

The Law Firm of
W. Donald Goodfellow, Q.C.
Barristers, Solicitors & Notaries Public

Suite 715, 999 – 8th Street SW
Calgary, Alberta Canada T2R 1J5
Telephone (403) 228-7102 Fax (403) 228-7199
www.goodfellowqc.com

W. Donald Goodfellow, Q.C., C. Arb.*
Direct Line (403) 209-5642
e-mail: wdonald@goodfellowqc.com

Philip R. Biggar, B.A., LL.B.
Direct Line (403) 209-5647
e-mail: pbiggar@goodfellowqc.com

Kelly Elizabeth Smith, B.A., J.D., LL.M.
Direct Line (403) 209-5648
e-mail: ksmith@goodfellowqc.com

Legal Assistant - Janice Bohdan – (403) 209-5646
e-mail: jbohdan@goodfellowqc.com
Legal Assistant – Deanna LaCaprara – (403) 209-4085
e-mail: dlaoprara@goodfellowqc.com
Legal Assistant – Tiffanie Manitta – (403) 209-5649
e-mail: tmanitta@goodfellowqc.com
Legal Assistant – Susan Smith – (403) 806-4060
e-mail: ssmith@goodfellowqc.com
Accounting – Kim Stewart – (403) 209-5644
e-mail: accounting@goodfellowqc.com

September 16, 2013
(Dictated September 13, 2013)

DELIVERED BY EMAIL: jperreault@mccarthy.ca
ORIGINAL DELIVERED BY COURIER TO JOCELYN PERREAULT ONLY

McCarthy Tetrault
Suite 2500, 1000, De La Gauchetiere Street West
Montreal QC H3B 0A2

Attention: Jocelyn Perreault

Dear Sirs:

Re: *Kai Construction Corporation v. Homburg L.P. Management Incorporated, et al.*
Court of Queen's Bench of Alberta Action No. 1201-13338
Our File: 18202
Your File 783416-437027

I am enclosing by electronic transmission Kai Construction Corporation's letter of the 12th of September 2013 addressed to yourself regarding the issues raised in your letter of the 9th of August 2013. The letter of Kai Construction Corporation is written on behalf of Kai Construction Corporation regarding the Kai Towers Project as well as on behalf of Centron Construction Corporation regarding the North Calgary Lands Project. I am sending the original by courier to you.

*Founding Fellow & Governor, Canadian College of Construction Lawyers

*Member of the Law Societies of Alberta, British Columbia, Yukon and Northwest Territories

*Chartered Arbitrator, ADR Institute of Canada, Inc.

McCarthy Tetrault
September 16, 2013
Page 2

I trust the above answers your inquiries.

Best regards,



W. DONALD GOODFELLOW, Q.C., C. ARB.

WDG/del

Enclosures

cc: Walker W. Macleod, email: wmacleod@mccarthy.ca (with enclosures)
Karim Renno, email: krenno@imk.com (with enclosures)
Gary Befus, email: gbefus@walshlaw.com (without enclosures)

COPY

KAI CONSTRUCTION CORPORATION

175 – 4639 Manhattan Road S.E. Calgary, AB T2G 4B3

September 12, 2013

McCarthy Tetrault LLP
Suite 2500,
1000 De la Gauchetiere Street West
Montreal, QC H3B 0A2
Attention: Walker MacLeod and Jocelyn T. Perrault

RE: Homburg CCA – Factual Lienholder Information, Lafarge Canada Inc., Kai Construction Corporation and Centron Construction Corporation.

Dear Walker and Jocelyn:

We are replying to your letter of August-9, 2013 to Karim Renno of Irving Mitchell Kalichman LLP where you were looking for specific information on six (6) areas concerning a number of projects that Homburg Invest Inc. or related companies/limited partnerships were involved in and which filed for creditor protection under the CCAA. This response is being provided by Kai Construction Corporation and the other companies as listed below. Our companies are holding a number of the liens in question and we will provide answers to all your questions, as follows:

Regarding Homco Realty Fund (88) LP also known as Kai Towers or Oslo Towers:

1. Kai Construction Corporation entered into a Construction Management Contract with Homburg Realty Fund Limited Partnership dated the 17th of May 2010. The Construction Management Contract was the standard construction document CCA5-1988. I am enclosing a photocopy for your information.
2. While Article A-3 provides that the Construction Manager is to act as agent for the Owner, Article A-7 allows the Construction Manager to perform work with his own forces.
3. Kai Construction Corporation pursuant to the rights given to it under Article A-7 used its own forces through its sister companies to perform some of the work on the Project namely;
 - a. Kindersley Management Corporation is the administrative company in the Centron Group that handles the payment of all salaried employees working on the various Projects and specially paid the salaries of the site Superintendent, Assistant Superintendent and Safety Manager for Kai Towers. Those employees were hired by Kai Construction Corporation as agent for Homco Realty Fund (88) LP to work on the site. Kindersley Management Corporation also charged for the site management overhead covering Project managers and support staff time based on time spent on the Project as allowed under the Construction Management Contract.

- b. Kindersley Contracting Ltd. Is the administrative company in the Centron group that handles the payment of all hourly rate employees working on the various Projects including Kai Tower and payment is based on hours specially worked on the site. Hourly employees would include all positions from a common labourer up to ticketed carpenters. These employees were hired by Kai Construction Corporation as agent for the Owner to work on the site.
- c. Kindersley Leasing Corporation leases the site vehicles required by the site Superintendent for use at the site.
- d. Kai Construction Corporation acted as the Construction Manager in accordance with the Construction Management Contract.

4. Kai Construction Corporation's Builder's Lien in the amount of \$1,502, 053.87 is composed of the following amounts:

Kai Construction Corporation	\$742,069.66
Kindersley Management Corporation	\$373,901.91
Kindersley Contracting Ltd.	\$375,439.60
Kindersley Leasing Corporation	\$10,642.70

- 5. The Construction Management Contract is to cover the construction management of the construction and completion of the parkade.
- 6. The nature of the work performed was labour for workers who attended the site daily and were paid for the hours they worked at the site based on weekly time records submitted as well as materials installed. Certain charges from Kindersley were for management services provided under the terms on the Construction Management Agreement and those personnel may not necessarily have visited the site on a daily basis to perform their tasks.
- 7. As a rule, all material supplied would have been ordered from a different trade and that trade may or may not have been paid. There are no charges included in the lien for materials that were supplied by others.
- 8. We are not aware that any material were removed from the site by any of the trades including Kai Construction Corporation, Kindersley Management Corporation, Kindersley Contracting Ltd., and Kindersley Leasing Corporation.
- 9. The Contract between Kai Construction Corporation and Homco Realty Fund (88) LP was never completed and remains outstanding to this date. The requests for labour provided by Kindersley Management Corporation and Kindersley Contracting Ltd. were ended when we were requested to stop work on the Project by Homco Realty Fund (88) LP and the site was made safe for a long term hold.

Regarding CP Development Inc. also known as Homco Realty Fund (89) LP or Centron Park:

We do not have any liens registered against title on this project.

Regarding North Calgary Lands Corporation, also known as Homco Realty Fund (96) LP or Points North Business Park:

1. The debtor signed a Development Management Agreement dated March 22, 2006 with Centron Construction Corporation which formed the basis for all future development and construction work undertaken. Paragraph 2.3 (c) states that Homco Realty Fund (96) Limited Partnership shall from time to time advance such amounts as are required to pay Development Costs. The definition of Development Costs in para 1.1(h) include all the costs that were invoiced in the Centron Construction Corporation invoices C2851-2616, C2861-2616, C2865-2616, C2874-2616 and C2878-2616 which total \$563,876.13. These billings from Centron Construction Corporation represent the work of the engineering, architectural and other professional consultants. As well, part of the lien balance represents an equalization charge so that Centron Construction Corporation receives fees equal to those taken by North Calgary Lands Corporation pursuant to para 2.3(c)(ii). And finally, an amount of \$75,000 as included in the lien amount representing interest owing on the short payment of the above amounts.
2. The debtor signed a Development Management Agreement dated March 22, 2006 with Centron Construction Corporation which formed the basis for all future development and construction work undertaken.
3. The work performed were primarily services provided for the engineering and design work required to provide the required planning and documentation to support an application to the local municipal authorities to obtain land use designation. The land was also staked for proposed roadways/grades, a site trailer was leased and placed on the land, certain buildings were demolished and work done for weed and erosion control.
4. There were no significant materials supplied as that stage of the work had not started.
5. We are not aware that any materials were removed from the site although the trailer lease was cancelled and the trailer removed.
6. The development Management Agreement remains uncompleted and the provisions for early termination as defined in para 4.2 have not been implemented by either party to the agreement.

With respect to documentation, we have previously supplied all invoices to Homburg Invest Inc, and the Monitor, many on numerous occasions, and have also previously supplied copies of our liens and agreements. For your convenience we have attached a scan of our file copy of the Development Management Agreement and the Construction Management Agreement CCA 5 referred to above. Should you consider any further information is required to validate our secured claims, please do not hesitate to make an additional request.

Please be advised that Lafarge Canada Inc. will provide their own response to your enquiry.

Sincerely,



Cole Harris
President and Chief Operating Officer

Cc: W. Donald Goodfellow, Q.C., C. Arb

May 17, 2010

Appendix 'B'

Kai Towers
Contract Documents

1. Clarifications and Exclusions
2. Action Plan
 - E-mail from Cole Harris (May 8, 2010)
 - Building Permit
 - Development Permit
 - i. NORR Architects Preliminary Schedule
 - Shoring
 - Schedule
3. Cash Flow Document (dated Apr. 16, 2010)
4. Construction Cost to Complete Parkade (dated Apr. 30, 2010)
5. Construction Cost to Complete General Conditions (dated Apr. 30, 2010)
6. CAR (Actual Costs to Mar. 30, 2010)

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**Kai Tower
Construction Management Contract**

Clarifications and Exclusions

Parkade – General Items

- Refer to Document 2 Construction Cost to Complete Parkade (Dated Apr. 30, 2010).
- Cost to Complete is noted as \$ 12,834,850.00. This cost is a Budget only, **and all prices must be confirmed when the drawings and design are finalized.**
- Further, this cost to complete of \$ 12,834,850.00 refers only to the parkade structure up to the Main Floor. There is a further cost of \$ 3,896,478.00 to complete the Parkade to an operational stage. This is outlined further.
- The Project is proceeding at this time assuming only the Parkade Structure is being completed. The work required to make the parkade operational and to construct the retail podium is not being done at this time. Further work and cost expenditure will be required in order to get an Occupancy Permit for this phase of the work.
- This Cost to Complete is based on the actual costs to date to Mar. 30, 2010 as outlined in the CAR (Cost Analysis Report). Refer to Document 4. It is assumed all costs to date have been recognized and accounted for, and the costs to complete are for all work required from Apr. 1, 2010, and as per the Revised Cash Flow (Document 1).
- The CAR noted above is to be used for Costs to Date Only. The Budgets and Costs to Complete in the Car are not accurate as they have not been updated to suit the new design. A new CAR will be done when firm pricing is completed.
- Design Fees are not included in this Construction Management Contract, and are noted in a separate contract.

Parkade – Structure Costs

- The structural costs (Concrete supply, Formwork Labour, Cement Finishing, and Reinforcing Steel) are based on the previous contracts awarded for this work, with the costs to date removed.
 - Further, the Construction Costs to complete have been discounted by 10% to reflect the lower costs being encountered due to the recession and the current construction market, as well as the reduced building scope.
 - **As noted above these costs must be confirmed when the drawings are finalized.**
- 

Parkade – Definition of Structure Only

- To complete the structure only includes the following items:
 - All underground mechanical, electrical and weeping tile as required to allow completion of the slab on grade.
 - Existing foundations to be modified or removed as required to suit the new design.
 - All waterproofing of the existing shoring systems as originally intended and modified as required to suit the new design.
 - All concrete, formwork, cement finishing, reinforcing steel and embedded items as required to complete each of the Parking Levels (P6, P5, P4, P3, and P2) and the Main Floor Slab.
 - Only the Mechanical and Electrical components that are required to be cast into the slab are included. Actual equipment and connections that can be done at a later date are not included in this cost.
 - Structure only does not include masonry block walls, painting, traffic coatings, Fireproofing or Firestopping, Overhead Doors, H.M. Doors / Frames, Hardware, Storage Lockers, and Mechanical / Electrical except as noted above.
 - The Retail Podium is not included in this scope of work.

Parkade – Definition of Operational Parkade

- To further construct the parkade to an operational stage includes the following items:
 - All Mechanical / Electrical components as required to meet Code for an Occupied Parkade – all MUA, Air Handling, Exhaust Fans, Lighting, Pumps, Unit Heaters, etc.
 - All finishes such as painting, doors, hardware, block walls, parking equipment, firestopping, caulking, etc.
- This is for information purposes only, as the intent is to complete the parkade structure only, and not make the parkade operational. This will not allow for an Occupancy Permit.

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Design and Engineering

- Design Fees are not included in this Construction Management Contract.
- The following Consultants have been engaged to prepare the drawings to complete the Parkade and other building design as required to allow the parkade construction. Copies of the signed agreements are included (These Design Fees do not include the Bonuses as noted) :

○ NORR Architects	\$ 728,000.00
○ MMP Structural Engineering	\$ 129,000.00
○ Hemisphere Engineering	\$ 175,000.00
○ Scatfiff+Miller+Murray	\$ 26,500.00

- A separate contract will be completed for these and the remainder of the Design and Engineering work.

Progress and Billing Schedule

To	Homburg	From	Bruce McKenzie
Attention	Frank Matheson	Via: email	
		Date	April 7, 2010
Project Name	Kai	Project Number	NCCA09013901
Re	Project Schedule	Pages (Inc Cover)	1
Cc	Cole Harris Centron Group Allison Clark	Cc Via	

Mr Matheson,

The following breakdown provides Homburg/ Centron with an estimated progress and billing schedule for the Kai Project.

