



No. H-230802
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BANK OF MONTREAL

PETITIONER

AND:

HARO-THURLOW STREET PROJECT LIMITED PARTNERSHIP, HARO AND THURLOW GP LTD., HARLOW HOLDINGS LTD., 1104227 B.C. LTD., CLOUDBREAK HOLDINGS LTD., CM (CANADA) ASSET MANAGEMENT CO. LTD., FORSEED HARO HOLDINGS LTD., 1115830 B.C. LTD., TERRAPOINT DEVELOPMENTS LTD., KANG YU ZOU, WEI DONG, WEI ZOU, XIA YU and TREASURE BAY HK LIMITED

RESPONDENTS

RESPONSE TO PETITION

Filed by: Terrapoint Developments Ltd. (the "petition respondent")

THIS IS A RESPONSE TO the petition filed October 23, 2023.

The petition respondent estimates that the application will take one day.

Part 1: ORDER(S) CONSENTED TO

The petition respondent consents to the granting of the orders set out in the following paragraphs of Part 1 of the petition: The Petition Respondent consents to the order substantially in the form attached as Schedule "A" to this Response.

Part 2: ORDERS OPPOSED

The petition respondent opposes the granting of the orders set out in NIL of Part 1 of the petition. The Petition Respondent consents to the order substantially in the form attached as Schedule "A" to this Response.

Part 3: ORDER ON WHICH NO POSITION IS TAKEN

The petition respondent takes no position on the granting of the orders set out NIL paragraphs. The Petition Respondent consents to the order substantially in the form attached as Schedule "A" to this Response.

Part 4: FACTUAL BASIS

1. The Petition Respondent, Terrapoint Developments Ltd. ("**Terrapoint**") is a company amalgamated pursuant to the laws of Canada and extra-provincially registered in British Columbia with an address at 2400-745 Thurlow Street, Vancouver, BC.
2. Capitalized terms used and not defined in this Petition Response shall have the meaning ascribed to them in the Petition or in the First Affidavit of Evan Allegretto, sworn December 15, 2023.

Background

3. In March 2017, 110 entered into a purchase and sale agreement for the Harlow Lands, to close in late August 2018.
4. Before the purchase and sale agreement for the Harlow Lands closed, 110 approached Intracorp and Forseed to enter into a partnership with respect to the future development of the Harlow Lands (the "**Project**").
5. Haro and Thurlow GP Ltd. ("**GP**") was incorporated in early August 2018 for the purpose of this proposed partnership. The shares of GP are held as follows:
 - (a) 45% by 1115830 B.C. Ltd. ("**111**");
 - (b) 45% by Forseed Group Holding Ltd.; and
 - (c) 10% by Intracorp(collectively, the "**GP Shareholders**").
6. On August 31, 2018, GP, as the general partner, and 110, Terrapoint, Forseed, as limited partners, entered into a limited partnership agreement under the name Haro-Thurlow Street Project Limited Partnership ("**LP**") for the purpose of acquiring beneficial ownership

of the Harlow Lands, obtaining development and construction approvals required for the Project, completing the construction of the building on the Harlow Lands, selling or leasing the units, and other ancillary activities (the "**Partnership Agreement**").

7. On August 21, 2018, GP, on its own behalf and on behalf of the LP, entered into the Credit Agreement with the Petitioner in the amount of \$94,000,000. The Guarantors executed guarantees in favour of the Petitioner in respect of LP's obligations to the Petitioner under the Credit Agreement.
8. The borrower under the Credit Agreement is the LP (the "**Borrower**"). The partners of the Borrower are:
 - (a) The GP;
 - (b) 1104227 B.C. Ltd. ("**110**");
 - (c) Terrapoint; and
 - (d) Forseed.
9. Terrapoint is affiliated with Intracorp Projects Ltd. ("**Intracorp**"). Intracorp also fulfils the role of a fee-based development manager for the project, pursuant to a Development Management Agreement dated August 2018.
10. Intracorp is well-respected in the local property development market.
11. As a minority shareholder in GP, Intracorp is not always in agreement with the business decisions made by 111 and Forseed Group Holding Ltd..

