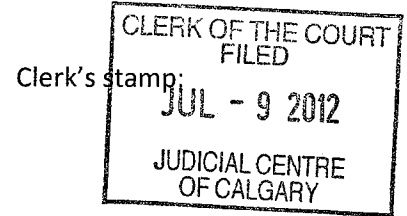


Let the within Affidavit be filed notwithstanding that it is not an original

J. Huneburg July 9/2012



COURT FILE NUMBER 1201-05843  
COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, RSC 1985, c C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF UBG BUILDERS INC., ALBERTA BUILDERS CAPITAL INC., ALPINE HOMES (2006) INC., AMERICAN BUILDERS CAPITAL (US) INC., EDGEWATER AT GRIESBACH INC., ELITE HOMES (2006) LTD., EVOLUTION BY GREENBORO INC., GREENBORO COMMUNITIES (2006) INC., GREENBORO ESTATE HOMES (2006) LTD., GREENBORO HOMES (2006) LTD., GREENBORO LUXURY HOMES INC., HIGH POINTE INC., MOUNTAINEERS VILLAGE (2006) INC., MOUNTAINEERS VILLAGE II INC., ORIGINS AT CRANSTON INC., SOUTH TERWILLEGAR VILLAGE INC., THE BRIDGES MANAGEMENT INC., THE LEDGES INC., TIMBERLINE LODGES (2006) INC., TODAY'S COMMUNITIES (2006) INC., TODAY'S HOMES (2006) INC., TUSCANY DEVELOPMENTS (2006) INC., UBG ALBERTA BUILDERS (2006) INC., UBG ALPINE HOMES (2006) LTD., UBG BRIDGES INC., UBG BUILDERS (USA) INC., UBG COMMERCIAL INC., UBG LAND INC., UBG LOT DEPOSIT CORP., UBG 4500 CALGARY INC., UBG 75 CANMORE INC., UBG 808 CALGARY INC., UNITY INVESTMENTS (2012) INC., VALMONT AT ASPEN STONE INC., VALOUR PARK AT CURRIE INC., VILLAGE AT THE HAMPTONS INC., VILLAGE ON THE PARK INC., WILDERNESS HOMES BY RIVERDALE INC., WILDERNESS RIDGE AT STEWART CREEK INC. (COLLECTIVELY, THE "APPLICANTS")

DOCUMENT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

AFFIDAVIT

FRASER MILNER CASGRAIN LLP  
Bankers Court  
15<sup>th</sup> Floor, 850 - 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8  
**Attention: David W. Mann / Derek M. Pontin**  
Ph. (403) 268-7097/6301 Fx. (403) 268-3100  
File No.: 549362-1

**AFFIDAVIT OF ROBERT FRIESEN**

**Sworn on July 6, 2012**

I, Robert Friesen, of the City of Calgary, in the Province of Alberta, **MAKE OATH AND SAY THAT:**

1. I am the founder, owner and Chairman of the Board of the Applicants and I am authorized by all of the Applicants to depose this Affidavit and do so on their behalf. I am the controlling mind of all of the Applicants and, as such, I have personal knowledge of the matters herein deposed to, except where stated to be based on information and belief, in which case I do verily believe the same to be true.
2. All capitalized terms in this Affidavit shall have the meaning ascribed to them in the Affidavit sworn by me and filed in these proceedings on May 8, 2012 (the "Initial Affidavit") unless otherwise indicated in this Affidavit.
3. I make this Affidavit as a supplement to the Affidavit sworn by me in these proceedings on June 12, 2012 in support of an application for Orders approving the above noted interim financing arrangements with ATB and BNS.
4. Attached hereto and marked as Exhibit "A" is a Protocol Agreement executed by Greenboro Homes Limited Partnership, by its general partner, Greenboro Homes (2006) Ltd. (collectively "Greenboro") and Alberta Treasury Branches ("ATB") respecting interim financing to be provided by ATB to Greenboro.
5. Attached hereto and marked as Exhibit "B" is a Protocol Agreement executed by South Terwillegar Village Limited Partnership, by its general partner South Terwillegar Village Inc. ("South Terwillegar") and Bank of Nova Scotia ("BNS") respecting interim financing to be provided by BNS to South Terwillegar.
6. Attached hereto and marked as Exhibit "C" is a Protocol Agreement executed by Valmont at Aspen Stone Limited Partnership, by its general partner Valmont at Aspen Stone Inc. " (collectively "Aspen Stone") and Bank of Nova Scotia ("BNS") respecting interim financing to be provided by BNS to Aspen Stone.

Sworn before me in the City of )  
Kenora in the Province of )  
 Ontario, the 6<sup>th</sup> day of July, 2012. )

Tyler Johnson )  
 A Notary Public in and for the Province of )  
 Ontario )

TYLER E. JOHNSON, B.A., LL.B.  
 BARRISTER, SOLICITOR,  
 NOTARY PUBLIC

Robert Friesen

THIS IS EXHIBIT "A"  
referred to in the Affidavit of  
Robert Fraser  
Sworn before me this 6<sup>th</sup>  
Day of July, A.D. 2012  
W. J. [Signature]  
COMMISSIONER FOR OATHS  
AND FOR THE PROVINCE OF ALBERTA  
Notary Public in and for  
the Province of Ontario

**PROTOCOL AGREEMENT**

THIS AGREEMENT made this 5<sup>th</sup> day of July, 2012

BETWEEN:

GREENBORO HOMES LIMITED PARTNERSHIP, by its general partner, GREENBORO HOMES (2006) LTD., U.L.B.  
(the "Borrower")

BARRISTER, SOLICITOR,  
NOTARY PUBLIC

OF THE FIRST PART

- and -

**ALBERTA TREASURY BRANCHES ("ATB")**

**OF THE SECOND PART**

WHEREAS ATB has made secured loans and advances to the Borrower and has been granted security from the Borrower therefor including, *inter alia*, a first mortgage on the lands and premises described in the attached Schedule "A" (the "Homes");

AND WHEREAS the Borrower has obtained protection under and pursuant to the provisions of the *Companies' Creditors Arrangement Act* pursuant to an Initial Order (the "Initial Order") made in the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "Court") in Action Number 1201-05843 on May 9, 2012 (the "CCAA Proceedings");

AND WHEREAS the Borrower has obtained a Vesting Order (the "Vesting Order") in the CCAA Proceedings in respect of, *inter alia*, the sale of the Homes;

AND WHEREAS the Borrower has obtained a Claims Procedure Order (the "Claims Procedure Order") in the CCAA Proceedings;

AND WHEREAS Ernst & Young Inc. is the court appointed monitor (the "Monitor") in the CCAA Proceedings;

AND WHEREAS the Borrower, ATB, and the Monitor (collectively, the "Parties") have agreed to proceed with a plan to:

- (a) distribute the sales proceeds from sales of Homes that have closed;
- (b) fund and complete construction of Homes under construction;
- (c) close the sales of Homes that are under contract for sale;
- (d) market and sell (and to the extent required, complete the construction thereof) the Remaining Homes (defined below);
- (e) all with a view to expeditiously repaying the secured indebtedness owing to ATB.

AND WHEREAS the Borrower, ATB and the UBG Alberta Limited Partnership, by its general partner, UBG Alberta Builders (2006) Inc. ("the Guarantor") have become signatories to a Commitment Letter dated July

5, 2012, (the "Commitment Letter") and associated documents including a waiver letter dated July 5, 2012 (the "Waiver Letter")

NOW THEREFORE, this agreement (hereinafter, the "Agreement") witnesses that in consideration of the mutual covenants and agreements contained herein the Parties agree as follows:

1. **Defined Terms**

In this Agreement, unless otherwise defined herein, capitalized terms shall have the following meanings:

"**Borrower's Costs**" means an amount payable to the Borrower for its immediate use to cover its ongoing costs and disbursements, calculated as a percentage of the total sale proceeds of a Home; where the percentage is equal to: (a) 12% in respect of a sale scheduled to close on or before August 31, 2012; (b) 6 % in respect of a sale scheduled to close between September 1, 2012 and December 31, 2012; and (c) 4% in respect of a sale scheduled to close on or after January 1, 2013;

"**Closing Costs**" means all ordinary or reasonable costs of closing the sale of a Home including, without limitation: (a) all goods and services and other applicable sales taxes, property taxes, commissions, applicable condominium or community fees, and legal fees and disbursements; (b) payment of any Lot Purchase Amount; (c) such withholdings as may be customary or necessary, including to secure warranty obligations of the Borrower of 0.5% of the total sale proceeds of the Home; and (d) an amount to repay any applicable indebtedness (secured by a mortgage registered in the Land Titles Office of Alberta as instrument 112390252 with a face value of \$1,594,243), in favour of Alberta Builders Capital Inc./Valiant Trust in relation to the acquisition and purchase of the lot relating to a particular Home;

"**DIP Order**" means an Order granted by the Court in the CCAA Proceedings in the form attached hereto as Schedule "B" or otherwise acceptable to the parties;

"**Homes**" means all of the residential properties set forth in Schedule "A" to this Agreement and such additional residential units as may be agreed to the parties in writing;

"**Homes Under Construction**" means those Homes listed in Parts II and III of Schedule "A" to this Agreement;

"**Loan Documents**" means the Commitment Letter dated July 5, 2012 and all related security documents and other agreements among ATB and the Borrower governing the credit facilities granted by ATB in favour of the Borrower for the development and sale of the Homes;

"**Lot Purchase Amount**" means any amounts payable to a developer to complete the purchase of the land related to a particular Home; and

"**Trade Payables**" means any amount owed by the Borrower for the provision of goods or services in respect of a Home and, in the case of goods or services provided to the Borrower prior to May 9, 2012, where such claim has been proven in accordance with the Claims Procedure Order;

2. **Confirmation of Indebtedness**

As of June 14, 2012 the principal balance outstanding and owing by the Borrower to ATB is \$7,827,414.43 plus overdraft of \$8,239.48, plus accrued and accruing interest and all other costs and charges due or accruing due under and pursuant to the security held by ATB (the "Indebtedness").

3. **Delivery of Sales Proceeds of Existing Homes That Have Been Sold**

The Borrower has advised that the Homes as set out in Part I of Schedule "A" to this Agreement have been sold with closing proceeds being held in escrow by the Borrowers' solicitors. The Parties agree that the proceeds being held in escrow shall be distributed as follows: (a) firstly, to the payment of all Closing Costs; (b) secondly, to the payment of the Borrower's Costs; (c) thirdly, to payment of Trade Payables related to that Home; (d) fourthly, to ATB in reduction of the Indebtedness; and (e) lastly (and if any), to the Borrower; and that such proceeds shall be distributed as soon as practicable.

4. **Future Home Sales**

(a) General

The Borrower has advised that the Homes listed in Part II of Schedule "A" to this Agreement have been sold to arms-length parties pursuant to existing written contracts for sale (collectively, the "Contracts"). The Borrower agrees to provide copies of the Contracts to ATB and the Monitor on or before July 15, 2012.

The Borrower has advised that the Homes listed in Part III of Schedule "A" to this Agreement have not yet been sold and are being constructed on a speculative basis (the "Spec Homes").

(b) Interim Financing

ATB will advance the funds required to complete and market the Homes Under Construction as requested by the Borrower (the "DIP Financing") as follows:

- (i) all Draws on the DIP Financing (the "Draws") will be secured by the "super-priority" charge set forth in, and otherwise governed by the provisions of, the DIP Order;
- (ii) The maximum limit of the DIP financing is set at \$8.5 million, on a revolving basis, and will bear interest at the rate of ATB Prime Rate plus 3%;
- (iii) Draws will be used to pay Trade Payables and any Lot Purchase Amount related to the Homes Under Construction; and
- (iv) except as may be provided in this Agreement and the DIP Order, Draw advances shall be subject to the terms and conditions set forth in the Loan Documents.

The Borrower shall immediately proceed in the CCAA Proceedings to seek and obtain the DIP Order.

(c) Completion and Sale of Homes Under Construction

The Borrower agrees to utilize diligent commercial efforts to proceed to the closing of the sale of the Homes pursuant to the Contracts and to the completion, sale and closing of the Spec Homes. The Parties agree that the sales proceeds from the Homes under Construction shall be disbursed as follows:

- (i) firstly, to the payment of Closing Costs;
- (ii) secondly, to the payment of the Borrower's Costs;
- (iii) thirdly, to the repayment of the Indebtedness (including all of ATB's costs and expenses);
- (iv) fourthly, to the repayment of all Draws made pursuant to the DIP Order; and
- (v) fifthly, to the Borrower for general corporate purposes.

5. **Sale of further homes**

The Borrower has advised that certain lots are neither under construction nor subject to a Contract (the "Lots"). The parties agree that Lots may be sold to arm's length, third party purchasers and then become a Home Under Construction under Part II of Schedule "A" (and developed as such hereunder) only with the prior consent of ATB and the Monitor.

6. **Sale and Marketing of Remaining Homes**

The Borrower, with the consent of the Monitor, shall supply a proposed listing price (the "Listing Price") of the Spec Homes and Lots (the "Remaining Homes") to ATB. The Borrower, with the consent of the Monitor, shall be entitled to enter into arms length contracts for sale of the Homes at a price that is equal to or greater than the Listing Price, or such other price as may be agreed to between the Borrower, the Monitor, and ATB. The proceeds of sale from any Remaining Homes shall be paid pursuant to Section 4(3) hereof.

The Parties agree that the Borrower shall consult with ATB in respect of sales and marketing process for the Remaining Homes.

7. **General**

- (a) The Parties agree and acknowledge that this Agreement is subject to the provisions of, and compliance with, the granting of the DIP Order, the Claims Procedure Order and the Vesting Order, all in form and substance satisfactory to the Parties; provided however that Parties shall implement Article III hereof on an immediate, provisional basis (such that funds payable to creditors are reserved or paid on a recoverable basis) to enable the Borrower to address certain of its immediate cash flows needs.
- (b) The Parties agree to use diligent commercial efforts to give full effect to the terms and conditions of this Agreement. To the extent a Party determines, acting reasonably, that Court approval is required to give effect to the provisions herein, then the other Parties covenant and agree to support any application to the Court to give effect to the terms of this Agreement.

- (c) There is no promise, warranty, representation, undertaking, covenant or understanding by or binding upon the Parties except such as are expressly set forth in this Agreement and the Commitment Letter and the Waiver Letter. The terms of the Commitment Letter shall govern in the event of any inconsistency with the terms of this Agreement.
- (d) This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Alberta.
- (e) No amendment, modification or supplement to this Agreement shall be valid or binding unless set out in writing and executed by the Parties.
- (f) Whenever necessary or appropriate in this Agreement, the plural shall be interpreted as singular, the masculine gender as feminine or neuter and vice versa.
- (g) Time shall be of the essence hereof.
- (h) This Agreement may be executed in counterparts and delivered via facsimile or via email in PDF format and the counterparts together shall constitute an original.

The Parties have entered into this Agreement as of the date first above written.

**GREENBORO HOMES LIMITED PARTNERSHIP**, by its  
general partner, **GREENBORO HOMES (2006) LTD.**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ALBERTA TREASURY BRANCHES**

Per: \_\_\_\_\_  
Name: **MICHAEL HOFFMAN**  
Title: **ASSOCIATE DIRECTOR  
ATB CORPORATE FINANCIAL SERVICES**

\_\_\_\_\_  
Name:  
Title:

The Terms of the memorandum of Understanding  
are Approved and Consented to by the Guarantor

Per: \_\_\_\_\_  
**UBG Alberta Limited Partnership**, by its general  
partner, **UBG Alberta Builders (2006) Inc.**

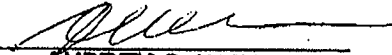
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**ERNST & YOUNG INC.**

Per: \_\_\_\_\_  
**Robert J. Taylor**

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Per:   
Name: **AUBREY G. WELLS**  
Title: **GENERAL MANAGER  
ASSET MANAGEMENT**

**ALBERTA TREASURY BRANCHES**

Per:   
Name: **MICHAEL HOFFMAN**  
Title: **ASSOCIATE DIRECTOR  
ATB CORPORATE FINANCIAL SERVICES**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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**Robert J. Taylor**



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 Name: **AUBREY G. WELLS**  
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**ALBERTA TREASURY BRANCHES**

Per:   
 Name: **MICHAEL HOFFMAN**  
 Title: **ASSOCIATE DIRECTOR  
 ATB CORPORATE FINANCIAL SERVICES**

\_\_\_\_\_  
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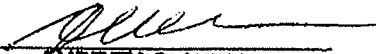
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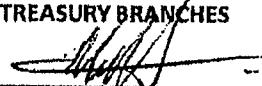
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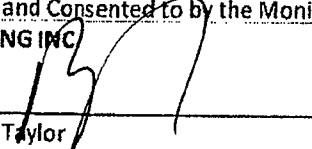
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\_\_\_\_\_  
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Title:

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**UBG Alberta Limited Partnership**, by its general partner, **UBG Alberta Builders (2006) Inc.**

The Terms of the memorandum of Understanding are Approved and Consented to by the Monitor,  
**ERNST & YOUNG INC**

Per:   
**Robert J. Taylor**

UBG Builders Group  
 Greenboro Homes LP  
 Sales Proceeds from Sold Homes  
 As at June 25, 2012  
 (\$Cdn, Unaudited)

Project Code	Model Style	Address	Lot - Legal ID	Block ID	Plan #	Lot	Presold, Spec. or Lot?	Forecasted Pre-sale Date	Expected Closing	Sale Proceeds	Customer Deposit	Lot Payable	Seasonal Holdback	Legal Fees	Net Cash	Net GST in Proceeds	Net Proceeds	
<b>MAY 2012 POSSESSIONS</b>																		
Tribute	Duplex	50 Dunlop Wynd	96	3	074 0285	10-03096	Presold		11-May-12	253,680	-	-	(1,000)	-	252,680	8,356.59	244,327.93	
Walker Lakes Regular	Two Stor	6103 18 Avenue SW	93	11	102 5132	04-11093	Presold		25-May-12	375,508	-	-	(1,000)	-	374,508	14,678.39	359,829.63	
Tribute	Duplex	54 Dunlop Wynd	98	3	074 0285	10-03098	Presold		28-May-12	245,221	-	-	(1,000)	-	244,221	8,057.36	236,163.62	
Southfort	Duplex	80 Radcliffe Wynd	111	18	112 2986	02-18111	Presold		30-May-12	184,212	-	-	(1,000)	-	183,212	8,186.05	175,026.31	
Tribute	Two Stor	97 Dunlop Wynd	119	3	074 0285	10-03119	Presold		30-May-12	352,263	-	-	(1,000)	-	351,263	12,448.79	338,814.57	
Griesbach	Duplex	5047 Dewolf Road	23	25	112 0793	10-25023	Presold		30-May-12	318,712	-	-	(6,000)	-	312,712	10,442.01	302,269.89	
Southfort	Duplex	82 Radcliffe Wynd	112	18	112 2986	02-18112	Presold		31-May-12	183,963	-	-	(1,000)	-	182,963	8,230.54	174,732.26	
Walker Lakes Regular	Two Stor	6123 18 Avenue SW	88	11	102 5132	04-11088	Presold		31-May-12	365,370	-	-	(1,000)	-	364,370	13,578.58	350,791.64	
Tribute	Two Stor	74 Dunlop Wynd	17	7	074 0285	10-07017	Presold		4-Jun-12	291,652	-	-	(1,000)	-	290,652	9,659.12	280,992.62	
Tribute	Duplex	58 Dunlop Wynd	100	3	074 0285	10-03100	Presold	30-Jun-12	15-Jun-12	242,058	-	-	(1,000)	-	241,058	8,151.11	232,907.18	
										<u>2,812,639</u>			<u>(15,000)</u>			<u>2,797,639</u>	<u>101,789</u>	<u>2,695,851</u>

Total

Table with columns: Emerald Hills, Laurel, Southport, Tribune, Walker Lakes Duplex, Walker Lakes Row/Repeater, Greensh. Columns include: Model Style, Project Code, Address, Let - Legal ID, Block ID, Plan #, Lot, Presold, Forecasted Pre-sale Date, Expected Closing, Total Sale Price (incl. options), Deposit (inc. in-trust), Total Construct. Cost Est./Estimate on file, Land Purchase Price, Land Acq. Cost, Commission on pre-sale, Remaining Commission on Close, Legal Fees (on Close), Seasonal Holdback, Deficiency Costs, Net Cash at Closing, Profit, Developer Let Payable, ABC Let Payable, Lots payable (on date).



Schedule "B"

Clerk's stamp:

COURT FILE NUMBER 1201-05843

COURT OF QUEEN'S BENCH OF  
ALBERTA

JUDICIAL CENTRE CALGARY

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

**AND IN THE MATTER OF UBG BUILDERS INC., ALBERTA BUILDERS  
CAPITAL INC., ALPINE HOMES (2006) INC., AMERICAN BUILDERS  
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DEVELOPMENTS (2006) INC., UBG ALBERTA BUILDERS (2006) INC., UBG  
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STONE INC., VALOUR PARK AT CURRIE INC., VILLAGE AT THE  
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RIVERDALE INC., WILDERNESS RIDGE AT STEWART CREEK INC.  
(COLLECTIVELY, THE "APPLICANTS")**

DOCUMENT

Order  
(re: ATB Protocol)

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT

**FRASER MILNER CASGRAIN LLP**  
Bankers Court  
15<sup>th</sup> Floor, 850 - 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8  
**Attention: David W. Mann / Derek M. Pontin**  
Ph. (403) 268-7097/6301 Fx. (403) 268-3100  
File No.: 549362-1

DATE ON WHICH ORDER WAS  
PRONOUNCED

July \_\_, 2012

NAME OF JUSTICE WHO MADE  
THIS ORDER

The Honourable Madam Justice K.M. Horner

**ORDER**  
(re: ATB Protocol)

**UPON** the application of the Applicants in these proceedings (collectively, "UBG"); **AND UPON** having read the Application of the Applicants, dated July \_\_\_, 2012, the Affidavit of Robert Friesen, dated June 12, 2012, the Affidavit of Robert Friesen, dated July \_\_\_, 2012, the ("Second Friesen Affidavit"), the Second Report of the Monitor, dated June 12, 2012, the Third Report of the Monitor, dated July \_\_\_, 2012, the Affidavit of Dawn Roy, dated July \_\_\_, 2012 (the "Service Affidavit"), and such other material in the pleadings and proceedings as deemed necessary; **AND UPON** hearing counsel for UBG, counsel for Alberta Treasury Branches ("ATB"), counsel for the Monitor, and other interested parties; **IT IS HEREBY ORDERED AND DECLARED THAT:**

*Service*

1. The time for service of notice of this application is abridged to the time actually given and service of the Application and supporting material as described in the Service Affidavit is good and sufficient, and this hearing is properly returnable before this Honourable Court today and further service thereof is hereby dispensed with.
2. All capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Initial Order granted in these proceedings on May 9, 2012 (the "Initial Order").

***Approval of the ATB Interim Financing Agreement***

3. The loan agreement among Greenboro Homes Limited Partnership, by its general partner, Greenboro Homes (2006) Ltd. (the "Borrower") and ATB, dated July 6, 2012, providing for the funding, completion, sale of and distribution of proceeds from certain homes and lots attached as Exhibit "A" to the Second Friesen Affidavit (the "ATB Interim Financing Agreement") is hereby approved.
4. UBG and the Monitor are hereby authorized and directed to do all things reasonably necessary to implement, and perform all of their respective obligations under the ATB Interim Financing Agreement.

***Approval of the ATB Charge***

5. As security for monies advanced by ATB to UBG pursuant to the ATB Interim Financing Agreement, a charge is hereby granted on the undertaking, property, and assets of the Borrower in favour of ATB (the "ATB Charge"), which charge shall rank in priority to all claims against the Borrower, including the Administration Charge and the Directors' Charge, but shall be subject to the distribution scheme set forth in the ATB Interim Financing Agreement.
6. The proceeds from the sale of the Homes (as defined in the ATB Interim Financing Agreement) shall, subject to the consent of the Monitor and compliance with any applicable claims procedures established in these proceedings, be distributed as set forth in the ATB Interim Financing Agreement.

*Miscellaneous*

7. The ATB Interim Financing Agreement and the ATB Charge shall be valid and enforceable and the rights and remedies of the parties thereto shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declaration of insolvency made herein; (ii) any Bankruptcy Order sought or issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") in respect of any of the Applicants or any assignment in bankruptcy made or deemed to be made in respect of any of the Applicants; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances, contained in any existing agreement, lease, sub-lease, offer to lease or other arrangement which binds any of the Applicants (a "Third Party Agreement"), and notwithstanding any provision to the contrary in any Third Party Agreement:
  - (a) neither the creation of the ATB Interim Financing Agreement, the creation of the ATB Charge, nor the execution, delivery or performance of the ATB Interim Financing Agreement shall create or be deemed to constitute a breach by any of the Applicants of any Third Party Agreement to which it is a party; and
  - (b) the parties to the ATB Interim Financing Agreement shall not have liability to any person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation of the ATB Charge or the execution, delivery or performance of the ATB Interim Financing Agreement.
8. Notwithstanding the pendency of these proceedings and the declaration of insolvency made in these proceedings, the ATB Interim Financing Agreement and the ATB Charge shall constitute legal, valid and binding obligations of the Applicants enforceable against them in accordance with the terms thereof, and the payments made by the parties pursuant to this Order, the ATB Interim Financing Agreement, or the ATB Charge do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting an oppression remedy under any applicable law, and shall not constitute advances under the *Builders' Liens Act* (Alberta) nor be subject to any builder's lien registered at the date of this Order or thereafter.
9. Except as specifically set forth in this Order, the rights and remedies of the parties under the ATB Interim Financing Agreement shall be subject to the terms of this Order, the Initial Order, including the stay of proceedings, and all other Orders made in these proceedings.
10. No action or proceeding may be commenced against a party to the ATB Interim Financing Agreement by reason of, any such party having entered into the ATB Interim Financing Agreement or having performed the obligations thereunder without leave of this Court having been obtained on seven days' notice to the Applicants, ATB, and the Monitor.
11. The Applicants, ATB and the Monitor or any party to the ATB Interim Financing Agreement are at liberty to apply for such further advice, assistance and direction as may be necessary to give full force and effect to the terms of this Order.
12. The Applicants shall serve, by courier, facsimile transmission, e-mail transmission, or ordinary post, a copy of this Order on all parties present at this application and on all parties who received notice of this application or who are presently on the service list established in these



proceedings, and service on any or all other parties is hereby dispensed with. Service effected as aforesaid shall be good and sufficient service.

---

Justice of the Court of Queen's Bench of Alberta

THIS IS EXHIBIT "B" referred to in the Affidavit of Robert Erlesen Sworn before me this 6<sup>th</sup> Day of July, A.D. 2012

**AGREEMENT**

THIS AGREEMENT made this 5<sup>th</sup> day of July, 2012

BETWEEN:

**SOUTH TERWILLEGAR VILLAGE INC., as general partner for SOUTH TERWILLEGAR VILLAGE LIMITED PARTNERSHIP (the "Borrower")**

~~REGISTRAR FOR CAPS~~  
~~IN AND FOR THE PROVINCE OF ALBERTA~~  
A Notary Public in and for the Province of Ontario  
WILLIAM E. JOHNSON, B.A.,  
BARRISTER, SOLICITOR  
NOTARY PUBLIC  
OF THE FIRST PART

- and -

**SOUTH TERWILLEGAR VILLAGE INC., as general partner for SOUTH TERWILLEGAR VILLAGE LIMITED PARTNERSHIP, UBG ALBERTA BUILDERS (2006) INC., as general partner for UBG ALBERTA BUILDERS LIMITED PARTNERSHIP (collectively, the "Guarantors")**

OF THE SECOND PART

- and -

**BANK OF NOVA SCOTIA ("BNS")**

OF THE THIRD PART

**WHEREAS** BNS has made secured loans and advances to the Borrower and has been granted security from the Borrower therefor including, *inter alia*, a first mortgage on the Project, including the lands, premises, and condominium units described in the attached Schedule "A" (the "Units");

**AND WHEREAS** the Borrower has obtained protection under and pursuant to the provisions of the *Companies' Creditors Arrangement Act* pursuant to an Initial Order (the "Initial Order") made in the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "Court") in Action Number 1201-05843 on May 9, 2012 (the "CCA Proceedings");

**AND WHEREAS** the Borrower has obtained a Vesting Order (the "Vesting Order") in the CCA Proceedings on June 15, 2012 in respect of, *inter alia*, the sale of the Units;

**AND WHEREAS** the Borrower has obtained a Claims Procedure Order (the "Claims Procedure Order") in the CCA Proceedings on June 15, 2012;

**AND WHEREAS** Ernst & Young Inc. is the court appointed monitor (the "Monitor") in the CCA Proceedings;

**AND WHEREAS** the Borrower, BNS, and the Monitor (collectively, the "Parties") have agreed to proceed with a plan to:

- (a) fund and complete construction of the Project, including the Units under construction;
- (b) close the sales of Units that are under contract for sale;

- (c) market and sell (and to the extent required, complete the construction thereof) the Remaining Units (defined below);
- (d) all with a view to expeditiously repaying the secured indebtedness owing to BNS.

**NOW THEREFORE**, this agreement (hereinafter, the "**Agreement**") witnesses that in consideration of the mutual covenants and agreements contained herein the Parties agree as follows:

**1. Defined Terms**

In this Agreement, unless otherwise defined herein, capitalized terms shall have the following meanings:

**"Borrower's Costs"** means an amount payable to the Borrower for its immediate use to cover its ongoing costs and disbursements of developing, constructing, marketing, selling, and otherwise completing the Project, calculated as a percentage of the Net Sale Proceeds of a Unit; where the percentage is equal to 6%;

**"Closing Costs"** means all ordinary or reasonable costs of closing the sale of a Unit including, without limitation: (a) all goods and services and other applicable sales taxes, property taxes, commissions, applicable condominium or community fees, and legal fees and disbursements; and (b) such withholdings as may be customary or necessary, including to secure warranty obligations of the Borrower of 0.5% of the total sale proceeds of the Unit;

**"DIP Order"** means an Order granted by the Court in the CCAA Proceedings in the form attached hereto as Schedule "B" or otherwise acceptable to the parties;

**"Guarantees"** means:

- a) a Guarantee Agreement dated February 6, 2007 provided by South Terwillegar Village Limited Partnership in favour of BNS; and
- b) a Guarantee Agreement dated April 4, 2007 provided by UBG Alberta Builders Limited Partnership in favour of BNS;

**"Loan Documents"** means the commitment letter, security documents, Guarantees, and related agreements among BNS and the Borrower governing the credit facilities granted by BNS in favour of the Borrower for the development of the Project and sale of the Units;

**"Net Sale Proceeds"** means the gross selling price of each Unit, less Closing Costs.

**"Payables"** means any amount owed by the Borrower for the provision of property, goods or services in respect of developing the Project and all the Units thereof to their completion and, in the case of goods or services provided to the Borrower prior to May 9, 2012, where such claim has been proven in accordance with the Claims Procedure Order;

**"Project"** means the multi-unit residential condominium project known as "South Terwillegar", being a two phase development ("1" and "2") comprised of 112 units located in Edmonton, Alberta.

"QS" means the quantity surveyor of the Project, namely BTY Group, or such other quantity surveyor as BNS, the Borrower, and the Monitor may agree upon;

"Units" means all of the residential properties in the Project set forth in Schedule "A" to this Agreement and such additional residential units as may be agreed to by the parties in writing; and

"Units Under Construction" means those Units listed in Parts I and II of Schedule "A" to this Agreement.

## 2. BNS Indebtedness

### (a) Confirmation of Indebtedness

As of May 9, 2012 the principal balance outstanding and owing by the Borrower to BNS is \$3,250,000 (the "Outstanding Loan Amount"), plus letters of guarantee issued by BNS on behalf of the Borrower totalling \$194,809 (the "Outstanding Letters of Guarantee Amount"), exclusive of accrued interest and all other costs and charges due or accruing due under and pursuant to the security held by BNS (collectively, the Outstanding Loan Amount and Outstanding Letters of Guarantee Amount shall be referred to as the "Indebtedness").

### (b) Payment of Interest

Throughout the CCAA Proceedings and until the Indebtedness is repaid in full, BNS shall be entitled to charge interest on the Indebtedness to the Borrower on the terms and conditions prescribed by the Loan Documents (the "Interest"). The Borrower shall pay Interest to the Borrower first out of any interest reserves of the Borrower with BNS (the "Interest Reserves") until the Interest Reserves are exhausted, after which such Interest shall be paid to BNS by the Borrower out of its cashflow.

## 3. Future Unit Sales

### (a) General

The Borrower has advised that the Units listed in Part I of Schedule "A" to this Agreement have been sold to arms-length parties pursuant to existing written contracts for sale (collectively, the "Contracts"). The Borrower agrees to provide copies of the Contracts to BNS and the Monitor on or before July 31, 2012.

The Borrower has advised that the Units listed in Part II of Schedule "A" to this Agreement have not yet been sold and are being constructed as part of the requirements of the Project and the occupancy thereof (the "Remaining Units").

### (b) Interim Financing

BNS will advance the funds required to complete the Project and market the Units Under Construction as requested by the Borrower (the "Draws") as follows:

- (i) Draws will be secured by the "super-priority" charge set forth in, and otherwise governed by the provisions of, the DIP Order;
- (ii) Draws will not exceed:
  - (A) the allocated budget expense for the Project (as confirmed by the QS), and
  - (B) the aggregate principal amount of \$4,450,000, and will bear interest at BNS prime rate of interest plus 1.75% (the "Revised Facility");
- (iii) the Borrower shall pay to BNS a monthly maintenance fee in the amount of \$10,000 (the "Monthly Maintenance Fee") with respect to the Revised Facility, which sum shall be withdrawn automatically on a monthly basis by BNS from the Revised Facility;
- (iv) for the sake of clarity, except for the rate of interest on the Revised Facility prescribed by subparagraph (ii)(B) above and the Monthly Maintenance Fee, which terms are prescribed herein, all fees, costs, charges and other amounts payable by the Borrower to BNS pursuant to the Loan Documents shall also be paid by the Borrower with respect to the Revised Facility, and shall be withdrawn by BNS from the Revised Facility pursuant to the terms of the Loan Documents;
- (v) Draws will be used to pay Payables related to the completion of the Project, including the Units Under Construction; and
- (vi) except as may be provided in this Agreement and the DIP Order, Draw advances shall be subject to the terms and conditions set forth in the Loan Documents.

The Borrower shall immediately proceed in the CCAA Proceedings to seek and obtain the DIP Order.

(c) Completion and Sale of Units Under Construction

The Borrower agrees to utilize diligent commercial efforts to proceed to the completion of the Project, including the completion and closing of the sale of the Units pursuant to the Contracts and to the completion, sale and closing of the Remaining Units. The Parties agree that the sales proceeds from the Units shall be disbursed as follows:

- (i) firstly, to the payment of Closing Costs;
- (ii) secondly, to the payment of the Borrower's Costs;
- (iii) thirdly, to the repayment of all Draws made pursuant to the DIP Order (including all of BNS's costs and expenses, including but not limited to legal fees, project monitor fees, and all other costs and expenses payable to BNS pursuant to the Loan Documents);
- (iv) fourthly, to the repayment of the Outstanding Loan Amount;

- (v) fifthly, to the Outstanding Letters of Guarantee Amount; and
- (vi) sixthly, to the Borrower for general corporate purposes.

**4. Sale and Marketing of Remaining Units**

The Borrower, with the consent of the Monitor, shall supply a proposed listing price (the "**Listing Price**") of the Remaining Units to BNS, which Listing Price shall not be less than the lowest list price permitted by agreements related to each Remaining Unit. The Borrower shall be entitled to enter into arms length contracts for sale of the Remaining Units in the manner prescribed by paragraph 4 of the Vesting Order. The proceeds of sale from any Remaining Units shall be paid pursuant to Section 3(c) hereof.

The Parties agree that the Borrower shall consult with BNS in respect of sales and marketing process for the Remaining Units.

**5. Construction and Loan Maturity**

- (a) The Borrower hereby confirms that the monies advanced under the Revised Facility pursuant to the terms of this Agreement shall be repayable in full, including interest, fees and all other amounts due and owing to the Lender, by no later than July 31, 2013 (the "**Maturity Date**").
- (b) The Borrower shall make its best efforts on an ongoing basis to construct the Project in a timely, orderly and diligent fashion, and shall complete construction on the Project by no later than the Maturity Date.
- (c) The Borrower acknowledges and agrees that its breach of sections 5(a) and 5(b) shall constitute events of default pursuant to the Loan Documents.

**6. The Guarantees**

The Guarantors hereby acknowledge and affirm their existing and ongoing obligations to BNS pursuant to the Guarantees, including but not limited to the Indebtedness and the Draws under the Revised Facility.

**7. General**

- (a) The Parties agree and acknowledge that this Agreement is subject to the provisions of, and compliance with the DIP Order, the Claims Procedure Order and the Vesting Order, all in form and substance satisfactory to the Parties.
- (b) The Parties agree to use diligent commercial efforts to give full effect to the terms and conditions of this Agreement. To the extent a Party determines, acting reasonably, that Court approval is required to give effect to the provisions herein, then the other Parties covenant and agree to support any application to the Court to give effect to the terms of this Agreement.
- (c) There is no promise, warranty, representation, undertaking, covenant or understanding by or binding upon the Parties except such as are expressly set forth in this Agreement,

and this Agreement contains the entire agreement between the Parties in respect of the subject matter hereof.

- (d) This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Alberta.
- (e) No amendment, modification or supplement to this Agreement shall be valid or binding unless set out in writing and executed by the Parties.
- (f) Whenever necessary or appropriate in this Agreement, the plural shall be interpreted as singular, the masculine gender as feminine or neuter and vice versa.
- (g) Time shall be of the essence hereof.
- (h) This Agreement may be executed in counterparts and delivered via facsimile or via email in PDF format and the counterparts together shall constitute an original.

The Parties have entered into this Agreement as of the date first above written.

**SOUTH TERWILLEGAR VILLAGE LIMITED  
PARTNERSHIP**, by its general partner, **SOUTH  
TERWILLEGAR VILLAGE INC.**

Per: \_\_\_\_\_  
Name:  
Title:

**UBG ALBERTA BUILDERS LIMITED  
PARTNERSHIP** by its general partner **UBG  
ALBERTA BUILDERS (2006) Inc.**

Per: \_\_\_\_\_  
Name:  
Title:

**BANK OF NOVA SCOTIA**  
Per: \_\_\_\_\_ JOTFB  
Name: *Henrik Jensen*  
Title: *Senior Account Manager*

The Terms of the memorandum of Understanding are Approved and Consented to by the Monitor, **ERNST & YOUNG INC.**

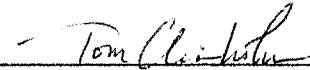
Per: \_\_\_\_\_  
Robert J. Taylor

and this Agreement contains the entire agreement between the Parties in respect of the subject matter hereof.

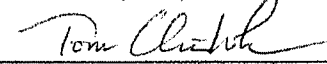
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- (e) No amendment, modification or supplement to this Agreement shall be valid or binding unless set out in writing and executed by the Parties.
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- (h) This Agreement may be executed in counterparts and delivered via facsimile or via email in PDF format and the counterparts together shall constitute an original.

The Parties have entered into this Agreement as of the date first above written.

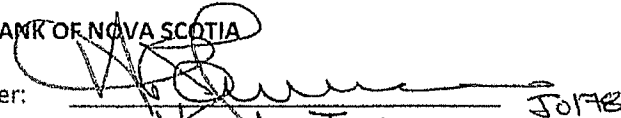
**SOUTH TERWILLEGAR VILLAGE LIMITED  
PARTNERSHIP, by its general partner, SOUTH  
TERWILLEGAR VILLAGE INC.**

Per:   
Name: Tom Chisholm  
Title: President

**UBG ALBERTA BUILDERS LIMITED  
PARTNERSHIP by its general partner UBG  
ALBERTA BUILDERS (2006) Inc.**

Per:   
Name: Tom Chisholm  
Title: President

**BANK OF NOVA SCOTIA**

Per:  J0173  
Name: Henrik Jensen  
Title: Senior Account Manager

The Terms of the memorandum of Understanding are Approved and Consented to by the Monitor, **ERNST & YOUNG INC.**

Per: \_\_\_\_\_  
Robert J. Taylor



SCHEDULE A - Part I

Job #	Suite	Sold Price	Deposit Amount	Contract Date
A-00001	1	\$ 316,437.88	\$ 32,000.00	09/21/2007
A-00002	2	\$ 298,846.48	\$ 30,000.00	01/27/2008
A-00003	3	\$ 297,221.09	\$ 15,000.00	11/27/2007
A-00004	4	\$ 279,900.00	\$ 14,000.00	11/25/2007
A-00005	5	\$ 281,958.84	\$ 15,000.00	09/16/2007
A-00006	6	\$ 291,317.97	\$ 14,566.00	09/23/2007
B-00007	7	\$ 317,208.73	\$ 16,000.00	03/24/2008
B-00008	8	\$ 281,963.99	\$ 14,099.00	02/21/2008
B-00009	9	\$ 281,963.99	\$ 15,000.00	02/20/2008
B-00013	13	\$ 291,762.80	\$ 14,600.00	05/04/2008
B-00014	14	\$ 303,161.20	\$ 15,158.06	02/27/2008
C-00015	15	\$ 311,204.61	\$ 31,121.00	01/25/2008
C-00016	16	\$ 279,900.00	\$ 14,000.00	03/09/2008
C-00017	17	\$ 279,900.00	\$ 27,990.00	11/20/2007
C-00018	18	\$ 308,455.40	\$ 15,422.77	04/17/2008
C-00019	19	\$ 314,427.58	\$ 16,000.00	04/04/2008
C-00020	20	\$ 316,143.80	\$ 16,000.00	04/18/2008
C-00022	22	\$ 308,276.82	\$ 31,000.00	11/28/2007
D-00023	23	\$ 294,956.39	\$ 44,243.50	11/19/2007
D-00024	24	\$ 285,240.60	\$ 14,265.00	01/29/2008
D-00025	25	\$ 316,883.74	\$ 16,000.00	03/11/2008
D-00026	26	\$ 286,654.40	\$ 14,400.00	05/15/2008
D-00027	27	\$ 313,454.37	\$ 15,673.00	12/04/2007
E-00028	28	\$ 331,906.47	\$ 33,200.00	03/23/2008
E-00030	30	\$ 279,900.00	\$ 14,000.00	09/14/2007
E-00035	35	\$ 305,963.08	\$ 15,300.00	02/03/2008
F-00036	36	\$ 298,155.99	\$ 15,000.00	09/17/2007
F-00038	38	\$ 279,900.00	\$ 13,995.00	11/15/2007
F-00040	40	\$ 310,958.00	\$ 32,000.00	05/14/2008
F-00041	41	\$ 315,172.68	\$ 15,800.00	03/06/2008
F-00042	42	\$ 319,035.37	\$ 15,952.00	03/24/2008

Gross Total	\$	9,298,232.27	\$	606,785.33
Less: GST	\$	(297,039.37)		
<b>NET TOTAL</b>	<b>\$</b>	<b>9,001,192.90</b>		

SCHEDULE A - Part II

Job #	Suite	Buyer Last Name	Conditional Sale/Rescission Period	Current List Price	Deposit Amount	Contract Date
B-00010	10			\$ 279,900.00		
B-00011	11			\$ 279,900.00		
B-00012	12			\$ 279,900.00		
C-00021	21			\$ 279,900.00		
E-00029	29			\$ 279,900.00		
E-00031	31			\$ 279,900.00		
E-00032	32			\$ 279,900.00		
E-00033	33			\$ 279,900.00		
E-00034	34			\$ 279,900.00		
F-00037	37			\$ 279,900.00		
F-00039	39			\$ 279,900.00		

Gross Total	\$	-	\$ 3,078,900.00	\$	-
Less: GST	\$	-	\$ (98,357.89)		
NET TOTAL	\$	-	\$ 2,980,542.11		

Schedule "B"

Clerk's stamp:

COURT FILE NUMBER 1201-05843

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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

**AND IN THE MATTER OF UBG BUILDERS INC., ALBERTA BUILDERS CAPITAL INC., ALPINE HOMES (2006) INC., AMERICAN BUILDERS CAPITAL (US) INC., EDGEWATER AT GRIESBACH INC., ELITE HOMES (2006) LTD., EVOLUTION BY GREENBORO INC., GREENBORO COMMUNITIES (2006) INC., GREENBORO ESTATE HOMES (2006) LTD., GREENBORO HOMES (2006) LTD., GREENBORO LUXURY HOMES INC., HIGH POINTE INC., MOUNTAINEERS VILLAGE (2006) INC., MOUNTAINEERS VILLAGE II INC., ORIGINS AT CRANSTON INC., SOUTH TERWILLEGAR VILLAGE INC., THE BRIDGES MANAGEMENT INC., THE LEDGES INC., TIMBERLINE LODGES (2006) INC., TODAY'S COMMUNITIES (2006) INC., TODAY'S HOMES (2006) INC., TUSCANY DEVELOPMENTS (2006) INC., UBG ALBERTA BUILDERS (2006) INC., UBG ALPINE HOMES (2006) LTD., UBG BRIDGES INC., UBG BUILDERS (USA) INC., UBG COMMERCIAL INC., UBG LAND INC., UBG LOT DEPOSIT CORP., UBG 4500 CALGARY INC., UBG 75 CANMORE INC., UBG 808 CALGARY INC., UNITY INVESTMENTS (2012) INC., VALMONT AT ASPEN STONE INC., VALOUR PARK AT CURRIE INC., VILLAGE AT THE HAMPTONS INC., VILLAGE ON THE PARK INC., WILDERNESS HOMES BY RIVERDALE INC., WILDERNESS RIDGE AT STEWART CREEK INC. (COLLECTIVELY, THE "APPLICANTS")**

DOCUMENT

Order

(re: BNS Protocol (ST))

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

**FRASER MILNER CASGRAIN LLP**

Bankers Court

15<sup>th</sup> Floor, 850 - 2<sup>nd</sup> Street S.W.

Calgary, Alberta T2P 0R8

**Attention: David W. Mann / Derek M. Pontin**

Ph. (403) 268-7097/6301 Fx. (403) 268-3100

File No.: 549362-1

DATE ON WHICH ORDER WAS PRONOUNCED

•

NAME OF JUSTICE WHO MADE THIS ORDER

The Honourable Madam Justice K.M. Horner

**ORDER**  
(re: BNS Protocol (ST))

**UPON** the application of the Applicants in these proceedings (collectively, "UBG"); **AND UPON** having read the Application of the Applicants, dated July \_\_\_\_\_, 2012, the Affidavit of Robert Friesen, dated July \_\_\_\_\_, 2012 (the "**Friesen Affidavit**"), the Second Report of the Monitor, dated July \_\_\_\_\_, 2012, the Affidavit of Dawn Roy, dated July \_\_\_\_\_, 2012 (the "**Service Affidavit**"), and such other material in the pleadings and proceedings as deemed necessary; **AND UPON** hearing counsel for UBG, counsel for Bank of Nova Scotia ("**BNS**"), counsel for the Monitor, and other interested parties; **IT IS HEREBY ORDERED AND DECLARED THAT:**

***Service***

1. The time for service of notice of this application is abridged to the time actually given and service of the Application and supporting material as described in the Service Affidavit is good and sufficient, and this hearing is properly returnable before this Honourable Court today and further service thereof is hereby dispensed with.
2. All capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Initial Order granted in these proceedings on May 9, 2012 (the "**Initial Order**").

***Approval of the BNS Interim Financing Agreement***

3. The loan agreement among South Terwillegar Village Inc., as general partner for South Terwillegar Village Limited Partnership (the "**Borrower**"), South Terwillegar Village Inc., as general partner for South Terwillegar Village Limited Partnership, UBG Alberta Builders (2006) Inc., as general partner for UBG Alberta Builders Limited Partnership, as guarantors, and BNS, dated July \_\_\_\_\_, 2012, attached as Exhibit "\*" to the Friesen Affidavit (the "**BNS Interim Financing Agreement**") providing for, *inter alia*, the funding, completion, sale of and distribution of proceeds from the development of the Project and sale of Units in the Project (as defined in the BNS Interim Financing Agreement) is hereby approved.
4. UBG and the Monitor are hereby authorized and directed to do all things reasonably necessary to implement, and perform all of their respective obligations under the BNS Interim Financing Agreement.

***Approval of the BNS Charge***

5. As security for monies advanced by BNS to UBG pursuant to the BNS Interim Financing Agreement, a charge is hereby granted on the undertaking, property, and assets of the Borrower in favour of BNS (the "**BNS Charge**"), which charge shall rank in priority to all claims against the Borrower, including the Administration Charge and the Directors' Charge, but shall be subject to the distribution scheme set forth in the BNS Interim Financing Agreement.
6. The proceeds from the sale of the Units (as defined in the BNS Interim Financing Agreement) shall, subject to the consent of the Monitor and compliance with any applicable claims procedures established in these proceedings, be distributed as set forth in the BNS Interim Financing Agreement.

**Miscellaneous**

7. The BNS Interim Financing Agreement and the BNS Charge shall be valid and enforceable and the rights and remedies of the parties thereto shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declaration of insolvency made herein; (ii) any Bankruptcy Order sought or issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") in respect of any of the Applicants or any assignment in bankruptcy made or deemed to be made in respect of any of the Applicants; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances, contained in any existing agreement, lease, sub-lease, offer to lease or other arrangement which binds any of the Applicants (a "Third Party Agreement"), and notwithstanding any provision to the contrary in any Third Party Agreement:
  - (a) neither the creation of the BNS Interim Financing Agreement, the creation of the BNS Charge, nor the execution, delivery or performance of the BNS Interim Financing Agreement shall create or be deemed to constitute a breach by any of the Applicants of any Third Party Agreement to which it is a party; and
  - (b) the parties to the BNS Interim Financing Agreement shall not have liability to any person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation of the BNS Charge or the execution, delivery or performance of the BNS Interim Financing Agreement.
8. Notwithstanding the pendency of these proceedings and the declaration of insolvency made in these proceedings, the BNS Interim Financing Agreement and the BNS Charge shall constitute legal, valid and binding obligations of the Applicants enforceable against them in accordance with the terms thereof, and the payments made by the parties pursuant to this Order, the BNS Interim Financing Agreement, or the BNS Charge do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting an oppression remedy under any applicable law, and shall not constitute advances under the *Builders' Liens Act* (Alberta) nor be subject to any builder's lien registered at the date of this Order or thereafter.
9. Except as specifically set forth in this Order, the rights and remedies of the parties under the BNS Interim Financing Agreement shall be subject to the terms of this Order, the Initial Order, including the stay of proceedings, and all other Orders made in these proceedings.
10. No action or proceeding may be commenced against a party to the BNS Interim Financing Agreement by reason of any such party having entered into the BNS Interim Financing Agreement or having performed the obligations thereunder without leave of this Court having been obtained on seven days' notice to the Applicants, BNS, and the Monitor.
11. The Applicants, BNS and the Monitor or any party to the BNS Interim Financing Agreement are at liberty to apply for such further advice, assistance and direction as may be necessary to give full force and effect to the terms of this Order.
12. The Applicants shall serve, by courier, facsimile transmission, e-mail transmission, or ordinary post, a copy of this Order on all parties present at this application and on all parties who received notice of this application or who are presently on the service list established in these

proceedings, and service on any or all other parties is hereby dispensed with. Service effected as aforesaid shall be good and sufficient service.

---

Justice of the Court of Queen's Bench of Alberta

**AGREEMENT**

THIS AGREEMENT made this 5<sup>th</sup> day of July, 2012

**BETWEEN:**

**VALMONT AT ASPEN STONE INC., as general partner for VALMONT AT ASPEN STONE LIMITED PARTNERSHIP (the "Borrower")**

THIS IS EXHIBIT " C " referred to in the Affidavit of Robert F. R. S. Sworn before me this 6<sup>th</sup> Day of July, A.D. 2012

ACCOMMISSIONER FOR OATHS IN AND FOR THE PROVINCE OF ALBERTA  
A Notary Public in and for  
TYLER E. JOHNSON, B.A., LL.B.  
BARRISTER, SOLICITOR,  
NOTARY PUBLIC  
OF THE FIRST PART

- and -

**VALMONT AT ASPEN STONE INC., as general partner for VALMONT AT ASPEN STONE LIMITED PARTNERSHIP, UBG ALBERTA BUILDERS (2006) INC., as general partner for UBG ALBERTA BUILDERS LIMITED PARTNERSHIP, TODAY'S COMMUNITIES (2006) Inc., as general partner for TODAY'S COMMUNITIES LIMITED PARTNERSHIP (collectively, the "Guarantors")**

**OF THE SECOND PART**

- and -

**BANK OF NOVA SCOTIA ("BNS")**

**OF THE THIRD PART**

**WHEREAS** BNS has made secured loans and advances to the Borrower and has been granted security from the Borrower therefor including, *inter alia*, a first mortgage on the Project, including the lands, premises, and condominium units described in the attached Schedule "A" (the "Units");

**AND WHEREAS** the Borrower has obtained protection under and pursuant to the provisions of the *Companies' Creditors Arrangement Act* pursuant to an Initial Order (the "Initial Order") made in the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "Court") in Action Number 1201-05843 on May 9, 2012 (the "CCA Proceedings");

**AND WHEREAS** the Borrower has obtained a Vesting Order (the "Vesting Order") in the CCAA Proceedings on June 15, 2012 in respect of, *inter alia*, the sale of the Units;

**AND WHEREAS** the Borrower has obtained a Claims Procedure Order (the "Claims Procedure Order") in the CCAA Proceedings on June 15, 2012;

**AND WHEREAS** Ernst & Young Inc. is the court appointed monitor (the "Monitor") in the CCAA Proceedings;

**AND WHEREAS** the Borrower, BNS, and the Monitor (collectively, the "Parties") have agreed to proceed with a plan to:

- (a) fund and complete construction of the Project, including the Units under construction;
- (b) close the sales of Units that are under contract for sale;

- (c) market and sell (and to the extent required, complete the construction thereof) the Remaining Units (defined below);
- (d) all with a view to expeditiously repaying the secured indebtedness owing to BNS.

**NOW THEREFORE**, this agreement (hereinafter, the "**Agreement**") witnesses that in consideration of the mutual covenants and agreements contained herein the Parties agree as follows:

**1. Defined Terms**

In this Agreement, unless otherwise defined herein, capitalized terms shall have the following meanings:

**"Borrower's Costs"** means an amount payable to the Borrower for its immediate use to cover its ongoing costs and disbursements of developing, constructing, marketing, selling, and otherwise completing the Project, calculated as follows:

- a) beginning as of the date of the first advance under the Revised Facility and ending on the closing date of the first sale of a Unit, the amount of \$50,000 per month;
- b) commencing upon the closing of the sale of the first Unit and continuing for all closings thereafter, a percentage of the Net Sale Proceeds of each Unit, where the percentage is equal to: 6%;

**"Closing Costs"** means all ordinary or reasonable costs of closing the sale of a Unit including, without limitation: (a) all goods and services and other applicable sales taxes, property taxes, commissions, applicable condominium or community fees, and legal fees and disbursements; and (b) such withholdings as may be customary or necessary, including to secure warranty obligations of the Borrower of 0.5% of the total sale proceeds of the Unit;

**"DIP Order"** means an Order granted by the Court in the CCAA Proceedings in the form attached hereto as Schedule "B" or otherwise acceptable to the parties;

**"Guarantees"** means:

- a) a Guarantee Agreement dated March 22, 2007 provided by Today's Communities Limited Partnership in favour of BNS;
- b) a Guarantee Agreement dated March 22, 2007 provided by UBG Alberta Builders Limited Partnership in favour of BNS;
- c) a Guarantee Agreement dated April 26, 2007 provided by Valmont at Aspen Stone Limited Partnership in favour of BNS;

**"Loan Documents"** means the commitment letter, security documents, Guarantees, and related agreements among BNS and the Borrower governing the credit facilities granted by BNS in favour of the Borrower for the development of the Project and sale of the Units;

**"Net Sale Proceeds"** means the gross selling price of each Unit, less Closing Costs.



**"Payables"** means any amount owed by the Borrower for the provision of property, goods or services in respect of developing the Project and all the Units thereof to their completion and, in the case of goods or services provided to the Borrower prior to May 9, 2012, where such claim has been proven in accordance with the Claims Procedure Order;

**"Project"** means the multi-unit residential condominium project known as **"Valmont"**, being a four phase development ("A", "B", "C", and "D") comprised of 257 units located in southwest Calgary, Alberta.

**"QS"** means the quantity surveyor of the Project, namely BTY Group, or such other quantity surveyor as BNS, the Borrower, and the Monitor may agree upon;

**"Units"** means all of the residential properties in the Project set forth in Schedule "A" to this Agreement and such additional residential units as may be agreed to by the parties in writing; and

**"Units Under Construction"** means those Units listed in Parts I and II of Schedule "A" to this Agreement.

## 2. BNS Indebtedness

### (a) Confirmation of Indebtedness

As of May 9, 2012 the principal balance outstanding and owing by the Borrower to BNS is \$4,320,000 (the **"Outstanding Loan Amount"**), plus letters of guarantee issued by BNS on behalf of the Borrower totalling \$232,155 (the **"Outstanding Letters of Guarantee Amount"**), exclusive of accrued interest and all other costs and charges due or accruing due under and pursuant to the security held by BNS (collectively, the Outstanding Loan Amount and Outstanding Letters of Guarantee Amount shall be referred to as the **"Indebtedness"**).

### (b) Payment of Interest

Throughout the CCAA Proceedings and until the Indebtedness is repaid in full, BNS shall be entitled to charge interest on the Indebtedness to the Borrower on the terms and conditions prescribed by the Loan Documents (the **"Interest"**). The Borrower shall pay Interest to the Borrower first out of any interest reserves of the Borrower with BNS (the **"Interest Reserves"**) until the Interest Reserves are exhausted, after which such Interest shall be paid to BNS by the Borrower out of its cashflow.

## 3. Future Unit Sales

### (a) General

The Borrower has advised that the Units of phase "C" listed in Part I of Schedule "A" to this Agreement have been sold to arms-length parties pursuant to existing written contracts for sale (collectively, the **"Contracts"**). The Borrower agrees to provide copies of the Contracts to BNS and the Monitor on or before July 31, 2012.

The Borrower has advised that the Units of phase "C" listed in Part II of Schedule "A" to this Agreement have not yet been sold and are being constructed as part of the requirements of the Project and the occupancy thereof (the "Remaining Units").

(b) Interim Financing

BNS will advance the funds required to complete phase "C" of the Project and market the phase "C" Units Under Construction as requested by the Borrower (the "Draws") as follows:

- (i) Draws will be secured by the "super-priority" charge set forth in, and otherwise governed by the provisions of, the DIP Order;
- (ii) Draws will not exceed:
  - (A) the allocated budget expense for the Project (as confirmed by the QS), and
  - (B) the aggregate principal amount of \$5,480,000, and will bear interest at BNS prime rate of interest plus 1.75% (the "Revised Facility");
- (iii) the Borrower shall pay to BNS a monthly maintenance fee in the amount of \$10,000 (the "Monthly Maintenance Fee") with respect to the Revised Facility, which sum shall be withdrawn automatically on a monthly basis by BNS from the Revised Facility;
- (iv) for the sake of clarity, except for the rate of interest on the Revised Facility prescribed by subparagraph (ii)(B) above and the Monthly Maintenance Fee, which terms are prescribed herein, all fees, costs, charges and other amounts payable by the Borrower to BNS pursuant to the Loan Documents shall also be paid by the Borrower with respect to the Revised Facility, and shall be withdrawn by BNS from the Revised Facility pursuant to the terms of the Loan Documents;
- (v) Draws will be used to pay Payables related to the completion of the Project, including the phase "C" Units Under Construction; and
- (vi) except as may be provided in this Agreement and the DIP Order, Draw advances shall be subject to the terms and conditions set forth in the Loan Documents.

The Borrower shall immediately proceed in the CCAA Proceedings to seek and obtain the DIP Order.

(c) Completion and Sale of Units Under Construction

The Borrower agrees to utilize diligent commercial efforts to proceed to the completion of the Project, including the completion and closing of the sale of the Units pursuant to the Contracts and to the completion, sale and closing of the Remaining Units. The Parties agree that the sales proceeds from the Units shall be disbursed as follows:

- (i) firstly, to the payment of Closing Costs;

- (ii) secondly, to the payment of the Borrower's Costs;
- (iii) thirdly, to the repayment of all Draws made pursuant to the DIP Order (including all of BNS's costs and expenses, including but not limited to legal fees, project monitor fees, and all other costs and expenses payable to BNS pursuant to the Loan Documents);
- (iv) fourthly, to the repayment of the Outstanding Loan Amount;
- (v) fifthly, to the Outstanding Letters of Guarantee Amount; and
- (vi) sixthly, to the Borrower for general corporate purposes.

**4. Sale and Marketing of Remaining Units**

The Borrower, with the consent of the Monitor, shall supply a proposed listing price (the "Listing Price") of the Remaining Units to BNS, which Listing Price shall not be less than the lowest list price permitted by agreements related to each Remaining Unit. The Borrower shall be entitled to enter into arms length contracts for sale of the Remaining Units in the manner prescribed by paragraph 4 of the Vesting Order. The proceeds of sale from any Remaining Units shall be paid pursuant to Section 3(c) hereof.

The Parties agree that the Borrower shall consult with BNS in respect of sales and marketing process for the Remaining Units.

**5. Construction and Loan Maturity**

- (a) The Borrower hereby confirms that the monies advanced pursuant to the terms of this Agreement shall be repayable in full, including interest, fees and all other amounts due and owing to the Lender, by no later than December 31, 2012 (the "Maturity Date").
- (b) The Borrower shall make its best efforts on an ongoing basis to construct the Project in a timely, orderly and dilligent fashion, and shall complete construction on the Project by no later than the Maturity Date.
- (c) The Borrower acknowledges and agrees that its breach of sections 5(a) and 5(b) shall constitute events of default pursuant to the Loan Documents.

**6. The Guarantees**

The Guarantors hereby acknowledge and affirm their existing and ongoing obligations to BNS pursuant to the Guarantees, including but not limited to the Indebtedness and the Draws under the Revised Facility.

**7. General**

- (a) The Parties agree and acknowledge that this Agreement is subject to the provisions of, and compliance with, the DIP Order, the Claims Procedure Order and the Vesting Order, all in form and substance satisfactory to the Parties.

- (b) The Parties agree to use diligent commercial efforts to give full effect to the terms and conditions of this Agreement. To the extent a Party determines, acting reasonably, that Court approval is required to give effect to the provisions herein, then the other Parties covenant and agree to support any application to the Court to give effect to the terms of this Agreement.
- (c) There is no promise, warranty, representation, undertaking, covenant or understanding by or binding upon the Parties except such as are expressly set forth in this Agreement, and this Agreement contains the entire agreement between the Parties in respect of the subject matter hereof.
- (d) This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Alberta.
- (e) No amendment, modification or supplement to this Agreement shall be valid or binding unless set out in writing and executed by the Parties.
- (f) Whenever necessary or appropriate in this Agreement, the plural shall be interpreted as singular, the masculine gender as feminine or neuter and vice versa.
- (g) Time shall be of the essence hereof.
- (h) This Agreement may be executed in counterparts and delivered via facsimile or via email in PDF format and the counterparts together shall constitute an original.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK

The Parties have entered into this Agreement as of the date first above written.

**VALMONT AT ASPEN STONE LIMITED  
PARTNERSHIP**, by its general partner,  
**VALMONT AT ASPEN STONE INC.**

Per: \_\_\_\_\_  
Name:  
Title:

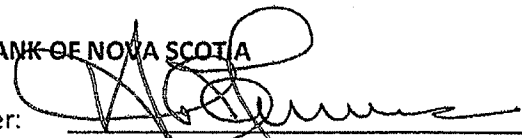
**UBG ALBERTA BUILDERS LIMITED  
PARTNERSHIP** by its general partner **UBG  
ALBERTA BUILDERS (2006) Inc.**

Per: \_\_\_\_\_  
Name:  
Title:

**TODAY'S COMMUNITIES LIMITED  
PARTNERSHIP** by its general partner **TODAY'S  
COMMUNITIES (2006) INC.**

Per: \_\_\_\_\_  
Name:  
Title:

**BANK OF NOVA SCOTIA**

Per:  \_\_\_\_\_ Jd78  
Name: Henrik Jensen  
Title: Senior Account Manager

The Terms of the memorandum of  
Understanding are Approved and Consented to  
by the Monitor, **ERNST & YOUNG INC.**

Per:  \_\_\_\_\_  
Robert J. Taylor

The Parties have entered into this Agreement as of the date first above written.

**VALMONT AT ASPEN STONE LIMITED  
PARTNERSHIP**, by its general partner,  
**VALMONT AT ASPEN STONE INC.**

Per: Tom Chisholm  
Name: Tom Chisholm  
Title: President USA

**UBG ALBERTA BUILDERS LIMITED  
PARTNERSHIP** by its general partner UBG  
**ALBERTA BUILDERS (2006) Inc.**

Per: Tom Chisholm  
Name: Tom Chisholm  
Title: President USA

**TODAY'S COMMUNITIES LIMITED  
PARTNERSHIP** by its general partner **TODAY'S  
COMMUNITIES (2006) INC.**

Per: Tom Chisholm  
Name: Tom Chisholm  
Title: President

**BANK OF NOVA SCOTIA**

Per: Henrik Jensen Jd78  
Name: Henrik Jensen  
Title: Senior Account Manager

The Terms of the memorandum of  
Understanding are Approved and Consented to  
by the Monitor, **ERNST & YOUNG INC.**

Per: \_\_\_\_\_  
Robert J. Taylor

Schedule A - Part I  
 Building C - Units Sold

Job #	Suite	Model Name	Sold Price	Deposit Amount	Contract Date
2C-00101	101	B1-b	\$ 302,165.00	\$ 31,727.33	03/25/2008
2C-00102	102	B1-a	\$ 300,212.00	\$ 15,645.00	07/19/2007
2C-00104	104	B1-b	\$ 307,195.00	\$ 16,127.74	06/01/2008
2C-00105	105	A1	\$ 199,900.00	\$ 20,989.50	08/15/2007
2C-00107	107	B1	\$ 321,192.00	\$ 16,862.58	04/14/2008
2C-00108	108	A1	\$ 190,000.00	\$ 9,975.00	05/30/2007
2C-00109	109	B1	\$ 314,900.00	\$ 16,352.25	04/15/2008
2C-00110	110	B1	\$ 329,887.00	\$ 17,319.07	05/22/2008
2C-00112	112	A1	\$ 201,148.00	\$ 10,560.27	03/05/2008
2C-00113	113	A1	\$ 199,900.00	\$ 20,899.50	08/20/2007
2C-00114	114	B1	\$ 327,400.00	\$ 17,188.50	04/24/2008
2C-00201	201	B1-b	\$ 292,345.00	\$ 30,334.50	07/02/2007
2C-00202	202	B1-a	\$ 289,365.00	\$ 30,135.00	06/20/2007
2C-00203	203	B1-a	\$ 294,065.00	\$ 30,660.00	06/19/2007
2C-00204	204	B1-b	\$ 292,300.00	\$ 30,660.00	06/21/2007
2C-00205	205	A1	\$ 203,473.00	\$ 10,652.25	06/13/2007
2C-00207	207	B1	\$ 313,900.00	\$ 16,479.75	01/22/2008
2C-00208	208	A1	\$ 206,318.00	\$ 21,304.50	06/22/2007
2C-00209	209	B1	\$ 304,437.00	\$ 15,744.75	07/16/2007
2C-00210	210	B1	\$ 313,362.00	\$ 15,482.25	06/12/2007
2C-00211	211	B1	\$ 299,647.00	\$ 31,384.50	06/24/2007
2C-00212	212	A1	\$ 203,450.00	\$ 10,652.25	06/25/2007
2C-00213	213	A1	\$ 202,248.00	\$ 10,652.25	07/02/2007
2C-00214	214	B1	\$ 299,647.00	\$ 31,384.50	06/24/2007
2C-00216	216	B1	\$ 299,525.00	\$ 31,185.00	06/19/2007
2C-00307	307	E2	\$ 326,630.00	\$ 17,148.08	06/13/2008
2C-00308	308	C1	\$ 469,900.00	\$ 49,339.50	06/19/2007
2C-00309	309	B1	\$ 316,477.00	\$ 16,269.75	06/04/2007
2C-00310	310	A1	\$ 233,900.00	\$ 12,279.75	06/04/2007
2C-00311	311	B1	\$ 312,412.00	\$ 16,269.75	07/16/2007
2C-00312	312	B1	\$ 315,292.00	\$ 32,539.50	06/22/2007
2C-00313	313	B1	\$ 314,900.00	\$ 16,532.25	08/07/2007
2C-00314	314	A1	\$ 208,900.00	\$ 10,967.25	06/10/2007
2C-00315	315	A1	\$ 210,448.00	\$ 10,967.25	06/07/2007
2C-00316	316	B1	\$ 334,787.00	\$ 17,319.75	05/30/2007

Gross Total \$ 9,851,627 \$ 709,991

Valmont at Aspen Stone (VAS2)  
 Sales Summary  
 As at 07/06/2012

Schedule A - Part II  
 Building C - Remaining Units to Sell

Job #	Suite	Model Name	Buyer Last Name	Conditional Sale/Rescission Period	Listed Price	Deposit Amount	Rescission Expiry
2C-00103	103	B1-a	SPIESS	\$ 322,215.00		\$ 16,916.29	07/30/2012
2C-00106	106	C1			\$ 479,900.00		
2C-00111	111	B1	KLINAKIS	\$ 316,620.00		\$ 16,622.55	07/06/2012
2C-00115	115	C1			\$ 467,900.00		
2C-00116	116	B1	SALES CENTRE		\$ 309,900.00		
2C-00206	206	C1			\$ 489,900.00		
2C-00215	215	C1			\$ 477,900.00		
2C-00301	301	E1			\$ 319,900.00		
2C-00302	302	E1			\$ 319,900.00		
2C-00303	303	E1			\$ 319,900.00		
2C-00304	304	E1			\$ 319,900.00		
2C-00305	305	E1			\$ 319,900.00		
2C-00306	306	E1			\$ 319,900.00		
2C-00317	317	C1			\$ 487,900.00		
2C-00318	318	D1			\$ 478,900.00		

Gross Total \$ 638,835 \$ 5,111,700 \$ 33,539



Schedule "B"

Clerk's stamp:

COURT FILE NUMBER 1201-05843

COURT OF QUEEN'S BENCH OF  
ALBERTA

JUDICIAL CENTRE CALGARY

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

**AND IN THE MATTER OF UBG BUILDERS INC., ALBERTA BUILDERS  
CAPITAL INC., ALPINE HOMES (2006) INC., AMERICAN BUILDERS  
CAPITAL (US) INC., EDGEWATER AT GRIESBACH INC., ELITE HOMES  
(2006) LTD., EVOLUTION BY GREENBORO INC., GREENBORO  
COMMUNITIES (2006) INC., GREENBORO ESTATE HOMES (2006) LTD.,  
GREENBORO HOMES (2006) LTD., GREENBORO LUXURY HOMES INC.,  
HIGH POINTE INC., MOUNTAINEERS VILLAGE (2006) INC.,  
MOUNTAINEERS VILLAGE II INC., ORIGINS AT CRANSTON INC., SOUTH  
TERWILLEGAR VILLAGE INC., THE BRIDGES MANAGEMENT INC., THE  
LEDGES INC., TIMBERLINE LODGES (2006) INC., TODAY'S  
COMMUNITIES (2006) INC., TODAY'S HOMES (2006) INC., TUSCANY  
DEVELOPMENTS (2006) INC., UBG ALBERTA BUILDERS (2006) INC., UBG  
ALPINE HOMES (2006) LTD., UBG BRIDGES INC., UBG BUILDERS (USA)  
INC., UBG COMMERCIAL INC., UBG LAND INC., UBG LOT DEPOSIT  
CORP., UBG 4500 CALGARY INC., UBG 75 CANMORE INC., UBG 808  
CALGARY INC., UNITY INVESTMENTS (2012) INC., VALMONT AT ASPEN  
STONE INC., VALOUR PARK AT CURRIE INC., VILLAGE AT THE  
HAMPTONS INC., VILLAGE ON THE PARK INC., WILDERNESS HOMES BY  
RIVERDALE INC., WILDERNESS RIDGE AT STEWART CREEK INC.  
(COLLECTIVELY, THE "APPLICANTS")**

DOCUMENT

Order

(re: BNS Protocol (Valmont))

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT

**FRASER MILNER CASGRAIN LLP**  
Bankers Court  
15<sup>th</sup> Floor, 850 - 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8  
**Attention: David W. Mann / Derek M. Pontin**  
Ph. (403) 268-7097/6301 Fx. (403) 268-3100  
File No.: 549362-1

DATE ON WHICH ORDER WAS  
PRONOUNCED

•

NAME OF JUSTICE WHO MADE  
THIS ORDER

The Honourable Madam Justice K.M. Horner

**ORDER**

(re: BNS Protocol (Valmont))

**UPON** the application of the Applicants in these proceedings (collectively, "**UBG**"); **AND UPON** having read the Application of the Applicants, dated July \_\_\_\_\_, 2012, the Affidavit of Robert Friesen, dated July \_\_\_\_\_, 2012 (the "**Friesen Affidavit**"), the Second Report of the Monitor, dated July \_\_\_\_\_, 2012, the Affidavit of Dawn Roy, dated June \_\_\_\_\_, 2012 (the "**Service Affidavit**"), and such other material in the pleadings and proceedings as deemed necessary; **AND UPON** hearing counsel for UBG, counsel for Bank of Nova Scotia ("**BNS**"), counsel for the Monitor, and other interested parties; **IT IS HEREBY ORDERED AND DECLARED THAT:**

***Service***

1. The time for service of notice of this application is abridged to the time actually given and service of the Application and supporting material as described in the Service Affidavit is good and sufficient, and this hearing is properly returnable before this Honourable Court today and further service thereof is hereby dispensed with.
2. All capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Initial Order granted in these proceedings on May 9, 2012 (the "**Initial Order**").

***Approval of the BNS Interim Financing Agreement***

3. The loan agreement among Valmont at Aspen Stone Inc., as general partner for Valmont at Aspen Stone Limited Partnership (the "**Borrower**"), Valmont at Aspen Stone Inc., as general partner for Valmont at Aspen Stone Limited Partnership, UBG Alberta Builders (2006) Inc., as general partner for UBG Alberta Builders Limited Partnership, Today's Communities (2006) Inc., as general partner for Today's Communities Limited Partnership, as guarantors, and BNS, dated July \_\_\_\_\_, 2012, attached as Exhibit "\*" to the Friesen Affidavit (the "**BNS Interim Financing Agreement**") providing for, *inter alia*, the funding, completion, sale of and distribution of proceeds from the development of the Project and sale of Units in the Project (as defined in the BNS Interim Financing Agreement) is hereby approved.
4. UBG and the Monitor are hereby authorized and directed to do all things reasonably necessary to implement, and perform all of their respective obligations under the BNS Interim Financing Agreement.

***Approval of the BNS Charge***

5. As security for monies advanced by BNS to UBG pursuant to the BNS Interim Financing Agreement, a charge is hereby granted on the undertaking, property, and assets of the Borrower in favour of BNS (the "**BNS Charge**"), which charge shall rank in priority to all claims against the Borrower, including the Administration Charge and the Directors' Charge, but shall be subject to the distribution scheme set forth in the BNS Interim Financing Agreement.
6. The proceeds from the sale of the Units (as defined in the BNS Interim Financing Agreement) shall, subject to the consent of the Monitor and compliance with any applicable claims procedures established in these proceedings, be distributed as set forth in the BNS Interim Financing Agreement.

**Miscellaneous**

7. The BNS Interim Financing Agreement and the BNS Charge shall be valid and enforceable and the rights and remedies of the parties thereto shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declaration of insolvency made herein; (ii) any Bankruptcy Order sought or issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") in respect of any of the Applicants or any assignment in bankruptcy made or deemed to be made in respect of any of the Applicants; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances, contained in any existing agreement, lease, sub-lease, offer to lease or other arrangement which binds any of the Applicants (a "Third Party Agreement"), and notwithstanding any provision to the contrary in any Third Party Agreement:
  - (a) neither the creation of the BNS Interim Financing Agreement, the creation of the BNS Charge, nor the execution, delivery or performance of the BNS Interim Financing Agreement shall create or be deemed to constitute a breach by any of the Applicants of any Third Party Agreement to which it is a party; and
  - (b) the parties to the BNS Interim Financing Agreement shall not have liability to any person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation of the BNS Charge or the execution, delivery or performance of the BNS Interim Financing Agreement.
8. Notwithstanding the pendency of these proceedings and the declaration of insolvency made in these proceedings, the BNS Interim Financing Agreement and the BNS Charge shall constitute legal, valid and binding obligations of the Applicants enforceable against them in accordance with the terms thereof, and the payments made by the parties pursuant to this Order, the BNS Interim Financing Agreement, or the BNS Charge do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting an oppression remedy under any applicable law, and shall not constitute advances under the *Builders' Liens Act* (Alberta) nor be subject to any builder's lien registered at the date of this Order or thereafter.
9. Except as specifically set forth in this Order, the rights and remedies of the parties under the BNS Interim Financing Agreement shall be subject to the terms of this Order, the Initial Order, including the stay of proceedings, and all other Orders made in these proceedings.
10. No action or proceeding may be commenced against a party to the BNS Interim Financing Agreement by reason of any such party having entered into the BNS Interim Financing Agreement or having performed the obligations thereunder without leave of this Court having been obtained on seven days' notice to the Applicants, BNS, and the Monitor.
11. The Applicants, BNS and the Monitor or any party to the BNS Interim Financing Agreement are at liberty to apply for such further advice, assistance and direction as may be necessary to give full force and effect to the terms of this Order.
12. The Applicants shall serve, by courier, facsimile transmission, e-mail transmission, or ordinary post, a copy of this Order on all parties present at this application and on all parties who received notice of this application or who are presently on the service list established in these

proceedings, and service on any or all other parties is hereby dispensed with. Service effected as aforesaid shall be good and sufficient service.

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Justice of the Court of Queen's Bench of Alberta