Date:	% complete	Billing Amount*
April 2010	20% DP Drawings	\$15,599.00
April 30, 2010	DP Pre Application Meeting	
May 14, 2010	100% DP Submission	\$62,396.00
June 30, 2010	14% Construction Drawings	\$75,428.57
July 15, 2010	28% Construction Drawings (Parkade) Revised Partial	\$75,428.57
July 15, 2010	Building Permit Submission	
July 15, 2010	Commence Parkade Construction	
August 2010	42% Construction Drawings + C/A	\$75,428.57 + \$5,000** = \$80,428.57
September 1, 2010	Development Permit Approval	
September 2010	56% Construction Drawings + C/A	\$75,428.57 + \$5,000** = \$80,428.57
October 1, 2010	Development Permit Release	
October 2010	70% Construction Drawings + C/A	\$75,428.57 + \$5,000** = \$80,428.57
November 2010	84% Construction Drawings + C/A	\$75,428.57 + \$5,000** = \$80,428.57

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November 1, 2010	Full Revised Building Permit Submission	
December 2010	100% Construction Drawings+ C/A	\$75,428.57 + \$5,000** = \$80,428.57
December 1, 2010	Performance Bonus Realized	\$150,000.00
December 1, 2010	Final Revised Building Permit Release	
January 2011 - Construction Completion	Ongoing Contract Administration	\$5,000** / month as required or negotiated

* Please note that these amounts do not include disbursements or gst

**We estimate that contract administration (CA) will start in August of 2010 and propose a monthly fee of \$5,000 for the duration of the contract administration phase.

Please contact me at (403) 538-3389 should you have any questions or require further information.

Regards,
NORR Architects Planners

Bruce McKenzie

Client Authorization (Signature)





205, 1170 Kensington Cres. N.W.
Calgary, AB T2N 1X6
Phone: (403) 264-8495
Fax: (403) 233-8663

February 12, 2010
Proposal File

Homco Realty Fund (88) Limited Partnership
175-4639 Manhattan Road S.E.
Calgary, AB T2G 4B3

Attention: Mr. Frank Matheson

Dear Sir,

Re: Kai Tower
#1215 to #1239 – 11th Avenue SW, Calgary, AB

We are pleased to provide a revised fee proposal on the above project.

First of all, as we discussed in the meeting, the project consists of a total of $\pm 613,552$ sq.ft. of floor area. Based on this square footage the structural fee quoted in our letter dated September 21st, 2009 is less than 0.5% of the structural cost of the building. This fee is substantially reduced, lower than not only the APPEGA guideline but also the industry standard.

However, we do acknowledge that we are in a tough economic time and that a successful project will require concessions from every one involved

With the forgoing in mind we are proposing the following:

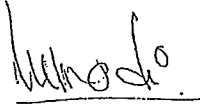
The fee for 80% of the design development was invoiced on October 7th, 2009 and is still outstanding, and remaining 20% to be invoice.

For the construction documents we are willing to provide for \$129,000.00. This will be reduction of another \$20,000.00 (total reduction of \$175-\$129 = \$46,000.00 from original of 0.5% of structural cost). This \$20,000.00, we are willing to wait until you feel is the time, ie. after building permit or after completion of structure. The fee for the construction and disbursement will remain as per our letter dated February 12th, 2010

We trust the above is satisfactory however if you have any further questions, please do not hesitate to contact our office.

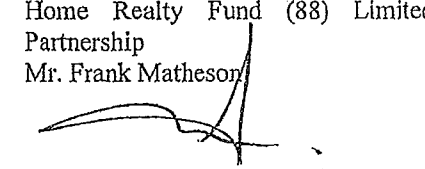
Yours truly,

MMP STRUCTURAL ENGINEERING Ltd.


Minesh Modi, B.Sc., M.Sc., P.Eng.
MM/1a

F: admin/proposal09/homco realty fund (88) partnership limited-kai tower

Accepted:
Home Realty Fund (88) Limited
Partnership
Mr. Frank Matheson



Reference CAL 10-038

April 28, 2010

Homco Realty Fund (88) Limited Partnership
175, 4639 Manhattan Road S.E.
Calgary, AB
T2G 4B3

ATTN: Mr. Frank Matheson

Dear Sirs:

RE: Kai Towers Podium – 372 Units (Revised Fee)

We are pleased to provide you with our proposal for Mechanical and Electrical Engineering services for the above noted project.

As we understand it, the project will consist of a single 13 storey condo (apartment) building, consisting of approximately 372 units, located above an underground parkade. The building is not expected to be air conditioned and a conventional baseboard heating system is anticipated. We are assuming standard Enmax metering for the suites and co-generation system design if so desired is not included.

Based on this, we propose fixed fees as follows:

1. Design Development – Preparation of systems options, review of Clients needs, confirmation of budget and establishing of physical space requirements for building systems.

FIXED FEE Mechanical Engineering.....\$ 7,500.00
FIXED FEE Electrical Engineering\$ 7,500.00

2. Working Drawings – Prepare construction contract documents consisting of detailed Engineering drawings and detailed specifications for building permit and construction.

FIXED FEE Mechanical Engineering.....\$ 95,000.00
FIXED FEE Electrical Engineering\$ 65,000.00

3. Construction Administration – Including site visits, review of shop drawings issuing of instructions or clarifications as required. (15 mechanical and 15 electrical site meetings). If additional site meetings/visits are required, they will be charged at an additional \$ 500.00 per trip per discipline).

FIXED FEE Mechanical Engineering.....\$ 10,000.00
FIXED FEE Electrical Engineering\$ 10,000.00

4. Disbursements – Including printing, plotting, photo-copying, mileage, etc.

Cash Allowance.....\$ 5,000.00
Total.....\$ 200,000.00

We realize that the total amount of fees quoted is in excess of what you had indicated where you would like to see them, but we feel that this is the minimum we require in order to proceed with this project. (overall deduction of \$95,000.) We have taken in consideration that the work already completed for the parkade can in all likely hood be re-used. We appreciated our past working relationship and hope that you will accept our proposal.

The above fees include the following items:

- Coordination with team members / meetings as required.
- Complete drawings and specifications for tendering/construction of Mechanical and Electrical work (book format specifications).
- Input and review of tenders.
- Site reviews, shop drawing reviews issuing of clarifications and final inspections and turn over to the building Owners (maximum of 30 combined Mechanical and Electrical site meetings).

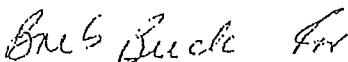
The following are not included in the fixed fees provided:

- Mechanical Site Services
- Fire alarm verification
- Printing for final tender.
- Tenant Improvements for commercial retail unit.
- LEED or other formal sustainable building certification
- GST

Should you wish to accept our proposal, please sign where indicated and return a copy to this office.

Thank you for the opportunity to present this to you.

Yours truly,
HEMISPHERE ENGINEERING INC



Kim Knudsen
Principal

ACCEPTED:
Homco Realty Fund (88) Limited Partnership



Per: Mr. Frank Matheson



6 May 2010

Homco Realty Fund (88) Limited Partnership 175, 4639
Manhattan Road, S.E.
Calgary, AB., T2G 4B3



ATTN: Mr. Frank Matheson

**KAI Podium Building
Proposal to Provide Landscape Architectural Services**

1.0 INTRODUCTION

Scatliff+Miller+Murray landscape architects are leaders in the design of urban residential landscape architecture in Alberta. We are currently working on many urban residential projects in the beltline area and have worked closely with the City of Calgary planning department to achieve the necessary development requirements in an innovative and cost effective manner, ultimately providing benefits to the developer. Our firm has a strong urban design background focusing on appropriate and sustainable solutions for street level and podium level development. Our firm also has an exceptional working relationship with NORR Architects + Planners, working as a seamless team in the delivery of many successful projects.

2.0 PROJECT UNDERSTANDING

It is our understanding the Kai Podium Building project will require landscape architectural services for the following:

- Streetscape design
- Upper podium terrace(s) / green roof design

Based on the above understanding we have prepared below a description of the scope of services to be provided.

3.0 SCOPE OF SERVICES

The following tasks will be undertaken:

3.1 Streetscape and Podium Terrace Schematic Design + Development Permit Application Drawings

- Provide schematic design concept for Streetscape area including paving patterns, planting plans, site furnishings and program feature amenities;
- Provide schematic design concept for upper podium terrace/green roof design including planters, appropriate planting design, paving patterns and site furnishings.
- Prepare development permit drawings to City of Calgary standard requirements including paving plans, planting plans, data tables, plant list and necessary details to be submitted with architectural submission package.

Deliverables

- Colour rendered plans, elevations and sections to clearly describe landscape concepts.
- CAD plans, elevations and sections to clearly describe landscape items of work.
- Updated budget cost estimate for proposed landscape development.

3.2 Development Permit Prior to Release Revisions

- Undertake revisions based on City of Calgary comments.

3.3 Construction Documents

- Prepare construction drawings to be included with architectural building permit, issued for tender and issued for construction package for all landscape items of work.
- Prepare specifications for all items of landscape work.

Deliverables

- CAD layout plans, details and sections to clearly describe all landscape items of work.
- 8.5x11 specifications in WORD for all landscape items of work.

3.4 Construction Monitoring

- Attend four construction meetings during installation of landscape components of work, inspect progress and prepare inspection reports.
- Provide Substantial and Total Completion Inspections and reports including notation of all deficiencies.

Deliverables

- 8.5x11 inspection reports in WORD for all landscape items of work.

4.0 ASSUMPTIONS

- Irrigation design not included in fees.
- All tendering services will be undertaken by the architect.
- Site grading plan by civil w/ input from landscape architect.
- Storm requirements/calculations and site drainage by others.

5.0 FEE SCHEDULE

Our fee to deliver the scope of work as described above and based on the deliverables/assumptions listed is as follows:

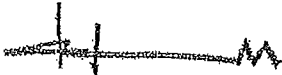
Item	Fee
1.1 Schematic Design + Development Permit Application Drawings	\$10500.00
1.2 Development Permit Prior to Release Revisions	\$2500.00
1.3 Construction Documents	\$13500.00
1.4 Construction Monitoring	\$2100.00

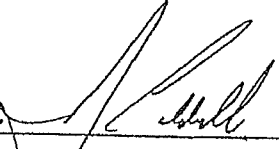
TOTAL: \$28600.00
GST extra

Disbursements at cost + 10%

Sincerely,

SCATLIFF+MILLER+MURRAY landscape architects


Deron Miller Principal
BES MLArch MALA AALA CSLA

Approved: 

Date: May 07, 2010



**Kai Tower
Construction Management Contract**

Parkade Action Plan

Building Permit

- Refer to the attached letter from Cole Harris regarding the intent to start.
- The current Building Permit is valid to June 10, 2010. After this time the City will require work to have commenced in some form, in order for the Permit to remain valid. If the existing permit expires, it would require another extension at a cost of \$ 253,265.15
- The City has acknowledged that any work performed would constitute applicable action, and based on this the proposal is to proceed with casting the remaining Tower Crane base that will be incorporated into the foundation design. This work is necessary for the start of construction and will allow the permit "clock" to stop and the building permit to remain valid.

Development Permit

- NORR Architects is continuing to produce the drawings as per the attached drawing schedule.

Shoring Plan

- There is currently a Bi-Weekly Monitoring Program in place to ensure there are no issues with the shoring, such as unexpected movement. This monitoring includes comprehensive surveying of the shoring and adjacent structures.
- This program will remain in place until such time as the monitoring agencies and the shoring engineer deem the structure complete and supported by the parkade structure.

Schedule

- We have included a copy of the proposed schedule for construction of the Parkade.
- The schedule is dependent on the City confirming the Permit Schedule as noted above.



Wayne Benz

From: Richard Heine [rheine@centrongroup.com]
 Sent: Thursday, May 20, 2010 6:47 PM
 To: Wayne Benz; CBH
 Subject: Fw: Oslo/Kai - DP-BP

Here are Cliff's notes - check number 8 closely.

Richard Heine
 Centron Group of Companies

From: "De Jong, Cliff" <Cliff.DeJong@calgary.ca>
 Date: Thu, 20 May 2010 18:07:44 -0600
 To: 'rheine@centrongroup.com' <rheine@centrongroup.com>;
 'cbh@centrongroup.com' <cbh@centrongroup.com>
 Cc: 'Don Dessario' <Don.Dessario@norr.com>; Griffiths, Kevin <Kevin.Griffiths@calgary.ca>;
 Tita, Matthias <Matthias.Tita@calgary.ca>; Down, David <David.Down@calgary.ca>; Watson,
 David <David.Watson@calgary.ca>; Goecke, Richard <Richard.Goecke@calgary.ca>; Purvis,
 Carl J. <Carl.Purvis@calgary.ca>; Barnowich, Bill <Bill.Barnowich@calgary.ca>; Bruce
 McKenzie <Bruce.McKenzie@norr.com>; Civitarese, Marco <Marco.Civitarese@calgary.ca>
 Subject: Oslo/Kai - DP-BP

Hello Richard,
 Thanks for coming in to meet with Marco and myself today. I want to recap our discussion and put it down on email so everyone is clear and on the same page.

From a Building Regs perspective, I can advise that the following issues and course of action was discussed between Richard Heine (Centron), Acting Chief Building Inspector Marco Civitarese and myself today:

- Prior to the meeting with Richard, we (Law and Building Regs) thoroughly examined the BP Bylaw and there are definitely no provisions for any further extensions in this case;
- Homburg Harris/Centron can apply for another re-instatement after June 10, however the re-instatement fee is in excess of \$230,000 and we presume is not an option for the owner at this time;
- We fully expect a DP application to come in early next week at the latest. If no DP comes in, we would have to reconsider the options as appropriate;
 1. Construction can commence under the existing BP in advance of approval of the new DP;
 2. Should construction activity commence on site by June 10 the BP would once again be considered as active;
 3. Richard confirmed today that the intention is to commence with construction on the crane base before June 10;
 4. This would be considered active construction and we advised Richard to ensure they call in for an inspection prior to June 10 so that we can ensure a field inspection was conducted confirming the activity and that all proper processes were followed;
 5. As per the BP Bylaw, BP's do expire after 120 consecutive days of inactivity. This would be measured by 120 days from the last day of construction for the installation of the crane base which would take us to sometime in October before we are in this same predicament;
 6. Although a revised plan BP application will be required down the line, plans are not required at this time to commence construction of the crane base;
 7. This work is permitted to occur under the existing BP, and it is fully understood that all construction activity is being taken at the risk of the developer; and
 8. An indemnity agreement and release would need to be signed off by the owner before any

activity starts – I will send this out once the new DP application gets into the system and is assigned a DP number. I believe the agreement has to be signed off by a principal of the ownership group – someone with authority to bind the company (Cole Harris perhaps?).

Thanks again Richard. I trust the above is your recollection as well. If we could also get an email notification from NORR architects once DP application has been made, that would be much appreciated. I will endeavour to get the agreement up to Law for review the same day I get notification from NORR.