Default under the Partnership Agreement

12. Since at least 2022, the Partnership has been dysfunctional.
13. The Partnership requires each Limited Partner to advance capital contributions, as and when required by the general partner, to fund costs related to, among other things, interest payments under the Credit Agreement, pre-development costs, and other development invoices (the "**Subsequent Capital Contributions**").

14. The Partnership has made calls for Subsequent Capital Contributions from the Partners in August, October, November and December 2022, and in February, June and July 2023.
15. In contravention of the Partnership Agreement, Forseed has failed to make any Subsequent Capital Contributions since August 2022. Forseed currently owes \$3,355,542 to the Partnership for these Subsequent Capital Contributions.
16. 110 also failed to make certain Subsequent Capital Contributions, and currently owes \$359,122 in Subsequent Capital Contributions.
17. As a result, since January 2023, Subsequent Capital Contributions have been requested from the Partners only to fund interest payments under the Credit Agreement and to pay certain invoices.
18. To avoid a default by the Partnership under the Credit Agreement, Terrapoint has made various capital shortfall loans totalling \$1,363,607 (plus \$109,000 in interest up to September 2023) in January, March, April and May, 2023.
19. Terrapoint has attempted to mitigate the possibility of a default by the Partnership under the Credit Agreement, including by presenting the Partnership with options to sell, refinance or recapitalize the Harlow Lands.
20. Terrapoint is a minority partner and is unable on its own to meet the Partnership's obligations under the Credit Agreement.

Prior Marketing of the Harlow Lands and Signed LOI

21. In and around February to May, 2023, the Partnership approved a measure to market the Harlow Lands in an attempt to avoid defaulting under the Credit Agreement. Accordingly, the Partnership engaged CBRE to market and sell the Harlow Lands.
22. On or about June 10, 2023, the director of 110 signed a letter of intent on behalf of the Partnership with a potential buyer, setting out the terms on which the Harlow Lands would be purchased (the "**Proposed Purchase**"). Among other things, the Proposed Purchase contemplated a purchase price in excess of the amount owed to the Petitioner under the Credit Agreement. At the time, GP was involved in the negotiations for, and supportive of, the sale.

23. Terrapoint was supportive of the Proposed Purchase because, among other things, selling the Harlow Lands would avoid further defaults under the Credit Agreement, preserve Terrapoint's reputation in this industry, and avoid any further enforcement steps being taken by the Petitioners (including a potential foreclosure or appointment of a receiver).
24. On or about June 19, 2023, a meeting of the shareholders of GP was convened to approve the sale of the Harlow Lands under the Proposed Purchase as required under the shareholders' agreement governing the GP. However, Forseed Group Holding Ltd. failed to attend and the meeting was adjourned due to a lack of quorum.
25. On or about June 21, 2023, the meeting was reconvened. Intracorp voted in favour of accepting the Proposed Purchase for the reasons as set out above.
26. However, 111 and Forseed Group Holding Ltd. voted against accepting the Proposed Purchase without providing any good faith reason for their vote.

Appointment of a Receiver with Conditions

27. Terrapoint submits that the only clear path out of this situation is via a sale of the Harlow Lands with a vesting order provided to a purchaser to allow for the closing of a transaction.
28. Terrapoint is supportive of the appointment of a receiver with the following conditions:
 - (a) the receiver will be given access to the property and the books and records of the borrower, but it would not take possession of the property or assets;
 - (b) the receiver would have limited powers, except it would obtain exclusive conduct of sale of the Harlow Lands commencing January 10, 2024 (the "**Marketing Period**");
 - (c) Terrapoint would need to consent to the listing agreement and agent the receiver uses for marketing the Harlow Lands;
 - (d) the chosen agent and the receiver would agree to share any verbal or written offers received throughout the marketing period with the Partners;
 - (e) absent consent of the Partners, the receiver could not come back to this Court with an offer for approval before March 15, 2024; and

