Change Directives* as provided in GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 2.2.16 The *Consultant* will conduct reviews of the *Work* to determine the date of *Substantial Performance of the Work* as provided in GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK.
- 2.2.17 All certificates issued by the *Consultant* will be to the best of the *Consultant's* knowledge, information and belief. By issuing any certificate, the *Consultant* does not guarantee the *Work* is correct or complete.
- 2.2.18 The *Consultant* will receive and review written warranties and related documents required by the *Contract* and provided by the *Contractor* and will forward such warranties and documents to the *Owner* for the *Owner's* acceptance.

GC 2.3 REVIEW AND INSPECTION OF THE WORK

- 2.3.1 The *Owner* and the *Consultant* shall have access to the *Work* at all times. The *Contractor* shall provide sufficient, safe and proper facilities at all times for the review of the *Work* by the *Consultant* and the inspection of the *Work* by authorized agencies. If parts of the *Work* are in preparation at locations other than the *Place of the Work*, the *Owner* and the *Consultant* shall be given access to such work whenever it is in progress.
- 2.3.2 If work is designated for tests, inspections or approvals in the *Contract Documents*, or by the *Consultant's* instructions, or by the laws or ordinances of the *Place of the Work*, the *Contractor* shall give the *Consultant* reasonable notification of when the work will be ready for review and inspection. The *Contractor* shall arrange for and shall give the *Consultant* reasonable notification of the date and time of inspections by other authorities.
- 2.3.3 The *Contractor* shall furnish promptly to the *Consultant* two copies of certificates and inspection reports relating to the *Work*.
- 2.3.4 If the *Contractor* covers, or permits to be covered, work that has been designated for special tests, inspections or approvals before such special tests, inspections or approvals are made, given or completed, the *Contractor* shall, if so directed, uncover such work, have the inspections or tests satisfactorily completed, and make good covering work at the *Contractor's* expense.
- 2.3.5 The *Consultant* may order any portion or portions of the *Work* to be examined to confirm that such work is in accordance with the requirements of the *Contract Documents*. If the work is not in accordance with the requirements of the *Contract Documents*, it shall be considered defective work and corrected in accordance with GC 2.4 – DEFECTIVE WORK.

GC 2.4 DEFECTIVE WORK

- 2.4.1 The *Contractor* shall promptly correct defective work that has been rejected by the *Consultant* as failing to conform to the *Contract Documents* whether or not the defective work has been incorporated in the *Work* and whether or not the defect is the result of poor workmanship, use of defective products or damage through carelessness or other act or omission of the *Contractor*.
- 2.4.2 The *Contractor* shall be responsible for the cost in correcting defective work if there is a failure on the part of the *Contractor* to exercise reasonable care and diligence in the *Contractor's* performance of the *Work*, otherwise the cost of correcting such work shall be included in the *Cost of the Work* as described in Article A-4 of the Agreement – COST OF THE WORK,

PART 3 EXECUTION OF THE WORK

GC 3.1 CONTROL OF THE WORK

- 3.1.1 If requested by the *Owner*, the *Contractor* shall prepare and the parties shall agree on an execution plan that identifies:
- .1 the methodology in completing the *Work*;
 - .2 the procurement methodology for subcontract work;
 - .3 the planning and costing of *Contractor's* own forces; and
 - .4 the anticipated cash flow for progress payments and cost reports.

- 3.1.2 Subject to the execution plan described in paragraph 3.1.1, the *Contractor* shall have control of the *Work* and shall direct and supervise the *Work* so as to ensure conformity with the *Contract Documents*.
- 3.1.3 The *Contractor* shall be responsible for construction means, methods, techniques, sequences, and procedures and for co-ordinating the various parts of the *Work* under the *Contract*.

GC 3.2 CONSTRUCTION BY OWNER OR OTHER CONTRACTORS

- 3.2.1 The *Owner* reserves the right to award separate contracts in connection with other parts of the *Project* to other contractors and to perform work with own forces.
- 3.2.2 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Owner* shall:
- .1 provide for the co-ordination of the activities and work of other contractors and *Owner's* own forces with the *Work* of the *Contract*;
 - .2 enter into separate contracts with other contractors under conditions of contract which are compatible with the conditions of the *Contract*;
 - .3 ensure that insurance coverage is provided to the same requirements as are called for in GC 11.1 – INSURANCE and co-ordinate such insurance with the insurance coverage of the *Contractor* as it affects the *Work*; and
 - .4 take all reasonable precautions to avoid labour disputes or other disputes on the *Project* arising from the work of other contractors or the *Owner's* own forces.
- 3.2.3 When separate contracts are awarded for other parts of the *Project*, or when work is performed by the *Owner's* own forces, the *Contractor* shall:
- .1 afford the *Owner* and other contractors reasonable opportunity to store their products and execute their work;
 - .2 cooperate with other contractors and the *Owner* in reviewing their construction schedules; and
 - .3 promptly report to the *Consultant* in writing any apparent deficiencies in the work of other contractors or of the *Owner's* own forces, where such work affects the proper execution of any portion of the *Work*, prior to proceeding with that portion of the *Work*.
 - .4 if specified in the *Contract Documents* and where legislation permits, assume overall responsibility for compliance with the applicable health and construction safety legislation at the *Place of the Work*;
- 3.2.4 Where the *Contract Documents* identify work to be performed by other contractors or the *Owner's* own forces, the *Contractor* shall co-ordinate and schedule the *Work* with the work of other contractors and the *Owner's* own forces as specified in the *Contract Documents*.
- 3.2.5 Where a change in the *Work* is required as a result of the co-ordination and integration of the work of other contractors or *Owner's* own forces with the *Work*, the changes shall be authorized and valued as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 3.2.6 Disputes and other matters in question involving the *Contractor* and other contractors shall be dealt with as provided in Part 8 of the General Conditions – DISPUTE RESOLUTION provided the other contractors have reciprocal obligations. The *Contractor* shall be deemed to have consented to arbitration of any dispute with any other contractor whose contract with the *Owner* contains a similar agreement to arbitrate.

GC 3.3 TEMPORARY WORK

- 3.3.1 The *Contractor* shall have the sole responsibility for the design, erection, operation, maintenance, and removal of *Temporary Work*.
- 3.3.2 The *Contractor* shall engage and pay for registered professional engineering personnel skilled in the appropriate disciplines to perform those functions referred to in paragraph 3.3.1 where required by law or by the *Contract Documents* and in all cases where such *Temporary Work* is of such a nature that professional engineering skill is required to produce safe and satisfactory results.
- 3.3.3 Notwithstanding the provisions of GC 3.1 – CONTROL OF THE WORK, paragraphs 3.3.1 and 3.3.2 or provisions to the contrary elsewhere in the *Contract Documents* where such *Contract Documents* include designs for *Temporary Work* or specify a method of construction in whole or in part, such designs or methods of construction shall be considered to be part of the design of the *Work* and the *Contractor* shall not be held responsible for that part of the design or the specified method of construction. The *Contractor* shall, however, be responsible for the execution of such design or specified method of construction in the same manner as for the execution of the *Work*.

GC 3.4 DOCUMENT REVIEW

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

GC 3.5 CONSTRUCTION SCHEDULE

3.5.1 The *Contractor* shall:

- .1 prepare and submit to the *Owner* and the *Consultant* prior to the first application for payment, a construction schedule that indicates the timing of the major activities of the *Work* and provides sufficient detail of the critical events and their inter-relationship to demonstrate the *Work* will be performed in conformity with the *Contract Time*;
- .2 monitor the progress of the *Work* relative to the construction schedule and update the schedule on a monthly basis or as stipulated by the *Contract Documents*; and
- .3 advise the *Consultant* of any revisions required to the schedule as the result of extensions of the *Contract Time* as provided in Part 6 of the General Conditions – CHANGES IN THE WORK.

GC 3.6 SUPERVISION

3.6.1 The *Contractor* shall provide all necessary supervision and appoint a competent representative who shall be in attendance at the *Place of the Work* while work is being performed. The appointed representative shall not be changed except for valid reason.

3.6.2 The appointed representative shall represent the *Contractor* at the *Place of the Work*. Information and instructions provided by the *Consultant* to the *Contractor's* appointed representative shall be deemed to have been received by the *Contractor*, except with respect to Article A-9 of the Agreement – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING.

GC 3.7 SUBCONTRACTORS AND SUPPLIERS

3.7.1 The *Contractor* shall preserve and protect the rights of the parties under the *Contract* with respect to work to be performed under subcontract, and shall:

- .1 enter into contracts or written agreements with *Subcontractors* and *Suppliers* to require them to perform their work as provided in the *Contract Documents*;
- .2 incorporate the applicable terms and conditions of the *Contract Documents* into all contracts or written agreements with *Subcontractors* and *Suppliers*; and
- .3 direct and supervise the subcontract work.

3.7.2 The *Contractor* shall, before entering into contracts or written agreements with *Subcontractors* and *Suppliers*, submit to the *Owner* all bids received for the various parts of the *Work* to be subcontracted and obtain the *Owner's* approval of the *Subcontractors* and *Suppliers* proposed by the *Contractor*.

3.7.3 If a change is required to the proposed *Subcontractor* or *Supplier* described in paragraph 3.7.2, the *Owner* and the *Contractor* shall agree to adjustments in any of the *Contractor's Fee*, *GMP*, *Target Contract Price* and *Contract Time*.

3.7.4 The *Contractor* shall not be required to employ as a *Subcontractor* or *Supplier*, a person or firm to which the *Contractor* may reasonably object.

3.7.5 The *Owner*, through the *Consultant*, may provide to a *Subcontractor* or *Supplier* information as to the percentage of the *Subcontractor's* or *Supplier's* work which has been certified for payment.

GC 3.8 LABOUR AND PRODUCTS

3.8.1 *Products* which are not specified shall be of a quality consistent with those specified and their use acceptable to the *Consultant*.

3.8.2 The *Contractor* shall maintain good order and discipline among the *Contractor's* employees and *Subcontractors* engaged on the *Work* and shall not employ on the *Work* anyone not skilled in the tasks assigned.

GC 3.9 DOCUMENTS AT THE SITE

3.9.1 The *Contractor* shall keep current *Contract Documents*, submittals, reports, and records of meetings, in good order and available to the *Owner* and the *Consultant* at the *Place of the Work*.

GC 3.10 SHOP DRAWINGS

- 3.10.1 The *Contractor* shall provide *Shop Drawings* as required in the *Contract Documents*.
- 3.10.2 The *Contractor* shall provide *Shop Drawings* to the *Consultant* to review in orderly sequence and sufficiently in advance so as to cause no delay in the *Work* or in the work of other contractors.
- 3.10.3 Upon request of the *Contractor* or the *Consultant*, they shall jointly prepare a schedule of the dates for provision, review and return of *Shop Drawings*.
- 3.10.4 The *Contractor* shall provide *Shop Drawings* in the form specified, or if not specified, as directed by the *Consultant*.
- 3.10.5 *Shop Drawings* provided by the *Contractor* to the *Consultant* shall indicate by stamp, date and signature of the person responsible for the review that the *Contractor* has reviewed each one of them.
- 3.10.6 The *Consultant's* review is for conformity to the design concept and for general arrangement only.
- 3.10.7 *Shop Drawings* which require approval of any legally constituted authority having jurisdiction shall be provided to such authority by the *Contractor* for approval.
- 3.10.8 The *Contractor* shall review all *Shop Drawings* before providing them to the *Consultant*. The *Contractor* represents by this review that:
- .1 the *Contractor* has determined and verified all applicable field measurements, field construction conditions, *Product* requirements, catalogue numbers and similar data, or will do so, and
 - .2 the *Contractor* has checked and co-ordinated each *Shop Drawing* with the requirements of the *Work* and of the *Contract Documents*.
- 3.10.9 At the time of providing *Shop Drawings*, the *Contractor* shall expressly advise the *Consultant* in writing of any deviations in a *Shop Drawing* from the requirements of the *Contract Documents*. The *Consultant* shall indicate the acceptance or rejection of such deviation expressly in writing.
- 3.10.10 The *Consultant's* review shall not relieve the *Contractor* of responsibility for errors or omissions in the *Shop Drawings* or for meeting all requirements of the *Contract Documents*.
- 3.10.11 The *Contractor* shall provide revised *Shop Drawings* to correct those which the *Consultant* rejects as inconsistent with the *Contract Documents*, unless otherwise directed by the *Consultant*. The *Contractor* shall notify the *Consultant* in writing of any revisions to the *Shop Drawings* other than those requested by the *Consultant*.
- 3.10.12 The *Consultant* will review and return *Shop Drawings* in accordance with the schedule agreed upon, or, in the absence of such schedule, with reasonable promptness so as to cause no delay in the performance of the *Work*.

GC 3.11 USE OF THE WORK

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

GC 3.12 CUTTING AND REMEDIAL WORK

- 3.12.1 The *Contractor* shall perform the cutting and remedial work required to make the affected parts of the *Work* come together properly.
- 3.12.2 The *Contractor* shall co-ordinate the *Work* to ensure that the cutting and remedial work is kept to a minimum.
- 3.12.3 Cutting and remedial work shall be performed by specialists familiar with the *Products* affected and shall be performed in a manner to neither damage nor endanger the *Work*.

GC 3.13 CLEANUP

- 3.13.1 The *Contractor* shall maintain the *Work* in a safe and tidy condition and free from the accumulation of waste products and debris, other than that caused by the *Owner*, other contractors or their employees.
- 3.13.2 Before applying for *Substantial Performance of the Work* as provided in GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK, the *Contractor* shall remove waste products and debris, other than that resulting from the work of the *Owner*, other contractors or their employees, and shall leave the *Place of the Work* clean and suitable for use or occupancy by the *Owner*. The *Contractor* shall remove products, tools, *Construction Equipment*, and *Temporary Work* not required for the performance of the remaining work.

- 3.13.3 Prior to application for the final payment, the *Contractor* shall remove any remaining products, tools, *Construction Equipment*, *Temporary Work*, and waste products and debris, other than those resulting from the work of the *Owner*, other contractors or their employees.

PART 4 ALLOWANCES

GC 4.1 CASH ALLOWANCES

- 4.1.1 Cash allowances may be stated in the *Contract Documents* if any of the *GMP* or the *Target Contract Price* is stipulated in Article A-7 of the Agreement – OPTIONS.
- 4.1.2 The *Contract Price* includes the cash allowances which shall be as described in the *Contract Documents*.
- 4.1.3 The *Contractor's Fee*, and not the cash allowances, includes the *Contractor's* overhead and profit in connection with such cash allowances.
- 4.1.4 Expenditures under cash allowances shall be authorized by the *Owner* through the *Consultant*.
- 4.1.5 The value of the work performed under a cash allowance is eligible to be included in progress payments on account of the *Cost of the Work*.
- 4.1.6 The *Contractor's* overhead and profit in connection with such cash allowances is eligible to be included in progress payments on account of the *Contractor's Fee*.
- 4.1.7 Where the actual cost of the *Work* under any cash allowance exceeds the amount of the allowance specified in the *Contract*, any of the *Contractor's Fee*, the *GMP* or the *Target Contract Price* shall be adjusted by *Change Order* to compensate the *Contractor* for the excess incurred and substantiated.
- 4.1.8 The *Contractor* and the *Consultant* shall jointly prepare a schedule that shows when the *Consultant* and *Owner* must authorize ordering of items called for under cash allowances to avoid delaying the progress of the *Work*.

PART 5 PAYMENT

GC 5.1 FINANCING INFORMATION REQUIRED OF THE OWNER

- 5.1.1 The *Owner* shall, at the request of the *Contractor*, before signing the *Contract*, and promptly from time to time thereafter, furnish to the *Contractor* reasonable evidence that financial arrangements have been made to fulfill the *Owner's* obligations under the *Contract*.
- 5.1.2 The *Owner* shall give the *Contractor Notice in Writing* of any material change in the *Owner's* financial arrangements to fulfill the *Owner's* obligations under the *Contract* during the performance of the *Contract*.

GC 5.2 ACCOUNTING AND AUDIT

- 5.2.1 The *Contractor* shall keep full and detailed accounts and records necessary for the documentation of the *Cost of the Work* as in accordance with Article A-3 of the Agreement – CONTRACT DOCUMENTS.
- 5.2.2 The *Owner* shall be afforded reasonable access to all of the *Contractor's* books, records, correspondence, instructions, drawings, receipt vouchers, subcontractor and supplier invoices, and memoranda relating to the *Cost of the Work*, and for this purpose the *Contractor* shall preserve all such records for a period of 1 year from the date of the final certificate for payment.

GC 5.3 APPLICATIONS FOR PROGRESS PAYMENT

- 5.3.1 Applications for payment on account as provided in Article A-8 of the Agreement – PAYMENT may be made monthly as the *Work* progresses.
- 5.3.2 Applications for payment shall be dated the last day of each payment period, which is the last day of the month or an alternative day of the month agreed in writing by the parties.
- 5.3.3 The amount applied for shall be the cost of the *Work* performed and *Products* delivered to the *Place of the Work* or other locations designated by the *Owner* in accordance with the provisions of Article A-4 of the Agreement – COST OF THE WORK, during the current month plus the amount of the fee earned in accordance with the provisions of Article A-5 of the Agreement – CONTRACTOR'S FEE.
- 5.3.4 The application for payment shall include items of cost as defined in Article A-4 of the Agreement – COST OF THE WORK and other support documents as reasonably required by the *Owner*.

- 5.3.5 When submitting the second and succeeding applications for payment, the *Contractor* shall:
- .1 furnish receipted vouchers or other satisfactory evidence of payment for all items included in the preceding applications, and
 - .2 submit CCDC 9A ‘Statutory Declaration’ to state that all accounts for labour, subcontracts, *Products*, *Construction Equipment*, and other indebtedness which may have been incurred by the *Contractor* and for which the *Owner* might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute.
- 5.3.6 If the *Owner* has reasonable grounds for believing that any amount included in preceding applications has not been paid when due the *Owner* may withhold payment in respect of such amount from the current application until satisfactory evidence of payment is given by the *Contractor*.
- 5.3.7 Applications for payment for *Products* delivered to the *Place of the Work* but not yet incorporated into the *Work* shall be supported by such evidence as the *Consultant* may reasonably require to establish the value and delivery of the *Products*.

GC 5.4 PROGRESS PAYMENT

- 5.4.1 After receipt by the *Consultant* of an application for payment submitted by the *Contractor* in accordance with GC 5.3 – APPLICATIONS FOR PROGRESS PAYMENT:
- .1 the *Consultant* will promptly inform the *Owner* of the date of receipt of the *Contractor*’s application for payment,
 - .2 the *Consultant* will issue to the *Owner* and copy to the *Contractor*, no later than 10 calendar days after the receipt of the application for payment, a certificate for payment in the amount applied for, or in such other amount as the *Consultant* determines to be properly due. If the *Consultant* amends the application, the *Consultant* will promptly advise the *Contractor* in writing giving reasons for the amendment,
 - .3 the *Owner* shall make payment to the *Contractor* on account as provided in Article A-8 of the Agreement – PAYMENT on or before 20 calendar days after the later of:
 - receipt by the *Consultant* of the application for payment, or
 - the last day of the monthly payment period for which the application for payment is made.

GC 5.5 SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.5.1 When the *Contractor* considers that the *Work* is substantially performed, or if permitted by the lien legislation applicable to the *Place of the Work* a designated portion thereof which the *Owner* agrees to accept separately is substantially performed, the *Contractor* shall, within 1 *Working Day*, deliver to the *Consultant* and to the *Owner* a comprehensive list of items to be completed or corrected, together with a written application for a review by the *Consultant* to establish *Substantial Performance of the Work* or substantial performance of the designated portion of the *Work*. Failure to include an item on the list does not alter the responsibility of the *Contractor* to complete the *Contract*.
- 5.5.2 The *Consultant* will review the *Work* to verify the validity of the application and shall promptly, and in any event, no later than 20 calendar days after receipt of the *Contractor*’s list and application:
- .1 advise the *Contractor* in writing that the *Work* or the designated portion of the *Work* is not substantially performed and give reasons why, or
 - .2 state the date of *Substantial Performance of the Work* or a designated portion of the *Work* in a certificate and issue a copy of that certificate to each of the *Owner* and the *Contractor*.
- 5.5.3 Immediately following the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor*, in consultation with the *Consultant*, shall establish a reasonable date for finishing the *Work*.

GC 5.6 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

- 5.6.1 After the issuance of the certificate of *Substantial Performance of the Work*, the *Contractor* shall:
- .1 submit an application for payment of the holdback amount,
 - .2 submit CCDC 9A ‘Statutory Declaration’ to state that all accounts for labour, subcontracts, *Products*, *Construction Equipment*, and other indebtedness which may have been incurred by the *Contractor* in the *Substantial Performance of the Work* and for which the *Owner* might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute.
- 5.6.2 After the receipt of an application for payment from the *Contractor* and the statement as provided in paragraph 5.6.1, the *Consultant* will issue a certificate for payment of the holdback amount.
- 5.6.3 Where the holdback amount required by the applicable lien legislation has not been placed in a separate holdback account, the *Owner* shall, 10 calendar days prior to the expiry of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*, place the holdback amount in a bank account in the joint names of the *Owner* and the *Contractor*.

- 5.6.4 In the common law jurisdictions, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable on the first calendar day following the expiration of the holdback period stipulated in the lien legislation applicable to the *Place of the Work*. Where lien legislation does not exist or apply, the holdback amount shall be due and payable in accordance with other legislation, industry practice or provisions which may be agreed to between the parties. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.
- 5.6.5 In the Province of Quebec, the holdback amount authorized by the certificate for payment of the holdback amount is due and payable 30 calendar days after the issuance of the certificate. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken, or could be taken, against the *Work* or other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.

GC 5.7 PROGRESSIVE RELEASE OF HOLDBACK

- 5.7.1 In the common law jurisdictions, where legislation permits and where, upon application by the *Contractor*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Contractor* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, on the first calendar day following the expiration of the holdback period for such work stipulated in the lien legislation applicable to the *Place of the Work*. The *Owner* may retain out of the holdback amount any sums required by law to satisfy any liens against the *Work* or, if permitted by the lien legislation applicable to the *Place of the Work*, other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.
- 5.7.2 In the Province of Quebec, where, upon application by the *Contractor*, the *Consultant* has certified that the work of a *Subcontractor* or *Supplier* has been performed prior to *Substantial Performance of the Work*, the *Owner* shall pay the *Contractor* the holdback amount retained for such subcontract work, or the *Products* supplied by such *Supplier*, no later than 30 calendar days after such certification by the *Consultant*. The *Owner* may retain out of the holdback amount any sums required to satisfy any legal hypothecs that have been taken, or could be taken, against the *Work* or other third party monetary claims against the *Contractor* which are enforceable against the *Owner*.
- 5.7.3 Notwithstanding the provisions of the preceding paragraphs, and notwithstanding the wording of such certificates, the *Contractor* shall ensure that such subcontract work or *Products* are protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when such certificates were issued.

GC 5.8 FINAL PAYMENT

- 5.8.1 When the *Contractor* considers that the *Work* is completed, the *Contractor* shall submit an application for final payment.
- 5.8.2 The *Consultant* will, no later than 10 calendar days after the receipt of an application from the *Contractor* for final payment, review the *Work* to verify the validity of the application and advise the *Contractor* in writing that the application is valid or give reasons why it is not valid.
- 5.8.3 When the *Consultant* finds the *Contractor*'s application for final payment valid, the *Consultant* will promptly issue a final certificate for payment.
- 5.8.4 Subject to the provision of paragraph 10.4.1 of GC 10.4 – WORKERS' COMPENSATION, and any lien legislation applicable to the *Place of the Work*, the *Owner* shall, no later than 5 calendar days after the issuance of a final certificate for payment, pay the *Contractor* as provided in Article A-8 of the Agreement – PAYMENT.

GC 5.9 WITHHOLDING OF PAYMENT

- 5.9.1 If because of climatic or other conditions reasonably beyond the control of the *Contractor*, there are items of work that cannot be performed, payment in full for that portion of the *Work* which has been performed as certified by the *Consultant* shall not be withheld or delayed by the *Owner* on account thereof, but the *Owner* may withhold, until the remaining portion of the *Work* is finished, only such an amount that the *Consultant* determines is sufficient and reasonable to cover the cost of performing such remaining work.

GC 5.10 NON-CONFORMING WORK

- 5.10.1 No payment by the *Owner* under the *Contract* nor partial or entire use or occupancy of the *Work* by the *Owner* shall constitute an acceptance of any portion of the *Work* or *Products* which are not in accordance with the requirements of the *Contract Documents*.

PART 6 CHANGES IN THE WORK

GC 6.1 OWNER'S RIGHT TO MAKE CHANGES

- 6.1.1 The *Owner*, through the *Consultant*, without invalidating the *Contract*, may make:
- .1 changes in the *Work* consisting of additions, deletions or other revisions to the *Work* by *Change Order* or *Change Directive*, and
 - .2 changes to the *Contract Time* for the *Work*, or any part thereof, by *Change Order*.
- 6.1.2 The *Contractor* shall not perform a change in the *Work* without a *Change Order* or a *Change Directive*.
- 6.1.3 When the method of adjusting *Contractor's Fee* is provided in accordance with Article A-3 of the Agreement – CONTRACT DOCUMENTS, any changes in *Contractor's Fee* required as the result of changes in the *Work*, shall be made in accordance with such method.