Sincerely,

Cliff de Jong
Senior Special Projects Officer
Building Regulations
Development & Building Approvals
The City of Calgary Mail Code: #8114
Ph:(403)268-5232
4th Floor, Administration Building, 800 Macleod Tr SE

NOTICE -

This communication is intended ONLY for the use of the person or entity named above and may contain information that is confidential or legally privileged. If you are not the intended recipient named above or a person responsible for delivering messages or communications to the intended recipient, YOU ARE HEREBY NOTIFIED that any use, distribution, or copying of this communication or any of the information contained in it is strictly prohibited. If you have received this communication in error please notify us immediately by telephone and then destroy or delete this communication or return it to us by mail if requested by us. The City of Calgary thanks you for your attention and co-operation.



RHeine

From: CBH
Sent: Saturday, May 08, 2010 9:54 AM
To: Kevin Griffiths (kevin.griffiths@calgary.ca); David.Watson@calgary.ca;
Denise.Jackal@calgary.ca
Cc: Frank Matheson (fmatheson@homburg.com); Bob Harris; Allison Clark; Bruce McKenzie;
Wayne Benz; RHeine
Subject: FW: Kai Tower

Dear David, Kevin, and Denise,

We have been making some good progress since our last meeting. We have met with the CPEG group last week. In our opinion the meeting went very well. Based on the positive meeting we are taking the liberty of proceeding with the new Structural and M&E drawings based on the new design. We need to start construction prior to June 10th to keep the building permit valid. Kevin, we have not seen a confirmation on whether we are able to extend the permit past June 10th as discussed at the meeting, our opinion is that a few months ago we paid an additional 250,000 to re-instate the permit at the request of the City, assuming the extensions would be available. However, I think we all like the pressure to start June 10th to get this project in a safe condition.

The DP will be applied for in the next few weeks.

I believe the next step is to insure the City will permit us to start construction of the new foundation drawings prior to June 10th. We will be on the fast track of drawing submittals internally and to the City to get construction going and keep it going. The other things we are juggling are locking down financing without a new dp (and parking use) or bp, we have been told this is a requirement prior to any funding. Is there assurances from the City available that will help us give comfort to the lenders while the dp/bp process is underway?

It has been suggested that the City may be able to help with offsetting any future fees against the unused density bonus previously paid, as well we discussed the possible transfer of the unused bonus on other properties. Your thoughts on this would be most helpful.

Best regards,

Cole



Cole B. Harris, President
Centron Group of Companies
175, 4639 Manhattan Road S.E.
Calgary, AB T2G 4B3
Ph: 403-252-1120
Direct: 403-287-9920
Fax: 403-255-8525
email: coleharris@centrongroup.com
www.centrongroup.com

Kai Towers
 Calgary, Alberta
 Construction Costs - Parkade
 DATE: Apr. 30, 2010

			Apr. 30, 2010 Budget Total		Cost/sf
	Material	Labour			
100 General Expense	\$1,931,120.00	\$0.00	1,931,120.00		7.28
157 De-Watering	120,000.00	0.00	120,000.00		0.45
200 Excavation/Backfill	50,000.00	0.00	50,000.00		0.19
201 Mech / Elec. Excavation	25,000.00	0.00	25,000.00		0.09
235 Piling	0.00	0.00	0.00		0.00
236 Shoring	90,000.00	0.00	90,000.00		0.34
237 Weeping Tile	55,000.00	0.00	55,000.00		0.21
301 Conc.,Formwork, Reinf. Steel	9,351,411.00	0.00	9,351,411.00		35.24
401 Stone / Masonry	0.00	0.00	0.00		0.00
512 Struct. Steel/Misc. Metal	0.00	0.00	0.00		0.00
535 Metal Deck	0.00	0.00	0.00		0.00
536 Bike Racks	0.00	0.00	0.00		0.00
600 Rough Carpentry	25,000.00	25,000.00	50,000.00		0.19
622 Millwork	0.00	0.00	0.00		0.00
710 Waterproofing - Walls/Slab	401,136.00	0.00	401,136.00		1.51
712 Traffic Surface	0.00	0.00	0.00		0.00
720 Rigid Insulation - Walls	0.00	0.00	0.00		0.00
721 Weeping Tile	0.00	0.00	0.00		0.00
722 Delta MS Membrane	0.00	0.00	0.00		0.00
725 Fireproofing / Caulking	0.00	0.00	0.00		0.00
792 Caulking/Sealants	0.00	0.00	0.00		0.00
810 H.M. Doors/Frames	0.00	0.00	0.00		0.00
837 Overhead Doors	0.00	0.00	0.00		0.00
841 Finish Hardware	0.00	0.00	0.00		0.00
881 Aluminum Storefront/Entrance	0.00	0.00	0.00		0.00
925 Drywall	0.00	0.00	0.00		0.00
967 VCT Flooring	0.00	0.00	0.00		0.00
990 Painting	0.00	0.00	0.00		0.00
1088 Storage Lockers	0.00	0.00	0.00		0.00
1300 Parking Equipment	0.00	0.00	0.00		0.00
1400 Elevator	0.00	0.00	0.00		0.00
1500 Mechanical	100,000.00	0.00	100,000.00		0.38
1600 Electrical	50,000.00	0.00	50,000.00		0.19
Subtotal	12,198,667.00	25,000.00	12,223,667.00		46.06
Fee @ 5%			611,183.00		
TOTAL			12,834,850.00		

✓

Kal Towers
 Calgary, AB
 General Conditions - 01
 DATE: 30-Apr-10

General
 Conditions Total 1,931,120.00

Code	Task Description	Amount	Duration	Unit	Sub Total	Total
01010	Superintendent					\$448,740.00
01010-01	Senior Superintendent	19,766.00	10	Month	\$197,660.00	
	Asst Superintendent	14,423.00	10	Month	\$144,230.00	
	Foreman	10,685.00	10	Month	\$106,850.00	
01040	Project Management					\$243,060.00
01-01040	VP Construction	19,766.00	5	Month	\$98,830.00	
01-01041	Project Manager	14,423.00	10	Month	\$144,230.00	
	Co-ordinator	10,685.00	10	Month	\$106,850.00	
	Accounting					\$103,805.00
	Accountant	8,685.00	5	Month	\$43,425.00	
	Clerk	6,038.00	10	Month	\$60,380.00	
01050	Building Permit					\$0.00
01050-01	Building permit	0.00	1	Each	\$0.00	
01070	Layout Site	20,000.00	1	Each	\$20,000.00	\$20,000.00
01080	Legal Survey (Real Property Report)	12,500.00	1	Each	\$12,500.00	\$12,500.00
01090	Temp. Buildings					\$20,000.00
01090-01	Trailer Rental	2,000.00	10	Month	\$20,000.00	
	Furniture					\$20,400.00
	Desks - 12 ea.	400.00	12	Each	\$4,800.00	
	Phones	250.00	12	Each	\$3,000.00	
	Computers	800.00	12	Each	\$9,600.00	
	Supplies	300.00	10	Months	\$3,000.00	
01100	Temp. Power	110,000.00	1	Each	\$55,000.00	\$55,000.00
01110	Fencing around site					\$11,000.00
01110-01	Fence Rental	1,100.00	10	Month	\$11,000.00	
01120	Temp. Convenience	1,000.00	10	Month	\$10,000.00	\$10,000.00
01130	Job Office Supplies	8,000.00	1	Each	\$8,000.00	\$8,000.00
01140	Small Tools	2,500.00	10	Month	\$25,000.00	\$25,000.00
01150	Equipment Rentals	75,000.00	1	Each	\$75,000.00	\$75,000.00
01160	Clean-up & Bin	4,500.00	10	Month	\$45,000.00	\$45,000.00
01170	Testing & Inspections					\$50,000.00
01170-01	Concrete / Density Testing	50,000.00	1	Each	\$50,000.00	
01180	Job Sign	1,000.00	1	Each	\$1,000.00	\$1,000.00

J

01190		Gas, Oil, Fuel					\$14,000.00
	01190-01	Diesel Fuel	150.00	10	Month	\$1,500.00	
	01190-02	Gas - Superintendent Truck	850.00	10	Month	\$8,500.00	
	01190-02	Gas - Project Manager's Truck	400.00	10	Month	\$4,000.00	
01210		Telephone					\$25,500.00
	01210-01	Site Trailer Phone	275.00	10	Month	\$2,750.00	
	01210-02	Site Trailer Fax Line	275.00	10	Month	\$2,750.00	
	01210-03	Superintendent Cell Phone	500.00	10	Month	\$5,000.00	
	01210-04	Foreman / Laborers Cell/Mike Phones	250.00	10	Month	\$2,500.00	
	01210-05	Project Manager Cell Phone	500.00	10	Month	\$5,000.00	
	01210-06	Project Coordinator Cell Phone	350.00	10	Month	\$3,500.00	
	01210-07	Superintendent Air Card	200.00	10	Month	\$2,000.00	
	01210-08	Project Manager Air Card	200.00	10	Month	\$2,000.00	
01220		Photographs	2,500.00	1	Each	\$2,500.00	\$2,500.00
01230		Promotions/Meals	500.00	10	Each	\$5,000.00	\$5,000.00
01250		Insurance					\$0.00
	01250-01	Builders risk (.63 per sq ft)	0.00	10	Month	\$0.00	
	01250-02	Wrap up Liability		1	Each	\$0.00	
01260		Plans / copies	10,000.00	1	Each	\$10,000.00	\$10,000.00
01270		Super. Vehicle					\$37,500.00
	01270-01	Superintendents Truck	1,000.00	10	Month	\$10,000.00	
	01270-02	Project Manager Truck	1,000.00	10	Month	\$10,000.00	
		Asst Superintendents Truck	1,000.00	10	Month	\$10,000.00	
		Asst Project Manager Truck	750.00	10	Month	\$7,500.00	
01280		Utility Costs (temporary power)	12,500.00	10	Mo	\$125,000.00	\$125,000.00
01290		Temporary Heat	75,000.00	1	Each	\$75,000.00	\$75,000.00
01291		Snow Removal	5,000.00	1	Month	\$5,000.00	\$5,000.00
01300		Temporary Hoarding	35,000.00	1	Each	\$35,000.00	\$35,000.00
01320		Mobile Crane	10,000.00	1	Each	\$10,000.00	\$10,000.00
01370		Final Clean					\$10,000.00
	01370-02	Final Clean	10,000.00	1	Each	\$10,000.00	
01380		Temp Water	5,000.00	1	Each	\$5,000.00	\$5,000.00
01400		Safety Supplies	18,000.00	1	Each	\$18,000.00	\$18,000.00
01401		Safety Labor					\$173,940.00
	01401-01	Site Safety Officer	11,596.00	10	Month	\$115,960.00	
	01401-02	Safety Manager	5,798.00	10	Month	\$57,980.00	
	01401-03	Corporate Safety	9,000.00	10	Month	\$90,000.00	
01430		Security					\$65,000.00
		Security Company	6,500.00	10	Month	\$65,000.00	
01450		Messengers/Courier	7,500.00	1	Each	\$7,500.00	\$7,500.00
01750		General Labour					\$48,675.00
	01750-01	Carpenter	6,235.00	5	Month	\$31,175.00	
	01750-02	Laborers	3,500.00	5	Month	\$17,500.00	
01910		Street Closures	10,000.00	10	Mos	100,000.00	100,000.00
01990		Deficiencies	10,000.00	1	Lump	10,000.00	10,000.00

1,931,120.00

Kai Towers
Calgary, Alberta
Construction Costs - Parkade to be Operational (From Structure Complete)
DATE: Apr. 30, 2010

			Apr. 30, 2010	
	Material	Labour	Budget Total	Cost/sf
100 General Expense	\$228,619.00	\$0.00	228,619.00	0.86
157 De-Watering	0.00	0.00	0.00	0.00
200 Excavation/Backfill	0.00	0.00	0.00	0.00
201 Mech / Elec. Excavation	0.00	0.00	0.00	0.00
235 Piling	0.00	0.00	0.00	0.00
236 Shoring	0.00	0.00	0.00	0.00
237 Weeping Tile	0.00	0.00	0.00	0.00
301 Conc.,Formwork, Reinf. Steel	0.00	0.00	0.00	0.00
401 Stone / Masonry	525,000.00	0.00	525,000.00	1.98
512 Struct. Steel/Misc. Metal	25,000.00	0.00	25,000.00	0.09
535 Metal Deck	0.00	0.00	0.00	0.00
536 Bike Racks	0.00	0.00	0.00	0.00
600 Rough Carpentry	0.00	0.00	0.00	0.00
622 Millwork	0.00	0.00	0.00	0.00
710 Waterproofing - Walls/Slab	0.00	0.00	0.00	0.00
712 Traffic Surface	0.00	0.00	0.00	0.00
720 Rigid Insulation - Walls	0.00	0.00	0.00	0.00
721 Weeping Tile	0.00	0.00	0.00	0.00
712 Traffic Surface	590,120.00	0.00	590,120.00	2.22
725 Fireproofing / Caulking	120,000.00	0.00	120,000.00	0.45
792 Caulking/Sealants	32,000.00	0.00	32,000.00	0.12
810 H.M. Doors/Frames	45,000.00	0.00	45,000.00	0.17
837 Overhead Doors	17,500.00	0.00	17,500.00	0.07
841 Finish Hardware	40,000.00	0.00	40,000.00	0.15
990 Painting	191,820.00	0.00	191,820.00	0.72
1088 Storage Lockers	275,900.00	0.00	275,900.00	1.04
1300 Parking Equipment	17,500.00	0.00	17,500.00	0.07
1400 Elevator	0.00	0.00	0.00	0.00
1500 Mechanical	900,000.00	0.00	900,000.00	3.39
1600 Electrical	702,472.00	0.00	702,472.00	2.65
Subtotal	3,710,931.00	0.00	3,710,931.00	13.98
Fee @ 5%			185,547.00	
TOTAL			3,896,478.00	

8

CANADIAN STANDARD
CONSTRUCTION
MANAGEMENT CONTRACT FORM
BETWEEN
OWNER AND
CONSTRUCTION MANAGER

PROJECT:

Kai Tower – Parkade and Retail Podium

This agreement is protected by copyright and is intended by the parties to be an unaltered version of CCA 5 - 1988 except to the extent that any alterations, or modifications are set forth in supplementary conditions.