- (f) 110 and Forseed can continue to seek refinancing without the involvement of Terrapoint during the Marketing Period.
29. The significant burn rate on the Credit Agreement of approximately \$750,000 per month, the softening of the market and current downturn for properties of this nature, and the limited pool of purchasers that are available for a transaction of this nature could put the guarantees at risk, particularly if the six month redemption period sought in the Borrower's Response is granted.
30. In Terrapoint's view, the Harlow Lands must be marketed for sale immediately.
31. The Borrower, or any of them, can continue to seek refinancing of the Harlow Lands during any receivership without Terrapoint's involvement.
32. In the event that the relief sought by Terrapoint is granted, the Harlow Lands should be sold before any realization on the guarantees is required by the Petitioner. As such, judgment on the guarantees should be adjourned generally and until the Harlow Lands sold and the Petitioner suffers a shortfall.

Part 5: LEGAL BASIS

Appointing a Receiver is Just and Convenient

1. The purpose of a court-ordered receivership is to preserve and protect property pending the resolution of issues between the parties.

Saskatchewan (Attorney General) v. Lamare Lake Logging Ltd., 2015
SCC 53, at para. 51.

2. When considering whether to make an order appointing a receiver, the courts "should review the matter holistically and decide whether on the whole of the circumstances it is, in fact, just and convenient to appoint a receiver".

Bank of Montreal v. Gian's Business Centre Inc., 2016 BCSC 2348, at
para. 23.

3. Although not a specific checklist, the factors to consider in this holistic review include:
- (a) whether irreparable harm might be caused if no order were made, although it is not essential for a creditor to establish irreparable harm if a receiver is not

appointed, particularly where the appointment of a receiver is authorized by the security documentation;

- (b) the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of the assets while litigation takes place;
- (c) the nature of the property;
- (d) the apprehended or actual waste of the debtor's assets;
- (e) the preservation and protection of the property pending judicial resolution;
- (f) the balance of convenience to the parties;
- (g) the fact that the creditor has the right to appoint a receiver under the documentation provided for the loan;
- (h) the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulty with the debtor and others;
- (i) the principle that the appointment of a receiver is extraordinary relief which should be granted cautiously and sparingly;
- (j) the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties more efficiently;
- (k) the effect of the order upon the parties;
- (l) the conduct of the parties;
- (m) the length of time that a receiver may be in place;
- (n) the cost to the parties;
- (o) the likelihood of maximizing return to the parties; and
- (p) the goal of facilitating the duties of the receiver.

Pandion Mine Finance Fund LP v Otso Gold Corp., 2022 BCSC 136, at para. 53.

4. All parties to the Partnership owe duties of good faith and honest performance in the manner in which they carry out their duties under the Partnership.
5. The Partnership is dysfunctional and Terrapoint has lost all faith in the ability of GP to appropriately manage the Project.
6. It would be just or convenient for the court to appoint a receiver over the Harlow Lands on the conditions noted above for reasons including:
 - (a) the harm to the Guarantors resulting from 111 and Forseed Group Holding Ltd.'s blocking of the Potential Purchase, which led to the default under the Credit Agreement and the demands by the Petitioner;
 - (b) the wilful and persistent breaches of the Partnership by Forseed and 110;
 - (c) the default by the Borrower under the Credit Agreement;
 - (d) in the absence of a receiver there is no effective method for Terrapoint to protect the value of the Harlow Lands;
 - (e) the appointment of a receiver allows for a sale of the Harlow Lands to be effected in a reverse vesting order structure, if required by a potential purchaser;
 - (f) that Terrapoint has lost confidence that the GP can and will reasonably and appropriately manage the Harlow Lands; and
 - (g) the Borrower retain the right to redeem the lands at any point before a sale is approved by this Court.

Part 6: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Evan Allegretto, sworn December 18, 2023.