GC 6.2 CHANGE ORDER

- 6.2.1 When a change in the *Work* is proposed or required, the *Consultant* will provide the *Contractor* with a written description of the proposed change in the *Work*. The *Contractor* shall promptly present, in a form acceptable to the *Consultant*, a method of adjustment or an amount of adjustment for the *Contractor's Fee*, if any; a method of adjustment or an amount of adjustment for any of the *GMP* or the *Target Contract Price*; and the adjustment in the *Contract Time*, if any, for the proposed change in the *Work*.
- 6.2.2 When the *Owner* and *Contractor* agree to the adjustments in any of the *Contractor's Fee*, *GMP*, *Target Contract Price*, and *Contract Time* or to the method to be used to determine the adjustments, such agreement shall be effective immediately and shall be recorded in a *Change Order*. The value of the work performed as the result of a *Change Order* shall be included in the application for progress payment.

GC 6.3 CHANGE DIRECTIVE

- 6.3.1 If the *Owner* requires the *Contractor* to proceed with a change in the *Work* prior to the *Owner* and the *Contractor* agreeing upon the corresponding adjustment in any of the *Contractor's Fee*, in the *GMP*, in the *Target Contract Price*, and in the *Contract Time*, the *Owner*, through the *Consultant*, shall issue a *Change Directive*.
- 6.3.2 A *Change Directive* shall only be used to direct a change in the *Work* which is within the general scope of the *Contract Documents*.
- 6.3.3 A *Change Directive* shall not be used to direct a change in the *Contract Time* only.
- 6.3.4 Upon receipt of a *Change Directive*, the *Contractor* shall proceed promptly with the change in the *Work*.
- 6.3.5 If no method of adjustment is agreed, it shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION.
- 6.3.6 Pending determination of the final amount of a *Change Directive*, the undisputed *Cost of the Work* performed as the result of a *Change Directive* and the undisputed amount of the *Contractor's Fee* as the result of a *Change Directive* shall be included in the *Contractor's* application for payment and paid in the next progress payment, notwithstanding the limit imposed by any of the *GMP* or the *Target Contract Price*.
- 6.3.7 When the *Owner* and the *Contractor* reach agreement on the adjustment to any of the *Contractor's Fee*, to the *GMP*, to the *Target Contract Price*, and to the *Contract Time*, this agreement shall be recorded in a *Change Order*.

GC 6.4 CONCEALED OR UNKNOWN CONDITIONS

- 6.4.1 If the *Owner* or the *Contractor* discover conditions at the *Place of the Work* which are:
- .1 subsurface or otherwise concealed physical conditions which existed before the commencement of the *Work* which differ materially from those indicated in the *Contract Documents*; or
 - .2 physical conditions, other than conditions due to weather, that are of a nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the *Contract Documents*,
- then the observing party shall give *Notice in Writing* to the other party of such conditions before they are disturbed and in no event later than 5 *Working Days* after first observance of the conditions.
- 6.4.2 The *Consultant* will promptly investigate such conditions and make a finding. If the finding is that the conditions differ materially and this would cause an increase or decrease in any of the *Contractor's Fee*, in the *GMP*, in the *Target Contract Price*, or in the *Contract Time*, the *Consultant*, with the *Owner's* approval, will issue appropriate instructions for a change in the *Work* as provided in GC 6.2 – CHANGE ORDER or GC 6.3 – CHANGE DIRECTIVE.

- 6.4.3 If the *Consultant* finds that the conditions at the *Place of the Work* are not materially different or that no change in any of the *Contractor's Fee*, in the *GMP*, in the *Target Contract Price*, or in the *Contract Time* is justified, the *Consultant* will report the reasons for this finding to the *Owner* and the *Contractor* in writing.
- 6.4.4 If such concealed or unknown conditions relate to toxic and hazardous substances and materials, artifacts and fossils, or mould, the parties will be governed by the provisions of GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES, GC 9.3 – ARTIFACTS AND FOSSILS and GC 9.5 – MOULD.

GC 6.5 DELAYS

- 6.5.1 If the *Contractor* is delayed in the performance of the *Work* by an action or omission of the *Owner*, *Consultant* or anyone employed or engaged by them directly or indirectly, contrary to the provisions of the *Contract Documents*, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. Any of the *Contractor's Fee*, the *GMP* and the *Target Contract Price* shall be adjusted as the result of such delay.
- 6.5.2 If the *Contractor* is delayed in the performance of the *Work* by a stop work order issued by a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Contractor* or any person employed or engaged by the *Contractor* directly or indirectly, then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. Any of the *Contractor's Fee*, the *GMP* and the *Target Contract Price* shall be adjusted as the result of such delay.
- 6.5.3 If the *Contractor* is delayed in the performance of the *Work* by:
- .1 labour disputes, strikes, lock-outs (including lock-outs decreed or recommended for its members by a recognized contractors' association, of which the *Contractor* is a member or to which the *Contractor* is otherwise bound),
 - .2 fire, unusual delay by common carriers or unavoidable casualties,
 - .3 abnormally adverse weather conditions,
 - .4 any *Subcontractor's* default, insolvency, abandonment, or termination, or
 - .5 any cause beyond the *Contractor's* control other than one resulting from a default or breach of *Contract* by the *Contractor*,
- then the *Contract Time* shall be extended for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor*. The extension of time shall not be less than the time lost as the result of the event causing the delay, unless the *Contractor* agrees to a shorter extension. Any of the *Contractor's Fee*, the *GMP* and the *Target Contract Price* shall be adjusted as the result of such delay.
- 6.5.4 No extension shall be made for delay unless *Notice in Writing* of the cause of delay is given to the *Consultant* not later than 10 *Working Days* after the commencement of the delay. In the case of a continuing cause of delay only one *Notice in Writing* shall be necessary.
- 6.5.5 If no schedule is made under paragraph 2.2.13 of GC 2.2 – ROLE OF THE CONSULTANT, then no request for extension shall be made because of failure of the *Consultant* to furnish instructions until 10 *Working Days* after demand for such instructions has been made.

GC 6.6 CLAIMS FOR A CHANGE IN CONTRACT PRICE, GMP OR TARGET CONTRACT PRICE

- 6.6.1 If the *Contractor* intends to make a claim for an increase to any of the *Contract Price*, *GMP* or *Target Contract Price*, or if the *Owner* intends to make a claim against the *Contractor* for a credit to the *Contract Price*, *GMP* or *Target Contract Price*, the party that intends to make the claim shall give timely *Notice in Writing* of intent to claim to the other party and to the *Consultant*.
- 6.6.2 Upon commencement of the event or series of events giving rise to a claim, the party intending to make the claim shall:
- .1 take all reasonable measures to mitigate any loss or expense which may be incurred as a result of such event or series of events, and
 - .2 keep such records as may be necessary to support the claim.
- 6.6.3 The party making the claim shall submit within a reasonable time to the *Consultant* a detailed account of the amount claimed and the grounds upon which the claim is based.
- 6.6.4 Where the event or series of events giving rise to the claim has a continuing effect, the detailed account submitted under paragraph 6.6.3 shall be considered to be an interim account and the party making the claim shall, at such intervals as the *Consultant* may reasonably require, submit further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 6.6.5 The *Consultant's* findings, with respect to a claim made by either party, will be given by *Notice in Writing* to both parties within 30 *Working Days* after receipt of the claim by the *Consultant*, or within such other time period as may be agreed by the parties.

- 6.6.6 If such finding is not acceptable to either party, the claim shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION.

PART 7 DEFAULT NOTICE

GC 7.1 OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK, OR TERMINATE THE CONTRACT

- 7.1.1 If the *Contractor* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Contractor's* insolvency, or if a receiver is appointed because of the *Contractor's* insolvency, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, terminate the *Contractor's* right to continue with the *Work*, by giving the *Contractor* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.
- 7.1.2 If the *Contractor* fails to comply with the requirements of the *Contract* to a substantial degree or fails to exercise reasonable care and diligence in the performance of the *Work* and if the *Consultant* has given a written statement to the *Owner* and *Contractor* that sufficient cause exists to justify such action, the *Owner* may, without prejudice to any other right or remedy the *Owner* may have, give the *Contractor Notice in Writing* that the *Contractor* is in default of the *Contractor's* contractual obligations and instruct the *Contractor* to correct the default in the 5 *Working Days* immediately following the receipt of such *Notice in Writing*.
- 7.1.3 If the default cannot be corrected in the 5 *Working Days* specified or in such other time period as may be subsequently agreed in writing by the parties, the *Contractor* shall be in compliance with the *Owner's* instructions if the *Contractor*:
- .1 commences the correction of the default within the specified time, and
 - .2 provides the *Owner* with an acceptable schedule for such correction, and
 - .3 corrects the default in accordance with the *Contract* terms and with such schedule.
- 7.1.4 If the *Contractor* fails to correct the default in the time specified or in such other time period as may be subsequently agreed in writing by the parties, without prejudice to any other right or remedy the *Owner* may have, the *Owner* may:
- .1 correct such default and charge the *Contractor* the cost incurred by the *Owner* and certified by the *Consultant* in correcting such default, or
 - .2 terminate the *Contractor's* right to continue with the *Work* in whole or in part or terminate the *Contract*.
- 7.1.5 If the *Owner* terminates the *Contractor's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Owner* shall:
- .1 be entitled to take possession of the *Work* and *Products* at the *Place of the Work*; subject to the rights of third parties, utilize the *Construction Equipment* at the *Place of the Work*; finish the *Work* by whatever method the *Owner* may consider expedient, but without undue delay or expense, and
 - .2 pay the *Contractor* upon the *Consultant's* certificate and in accordance with Part 5 of the General Conditions – PAYMENT for the costs properly incurred by the *Contractor* to that time plus the proportionate amount of the fee as provided in Article A-5 of the Agreement – CONTRACTOR'S FEE, and
 - .3 pay to the *Contractor* fair compensation, either by purchase or rental, at the option of the *Owner*, for any construction machinery and equipment retained for use on the *Work*, and
 - .4 assume and become liable for all obligations, commitments and unliquidated claims as certified by the *Consultant* that the *Contractor* may have theretofore, in good faith, undertaken or incurred in connection with the *Work*, other than such as are properly payable by the *Contractor* because of neglect or default.
- 7.1.6 If the *Owner* terminates the *Contractor's* right to continue with the *Work* as provided in paragraphs 7.1.1 and 7.1.4, the *Contractor* shall, as a condition of receiving the payments stipulated in paragraph 7.1.5, execute and deliver such documents and take such action, including the legal assignment of the *Contractor's* contractual rights, as the *Owner* may require for the purpose of fully vesting in the *Owner* the rights and benefits of the *Contractor* relate to the obligations or commitments to be assumed by the *Owner*.
- 7.1.7 The *Owner* may, if conditions arise which make it necessary for reasons other than as provided in paragraphs 7.1.1 and 7.1.4, terminate this *Contract* by giving *Notice in Writing* to that effect to the *Contractor*.
- 7.1.8 Suspension of the *Work* by the *Owner* shall be deemed to have occurred if:
- .1 the *Work* has been stopped at the *Owner's* request or due to no fault of the *Contractor*, and
 - .2 such stoppage or stoppages have continued individually for a period of 20 *Working Days* or collectively for a period of 40 *Working Days* .
- 7.1.9 If the *Owner* terminates this *Contract* as provided in paragraph 7.1.7 or suspends the *Work* as described in paragraph 7.1.8, the *Owner* shall pay the *Contractor* within 30 calendar days of the date that an application for payment is submitted for:
- .1 all *Work* performed to the effective termination or suspension date, including reimbursable expenses and applicable taxes then due;

- .2 the *Contractor's Fee* on the *Work* performed to the effective termination or suspension date;
- .3 termination or suspension costs; and
- .4 an reasonable amount for anticipated loss of profit.

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

GC 7.2 CONTRACTOR'S RIGHT TO TERMINATE THE CONTRACT

7.2.1 If the *Owner* is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of the *Owner's* insolvency, or if a receiver is appointed because of the *Owner's* insolvency, the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, terminate the *Contract* by giving the *Owner* or receiver or trustee in bankruptcy *Notice in Writing* to that effect.

7.2.2 If the *Work* is:

- .1 suspended by the *Owner* as described in paragraph 7.1.8 of GC 7.1 – OWNER'S RIGHT TO PERFORM THE WORK, TERMINATE THE CONTRACTOR'S RIGHT TO CONTINUE WITH THE WORK, SUSPEND THE WORK, OR TERMINATE THE CONTRACT; or
- .2 stopped for a period of 20 *Working Days* or more under an order of a court or other public authority and providing that such order was not issued as the result of an act or fault of the *Contractor* or of anyone directly or indirectly employed or engaged by the *Contractor*,

the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, terminate the *Contract* by giving the *Owner* *Notice in Writing* to that effect.

7.2.3 The *Contractor* may give *Notice in Writing* to the *Owner*, with a copy to the *Consultant*, that the *Owner* is in default of the *Owner's* contractual obligations if:

- .1 the *Owner* fails to furnish, when so requested by the *Contractor*, reasonable evidence that financial arrangements have been made to fulfill the *Owner's* obligations under the *Contract*, or
- .2 the *Consultant* fails to issue a certificate as provided in Part 5 of the General Conditions – PAYMENT, or
- .3 the *Owner* fails to pay the *Contractor* when due the amounts certified by the *Consultant* or awarded by arbitration or court, or
- .4 the *Owner* violates the requirements of the *Contract* to a substantial degree and the *Consultant*, except for GC 5.1 – FINANCING INFORMATION REQUIRED OF THE OWNER, confirms by written statement to the *Contractor* that sufficient cause exists.

7.2.4 The *Contractor's* *Notice in Writing* to the *Owner* provided under paragraph 7.2.3 shall advise that if the default is not corrected within 5 *Working Days* following the receipt of the *Notice in Writing*, the *Contractor* may, without prejudice to any other right or remedy the *Contractor* may have, suspend the *Work* or terminate the *Contract*.

7.2.5 If the *Contractor* terminates the *Contract* or the *Work* is suspended or stopped under the conditions set out above, the *Owner* shall pay the *Contractor* within 30 calendar days of the date that an application for payment is submitted for:

- .1 all *Work* performed to the effective termination, suspension or stop date, including reimbursable expenses and applicable taxes then due;
- .2 the *Contractor's Fee* on the *Work* performed to the effective termination, suspension or stop date;
- .3 termination, suspension or stop costs; and
- .4 an reasonable amount for anticipated loss of profit.

PART 8 DISPUTE RESOLUTION

GC 8.1 AUTHORITY OF THE CONSULTANT

8.1.1 Differences between the parties to the *Contract* as to the interpretation, application or administration of the *Contract* or any failure to agree where agreement between the parties is called for, herein collectively called disputes, which are not resolved in the first instance by findings of the *Consultant* as provided in GC 2.2 – ROLE OF THE CONSULTANT, shall be settled in accordance with the requirements of Part 8 of the General Conditions – DISPUTE RESOLUTION.

8.1.2 If a dispute arises under the *Contract* in respect of a matter in which the *Consultant* has no authority under the *Contract* to make a finding, the procedures set out in paragraph 8.1.3 and paragraphs 8.2.3 to 8.2.8 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION, and in GC 8.3 – RETENTION OF RIGHTS apply to that dispute with the necessary changes to detail as may be required.

8.1.3 If a dispute is not resolved promptly, the *Consultant* will give such instructions as in the *Consultant's* opinion are necessary for the proper performance of the *Work* and to prevent delays pending settlement of the dispute. The parties shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any claim the party may have.

GC 8.2 NEGOTIATION, MEDIATION AND ARBITRATION

- 8.2.1 In accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing, the parties shall appoint a Project Mediator
- .1 within 20 *Working Days* after the *Contract* was awarded, or
 - .2 if the parties neglected to make an appointment within the 20 *Working Days*, within 10 *Working Days* after either party by *Notice in Writing* requests that the Project Mediator be appointed.
- 8.2.2 A party shall be conclusively deemed to have accepted a finding of the *Consultant* under GC 2.2 – ROLE OF THE CONSULTANT and to have expressly waived and released the other party from any claims in respect of the particular matter dealt with in that finding unless, within 15 *Working Days* after receipt of that finding, the party sends a *Notice in Writing* of dispute to the other party and to the *Consultant*, which contains the particulars of the matter in dispute and the relevant provisions of the *Contract Documents*. The responding party shall send a *Notice in Writing* of reply to the dispute within 10 *Working Days* after receipt of such *Notice in Writing* setting out particulars of this response and any relevant provisions of the *Contract Documents*.
- 8.2.3 The parties shall make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide, without prejudice, frank, candid and timely disclosure of relevant facts, information and documents to facilitate these negotiations.
- 8.2.4 After a period of 10 *Working Days* following receipt of a responding party's *Notice in Writing* of reply under paragraph 8.2.2, the parties shall request the Project Mediator to assist the parties to reach agreement on any unresolved dispute. The mediated negotiations shall be conducted in accordance with the Rules for Mediation of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing.
- 8.2.5 If the dispute has not been resolved within 10 *Working Days* after the Project Mediator was requested under paragraph 8.2.4 or within such further period agreed by the parties, the Project Mediator shall terminate the mediated negotiations by giving *Notice in Writing* to the *Owner*, the *Contractor* and the *Consultant*.
- 8.2.6 By giving a *Notice in Writing* to the other party and the *Consultant*, not later than 10 *Working Days* after the date of termination of the mediated negotiations under paragraph 8.2.5, either party may refer the dispute to be finally resolved by arbitration under the Rules for Arbitration of Construction Disputes as provided in CCDC 40 in effect at the time of bid closing. The arbitration shall be conducted in the jurisdiction of the *Place of the Work*.
- 8.2.7 On expiration of the 10 *Working Days*, the arbitration agreement under paragraph 8.2.6 is not binding on the parties and, if a *Notice in Writing* is not given under paragraph 8.2.6 within the required time, the parties may refer the unresolved dispute to the courts or to any other form of dispute resolution, including arbitration, which they have agreed to use.
- 8.2.8 If neither party, by *Notice in Writing*, given within 10 *Working Days* of the date of *Notice in Writing* requesting arbitration in paragraph 8.2.6, requires that a dispute be arbitrated immediately, all disputes referred to arbitration as provided in paragraph 8.2.6 shall be
- .1 held in abeyance until
 - (1) *Substantial Performance of the Work*,
 - (2) the *Contract* has been terminated, or
 - (3) the *Contractor* has abandoned the *Work*,whichever is earlier; and
 - .2 consolidated into a single arbitration under the rules governing the arbitration under paragraph 8.2.6.

GC 8.3 RETENTION OF RIGHTS

- 8.3.1 It is agreed that no act by either party shall be construed as a renunciation or waiver of any rights or recourses, provided the party has given the *Notice in Writing* required under Part 8 of the General Conditions – DISPUTE RESOLUTION and has carried out the instructions as provided in paragraph 8.1.3 of GC 8.1 – AUTHORITY OF THE CONSULTANT.
- 8.3.2 Nothing in Part 8 of the General Conditions – DISPUTE RESOLUTION shall be construed in any way to limit a party from asserting any statutory right to a lien under applicable lien legislation of the jurisdiction of the *Place of the Work* and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.2.6 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.

PART 9 PROTECTION OF PERSONS AND PROPERTY

GC 9.1 PROTECTION OF WORK AND PROPERTY

- 9.1.1 The *Contractor* shall protect the *Work* and the *Owner's* property and property adjacent to the *Place of the Work* from damage which may arise as the result of the *Contractor's* operations under the *Contract*, and shall be responsible for such damage, except damage which occurs as the result of:
- .1 errors in the *Contract Documents*;
 - .2 acts or omissions by the *Owner*, the *Consultant*, other contractors, their agents and employees; or
 - .3 a cause that is beyond the *Contractor's* control.
- 9.1.2 Before commencing any work, the *Contractor* shall determine the location of all underground utilities and structures indicated in the *Contract Documents* or that are reasonably apparent in an inspection of the *Place of the Work*.
- 9.1.3 Should the *Contractor* in the performance of the *Contract* damage the *Work*, the *Owner's* property or property adjacent to the *Place of the Work*, the *Contractor* shall be responsible for making good such damage at the *Contractor's* expense.
- 9.1.4 Should damage occur to the *Work* or *Owner's* property for which the *Contractor* is not responsible, as provided in paragraph 9.1.1, the *Contractor* shall make good such damage to the *Work* and, if the *Owner* so directs, to the *Owner's* property. Any of the *Contractor's Fee*, *GMP*, the *Target Contract Price*, and *Contract Time* shall be adjusted as provided in GC 6.1 – OWNER'S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.

GC 9.2 TOXIC AND HAZARDOUS SUBSTANCES

- 9.2.1 For the purposes of applicable legislation related to toxic and hazardous substances, the *Owner* shall be deemed to have control and management of the *Place of the Work* with respect to existing conditions.
- 9.2.2 Prior to the *Contractor* commencing the *Work*, the *Owner* shall,
- .1 take all reasonable steps to determine whether any toxic or hazardous substances are present at the *Place of the Work*, and
 - .2 provide the *Consultant* and the *Contractor* with a written list of any such substances that are known to exist and their locations.
- 9.2.3 The *Owner* shall take all reasonable steps to ensure that no person's exposure to any toxic or hazardous substances exceeds the time weighted levels prescribed by applicable legislation at the *Place of the Work* and that no property is damaged or destroyed as a result of exposure to, or the presence of, toxic or hazardous substances which were at the *Place of the Work* prior to the *Contractor* commencing the *Work*.
- 9.2.4 Unless the *Contract* expressly provides otherwise, the *Owner* shall be responsible for taking all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to dispose of, store or otherwise render harmless toxic or hazardous substances which were present at the *Place of the Work* prior to the *Contractor* commencing the *Work*.
- 9.2.5 If the *Contractor*
- .1 encounters toxic or hazardous substances at the *Place of the Work*, or
 - .2 has reasonable grounds to believe that toxic or hazardous substances are present at the *Place of the Work*, which were not brought to the *Place of the Work* by the *Contractor* or anyone for whom the *Contractor* is responsible and which were not disclosed by the *Owner* or which were disclosed but have not been dealt with as required under paragraph 9.2.4, the *Contractor* shall
 - .3 take all reasonable steps, including stopping the *Work*, to ensure that no person's exposure to any toxic or hazardous substances exceeds any applicable time weighted levels prescribed by applicable legislation at the *Place of the Work*, and
 - .4 immediately report the circumstances to the *Consultant* and the *Owner* in writing.
- 9.2.6 If the *Owner* and *Contractor* do not agree on the existence, significance of, or whether the toxic or hazardous substances were brought onto the *Place of the Work* by the *Contractor* or anyone for whom the *Contractor* is responsible, the *Owner* shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the *Owner* and the *Contractor*.
- 9.2.7 If the *Owner* and *Contractor* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were not brought onto the place of the *Work* by the *Contractor* or anyone for whom the *Contractor* is responsible, the *Owner* shall promptly at the *Owner's* own expense:
- .1 take all steps as required under paragraph 9.2.4;
 - .2 reimburse the *Contractor* for the costs of all steps taken pursuant to paragraph 9.2.5;
 - .3 extend the *Contract* time for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and the expert referred to in 9.2.6 and reimburse the *Contractor* for reasonable costs incurred as a result of the delay; and
 - .4 indemnify the *Contractor* as required by GC 12.1 – INDEMNIFICATION.

- 9.2.8 If the *Owner* and *Contractor* agree or if the expert referred to in paragraph 9.2.6 determines that the toxic or hazardous substances were brought onto the place of the *Work* by the *Contractor* or anyone for whom the *Contractor* is responsible, or if the toxic or hazardous substances were in the care and custody of the *Contractor*, the *Contractor* shall promptly at the *Contractor's* own expense:
- .1 take all necessary steps, in accordance with applicable legislation in force at the *Place of the Work*, to safely remove and dispose the toxic or hazardous substances;
 - .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the place of the *Work* as provided in paragraph 9.1.3 of GC 9.1 – PROTECTION OF WORK AND PROPERTY;
 - .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.2.6; and
 - .4 indemnify the *Owner* as required by GC 12.1 – INDEMNIFICATION.
- 9.2.9 If either party does not accept the expert's findings under paragraph 9.2.6, the disagreement shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert's determination and take the steps required by paragraph 9.2.7 or 9.2.8 it being understood that by so doing, neither party will jeopardize any claim that party may have to be reimbursed as provided by GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES.

GC 9.3 ARTIFACTS AND FOSSILS

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

GC 9.4 CONSTRUCTION SAFETY

- 9.4.1 Subject to paragraph 3.2.3.4 of GC 3.2 – CONSTRUCTION BY OWNER OR OTHER CONTRACTORS, the *Contractor* shall be responsible for:
- .1 construction health and safety at the *Place of the Work* in compliance with the rules, regulations and practices required by the applicable construction health and safety legislation, and
 - .2 establishing, initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the *Work*.

GC 9.5 MOULD

- 9.5.1 If the *Contractor* or *Owner* observes or reasonably suspects the presence of mould at the *Place of the Work*, the remediation of which is not expressly part of the *Work*,
- .1 the observing party shall promptly report the circumstances to the other party in writing, and
 - .2 the *Contractor* shall promptly take all reasonable steps, including stopping the *Work* if necessary, to ensure that no person suffers injury, sickness or death and that no property is damaged as a result of exposure to or the presence of the mould, and
 - .3 if the *Owner* and *Contractor* do not agree on the existence, significance or cause of the mould or as to what steps need to be taken to deal with it, the *Owner* shall retain and pay for an independent qualified expert to investigate and determine such matters. The expert's report shall be delivered to the *Owner* and *Contractor*.
- 9.5.2 If the *Owner* and *Contractor* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was caused by any negligent act of the *Contractor*, the *Contractor* shall promptly, at the *Contractor's* own expense:
- .1 take all reasonable and necessary steps to safely remediate or dispose of the mould, and
 - .2 make good any damage to the *Work*, the *Owner's* property or property adjacent to the *Place of the Work* as provided in paragraph 9.1.3 of GC 9.1 – PROTECTION OF WORK AND PROPERTY, and
 - .3 reimburse the *Owner* for reasonable costs incurred under paragraph 9.5.1.3, and
 - .4 indemnify the *Owner* as required by GC 12.1 – INDEMNIFICATION.
- 9.5.3 If the *Owner* and *Contractor* agree, or if the expert referred to in paragraph 9.5.1.3 determines that the presence of mould was not caused by any negligent act of the *Contractor*, the *Owner* shall promptly, at the *Owner's* own expense:
- .1 take all reasonable and necessary steps to safely remediate or dispose of the mould, and
 - .2 reimburse the *Contractor* for the cost of taking the steps under paragraph 9.5.1.2 and making good any damage to the *Work* as provided in paragraph 9.1.4 of GC 9.1 – PROTECTION OF WORK AND PROPERTY, and

- 3 extend the *Contract Time* for such reasonable time as the *Consultant* may recommend in consultation with the *Contractor* and the expert referred to in paragraph 9.5.1.3 and reimburse the *Contractor* for reasonable costs incurred as a result of the delay, and
 - 4 indemnify the *Contractor* as required by GC 12.1 – INDEMNIFICATION.
- 9.5.4 If either party does not accept the expert’s finding under paragraph 9.5.1.3, the disagreement shall be settled in accordance with Part 8 of the General Conditions – DISPUTE RESOLUTION. If such disagreement is not resolved promptly, the parties shall act immediately in accordance with the expert’s determination and take the steps required by paragraphs 9.5.2 or 9.5.3, it being understood that by so doing neither party will jeopardize any claim the party may have to be reimbursed as provided by GC 9.5 – MOULD.

PART 10 GOVERNING REGULATIONS

GC 10.1 TAXES AND DUTIES

- 10.1.1 The *Contractor* shall pay all customs, taxes and duties in effect during the performance of the *Work*. The amount incurred shall be included in the *Cost of the Work* as in accordance with Article A-4 of the Agreement – COST OF THE WORK.

GC 10.2 LAWS, NOTICES, PERMITS, AND FEES

- 10.2.1 The laws of the *Place of the Work* shall govern the *Work*.
- 10.2.2 The *Owner* shall obtain and pay for development approvals, building permit, permanent easements, rights of servitude, and all other necessary approvals and permits, except for the permits and fees referred to in paragraph 10.2.3 or for which the *Contract Documents* specify as the responsibility of the *Contractor*.
- 10.2.3 The *Contractor* shall be responsible for the procurement of permits, licences, inspections, and certificates, which are necessary for the performance of the *Work* and customarily obtained by contractors in the jurisdiction of the *Place of the Work* after the issuance of the building permit. The amount incurred shall be included in the *Cost of the Work*.
- 10.2.4 The *Contractor* shall give the required notices and comply with the laws, ordinances, rules, regulations, or codes which are or become in force during the performance of the *Work* and which relate to the *Work*, to the preservation of the public health, and to construction safety.
- 10.2.5 The *Contractor* shall not be responsible for verifying that the *Contract Documents* are in compliance with the applicable laws, ordinances, rules, regulations, or codes relating to the *Work*. If the *Contract Documents* are at variance therewith, or if, subsequent to the time of bid closing, changes are made to the applicable laws, ordinances, rules, regulations, or codes which require modification to the *Contract Documents*, the *Contractor* shall advise the *Consultant* in writing requesting direction immediately upon such variance or change becoming known. The *Consultant* will make the changes required to the *Contract Documents* as provided in GC 6.1 – OWNER’S RIGHT TO MAKE CHANGES, GC 6.2 – CHANGE ORDER and GC 6.3 – CHANGE DIRECTIVE.
- 10.2.6 If the *Contractor* fails to advise the *Consultant* in writing; and fails to obtain direction as required in paragraph 10.2.5; and performs work knowing it to be contrary to any laws, ordinances, rules, regulations, or codes; the *Contractor* shall be responsible for and shall correct the violations thereof; and shall bear the costs, expenses and damages attributable to the failure to comply with the provisions of such laws, ordinances, rules, regulations, or codes.
- 10.2.7 If, subsequent to the time of bid closing, changes are made to applicable laws, ordinances, rules, regulations, or codes of authorities having jurisdiction which affect the cost of the *Work*, either party may submit a claim in accordance with the requirements of GC 6.6 – CLAIMS FOR A CHANGE IN CONTRACT PRICE, GMP OR TARGET CONTRACT PRICE.

GC 10.3 PATENT FEES

- 10.3.1 The *Contractor* shall pay the royalties and patent licence fees required for the performance of the *Contract*. The amount incurred shall be included in the *Cost of the Work*. The *Contractor* shall hold the *Owner* harmless from and against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Contractor*’s performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention by the *Contractor* or anyone for whose acts the *Contractor* may be liable.
- 10.3.2 The *Owner* shall hold the *Contractor* harmless against claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Contractor*’s performance of the *Contract* which are attributable to an infringement or an alleged infringement of a patent of invention in executing anything for the purpose of the *Contract*, the model, plan or design of which was supplied to the *Contractor* as part of the *Contract Documents*.

GC 10.4 WORKERS' COMPENSATION

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

PART 11 INSURANCE AND CONTRACT SECURITY

GC 11.1 INSURANCE

- 11.1.1 Without restricting the generality of GC 12.1 – INDEMNIFICATION, the *Contractor* shall provide, maintain and pay for the following insurance coverages, the minimum requirements of which are specified in CCDC 41 – CCDC Insurance Requirements in effect at the time of bid closing except as hereinafter provided:
- .1 General liability insurance in the name of the *Contractor* and include, or in the case of a single, blanket policy, be endorsed to name, the *Owner* and the *Consultant* as insureds but only with respect to liability, other than legal liability arising out of their sole negligence, arising out of the operations of the *Contractor* with regard to the *Work*. General liability insurance shall be maintained from the date of commencement of the *Work* until 1 year from the date of *Substantial Performance of the Work*. Liability coverage shall be provided for completed operations hazards from the date of *Substantial Performance of the Work*, as set out in the certificate of *Substantial Performance of the Work*, on an ongoing basis for a period of 6 years following *Substantial Performance of the Work*.
 - .2 Automobile Liability Insurance from the date of commencement of the *Work* until 1 year after the date of *Substantial Performance of the Work*.
 - .3 Aircraft or Watercraft Liability Insurance when owned or non-owned aircraft or watercraft are used directly or indirectly in the performance of the *Work*
 - .4 "Broad form" property insurance in the joint names of the *Contractor*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The "Broad form" property insurance shall be provided from the date of commencement of the *Work* until the earliest of:
 - (1) 10 calendar days after the date of *Substantial Performance of the Work*;
 - (2) on the commencement of use or occupancy of any part or section of the *Work* unless such use or occupancy is for construction purposes, habitational, office, banking, convenience store under 465 square metres in area, or parking purposes, or for the installation, testing and commissioning of equipment forming part of the *Work*;
 - (3) when left unattended for more than 30 consecutive calendar days or when construction activity has ceased for more than 30 consecutive calendar days.
 - .5 Boiler and machinery insurance in the joint names of the *Contractor*, the *Owner* and the *Consultant*. The policy shall include as insureds all *Subcontractors*. The coverage shall be maintained continuously from commencement of use or operation of the boiler and machinery objects insured by the policy and until 10 calendar days after the date of *Substantial Performance of the Work*.
 - .6 The "Broad form" property and boiler and machinery policies shall provide that, in the case of a loss or damage, payment shall be made to the *Owner* and the *Contractor* as their respective interests may appear. In the event of loss or damage:
 - (1) the *Contractor* shall act on behalf of the *Owner* for the purpose of adjusting the amount of such loss or damage payment with the insurers. When the extent of the loss or damage is determined, the *Contractor* shall proceed to restore the *Work*. Loss or damage shall not affect the rights and obligations of either party under the *Contract* except that the *Contractor* shall be entitled to such reasonable extension of *Contract Time* relative to the extent of the loss or damage as the *Consultant* may recommend in consultation with the *Contractor*;
 - (2) the *Contractor* shall be entitled to receive from the *Owner*, in addition to the amount due under the *Contract*, the amount which the *Owner's* interest in restoration of the *Work* has been appraised, such amount to be paid as the restoration of the *Work* proceeds in accordance with the progress payment provisions. In addition the *Contractor* shall be entitled to receive from the payments made by the insurer the amount of the *Contractor's* interest in the restoration of the *Work*; and
 - (3) to the *Work* arising from the work of the *Owner*, the *Owner's* own forces or another contractor, the *Owner* shall, in accordance with the *Owner's* obligations under the provisions relating to construction by *Owner* or other contractors, pay the *Contractor* the cost of restoring the *Work* as the restoration of the *Work* proceeds and as in accordance with the progress payment provisions.
 - .7 *Contractors' Equipment Insurance* from the date of commencement of the *Work* until 1 year after the date of *Substantial Performance of the Work*.

- 11.1.2 Prior to commencement of the *Work* and upon the placement, renewal, amendment, or extension of all or any part of the insurance, the *Contractor* shall promptly provide the *Owner* with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to the *Work*.
- 11.1.3 All required insurance policies shall be with insurers licensed to underwrite insurance in the jurisdiction of the *Place of the Work*.
- 11.1.4 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies reduced insurance requirements, the parties shall address such reduction, prior to the *Contractor*'s insurance policy becoming due for renewal, and record any agreement in a *Change Order*.
- 11.1.5 If a revised version of CCDC 41 – INSURANCE REQUIREMENTS is published, which specifies increased insurance requirements, the *Owner* may request the increased coverage from the *Contractor* by way of a *Change Order*.
- 11.1.6 A *Change Directive* shall not be used to direct a change in the insurance requirements in response to the revision of CCDC 41 – INSURANCE REQUIREMENTS.

GC 11.2 CONTRACT SECURITY

- 11.2.1 The *Contractor* shall, prior to commencement of the *Work* or within the specified time, provide to the *Owner*, maintain and pay for any *Contract* security specified in the *Contract Documents* as in accordance with Article A-4 of the Agreement – COST OF THE WORK.
- 11.2.2 If the *Contract Documents* require surety bonds to be provided, such bonds shall be issued by a duly licensed surety company authorized to transact the business of suretyship in the province or territory of the *Place of the Work* and shall be maintained in good standing until the fulfillment of the *Contract*. The form of such bonds shall be in accordance with the latest edition of the CCDC approved bond forms.

PART 12 INDEMNIFICATION, WAIVER OF CLAIMS AND WARRANTY

GC 12.1 INDEMNIFICATION

- 12.1.1 Without restricting the parties' obligation to indemnify as described in paragraphs 12.1.4, 12.1.5 and 12.1.6, the *Owner* and the *Contractor* shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings whether in respect to losses suffered by them or in respect to claims by third parties that arise out of, or are attributable in any respect to their involvement as parties to this *Contract*, provided such claims are:
 - .1 caused by:
 - (1) the negligent acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
 - (2) a failure of the party to the *Contract* from whom indemnification is sought to fulfill its terms or conditions; and
 - .2 made by *Notice in Writing* within a period of 6 years from the date of *Substantial Performance of the Work* as set out in the certificate of *Substantial Performance of the Work* issued pursuant to paragraph 5.5.2.2 of GC 5.5 – SUBSTANTIAL PERFORMANCE OF THE WORK or within such shorter period as may be prescribed by any limitation statute of the province or territory of the *Place of the Work*.

The parties expressly waive the right to indemnity for claims other than those provided for in this *Contract*.
- 12.1.2 The obligation of either party to indemnify as set forth in paragraph 12.1.1 shall be limited as follows:
 - .1 In respect to losses suffered by the *Owner* and the *Contractor* for which insurance is to be provided by either party pursuant to GC 11.1 – INSURANCE, the general liability insurance limit for one occurrence as referred to in CCDC 41 in effect at the time of bid closing.
 - .2 In respect to losses suffered by the *Owner* and the *Contractor* for which insurance is not required to be provided by either party in accordance with GC 11.1 – INSURANCE, the greater of the *Contract Price* as recorded in Article A-6 of the Agreement – CONTRACT PRICE or \$2,000,000, but in no event shall the sum be greater than \$20,000,000.
 - .3 In respect to claims by third parties for direct loss resulting from bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, the obligation to indemnify is without limit. In respect to all other claims for indemnity as a result of claims advanced by third parties, the limits of indemnity set forth in paragraphs 12.1.2.1 and 12.1.2.2 shall apply.
- 12.1.3 The obligation of either party to indemnify the other as set forth in paragraphs 12.1.1 and 12.1.2 shall be inclusive of interest and all legal costs.
- 12.1.4 The *Owner* and the *Contractor* shall indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of their obligations described in GC 9.2 – TOXIC AND HAZARDOUS SUBSTANCES.

- 12.1.5 The *Contractor* shall indemnify and hold harmless the *Owner* from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings arising out of the *Subcontractor's* performance of the *Work* to the extent that the *Contractor* can recover under the subcontract terms and conditions.
- 12.1.6 The *Owner* shall indemnify and hold harmless the *Contractor* from and against all claims, demands, losses, costs, damages, actions, suits, or proceedings:
- .1 as described in paragraph 10.3.2 of GC 10.3 – PATENT FEES, and
 - .2 arising out of the *Contractor's* performance of the *Contract* which are attributable to a lack of or defect in title or an alleged lack of or defect in title to the *Place of the Work*.
- 12.1.7 In respect to any claim for indemnity or to be held harmless by the *Owner* or the *Contractor*:
- .1 *Notice in Writing* of such claim shall be given within a reasonable time after the facts upon which such claim is based became known;
 - .2 should any party be required as a result of its obligation to indemnify another to pay or satisfy a final order, judgment or award made against the party entitled by this contract to be indemnified, then the indemnifying party upon assuming all liability for any costs that might result shall have the right to appeal in the name of the party against whom such final order or judgment has been made until such rights of appeal have been exhausted.

GC 12.2 WAIVER OF CLAIMS

- 12.2.1 Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Contractor* waives and releases the *Owner* from all claims which the *Contractor* has or reasonably ought to have knowledge of that could be advanced by the *Contractor* against the *Owner* arising from the *Contractor's* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the date of *Substantial Performance of the Work*, except as follows:
- .1 claims arising prior to or on the date of *Substantial Performance of the Work* for which *Notice in Writing* of claim has been received by the *Owner* from the *Contractor* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;
 - .2 indemnification for claims advanced against the *Contractor* by third parties for which a right of indemnification may be asserted by the *Contractor* against the *Owner* pursuant to the provisions of this *Contract*;
 - .3 claims for which a right of indemnity could be asserted by the *Contractor* pursuant to the provisions of paragraphs 12.1.4 or 12.1.6 of GC 12.1 – INDEMNIFICATION; and
 - .4 claims resulting from acts or omissions which occur after the date of *Substantial Performance of the Work*.
- 12.2.2 The *Contractor* waives and releases the *Owner* from all claims referenced in paragraph 12.2.1.4 except for those referred in paragraphs 12.2.1.2 and 12.2.1.3 and claims for which *Notice in Writing* of claim has been received by the *Owner* from the *Contractor* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.2.3 Subject to any lien legislation applicable to the *Place of the Work*, as of the fifth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the *Owner* waives and releases the *Contractor* from all claims which the *Owner* has or reasonably ought to have knowledge of that could be advanced by the *Owner* against the *Contractor* arising from the *Owner's* involvement in the *Work*, including, without limitation, those arising from negligence or breach of contract in respect to which the cause of action is based upon acts or omissions which occurred prior to or on the date of *Substantial Performance of the Work*, except as follows:
- .1 claims arising prior to or on the date of *Substantial Performance of the Work* for which *Notice in Writing* of claim has been received by the *Contractor* from the *Owner* no later than the sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*;
 - .2 indemnification for claims advanced against the *Owner* by third parties for which a right of indemnification may be asserted by the *Owner* against the *Contractor* pursuant to the provisions of this *Contract*;
 - .3 claims for which a right of indemnity could be asserted by the *Owner* against the *Contractor* pursuant to the provisions of paragraphs 12.1.4 or 12.1.5 of GC 12.1 – INDEMNIFICATION;
 - .4 damages arising from the *Contractor's* actions which result in substantial defects or deficiencies in the *Work*. “Substantial defects or deficiencies” mean those defects or deficiencies in the *Work* which affect the *Work* to such an extent or in such a manner that a significant part or the whole of the *Work* is unfit for the purpose intended by the *Contract Documents*;
 - .5 claims arising pursuant to GC 12.3 – WARRANTY; and
 - .6 claims arising from acts or omissions which occur after the date of *Substantial Performance of the Work*.

- 12.2.4 The *Owner* waives and releases the *Contractor* from all claims referred to in paragraph 12.2.3.4 except claims for which *Notice in Writing* of claim has been received by the *Contractor* from the *Owner* within a period of six years from the date of *Substantial Performance of the Work* should any limitation statute of the Province or Territory of the *Place of the Work* permit such agreement. If the applicable limitation statute does not permit such agreement, within such shorter period as may be prescribed by:
- .1 any limitation statute of the Province or Territory of the *Place of the Work*; or
 - .2 if the *Place of the Work* is the Province of Quebec, then Article 2118 of the Civil Code of Quebec.
- 12.2.5 The *Owner* waives and releases the *Contractor* from all claims referenced in paragraph 12.2.3.6 except for those referred in paragraph 12.2.3.2, 12.2.3.3 and those arising under GC 12.3 – WARRANTY and claims for which *Notice in Writing* has been received by the *Contractor* from the *Owner* within 395 calendar days following the date of *Substantial Performance of the Work*.
- 12.2.6 “*Notice in Writing* of claim” as provided for in GC 12.2 – WAIVER OF CLAIMS to preserve a claim or right of action which would otherwise, by the provisions of GC 12.2 – WAIVER OF CLAIMS, be deemed to be waived, must include the following:
- .1 a clear and unequivocal statement of the intention to claim;
 - .2 a statement as to the nature of the claim and the grounds upon which the claim is based; and
 - .3 a statement of the estimated quantum of the claim.
- 12.2.7 The party giving “*Notice in Writing* of claim” as provided for in GC 12.2 – WAIVER OF CLAIMS shall submit within a reasonable time a detailed account of the amount claimed.
- 12.2.8 Where the event or series of events giving rise to a claim made under paragraphs 12.2.1 or 12.2.3 has a continuing effect, the detailed account submitted under paragraph 12.2.7 shall be considered to be an interim account and the party making the claim shall submit further interim accounts, at reasonable intervals, giving the accumulated amount of the claim and any further grounds upon which it is based. The party making the claim shall submit a final account after the end of the effects resulting from the event or series of events.
- 12.2.9 If a *Notice in Writing* of claim pursuant to paragraph 12.2.1.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 12.2.3.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.
- 12.2.10 If a *Notice in Writing* of claim pursuant to paragraph 12.2.3.1 is received on the seventh or sixth calendar day before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*, the period within which *Notice in Writing* of claim shall be received pursuant to paragraph 12.2.1.1 shall be extended to two calendar days before the expiry of the lien period provided by the lien legislation applicable at the *Place of the Work*.

GC 12.3 WARRANTY

- 12.3.1 Except for extended warranties as described in paragraph 12.3.6, the warranty period under the *Contract* is 1 year from the date of *Substantial Performance of the Work*.
- 12.3.2 The *Contractor* shall be responsible for the proper performance of the *Work* to the extent that the design and *Contract Documents* permit such performance.
- 12.3.3 The *Owner*, through the *Consultant*, shall promptly give the *Contractor* *Notice in Writing* of observed defects and deficiencies which occur during the 1 year warranty period.
- 12.3.4 The *Contractor* shall promptly correct the defects or deficiencies in the *Work* which appear during the 1 year warranty period. The *Contractor*'s responsibility for the cost in correcting the defects or deficiencies shall be subject to GC 2.4 – DEFECTIVE WORK.
- 12.3.5 The *Contractor* shall enforce the warranty obligations of the *Subcontractors* and *Suppliers* which shall include the following provisions:
- .1 The *Subcontractor* or the *Supplier* shall correct promptly at their expense defects or deficiencies in the work which appear prior to and during the warranty periods specified in the *Contract Documents*.
 - .2 The *Subcontractor* or the *Supplier* shall correct or pay for damage resulting from corrections made under the requirements of paragraph 12.3.4.
- 12.3.6 Any extended warranties required beyond the 1 year warranty period as described in paragraph 12.3.1, shall be as specified in the *Contract Documents*. Extended warranties shall be issued by the warrantor to the benefit of the *Owner*. The *Contractor*'s responsibility with respect to extended warranties shall be limited to obtaining any such extended warranties from the warrantor. The obligations under such extended warranties are solely the responsibilities of the warrantor.

These Supplementary Conditions contain modifications or additions to the Articles, Definitions and General Conditions of the *Contract* – CCDC 3 - 2016 Edition. Where any part of the Articles, Definitions or General Conditions are modified or deleted by these Supplementary Conditions, the unaltered provisions of the Contract remain in full force and effect.

I. AGREEMENT BETWEEN OWNER AND CONTRACTOR

1. Article A-1 Agreements and Amendments

.1 It is acknowledged and agreed by the *Contractor* that KPMG Inc. is the Court-appointed receiver and manager of Bokhari Developments Inc. pursuant to the Receivership Order dated August 29, 2023 pronounced by the Manitoba Court of King’s Bench (the “Court”) in King’s Bench File No. CI23-01-42328 (the “Receivership”) and in that capacity the *Receiver* has all the powers and protections as provided in the Receivership Order, and within the Receivership and at law, including but not limited to, the right to seek its discharge, and by entering into this *Contract* in its capacity as *Receiver* on behalf of the *Owner*, and not in its personal or corporate capacities, does not give up, release, or waive any such protections, and has no personal or corporate liability or other responsibility to the *Contractor*.

.2 The obligation of the parties to complete this *Contract* is subject to the Court having approved and authorized the *Receiver* to execute this *Contract*.

2. Article A-4 Cost of The Work

.1 Replace the first sentence in paragraph 4.1 with the following sentence:

“The *Cost of the Work* is comprised of the following costs incurred by the *Contractor* in performing the *Work*, except for costs incurred due to the failure on the part of the *Contractor* to exercise reasonable care and diligence in the *Contractor’s* performance of the *Work*, and to be considered and calculated by the *Owner*, in its discretion, in a manner consistent with Term #9 of the *Heads of Terms*, which shall be borne by the *Contractor*.”

.2 Delete paragraphs 4.1.7, 4.1.14, 4.1.16, and 4.1.18 in their entirety.

3. Article A-5 Contractor’s Fee

.1 Delete Article A-5 in its entirety.

4. Article A-6 Contract Price

.1 In paragraph 6.1 delete the following: “and the *Contractor’s Fee* as stipulated in paragraph 5.1 of Article A-5 of the Agreement – CONTRACTOR’S FEE”

5. Article A-8 Payment

.1 Delete paragraph 8.1.2 in its entirety.

.2 In paragraph 8.3.1 replace “or in an award by arbitration or court,” with “or in an award by the Court,”.

DEFINITIONS

- .1 Delete the Definition of *Consultant* and replace with the following:

Consultant

For the purposes of this *Contract*, the *Receiver* on behalf of the *Owner* shall act as the *Consultant* and shall have all associated duties, responsibilities, rights, and authority, subject to Article A-1. All references to *Consultant* in the *Contract* shall be interpreted as the *Receiver* acting on behalf of the *Owner*, pursuant to the Receivership Order.

- .2 Delete the Definition of *Owner* and replace with the following:

Owner

The *Owner* is Bokhari Developments Inc., and for the purposes of this *Contract*, the *Receiver* is acting in its capacity as *Receiver* of the *Owner*.

- .3 Add the following Definitions:

Approval Order

The Court order approving and authorizing the *Receiver* to execute this *Contract*.

Heads of Terms

The Heads of Terms document issued with the Request for Proposals and dated October 11, 2023.

Orders

The Approval Order and Receivership Order.

Receiver

KPMG Inc. in its capacity as the Court-appointed receiver and manager by the Receivership Order, and not in its personal or corporate capacities.

Receivership Order

The order appointing KPMG Inc. as receiver and manager dated August 29, 2023 issued in Manitoba Court of King's Bench File No. CI23-01-42328.

- .4 Delete the following Definition:

Contractor's Fee

The *Contractor's Fee* is the amount stipulated in Article A-5 of the Agreement – CONTRACTOR'S FEE which excludes the *Value Added Taxes*.

GENERAL CONDITIONS

PART 1 – GENERAL PROVISIONS

1. GC 1.1 Contract Documents

.1 Replace the priority of documents in paragraph 1.1.7.1 with the following priority of documents:

- the Orders
- the Agreement between the *Owner* and the *Contractor*
- the Definitions
- the Heads of Terms
- the Supplementary Conditions
- the General Conditions
- Division 1 of the *Specifications*, if and when provided
- technical *Specifications*, if and when provided
- material and finishing schedules, if and when provided
- the Drawings.

2. GC 1.3 Rights and Remedies

.1 Replace paragraph 1.3.1 with the following:

“Except as expressly provided in the *Contract Documents*, and subject always to Article A-1 and the Orders, the duties and obligations imposed by the *Contract Documents* and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.”

3. GC 1.4 Assignment

.1 Delete paragraph 1.4.1 and replace with the following:

“The *Contractor* shall not assign the *Contract* or any portion thereof without the written consent of the *Owner*. The *Owner* may, at any time and without the consent of the *Contractor*, assign the *Contract* and give notice to the *Contractor* of the assignment, which assignment shall be effective as at the date specified by the *Owner*.”

PART 2 - ADMINISTRATION OF THE CONTRACT

4. GC 2.2 Consultant's Responsibilities

.1 Add the following to the end of paragraph 2.2.1:

“Whenever under this *Contract* the *Consultant* is to exercise discretion, consider questions relating to the performance of the *Work*, interpret the *Contract Documents*, make any findings, or provide any *Contract* administration, the *Receiver* acting on behalf of the *Owner* shall be entitled to perform such role, and the *Contractor* acknowledges and agrees that the *Receiver* is acting on behalf of the *Owner* and will act in accordance with its rights and obligations under the Orders and Receivership.”

- .2 Add the following to the end of paragraph 2.2.6:

"and the *Contractor* will remain fully responsible for errors, omissions or deviations in the *Work* and for meeting all the requirements of the *Contract Documents* whether or not the *Work* has been reviewed by the *Consultant*".

- .3 In paragraph 2.2.9 delete the following sentence: “In making such interpretations and findings the *Consultant* will not show partiality to either the *Owner* or the *Contractor*.”

- .4 Add the following to the end of paragraph 2.2.13:

“If, in the opinion of the *Contractor*, the *Supplemental Instruction* involves an adjustment in the *Contract Price* or in the *Contract Time*, it shall, within 5 *Working Days* of the receipt of a *Supplemental Instruction*, provide the *Consultant* with a *Notice in Writing* to that effect which shall include the *Contractor's* good faith estimate of the expected adjustment to the *Contract Price* or *Contract Time* and a clear and unequivocal statement of the intention to make a claim for such adjustment. Failure to provide such *Notice in Writing* within such time shall prohibit and bar the *Contractor* from making a claim thereafter for an adjustment in the *Contract Price* or *Contract Time* as a result of the *Supplemental Instruction*.”

5. GC 2.4 Defective Work

- .1 Delete paragraph 2.4.2 and replace with the following:

“The *Contractor* shall be solely responsible for the delay and cost of correcting, repairing, or reworking any defective or incomplete work performed by it or its *Subcontractors*, including to conform to the *Contract Documents*.”

PART 3 - EXECUTION OF THE WORK

6. GC 3.1 Control of the Work

- .1 Add the following new paragraph 3.1.4:

"The *Contractor* represents and agrees that prior to entering into the *Contract*, the *Contractor* conducted such investigations and examinations of the *Place of the Work*, the *Contract Documents* and any other documents made available to the *Contractor* by the *Owner*, and the status of the *Work*, so as to ascertain the nature and location of the *Work*, possible delays in commencing the phases of the *Work*, conditions relating to the transportation, handling and storage of materials and facilities needed to perform the *Work*. The *Contractor* acknowledges that based on its experience, visual inspection of the *Place of the Work*, the surroundings, and the data available to it from the *Owner*, and generally,

it is satisfied as to the correctness and sufficiency of all components of the *Contract Price* and *Contract Time*, and acknowledges that it will not be entitled to any adjustment in the *Contract Price* or *Contract Time* in respect of the conditions of the site and *Place of the Work*, the site work and work performed by others, hydrological or climatic conditions, access to the site and *Place of the Work*, accommodations, facilities, personnel, power, transport, water, and other services to perform the *Work*, the extent and nature of the *Work* and the materials necessary for execution of the *Work*, and all other matters necessary to perform the *Work*, except for matters falling within GC 6.4 Concealed or Unknown Conditions. The *Contractor* further acknowledges that the *Owner* makes no representations concerning the site, the *Place of the Work*, the *Work*, the site work and work performed by others, the conditions of the site and *Place of the Work*, or any other matter relating to the *Project*, except as expressly stated in the *Contract Documents*.

7. GC 3.2 Construction by Owner or Other Contractors

- .1 At paragraph 3.2.6 delete the last sentence of the paragraph.

8. GC 3.4 Document Review

- .1 Add the following to the end of paragraph 3.4.1:

“Notwithstanding the foregoing, the *Contractor* will not be entitled to any adjustment to the *Contract Price* or *Contract Time* in respect of any error or omission in or between any *Drawings* or *Specifications* that would have been discovered by a diligent review of the *Drawings* and *Specifications* by a reasonably competent contractor prior to establishing the *Contract Price* to perform the *Work* as inferable from the *Contract Documents*. The *Receiver* on behalf of the *Owner* does not make any representations or warranties in relation to the *Contract Documents* including in respect of the accuracy, completeness, or constructability.”

9. GC 3.7 Subcontractors and Suppliers

- .1 Add the following new paragraph 3.7.6:

"In soliciting bids and contracting with *Subcontractors* and *Suppliers*, the *Contractor* shall at all times act in the best interest of the *Owner*, and shall avoid any conflict of interest between its duties to the *Owner* and any other duties or interests which it may have. The *Contractor* must immediately notify the *Owner* whenever it encounters any circumstances or becomes aware of any matter which does, or may, give rise to a conflict of interest."

- .2 Add the following new paragraph 3.7.7:

"Notwithstanding any other provision in this *Contract* to the contrary, the *Contractor* shall remain fully liable to the *Owner* for all acts or omissions of *Subcontractors* or *Suppliers*."

- .3 Add the following new paragraph 3.7.8:

“The *Contractor* shall provide reports to the *Owner*, on the last *Working Day* of each month or such other date of the month as directed by the *Owner*, in such form and with such detail

as the Owner may require from time which shall include:

- .1 detailed information in a form satisfactory to the *Owner*, which the *Owner* may revise or change at any time, acting reasonably, describing all *Work* performed by the *Contractor* and *Subcontractors* and workers engaged in the *Work* by the *Contractor* and *Subcontractors* since the previous monthly report, and all supplies or *Products* supplied by *Suppliers*;
 - .2 copies of all bills and invoices issued to the *Contractor* by all *Subcontractors* and workers engaged in the *Work* by the *Contractor* and *Subcontractors* to the extent they have not been previously provided to the *Owner*, and for all supplies or *Products* supplied by *Suppliers*;
 - .3 confirmation in a form satisfactory to the *Owner*, which the *Owner* may revise or change at any time, acting reasonably, that all bills and invoices incurred by or issued to the *Contractor* in respect of the *Cost of the Work* have been paid in accordance with their terms, to the extent that such confirmation has not been previously provided to the *Owner*.
- .4 Add the following new paragraph 3.7.9:

“If, acting reasonably, the *Owner* determines that the *Contractor's* creditworthiness has materially deteriorated or if the *Contractor* has failed to pay any invoice or bill related to the *Cost of the Work* and such bill or invoice has remained unpaid for 60 calendar days or more, then the *Owner* may, at any time and at its option and without prejudice to any other right or remedy available to the *Owner* pay the amount claimed to be due under any such bill or invoice directly to such unpaid *Subcontractor*, *Supplier* or other person and the *Owner* may set-off or deduct from any amount otherwise payable to the *Contractor* such amount as may be necessary to reimburse the *Owner* for all amounts so paid. No such payment by the *Owner* shall constitute an assignment or assumption of any subcontract or otherwise make the *Owner* responsible for any obligation of the *Contractor* to *Subcontractors*, *Suppliers*, or others.”

10. GC 3.10 Shop Drawings

- .1 Paragraph 3.10.1: Add the words, "or as the *Owner* may reasonably request" after "*Contract Documents*".

PART 5 - PAYMENT

11. GC 5.1 Financing Information Required of the Owner

- .1 Delete paragraphs 5.1.1 and 5.1.2

12. GC 5.3 Application for Progress Payment

- .1 At paragraph 5.3.3 delete the following:

“plus the amount of the fee earned in accordance with the provisions of Article A-5 of the Agreement – CONTRACTOR’S FEE”

- .2 Add the following at the end of paragraph 5.3.4:

", including documents confirming:

- .1 the identity of all *Subcontractors* and *Suppliers* who performed *Work* or supplied *Products* for which the application for payment is made and all invoices received from such *Subcontractors* and *Suppliers*;
- .2 that all bills or invoices in respect of the *Work* and all *Subcontractors*, *Suppliers*, and workers engaged in the *Work* by the *Contractor* and *Subcontractors*, have been paid in accordance with any applicable subcontract;
- .3 all laws and regulations applicable to the *Work* have been satisfied;
- .4 all clearance certificates required under workers’ compensation and provincial sales tax legislation have been obtained;
- .5 that neither the *Place of the Work*, nor the *Work* performed at the *Place of the Work* are subject to a charge or lien in favour of any person performing *Work*; and
- .6 that no person has filed, or is entitled to file, a lien for unpaid wages, materials supplied or *Work* performed, other than as disclosed and agreed to by *Owner*."

13. GC 5.4 Progress Payment

- .1 Delete paragraph 5.4.1 and replace with:

“Applications for payment will be processed in accordance with Section 11 of the *Heads of Terms*.”

- .2 Add new paragraph 5.4.2 to read as follows:

"Notwithstanding any other provision of this *Contract*, the *Owner* may refuse to make the whole or any part of any payment otherwise due under this *Contract*, to the extent that is reasonably necessary to protect the *Owner* from loss because:

- .1 the *Work* is defective, or completed *Work* has been damaged requiring correction or replacement;
- .2 the *Owner* has been required to correct defective *Work* or complete *Work* in accordance with paragraph 7.1.4.1 of the General Conditions;
- .3 liens have been filed against the *Work* or written notice of a lien in respect of the *Work* has been given to the *Owner*;
- .4 of third party monetary claims against the *Owner* relating to the *Contractor*;
- .5 there are other items entitling the *Owner* to a set-off pursuant to this *Contract*; or
- .6 the *Contractor* has failed to deliver all manuals, records, as-built drawings, written warranties or other deliverables contemplated by the *Contract Documents*."

14. GC 5.6 Payment of Holdback Upon Substantial Performance of the Work

- .1 Add the following new item after paragraph 5.6.1.2:

.3 submit evidence of compliance with workers' compensation legislation and provincial sales tax legislation in force at the *Place of the Work*, including payments due thereunder."

15. GC 5.8 Final Payment for the Work

.1 Add the following sentence to the end of paragraph 5.8.1:

"The *Contractor's* application for final payment shall be accompanied by any documents or materials not yet delivered pursuant to the *Contract Documents*, including any undelivered as-built drawings."

.2 Paragraph 5.8.4: Replace "5" with "60".

16. GC 5.9 Withholding of Payment

.1 Add the following new paragraph 5.9.2:

"Notwithstanding any other term or provision hereof, the *Owner* may withhold, set-off or deduct from any amount otherwise payable to the *Contractor* under this *Contract*, such amount as may be reasonably necessary to reimburse, indemnify or protect the *Owner* from any amount owing by the *Contractor* to the *Owner* pursuant to this *Contract*, or for any loss or damage that may be due to the default of the *Contractor* in any obligation under this *Contract* or from claims by third parties against the *Owner* in respect of the *Work*."

17. GC 5.10 Non-Conforming Work

.1 Add the following to the end of paragraph 5.10.1:

"Furthermore, no review or approval of any *Shop Drawings* and no inspection, examination or test conducted by or on behalf of the *Owner*, nor any failure to do any of the foregoing, shall constitute acceptance of any *Work* or *Products* that are not in accordance with industry standard, and the requirements of the *Contract Documents*."

18. GC 5.11 Builders' Liens

Add new GC 5.11 BUILDERS' LIENS as follows:

.1 Notwithstanding anything else in this PART 5 – PAYMENT, if a claim for lien is registered against the *Project* lands, or the *Owner* receives a written notice of a lien, arising from or in any way relating to the performance of the *Work*, and provided that such lien does not arise as a direct result of the *Owner's* failure to pay in accordance with the terms of the *Contract Documents*, the *Owner* shall be entitled to withhold any payment otherwise due to the *Contractor* until such time as such claims have been dealt with as provided below.

.2 If the *Owner* receives notice of a lien arising from performance of the *Work*, the *Contractor* shall, within ten (10) calendar days, at its expense, arrange for the discharge or other disposal of the claim for lien.

- .3 If a claim for lien arising from the performance of the *Work* is registered against the *Project* lands, the *Contractor* shall, within ten (10) days, at its expense, vacate or discharge the lien from title to the *Project* lands. If the lien is merely vacated, the *Contractor* shall, if requested, undertake the *Owner's* defence of any subsequent action commenced in respect of the lien at the *Contractor's* expense.
- .4 If the *Contractor* fails or refuses to vacate or discharge a lien or written notice of claim for lien within the time prescribed above, the *Owner* shall at its option, be entitled to take all steps necessary to vacate and/or discharge the lien, including by paying to the lien holder the amount claimed to be due or by procuring a discharge of such lien by paying to the Court such security as may be required to vacate the lien, and all costs incurred by the *Owner* in doing so (including, without limitation, legal fees on a solicitor and own client basis and any payment which may ultimately be made out of or pursuant to security posted to vacate the lien) shall be for the account of the *Contractor*, and the *Owner* may deduct such amounts from the amounts otherwise due or owing to the *Contractor*.
- .5 Without limiting the generality of the foregoing, the *Contractor* shall satisfy all judgments and orders and pay all costs resulting from any builders' liens or any actions brought in connection with any liens, or in connection with any other claim or lawsuit brought against the *Owner* by any person that provided services or materials to the *Project* lands which constituted part of the *Work*, and the *Contractor* shall indemnify the *Owner* for any and all costs (including, without limitation, legal fees on a solicitor and his own client basis) and the *Owner* shall be entitled to deduct such costs from any amounts otherwise owing to the *Contractor*.
- .6 This GC 5.11 – BUILDERS' LIENS does not apply to liens claimed by the *Contractor*.

PART 6 - CHANGES IN THE WORK

19. GC 6.1 Owner's Right to Make Changes

- .1 Add the following sentence to the end of paragraph 6.1.2:

"Changes to the *Work* performed by the *Contractor* without a prior *Change Order* or a *Change Directive*, shall be at the *Contractor's* sole risk, cost and expense and the *Owner* shall not be liable for any claim for compensation in respect thereof by the *Contractor*."

20. GC 6.3 Change Directive

- .1 Delete paragraph 6.3.3 in its entirety and replace with the following:

"A *Change Directive* may be used to direct a change in the *Contract Time* only."

- .2 Add the following new paragraph 6.3.8 to read as follows:

"The cost of performing the work attributable to a *Change Directive* shall be limited to the sum of the following:

- .1 the actual labour costs of the *Contractor's* on-site own forces;
- .2 the actual labour costs of all *Subcontractor* on-site own forces;
- .3 the actual cost of all *Products* necessary for the change in the *Work*;
- .4 any other out-of-pocket fees or expenses paid to third parties and not included in the mark-up for overhead, supervision and profit, and specifically agreed to by the *Owner* and the *Contractor*;
- .5 the *Contractor's* percentage charges applicable to the items described in paragraphs 6.3.8.1 through 6.3.8.4, determined in accordance with paragraph 4.6 of Article A-4 of the Agreement – COST OF THE WORK

21. GC 6.5 Delays

- .1 In paragraph 6.5.4 delete “10 *Working Days*” and replace with “5 *Working Days*”.
- .2 Add new paragraph 6.5.6 as follows:

“Notwithstanding anything herein to the contrary, if the *Contractor* is delayed for 30 calendar days or longer in the performance of the *Work* pursuant to paragraph 6.5.2 or 6.5.3, the *Owner* may terminate the *Contract* by written notice to the *Contractor* given at any time after the expiry of such 30 day period, in which case paragraph 7.1.5 hereof shall apply.”

PART 7 – DEFAULT NOTICE

22. GC 7.1 *Owner's* Right to Perform the Work, Terminate the *Contractor's* Right to Continue with the Work or Terminate the *Contract*

- .1 In paragraph 7.1.5.2 delete the following:

“plus the proportionate amount of the fee as provided in Article A-5 of the Agreement – CONTRACTOR’S FEE, and”
- .2 Delete paragraph 7.1.7 and replace it with the following:

“Notwithstanding any other paragraph herein, the *Owner* may terminate the *Contractor's* right to continue with the *Work*, or reduce or descope all or some of the scope of the *Work*, at any time without cause. In the event of such termination or reduction in part or in full of scope by the *Owner*, the following provisions shall apply:

 - .1 Upon the date of giving such notice of termination or reduction of all or some of the scope without cause, which shall be the effective date of such termination or scope reduction, the *Contractor* shall:
 - .1 stop the performance of the *Work* to the extent directed in the notice of termination or notice of scope reduction;
 - .2 if required by the *Owner*, cancel to the extent possible all outstanding contracts with *Subcontractors* or *Suppliers*;

- .3 use its best efforts to minimize all costs incurred by the *Contractor*, all *Subcontractors* and all *Suppliers* as a result of such termination of the *Work*; and
 - .4 take any other action toward cancellation or scope reduction of the *Work* which the *Owner* may direct.
 - .3 In paragraph 7.1.8.2 replace “20 *Working Days*” with “60 *Working Days*”, and replace “40 *Working Days*” with “90 *Working Days*”.
 - .4 Delete paragraphs 7.1.9 in its entirety and replace with the following:
 - .1 If the *Owner* terminates or reduces the scope of the *Work* under this *Contract* as provided in paragraph 7.1.7 or suspends the *Work* as described in paragraph 7.1.8, the *Owner* shall calculate any amounts owing to the *Contractor* in accordance with Term 13.4 of the *Heads of Terms*, and payment, if any, shall be made in accordance with the *Contract* and *Heads of Terms*.”.
23. GC 7.2 Contractor’s Right to Terminate the Contract
- .1 Delete paragraphs 7.2.1 and 7.2.2 in their entirety.
 - .2 Delete paragraph 7.2.3.1 in its entirety.
 - .3 Delete paragraphs 7.2.3.2 and 7.2.3.3 and replace with the following:
 - “.2 the *Owner* acting as *Consultant* fails to issue a certificate as provided in Part 5 of the General Conditions – PAYMENT, or
 - .3 the *Owner* fails to pay the *Contractor* when due the amounts in a certificate as provided in Part 5 of the General Conditions – PAYMENT, or as awarded by the Court.”
 - .4 Delete paragraph 7.2.3.4 in its entirety.
 - .5 In paragraph 7.2.4 delete “5 *Working Days*” and replace with “30 *Working Days*”.
 - .6 Delete paragraph 7.2.5 in its entirety and replace with the following:
 - “If the *Contractor* terminates this *Contract* as provided in paragraphs 7.2.3 and 7.2.4, the *Owner* shall calculate any amounts owing to the *Contractor* to the effective date of termination in accordance with Term 13.4 of the *Heads of Terms*, and payment, if any, shall be made in accordance with PART 5 PAYMENT of the *Contract* and Term 13.4 of the *Heads of Terms*.”.

PART 8 – DISPUTE RESOLUTION

24. GC8.1 Authority of the Consultant

.1 At paragraph 8.1.2 replace “paragraphs 8.2.3 to 8.2.8 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION” with “paragraphs 8.2.3 to 8.2.7 of GC 8.2 – NEGOTIATION, MEDIATION, AND COURT PROCEEDING”.

25. GC8.2 Negotiation, Mediation and Arbitration

.1 Delete the heading of GC8.2 and replace with “GC8.2 NEGOTIATION, MEDIATION AND COURT PROCEEDING”

.2 Delete paragraphs 8.2.6 to 8.2.8 and replace with the following new paragraphs 8.2.6 and 8.2.7:

8.2.6 After the date of termination of the mediated negotiations under paragraph 8.2.5, any dispute between the parties must be initiated in the Manitoba Court of King’s Bench, and both parties irrevocably attorn to the jurisdiction of the Manitoba Court of King’s Bench.

8.2.7 All disputes not resolved by mediation between the parties shall be, at the sole discretion of the *Owner*, required to be:

.1 held in abeyance until

(1) *Substantial Performance of the Work*,

(2) the *Contract* has been terminated, or

(3) the *Contractor* has abandoned the *Work*, whichever is earlier.

26. GC 8.3 Retention of Rights

.1 In paragraph 8.3.2 delete the following: “and the assertion of such right by initiating judicial proceedings is not to be construed as a waiver of any right that party may have under paragraph 8.2.6 of GC 8.2 – NEGOTIATION, MEDIATION AND ARBITRATION to proceed by way of arbitration to adjudicate the merits of the claim upon which such a lien is based.”

PART 9 – PROTECTION OF PERSONS AND PROPERTY

27. GC 9.2 Toxic and Hazardous Substances

.1 Delete paragraph 9.2.7.3 and replace it with the following:

“extend the *Contract* time for such reasonable time as the *Owner* may recommend in consultation with the expert referred to in paragraph 9.2.6 and the *Owner* shall reimburse the *Contractor* for the *Cost of the Work* for reasonable steps taken pursuant to paragraph 9.2.5.”

28. GC 9.4 Construction Safety

- .1 Delete GC 9.4 in its entirety and replace with the following:

“GC 9.4 CONSTRUCTION SAFETY

- 9.4.1 The *Contractor* shall be solely responsible for construction safety at the *Place of the Work* and for compliance with the rules, regulations and practices required by the applicable construction health and safety legislation and safety requirements including in the *Contract Documents*, and shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the *Work*.
- 9.4.2 The *Contractor* acknowledges and agrees that for the purposes of health and safety legislation in force at the *Place of the Work*, it assumes overall responsibility for health and safety, and shall be designated as the prime contractor at the *Place of the Work*. The *Contractor* shall perform all the functions of a prime contractor provided for under any health and safety legislation in force at the *Place of the Work*.
- 9.4.3 The *Contractor* shall establish and enforce reasonable rules and regulations with respect to the performance of the *Work*, or the presence of any other contractors and all other persons at or in the vicinity of the *Place of the Work*, and the protection of the ongoing operations at the *Place of the Work*, including rules and regulations with respect to occupational safety and health programs or matters, environmental management, emergency response and evacuation, fire prevention, occupational safety and health audits, site security or requirements under applicable laws and regulations (the “*Site Rules*”). The *Contractor* agrees to comply, and to cause its employees and *Subcontractors*, and their respective employees, as well as all other persons at the *Place of the Work*, to comply with all such *Site Rules*.
- 9.4.4 After consultation with the *Contractor*, the *Owner* shall have the right but not the obligation, from time to time, to establish and enforce reasonable rules and regulations with respect to the performance of any *Work* or the presence of the *Contractor* or any *Subcontractors* at the *Place of the Work*, and the protection of the ongoing operations at the *Place of the Work* including rules and regulations with respect to occupational safety and health programs or matters, environmental management, emergency response and evacuation, fire prevention, occupational safety and health audits, site security or requirements under applicable laws and regulations (the “*Supplemental Site Rules*”). The *Contractor* agrees to comply, and to cause its employees and *Subcontractors*, and their respective employees, as well as all other persons at the *Place of the Work*, to comply with all such *Supplemental Site Rules*. The *Contractor* shall have the absolute authority to deny access to the *Place of the Work* to any person (including other contractor’s and *Owner’s* own forces) who is unwilling to comply with any applicable *Site Rules* or *Supplemental Site Rules*.
- 9.4.5 The *Contractor* shall take and enforce all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to: a) all persons at the *Place of the Work* or who may be affected by the *Work*; and b) all *Work* and materials and equipment to be incorporated in the *Project*, whether in storage on or off the *Place of the Work*; and c) other property at the *Place of the*

Work or adjacent thereto, including landscaping, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation, or replacement in the course of construction. In emergencies affecting the safety or protection of persons or the *Work* or property at the *Place of the Work* or adjacent, the *Contractor* is required to act to prevent threatened damage, injury or loss.

- 9.4.6 The *Contractor* shall comply with and enforce compliance with applicable laws or regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The *Contractor* shall notify owners of adjacent property and of underground facilities and utility owners when prosecution of the *Work* may affect them. The *Contractor* will cooperate with such property owners in the protection, removal, relocation, and replacement of their property.
- 9.4.7 The *Contractor* shall promptly advise the *Owner* of and provide copies of all *Site Rules* or any new, amended or revised *Site Rules* which are required by *Owner* in order to safely and properly co-ordinate the *Owner's* activities and the activities of any other person, firm or corporation employed by the *Owner* with the *Work*, or where *Owner* otherwise requires knowledge of such *Site Rules* in order to fulfil its legal obligations.
- 9.4.8 The *Contractor* shall provide *Owner* with details of any recordable injury, illness or death at the *Place of the Work* pursuant to applicable laws and regulations. The *Contractor* shall immediately notify *Owner* in writing and provide reasonable details upon it being served with notice of any investigation, complaint, or inquiry pursuant to occupational health and safety laws and regulations.
- 9.4.9 Nothing in this *Contract* including, without limitation, the *Contractor's* compliance with and enforcement of the *Site Rules* or any *Supplemental Site Rules* shall be deemed to be an assumption by the *Owner* of any responsibility or liability for the health or safety of the *Contractor* or any of the *Contractor's* employees or *Subcontractors*, or any of the *Subcontractors'* employees, or for their compliance with all *Site Rules*, *Supplemental Site Rules* and all occupational health and safety laws and regulations.
- 9.4.10 The *Contractor's* duties and responsibilities for safety and for protection of the *Work* shall continue until: (i) such time as all the *Work* is completed and accepted by the *Owner*, or (ii) the *Contractor* has demobilized and vacated the *Place of the Work*.
- 9.4.11 The *Contractor* shall designate such qualified and experienced safety representative(s) at the *Place of the Work* as are required whose duties and responsibilities shall be the prevention of accidents, incidents and near misses, the maintaining and supervising of safety precautions and programs, and compliance with all *Site Rules* and *Supplemental Site Rules*.
- 9.4.12 The *Contractor* shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made

available to or exchanged between or among employers at the *Place of the Work* in accordance with applicable laws or regulations.

9.4.13 In addition to any other reporting obligations herein, the *Contractor* shall provide regular reports in writing to the *Owner* of all accidents, incidents and/or near misses of any sort arising out of or in connection with the performance of the *Work*, whether on or adjacent to the job site, providing the details of the date, time, clear description of activity, location, shift, unit, investigation efforts, action plan to identify solutions and witnesses' accounts.

9.4.14 The *Contractor* shall indemnify and hold harmless the *Owner* from any liability for claims, damages or penalties, including reasonable legal fees to defend any offences, arising from the *Contractor's* failure to comply with the duties, responsibilities and obligations described in this GC 9.4 – CONSTRUCTION SAFETY.

PART 10 – GOVERNING REGULATIONS

29. GC 10.4 Worker's Compensation

.1 Add the following new paragraph 10.4.3:

“The *Contractor* shall ensure that workers' compensation covers all workers engaged in the *Work* in accordance with the statutory requirements of the province or territory having jurisdiction over such employees, including the provision of voluntary coverage, where applicable, for all workers engaged in the *Work* for whom mandatory coverage under Workers' Compensation legislation in force at the *Place of the Work* does not apply.”

PART 12 INDEMNIFICATION – WAIVER OF CLAIMS – WARRANTY

30. GC 12.1 Indemnification

.1 add the following paragraph 12.1.2.4:

“.4 All claims against the *Owner* for indemnification or otherwise arising from or in any way related to this *Contract* shall be limited to the assets of the *Owner* in the Receivership, in the priority as determined by the Court.”

31. GC 12.2 Waiver of Claims

.1 Delete paragraph 12.2.3 in its entirety and replace with the following:

“Any claim which the *Owner* may have against the *Contractor* arising out of the *Contractor's* performance of the *Work* shall be brought within a period of 2 years from the end of the warranty period prescribed in paragraph 12.3.1 or within the applicable limitation period prescribed by any limitation of actions legislation in force in the province or territory of the *Place of the Work*, whichever period is greater.”

.2 Delete paragraphs 12.2.4 and 12.2.5 in their entirety.

.3 Delete paragraphs 12.2.9 and 12.2.10 in their entirety.

32. GC 12.3 Warranty

.1 Add the following new sentence to the end of paragraph 12.3.2:

“The *Contractor* warrants that the *Work* will be in accordance with the *Contract Documents*, and that the *Work* (including, without limitation, the *Products*) will be completed in a good and workmanlike manner, consistent with industry standards, and will be free from all defects and deficiencies.”

.2 Add the following to the end of paragraph 12.3.4:

“Furthermore, the *Contractor* shall correct, at the *Contractor’s* expense, defects of deficiencies in the corrected work which appear within 1 year after completion of the corrected work.”

.3 Add the following new paragraph 12.3.7:

“If the *Contractor* does not promptly and diligently correct any defect or deficiency in the *Work* for which it has received notice under GC 12.3, then the *Owner* may correct such defect or deficiency and the *Contractor* shall reimburse the *Owner* for all reasonable costs and expenses incurred by the *Owner* in such regard within 30 calendar days of the *Owner* invoicing the *Contractor* for such amounts, or the *Owner* may set-off such amount against any amounts then owing, or that become owing, by the *Owner* to the *Contractor*. The term “defects and deficiencies” shall be interpreted to include all damage directly or indirectly resulting from any defect or deficiency.”

.4 Add new paragraph 12.3.8 to read as follows:

"Where applicable, warranty periods shall be extended to take into account seasonal deficiencies, such as for landscaping, and the commencement of such warranties shall commence upon the date that the seasonal deficiencies have been remedied."

END OF SUPPLEMENTARY CONDITIONS



Packages

1. Instruction to Bidders
2. Design Drawings
3. Heads of Terms
4. Draft Contract – CCDC 3 - 2016
5. Construction Contract *[Pending Addendum]*
6. Inventory of Available Materials *[Pending Addendum]*
7. Bid Form



Definitions

All capitalized terms herein not otherwise defined shall have the definitions ascribed thereto in the Instructions to Bidders.

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1 Objectives

#	Term	Proposed Approach
1.1	Objectives	<p>Receiver's objectives of the Project:</p> <ul style="list-style-type: none"> • Complete the envelope of the Buildings in line with Design Documents. • Ensure the Buildings are water-tight to avoid any further weather damage to the interior. • Complete the Work as rapidly as possible to avoid further weather damage to the Buildings.

2 Participants and Roles

#	Term	Proposed Approach
2.1	Receiver	<p>Receiver and/or its Agent is responsible under the Contract for:</p> <ul style="list-style-type: none"> • Supplying engineering / design documentation; • Providing site access; • Managing changes to the Contract; • Overseeing Contractor's performance; • Auditing the Contractor's costs; • Making payment to the Contractor; and • Accepting the Works once completed.
2.2	Agent	<p>The Receiver intends to appoint an Agent to oversee the Work on its behalf. The Agent shall have the authority of the Consultant as detailed in the Contract regarding administration of the Contract.</p>
2.3	Contractor	<p>The Contractor is responsible for:</p> <ul style="list-style-type: none"> • Completion of the Works, including construction, supply, delivery, installation, testing, handover, in accordance with the Contract Documents; • Management of all labour and equipment required to execute the Work. • Procurement of required materials not free issued by the Receiver; and • Managing health, safety and environmental compliance within their designated site.

3 Term & Scope

#	Term	Proposed Approach
3.1	Term	<p>The Term extends from the time of execution of the Contract until:</p> <ul style="list-style-type: none"> • One (1) year from the date of Substantial Performance in accordance with the contract; or • The Contract is terminated.
3.2	Scope of work	<p>The scope of work consists of the completion of the envelope of the Buildings in accordance with the Design Documents provided to fully enclose the structures and stop ingress of water.</p> <p>Depending on the level of completion of the respective Buildings, this will include (but not limited to):</p> <ul style="list-style-type: none"> • Remediation of damaged elements of the Building, including framing, doors, windows, building wrap, insulation, and siding as required. • Completion of Building structure and framing. • Completion of fascia boards and soffits as required. • Installation of remaining exterior windows and doors, including completion of partially installed windows and doors; and • Completion building wrap, exterior sheathing, and siding. Siding to match existing siding on Buildings 1821 and 1819. • Installation of weeping tile in each Building, as required. • Installation of insulated tarps on basement floors in building 1813. <p>The scope of work shall include the provision and oversight of all labour, and equipment required to complete the work, as well as the procurement of materials not free issued by the Receiver to the Contractor.</p>

4 Commitments

#	Term	Proposed Approach
4.1	Good Faith	<p>In exercising their rights and performing their obligations under the Contract, the parties agree at all times to act in good faith, which in the context of this Contract means:</p> <ul style="list-style-type: none"> • Acting in a manner that is consistent with the Project Objectives and the values of safety and wellbeing, collaboration, innovation, excellence and achievement; • Undertaking, adopting and implementing all things reasonably necessary to give effect to the spirit and intent of the Contract; and • Being fair, honest and reasonable and acting with integrity at all times.

4.2	Timely communication	Each party agrees to immediately notify the other of any matter which may amount to or result in an issue for the Project or between the parties in relation to this Contract.
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5 Schedule

#	Term	Proposed Approach
5.1	Project Schedule	<p>The Contractor will provide a Project Schedule that complies with Receiver's requirements.</p> <p>The Project Schedule will provide sufficient granularity and detail to:</p> <ul style="list-style-type: none"> • Understand daily activities; • Demonstrate the critical path for Project, including but not limited to the Substantial Performance Date; and • Serve as a baseline capable of highlighting any schedule impacts and schedule-related cost impacts of delays and/or Change Orders.
5.2	Updates to the Project Schedule	The Contractor will update, revise and submit to Receiver an updated Project Schedule that details progress to date and any delays, deferred activities and accepted extensions of time on a monthly basis, or as directed to do so by Receiver.
5.3	Delay	<p>The Contractor will provide notice to Receiver within [5] Business Days of becoming aware of any delay and advise of the implications on the achievement of any milestone dates.</p> <p>Following this notification, the Contractor will, as soon as practical, provide a recovery plan. The recovery plan will detail the actions and measures to remedy or mitigate the delay and include an updated Project Schedule.</p>
5.4	Receiver-instigated extension of time	<p>Receiver may, at its discretion, elect to unilaterally provide an extension of time without a claim being provided by the Contractor.</p> <p>A further claim for an extension of time can be submitted by the Contractor (through the Change Request process) where any unilaterally provided extension of time is seen as insufficient.</p>

6 Permitting

#	Term	Proposed Approach
6.1	Permits to be obtained by Receiver	The Receiver will be responsible for obtaining required development approvals and building permits required for the commencement of the Work, except those referred to in GC 10.2.3 of the Contract.
6.2	Permits to be obtained by	The Contractor shall be responsible for the procurement of permits, licences, inspections, and certificates, which are necessary for the

#	Term	Proposed Approach
	the Contractor	performance of the Work and customarily obtained by contractors in the jurisdiction of the Place of the Work after the issuance.
6.3	Permit management	The Contractor will be responsible for the management of all permits including renewal, amendment, extension, etc. as applicable. The Contractor will gain Receiver approval prior to any permit management which may result in financial or schedule impacts to the Receiver.
6.4	Compliance and reporting	The Contractor will ensure continued compliance with all permits, including adherence to any reporting requirements.

7 Subcontracting

#	Term	Proposed Approach
7.1	Subcontracting	The Contractor shall be permitted to subcontract the Works as it deems appropriate and as in the best interest of the Project. The Contractor shall disclose any intended subcontractors in its RFP submission. Any changes to the planned subcontractors shall be subject to review and approval by the Receiver.

8 Materials

#	Term	Proposed Approach
8.1	Free Issued Materials	The Receiver shall free issue to the Contractor the materials listed in the Inventory of Available Materials included in the Contract documents for use in the Works.
8.2	Contractor Procured Materials	The Contractor shall be responsible for the procurement and installation of any and all materials required to complete the Work that are not provided by the Receiver and for the installation of materials provide by the Receiver. Materials procured by the Contractor shall, to the best of the Contractor's ability, match the existing materials used on the Building(s), be of a quality consistent with those specified, and be acceptable to the Receiver or its Agent.

9 Price

9.1	Reimbursable Costs	The Contractor will be paid the Cost of the Work, provided these are direct and indirect costs reasonably and actually incurred and are not Excluded Costs. Only 'on-site' costs will be reimbursed (e.g. labour that is on site).
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9.2	Excluded Costs	<p>The following costs are Excluded Costs and are not Reimbursable Costs that can be claimed by the Contractor:</p> <ul style="list-style-type: none"> • Corporate Overheads and non-project staff; • Costs unrelated to the Contractor's obligations under the Contract; • Costs that cannot be substantiated by the Contractor; • Amounts that are recoverable under insurance policies; • Costs that are incurred to rectify any negligent act or omission or wilful misconduct of the Contractor or a subcontractor; • Costs that are included in the Contractor's Corporate Overhead; • Any damages payable by the Contractor to Receiver; • Salary increases above a pre-determined rate; and • Bonuses and incentive compensation.
9.3	Corporate Overhead & Profit	<p>The Contractor will be paid their Corporate Overhead and Profit as a percentage of their actual Reimbursable Costs. The Contractor's Corporate Overhead and Profit shall form part of the Hourly Rates and the Material Fee Percentage, Rental Equipment Fee Percentage, and Subcontractor Fee Percentage provided in the Bid Form.</p> <p>The Corporate Overhead is intended to reflect an all-inclusive amount for the Contractor's costs of:</p> <ul style="list-style-type: none"> • Home office executive management, project sponsors and managers; • Corporate office / shop / warehouse costs; • Corporate safety, quality and environmental programs; • Corporate and off-site training; • Human resource management; • Marketing; • Corporate risk management / insurance; • Corporate tax; • Corporate legal; • Corporate accounting / financial reporting; • Internal audit; • Business management; • Corporate procurement; • Corporate treasury / cash management; • I.T. support • Costs of pursuing claims against Receiver, unless stated as a Reimbursable Cost under the Contract; and • Costs associated with any dispute resolution processes with Receiver, unless stated as a Reimbursable Cost under the Contract.
9.4	Incentive Payments	<p>The Proponent shall provide its Target Mobilization Date as part of the RFP. If the Contractor mobilizes to site and commences work by the Target Mobilization Date as formalized in Article 1.3 of the Contract, the Contractor shall be eligible for an incentive bonus of \$10,000. The Receiver reserves the right, acting reasonably and at its sole discretion, to</p>

		<p>extend the Target Mobilization Date. Mobilization and commencement of the work shall include, at minimum:</p> <ul style="list-style-type: none"> • Establishment of the Contractor’s hoarding, site office(s), lunch trailer(s) and tool cribs (as appropriate). • On-site presence of the Superintendent (as defined in the Bid Form) and crew of at least five (5) individuals including a foreman. • Commencement of the first construction activities (i.e., non-mobilization) as shown in the Project Schedule. <p>The Proponent shall provide its Target Substantial Performance Date as part of the RFP. If the Contractor achieves Substantial Performance of the Work by the Target Substantial Performance Date, as formalized in accordance with Article 1.4 of the Contract, the Contractor shall be eligible for an incentive bonus of \$40,000. The Receiver reserves the right, acting reasonably and at its sole discretion, to extend the Target Substantial Performance Date due to unforeseen circumstances.</p>
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10 Changes in the Work

#	Term	Proposed Approach
10.1	Receiver’s Right to Make Changes	The Receiver reserves the right to make changes to the Work <i>via</i> additions, deletions, or revisions to the Work by Change Order or Change Directive.
10.2	Change Orders & Change Directives	<p>Changes to the Work shall be made through Change Orders or Change Directives. The Contractor shall not perform change in the Work without an approved Change Order or Change Directive.</p> <p>Upon notice of a change in the Work, the Contractor shall provide the Receiver and/or its Agent with an assessment of the associated cost and required adjustment, if any, to the Contract Time, for review by the Receiver. Once the adjustment to the Work is agreed, the agreement shall be recorded in a Change Order.</p> <p>If the Receiver requires the Contractor to proceed with a change in the Works prior to the Receiver and the Contractor agreeing upon the corresponding adjustment in the Contract Time, the Receiver, through the Agent, shall issue a Change Directive.</p>
10.3	Concealed or Unknown Conditions	The Contractor, having visited the site and reviewed the as-built condition, acknowledges the current condition of the Buildings and the associated impacts on the Works and Project. Accordingly, the Contractor agrees the issuance of Change Orders for increases to the Contract Time for concealed or unknown conditions shall be solely at the discretion of the Receiver, acting reasonably.

11 Payment

#	Term	Proposed Approach
11.1	Monthly payment	The Contractor is entitled to payment as provided in the Contract for the cost of the Work actually performed and Products delivered to the Place of the Work in accordance with the provisions of Article A-4 of the Agreement – COST OF THE WORK (as amended), during the relevant month plus the amount of the appropriate fee percentage as outlined in the Bid Form.
11.2	Payment Application	<p>Within 15 Business Days of the end of each month during the Contract Time, the Contractor will prepare and deliver a payment application in a format approved by Receiver, detailing the Cost of the Work reasonably and actually incurred by the Contractor and the associated fee percentage as applicable.</p> <p>Payment applications will be provided in a consistent manner and in a format approved by Receiver. Payment claims should be self-explanatory with the Contractor’s costs clearly identified and supported by appropriate evidence. All supporting evidence must be legible.</p> <p>All payment applications will include a declaration by the Contractor that the payment claim has been prepared in accordance with the Contract and is a true and accurate reflection of the actual costs incurred.</p>
11.3	Progress invoicing	<p>Within 10 Business Days of receiving a payment application, Receiver will advise the Contractor in writing whether:</p> <ul style="list-style-type: none"> the payment claim sets out <i>bona fide</i>, fair and reasonable amounts payable in accordance with the Contract; or whether all or part of the payment claim does not set out <i>bona fide</i>, fair and reasonable amounts payable in accordance with the Contract, or otherwise requires amendment and resubmission. <p>Once Receiver has notified the Contractor that it is satisfied with the payment application, the Contractor may issue Receiver an invoice for payment within 60 Days.</p>

12 Project Completion

#	Term	Proposed Approach
12.1	Substantial Performance	<p>Substantial Performance is the stage in the performance of the works when the works are complete except for minor defects and all testing is satisfactorily completed.</p> <p>If Receiver is satisfied that Substantial Performance has been achieved, it will issue the Certificate of Substantial Performance.</p>

13 Termination

#	Term	Proposed Approach
13.1	Termination for default	<p>Where default event occurs, Receiver may provide the Contractor Notice in Writing detailing the breach, the requirement to remedy the breach and the time period in which the breach must be remedied or other specific action taken.</p> <p>Where the breach is not remedied as required, Receiver may:</p> <ul style="list-style-type: none"> Remove the whole or part of the Work remaining to be completed from the Contractor’s scope; or Terminate the Contract.
13.2	Termination for default payment	<p>The Contractor will be liable for any losses, costs, damages and expenses that Receiver may incur as a result of the default and subsequent termination.</p> <p>The Contractor’s liability to make payments to Receiver in the event the Contract is terminated for Contractor default is subject to the Contractor’s liability cap.</p>
13.3	Termination for convenience	<p>Receiver may at any time, at its sole discretion, provide written notice to the Contractor of its intent to, immediately or at a time stated in the notice, terminate the Contract.</p>
13.4	Termination for convenience payment	<p>Where Receiver terminates the Contract for convenience, the Contractor is entitled to payment for:</p> <ul style="list-style-type: none"> Work properly carried out in accordance with the Contract up until the date of termination; The cost of materials reasonably ordered by the Contractor on the expectation of the continuation of the Project that it is legally obligated to pay (provided the title of the materials vests in Receiver), plus the appropriate fee; The reasonable costs of demobilizing at the site and complying with any other directions from Receiver in relation to the termination, plus the appropriate fee; and The reasonable costs of terminating any subcontracts or leases entered into for the purposes of completing the Project. <p>The Contractor will undertake reasonable endeavours to mitigate the costs to Receiver that result from the decision of Receiver to terminate the Contract for convenience.</p> <p>Where agreement cannot be reached on any aspect of the termination for convenience payment assessed by either party, the parties will appoint an independent expert to act as adjudicator. The costs of the independent expert shall be borne by the Project. The role of the independent expert will be to provide a written determination as to the appropriate termination for convenience payment, or component of this payment that is in dispute. The determination of the independent expert will be final.</p>

Summary of Receiver's fees and disbursements
For the period August 22, 2023 to October 29, 2023
(C\$)

Date	Invoice #	Fees	Disbursements*	HST	Total	Hours
23-Oct-23	8005072327	\$ 59,660.00	\$ -	\$ 7,755.80	\$ 67,415.80	113.15
14-Nov-23	7000431035	40,996.25	\$ 2,812.41	\$ 5,695.13	\$ 49,503.79	80.95
14-Nov-23	7000431038	79,143.50	\$ -	\$ 10,288.66	\$ 89,432.16	156.90
Total		\$ 179,799.75	\$ 2,812.41	\$ 23,739.58	\$ 206,351.74	351.00

*Disbursements relate to the period August 22, 2023 to September 30, 2023.



KPMG Inc.
 Suite 4600 Bay Adelaide Centre
 333 Bay Street
 Toronto, ON M5H 2S5

Payment Address:
 KPMG LLP, T4348
 P.O. Box 4348, Station A
 Toronto, ON M5W 7A6

October 23, 2023

Peoples Trust Company
 c/o KPMG Inc., in it's capacity as receiver of Bokhari Development Inc.
 Suite 4600 Bay Adelaide Centre
 333 Bay Street
 Toronto, ON M5H 2S5

Invoice : 8005072327
 Reference : 2001820172
 Client : 1000012874
 Contact : Katherine Forbes
 Telephone : (416) 777-8107
 Email : katherineforbes@kpmg.ca

Our professional fees for the period of August 22 to September 15,2023 inclusive, in our capacity as Court-appointed Receiver of Bokhari Development Inc.		
Our Fee		\$ 59,660.00 CAD
		<u>\$ 59,660.00 CAD</u>
HST		7,755.80
		<u>7,755.80</u>
Amount Due		<u><u>\$ 67,415.80 CAD</u></u>
Payment is due upon receipt		
GST/HST Number	12236 3153 RT0001	QST Registration 1023774310 TQ0001

CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6
 Please return remittance advice with cheque.

CAD Wire Payments: Beneficiary: KPMG LLP
 Bank Details: TD Canada Trust, 55 King St. West, Toronto, ON M5K 1A2, Bank Code # 004, Transit # 10252,
 Account # 0938281, Swift Code TDOMCATTOR
 Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

Invoice No: 8005072327 **Reference:** 2001820172 **Client:** 1000012874 **Amount:** \$ 67,415.80 CAD

Receivership of Bokhari Development Inc.
Professional Fees Summary
For the period of August 22 to September 15, 2023

Name	Position	Rate	Hours	Fees (\$)
Katherine Forbes	Senior Vice President	\$ 700	52.90	\$ 37,030.00
Jonathan Weir	Partner	\$ 700	0.50	350.00
Shawn Oakley	Senior Manager	\$ 550	1.00	550.00
Tahreem Fatima	Manager	\$ 425	8.00	3,400.00
Gareth Croft	Senior Consultant	\$ 375	37.00	13,875.00
Hayden Provis	Consultant	\$ 350	7.25	2,537.50
Angelina Hung	Staff Technician	\$ 295	6.00	1,770.00
Annette Chopowick	Staff Technician	\$ 295	0.50	147.50
Total Professional Fees			113.15	\$ 59,660.00
HST				\$ 7,755.80
Total Amount Due				\$ 67,415.80

**Receivership of Bokhari Development Inc.
For the period of August 22 to September 15, 2023**

Employee Name	Work Date	Hours	Time Narrative
<u>Katherine Forbes Senior Vice President</u>			
Katherine Forbes	8/22/2023	0.90	Review of draft receivership order and related correspondence to proposed Receiver's counsel (MLT A kens).
Katherine Forbes	8/23/2023	1.40	Review and comment on draft receivership order. Call with secured lender's counsel (TDS Law). Related correspondence with proposed Receiver's counsel, re receivership order, liens registered.
Katherine Forbes	8/24/2023	1.60	Call with counsels to discuss comments on updated receivership order, planning considerations. Internal correspondence re establishing Receiver's web address. Providing additional comments on draft receivership order. Correspondence with proposed Receiver's counsel re filing consent to act with the Court.
Katherine Forbes	8/25/2023	0.30	Executing consent to act. Planning discussions with KPMG team.
Katherine Forbes	8/28/2023	1.10	Call with Applicant's counsel and proposed Receiver's counsel re final draft receivership order and update re August 29th application hearing. Correspondence with Applicant's counsel and proposed Receiver's counsel re terms of receivership order in light of insurance status on the property. Preliminary review of insurance policies. Internal correspondence re planning onsite attendance following appointment of Receiver.
Katherine Forbes	8/29/2023	6.70	Review latest draft receivership order and discuss with counsel. Attend court hearing, and debrief with Receiver's counsel. Consideration of and discuss receivership planning and key considerations with Receiver's counsel team. Planning discussion with KPMG team re site visit and immediate next steps. Review and edit door notice. Correspondence to potential project managers.
Katherine Forbes	8/30/2023	6.80	Attending to various Day 1 receivership activities, including security and insurance matters, potential contractors, and related discussions with KPMG team and review of work plan. Drafting and circulating preliminary status update to the Applicant, and related correspondence with the Applicant. Review of information related to the Project. Correspondence to the Debtor, Debtor's counsel, Gateway Projects, shareholders. Review letter to TD re bank account. Internal correspondence and review of Receiver's website. Correspondence with Receiver's counsel re several matters. Internal discussions with KPMG team onsite at Project site.
Katherine Forbes	8/31/2023	2.50	Preparing and executing Receiver's certificate for borrowings. Correspondence from/to Applicant's counsel re status of borrowing request and request for Receiver's preliminary budget. Correspondence with K. Jewell (Zedcor) re CCTV installation matters. Attending to site security, insurance renewal matters and related discussions and correspondence with KPMG team. Various correspondence re Gateway Projects. Receivership matters planning. Email to Debtor re request for information.
Katherine Forbes	9/1/2023	2.60	Internal correspondence re scheduling call with counsel, CCTV surveillance installation and agreements, service list, insurance renewal. Approving Zedcor agreement for execution. Correspondence from/to D. Shaver. Email to B. Bailey (Fire Department). Scheduling travel and onsite work for following week. Review of multiple third party property requests and related correspondence with counsel. Prepare letter to Cansure re insurance renewal. Email from Applicant's counsel re correspondence from Gateway Projects. Review of various documents in relation to Project details, receivership planning. Call to Co liers. Engaged in set up of CCTV security.
Katherine Forbes	9/5/2023	1.80	Internal status update calls, and discussions re site, insurance, next steps. Call with payment certifier re Project details, information to be provided. Follow-up re status of Receiver's borrowings. Various correspondence re quotes from service providers, securing the site, follow-up with various parties for information. Correspondence from various parties re interest in the Project, liens, and correspondence with Receiver's counsel re same. Call from City of Portage la Prairie and Fire Department.
Katherine Forbes	9/6/2023	3.90	Correspondence to Applicant's counsel re budget for initial receivership activities, draw request, and request for update on status of borrowing request. Follow up on insurance status. Coordinating site visits. Flight to Winnipeg. Internal correspondence re Receiver's budget. Correspondence with, and internal correspondence re potential contractors. Email from/to Receiver's counsel re billing and scheduling call.
Katherine Forbes	9/7/2023	8.00	Attend at Project site, including travel to/from Winnipeg to site. Walkthrough of exterior of site, materials and storage containers onsite. Engage with security personnel, fencing provider, Fire Department, and request of debtor to attend onsite. Discuss works required with various parties onsite. Call with prospective contractors, project leads. Review, edit, and execute notice and statement of the Receiver, internal discussions and correspondence re same. Correspondence to Gateway Projects re status of site. Correspondence from/to counsel to City of Portage la Prairie.
Katherine Forbes	9/8/2023	5.70	Attend at Project site, including travel to/from Winnipeg to site. Walkthrough of buildings, inventory materials onsite and installed, status of closures to buildings and preliminary evaluation of work required in short-term. Engage with security personnel. Internal correspondence re notice and statement of the receiver. Status update call with counsel. Return travel from Winnipeg.
Katherine Forbes	9/9/2023	0.40	Correspondence from/to Receiver's counsel re filing receiver's charges on title. Follow-up correspondence to Applicant's counsel re receiver's borrowing certificate. Email to KPMG team re security incident on Project site.
Katherine Forbes	9/11/2023	2.10	Attending to planning next steps on realization strategy. Planning calls with KPMG team. Various inbound correspondence from interested parties. Attending to information gathering from prospective contractors. Status update correspondence to the Applicant. Email to Receiver's counsel re Gateway Projects.
Katherine Forbes	9/12/2023	2.10	Correspondence from/to the Applicant. Correspondence to Applicant's counsel re updated wire instructions for Receiver's borrowing request. Correspondence from/to counsel (MLT Aikens) re corporate search on Gateway Projects. Discussions with KPMG team re approach to construction work and time sensitive work required, quantity surveys and appraisals to be considered. Correspondence to Receiver's counsel re Project agreements. Review work plan status update.
Katherine Forbes	9/13/2023	2.20	Preparing planning document on realization strategy. Drafting outline of contractor RFP document. Internal discussions re insurance efforts; review of correspondence from Cansure's legal counsel and related correspondence with Receiver's counsel. Preliminary review of City of Portage la Prairie draft order to comply, and related correspondence with KPMG team. Review correspondence from BTY information related to the Project. Upload site photos from recent site visit.
Katherine Forbes	9/14/2023	1.60	Status update discussion with KPMG team re receivership activities. Call with Receiver's counsel and KPMG team re development agreement and receivership matters generally. Preliminary review of letter received from counsel to Gateway Projects, and related discussion with KPMG team. Discussions with KPMG team re alternate insurance providers, request to payment certifier re use of report, potential desire for further assistance from payment certifier. Verbally confirming wire details for Receiver's borrowings with Applicant's counsel. Review correspondence from counsel to Mr. Shaver, and related correspondence with Receiver's counsel.
Katherine Forbes	9/15/2023	1.20	Review of letter received from counsel to Gateway Projects, and draft return correspondence, related correspondence to Receiver's counsel. Internal correspondence re requirements for [REDACTED] Correspondence from/to Receiver's counsel re correspondence from counsel to Cansure.
Total for Katherine Forbes		52.90	
<u>Jonathan Weir Partner</u>			
Jonathan Weir	08/31/2023	0.50	Discussion with KPMG team re insurance considerations for renewal, extension, or alternative providers.
Total for Jonathan Weir		0.50	
<u>Shawn Oakley Sr. Manager</u>			
Shawn Oakley	09/12/2023	1.00	Preliminary review of Project information, meeting with K. Forbes.
Total for Shawn Oakley		1.00	
<u>Tahreem Fatima Manager</u>			
Tahreem Fatima	08/30/2023	1.25	Internal correspondence, and correspondence to broker relating to insurance extension.
Tahreem Fatima	08/31/2023	3.25	Internal correspondence and discussion relating to insurance extension; correspondence from/to broker and preparation of responses to questions from insurance company; discussion with J. Weir (KPMG) re insurance considerations; preparation of letter from Receiver to insurance company.
Tahreem Fatima	09/01/2023	1.00	Attending to Receiver's letter to insurance broker and provider; discussions re same; follow-up with insurance broker.
Tahreem Fatima	09/07/2023	0.25	Insurance update from broker; correspondence to broker re next steps.
Tahreem Fatima	09/12/2023	0.75	Insurance-related correspondence and discussions with broker and KPMG team.
Tahreem Fatima	09/13/2023	1.00	Insurance related correspondence
Tahreem Fatima	09/14/2023	0.50	Internal discussions re insurance follow-up and next steps.

Total for Tahreem Fatima		8.00	
<u>Gareth Croft Sr. Consultant</u>			
Gareth Croft	08/30/2023	5.00	Review of court materials, mailing of letter to debtor's bank, publication of website, outreach for bank information and records to various parties. Attending to receivership planning activities.
Gareth Croft	08/31/2023	5.50	Contact stakeholders to request books and records, liaising with security companies re installation of CCTV, obtain preliminary quotes for security fencing, emails with Applicant re Receiver's certificate, updates to work plan, internal status updates.
Gareth Croft	09/01/2023	3.00	Setup of CCTV and liaison with security re quotes and site access; follow-up requests for books and records, security fencing estimates.
Gareth Croft	09/05/2023	5.00	Fencing quote follow up, preparing preliminary receivership budget, various internal calls re several receivership matters; Calls with payment certifier (BTY); Follow-up correspondence to various parties requesting information re holdbacks, and books and records.
Gareth Croft	09/06/2023	3.50	Fencing install and arrangements, Draft Form 87, review supporting materials obtained; Internal status update.
Gareth Croft	09/07/2023	3.00	Draft and finalize Form 87, develop creditor listing from information available, security personnel status update, internal status update; Attending to site fencing setup and invoice review.
Gareth Croft	09/08/2023	1.50	Status update call with counsel, follow-up correspondence to Applicant's counsel; follow-up with Gateway Projects re information requests.
Gareth Croft	09/11/2023	4.50	Communicating with security re recent security incident, respond to calls re parties interested in purchase of property, review and provide billing details for disbursements to be made, Call with Gateway Projects legal counsel; Internal status update and planning call, correspondence with prospective contractor re stabilization work.
Gareth Croft	09/14/2023	5.00	Call with JJ. Burnell (MLT Aikens), respond to notice from city re property lawn maintenance, call lawncare provider for quote; Review of documents provided by general contractor's legal counsel, correspondence with BTY re books and records for the project and offsite materials, draft of third party property claim form. Emails with Applicant, and setup of sharefile site re information provided by Applicant. Respond to calls from third party claimants and attending to requests to retrieve property.
Gareth Croft	09/15/2023	1.00	Follow up with general contractor for emergency works, draft of third party property claim form, execution of work order related to CCTV, follow-up with payment certifier re available books and records for Project.
Total for Gareth Croft		37.00	
<u>Hayden Provis Consultant</u>			
Hayden Provis	08/29/2023	0.50	Preparation for, and internal correspondence re onsite attendance at project site.
Hayden Provis	08/30/2023	5.25	Travel to and from Project site, site investigation and engaging with security personnel, posting door notice. Preparing debrief of site condition and further coordinating with security personnel.
Hayden Provis	08/31/2023	1.50	Coordinating quotes for security and CCTV video surveillance and monitoring.
Total for Hayden Provis		7.25	
<u>Annette Chopowick Technician</u>			
Annette Chopowick	09/15/2023	0.50	Email to K. Forbes and G. Croft to advise of receipt of funds into estate account; posting same to Ascend; forwarding voucher to G. Croft; forward Proof of Claim form to G. Croft
Total for Annette Chopowick		0.50	
<u>Angelina Hung Technician</u>			
Angelina Hung	08/29/2023	0.80	Prepare letter for opening bank account and draft door notice.
Angelina Hung	08/30/2023	1.40	Call and prepare letter to bank. Set up profile in Ascend.
Angelina Hung	09/06/2023	0.30	Attend to banking matter, file court order to OSB
Angelina Hung	09/07/2023	1.10	Coordinate mailing list and draft affidavit of mailing.
Angelina Hung	09/08/2023	1.60	Finalize mailing and filing of Form 87 to OSB; update creditor info in Ascend.
Angelina Hung	09/12/2023	0.20	Follow up on OSB certificate.
Angelina Hung	09/14/2023	0.60	Update Ascend and attend to banking matter.
Total for Angelina Hung		6.00	
Subtotal		113.15	



KPMG Inc.
 Suite 4600 Bay Adelaide Centre
 333 Bay Street
 Toronto, ON M5H 2S5

Payment Address:
 KPMG LLP, T4348
 P.O. Box 4348, Station A
 Toronto, ON M5W 7A6

November 14, 2023

Peoples Trust Company
 c/o KPMG Inc., in it's capacity as receiver of Bokhari Development Inc.
 Suite 4600 Bay Adelaide Centre
 333 Bay Street
 Toronto, ON M5H 2S5

Consolidated Invoice : 7000431035
 Reference : 2001820172
 Client : 1000012874
 Contact : Katherine Forbes
 Telephone : (416) 777-8107
 Email : katherineforbes@kpmg.ca

Our professional fees for the period of September 16 to September 30, 2023 inclusive,
 in our capacity as Court-appointed Receiver of Bokhari Development Inc.

Our Fee	\$	40,996.25	CAD
Disbursements		2,812.41	
		43,808.66	CAD
HST		5,695.12	
		49,503.78	CAD

Payment is due upon receipt

GST/HST Number 12236 3153 RT0001 QST Registration 1023774310 TQ0001

CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6
Please return remittance advice with cheque.

CAD Wire Payments: Beneficiary: KPMG LLP
 Bank Details: TD Canada Trust, 55 King St. West, Toronto, ON M5K 1A2, Bank Code # 004, Transit # 10252,
 Account # 0938281, Swift Code TDOMCATTOR
 Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

Invoice No: 7000431035 **Reference:** 2001820172 **Client:** 1000012874 **Amount:** \$ 49,503.78 CAD

**Receivership of Bokhari Development Inc.
Professional Fees Summary
For the period of September 16 to September 30, 2023**

Name	Position	Rate	Hours	Fees (\$)
Katherine Forbes	Senior Vice President	\$ 700	25.20	\$ 17,640.00
Jordan Thomas	Senior Manager	\$ 550	8.00	4,400.00
Shawn Oakley	Senior Manager	\$ 550	11.00	6,050.00
Tahreem Fatima	Manager	\$ 425	1.75	743.75
Gareth Croft	Senior Consultant	\$ 375	21.50	8,062.50
Renée LeBlanc-Smith	Senior Consultant	\$ 275	6.50	1,787.50
Hayden Provis	Consultant	\$ 350	4.50	1,575.00
Angelina Hung	Staff Technician	\$ 295	2.40	708.00
Annette Chopowick	Staff Technician	\$ 295	0.10	29.50
Total Professional Fees			80.95	\$ 40,996.25
Disbursements				
Misc site supplies				247.27
Travel				\$ 2,565.14
Total Disbursements				\$ 2,812.41
Total Professional Fees and Disbursements				\$ 43,808.66
HST				\$ 5,695.12
Total Amount Due				\$ 49,503.78

Receivership of Bokhari Development Inc.
Time Keeper Details
For the period of September 16 to September 30, 2023

Employee Name	Work Date	Hours	Time Narrative
<u>Katherine Forbes Sr. Vice President</u>			
Katherine Forbes	09/18/2023	2.8	Call with Westland and counsel, debrief with JJ. Burnell (MLT Aikins). Preparation for and status update call with the B. Jahoor (Peoples Trust). Status update call with KPMG team. Approve disbursements for legal fees and security fencing. Voicemail from contractor.
Katherine Forbes	09/19/2023	1.0	Internal discussions re draft contractor RFP and construction considerations.
Katherine Forbes	09/20/2023	2.8	Call with KPMG team to discuss Receivership budget, security incident, other Receivership matters. Call with J. Burnell re contractor RFP, site visits, and holdbacks. Call with B. Jahoor, and internal discussions and related correspondence re Applicant and CMHC site visit. Review internal correspondence re contractor RFP for winterization. Call from D. Shaver. Internal correspondence and calls re [REDACTED]
Katherine Forbes	09/21/2023	1.1	Review terms of commitment letter. Review correspondence from counsel to Gateway Projects, related internal correspondence and correspondence with counsel re gaining access to materials. Review internal correspondence re RFP terms. Internal call re contractor RFP. Correspondence with Applicant re site visit. Correspondence from counsel to Westland.
Katherine Forbes	09/22/2023	1.2	Call with KPMG team re scope of work for contractors, and related correspondence and review of site photos. Sending Receiver's Sept. 21st letter to Cansure, related correspondence with Westland. Coordinating site activities and related internal correspondence. Review of supporting documentation for third party property claim. Call to real estate broker. Email to City Manager in respect of the Property.
Katherine Forbes	09/25/2023	1.4	Various internal correspondence and correspondence with counsel re Gateway Projects claim and previous requests for cooperation with the Receiver. Correspondence with CBRE re call to discuss project management needs. Attending to draft BTY task and term letter.
Katherine Forbes	09/26/2023	1.6	Status update correspondence, and related internal discussion. Correspondence from/to counsel/KPMG team re Gateway Projects claims. Internal status update with KPMG team re contractor RFP, related correspondence re further information required from architect. Preliminary drafting Receivership status update for the Applicant. Internal correspondence re contractor for temporary building coverings. Consideration of, and correspondence to J. Burnell re insurance legal letter. Internal correspondence re fencing improvements.
Katherine Forbes	09/27/2023	1.2	Correspondence with Applicant and CMHC re Sept. 28 site visit. Call with N. Peto and B. Bailey re project next steps and City's development agreement on the Project. Calls with MLT Aikins team and M. Skorah (GuildYule) re Receiver's letter to insurer and next steps, related internal correspondence.
Katherine Forbes	09/28/2023	8.0	Attending site visit with representatives of the Applicant and CMHC, including meeting with contractor for emergency works, performing walkthroughs of the interiors of the buildings, certain inventory activities in respect of on-site materials, and other receivership activities. Travel to/from Project site. Various discussions with the Applicant.
Katherine Forbes	09/29/2023	4.1	Various correspondence. Call with KPMG team to debrief site visit and discuss next steps relative to scope of work and timing. Return travel from Winnipeg. Status update to the Applicant and Receiver's borrowings draw request.
Total for Katherine Forbes		25.2	
<u>Jordan Thomson Sr. Manager</u>			
Jordan Thomas	09/21/2023	1.0	Review of documentation and building condition, and attending to development of work packaging plan.
Jordan Thomas	09/22/2023	1.0	Calls with KPMG team to discuss plan for development of Package A RFP and review of existing documentation.
Jordan Thomas	09/26/2023	2.0	Preparing for, and status update and next steps with KPMG team, including reviewing technical drawings.
Jordan Thomas	09/27/2023	2.5	Drafting and compiling contract documents, including Instruction to Bidders in respect of the Package A RFP.
Jordan Thomas	09/28/2023	1.0	Drafting contract terms in respect of Package A RFP.
Jordan Thomas	09/29/2023	0.5	Status update call with KPMG team re scope of work and next steps.
Total for Jordan Thomas		8.0	
<u>Shawn Oakley Sr. Manager</u>			
Shawn Oakley	09/18/2023	0.5	Review of preliminary contractor RFP, and work plan notes.
Shawn Oakley	09/20/2023	0.5	Further review of draft RFP.
Shawn Oakley	09/21/2023	1.0	Review of elements of proposed scope of work, and internal correspondence re considerations for same.
Shawn Oakley	09/25/2023	0.5	Review of scope of work timing and considerations re next steps.
Shawn Oakley	09/26/2023	0.5	Review of updated terms in contractor RFP.
Shawn Oakley	09/28/2023	7.5	Attending at site with representatives of the Applicant and CMHC, performing walkthroughs of the interiors of the buildings. Travel to/from Project site. Various discussions with the Applicant and CMHC.
Shawn Oakley	09/29/2023	0.5	Call with KPMG team to debrief site visit and discuss next steps.
Total for Shawn Oakley		11.0	
<u>Tahreem Fatima Manager</u>			
Tahreem Fatima	09/25/2023	0.5	Call with Westland Insurance re builders' risk policy status.
Tahreem Fatima	09/28/2023	1.3	Preparation of draft correspondence to Westland Insurance re builders' risk policy.
Total for Tahreem Fatima		1.8	
<u>Gareth Croft Sr. Consultant</u>			
Gareth Croft	09/18/2023	3.0	Preparing disbursements to vendors, correspondence with third parties re invoicing, liaising with security provider, CCTV provider and RCMP re site incident; communication and form drafting for claims by third parties with materials on site. Status update call with KPMG team.
Gareth Croft	09/19/2023	1.5	Call with BTY re books and records, draft budget for Receiver draw #2; KPMG internal status update and budget discussion.
Gareth Croft	09/21/2023	2.0	Internal call re contractor RFP; correspondence with third party to collect their equipment; follow up with security personnel re site status.
Gareth Croft	09/22/2023	2.5	Following up on books and records requests; review of information received from creditor; following up with fencing provider re damage to panels; review of third party property claim; check in with on-site security; communications with CCTV provider re camera outage; review and correspondence with vendors re invoice discrepancies; follow up re lawn care quote per City order.
Gareth Croft	09/25/2023	2.0	Call with CBRE re RFP and emergency works; calls re lawncare quotes; Security check in and CCTV correspondence re camera outage; BTY task and term letter drafting.
Gareth Croft	09/26/2023	3.0	Call for Lawncare quotes; Security check in re site visits this week and CCTV correspondence re down camera; correspondence with fence providers re fencing repairs; coordination with third parties and drafting of relevant forms re equipment collection; correspondence with TD; follow up with architect re available drawings for project.
Gareth Croft	09/27/2023	3.5	Arranging third party equipment pickup; check in with security; arranging for fencing repairs; correspondence with local contractor and arranging for site visit re boarding up buildings; update of Receiver's budget; touch base with security re site visits.
Gareth Croft	09/28/2023	2.5	Review of lawncare quote and discussion with vendor on bylaw requirements; correspondence with Bailey Homes re securing openings to buildings; follow up re books and records; respond to third party claims re equipment on site; touch base with security onsite.
Gareth Croft	09/29/2023	1.5	KPMG internal catchup; discussion with Architect re books and records request; review of BTY x KPMG engagement letter; Phase A RFP draft; site status update with security.
Total for Gareth Croft		21.5	
<u>Renée LeBlanc Smith Sr. Consultant</u>			
Renée LeBlanc-Smith	09/19/2023	1.5	Meeting with KPMG team regarding RFP for construction completion.
Renée LeBlanc-Smith	09/20/2023	2.0	Coordination/communication with KPMG team regarding RFP for construction completion, providing supporting information and considerations re scope of work.
Renée LeBlanc-Smith	09/21/2023	1.0	Meeting with KPMG team regarding RFP for construction completion

Renée LeBlanc-Smith	09/26/2023	1.0	Meeting with KPMG team regarding construction RFP
Renée LeBlanc-Smith	09/27/2023	0.5	Meeting with KPMG team regarding construction RFP
Renée LeBlanc-Smith	09/28/2023	0.5	Meeting with KPMG team to discuss site walkthrough and construction RFP

Total for Renée LeBlanc Smith **6.5**

Hayden Provis Consultant

Hayden Provis	09/27/2023	4.5	Attendance onsite for repossession of third party property. Attending to supporting documentation, and travel to/from site.
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Total for Hayden Provis **4.5**

Annette Chopowick Technician

Annette Chopowick	09/18/2023	0.1	Commission Affidavit of Mailing.
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Total for Annette Chopowick **0.1**

Angelina Hung Technician

Angelina Hung	09/18/2023	2.0	Attend to banking matters. Prepare Affidavit of Mailing and filing the same to OSB.
Angelina Hung	09/20/2023	0.2	Attend to banking matter.
Angelina Hung	09/25/2023	0.1	Assist formatting correspondence.
Angelina Hung	09/27/2023	0.1	Update claims in Ascend.

Total for Angelina Hung **2.4**

Subtotal **81.0**



KPMG Inc.
 Suite 4600 Bay Adelaide Centre
 333 Bay Street
 Toronto, ON M5H 2S5

Payment Address:
 KPMG LLP, T4348
 P.O. Box 4348, Station A
 Toronto, ON M5W 7A6

November 14, 2023

Peoples Trust Company
 c/o KPMG Inc., in it's capacity as receiver of Bokhari Development Inc.
 Suite 4600 Bay Adelaide Centre
 333 Bay Street
 Toronto, ON M5H 2S5

Consolidated Invoice : 7000431038
 Reference : 2001820172
 Client : 1000012874
 Contact : Katherine Forbes
 Telephone : (416) 777-8107
 Email : katherineforbes@kpmg.ca

Our professional fees for the period of October 1 to October 29, 2023 inclusive, in our capacity as Court-appointed Receiver of Bokhari Development Inc.

Our Fee	\$ 79,143.50 CAD
	<hr/>
	\$ 79,143.50 CAD
HST	10,288.66
	<hr/>
Amount Due	\$ 89,432.16 CAD
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Payment is due upon receipt

GST/HST Number 12236 3153 RT0001 QST Registration 1023774310 TQ0001

CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6
Please return remittance advice with cheque.

CAD Wire Payments: Beneficiary: KPMG LLP
 Bank Details: TD Canada Trust, 55 King St. West, Toronto, ON M5K 1A2, Bank Code # 004, Transit # 10252,
 Account # 0938281, Swift Code TDOMCATTOR
 Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

Invoice No: 7000431038 **Reference:** 2001820172 **Client:** 1000012874 **Amount:** \$ 89,432.16 CAD

**Receivership of Bokhari Development Inc.
Professional Fees Summary
For the period of October 1 to October 29, 2023**

Name	Position	Rate	Hours	Fees (\$)
Katherine Forbes	Senior Vice President	\$ 700	21.50	\$ 15,050.00
Jordan Thomas	Director	\$ 615	44.00	27,060.00
Shawn Oakley	Senior Manager	\$ 550	1.00	550.00
Gareth Croft	Manager	\$ 425	52.10	22,142.50
Renée LeBlanc-Smith	Manager	\$ 400	22.50	9,000.00
Hayden Provis	Senior Consultant	\$ 375	8.50	3,187.50
Angelina Hung	Staff Technician	\$ 295	5.90	1,740.50
Annette Chopowick	Staff Technician	\$ 295	1.40	413.00
Total Professional Fees			156.90	\$ 79,143.50
HST				\$ 10,288.66
Total Amount Due				\$ 89,432.16

Receivership of Bokhari Development Inc.
Time Keeper Details
For the period of October 1 to October 25, 2023

Employee Name	Work Date	Hours	Time Narrative
<u>Katherine Forbes - Sr. Vice President</u>			
Katherine Forbes	10/02/2023	0.4	Correspondence from/to J. Burnell re CCDC contract. Final review of counsel's letter to insurer re builder's risk policy. Preliminary review of email received from counsel to a subcontractor.
Katherine Forbes	10/03/2023	2.6	Status update calls with KPMG team re RFP, general receivership matters. Status update call with KPMG team and MLT Atkins team. Internal correspondence and correspondence with Westland re insurance questionnaire. Review Bailey Homes quote for board up and roofing. Review draft RFP forms. Correspondence to counsel re PPSA search on purported third party equipment. Review certain records received from Gateway Projects.
Katherine Forbes	10/04/2023	1.2	Various internal correspondence re insurance questionnaire, immediate works quotes, review of same. Internal call to discuss key RFP terms. Correspondence with Westland re insurance questions.
Katherine Forbes	10/05/2023	1.7	Call with KPMG team re materials received from CRA. Insurance information to be provided, various other receivership matters. Call with J. Thomson re status of building inspections, RFP terms and documents; review of same, and correspondence to counsel re same. Correspondence from/to counsel on various matters. Correspondence from/to Applicant re insurance matter. CMHC supplemental information requests, and responding to same. Approve cheques and wires for disbursements, and related confirmatory correspondence. Review various correspondence from Gateway Projects counsel re asset retrieval.
Katherine Forbes	10/05/2023	1.1	Correspondence to KPMG team and J. Burnell re Gateway's multiple attempts to retrieve assets, and the costs to the Receiver of same.
Katherine Forbes	10/08/2023	0.1	Correspondence to Bailey Homes.
Katherine Forbes	10/09/2023	0.4	Review of correspondence and comments from MLT Atkins team on bid documents, and related internal correspondence.
Katherine Forbes	10/10/2023	0.6	Call with KPMG team re RFP document, comments from counsel. Call from security re parties attempting to access site. Follow-up with Westland re information request by insurer. Internal correspondence re estimate for yard work.
Katherine Forbes	10/11/2023	2.7	Call with Applicant re insurance, bonding, realization options. Call with counsel re insurance matters, and related correspondence. Status update call with KPMG team. Further review and comment on RFP documents, and related internal correspondence re RFP process and site visits. Call with Westland re Censure status update and other insurance considerations. Internal correspondence re notices from CRA. Correspondence from/to D. Shaver re status of proceedings.
Katherine Forbes	10/12/2023	1.1	Correspondence from/to M. Robb (Westland) re information requests of the insurer, and drafting responses to same; correspondence to/from J. Burnell re same, other receivership matters.
Katherine Forbes	10/13/2023	0.1	Correspondence from/to counsel re insurance information.
Katherine Forbes	10/15/2023	0.1	Internal correspondence re Gateway asset retrieval.
Katherine Forbes	10/16/2023	0.3	Internal correspondence re communications with City of Portage la Prairie. Site visit update call with G. Croft, approving wire disbursements for professional fees and operating costs.
Katherine Forbes	10/17/2023	0.2	Follow-up with Westland on insurance matters. Review of feedback from certain contractors following site visit and internal correspondence re same.
Katherine Forbes	10/19/2023	1.1	Review draft budget for draw #3, draft correspondence to Applicant. Follow up with insurance broker. Planning discussion, correspondence re project lead RFP, with KPMG team. Return correspondence to interested party. Receiver's certificate for draw #3.
Katherine Forbes	10/20/2023	0.9	Call to discuss addendum to RFP, review updated addenda.
Katherine Forbes	10/24/2023	0.9	Correspondence to engineering firm, call with KPMG team re engineer's report, contractors, and next steps. Status update call with team, including re updated draft RFP for project leads. Internal correspondence re interested party request to revisit site ahead of contractor RFP deadline.
Katherine Forbes	10/26/2023	2.6	Review comments from counsel on draft project lead RFP document, and return correspondence, correspondence with KPMG team re same. Review correspondence from City re site services. Correspondence from/to D. Shaver and Review of City of Portage account statement received, correspondence to J. Burnell re same. Correspondence to Westland re payments for outstanding insurance premiums in the receivership period. Correspondence from/to the Applicant re interested parties. Review draft return correspondence to interested party. Status update calls with KPMG re technical site works and receivership task list generally. Sending Project Lead RFP to select interested parties.
Katherine Forbes	10/27/2023	0.8	Follow up with project lead interested parties, correspondence with contractor interested parties. Email to insurance broker re information requested. Email from Portage fire department and return correspondence. Correspondence to Applicant re status of receiver's borrowings. Review KPMG team comments on and correspondence to KPMG team, J. Burnell re, supplementary conditions to draft CCDC contract.
Katherine Forbes	10/25/2023	1.2	Review updated draft RFP for project leads, and comments from KPMG team, circulate to J. Burnell for comment. Return correspondence to D. Shaver re pre-filing obligations, status of Project. Internal correspondence to/from KPMG team and counsel, and correspondence with Westland re invoices for wrap-up policy. Attending to disbursement requests for wrap-up policy.
Katherine Forbes	10/18/2023	0.8	CCDC contract planning with KPMG team, related correspondence. Questions from interested contractors.
Katherine Forbes	10/22/2023	0.5	Preliminary review and editing of draft RFP for project leads.
Katherine Forbes	10/23/2023	0.1	Internal correspondence re contractor request, and consideration of, extension of contractor RFP deadline.
Total for Katherine Forbes		21.5	
<u>Jordan Thomas - Director</u>			
Jordan Thomas	10/02/2023	2.5	Review of the CCDC 3 contract terms and structure. Development of the Bid Form for the RFP package.
Jordan Thomas	10/03/2023	2.5	Internal discussion re contract terms and bid package timing. Attending to document development.
Jordan Thomas	10/04/2023	2.0	Finalize Heads of Terms and supporting documents. Call with [REDACTED] re technical elements of Project.
Jordan Thomas	10/05/2023	1.0	Call with K. Forbes regarding RFP documents and time line. Finalize draft documents for counsel's review.
Jordan Thomas	10/08/2023	2.0	Review and address comments from Receiver's counsel, and further develop definitions in documents.
Jordan Thomas	10/09/2023	2.5	Review and address further comments from Receiver's counsel.
Jordan Thomas	10/10/2023	2.5	Call with J. Mariens (MLT Atkins) regarding RFP package. Finalize RFP package.
Jordan Thomas	10/11/2023	1.5	Finalize and distribute RFP package, including internal calls to finalize same.
Jordan Thomas	10/13/2023	1.0	Coordinate contractor site visit and arrange travel to attend same.
Jordan Thomas	10/15/2023	2.5	Travel from Toronto to Winnipeg for contractor's site visit.
Jordan Thomas	10/16/2023	7.5	Travel from Winnipeg to Portage La Prairie; Bidders meeting on site; Meeting with Portage La Prairie Planning Dept; Travel from Portage La Prairie to Toronto.
Jordan Thomas	10/17/2023	1.0	Post-site visit follow up with team. Coordination with city and engineers.
Jordan Thomas	10/19/2023	0.5	Civil and structural drawing review, follow-up with engineer.
Jordan Thomas	10/20/2023	2.5	Addendum development and issuance, and internal calls re same. Coordination with Structural Engineer.
Jordan Thomas	10/24/2023	1.5	Package A Addendum final development and distribution to interested parties.
Jordan Thomas	10/26/2023	3.0	Review of Supplementary Conditions, travel to site.
Jordan Thomas	10/27/2023	7.5	Site Visit to meet with City and Contractor, and representatives of interested contractors, as well as conduct structural review meeting with engineer.
Jordan Thomas	10/25/2023	0.5	Review of draft Project Lead RFP.
Total for Jordan Thomas		44.0	
<u>Shawn Oakley - Sr. Manager</u>			
Shawn Oakley	10/03/2023	1.0	Review of, and internal discussion re contract terms and bid package timing.
Total for Shawn Oakley		1.0	
<u>Gareth Croft - Manager</u>			
Gareth Croft	10/03/2023	3.5	Internal status update; attending to vendor payments; lawncare quote to low-up; architect follow-up re books and records; correspondence re third party claims.
Gareth Croft	10/04/2023	2.0	Discussion with Zedcor re CCTV; respond to information requests of the insurance provider; arrange vendor payments; arrange third party equipment retrieval.
Gareth Croft	10/05/2023	3.0	Gathering of information required by insurer; CCTV and security check in; correspondence with Applicant re draw request; correspondence with third party re equipment claims.
Gareth Croft	10/06/2023	3.5	Call with KPMG team re weather issues impeding a third party's removal of equipment at site; discussion with contractors re emergency works; drafting emails to Applicant re request for approval and funding for emergency works; correspondence with vendors re provision of services with the Receiver.
Gareth Croft	10/10/2023	3.5	Correspondence with third party re equipment retrieval, with lien claimants; Execution of lawn care quotes; Security status update, including re RCMP and CCTV coverage of trespass; Receiver's detailed time docket.
Gareth Croft	10/11/2023	3.0	Execution of lawn care quote and correspondence with Bailey Homes; meeting with Applicant re approval for emergency works; review of Phase A RFP draft.
Gareth Croft	10/12/2023	2.5	Check in with security personnel; review of vendor invoices; correspondence with CCTV provider re work orders; review of correspondence from CRA.
Gareth Croft	10/13/2023	4.0	Scheduling of site visit and follow up with contractors re Phase A RFP; correspondence with Bailey Homes re provision of emergency works and time line.
Gareth Croft	10/15/2023	3.5	Travel Vancouver to Winnipeg in advance of interested contractor site visits.
Gareth Croft	10/16/2023	10.0	Travel time from Winnipeg to Portage la Prairie; Travel time Portage la Prairie to Winnipeg; Travel time Winnipeg to Vancouver; site visit re meeting with contractors on site for RFP phase A, walk through of buildings on site and discussions with contractors re Phase A RFP and bid process, discussions with security and review of security measures at site, check of overall site conditions; meeting with Portage la Prairie Planning district re permits and site inspections.
Gareth Croft	10/17/2023	3.5	Arrangements for third party property retrieval, check in with security; review of vendor invoices; attending to Applicant's counsel's request for estimate to date for receivership costs.
Gareth Croft	10/18/2023	0.1	Discussion with Manitoba Hydro re power at site.
Gareth Croft	10/19/2023	3.0	Follow up with site vendor services; update Receiver's budget re borrowings draw #3; Draft RFP re project lead services.

Gareth Croft	10/20/2023	1.5	Check in re emergency site works; security check in; calls w th Manitoba Hydro re temporary line and billing.
Gareth Croft	10/24/2023	2.5	Draft project lead RFP; security personnel status update.
Gareth Croft	10/26/2023	2.0	Correspondence with Bailey Homes re roofing works; correspondence from interested buyers; vendor invoicing; books and records requests; fo low up re materials held off-s te.
Gareth Croft	10/25/2023	1.0	Security status update; correspondence re wrap up policy renewal; address comments re project lead RFP.
Total for Gareth Croft		52.1	
Renée LeBlanc Smith Manager			
Renée LeBlanc-Smith	10/15/2023	2.5	Travel from Toronto to Winnipeg in advance of interested contractor s te visits.
Renée LeBlanc-Smith	10/16/2023	7.5	Travel from Winnipeg to Portage La Prairie; Bidders meeting on site; Meeting with Portage La Prairie Planning Dept; Travel from Portage La Prairie to Toronto
Renée LeBlanc-Smith	10/17/2023	1.0	Internal discussions and bidders' meeting debrief.
Renée LeBlanc-Smith	10/19/2023	3.5	Review of bidder questions; Preparation of addendum No. 1, including response to bidder questions and revision to contract.
Renée LeBlanc-Smith	10/20/2023	3.0	Internal meeting; Preparation of addendum No. 1, including response to bidder questions and revision to contract documents
Renée LeBlanc-Smith	10/24/2023	2.0	Review of water distribution on site, communication with City re. water shutoff.
Renée LeBlanc-Smith	10/26/2023	2.0	Further review and consideration of water distribution on site, communication w th the City re. water shutoff to avoid infrastructure issues onsite over the winter months.
Renée LeBlanc-Smith	10/27/2023	1.0	Phone call with City staff on site for water shutoff, internal coordination and communication.
Total for Renée LeBlanc Smith		22.5	
Hayden Provis Consultant			
Hayden Provis	10/06/2023	4.0	Travel time to site; attend onsite for Gateway Projects to remove third party equipment on site, and attending to require documentation.
Hayden Provis	10/18/2023	4.5	Travel time to site; attend onsite Gateway Projects re third party equipment on site; attending to building inspections of balconies and comparison to structural drawings.
Total for Hayden Provis		8.5	
Annette Chopowick Technician			
Annette Chopowick	10/04/2023	0.3	Open, scan and forward copy of mail received; printing cheques for vendor payments.
Annette Chopowick	10/06/2023	0.2	Download bank statement and prepare bank reconciliation - Sep 2023.
Annette Chopowick	10/10/2023	0.1	Open, scan and forward mail.
Annette Chopowick	10/25/2023	0.8	Finalize and print cheques for insurance premium payments; prepare envelope and attend at UPS store to send via courier.
Total for Annette Chopowick		1.4	
Angelina Hung Technician			
Angelina Hung	10/04/2023	1.7	Arrange disbursements to OSB and various vendors.
Angelina Hung	10/05/2023	0.8	Attend to banking matters. Return call to contractor re lien filing request.
Angelina Hung	10/10/2023	0.2	Attend to banking matter.
Angelina Hung	10/12/2023	0.6	Call w th CRA to update address.
Angelina Hung	10/16/2023	1.2	Attend to banking matters.
Angelina Hung	10/25/2023	1.1	Attend to banking matters. Call CRA to update correspondence address.
Angelina Hung	10/23/2023	0.3	Call CRA to update correspondence address.
Total for Angelina Hung		5.9	
Subtotal		156.9	

Summary of MLT Aikins' fees and disbursements
For the period August 22, 2023 to October 31, 2023
(C\$)

Date	Invoice #	Fees	Disbursements	GST	PST	Total	Hours
31-Aug-23	6396464	\$ 15,874.00	\$ 219.62	\$ 804.68	\$ 1,111.18	\$ 18,009.48	26.50
30-Sep-23	6404393	20,336.50	414.75	1,021.42	1,423.56	23,196.22	51.10
31-Oct-23	6411630	23,202.00	34.00	1,161.80	1,624.14	26,021.94	39.50
Total		\$ 59,412.50	\$ 668.37	\$ 2,987.90	\$ 4,158.88	\$ 67,227.64	117.10

August 31, 2023
Invoice #6396464**INVOICE****KPMG Inc.**
333 Bay Street, Suite 4600
Toronto, ON M5H 2S5
Katherine Forbes
Partner**TO PROFESSIONAL SERVICES RENDERED TO AND INCLUDING 08/31/23 AS FOLLOWS****RE: Bokhari Development Inc.**
MLT Aikins File No: 0088420-00003

Date	Initials	Hours	Narrative	Amount
Aug 22/2023	JJBB	2.50	Correspondence with Katherine Forbes re: draft order & consent; review draft order & consent; consider implications of [REDACTED]; telephone calls with Katherine Forbes re: order; telephone call with Anjali Sandhu re: order	1,562.50
Aug 23/2023	JJBB	0.40	Correspondence with Katherine Forbes re: discussions with Applicant's counsel, LTO search & draft order; correspondence with Ross McFadyen re: draft order	250.00
Aug 24/2023	JJBB	2.10	Correspondence with Katherine Forbes re: draft order & NOA; correspondence with Melanie LaBossiere/Ross McFadyen re: remote attendance, NOA, aff, draft order & consent; revise order; review aff; conference call with Katherine Bokhari & TDS re: receivership; telephone call with Katherine Forbes re: ins & borrowings	1,312.50
Aug 25/2023	JJBB	3.00	Correspondence with Katherine Forbes re: draft order & consent; revise consent; correspondence with Melanie LaBossiere re: brief; review brief; correspondence with Scott Cannon re: motion	1,875.00
Aug 27/2023	JJBB	0.30	Correspondence with Ross McFadyen/Melanie LaBossiere re: consent, remote attendance,	187.50

Date	Initials	Hours	Narrative	Amount
			charges & ins; review [REDACTED]; correspondence with Melinda Moch re: LTO search update	
Aug 28/2023	DLH	0.10	Email from JJ Burnell; obtain updated title search and provide	26.00
Aug 28/2023	JJBB	2.90	Correspondence with Dianna Hall re: LTO search; correspondence with Ross McFadyen/Mel Labossiere re: remote attendance, order, ins policies, [REDACTED]; [REDACTED]; review LTO search; correspondence with client re: ins, [REDACTED] & immediate funding needs; correspondence with Scott Cannon re: affs; review affs; correspondence with Court re: remote attendance & change of Judge; conference call with client & TDS re: ins & charges; telephone call with client re: ins & charges; telephone call with Ross McFadyen re: commitment to advance	1,812.50
Aug 29/2023	AS	1.20	Phone call with K. Forbes and JJ Burnell and discussion with JJ Burnell regarding next steps; emails to K. Forbes regarding fire risks and contact information for Shaver and Bokhari	318.00
Aug 29/2023	JJBB	9.10	Review past consultants; correspondence with client re: coverage of ins policies, remote attendance, planning call, requests for info, fire risk, service list, order, consultants & immediate funding needs; review ins policies; correspondence with Anjali Sandhu re: revisions to order, ins, fire risk & service list; correspondence with Ross McFadyen/Melanie LaBossiere re: service list, remote attendance, revised order, signed order & debtor's bank accts; prep for Ct; attend Court; correspondence with Court re: remote attendance; review revised order; telephone calls with client re: securing site	5,687.50
Aug 30/2023	AS	0.10	Email to J. Friesen regarding obtaining copy of development agreement	26.50
Aug 30/2023	AS	0.20	Update service list	53.00
Aug 30/2023	AS	0.20	Attend to Notices of Stay on proceedings against debtor	53.00
Aug 30/2023	JF	0.10	Searching Land Titles Registry (Information	22.50

Date	Initials	Hours	Narrative	Amount
			Services Corporation) for Caveat No. 1202803-3; email from and to A. Sandhu;	
Aug 30/2023	JJBB	3.00	Correspondence with client re: service list, books & records request, bank accts, development agr, securing site, status update, equipment rtn & ins; correspondence with Gateway re: ins; correspondence with Anjali Sandhu re: development agr, service list, stay notices, notice of receiver & review of affidavits; correspondence with Ataf Khokhar/client re: third party equipment; correspondence with Ross McFadyen re: ins & equip rtn; review development agreement; correspondence with Richard Olschewski re: service list; correspondence with Scott Cannon re: stay of proceedings	1,875.00
Aug 31/2023	JJBB	1.30	Correspondence with Ross McFadyen/Mel LaBossiere re: receiver's certificate & status update; review receiver's certificate; correspondence with Gateway re: delivery of books & records; correspondence with Katherine Forbes/KPMG re: receiver's certificate, renewal notice, holdback funds, delivery of books & records & ins; correspondence with Anjali Sandhu re: service list	812.50
Total Fees:				15,874.00

SUMMARY OF PROFESSIONAL SERVICES

	HOURS	HOURLY RATE	AMOUNT
Joyce Friesen	0.10	225.00	22.50
Dianna Hall	0.10	260.00	26.00
Anjali Sandhu	1.70	265.00	450.50
JJ B. Burnell	24.60	625.00	15,375.00
	26.50		15,874.00

DISBURSEMENTS AND OTHER CHARGES

Deliveries	21.87
Imaging Services	101.75
File Administration Fee	45.00
Searches - TPR Title Search - Status of Title; Receipt #3413668	30.00

DISBURSEMENTS AND OTHER CHARGES

Search - TPR Documents - Document; Receipt #3417756	21.00
Total Taxable	219.62
Sub-Total Disbursements:	219.62

BILL SUMMARY

Total Fees	15,874.00
GST	793.70
MB PST	1,111.18
Total Disbursements	219.62
GST	10.98
Subtotal	<u>18,009.48</u>
TOTAL AMOUNT DUE CDN DOLLARS:	\$ <u>18,009.48</u>

JJBB/ KEK

MLT Aikins LLP

To the extent possible, we have made every effort to include fees and disbursements for the current billing period. In the event further fees or disbursements are incurred on your behalf, a subsequent account will be forwarded.

"Other Charges" are based on rates established by MLT AIKINS LLP and may change from time to time. A schedule of those rates is available on request.

TERMS: DUE UPON RECEIPT

Interest at the rate of 14% per annum is added to all amounts overdue by 30 days or more.

REMITTANCE COPY

KPMG Inc.
333 Bay Street, Suite 4600
Toronto, ON M5H 2S5
Katherine Forbes
Partner

GST # 121 975 544

Invoice #6396464
August 31, 2023

RE: Bokhari Development Inc.
MLT Aikins File No: 0088420-00003 JJBB

Total Current Billing:	16,093.62
Total Tax:	1,915.86
Subtotal:	18,009.48
Total Amount Due CDN:	18,009.48

Amount Remitted: \$ _____

PAYMENT OPTIONS:

To ensure your payment is properly credited to your account, please complete our secure online [Payment Notification Form](#) after you have submitted an electronic payment or email your remittance copy to Accounts Receivable (receivables@mltaikins.com). Alternatively, if you are paying by a physical cheque, please enclose the Remittance Copy of this invoice with your payment.

Preferred Option - Online – Canadian Funds

For your convenience payment is available via web banking at most Canadian financial institutions by selecting MLT Aikins LLP as the Payee.

Please note: The client reference to be entered is 008842000003

Preferred Option - Electronic Wire or EFT – Canadian Funds

For EFT payments, the required information for payments to the firm's bank account is as follows:

Pay through:	Bank of Montreal
Receiving Bank:	International Banking, Head Office, Montreal
Account With Institution: (Beneficiary's Bank)	BANK OF MONTREAL 1700 – 201 Portage Ave., Winnipeg, Manitoba R3B 3K6
Bank Code:	0001
Transit Number:	00037
Account Number:	1025-999
S.W.I.F.T. BIC CODE:	BOFMCAM2 Direct Payment Routing Number CC000100037
Beneficiary Customer:	MLT Aikins LLP 360 Main St 30 th floor Winnipeg, Manitoba R3C 4G1

By Cheque

Please make cheques payable to MLT AIKINS LLP and reference your invoice # 6396464.
Payment Address: 3000 – 360 Main St, Winnipeg, Manitoba, R3C 4G1

September 30, 2023
Invoice #6404393**INVOICE****KPMG Inc.**
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, Ontario M5H 2S5
Katherine Forbes**TO PROFESSIONAL SERVICES RENDERED TO AND INCLUDING 09/30/23 AS FOLLOWS****RE: Bokhari Development Inc.**
MLT Aikins File No: 0088420-00003

Date	Initials	Hours	Narrative	Amount
Sep 01/2023	AS	0.10	Update Service List	26.50
Sep 01/2023	JF	0.10	Email from and to A. Sandhu; order corporate search for 6405259 Manitoba Ltd.;	22.50
Sep 01/2023	JJBB	1.20	Correspondence with Gareth Croft/Katherine Forbes re: website, ins, status update call & CO search; correspondence with Anjali Sandhu re: CO search & service list; revise letter to insurer; correspondence with Melanie LaBossiere re: Gateway.	750.00
Sep 02/2023	JJBB	0.10	Correspondence with client re: [REDACTED]	62.50
Sep 03/2023	JJBB	0.10	Correspondence with Mel LaBossiere re: [REDACTED] holdback funds.	62.50
Sep 05/2023	AS	0.90	Draft Notices of Receivership to Land Titles, Personal Property Registry and Companies Office	238.50
Sep 05/2023	AS	0.10	Email to K. Forbes regarding companies office search	26.50
Sep 05/2023	JJBB	0.40	Correspondence with client re: Bokhari's books & records & holdback; correspondence with Gateway re: holdback; correspondence with Anjali Sandhu re: notice of receivership	250.00

Date	Initials	Hours	Narrative	Amount
Sep 06/2023	AS	0.10	Attend to obtaining easement entered on title	26.50
Sep 06/2023	JJBB	0.50	Correspondence with client re: CMHC budget, cost estimate, receiver's certificate & holdback; correspondence with Melanie LaBossiere re: receiver's borrowings; correspondence with Ataf Khokhar re: equipment rtn	312.50
Sep 07/2023	JJBB	0.10	Correspondence with Katherine Forbes re: City of Portage contact	62.50
Sep 08/2023	JJBB	0.70	Correspondence with client re: holdback; attend status update call	437.50
Sep 09/2023	JJBB	0.60	Correspondence with Anjali Sandhu re: notices of receivership & charges; review notices of receivership; correspondence with client re: borrowings, receivership notices & books & records	375.00
Sep 10/2023	JJBB	0.10	Correspondence with Anjali Sandhu re: notices of receivership	62.50
Sep 11/2023	JJBB	0.40	Correspondence with Anjali Sandhu re: receivership notices; correspondence with Gateway re: holdback; correspondence with KPMG re: Gateway CO search & authority of principals; correspondence with Jennifer Goncalves re: Gateway; correspondence with client re: development agr, status update & borrowing request	250.00
Sep 12/2023	AS	0.70	Draft notices of receivership	185.50
Sep 12/2023	JMG	0.60	Email from and to A. Sandhu, to preparation of draft caveat	135.00
Sep 12/2023	JJBB	0.90	Review searches; correspondence with client re: Gateway status & rls of funds; correspondence with stakeholders re: equipment rtn; correspondence with Jennifer Goncalves re: Gateway searches; review Gateway searches; correspondence with Anjali Sandhu re: CO notice; correspondence with Peoples re: rls of funds	562.50
Sep 13/2023	JMG	0.30	Emails from and to A. Sandhu,	67.50

Date	Initials	Hours	Narrative	Amount
Sep 13/2023	AS	0.30	Provide instructions to paralegals regarding registration of notices of receivership	79.50
Sep 13/2023	JF	0.10	Emails from and to A. Sandhu; draft PPR financing statement;	22.50
Sep 13/2023	JJBB	0.20	Review LTO & caveat notice; correspondence with Anjali Sandhu re: PPR & LTO notice & caveat; correspondence with client re: ins	125.00
Sep 14/2023	BLG	2.20	Research regarding the [REDACTED]	462.00
Sep 14/2023	AS	0.10	Emails to JJ Burnell and paralegals regarding notices of receivership	26.50
Sep 14/2023	JF	0.10	Submit PPR Financing Statement; email confirmation to A. Sandhu;	22.50
Sep 14/2023	JJBB	1.90	Correspondence with client re: appraisal, lawncare, status update, development agreement & [REDACTED]; correspondence with Anjali Sandhu re: PPR & LTO receivership & charges notices; correspondence with Brayden Gray re: caveat/interest in land; correspondence with Scott Cannon re: [REDACTED] correspondence with Jennifer Goncalves re: PPR/LTO registrations; telephone call with client re: development agreement	1,187.50
Sep 15/2023	JJBB	0.40	Correspondence with client re: insurer & equipment rtn; correspondence with Mark Skorah re: ins; review letter from 633	250.00
Sep 16/2023	JJBB	0.20	Correspondence with Mark Skorah re: ins	125.00
Sep 17/2023	JJBB	0.20	Correspondence with Mark Skorah re: ins; correspondence with client re: ins & equipment return	125.00
Sep 18/2023	BLG	2.70	Drafting, editing, finalizing, and sending memorandum regarding the [REDACTED]	567.00
Sep 18/2023	JMG	0.60	Emails from and to A. Sandhu, to attending to filing of request and caveat at PLTO	135.00
Sep 18/2023	JJBB	1.10	Review WFP article; correspondence with Mark	687.50

Date	Initials	Hours	Narrative	Amount
			Skorah re: ins; revise letter to Westland; correspondence with Katherine Forbes re: letter to Westland; conference call with client & Westland re: ins; telephone call with client re: ins	
Sep 19/2023	JJBB	0.20	Correspondence with client re: SOD; review SOD; correspondence with Scott Cannon re: SOD; correspondence with Brayden Gray re: [REDACTED]	125.00
Sep 20/2023	JMG	0.40	Emails from and to JJ. Burnell, to conducting PPR searches	90.00
Sep 20/2023	JJBB	1.10	Correspondence with client re: WFP, serial # & equipment rtn; correspondence with Jennifer Goncalves re: PPR searches; correspondence with Derek Olsen re: site access & equip rtn; correspondence with Brayden Gray re: [REDACTED] telephone call with Katherine Forbes re: status update	687.50
Sep 21/2023	JMG	0.40	Email from and to G. Croft, to conducting CO search	90.00
Sep 21/2023	AS	0.10	Call with Land Titles Office; email to JJ Burnell regarding notice of receivership registration	26.50
Sep 21/2023	JF	0.10	Email from and to A. Sandhu; prepare and forward PPR search;	22.50
Sep 21/2023	JJBB	0.80	Correspondence with Katherine Forbes/Gareth Croft re: ins, CO search & equip rtn; correspondence with Mark Skorah re: ins; correspondence with Anjali Sandhu re: LTO receiver notice; correspondence with Derek Olson re: access to premises; correspondence with Jennifer Goncalves re: CO search	500.00
Sep 22/2023	BLG	0.10	Correspondence with JJ. Burnell, J. Martens	21.00
Sep 22/2023	JBM	0.40	Email with JJ. Burnell and B. Gray re: [REDACTED]	234.00
Sep 22/2023	JJBB	1.10	Correspondence with Ataf Khokhar re: equip rtn; correspondence with John Martens re: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] correspondence with Katherine Forbes re: equipment rtn & ins; correspondence with Brayden Gray re: [REDACTED] [REDACTED]	687.50

Date	Initials	Hours	Narrative	Amount
			██████████; correspondence with Michelle Robb re: ins	
Sep 23/2023	JJBB	0.10	Correspondence with client re: LTO receiver notice	62.50
Sep 24/2023	JBM	0.10	Correspondence with JJ. Burnell	58.50
Sep 24/2023	JJBB	0.40	Correspondence with client re: site visit & ██████████ amendment of receivership order; correspondence with John Martens re: ██████████; correspondence with ██████████; correspondence with Derek Olson re: site visit; correspondence with Ross McFadyen re: ██████████ amendment of receivership order	250.00
Sep 25/2023	JJBB	0.40	Correspondence with Derek Olson re: equip rtn; correspondence with client re: equip rtn.	250.00
Sep 26/2023	BLG	3.80	Research regarding ██████████ ██████████s	798.00
Sep 26/2023	JJBB	0.50	Correspondence with Derek Olson re: equip rtn; correspondence with client re: equipment rtn & ins; correspondence with Mark Skorah re: ins.	312.50
Sep 27/2023	BLG	4.00	Research regarding ██████████ ██████████	840.00
Sep 27/2023	AS	0.80	Research and email to JJ Burnell regarding ██████████ insurance agents/insurers in Manitoba	212.00
Sep 27/2023	AS	2.00	Review insurance policy; review insurance act; review law on ██████████; call with K. Forbes, JJ Burnell and M. Skorah	530.00
Sep 27/2023	JBM	0.20	Correspondence with JJ Burnell and KPMG re: CCDC contract	117.00
Sep 27/2023	BCR	0.20	Telephone call with A. Sandhu re insurer obligations;	122.00
Sep 27/2023	JJBB	2.90	Correspondence with Mark Skorah re: Westland/Cansure correspondence; correspondence with client re: equip rtn, CCDC contract & draw; correspondence with Derek Olson re: equipment rtn; draft letter to Cansure; correspondence with Anjali Sandhu re: ins, code	1,812.50

Date	Initials	Hours	Narrative	Amount
			██████████ correspondence with Gareth Croft re: ██████████; correspondence with John Martens re: CCDC contract; conference calls with client & Mark Skorah re: letter to Cansure; telephone call with Anjali Sandhu.	
Sep 28/2023	BLG	4.50	Drafting and editing memorandum regarding ██████████	945.00
Sep 28/2023	AS	0.80	Review and revise letter to Cansure	212.00
Sep 28/2023	JJBB	3.20	Consider ██████████ issues; draft letter to Cansure; ██████████ review Westland/Cansure correspondence; correspondence with Anjali Sandhu re: Cansure letter; correspondence with client re: Cansure letter & equipment return; review revisions to letter; correspondence with Marie Willcock re: Insurance Code; correspondence with Mark Skorah re: ██████████; correspondence with Derek Olson re: equipment rtn.	2,000.00
Sep 29/2023	BLG	2.30	Draft and edit research regarding ██████████	483.00
Sep 29/2023	JMG	0.40	Email from and to A. Sandhu, to conducting CO search	90.00
Sep 29/2023	AS	0.10	Review Cansure Companies Office search	26.50
Sep 29/2023	JJBB	1.60	Correspondence with Mark Skorah re: Cansure letter; revise Cansure letter; correspondence with Anjali Sandhu re: CO search; correspondence with Jennifer Goncalves re: CO search; correspondence with Gareth Croft re: loan advance & ██████████; correspondence with client re: Receiver's certificate & Cansure letter; telephone call with Anjali Sandhu	1,000.00
			Total Fees:	20,336.50

SUMMARY OF PROFESSIONAL SERVICES

	HOURS	HOURLY RATE	AMOUNT
Brayden Gray	19.60	210.00	4,116.00
Joyce Friesen	0.40	225.00	90.00
Jennifer Goncalves	2.70	225.00	607.50

SUMMARY OF PROFESSIONAL SERVICES

	HOURS	HOURLY RATE	AMOUNT
Anjali Sandhu	6.10	265.00	1,616.50
John B. Martens	0.70	585.00	409.50
Brent C. Ross	0.20	610.00	122.00
JJ B. Burnell	21.40	625.00	13,375.00
	<u>51.10</u>		<u>20,336.50</u>

DISBURSEMENTS AND OTHER CHARGES

Imaging Services	32.75
File Summary	5.00
PPR Online Search	54.00
Total Taxable	91.75
PPR Filing Fee	70.00
The Property Registry Registration Fee	124.00
Caveat	124.00
Manitoba Corporate Registry	5.00
Total Non-Taxable	323.00
Sub-Total Disbursements:	414.75

BILL SUMMARY

Total Fees	20,336.50
GST	1,016.83
MB PST	1,423.56
Total Disbursements	414.75
GST	4.59
Subtotal	<u>23,196.22</u>

TOTAL AMOUNT DUE CDN DOLLARS: \$ 23,196.22

MLT Aikins LLP

To the extent possible, we have made every effort to include fees and disbursements for the current billing period. In the event further fees or disbursements are incurred on your behalf, a subsequent account will be forwarded.

"Other Charges" are based on rates established by MLT AIKINS LLP and may change from time to time. A schedule of those rates is available on request.

TERMS: DUE UPON RECEIPT

Interest at the rate of 14% per annum is added to all amounts overdue by 30 days or more.

REMITTANCE COPY

KPMG Inc.

GST # 121 975 544

Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, Ontario M5H 2S5
Katherine Forbes

Invoice #6404393
September 30, 2023

RE: Bokhari Development Inc.
MLT Aikins File No: 0088420-00003 JJBB

Total Current Billing:	20,751.25
Total Tax:	2,444.97
Subtotal:	23,196.22
Total Amount Due CDN:	23,196.22

Amount Remitted: \$ _____

PAYMENT OPTIONS:

To ensure your payment is properly credited to your account, please complete our secure online [Payment Notification Form](#) after you have submitted an electronic payment or email your remittance copy to Accounts Receivable (receivables@mltaikins.com). Alternatively, if you are paying by a physical cheque, please enclose the Remittance Copy of this invoice with your payment.

Preferred Option - Online – Canadian Funds

For your convenience payment is available via web banking at most Canadian financial institutions by selecting MLT Aikins LLP as the Payee.

Please note: The client reference to be entered is 008842000003

Preferred Option - Electronic Wire or EFT – Canadian Funds

For EFT payments, the required information for payments to the firm's bank account is as follows:

Pay through:	Bank of Montreal
Receiving Bank:	International Banking, Head Office, Montreal
Account With Institution: (Beneficiary's Bank)	BANK OF MONTREAL 1700 – 201 Portage Ave., Winnipeg, Manitoba R3B 3K6
Bank Code:	0001
Transit Number:	00037
Account Number:	1025-999
S.W.I.F.T. BIC CODE:	BOFMCAM2 Direct Payment Routing Number CC000100037
Beneficiary Customer:	MLT Aikins LLP 360 Main St 30 th floor Winnipeg, Manitoba R3C 4G1

By Cheque

Please make cheques payable to MLT AIKINS LLP and reference your invoice # 6404393.
Payment Address: 3000 – 360 Main St, Winnipeg, Manitoba, R3C 4G1

INVOICE

KPMG Inc.
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, Ontario M5H 2S5
Katherine Forbes

TO PROFESSIONAL SERVICES RENDERED TO AND INCLUDING 10/31/23 AS FOLLOWS

RE: Bokhari Development Inc.
MLT Aikins File No: 0088420.00003

Date	Initials	Hours	Narrative	Amount
Oct 01/2023	JJBB	0.20	Correspondence with Chris Nyberg re: [REDACTED] [REDACTED]	125.00
Oct 02/2023	JBM	0.10	Correspondence re: CCDC 3	58.50
Oct 02/2023	JJBB	1.10	Correspondence with Derek Olson re: equipment return; correspondence with Brayden Gray re: [REDACTED]; correspondence with John Martens re: [REDACTED]; revise letter to Cansure; correspondence with client re: letter to Cansure, equipment rtn, mtg w/ Peoples & CCDC contract; correspondence with Cansure re: ins; correspondence with Ataf Khokhar re: equipment return	687.50
Oct 03/2023	AS	0.40	Update call with K. Forbes	106.00
Oct 03/2023	AS	0.10	Email to J. Goncalves regarding PPR search	26.50
Oct 03/2023	JJBB	2.70	Correspondence with client re: request for books & records, CCTV warranty questionnaire, equipment return, PPR search & status update; correspondence with Anjali Sandhu re: serial # PPR search; correspondence with Gateway re: equipment return; correspondence with Brooke Mowatt re: AP summary; correspondence with Brayden Gray re: [REDACTED] review memo; correspondence with Mark	1,687.50

Date	Initials	Hours	Narrative	Amount
			Skorah re: Cansure response from Westland; review & revise letter; telephone call with client re: status update	
Oct 03/2023	JBM	0.40	Correspondence with JJ. Burnell and B. Gray re: [REDACTED]	234.00
Oct 04/2023	JMG	0.40	Emails from and to A. Sandhu, to conducting PPR search	90.00
Oct 04/2023	JJBB	1.50	Correspondence with John Martens re: [REDACTED]; correspondence with Brooke Mowatt re: equip rtn; correspondence with client re: equipment rtn, ins & Cansure letter; correspondence with Mark Skaorah re: Cansure; correspondence with Brian Jahoor re: borrowings & [REDACTED] correspondence with Brayden Gray re: [REDACTED]; telephone call with Mark Skorah re: Cansure letter; correspondence with Gateway re: equipment return; correspondence with Jennifer Goncalves re: serial # search; telephone call with Grayden Gray re: [REDACTED]; telephone call with Brayden Gray re: [REDACTED]	937.50
Oct 05/2023	BLG	0.90	Summarizing [REDACTED]	189.00
Oct 05/2023	JJBB	0.50	Correspondence with Brooke Mowatt re: equipment return; correspondence with client re: [REDACTED] CCDC contract & equipment return; correspondence with Brayden Gray re: [REDACTED]	312.50
Oct 06/2023	JJBB	0.30	Correspondence with client re: approval to engage Bailey, books & records & equipment rtn; correspondence with John Martens re: [REDACTED]	187.50
Oct 07/2023	JJBB	0.10	Correspondence with client re: PPR search	62.50
Oct 08/2023	JJBB	3.30	Correspondence with Brayden Gray re: research [REDACTED] correspondence with client re: [REDACTED] review & revise Bid Form, Instructions to Bidder & Head of Terms	2,062.50

Date	Initials	Hours	Narrative	Amount
Oct 08/2023	JBM	0.30	Correspondence with JJ. Burnell and J. Thomson, brief review of documents	175.50
Oct 09/2023	JBM	2.00	Review revised RFP documents, prepare tracked changes and comments, email to KPMG	1,170.00
Oct 09/2023	JJBB	0.10	Correspondence with client re: bid documents; correspondence with John Martens re: bid documents	62.50
Oct 10/2023	JBM	1.40	Review revised RFP documents; Teams meeting with Jordan Thomson	819.00
Oct 10/2023	JJBB	0.30	Correspondence with client re: [REDACTED] & bid documents; correspondence with Brayden Gray re: [REDACTED] [REDACTED] [REDACTED] correspondence with John Martens re: bid documents	187.50
Oct 11/2023	JJBB	1.50	Correspondence with client re: remediation work, RFP package, CCDC contract, [REDACTED], package A, timeline & ins; correspondence with John Martens re: RFP package; conference call with client & Peoples re: ins; telephone call with client re: call with Peoples	937.50
Oct 11/2023	JBM	0.10	Correspondence re RFP package	58.50
Oct 12/2023	JJBB	0.50	Correspondence with client re: responses to Cansure & costs [REDACTED]; correspondence with Westland re: responses to Cansure; correspondence with Mark Skorah re: group call; correspondence with John Martens re: RFP package	312.50
Oct 12/2023	JBM	0.40	Emails with JJ. Burnell and K. Forbes; Review issued RFP Package; Email to JJ. Burnell	234.00
Oct 13/2023	JJBB	1.10	Correspondence with client re: no loss letter, costs [REDACTED], response to Cansure & retaining Bailey; review Receivership Order; correspondence with Brian Jahoor re: engagement of Bailey Homes; correspondence with Mark Skorah re: ins claim by Gateway; correspondence with Westland re: submission to Cansure & no interest letter	687.50
Oct 14/2023	JJBB	0.40	Review quotes; correspondence with client re:	250.00

Date	Initials	Hours	Narrative	Amount
			quotes; correspondence with Mark Skorah re: ins claim by Gateway	
Oct 16/2023	JJBB	0.30	Correspondence with client re: draw #3; correspondence with Ataf Khokhar re: equipment rtn; correspondence with Mel LaBossiere re: [REDACTED]	187.50
Oct 17/2023	AS	0.10	Call with JJ Burnell regarding D. Shaver	26.50
Oct 17/2023	JJBB	0.70	Correspondence with client re: timing of draw #2, ins, equip rtn, CMHC & draw #3; correspondence with Peoples re: 2nd draw; telephone to client re: CMHC ; correspondence with Westland re: response from Cansure	437.50
Oct 18/2023	JBM	1.90	Emails with KPMG and JJ. Burnell; Attend call with K. Forbes, JJ. Burnell, J. Thomson et al.; Begin preparing supplementary conditions	1,111.50
Oct 18/2023	JJBB	0.90	Correspondence with client re: CCDC contract call; correspondence with John Martens re: CCDC contract; correspondence with Westland re: ins renewal; conference call with client & John Martens re: CCDC contract	562.50
Oct 19/2023	JBM	2.80	Review RFP documents, heads of terms, and contract; Draft supplementary conditions	1,638.00
Oct 19/2023	JJBB	0.10	Correspondence with client re: draw #3 & wrap up premium	62.50
Oct 20/2023	JBM	3.40	Prepare supplementary conditions and comments for KPMG; Email with Jordan Thomson	1,989.00
Oct 20/2023	JJBB	0.20	Correspondence with Peoples re: draw #2; correspondence with client re: status of board up & wrap up ins; correspondence with Westland re: wrap up ins	125.00
Oct 21/2023	JJBB	0.20	Correspondence with client re: equip rtn; correspondence with Ataf Khokhar re: equipment return	125.00
Oct 23/2023	JJBB	0.30	Correspondence with client re: update to Westland & update to Peoples; correspondence with Brian Jahoor re: status update on Bailey Homes	187.50

Date	Initials	Hours	Narrative	Amount
Oct 24/2023	JJBB	0.10	Correspondence with client re: wrap up ins	62.50
Oct 25/2023	JJBB	0.50	Correspondence with client re: wrap up insurance, [REDACTED] invoice & Project lead RFP	312.50
Oct 26/2023	JBM	0.10	Correspondence with J. Thomson	58.50
Oct 26/2023	JJBB	0.60	Correspondence with client re: Project Lead RFP, books & records & position of Shaver; correspondence with Ross McFadyen re: Shaver [REDACTED]; correspondence with John Martens re: Supp Conditions	375.00
Oct 27/2023	JBM	0.40	Review revisions and comments from J. Thomson; Prepare comments for Supp. Conditions; Email to JJ. Burnell	234.00
Oct 27/2023	JJBB	0.10	Correspondence with Derek Olson re: group call; correspondence with John Martens re: CCDC supp	62.50
Oct 29/2023	JJBB	0.10	Correspondence with Derek Olson re: call with clients; correspondence with client re: Supp Conditions	62.50
Oct 30/2023	JBM	2.00	Review emails and comments from K. Forbes, JJ. Burnell; Consider and review comments; Prepare supplementary conditions	1,170.00
Oct 30/2023	JJBB	1.20	Correspondence with client re: Supp Conditions, list of action items, [REDACTED] & call with former contractor; review Supp Conditions; correspondence with Derek Olson re: outstanding equip issues	750.00
Oct 31/2023	AS	0.20	Phone calls to Court to obtain hearing date	53.00
Oct 31/2023	JBM	1.30	Prepare and revise Supplementary Conditions; Emails with KPMG; Telephone with JJ Burnell; Further revise Supplementary Conditions	760.50
Oct 31/2023	JJBB	1.90	Correspondence with Derek Olson re: call with counsel and clients; correspondence with John Martens re: Supp conditions & CCDC contract; correspondence with client re: CCDC contract, equip rtn & court hearing; correspondence with Ataf Khokhar re: equip rtn; correspondence with Anjali Sandhu re: Court hearing; telephone calls	1,187.50

Date	Initials	Hours	Narrative	Amount
			with Katherine Forbes re: equip rtn; telephone call with John Martens re: supp conditions; telephone call with Derek Olson re: equip rtnv	

Total Fees: 23,202.00

SUMMARY OF PROFESSIONAL SERVICES

	HOURS	HOURLY RATE	AMOUNT
Brayden Gray	0.90	210.00	189.00
Jennifer Goncalves	0.40	225.00	90.00
Anjali Sandhu	0.80	265.00	212.00
John B. Martens	16.60	585.00	9,711.00
JJ B. Burnell	20.80	625.00	13,000.00
	<u>39.50</u>		<u>23,202.00</u>

DISBURSEMENTS AND OTHER CHARGES

Imaging Services	20.00
PPR Online Search	14.00
Total Taxable	34.00
Sub-Total Disbursements:	34.00

BILL SUMMARY

Total Fees	23,202.00
GST	1,160.10
MB PST	1,624.14
Total Disbursements	34.00
GST	1.70
Subtotal	<u>26,021.94</u>

TOTAL AMOUNT DUE CDN DOLLARS: \$ 26,021.94

MLT Aikins LLP

To the extent possible, we have made every effort to include fees and disbursements for the current billing period. In the event further fees or disbursements are incurred on your behalf, a subsequent account will be forwarded.

"Other Charges" are based on rates established by MLT AIKINS LLP and may change from time to time. A schedule of those rates is available on request.

TERMS: DUE UPON RECEIPT

Interest at the rate of 14% per annum is added to all amounts overdue by 30 days or more.

REMITTANCE COPY

KPMG Inc.
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, Ontario M5H 2S5
Katherine Forbes

Invoice #6411630
October 31, 2023

RE: Bokhari Development Inc.
MLT Aikins File No: 0088420.00003 JJBB

Total Current Billing:	23,236.00
Total Tax:	2,785.94
Subtotal:	26,021.94
Total Amount Due CDN:	26,021.94

Amount Remitted: \$ _____

PAYMENT OPTIONS:

Credit Card We accept Visa or Mastercard to a maximum of \$25,000. You can [Pay Online](#) through our secure online portal. Visit our firm website (www.mltaikins.com) and click "Pay Online" in the top menu. Please use 6411630 as your Bill Number and 0088420.00003 as your Client Matter Code.

Electronic Payments:

We offer several options for electronic payments which are listed below. If making an electronic payment, to ensure your payment is properly credited to your account, please complete our [Remittance Information Form](#) at (www.mltaikins.com/remittance/) or email your remittance copy to Accounts Receivable at (receivables@mltaikins.com) after you have submitted your electronic payment.

Bill Payments Payments can be made through online banking at most Canadian financial institutions by selecting MLT Aikins LLP as the Payee. The file number to be entered is 008842000003

INTERAC e-Transfer Send to receivables@mltaikins.com referencing invoice 6411630

Wire Transfer or EFT – Canadian Funds

For Wire/EFT payments, please reference invoice 6411630

Receiving Bank:	Bank of Montreal 201 Portage Ave. Winnipeg, Manitoba R3B 3K6
Bank Code:	001
Transit Number:	00037
Account Number:	1025-999
S.W.I.F.T. BIC CODE:	BOFMCAM2
Direct Payment Routing Number	CC000100037
Beneficiary Customer:	MLT Aikins LLP 30 th Floor - 360 Main St Winnipeg, Manitoba R3C 4G1

Cheque

Please make cheques payable to MLT AIKINS LLP and reference your invoice 6411630. Please enclose the Remittance Copy with your payment, and mail to: MLT Aikins LLP, 30th Floor - 360 Main St. Winnipeg, Manitoba R3C 4G1