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Canadian Construction Association
75 Albert Street, Suite 400
Ottawa, Ontario
K1P 5E4

[Handwritten signature]

CONSTRUCTION MANAGEMENT CONTRACT

AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

This agreement made this..... 17th day of May
in the year2010.....

by and between

Homco Realty Fund (88) Limited Partnership
name

32 Akerley Blvd. , Dartmouth, Nova Scotia B3B 1N1
address

hereinafter called the "Owner"

and

Kai Construction Corporation
name

#175, 4639 Manhattan Road S.E., Calgary, Alberta T2G 4B3.....
address

hereinafter called the "Construction Manager"

witnesses: that the parties agree as follows

ARTICLE A-1 SERVICES AND RESPONSIBILITIES

- (a) The Construction Manager agrees to provide the services set forth in GC2-CONSTRUCTION MANAGER'S SERVICES.
- (b) The Owner shall be responsible for the development of the design of the Project and has retained NORR Architect Planners hereinafter called the "Consultants". The Consultant's services, duties and responsibilities shall be as described in the Agreement between the Owner and the Consultants.



ARTICLE A-2 THE CONSTRUCTION MANAGEMENT TEAM

- (a) The Construction Manager, along with the Owner and the Consultant, shall form the "Construction Management Team" which will work from the commencement of the Pre-Construction Phase through to completion of the Post-Construction Phase for a period of _____weeks/months (the "Contract Time") and shall strive to achieve Substantial Performance of the Project byto be confirmed

- (b) The Construction Manager shall provide leadership to the Construction Management Team on all matters relating to construction.

ARTICLE A-3 THE CONSTRUCTION MANAGER AS AGENT

- (a) The Construction Manager represents that he is knowledgeable and experienced in the management of the type of construction required for the Project. The Construction Manager acknowledges that he is being retained by the Owner because of his knowledge and expertise in that regard.

- (b) The Owner appoints the Construction Manager his agent to act in his name in accordance with the terms of this Agreement and for the purpose of the management of the construction of the Project described in ARTICLE A-4 SCOPE OF THE PROJECT.

ARTICLE A-4 SCOPE OF THE PROJECT

This Contract provides for services in connection with the following described Project:

Kai Tower – Parkade and Retail Podium

- See CONTRACT DOCUMENTS SHEET – Appendix 'B'

ARTICLE A-5 CONTRACT FEE

- (a) The Owner agrees to pay the Construction Manager as compensation for his services a Contract Fee of five percent (5%) of all costs invoiced. Fee to be invoiced on a straight line basis

Payment of the Contract Fee shall be made in accordance with the provisions of ARTICLE A-8 PAYMENT and GC 10-APPLICATIONS FOR PAYMENT.

- (b) The Contract Fee shall be subject to adjustment as may be required in accordance with the provisions of the Contract Documents.



ARTICLE A-6 REIMBURSIBLE EXPENSES

In addition to the Contract Fee stipulated in ARTICLE A-5 CONTRACT FEE of the Agreement, the Owner agrees to pay the Construction Manager for the Reimbursable Expenses he incurs as defined by APPENDIX 'A' to this Agreement in accordance with ARTICLE A-8 PAYMENT and GC 10-APPLICATIONS FOR PAYMENT.

ARTICLE A-7 OWN FORCES WORK

The Construction Manager may, subject to the Owner's approval perform work with his own forces. Such work shall be performed in accordance with the terms of this Agreement. The Owner shall pay to the Construction Manager the cost of such work plus a fee beingN/A..... percent of that cost in addition to all other amounts payable pursuant to this Agreement. For the purposes of this provision, cost of the work shall include and be limited to those items set forth in APPENDIX 'A' – REIMBURSABLE EXPENSES to this Agreement.

ARTICLE A-8 PAYMENT

- (a) The Owner agrees to make monthly payments to the Construction Manager in Canadian funds on account of Reimbursable Expenses incurred to date, the applicable portion of the Contract Fee earned as described in ARTICLE A-5 CONTRACT FEE of this Agreement, any work performed directly by the Construction Manager pursuant to ARTICLE A-7 OWN FORCES WORK and for Additional Services in accordance with GC 2.5.
- (b) If the Owner fails to make payments to the Contractor as they become due under the terms of this Contract or in an award by arbitration or court, interest at.....Prime plus 1% percent (Prime + 1%) above the prime rate per annum as of the date payment became due on such unpaid amounts shall also become due and payable until payment. Such interest shall be calculated and added to any unpaid amounts monthly.

Prime rate, for the purposes of this Agreement, means the lowest rate of interest quoted by The Royal Bank of Canada from time to time in the City ofCalgary..... to the most creditworthy borrowers for prime business loans.

ARTICLE A-9 RIGHTS AND REMEDIES

- (a) The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a substitution for any duties, obligations, rights and remedies otherwise available by law.
- (b) No action or failure to act by the Owner or Construction Manager shall constitute a waiver of any right or duty afforded either 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.



ARTICLE A-10 RECEIPT OF AND ADDRESSES FOR NOTICES

Communications in writing between the parties shall be considered to have been received by the addressee on the date of delivery if delivered by hand to the individual or to a member of the firm or to an officer of the corporation for whom they are intended or if sent by post or by telegram, to have been delivered within five (5) days of the date of mailing, dispatch or delivery to the telegraph company when addressed as follows:

The Owner at 32 Akerley Blvd. , Dartmouth, Nova Scotia B3B 1N1.....
street and number and postal box number if applicable

.....
post office or district, province, postal code

The Construction Manager at ...#175, 4639 Manhattan Road S.E., Calgary, Alberta T2G 4B3
street and number and postal code

.....
post office or district, province, postal code

ARTICLE A-11 LAW OF THE CONTRACT

The law of the Place of the Project shall govern the interpretation of the Contract.

ARTICLE A-12 LANGUAGE OF THE CONTRACT

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* language shall prevail.

This Agreement is drawn in English at the request of all parties hereto.

ARTICLE A-13 PRIOR NEGOTIATIONS, REPRESENTATIONS OR AGREEMENTS

This Agreement supersedes all prior negotiations, representations or agreements, either written or oral.

ARTICLE A-14 SUCCESSION

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns.

ARTICLE A-15 DISCOUNTS, REBATES AND REFUNDS

All cash discounts shall accrue to the Construction Manager unless the Owner deposits funds with the Construction Manager with which to make payments, or makes such payments directly, in which case the cash discounts shall accrue to the Owner. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment applicable to the Project shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be secured.

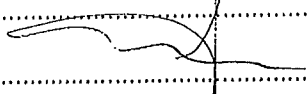
In witness whereof the parties hereto have executed this Agreement under their respective corporate seals and by the hands of their proper officers thereunto duly authorized.

SIGNED, SEALED AND DELIVERED

In the presence of

Owner

Homco Realty Fund (88) Limited Partnership
name

.....

.....
signature

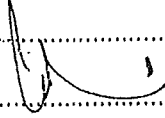
Frank Matheson, President
name and title

.....
signature
.....
name and title

.....
witness
.....
name and title

CONSTRUCTION MANAGER

Kai Construction Corporation
name

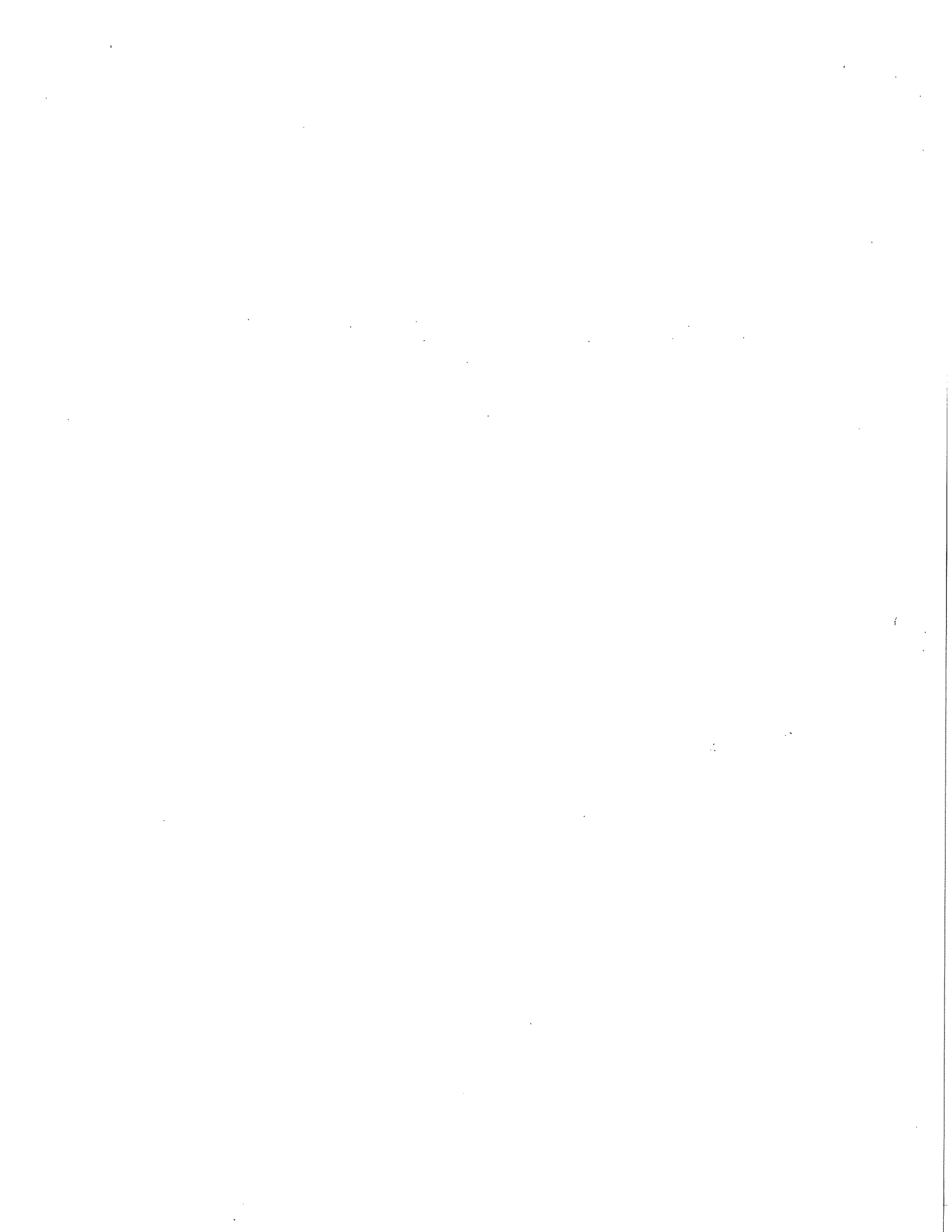
.....

.....
signature

Cole Harris, President
name and title

.....
signature
.....
name and title

.....
witness
.....
name and title

N.B. Where legal jurisdiction, local practice, or Owner or Construction Manager requirement calls for proof of authority to execute this document, proof of such authority in the form of a certified copy of a resolution naming the person or persons in question as authorized to sign the Agreement for and on behalf of the corporation or partnership, parties to this Agreement, should be attached.



APPENDIX 'A'

REIMBURSIBLE EXPENSES

The following items are the Reimbursible Expenses referred to in ARTICLE A-6 REIMBURSIBLE EXPENSES and the cost of the work for the purposes of ARTICLE A-7 OWN FORCES WORK of the Agreement and shall be at rates prevailing in the locality of the Place of the Project except with the prior consent of the Owner:

- (a) wages and benefits paid for labour in the direct employ of the Construction Manager in the performance of the Project under applicable collective bargaining agreements or under a salary or wage schedule agreed upon by the Owner and Construction Manager;
- (b) salaries, wages and benefits of the Construction Manager's personnel in whatever capacity employed; salaries, wages and benefits of personnel engaged at shops, or on the road, in expediting the production or transportation of materials or equipment, for that portion of their time spent on the Project; salaries, wages and benefits of head office or other personnel, as are indicated below, for that portion of their time spent on the Project;

As per Appendix 'B' attached.

- (c) contributions, assessments or taxes incurred during the performance of the Contract for such items as unemployment insurance, workers' compensation, Canada or Quebec Pension Plan and the Construction Manager's employee benefit plan, insofar as such costs are based on wages, salaries or other remuneration paid to employees of the Construction Manager and included under paragraphs (a) and (b) above;
- (d) the portion of travel and subsistence expenses of the Construction Manager or his officers or employees incurred while travelling in discharge of duties connected with the Project;
- (e) the cost of all materials, products, supplies and equipment incorporated into the Work, including costs of transportation and storage thereof;
- (f) the cost of materials, products, supplies, equipment, temporary services, utilities and facilities, and hand tools not owned by the workers including transportation and maintenance thereof, which are consumed in the performance of the Contract, and cost less salvage value on such items used, but not consumed, which remain the property of the Construction Manager;
- (g) rental costs of all tools, machinery and equipment used in the performance of the Contract, whether rented from the Construction Manager or others, including installation, minor repairs and replacements, dismantling, removal, transportation and delivery costs thereof;
- (h) deposits lost;
- (i) the amount of all subcontracts;
- (j) the costs to the Construction Manager that result from any Trade Contractor's insolvency or failure to perform;
- (k) the cost of quality assurance such as independent inspection and testing services;

- (l) charges levied by authorities having jurisdiction at the Place of the Project;
- (m) royalties, patent licence fees, and damages for infringement of patents and costs of defending suits therefore subject always to the Construction Manager's obligation to indemnify the Owner pursuant to paragraph 13.1 of GC 13-PATENT FEES;
- (n) premiums for all bonds and insurances which the Construction Manager is required, by the Contract Documents, to purchase and maintain;
- (o) taxes and duties related to the Project for which the Construction Manager is liable other than tax on income payable by the Construction Manager;
- (p) losses and expenses sustained by the Construction Manager for matters which are the subject of the insurance coverages obtained pursuant to GC 17-INSURANCE when such losses and expenses are not recoverable because the amounts are in excess of collectible amounts, within the deductible amounts or are not insurable;
- (q) charges for telegrams, telexes, site telephones, courier services, expressage, and petty cash items;
- (r) the cost of removal and disposal of waste products and debris;
- (s) costs incurred due to emergencies affecting the safety of persons or property;
- (t) legal costs, incurred by the Construction Manager, arising out of the performance of the Contract;
- (u) costs incurred by the Construction Manager, with the Owner's permission, in expediting the rejected work or the warranty work of Trade Contractors and costs incurred by the Construction Manager in correcting defects or deficiencies in the work undertaken by his own forces and repairing damages resulting therefrom either during the course of construction or the warranty period except those arising from a negligent or wilful act of the Construction Manager;
- (v) the cost of financing the Project in accordance with the method determined by the parties;
- (w) the cost of auditing when requested by the Owner;
- (x) the cost of computer time and usage in accordance with the method determined by the parties;
- (y) such other costs directly incurred by the Construction Manager in the performance of the Contract including the following:

It is the intention of the parties that the items referred to herein shall cover and include any and all costs and contingencies incurred by the Construction Manager in connection with the Project.