Dated

Dec 19/23


Signature of (lawyer) for petition respondent
DLA Piper (Canada) LLP (Colin D. Brousson)

Petition respondent's address for service:

Colin D. Brousson
DLA Piper (Canada) LLP
Barristers & Solicitors
Suite 2700
1133 Melville Street
Vancouver, BC V6E 4E5

Fax number address for service (if any):

E-mail address for service (if any):

colin.brousson@dlapiper.com

Name of the petition respondent's lawyer is:

Colin D. Brousson
DLA Piper (Canada) LLP
Barristers & Solicitors
Suite 2700
1133 Melville Street
Vancouver, BC V6E 4E5

SCHEDULE "A"

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CM (CANADA) ASSET MANAGEMENT CO. LTD.,
FORSEED HARO HOLDINGS LTD.,
1115830 B.C. LTD.,
TERRAPOINT DEVELOPMENTS LTD.,
KANG YU ZOU,
WEI DONG,
WEI ZOU,
XIA YU and
TREASURE BAY HK LIMITED

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE

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December 22, 2023

ON THE APPLICATION of the Petitioner for an Order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"), and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "LEA"), appointing Deloitte Restructuring Inc. ("Deloitte") as receiver and manager, without security, of certain lands and other assets, undertakings and property of the Respondents, Harlow Holdings Ltd. ("Harlow Holdings"), Haro-Thurlow Street Project Limited Partnership ("LP") and Haro And Thurlow GP

Ltd. (“GP”, and together with Harlow Holdings and LP, the “Debtors”) coming on for hearing this day at Vancouver, British Columbia;

AND ON READING the Affidavit #1 of Peter Mullin sworn October 17, 2023 and the consent of Deloitte to act as the Receiver; AND ON HEARING Kibben Jackson and Mishaal Gill, counsel for the Petitioner, and those other counsel as listed on Schedule “A” hereto, and no one else appearing, although duly served;

THIS COURT ORDERS AND DECLARES that:

APPOINTMENT

1. Pursuant to Section 243(1) of the BIA and Section 39 of the LEA, Deloitte (hereafter, the “Receiver”) is appointed receiver and manager, without security, of those lands having a legal description of:

PID: 030-552-265

Lot 1 Block 5 District Lot 185 Group 1 New Westminster District Plan EPP85244
(the “Lands”),

and all personal property of the Debtors located at, related to or derived from the Lands (together with the Lands, the “Property”).

RECEIVER’S POWERS

2. The Receiver is empowered and authorized, but not obligated, to do any of the following where the Receiver considers it necessary or desirable:
 - (a) obtain immediate access to the Property generally, including to the Lands;
 - (b) engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver’s powers and duties, including, without limitation, those conferred by this Order;
 - (c) market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;
 - (d) sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - (i) without the approval of this Court in respect of a single transaction for consideration up to \$50,000 provided that the aggregate consideration for all such transactions does not exceed \$200,000; and

- (ii) with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out in subparagraph (i) above,

and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;

- (e) apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances; (Collectively the powers conveyed under paragraphs 2(c) – 2(e) herein are referred to hereinafter as “**Conduct of Sale**”)
- (f) execute, assign, issue and endorse documents in respect of and for the purposes of Conduct of Sale, whether in the Receiver’s name or in the name and on behalf of any of the Debtors, pursuant to this Order;
- (g) undertake environmental or workers’ health and safety assessments of the Property;
- (h) report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to confidentiality terms as the Receiver considers appropriate;
- (i) register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (j) apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf and in the name of the Debtors, if considered necessary or appropriate by the Receiver for the purposes of Conduct of Sale;
- (k) take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

3. Each of (i) the Debtors; (ii) all of the Debtors’ current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, “**Persons**” and each a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding

Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.

4. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors relating in any way to the Property, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (collectively, the "**Records**") in that Person's possession or control. Upon request, governmental authorities shall advise the Receiver of the existence of any Records in that Person's possession or control.
5. Upon request, all Persons shall provide to the Receiver or permit the Receiver to make, retain and take away copies of the Records and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities, provided however that nothing in paragraphs 4, 5 or 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to solicitor-client privilege or statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. No proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR AND THE PROPERTY

8. No Proceeding against or in respect of any of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of any of the Debtors or the Property are stayed and suspended pending further Order of this Court; provided, however, that nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an

existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this paragraph and provided that no further step shall be taken in respect of the Proceeding except for service of the initiating documentation on the applicable Debtor and the Receiver.

NO EXERCISE OF RIGHTS OR REMEDIES

9. All rights and remedies (including, without limitation, set-off rights) against any of the Debtors (in relation to the Property), the Receiver, or affecting the Property, are stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this Order shall (i) empower the Receiver or the Debtors to carry on any business of the Debtors (ii) affect the rights of any regulatory body as set forth in section 69.6(2) of the BIA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. This stay and suspension shall not apply in respect of any "eligible financial contract" as defined in the BIA.

NO INTERFERENCE WITH THE RECEIVER

10. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the any of Debtors, in relation to the Property, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.

CONTINUATION OF SERVICES

11. All Persons having oral or written agreements with any of the Debtors or statutory or regulatory mandates for the supply of goods and/or services in relation to the Property, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to any of the Debtors are restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver.

RECEIVER TO HOLD FUNDS

12. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable, in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post-Receivership Accounts**") and the monies standing to the credit of such Post-Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

EMPLOYEES

13. Subject to the employees' right to terminate their employment, all employees of the Debtors shall remain the employees of the Debtors. The Receiver shall not be liable for any employee-related liabilities of the Debtors, including any successor employer liabilities as referred to in Section 14.06(1.2) of the BIA, other than amounts the Receiver may specifically agree in writing to pay or in respect of obligations imposed specifically on receivers by applicable legislation, including sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47.

PERSONAL INFORMATION

14. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination (collectively "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.
16. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in possession.
17. Notwithstanding anything in federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arises or environmental damage that occurred:

- (a) before the Receiver's appointment; or,
- (b) after the Receiver's appointment, unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.

18. Notwithstanding anything in federal or provincial law, but subject to paragraph 17 of this Order, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, if the Receiver complies with the BIA section 14.06(4), the Receiver is not personally liable for the failure to comply with the order and is not personally liable for any costs that are or would be incurred by any Person in carrying out the terms of the order.

LIMITATION ON THE RECEIVER'S LIABILITY

19. The Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except:
- (a) any gross negligence or wilful misconduct on its part; or
 - (b) amounts in respect of obligations imposed specifically on receivers by applicable legislation.

Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

20. The Receiver and its legal counsel, if any, are granted a charge (the "**Receiver's Charge**") on the Property as security for the payment of their fees and disbursements, in each case at their standard rates, in respect of these proceedings, whether incurred before or after the making of this Order. The Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to the charges, if any, created pursuant to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
21. The Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis.
22. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

23. The Receiver is authorized and empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as the Receiver deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to: (i) the Receiver's Charge; and (ii) the charges, if any, created pursuant to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
24. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
25. The Receiver is authorized to issue certificates substantially in the form annexed as Schedule "C" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
26. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

ALLOCATION

27. Any interested party may apply to this Court on notice to any other party likely to be affected for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the Property.

VALIDITY OF SECURITY

28. The indenture of mortgage and assignment of rents dated August 23, 2018 granted by Harlow Holdings in favour of BMO and registered in the Land Title Office of British Columbia under Charge Numbers CA7024178 and CA7024179, is a mortgage charging the Lands in priority to the interests therein or claims thereto of all Respondents and all persons claiming by, through or under them.
29. The equitable mortgage dated October 3, 2018 granted by LP in respect of LP's beneficial interest in the Harlow Lands is a valid mortgage charging LP's beneficial interest in the Lands in priority to the interests therein or claims thereto of all Respondents and all persons claiming by, through or under them.

30. The General Security Agreement dated October 3, 2018 granted by LP and Harlow Holdings in favour of BMO, in respect of which a financing statement was filed in the BC PPR under base registration number 985774K on August 27, 2018, constitutes a charge in favour of the Petitioner on all present and after acquired personal property of LP and Harlow related to the Lands in priority to the interests therein or claims thereto of all Respondents and all persons claiming by, through or under them.