DEFINITIONS

The following Definitions shall apply to all Contract Documents.

1. The Contract

The Contract Documents form the 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.

2. Contract Documents

The Contract Documents consist of the executed Agreement between the Owner and the Construction Manager, the General Conditions of the Contract, Supplementary Conditions, Definitions, specifications, drawings and such other documents as are listed in ARTICLE A-4 - SCOPE OF THE PROJECT including amendments thereto incorporated before the execution of the Contract and subsequent amendments thereto made pursuant to the provisions of the Contract and agreed upon between the parties.

3. Owner

The Owner is the person, firm or corporation identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Owner means the Owner or his authorized agent or representative as designated to the Construction Manager in writing.

4. Consultant

The Consultant is the person, firm or corporation identified as such in the Agreement, and is an architect or engineer licensed to practice in the province or territory of the Place of the Project, and is referred to throughout the Contract Documents as if singular in number and masculine in gender.

5. Construction Manager

The Construction Manager is the person, firm or corporation identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Construction Manager means the Construction Manager or his authorized representative as designated to the Owner in writing.

6. Trade Contractor

A Trade Contractor is a person, firm or corporation having a direct contract with the Owner to perform the Work. The term Trade Contractor is referred to throughout the Contract Documents as if singular in number and masculine in gender.

7. The Project

The Project means the total construction and related services to be managed under this Contract of which the Work is a part.

8. The Work

The Work means that portion of the Project performed by a Trade Contractor or by the Construction Manager directly using own forces.

9. Place of the Project

The Place of the Project is the designated site or location of the Project.

10. Time

The Contract Time is the time stipulated in paragraph (a) of ARTICLE A-2.

Day means calendar day.

Working day means days other than Saturdays, Sundays and holidays which are observed by the construction industry in the area of the Place of the Project.

11. Substantial Performance of the Project

Substantial Performance of the Project is the date when the total construction contemplated by the Project is sufficiently complete in accordance with the Contract Documents.

12. Total Performance of the Project

Total Performance of the Project is the date when the total construction and related services contemplated by the Project have been performed to the requirements of the Contract Documents.

13. Changes in the Project

Changes in the Project means additions, deletions, or other revisions to the Project within the general scope of the Contract.

THE GENERAL CONDITIONS OF THE CONSTRUCTION MANAGEMENT CONTRACT

(Hereinafter referred to as the General Conditions)

GC 1 DOCUMENTS

- 1.1 The Contract Documents shall be signed in duplicate by the Owner and the Construction Manager.
- 1.2 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all.

GC 2 CONSTRUCTION MANAGER'S SERVICES

- 2.1 The Construction Manager will perform the following services in each of the three phases described below but in doing so, he assumes no responsibility nor offers any expertise with respect to the design of the Project including any and all architectural or engineering aspects which shall be the responsibility of the Consultant and Owner.

2.2 PRE-CONSTRUCTION PHASE

2.2.1 *Consultation During Project Development:*

Attend regular meetings with the Construction Management Team during the development of conceptual and preliminary design and preparation of working drawings to advise on site use and improvements, selection of materials, building systems and equipment. Provide recommendations on construction feasibility, availability of materials and labour, time requirements for installation and construction, and factors related to cost including costs of alternative designs or materials, preliminary budgets, and possible economies.

2.2.1.1 Acquaint the Owner and other members of the Construction Management Team with the labour conditions applicable for the duration of the Project.

2.2.1.2 Assist in providing liaison and co-ordination among government authorities, utility companies, and other authorities having jurisdiction over the Place of the Project.

2.2.2 *Planning and Scheduling:*

Prepare, for the Owner's review, a preliminary master time schedule, following consultation with the Construction Management Team, incorporating the sequence and timing of the required basic program decisions, including design time, documentation, bid calls, bid evaluations, trade contract awards and on-site construction activities.

2.2.2.1 Monitor and, if required, revise and update the preliminary schedule as the design proceeds.

2.2.2.2 Finalize the master time schedule for the Owner's approval, and, if necessary, estimate the manpower requirements. Break down this schedule into individual networks for each phase of the Project where necessary showing the sequence and timing for the main construction operations and the milestone completion operations and the milestone completion dates for the various phases.

2.2.2.3 Recommend any equipment or materials which should be pre-ordered to meet the master time schedule

- 2.2.3 *Project Construction Budget:*
Prepare a Project budget as soon as major Project requirements have been identified, and update periodically for the Owner's approval.
- 2.2.3.1 Prepare an estimate based on a quantity survey of drawings and specifications at the end of the schematic design phase for approval by the Construction Management Team as the "Project Construction Budget".
- 2.2.3.2 Update and refine this estimate for the Owner's approval as the development of the drawings and specifications proceeds, and advise the Construction Management Team if it appears that the Project Construction Budget will not be met and make recommendations for corrective action.
- 2.2.3.3 Evaluate possible alternatives as the design proceeds, in order to permit the selection of the most economical materials and methods that will satisfy the design concept, and the schedule.
- 2.2.3.4 Establish a cost control program and prepare a projected cash flow for the Project.
- 2.2.4 *Coordination of Trade Contract Documents:*
Review the drawings and specifications as they are being prepared, recommending alternative solutions whenever design details affect construction feasibility or schedules.
- 2.2.4.1 Make recommendations to the Owner and the Consultant regarding the division of Work in the drawings and specifications to help facilitate the bidding and awarding of trade contracts, allowing for phased construction, taking into consideration such factors as time of performance, availability of labour, overlapping trade jurisdictions, and provisions for temporary facilities.
- 2.2.5 *Construction Planning:*
Plan and arrange for supply of temporary services and site facilities including but not limited to office accommodation and supplies, site hoardings, access, storage areas, temporary power and lighting, temporary enclosures, heating, drainage and water facilities, job offices, job security, materials and personnel hoisting facilities and equipment, safety measures, access stairs and ladders, protection of finishes and continuous cleanup.
- 2.2.5.1 Review with the Consultant the drawings and specifications to eliminate areas of conflict and overlapping in the Work to be performed by the various Trade Contractors.
- 2.2.5.2 Review with the Construction Management Team the construction insurance needs for the Project.
- 2.2.5.3 Make recommendations to the Construction Management Team with respect to the bonding of Trade Contractors.
- 2.2.5.4 Assemble all bid documents for the solicitation of competitive bids for Work to be performed by Trade Contractors. Arrange for the advertising of such bid calls and prepare the necessary prequalification criteria.
- 2.2.5.5 Analyze the bids received and recommend awards to the Owner. Once awards are approved by the Owner, prepare the trade contracts for execution.
- 2.2.5.6 Assemble the trade contract documents for all successful Trade Contractors. Check where required that all bonds, insurance policies, and workers' compensation certificates are provided.

- 2.2.5.7 Assist the Construction Management Team in obtaining all approvals, permits, and licenses required for the Project.
- 2.2.5.8 Assist the Owner to arrange for legal surveys of the Project. The Construction Manager shall be responsible for the maintenance of base lines and levels but Trade Contractors shall be responsible for detailed setting out of their work.

2.3 CONSTRUCTION PHASE


2.3.1 *Project Control:*

Monitor the Work of the Trade Contractors and coordinate the Work with the activities and responsibilities of the Owner, Consultant and Construction Manager.

- 2.3.1.1 Maintain a competent full-time staff at the Place of the Project to coordinate and provide general direction of the Project and progress of the Trade Contractors on the Project.
- 2.3.1.2 Establish on-site organization and lines of authority in order to carry out the overall plans of the Construction Management Team.
- 2.3.1.3 Establish procedures for coordination among the Owner, Consultant, Trade Contractors and Construction Manager with respect to all aspects of the Project and implement such procedures.
- 2.3.1.4 Schedule and conduct progress meetings at which Trade Contractors, Owner, Consultant and Construction Manager can discuss jointly such matters as procedures, progress, problems and scheduling.
- 2.3.1.5 Provide regular monitoring of the schedule as construction progresses. Identify potential variances between scheduled and probable completion dates. Review schedule for work not started or incomplete and recommend to the Owner and Trade Contractors adjustments in the schedule to meet the probable completion date. Provide summary reports of each monitoring and document all changes in schedule. Revise the schedule as required by GC 5-DELAYS and GC 9-CHANGES IN THE PROJECT.
- 2.3.1.6 Review the adequacy of the Trade Contractors' personnel and equipment and the availability of materials and supplies to meet the schedule. Recommend courses of action to the Owner when requirements of a trade contract are not being met.

2.3.2 *Physical Construction:*

Provide all of the construction facilities and services common to the requirements of all Trade Contractors, both temporary and permanent, as are planned and called for in Item 2.2.5 above. Ensure that all bidders are informed of the facilities and services being provided.

- 2.3.2.1 Advise the Owner of work which should best be done by the Construction Manager. Where the Owner approves of work to be done by the Construction Manager, such work shall be performed in accordance with the Contract Documents and, unless otherwise agreed, paid for by the Owner pursuant to ARTICLE A-7 OWN FORCES WORK.
- 2.3.2.2 Provide advice and assistance on labour problems in order to minimize work stoppages and in the settlement of jurisdictional or other labour disputes. 

- 2.3.3 *Cost Control and Accounting:*
Develop, implement and maintain an effective system of Project cost control. Revise and refine the initially approved Project Construction Budget, incorporate approved changes as they occur, and develop cash flow reports and forecasts as needed. Identify variances between actual and budgeted or estimated costs and advise Owner and Consultant whenever projected cost exceeds budgets or estimates.
- 2.3.3.1 Maintain accounting records and afford the Owner access to these records.
- 2.3.3.2 Provide for and administer the necessary procedures to permit recovery of all tax rebates where applicable.
- 2.3.3.3 If requested, assist the Construction Management Team in implementing changes necessary to bring the projected costs within budgets or estimates.
- 2.3.4 *Changes in the Work:*
Develop and implement a system for the preparation, review and processing of Changes in the Work. Recommend necessary or desirable Changes in the Work to the Construction Management Team, review requests for Changes in the Work, submit recommendations to the Construction Management Team and assist in their negotiation.
- 2.3.5 *Payments to Trade Contractors:*
Develop and implement a procedure for the review, certification, processing and payment of applications by Trade Contractors for progress and final payments.
- 2.3.5.1 Expedite the processing of Trade Contractors' invoices.
- 2.3.6 *Other Consultants:*
Assist the Owner in selecting and retaining the professional services of a surveyor, testing laboratories, geotechnical and other specialists and coordinate these services, without assuming any responsibility or liability of or for these consultants or their work.
- 2.3.7 *Inspection:*
Periodically inspect the Work of Trade Contractors for defects and deficiencies in the Work without assuming any of the Consultant's responsibilities for inspection. Inspection by the Construction Manager shall not relieve the Trade Contractor from their responsibility for nor make the Construction Manager responsible for construction means, methods, techniques, sequences and procedures, nor for their responsibility to carry out the Work in accordance with their contracts.
- 2.3.7.1 Review the safety programs of each of the Trade Contractors and make appropriate recommendations. In making such recommendations and carrying out such reviews, the Construction Manager shall not be required to make exhaustive or continuous inspections to check safety precautions and programs in connection with the Project. The performance of such services by the Construction Manager shall not relieve the Trade Contractors of their responsibilities for the safety of persons and property, and for compliance with the federal, provincial and local statutes, rules, regulations and orders applicable to the conduct of the Work.
- 2.3.8 *Document Interpretation:*
Refer all questions for interpretation of the documents prepared by the Consultant to the Consultant.
- 2.3.9 *Shop Drawings and Samples:*
With the Consultant, establish and implement procedures for expediting the receipt, processing and review of shop drawings and samples.

2.3.10 *Reports and Project Site Documents:*

Submit written progress reports to the Owner and the Consultant including budget and scheduling information. Keep a daily log available to the Owner and the Consultants.

2.3.10.1 Maintain at the Place of the Project, on a current basis, records of all necessary contracts, drawings, samples, purchases, materials, equipment, maintenance and operating manuals and instructions, and other construction related documents, including all revisions. Obtain data from Trade Contractors and maintain a current set of Project record documents and operating manuals. At the completion of the Project, deliver all such records to the Owner.

2.3.11 *Substantial Performance of the Work:*

Subject to applicable legislation arrange with the Consultant for the issuance of the necessary certificates respecting substantial performance of the Work or designated portions thereof and prepare with the Consultant a list of incomplete or unsatisfactory items and a schedule for their completion.

2.3.11.1 Distribute substantial performance and total performance certificates.

2.3.12 *Start-Up:*

With the Owner's maintenance personnel and the Consultant, direct the check-out of utilities, operations systems and equipment for readiness and assist in their initial start-up and testing by the Trade Contractors.

2.3.13 *Total Performance of the Work:*

Arrange with the Consultant for the certification of total performance and provide written notice to the Owner and Consultant that the Work is ready for final inspection. Seek and transmit to the Consultant as received warranties, affidavits, releases, bonds, waivers, manuals and record drawings. Turn over to the Owner all keys and maintenance stocks.

2.4 **POST-CONSTRUCTION PHASE**

2.4.1 *Operations:*

Maintain a close relationship with the Owner's operating staff to ensure a smooth and proper takeover of the Project.

2.4.2 *Warranties:*

Assist the Owner in administering warranties of the Trade Contractors.

2.5 **ADDITIONAL SERVICES**

At the request of the Owner, the Construction Manager will provide the following additional services upon written agreement between the Owner and Construction Manager defining the extent of such additional services and the amount and manner in which the Construction Manager will be compensated for additional services.

2.5.1 Services related to investigation, appraisals or valuations of existing conditions, facilities or equipment, or verifying the accuracy of existing drawings or other Owner-furnished information.

2.5.2 Services related to Owner-furnished equipment, furniture and furnishings which are not a part of this Contract.

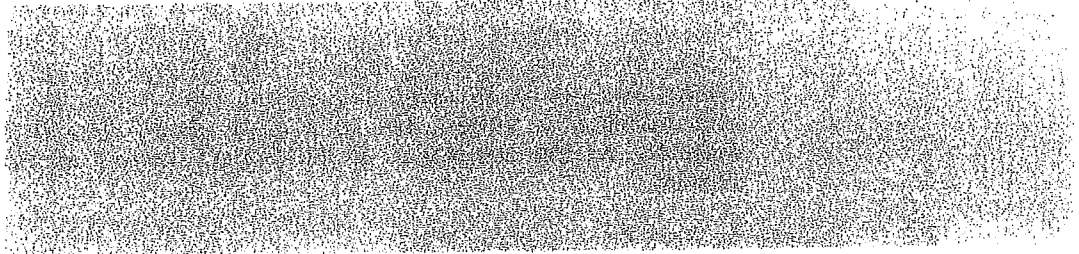
2.5.3 Services for tenant or rental spaces not a part of this Contract.



2.5.4 Obtaining or training maintenance personnel or negotiating maintenance service contracts.

2.5.5 Services related to the resolution of claims, adjudication of disputes or litigation.

2.5.6 Other:



GC 3 TRADE CONTRACTORS

3.1 The Construction Manager will, in accordance with the direction of the Owner, arrange for contracts to be entered into between the various Trade Contractors and the Owner.

3.2 The terms and conditions of all trade contracts, including any amendments thereto, shall be subject to the approval of the Construction Manager.

GC 4 OWNER'S RESPONSIBILITY

4.1 The Owner shall provide full and timely information regarding his requirements for the Project.

4.2 The Owner shall designate in writing a representative who shall be fully acquainted with the Project and shall have the authority to act on the Owner's behalf in relation to all duties and responsibilities of the Owner under this Contract including the authority to issue and approve the Project Construction Budget and Changes in the Project and who shall furnish information expeditiously and tender decisions promptly. The Construction Manager shall in all respects be entitled to rely upon such designated representative as having full and complete authority in all matters.


4.3 The Owner shall retain a Consultant who shall be responsible for the design and design-related services required for the Project. The duties, responsibilities and services to be provided by the Consultant shall be described in the agreement between the Owner and the Consultant, a copy of which shall be furnished to the Construction Manager. The agreement between the Owner and the Consultant shall not be modified without written notification to the Construction Manager.

4.4 The Owner shall furnish promptly to the Construction Manager all necessary information regarding the Place of the Project including surveys as to the physical characteristics of the site, soils reports and subsurface investigations, legal limitations, utility locations and legal description. The Construction Manager shall have no responsibility or liability with respect to these matters including their suitability or non-suitability to the Project and shall be entitled to rely entirely upon the completeness and accuracy thereof.

4.5 The Owner shall arrange to secure and pay for all necessary approvals, permits, easements, assessments and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

4.6 The Owner shall furnish such legal and auditing services as are required for the performance of the Contract.

4.7 The Owner shall provide, maintain and pay for the insurance coverages outlined in GC 17-INSURANCE.

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- 4.8 The Owner shall promptly notify the Construction Manager in writing of any defective, faulty or nonconforming work of which he becomes aware.
- 4.9 The Owner shall provide for the payment of all Trade Contractors in accordance with the terms and conditions of his agreements with such Trade Contractors and in conformity with the payment certificates issued by the Consultant.
- 4.10 The Owner and the Consultant shall communicate with the Trade Contractors solely through the Construction Manager.
- 4.11 The Owner shall ensure that adequate financing is available in order to ensure the completion of the Project

GC 5 DELAYS

- 5.1 If the Construction Manager is delayed at any time in the progress of the Project by any act or omission of the Owner or the Consultant or anyone engaged by them directly or indirectly, then the Contract Time shall be extended by a reasonable period of time and the Contract Fee shall be adjusted by a reasonable amount.
- 5.2 If the Construction Manager is delayed at any time in the progress of the Project 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 Construction Manager or anyone employed or engaged by him directly or indirectly, then the Contract Time shall be extended by a reasonable period of time and the Contract Fee shall be adjusted by a reasonable amount.
- 5.3 If the Construction Manager is delayed in the progress of the Project by labour disputes, strikes, lock-outs, fire, unusual delay in transportation, adverse weather conditions not reasonably foreseeable, unavoidable casualties or, without limit to the foregoing, any cause beyond the Construction Manager's control, then the Contract Time shall be extended by a reasonable period of time and the Contract Fee shall be adjusted accordingly.
- 5.4 No extension of the Contract Time nor adjustment to the Contract Fee shall be made for delay unless written notice of claim is given to the Owner within thirty (30) days after the occurrence of the event giving rise to the delay.
- 5.5 Where the Owner and Construction Manager are unable to agree upon the appropriate adjustment to be made to the Contract Time or Contract Fee, such adjustment shall be determined in accordance with GC 11-DISPUTES.

GC 6 OWNER'S RIGHT TO PERFORM CONTRACT OR TO TERMINATE CONTRACT

- 6.1 If the Construction Manager should be adjudged bankrupt, or makes a general assignment for the benefit of creditors because of his insolvency, or if a receiver is appointed because of his insolvency, the Owner may, without prejudice to any other right or remedy he may have, by giving the Construction Manager or receiver or trustee in bankruptcy written notice, terminate the Contract.
- 6.2 If the Construction Manager should neglect to provide the services required by the Contract to a substantial degree, the Owner may notify the Construction Manager in writing that he is in default of his contractual obligations and instruct him to correct the default within seven (7) working days immediately following the receipt of such notice.

- 6.3 If the correction of the default cannot be completed in the seven (7) working days specified, the Construction Manager shall be in compliance with the Owner's instructions if he:
- commences the correction of the default within the specified time and,
 - provides the Owner with an acceptable schedule for such correction, and
 - completes the correction in accordance with such schedule.
- 6.4 If the Construction Manager fails to correct the default in the time specified or subsequently agreed upon, the Owner, without prejudice to any other right or remedy he may have, may:
- correct such default and deduct the cost thereof from any payment of fee then or thereafter due the Construction Manager, or
 - terminate the Construction Manager's right to perform the Contract in whole or in part or terminate the Contract.
- 6.5 If the Owner terminates the Construction Manager's right to perform the Contract, he shall:
- be entitled to take possession of the premises and all materials, equipment, tools, construction equipment and machinery owned by the Construction Manager and finish the Project by whatever method he may consider expedient, and
 - pay to the Construction Manager those further amounts to which he is entitled in accordance with ARTICLE A-6 REIMBURSIBLE EXPENSES and ARTICLE A-7 OWN FORCES WORK plus the proportionate amount of the Contract Fee earned to the date of termination, and
 - pay to the Construction Manager fair compensation, either by purchase or rental, at the option of the Owner, for any construction tools or machinery and equipment retained for use on the Project, and
 - assume and become liable for all obligations, commitments and unliquidated claims that the Construction Manager may have therefore, in good faith, undertaken or incurred in connection with the said Project.

The Construction Manager shall, as a condition of receiving the payments described, execute and deliver all such papers and take such action, including the legal assignment of his contractual rights, as the Owner may require for the purpose of fully vesting in himself the rights and benefits of the Construction Manager under the obligations or commitments to be assumed by the Owner.

- 6.6 After the completion of the Pre-Construction Phase, if the final cost estimates make the Project no longer feasible from the standpoint of the Owner, the Owner may terminate the Contract and shall pay the Construction Manager his fee in accordance with ARTICLE A-5 CONTRACT FEE plus any Reimbursible Expenses incurred pursuant to ARTICLE A-6 REIMBURSIBLE EXPENSES or ARTICLE A-7 OWN FORCES WORK.

GC 7 SUSPENSION ABANDONMENT OR TERMINATION BY OWNER WITHOUT CAUSE

- 7.1 Should the Project be suspended, abandoned or terminated at any time prior to its completion by the Owner, the Construction Manager shall be entitled to be paid in addition to the fee computed in accordance with ARTICLE A-5 CONTRACT FEE and those further amounts recoverable under ARTICLE A-6 REIMBURSIBLE EXPENSES and ARTICLE A-7 OWN FORCES WORK, a sum in compensation for the loss of income experienced by the Construction Manager as a result of the premature termination of this Agreement calculated as follows:
- per cent of the Contract Fee if the suspension, abandonment or termination occurs during the Pre-Construction Phase;
 - per cent of the Contract Fee if the suspension, abandonment or termination occurs during the Construction Phase;
 - per cent of the Contract Fee if the suspension, abandonment or termination occurs during the Post-Construction Phase.

- 7.2 Suspension shall be deemed to have occurred should work on the Project have been stopped at the Owner's request and should such stoppage or stoppages have continued individually or collectively for a period of sixty (60) days.

GC 8 CONSTRUCTION MANAGER'S RIGHT TO TERMINATE CONTRACT

- 8.1 If the Owner should be adjudged bankrupt or makes a general assignment for the benefit of creditors because of his insolvency or if a receiver is appointed because of his insolvency, the Construction Manager may, without prejudice to any other right or remedy he may have, by giving the Owner or receiver or trustee in bankruptcy written notice, terminate the Contract.
- 8.2 If the Project or a substantial part thereof should be stopped or otherwise delayed for a period of thirty (30) days or more under an order of a court or other public authority having jurisdiction and providing that such order was not issued as the result of an act or fault of the Construction Manager, the Construction Manager may, without prejudice to any other right or remedy he may have, by giving the Owner written notice, terminate the Contract.
- 8.3 Should the Owner suspend the Project for a period of sixty (60) days as contemplated by GC 7-SUSPENSION ABANDONMENT OR TERMINATION BY OWNER WITHOUT CAUSE, and the Owner has not instructed the Construction Manager to resume the Project within five (5) working days after the Construction Manager gives the Owner written notice of his intention to resume the Project, and providing such suspension was not due to the default of the Construction Manager, then the Construction Manager may, without prejudice to any other rights or remedies he may have, by giving the Owner written notice, terminate the Contract.
- 8.4 The Construction Manager may notify the Owner in writing that the Owner is in default of his contractual obligations if:
- (a) the Owner fails to pay the Construction Manager when due those amounts which are due and payable in accordance with the Contract or an award by arbitration or court, or
 - (b) the Owner violates the requirements of the Contract to a substantial degree.

The Construction Manager's written notice to the Owner shall advise that if the default is not corrected in the seven (7) working days immediately following the receipt of the written notice the Construction Manager may, without prejudice to any other right or remedy he may have, terminate the Contract.

- 8.5 If the Construction Manager terminates the Contract as herein set out, he shall be paid forthwith all sums to which he is entitled pursuant to paragraph 7.1 of GC 7-SUSPENSION, ABANDONMENT OR TERMINATION BY OWNER WITHOUT CAUSE.

GC 9 CHANGES IN THE PROJECT

- 9.1 Should the Owner during the Pre-Construction Phase require a significant revision in the design concept then developed, the Contract Fee and the Contract Time shall be subject to an appropriate adjustment. Any additional fee to which the Construction Manager is entitled shall be such sum as having regard to the total fee payable by this Contract for the Pre-Construction Phase represents the amount of the services provided by the Construction Manager which must be duplicated by such change. The Contract Time and the date for Substantial Performance of the Project shall each be extended to reflect such additional time as may reasonably be required having regard to all circumstances as a result of the change required by the Owner.

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- 9.2 Should the Owner or his Consultant make changes in all or any portion of the work during the course of the Construction Phase and should such changes singly or collectively have the effect of extending the Contract Time or the date of Substantial Performance or Total Performance of the Project, the Construction Manager shall be entitled to payment of an additional fee having regard to that portion of the fee allocated to the Construction Phase of the Agreement as reflects the additional time for which the Construction Manager is required to be engaged on the Project.
- 9.3 The Construction Manager shall advise the Owner promptly when he determines that changes as herein contemplated will delay the date of Substantial Performance of the Project, extend the Contract Time, and entitle the Construction Manager to payment of an additional fee.
- 9.4 If the Owner and Construction Manager cannot agree on the change in Contract Time and Contract Fee, the matter shall be determined in accordance with the provisions of GC 11-DISPUTES.

GC 10 APPLICATIONS FOR PAYMENT

- 10.1 The Construction Manager shall submit to the Owner on a monthly basis an application for payment covering all Reimbursible Expenses incurred during the previous period pursuant to ARTICLE A-6 REIMBURSIBLE EXPENSES and the amount of the Contract Fee then due as provided in ARTICLE A-5 CONTRACT FEE and for work performed directly by the Construction Manager pursuant to ARTICLE A-7 OWN FORCES WORK.
- 10.2 (a) The Pre-Construction Phase portion of the Contract Fee shall be payable monthly as set out in ARTICLE A-5 CONTRACT FEE. The balance of the Pre-Construction Phase fee, if any, shall be paid at the commencement of construction.
- (b) Prior to commencement of construction, the Construction Manager shall, in accordance with sub-paragraph 2.2.2.2 of GC-2 CONSTRUCTION MANAGER'S SERVICES, provide a schedule showing the time required to achieve Substantial Performance of the Project. That portion of the fee payable for the Construction Phase shall be payable in equal monthly installments determined by dividing the Construction Phase portion of the fee by the number of months scheduled from commencement of construction to achievement of Substantial Performance of the Project. Upon certification of Substantial Performance of the Project, the balance, if any, of the Construction Phase fee shall become due and payable.
- (c) Should the state of completion of the Project at any time during the Construction Phase be delayed through no fault of the Owner or his Consultant, then the amount payable by the Owner each month shall be such that the total of all sums paid in monthly installments on account of the Construction Phase fee to the Construction Manager to date of payment when related to the total Construction Phase fee as a percentage reflects the degree of completion of the construction of the Project at the date of that payment. Thereafter the amount of the fee payable monthly shall be adjusted either up or down so as to ensure that the total fees paid to the Construction Manager monthly when related to the total fee payable under this Contract for the Construction Phase is equal to the degree of completion of construction of the Project. In any event the Construction Manager shall be entitled to payment in full of his Construction Phase fee upon certification of Substantial Performance of the Project.
- (d) The fee for the Post-Construction Phase shall be paid in equal monthly installments in accordance with ARTICLE A-5 CONTRACT FEE commencing the end of the first month following Substantial Performance of the Project with the balance paid at Total Performance of the Project.
- 10.3 The Owner shall make payment to the Construction Manager on account in accordance with the provisions of ARTICLE A-8 PAYMENT no later than fifteen (15) days following the date of receipt of an application for payment.

GC 11 DISPUTES

- 11.1 Differences between the parties to the Contract as to the interpretation, application or administration of this Contract or any failure to agree where agreement between the parties is called for, herein collectively called disputes, shall be settled in accordance with the requirements of this General Condition.
- 11.2 If the parties so agree the dispute shall be submitted to arbitration in accordance with the provisions of the arbitration legislation of the Place of the Project.
- 11.3 If no agreement is made for arbitration then either party may submit the dispute to such judicial tribunal as the circumstances may require.

GC 12 ASSIGNMENT

- 12.1 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.

GC13 PATENT FEES

- 13.1 The Construction Manager shall hold the Owner harmless from and against claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Construction Manager's performance of the Contract which are attributable to an infringement or an alleged infringement of a patent or invention by the Construction Manager or anyone for whose acts he may be liable.
- 13.2 The Owner shall hold the Construction Manager harmless against, claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the Construction Manager's performance of the Contract which are attributable to an infringement or an alleged infringement of a patent or invention in executing anything for the purpose of the Contract, the model, plan or design of which was supplied to the Construction Manager for the performance of the Contract.

GC 14 WAIVER

- 14.1 As of the date of Total Performance of the Project, the Owner expressly waives and releases the Construction Manager from all claims against the Construction Manager including without limitation those that might arise from the negligence or breach of contract by the Construction Manager except one or more of the following:
- (a) those made in writing prior to Total Performance of the Project and still unsettled;
 - (b) those arising from the provisions of GC 16 -INDEMNIFICATION BY CONSTRUCTION MANAGER;
 - (c) those made in writing within a period of one (1) year from the date of Substantial Performance of the Project and arising from any liability of the Construction Manager for damages resulting from the performance of this Contract with respect to substantial defects or deficiencies in the Project for which the Construction Manager is proven responsible.

As used herein 'substantial defects or deficiencies' means those defects or deficiencies in the Project which affect the Project to such an extent or in such a manner that a significant part or the whole of the Project is unfit for the purposes intended.

14.2 As of the date of Total Performance of the Project, the Construction Manager expressly waives and releases the Owner from all claims against the Owner including without limitation those that might arise from the negligence or breach of contract by the Owner except:

- (a) those made in writing prior to the date of Total Performance of the Project;
- (b) those arising from the provisions of GC 15-INDEMNIFICATION BY THE OWNER.

GC 15 INDEMNIFICATION BY THE OWNER

15.1 The Owner shall indemnify and hold harmless the Construction Manager, his agents and employees, from and against all claims, demands, losses, costs, damages, actions, suits or proceedings by third parties, including all legal fees, costs and expenses incurred in defending such claims, that arise out of or are attributable to the performance of the Contract except any proportion thereof which is attributable to acts or omissions of the Construction Manager, his agents or employees, which constitute a breach of this Contract and for which the Construction Manager is liable under the terms of this Contract.

15.2 The Owner shall indemnify and hold harmless the Construction Manager, his agents and employees, from and against all claims, demands, losses, costs, damages, actions, suits or proceedings arising out of the performance of the Contract which are:

- (a) attributable to a lack of or defect in title or an alleged lack of or defect in title to the Place of the Project; or
- (b) attributable to the negligence of or a breach of contract by the Consultant or Owner; or
- (c) attributable to the negligence or breach of contract by any Trade Contractor.

GC 16 INDEMNIFICATION BY CONSTRUCTION MANAGER

16.1 The Construction Manager shall indemnify and hold harmless the Owner, his agents and employees, from and against claims, demands, losses, costs, damages, actions, suits or proceedings by third parties that arise out of, or are attributable to, the Construction Manager's performance of the Contract (hereinafter the called 'claims'), provided such claims are:

- (a) attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property; and
- (b) caused by negligent acts or omissions of the Construction Manager or those directly employed or engaged by the Construction Manager;
- (c) made in writing within a period of one (1) year from the date of Substantial Performance of the Project.

The Owner expressly waives the right to indemnity for claims other than those stated above.

16.2 The obligation of the Construction Manager to indemnify hereunder shall be limited to the dollar amounts which are recoverable under the insurance coverages maintained pursuant to GC 17-INSURANCE.

GC 17 INSURANCE

17.1 The Owner undertakes and agrees at his cost to maintain insurance insuring the interest of and indemnifying the Construction Manager against any liability which he might incur as a result of damage to or injury sustained to any portion of the Project. The Owner agrees that the Construction Manager may place the liability portion of such insurance with the insurer of his choice providing the premiums are competitive or to maintain continuity in regard to completed operations coverage.

POINTS NORTH

COPY

DEVELOPMENT MANAGEMENT AGREEMENT

THIS AGREEMENT made effective as of the 22nd day of March, 2006

AMONG:

NORTH CALGARY LAND CORPORATION.
a corporation carrying on business in the Province of Alberta
(the "Owner")

-and-

HOMCO REALTY FUND (96) LIMITED PARTNERSHIP
a limited partnership carrying on business in the Province of Alberta
("Homco")

-and-

CENTRON CONSTRUCTION CORPORATION
a corporation carrying on business in the Province of Alberta
("Centron")

WHEREAS:

- A. The Owner is the registered owner of certain lands situate in Municipal District of Rocky View, east of Balzac, Alberta consisting of 184.08 Acres more or less which lands are legally described on Schedule "A attached (the "Lands");
- B. The Owner wishes to retain the Development Manager to provide certain development management services respecting the Lands, all subject to and in accordance with the terms and conditions contained in this Agreement.

NOW THEREFORE in consideration of the mutual covenants and agreements hereinafter set out and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each party hereto), the parties hereto hereby agree as follows:

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

The following words and phrases with initial capitals shall, unless otherwise expressly provided herein or unless the context otherwise requires, have the following respective meanings:

- (a) "Additional Equity" shall mean all funds in excess of any Construction Loan necessarily required to complete the Development and to pay out the First Mortgages;
- (b) "Agreement" means this agreement together with all instruments supplemental hereto or in any amendment or confirmation hereof;
- (c) "Bank Account" has the meaning set forth in Section 2.2 hereof;

- (d) "Construction Contract" means a construction management contract to be entered into between the Owner and Centron or Nominee which shall provide: (i) for the management by Centron or Nominee, as agent of the Owner, of any construction required for the Development on the Lands by the Owner (with the actual cost of such construction to be paid by the Owner); and (ii) payment to Centron or Nominee of the Construction Management Fee;
- (e) "Construction Loan" means a mortgage loan, if any, in such amount as may be approved from time to time by the Development Manager, to be provided to the Owner by a third party lender for the purposes of constructing the Development on the Lands, the form and content of which shall be arranged by Centron on behalf of the Owner, which shall be secured by way of a first mortgage to be registered against the Lands;
- (f) "Construction Management Fee" means the construction management fee payable by the Owner to Centron or Nominee at the times and in the amounts provided in the Construction Contract;
- (g) "Development" means the development of a project on the Lands in such form as may be determined by the Development Manager on behalf of the Owner for sale to the general public and includes all activities in connection with the planning, design, approval, development, construction, financing, sale and leasing of the Development;
- (h) "Development Costs" means and includes, without duplication, all costs and expenses incurred by the Development Manager, as agent of the Owner, in connection with the development, construction and sale of the Development, including without limitation: (i) the cost of acquisition of the Lands; (ii) principal, interest and financing costs incurred by the Owner pursuant to the Construction Loan, the First Mortgages and the Additional Equity; (iii) sales fees, leasing fees or commissions incurred with respect to the sale of units in the Development; (iv) Land Servicing Costs; (v) property taxes and condominium fees incurred with respect to the Lands; (vi) engineering, architectural and legal fees; (vii) costs of labour, materials contractors and equipment required to construct the Development; (viii) insurance premiums; (ix) licence, building permit and development permit fees incurred in connection with the development, construction and sale of the Development; (x) the Construction Management Fee; (xi) any other costs and expenses incurred by the Development Manager, on behalf of the Owner, in connection with the development, construction and sale of the Development; and (xii) the Fees and Charges;
- (i) "Development Manager" means, collectively, Homco and Centron;
- (j) "Disposition Notice" has the meaning set forth in Section 4.2 hereof;
- (k) "Early Disposition Date" means the date, if such date occurs, that a Disposition Notice is delivered pursuant to Section 4.2 hereof;
- (l) "Early Termination Date" has the meaning set forth in Article 4 hereof;
- (m) "Expiry Date" has the meaning set forth in Article 5 hereof;
- (n) "Fees and Charges" means those fees and charges set forth on Schedule "B" attached;
- (o) "First Mortgages" means two (2) first mortgages granted by the Owner to HSBC Bank Canada solely for the purpose of the acquisition of the Lands in the amounts of Four Million Eight Hundred Twenty Thousand (\$4,820,000.00) Dollars and Four Million Eight Hundred Fifty Thousand (\$4,850,000.00) Dollars;
- (p) "Land" or "Lands" has the meaning set forth in Recital A hereto;

A handwritten signature and the letter 'N' are present in the bottom right corner of the page.

- (q) "Land Servicing" means the construction and installation of utility services and roads for unserved portions of the Lands as required by any governmental authorities and any required subdivision of the Lands;
- (r) "Land Servicing Costs" means and includes, without duplication, all costs and expenses, if any, incurred by the Development Manager, on behalf of the Owners, to complete the Land Servicing of the Lands;
- (s) "Net Profit" means all of the proceeds received by the Owner with respect to the sale of the Development and the Lands less all of the Development Costs;
- (t) "Term" has the meaning set forth in Article 5 hereof.

ARTICLE 2 OWNER COVENANTS

2.1 Appointment

The Owner hereby appoints the Development Manager to construct the Development on the Lands and manage the construction and sale of the Development to purchasers, all in accordance with the rights and responsibilities set out in this Agreement. If the Development Manager finds it necessary, then upon the request of the Development Manager, the Owner shall execute and deliver such authorizations and consents as may be reasonably required by the Development Manager in order to carry out its duties and obligations under this Agreement.

2.2 Bank Account

The Owner shall maintain a single bank account only (the "Bank Account") with a Chartered Bank (the "Bank") for purposes of any banking transactions required in connection with the Development. Although the Bank Account shall be kept in the name of the Owner, all cheques, bills, notes, drafts or other instruments shall require the signatures of: Robert B. Harris alone or any two of Cole B. Harris, Don Avant, Wayne Benz or W. Roy Shouldice. All monies received from time to time by the Development Manager and/or the Owner in connection with the Development shall be paid immediately into the Bank Account in the same form in which they are received and all disbursements by the Development Manager, on account of the Owner, shall be made by cheque drawn on the Bank Account. The Owner shall execute and deliver any and all directions and resolutions required by the Bank to give effect to this Section. The parties hereto acknowledge and agree that the parties required to execute cheques, bills, notes, drafts or other instruments drawn on the Bank Account shall not be amended or changed without the prior written consent of all of the parties to this agreement.

2.3 Development Financing

- (a) All Additional Equity as from time to time required by the Development Manager for the Development shall be advanced by Homco to the Bank Account;
- (b) Upon execution of this Agreement Homco shall advance to the Bank Account as Additional Equity an amount equal to all costs incurred by or on behalf of the Owner up to and including the date of execution of this Agreement, including those amounts set forth on Schedule "C" attached, which amounts shall then be paid to the party so entitled;
- (c) Homco shall from time to time advance to the Bank Account as Additional Equity such amounts as are from time to time required to pay: (i) the Development Costs; (ii) the Fees and Charges at the times set forth on Schedule "B"; and (iii) any other amounts from time to time required to be

paid pursuant to the provisions of this Agreement which amounts shall then be paid to the party so entitled;

- (d) Homco shall cause Gateway North Development Corporation ("Gateway") to transfer to the Owner all Shares beneficially owned by Gateway in the Rocky View Water Co-Op at a consideration of Five Hundred Thirty-Four Thousand Three Hundred (\$534,300.00) Dollars which amount shall be paid by the Owner to Gateway or nominee;
- (e) The proceeds of the Construction Loan, if any, shall be used firstly to pay out any amounts of the First Mortgages then outstanding and secondly towards payment of Development Costs when and as required to be paid;
- (f) All of the Additional Equity shall, unless otherwise determined by the Development Manager, be advanced to or paid to the Bank Account by Homco as loans bearing interest due at the time of repayment at a rate equal to the actual rate payable by Homburg under any Mortgage Bonds or similar instruments granted by or on behalf of Homco to arms length third parties to raise such funds (not to exceed 9.5% without the prior written approval of the Development Manager).

2.4 Distribution of Proceeds

Subject to the rights of any entity that is not a party to this Agreement at law or otherwise, the parties hereto acknowledge and agree that upon the expiry of the Term (including upon the Early Termination Date, if such date occurs), all of the proceeds received by the Owner with respect to the sale of the Development and the Lands shall, unless otherwise agreed, be applied towards payment of any amount which, pursuant to this Agreement, is required to be paid prior to the expiry of the Term but which remains outstanding. The balance of such proceeds shall be paid, used and applied in the following manner and order of priority:

- (a) firstly, towards the payment of outstanding principal, interest and financing costs incurred by the Owner pursuant to the First Mortgages;
- (b) secondly, towards payment of the Construction Loan, if any;
- (c) thirdly, towards the payment of any other costs and expenses incurred by the Development Manager, on behalf of the Owner in connection with the Development, including any amounts owing pursuant to the Construction Contract;
- (d) fourthly, towards the payment of the Additional Equity and interest;
- (e) fifthly, towards payment of the Fees and Charges which, in accordance with Schedule "B", are payable at the end of the Term all on a pro rata and proportionate basis; and
- (f) sixthly, towards the distribution of Net Profits in accordance with Section 6.1 hereof.

2.5 Single Purpose

The Owner covenants and agrees that it shall not carry on nor be permitted to carry on any business of any nature or kind whatsoever other than carrying out the Development pursuant to the provisions of this Agreement.

2.6 Representation and Warranty by Owner

The Owner hereby represents and warrants to the Development Manager that there are no outstanding debts, liabilities or contractual obligations of the Owner other than debts, liabilities and contractual obligations entered into by the Owner in connection with the Development and the Lands.

2.7 Additional Agreements

The Owner covenants and agrees to enter into the Construction Contract if required.

ARTICLE 3 DEVELOPMENT MANAGER

3.1 Power, Authority and Duties of the Development Manager

The Owner hereby grants the Development Manager the power and authority to carry out the Development, for and on behalf of the Owner, and to incur obligations and enter into contracts for and on behalf of the Owner and as agent of the Owner, all as the Development Manager determines from time to time (and without any fee or compensation other than as expressly set out herein), including without limitation the power and authority to:

- (a) hire on behalf of and for the account of the Owner such consultants and advisors as are required from time to time in connection with the Development, including, architects, engineers, quantity surveyors, legal advisors and sales or leasing agents;
- (b) enter into such construction and other contracts, including the Construction Contract, as may be required for the Development and to manage, administer and enforce such contracts in accordance with prudent management practices;
- (c) obtain interim and permanent financing for the Development, including the Construction Loan, if required, and the Additional Equity;
- (d) arrange for insurance with respect to the Development and the operations of the Development Manager;
- (e) receive all income and revenues from the Development, paying therefrom all Development Costs and other liabilities relating to the Development, and thereafter, in accordance with this Agreement;
- (f) make sale and leasing decisions with respect to the Development;
- (g) carry out marketing activities with respect to sale or lease of the Development, including the management and supervision of marketing activities, the promotion of the Development to prospective purchasers and tenants at appropriate forums and through appropriate media outlets;
- (h) pay the Fees and Charges at the times set forth on Schedule "B"; and
- (i) generally to perform such acts and things as may be reasonably required to protect and preserve the Development as may be necessary or desirable for the proper and prudent operation and exploitation of the Development.

The Development Manager shall carry out its duties hereunder to accomplish the completion of the Development in good faith, in a diligent and conscientious manner consistent with good business practice and shall at all times act in the best interests of the Owner.

**ARTICLE 4
DEVELOPMENT DECISIONS**

4.1 Decisions of Development Manager

Centron and Homco each hereby covenant and agree that no act shall be taken, sum of money expended, decision made or obligation incurred by the Development Manager without the prior approval of all of the parties comprising the Development Manager. The Development Manager, Centron and Homco shall in good faith and in a diligent and conscientious manner consistent with good business practice use all reasonable efforts to implement or cause to be implemented all decisions approved by the Development Manager.

4.2 Mandatory Sale of the Lands and Development

If: (i) at any time during the term of this Agreement there is a stalemate by the Development Manager respecting any decision which is not overcome within sixty (60) days of any party comprising the Development Manager serving written notice of stalemate ("Stalemate Notice") on the other parties comprising the Development Manager; or (ii) the Expiry Date does not occur on or before December 31st, 2008, then in either such case, any party to this agreement may serve a notice in writing (a "Disposition Notice") on the other parties hereto requiring the Owner to sell the Lands and any other assets owned by it in connection with the Development (a "Required Disposition"), and the date of such disposition shall constitute the "Early Termination Date" for the purposes of this agreement. The Required Disposition shall be carried out by a liquidator acceptable to all of the parties to this agreement, and failing such agreement, by a liquidator appointed by an arbitration carried out in accordance with this agreement. Any proceeds of a Required Disposition shall be paid, used and applied by the liquidator in accordance with the order and priority set out in Section 2.4 hereof.

**ARTICLE 5
TERM**

5.1 Term

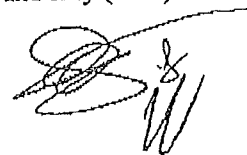
This Agreement shall be for a term (the "Term") commencing as of the date hereof and continuing thereafter until the earlier of:

- (a) the date (the "Expiry Date") on which 100% of the Development has been sold to one or more purchasers and all Development Costs have been paid in accordance with the provisions of this Agreement; or
- (b) the Early Termination Date.

**ARTICLE 6
NET PROFIT DISTRIBUTION**

6.1 NET PROFIT DISTRIBUTION

After the sale of all of the Development and the full and complete payment of all Development Costs, fifty (50%) percent of the Net Profits shall be distributed to Centron and fifty (50%) percent of the Net Profits shall be retained by the Owner.



**ARTICLE 7
INDEMNITY**

7.1 Indemnity

The parties hereto (in each case the "Indemnifying Party") each covenant and agree with the other parties to this Agreement (collectively, the "Indemnified Parties") to indemnify and save harmless each of the Indemnified Parties from and against any and all demands, damages, liabilities, claims, obligations, expenses or losses of any kind or nature whatsoever, including legal fees (on a solicitor and own client basis), arising by reason of any and all manner of action and actions, cause and causes of actions, suits, debts, dues, sums of money, claims or demands whatsoever at law or in equity which may be asserted against any Indemnified Parties resulting from: (i) any unauthorized act by the Indemnifying Party, its servants, agents, employees, contractors, or those for whom the Indemnifying Party is responsible at law, with respect to the Development or the Lands; (ii) any negligent acts or omissions or the wilful misconduct of the Indemnifying Party, its servants, agents, employees, contractors, or those for whom the Indemnifying Party is responsible at law; and (iii) the breach, non-observance or non-performance of any term, condition, covenant, agreement warranty or provision made or required to be observed or performed by the Indemnifying Party pursuant to this Agreement.

**ARTICLE 8
MISCELLANEOUS**

8.1 No Partnership

This Agreement is not intended to create, nor shall it be construed or interpreted as creating any partnership relationship by implication or otherwise between the Owner and the Development Manager or among any of the parties comprising the Development Manager, nor shall anything herein contained be read or construed to in any way restrict the freedom of any party comprising the Development Manager to conduct any separate business or activity whatsoever.

8.2 Inspection and Audit

Each of the parties to this Agreement shall be entitled to have access to all the books of account, records, cheques, papers and documents relating to the Development and the Lands. In addition, each of the parties to this agreement, at its sole cost, shall be entitled to cause its auditors to carry out an annual audit of the books of account maintained in connection with the Development and the Lands, and for such purposes, the auditors shall be entitled to have access to all the books of account, records, cheques, papers and documents relating to the Development and the Lands.

8.3 Entire Agreement

This Agreement constitute the entire agreement between the parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations, warranties, representations and discussions, whether oral or written, with respect to the subject matter hereof.

8.4 Arbitration

In the event of any dispute arising between any of the parties hereto as to the meaning or intent of this Agreement or as to any matter arising out of this Agreement or as to the performance of the activities or as to the respective rights and obligations under this Agreement, then any such party shall be entitled to give to the other parties notice of such dispute and to request arbitration by a single arbitrator if a single arbitrator can be mutually agreed upon by the parties within fifteen (15) days of such notice. If the parties cannot agree on a single arbitrator within the fifteen (15) day period then the arbitrator shall be

appointed by a Judge of the Court of Queens Bench of Alberta. Except as hereinbefore provided, the provisions of the Arbitration Act of Alberta shall apply. The costs of any arbitration shall be borne in accordance with the order of the arbitrator. Unless all of the parties hereto otherwise agree in writing, this section shall have no application to the resolution of the inability of the Development Manager to agree on any decision.

8.5 Notice

All Notices hereunder shall be in writing and shall be personally delivered or sent by prepaid registered mail or by facsimile. All Notices shall be delivered to, or addressed as follows:

(a) if to the Owner at:

c/o W. Roy Shouldice
Barrister & Solicitor
Unit 127, 6227 - 2nd Street S.E.
Calgary, Alberta T2H 1J5
Facsimile: (403) 216-1737

(b) if to the Development Manager, or any party comprising the Development Manager at:

Homco Realty Fund (96) Limited Partnership
1741 Brunswick Street
6th Floor,
Halifax, Nova Scotia, B3J 3X8
Attention: Frank Matheson
Facsimile: (902) 468-2457

with a copy to:

Centron Construction Corporation
175, 4639 Manhattan Road S.E.
Calgary, Alberta T2G 4B3
Attention: Robert B. Harris
Facsimile: (403) 255-8525,

provided that any party hereto may give Notice of a change in its address as aforesaid and from and after the receipt of such Notice, the address of such party shall be changed accordingly for all purposes of this section. Any Notice personally delivered shall be deemed to have been received when delivered. Notices given by facsimile shall be deemed to have been received on the next business day following the sending thereof. Notices given by prepaid registered mail shall be deemed to have been received seven (7) days after the mailing thereof; provided that if there should be, at the time of mailing or between the time of mailing and the seventh day following, a mail strike, slowdown or other labour dispute which might affect the delivery of such Notice by the mails, then such Notice shall be only effective if actually delivered or sent by facsimile.

8.6 Assignment

The parties hereto shall not be entitled to transfer, assign mortgage or charge their respective rights and obligations pursuant to this agreement without the prior written consent of all of the other parties to this agreement, which consent may be arbitrarily withheld by any such party.

Handwritten signature and initials, possibly 'S' and 'M', located at the bottom right of the page.

8.7 Successors

This Agreement shall enure to the benefit of and be binding upon each of the parties hereto and their respective successors and permitted assigns.

8.8 Counterparts

This Agreement may be executed in two or more counterparts and each counterpart when executed and delivered shall have the same force and effect as an original instrument and as if all parties had executed and delivered the same instrument.

8.9 Governing Law

This Agreement and the obligations of the parties hereunder shall be interpreted, construed and enforced in accordance with the laws of the Province of Alberta.

8.10 Waiver and Release

No consent or waiver, express or implied, by any party to or of any breach of default by the other in the performance by the other of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations of such party hereunder. Failure on the part of any party to complain of any act or omission of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder. Except as herein provided, neither the termination nor expiry of this Agreement shall release the Owner or the Development Manager from any of their respective covenants, obligations or liabilities under this Agreement or in respect of the Development in any way relating to any period prior to the termination or expiry of this Agreement.

8.11 Further Assurances.

Each party hereto agrees to do all acts and things and to make, execute and deliver such written instruments and documents as shall from time to time be reasonably required to carry out the terms and provisions of this Agreement.

8.12 Headings

The headings to the Sections and sub-sections of this Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation thereof.

8.13 Facsimile and Counterpart

This Agreement may be executed and delivered by facsimile copy, provided that the party executing and delivering this Agreement by facsimile shall immediately deliver an originally executed copy of the Agreement thereafter to the other parties hereto. This Agreement may be executed and delivered in counterpart.

8.14 Time of Essence

Time shall be of the essence of this Agreement and of each and every part thereof

IN WITNESS WHEREOF the parties have duly executed and delivered this Agreement as of the date first set out above.

NORTH CALGARY LAND CORPORATION

Per: _____

**HOMCO REALTY FUND (96) LIMITED
PARTNERSHIP, by its General Partner,
HOMBURG L.P. MANAGEMENT
INCORPORATED**

Per: _____

CENTRON CONSTRUCTION CORPORATION

Per: _____

SCHEDULE "A"

1. PLAN BALZAC 7711270
BLOCK ONE (1)
EXCEPTING:

PLAN	NO.	HECTARES MORE OR LESS	ACRES
ROAD WIDENING	8211015	0.616	1.52

 EXCEPTING THEREOUT ALL MINES AND MINERALS
2. PLAN 7711270
BLOCK 2
EXCEPTING THEREOUT ALL MINES AND MINERALS
3. PLAN 7810526
BLOCK 3
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME
4. PLAN 7810526
BLOCK 4
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME
5. PLAN 7910581
BLOCK 5
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME
6. MERIDIAN 4 RANGE 29 TOWNSHIP 26
FRACTIONAL SECTION 16
QUARTER SOUTH WEST
CONTAINING 46.412 HECTARES (114.77 ACRES) MORE OR LESS
EXCEPTING:

PLAN	NUMBER	HECTARES MORE OR LESS	ACRES
NO.2 HIGHWAY	620LK	11.369	28.17
ROAD WIDENING	8211015	0.120	0.30

 EXCEPTING THEREOUT ALL MINES AND MINERALS

8
Wep

**SCHEDULE "B"
FEES AND CHARGES
(EXCLUDING GST)**

A. <u>FEES PAYABLE CLOSING:</u>	<u>CENTRON</u>	<u>HOMCO</u>
1. Acquisition/Assembly Fee 2.5% x \$13,811,500.00	\$345,288.00	Nil
2. First Mortgages Syndication Fee 7% x \$9,670,000.00	\$676,900.00	Nil
3. Equity Syndication Fee 7% x \$4,141,500.00	\$289,905.00	Nil
4. Equalization Fee	Nil	\$1,312,093.00
B. <u>FEES PAYABLE DURING TERM:</u>		
5. Additional Equity Syndication Fee	Nil	Out of Pocket Costs
6. Capital Tax	Nil	Nil
7. Asset Management Fee	Nil	Nil
8. Equalization Fee	Out of Pocket Costs	Nil
C. <u>FEES PAYABLE AT END OF TERM:</u>		
9. Disposal Fee	Nil	2.5%
10. Travel Costs	Equal	Equal
11. Equalization Fee	Equal to 9	Nil
D. <u>ANY FEES AND CHARGES NOT SET FORTH ABOVE, INCLUDING THE FOLLOWING, SHALL BE MUTUALLY AGREED BY HOMCO AND CENTRON AND SHALL, UNLESS OTHERWISE AGREED, BE EQUAL:</u>		
12. Acquisition Fees	Equal	Equal
13. Disposal Fees	Equal	Equal
14. Syndication Fees	Equal	Equal
15. Travel	Equal	Equal

SCHEDULE "C"
COSTS PAYABLE UPON EXECUTION OF THIS AGREEMENT
(EXCLUDING GST)

Land Acquisition Price	\$13,811,500.00
Water Co-op Shares Sale Gateway to North Calgary Land	534,300.00
Environmental Report – Curtis Engineering	4,600.00
Insurance	990.00
Signage Permits	540.00
Signage Costs	2,735.00
Appraisal Costs – Colliers	4,033.00
Legal and Other re Land Acquisition And Financing	33,807.00
Incorporation Costs	900.00
HSBC Placement Fee and other costs – Loan Parcel 1	31,100.00
HSBC Placement Fee and others costs – Loan Parcel 2 (Blocks 1-5)	30,250.00
Interest on Closing	17,544.00
Property Tax Credit on Closing	(1,871.00)
Legals on Closing	12,500.00
HSBC Interest – Loan Parcel 1	35,108.00
HSBC Interest – Loan Parcel 2 (Blocks 1-5)	23,954.00
Estimated Interest HSBC Loan – Parcel 1 – March 1 – 10	8,506.00
Estimated Interest HSBC Loan – Parcel 2 (Blocks 1-5) – March 1-10	8,555.00
Interest on initial equity to March 10	52,253.00
Ladywell Investments Assembly Fee	150,000.00
TOTAL	\$14,761,304.00