SERVICE AND NOTICE OF MATERIALS

31. The Receiver shall establish and maintain a website in respect of these proceedings at: (the “**Website**”) and shall post there as soon as practicable:
- (a) all materials prescribed by statute or regulation to be made publicly available, including pursuant to Rule 10-2 of the *Supreme Court Civil Rules*; and,
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
32. Any Person who is served with a copy of this Order and that wishes to be served with any future application or other materials in these proceedings must send a written request, which may be by way of email, to counsel for the Receiver asking that the Receiver add them to a service list to be maintained by the Receiver (the “**Service List**”). The Receiver shall post and maintain an up-to-date form of the Service List on the Website.
33. The Receiver and the Petitioner need only provide further notice in respect of these proceedings to Persons that have properly requested that they be added to the Service List. The failure of any Person to make written request to be added to the Service List in accordance with this Order releases the Receiver and the Petitioner from any requirement to provide further notice in respect of these proceedings to such Person, unless and until such Person makes a proper written request to be added to the Service List.
34. Any interested party, including the Receiver, may serve any court materials in these proceedings by facsimile or by emailing a PDF or other electronic copy of such materials to the numbers or addresses, as applicable, set out on the Service List. Any interested party, including the Receiver, may serve any court materials in these proceedings by mail to any party on the Service List that has not provided a facsimile number or email address, and materials delivered by mail shall be deemed received five (5) days after mailing.
35. Notwithstanding paragraph 31 of this Order, service of the Petition and any affidavits filed in support shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c.C-50 and its regulations for the Federal Crown and the *Crown Proceedings Act*, R.S.B.C. 1996 c.89 in respect of the British Columbia Crown.
36. The Receiver and its counsel are authorised to serve or distribute this Order, any other orders and any other materials as may be reasonably required in these proceedings,

including any notices or other correspondence, by forwarding copies by facsimile or by email to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of any legal or juridical obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*.

GENERAL

37. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.
38. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
39. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any of the Debtors.
40. This Court requests the aid, recognition and assistance of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All such courts, tribunals and regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
41. The Receiver is authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order and the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
42. The Petitioner is hereby granted judgment against LP, Harlow and GP, jointly and severally, in the amount of \$95,284,936.98, together with interest thereon to the date of judgment and the Petitioner's costs of and related to this proceeding.
43. Judgments sought by the Petitioners against Zuo, Yu, Kang Yu Zou, Wei Dong, Cloudbreak and CM, Terrapoint Developments Ltd., 1104427 B.C. LTD. and 1115830 B.C. LTD. are adjourned generally.
44. The Petitioner shall have its costs of this motion, up to and including entry and service of this Order, as provided for by the terms of the Petitioner's security or, if not so provided by the Petitioner's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

45. Endorsement of this Order by counsel appearing on this application other than the Petitioner is dispensed with.

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

APPROVED BY:

Signature of Kibben Jackson
lawyer for the Petitioner

BY THE COURT
DISTRICT REGISTRAR

SCHEDULE "A"
LIST OF COUNSEL

Counsel/Person Appearing	Party Represented

Schedule "C"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT

\$ _____

1. THIS IS TO CERTIFY that [●] (the "Receiver"), the receiver and manager of certain lands and related assets of Harlow Holdings Ltd., Haro-Thurlow Street Project Limited Partnership, Haro And Thurlow GP Ltd., Wei Zou and Xia Yu (collectively, the "Debtors") as set out in the Order of the Supreme Court of British Columbia (the "Court") dated [●], 2023 made in SCBC Action No. [●] (the "Order"), including all proceeds thereof (collectively, the "Property"), has received as Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ [●] which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the last day of each month after the date hereof at a notional rate per annum equal to the rate of [●] per cent above the prime commercial lending rate of [●] from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at [●].
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum under this Certificate in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 2023.

[Signature], solely in its capacity as Receiver of the Property, and not in its personal capacity

Per:
Name:
Title: