



FORM 66 (RULES 16-1(2) AND 21-5(14))

Court File No. **VLC-S-H-240795**
No. _____
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

KOOTENAY SAVINGS CREDIT UNION

PETITIONER

AND:

KS PROPERTY MANAGEMENT INC., INC. NO. BC1281655
also known as KS PROPERTY MANAGEMENT INC.
MARWEST INDUSTRIES LTD.
COLAS WESTERN CANADA INC.
PENNCO ENGINEERING (BC) LTD.
GEO STABILIZATION INTERNATIONAL INC.
HIS MAJESTY THE KING IN RIGHT OF CANADA

RESPONDENTS

PETITION TO THE COURT

ON NOTICE TO:

KS Property Management Inc., Inc. No. BC1281655 9259 Main Street Chilliwack BC V2P 4M8	Colas Western Canada Inc. c/o McLean & Armstrong LLP 300 – 1497 Marine Drive West Vancouver BC V7T 1B8
Marwest Industries Ltd. c/o Jenkins Marzban Logan LLP 900-808 Nelson Street Vancouver BC V6Z 2H2	Pennco Engineering (BC) Ltd. c/o Watson & Company 2-609 Baker Street Nelson BC V1L 4J3
Geo Stabilization International Inc. c/o McLean & Armstrong LLP 300 – 1497 Marine Drive West Vancouver BC V7T 1B8	His Majesty the King c/o Department of Justice Canada British Columbia Regional Office #900-840 Howe Street Vancouver, BC V6Z 2S9

The address of the registry is: 800 Smithe Street, Vancouver BC V6Z 2E1

The petitioner estimates that the hearing of the petition will take 30 minutes.

☐ This matter is an application for judicial review.

☒ This matter is not an application for judicial review.

This proceeding has been started by the petitioner for the relief set out in Part 1 below.

If you intend to respond to this petition, you or your lawyer must:

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner:
 - (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner:

- (c) if you reside anywhere within Canada, within 21 days after the date on which a copy of the filed petition was served on you;
- (d) if you reside in the United States of America, within 35 days after the date on which a copy of the filed petition was served on you;
- (e) if you reside elsewhere, within 49 days after the date on which a copy of the filed petition was served on you; or
- (f) if the time for response has been set by order of the court, within that time.

	The address for service of the petitioner is: c/o McMillan Dubo LLP #401-121 5th Avenue Kamloops, BC V2C 0M1 Fax number address for service (if any) of the petitioner: N/A E-mail address for service (if any) of the petitioner: service@mcmillandubo.com
	The name and office address of the petitioner's lawyer is: McMillan Dubo LLP #401-121 5th Avenue Kamloops, BC V2C 0M1 Phone: (778) 765-1701 Attention: Jennifer Cockbill

FORM 11 (RULE 4-5(2))
ENDORSEMENT ON ORIGINATING PLEADING OR PETITION
FOR SERVICE OUTSIDE BRITISH COLUMBIA

The Petitioner claims the right to serve this petition on the Respondents outside British Columbia on the ground that the proceeding:

- (a) is brought to enforce, assert, declare or determine proprietary or possessory rights or a security interest in property in British Columbia that is immovable or movable property;
- (b) is brought to interpret, rectify, set aside or enforce any deed, will, contract or other instrument in relation to property in British Columbia that is immovable or movable property; and
- (c) concerns contractual obligations, and the contractual obligations, to a substantial extent, were to be performed in British Columbia and/or by its express terms, the contract is governed by the law of British Columbia,

pursuant to section 10 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 upon which the Petitioner relies.

CLAIM OF THE PETITIONER

Part 1: ORDER(S) SOUGHT

1. A declaration that a Mortgage and Assignment of Rents granted to the Petitioner by Osprey Landing Development Corp. (“**OLDC**”), as mortgagor, and registered in the Kamloops Land Title Office on December 20, 2018 under Charge Nos. CA7263582 and CA7263583 (collectively, the “**Osprey Mortgage**”) constitutes a first mortgage charge on the following lands and premises located in Wardner, British Columbia and being more particularly known and described as:
 - a. PID: 028-270-428 Strata Lot 1 District Lot 2374 Kootenay District Strata Plan EPS171;
 - b. PID: 028-270-452 Strata Lot 4 District Lot 2374 Kootenay District Strata Plan EPS171;
 - c. PID: 028-270-461 Strata Lot 5 District Lot 2374 Kootenay District Strata Plan EPS171;
 - d. PID: 028-270-860 Strata Lot 44 District Lot 2374 Kootenay District Strata Plan EPS171;
 - e. PID: 028-270-878 Strata Lot 45 District Lot 2374 Kootenay District Strata Plan EPS171;
 - f. PID: 028-270-886 Strata Lot 46 District Lot 2374 Kootenay District Strata Plan EPS171;
 - g. PID: 028-270-894 Strata Lot 47 District Lot 2374 Kootenay District Strata Plan EPS171;

- h. PID: 028-270-908 Strata Lot 48 District Lot 2374 Kootenay District Strata Plan EPS171;
- i. PID: 028-270-975 Strata Lot 55 District Lot 2374 Kootenay District Strata Plan EPS171;
- j. PID: 028-270-983 Strata Lot 56 District Lot 2374 Kootenay District Strata Plan EPS171;
- k. PID: 028-270-991 Strata Lot 57 District Lot 2374 Kootenay District Strata Plan EPS171;
- l. PID: 028-271-009 Strata Lot 58 District Lot 2374 Kootenay District Strata Plan EPS171;
- m. PID: 028-271-017 Strata Lot 59 District Lot 2374 Kootenay District Strata Plan EPS171;
- n. PID: 028-271-025 Strata Lot 60 District Lot 2374 Kootenay District Strata Plan EPS171;
- o. PID: 028-271-033 Strata Lot 61 District Lot 2374 Kootenay District Strata Plan EPS171; and
- p. PID: 028-271-041 Strata Lot 62 District Lot 2374 Kootenay District Strata Plan EPS171

(the “**Osprey Lands**”).

2. A declaration that a Mortgage and Assignment of Rents granted to the Petitioner by Twin River Estates Ltd. (“**TREL**”), as mortgagor, and registered in the Kamloops Land Title Office on December 20, 2018 under Charge Nos. CA7264705 and CA7264706 (collectively, the “**Twin River Mortgage**” and together with the Osprey Mortgage, the “**Mortgages**”) constitutes a first mortgage charge on the following lands and premises located in Castlegar, British Columbia and being more particularly known and described as:

PID: 014-793-512 Lot 1 District Lot 4598 Kootenay District Plan 4520 Except Plans 7849, NEP87626 and EPP110967

(the “**Twin River Lands**” and together with the Osprey Lands the “**Lands**”).

3. A declaration the Mortgages are valid and enforceable mortgages charging the Lands in priority to any right, title or interest of each of the Respondents in the Lands.
4. A declaration the Mortgages are in default.

5. An Order that the commercial security agreement granted by OLDC to the Petitioner on December 17, 2018 (the “**Osprey CSA**”) and the commercial security agreement granted to the Petitioner by TREL on December 17, 2018 (the “**Twin River CSA**” and together with the Osprey CSA the “**CSAs**”) create a valid and enforceable security interest charging all of the present and after-acquired personal property (the “**Personal Property**”) of the Respondent, KS Property Management Inc., Inc. No. BC1281655 also known as KS Property Management Inc. (“**KSPM**”).
6. A declaration the CSAs charge the Personal Property in priority to any right, title or interest of each of the Respondents in the Personal Property.
7. A declaration the CSAs are in default.
8. A summary accounting of the amount of money due and owing to the Petitioner pursuant to the Mortgages and the CSAs, and a declaration of the amount of money required to redeem (the “**Redemption Amount**”).
9. An Order that the last day for redemption be 1 day from the hearing of this Petition or such other redemption period as the Court may decide.
10. An Order for the immediate appointment of a receiver substantially in the form of order attached as **Schedule “A”** (the “**Receivership Order**”), which includes the following relief:
 - a. appointment of Deloitte Restructuring Inc. as receiver and manager (“**Receiver**”) over all present and after-acquired assets, undertakings, and property, including the Lands and Personal Property and all proceeds (collectively, the “**Property**”) of the Respondent KSPM;
 - b. a stay of all proceedings against the Respondent KSPM and the Property;
 - c. granting a first-ranking charge (the “**Receiver’s Charge**”) on the Property in favour of the Receiver and its legal counsel, as security for the payment of their fees and disbursements, in each case at their standard rates, in respect of these proceedings, whether incurred before or after the making of the Receivership Order;
 - d. authorizing and empowering the Receiver to borrow such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed an amount to be set by the Court (or such greater amount as this Court may by further authorize), and granting a second-ranking charge (the “**Receiver’s Borrowings Charge**”) over all of the Property, as security for the payment of the monies borrowed, together with interest and charges thereon;

- e. declaring that the Receiver's Charge and the Receiver's Borrowings Charge (collectively, the "**Charges**") rank in priority to all existing security interests, trusts, liens, charges, and encumbrances, in favour of any person, against the Property.
11. An Order that the Petitioner be granted liberty to apply to this Court for a further summary accounting of any amounts due to the Petitioner for interest, taxes, arrears of taxes, insurance premiums, utilities, costs, charges, repairs, expenses or other amounts outstanding to the Petitioner or incurred by the Petitioner related to each or any of the Lands and Personal Property before or after the date of entry or pronouncement of an Order Nisi.
12. The Petitioner recover costs of and in connection with this proceeding on a solicitor and own client or special costs basis in accordance with the terms of the Mortgages, CSAs and Promissory Note (defined below) granted to the Petitioner.
13. An Order that upon any of the Respondents paying to the solicitor of record for the Petitioner the Redemption Amount together with costs of this proceeding on or before the pronouncement of either Order Absolute of Foreclosure or an Order confirming the sale of the Lands and Personal Property, the Petitioner shall re-convey the Lands and the Personal Property, free and clear of all encumbrances in favour of the Petitioner, to the Respondent or Respondents that made payment.
14. An Order that if the Lands are not redeemed, the Petitioner shall be at liberty to apply for an Order Absolute of Foreclosure and upon pronouncement of such an Order, the Respondents and all persons claiming by, through or under them shall stand absolutely debarred and foreclosed of and from all right, title, interest and equity of redemption of, in and to the Lands and Personal Property and that the Petitioner obtain title to the Lands and Personal Property free and clear of all charges, liens and encumbrances of whatever kind or nature, save and except any charges, liens and encumbrances ranking in priority to the interests of the Petitioner, and the Petitioner shall recover vacant possession of the Lands and delivery up of possession of the Personal Property to it.
15. An Order for sale of the Lands and Personal Property and that the Petitioner have exclusive conduct of the sale.
16. Judgment against the Respondent KSPM in favour of the Petitioner in the amount of \$15,264,462.15 as at August 31, 2024, plus interest thereafter at the rate of 1% per annum compounded monthly, not in advance, together with the Petitioner's costs of and in connection with this proceeding.
17. The Petitioner be granted a Certificate of Pending Litigation.
18. The Petitioner obtain such further and other relief as this Honourable Court may order.

Part 2: FACTUAL BASIS

The Parties

1. The Petitioner, Kootenay Savings Credit Union is a Credit Union duly incorporated under the *Credit Union Incorporation Act* of British Columbia with its head office at 220 – 1101 Dewdney Avenue, Trail, British Columbia, and an address for service in this matter c/o McMillan Dubo LLP, 320 – 301 Victoria Street, Kamloops, B.C.
2. The Respondent KSPM is the registered owner of the Lands.
3. The Respondent Colas Western Canada Inc. is the holder of a Claim of Builders Lien and Certificate of Pending Litigation registered in the Kamloops Land Title Office under Charge Nos. CB1037364 and CB1249137, respectively, which interests rank in priority behind the interest of the Petitioner.
4. The Respondent Marwest Industries Ltd. is the holder of a Claim of Builders Lien and Certificate of Pending Litigation registered in the Kamloops Land Title Office under Charge Nos. CB1199142 and CB1255796, respectively, which interests rank in priority behind the interest of the Petitioner.
5. The Respondent Pennco Engineering (BC) Ltd. is the holder of a Claim of Builders Lien and Certificate of Pending Litigation registered in the Kamloops Land Title Office under Charge Nos. CB1270964 and CB1337424, respectively, which interests rank in priority behind the interest of the Petitioner.
6. The Respondent Geo Stabilization International Inc. is the holder of a Claim of Builders Lien and Certificate of Pending Litigation registered in the Kamloops Land Title Office under Charge Nos. CB1382369 and CB1478431, respectively, which interests rank in priority behind the interest of the Petitioner.
7. The Respondent His Majesty the King in Right of Canada has been named as a Respondent on the basis that there may be tax debt outstanding in respect of the Respondent KSPM. To the extent the Respondent His Majesty the King in Right of Canada asserts an interest in the Lands, the interests of the Petitioner rank in priority ahead of such interest.

Background

8. The Osprey Lands consist of 16 bare land strata lots located in a development in Wardner, BC, known as Osprey Landing (the “**Osprey Landing Development**”).
9. The Osprey Lands were originally owned by OLDC, who was the original developer of the Osprey Landing Development.
10. OLDC was acquired by KS Property Management Inc., Inc. No. BC1056204 (“**Pre-Amalg KSPM**”), a wholly owned subsidiary of the Petitioner, in December 2018 by way of a share purchase agreement (the “**OLDC Share Acquisition**”) entered into as part of a division 1 proposal made by OLDC pursuant to the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3, as amended (the “**BIA**”).
11. The Twin River Lands consist of a development parcel located in Castlegar, BC, which is intended to be subdivided into bare freehold lots in a development known as Twin River Estates (the “**Twin River Development**”).
12. The Twin River Lands were originally owned by TREL, who was the original developer of the Twin River Development.
13. TREL was acquired by Pre-Amalg KSPM in December 2018 by way of a share purchase agreement (the “**TREL Share Acquisition**”) entered into as part of a division 1 proposal made by TREL pursuant to the *BIA*.
14. At the time of the OLDC Share Acquisition, OLDC was indebted to the Petitioner for over \$8.1 million, which was secured by a mortgage against the Osprey Landing Development lands, which at that time consisted of 52 development lots.
15. The total consideration paid for the OLDC Share Acquisition was \$7.1 million, which was satisfied by way of Pre-Amalg KSPM making a payment of \$100,000.00 to OLDC’s proposal trustee and the balance by the Petitioner providing a credit of \$7.0 million to OLDC against the over \$8.1 million indebtedness that was then owing to the Petitioner by OLDC.

16. Following the completion of the OLDC Share Acquisition, the Osprey CSA and the Osprey Mortgage, which are the subject of this proceeding, were granted to the Petitioner as security for the repayment of all then existing and future indebtedness of OLDC to the Petitioner.
17. At the time of the TREL Share Acquisition, TREL was indebted to the Petitioner for over \$3.45 million, which was secured by a mortgage against the Twin River Lands.
18. The total consideration paid for the TREL Share Acquisition was \$1.5 million, which was satisfied by way of Pre-Amalg KSPM making a payment of \$150,000.00 to TREL's proposal trustee and the balance by the Petitioner providing a credit of \$1.35 million to TREL against the over \$3.45 million indebtedness that was then owing to the Petitioner by TREL.
19. Following the completion of the TREL Share Acquisition, the Twin River CSA and the Twin River Mortgage, which are also the subject of this proceeding, were granted to the Petitioner as security for the repayment of all then existing and future indebtedness of TREL to the Petitioner.
20. OLDC, TREL, and Pre-Amalg KSPM amalgamated on December 31, 2020 to become KSPM (the "**Amalgamation**").
21. As a result of the Amalgamation by operation of law KSPM acquired all assets and liabilities of OLDC and TREL, including the Lands, the Personal Property, the Mortgages, and the CSAs.
22. KSPM was a wholly-owned subsidiary of the Petitioner until December 31, 2023.

Sale of KSPM to CDG

23. Effective December 31, 2023, the Petitioner sold KSPM to 0997677 BC Ltd. dba CDG Enterprises ("**CDG**"), who is or was the head contractor for the Twin River Development.

24. The sale of KSPM to CDG (the “**CDG Transaction**”) was effected by way of a share purchase agreement dated December 29, 2023 (the “**SPA**”) and an ancillary agreement dated December 30, 2023 (the “**Ancillary Agreement**”) whereby, among other things, CDG acquired from the Petitioner all issued and outstanding shares of KSPM and all aggregate indebtedness owing by KSPM to the Petitioner as of closing (the “**Related Party Balance**”) in exchange for the purchase price of \$10.00.
25. Pursuant to the Ancillary Agreement, the Petitioner and CDG agreed that concurrent with the completion of the SPA, KSPM would provide the Petitioner with a promissory note in place of the Related Party Balance.
26. The CDG Transaction was necessitated by a directive from the BC Financial Services Authority, which required the Petitioner to divest itself of KSPM by not later than December 31, 2023.
27. As part of the CDG Transaction the Petitioner acquired 9% interest in CDG and advanced \$2.0 million in shareholder loans to CDG (the “**CDG Shareholder Loans**”).
28. The CDG Shareholder Loans were intended to fund the completion of the Twin River Development, including paying contractors and completing registration of the Twin River subdivision plan thereby facilitating the listing and sale of lots in the Twin River Development.
29. The CDG Shareholder Loans were advanced as follows:
 - (a) \$1.5 million was advanced by the Petitioner to CDG on or about February 29, 2024;
and
 - (b) A further \$500,000 was advance by the Petitioner to CDG on or about April 9, 2024.
30. The CDG Shareholder Loans were not used for their intended purpose.

31. On or about June 10, 2024, the Petitioner was advised by Christianne Hossmann, director of KSPM and CDG, that KSPM and CDG had run out of money and were shutting down their sales offices.
32. There is over \$2.5 million in builders lien claims (the “**Builders Lien Claims**”) registered against the Twin River Lands filed by the Respondents Colas Western Canada Inc., Marwest Industries Ltd., Pennco Engineering (BC) Ltd., and Geo Stabilization International Inc. (collectively, the “**Builders Lien Claimants**”).
33. Over \$2.2 million of the Builder Lien Claims have been registered since March 2024.
34. All of the Builders Lien Claimants have commenced claims against the Respondent, KSPM, and have filed certificates of pending litigation against the Twin River Lands.
35. CDG is also named as a defendant in the claims brought by Pennco Engineering (BC) Ltd., Marwest Industries Ltd., and Geo Stabilization International Inc.

The Indebtedness

36. Pursuant to a promissory note dated February 27, 2024 (the “**Promissory Note**”), KPSM promised to pay the Petitioner the principal amount of \$15,162,802.93 plus interest at the rate of 1% per annum compounded monthly, not in advance and costs.
37. The Promissory Note was given by KSPM pursuant to the Ancillary Agreement, in place of the Related-Party Balance, and the principal amount of the Promissory Note represents the total aggregate indebtedness of KSPM to the Petitioner as at December 31, 2023.

The Mortgages and CSAs

38. Pursuant to the Osprey Mortgage, OLDC did grant and mortgage to the Petitioner all of its interest in and to the Osprey Lands.
39. Pursuant to the Twin River Mortgage, TREL did grant and mortgage to the Petitioner all of its interest in and to the Twin River Lands.

40. The Osprey Mortgage was registered in the Kamloops Land Title Office on December 20, 2018 under Charge Nos. CA7263582 and CA7263583.
41. The Twin River Mortgage was registered in the Kamloops Land Title Office on December 20, 2018 under Charge Nos. CA7264705 and CA7264706.
42. The Osprey Mortgage was granted as security for all indebtedness of OLDC to the Petitioner.
43. The Twin River Mortgage was granted as security for all indebtedness of TREL to the Petitioner.
44. Pursuant to the Osprey CSA, OLDC charged all of its Personal Property in favour of the Petitioner as continuing security for the payment of all and every indebtedness, both present and future, and whether arising on current account or otherwise, together with interest thereon and all and every liability, present and future, direct or indirect, absolute or contingent of OLDC to the Petitioner.
45. Notice of the Osprey CSA was registered by the Petitioner in the Personal Property Security Registry for the Province of British Columbia on December 20, 2018 under Base Registration No. 222828L.
46. Pursuant to the Twin River CSA, TREL charged all of its Personal Property in favour of the Petitioner as continuing security for the payment of all and every indebtedness, both present and future, and whether arising on current account or otherwise, together with interest thereon and all and every liability, present and future, direct or indirect, absolute or contingent of TREL to the Petitioner.
47. Notice of the Twin River CSA was registered by the Petitioner in the Personal Property Security Registry for the Province of British Columbia on December 20, 2018 under Base Registration No. 223507L.
48. By operation of law, by virtue of the Amalgamation, the Mortgages and CSAs secure repayment of all obligations of the Respondent KSPM to the Petitioner, including repayment of the Promissory Note.

49. The indebtedness outstanding under the Promissory Note and secured by the Mortgages and CSAs is \$15,264,462.15 as at August 31, 2024, plus interest accruing thereafter at the rate of 1% per annum compounded monthly, not in advance, together with the Petitioner's costs.

Default and Demand

50. The Mortgages and CSAs are in default because among other things the Respondents failed to make payment of principal and interest when due under the Promissory Note.
51. By virtue of the provisions of the Promissory Note, Mortgages, and the CSAs, the full balance of principal and interest thereby secured is now due and payable.
52. The Petitioner has made demand for payment of the indebtedness outstanding under the Promissory Note, the Mortgages, and the CSAs and the Respondent KSPM has failed to pay in response thereto.

Costs

53. Pursuant to the Promissory Note, KSPM agreed to pay all costs and expenses of the Petitioner (including legal fees on a solicitor own client basis) of the Petitioner incurred with respect to any proceedings taken for the purpose of enforcing the rights and remedies of the Petitioner.
54. Pursuant to the Mortgages and CSAs, KSPM agreed that the Petitioner shall be entitled to special costs for any court proceedings taken to enforce the Mortgages or CSAs.

Receiver

55. Pursuant to the Mortgages and the CSAs, KSPM agreed that upon the occurrence of an event of default the Petitioner shall be entitled to appoint a receiver or apply to Court to appoint a receiver.
56. KSPM is in default of its obligation to the Petitioner to make required monthly interest payments pursuant to the Promissory Note and default of its obligation to pay the balance due under the Promissory Note upon the Petitioner's acceleration of the balance due and demand.

57. KSPM lacks the funding required to complete the Twin River Development and to market and sell the Lands in an orderly manner that will optimize recovery for the Petitioner and, ideally, for all of KSPM's creditors.
58. KSPM needs to be funded and in the circumstances the Petitioner is not prepared to provide further financing to KSPM, other than funding a court-appointed receiver.

Venue

59. KSPM has consented to the commencement of this proceeding in the Vancouver Court Registry pursuant to section 21(5) of the *Law and Equity Act* R.S.B.C. 1996, c. 253 (the "LEA").

Part 3: LEGAL BASIS

1. Rules 10-2, 13-5, 14-1 and 21-7 of the *Civil Rules of Court*.
2. Section 243 of the *BIA*.
3. The *LEA*.
4. Sections 55(6) and 66 of the *Personal Property Security Act*, R.S.B.C. 1996, c.359.
5. Section 282 of the *Business Corporations Act* S.B.C 2002 c. 57
6. The Respondent KSPM is indebted to the Petitioner and the indebtedness is due and owing and despite demand has not been repaid.
7. Payment of the indebtedness to the Petitioner is secured by the Mortgages and CSAs.
8. The Petitioner is entitled to enforce its security and obtain judgment against the Respondent KSPM for the indebtedness claimed herein.

Receivership

9. The Petitioner seeks the appointment of Deloitte Restructuring Inc. ("**Deloitte**") as receiver of the Respondent KSPM.
10. The Petitioner is a secured creditor of the Respondent KSPM.

11. The Respondent KSPM is in default under the Promissory Note, Mortgages and CSAs.
12. Pursuant to the Mortgages and CSAs, the Petitioner may appoint a receiver in the event of default.

Jurisdiction to Appoint a Receiver

13. This Honourable Court has the jurisdiction to appoint a receiver pursuant to section 243(1) of the *BIA*, section 39(1) of the *LEA*, the inherent jurisdiction of the Court, and the BC Civil Rules of Court.
14. Subsections 243(1) and 243(1.1) of the *BIA* state:

Court may appoint receiver

243(1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

- a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
- b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or
- c) take any other action the court considers advisable.

Restriction on appointment of receiver

(1.1) In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless

- a) the insolvent person consents to an earlier enforcement under subsection 244(2); or
- b) the court considers it appropriate to appoint a receiver before then.

BIA at ss. 243(1) – (1.1)

15. Subsection 39(1) of the *LEA* states:

Injunction or mandamus may be granted or receiver appointed by interlocutory order

39(1) An injunction or an order in the nature of mandamus may be granted or a receiver or receiver manager appointed by an interlocutory order of the court in all cases in which it appears to the court to be just or convenient that the order should be made.

LEA at s. 39(1)

The Test For Appointing A Receiver

16. The *BIA* and *LEA* both provide for the appointment of a receiver where it is just and convenient to do so.

BIA at s. 243(1) and *LEA* at s. 39(1)

17. This Court has confirmed that the legal test for appointing a receiver is whether it is just and convenient to do so.

Maple Trade Finance Inc. v. CY Oriental Holdings Ltd., 2009 BCSC 1527 (“**Maple Trade**”)
Textron Financial Canada Ltd. v. Chetwynd Motels Ltd., 2010 BCSC 477 (“**Textron**”)

18. Further, this Court has held that the rights of a secured creditor to apply for a receiver under a security agreement holds considerable weight and is a “strong factor in support” of the appointment.

Maple Trade at para 26

It Is Just And Appropriate To Appointment A Receiver

19. It is just and convenient to grant a receivership order in the present circumstances, including:
- a) KSPM has no money and funding is needed to complete the Twin River Development and to market and sell the Lands;
 - b) Petitioner unwilling to fund KSPM other than through a receivership;
 - c) The Mortgages and CSAs specifically provide the Petitioner with the right to appoint a receiver and manager over the Respondent KSPM in the event of default;
20. In light of the above-noted factors, the balance of convenience favours the appointment of the receiver.
21. The Petitioner submits that it is just and convenient, in the circumstances as a whole, to appoint Deloitte as receiver.
22. Deloitte has consented to being appointed as receiver.

Part 4: MATERIAL TO BE RELIED ON

- 1. Affidavit #1 of Brian Moroney.
- 2. Affidavit #1 of Cherelle Arnesen.

Date: September 9, 2024



☐ petitioner ☒ lawyer for petitioner
Jennifer Cockbill

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1 of this petition

☐ with the following variations and additional terms:

Date: _____

Signature of ☐ Judge ☐ Master

SCHEDULE "A"

No. [REDACTED]
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

KOOTENAY SAVINGS CREDIT UNION

PETITIONER

- and -

KS PROPERTY MANAGEMENT INC., INC. NO. BC1281655
also known as KS PROPERTY MANAGEMENT INC.
MARWEST INDUSTRIES LTD.
COLAS WESTERN CANADA INC.
PENNCO ENGINEERING (BC) LTD.
GEO STABILIZATION INTERNATIONAL INC.
HIS MAJESTY THE KING IN RIGHT OF CANADA

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE)
)
 [REDACTED] JUSTICE [REDACTED]) ___/09/2024
)

ON THE APPLICATION of the Petitioner for an Order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), Section 66 of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359, as amended ("**PPSA**") and Rule 10-2(1) of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009, as amended (the "**Rules of Court**") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "**LEA**") appointing Deloitte Restructuring Inc. as Receiver (in such capacity, the "**Receiver**") without security, of all of the assets, undertakings and property of the Respondent, KS Property Management Inc., Inc. No. BC1281655 also known as KS Property Management Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, coming on for hearing this day at Vancouver, British Columbia.

AND ON READING the Affidavit #1 of Brian Moroney sworn September __, 2024 and the consent of Deloitte Restructuring Inc. to act as the Receiver; AND ON HEARING Jennifer

Cockbill, Counsel for the Petitioner and other counsel as listed on Schedule "A" hereto, and no one else appearing, although duly served.

THIS COURT ORDERS AND DECLARES that:

APPOINTMENT

1. Pursuant to Section 243(1) of the BIA, Section 39 of the LEA, Section 66 of the PPSA and Rule 10-2(1) of the Rules of Court, Deloitte Restructuring Inc. is appointed Receiver, without security, of all of the assets, undertakings and property of the Debtor, including all proceeds (the "**Property**").

RECEIVER'S POWERS

2. The Receiver is empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, changing locks and security codes, relocation of Property, engaging independent security personnel, taking physical inventories and placing insurance coverage;
 - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
 - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
 - (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
 - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting these amounts, including, without limitation, enforcement of any security held by the Debtor;
 - (g) to settle, extend or compromise any indebtedness owing to the Debtor;

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, manage and direct all legal proceedings now pending or hereafter pending (including appeals or applications for judicial review) in respect of the Debtor, the Property or the Receiver, including initiating, prosecuting, continuing, defending, settling or compromising the proceedings;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - (i) without the approval of this Court in respect of a single transaction for consideration up to \$25,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out in subparagraph (i) above,and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to confidentiality terms as the Receiver considers appropriate;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if considered necessary or appropriate by the Receiver, in the name of the Debtor;

- (q) to enter into agreements with any Licensed Insolvency Trustee appointed in respect of the Debtor, including, without limitation, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

- 3. Each of (i) the Debtor; (ii) all of the Debtor's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, "**Persons**" and each a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
- 4. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (collectively, the "**Records**") in that Person's possession or control. Upon request, governmental authorities shall advise the Receiver of the existence of any Records in that Person's possession or control.
- 5. Upon request, all Persons shall provide to the Receiver or permit the Receiver to make, retain and take away copies of the Records and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities, provided however that nothing in paragraphs 4, 5 or 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to solicitor client privilege or statutory provisions prohibiting such disclosure.
- 6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records

without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are stayed and suspended pending further Order of this Court; provided, however, that nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this paragraph and provided that no further step shall be taken in respect of the Proceeding except for service of the initiating documentation on the Debtor and the Receiver.

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

11. All Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

13. Subject to the employees' right to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities of the Debtor, including any successor employer liabilities as referred to in Section 14.06(1.2) of the BIA, other than amounts the Receiver may specifically agree in writing to pay or in respect of obligations imposed specifically on receivers by applicable legislation, including sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47. The Receiver shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Receiver may hire in accordance with the terms and conditions of such employment by the Receiver.

PERSONAL INFORMATION

14. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable

individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination (collectively “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.
16. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in possession.
17. Notwithstanding anything in federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arises or environmental damage that occurred:
 - (a) before the Receiver’s appointment; or,
 - (b) after the Receiver’s appointment, unless it is established that the condition arose or the damage occurred as a result of the Receiver’s gross negligence or wilful misconduct.
18. Notwithstanding anything in federal or provincial law, but subject to paragraph 17 of this Order, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, if the Receiver complies with the BIA section 14.06(4), the Receiver is not personally liable for the failure to comply with the order and is not personally liable for any costs that are or would be incurred by any Person in carrying out the terms of the order.

LIMITATION ON THE RECEIVER’S LIABILITY

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

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

RECEIVER'S ACCOUNTS

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

FUNDING OF THE RECEIVERSHIP

23. The Receiver is authorized and empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as the Receiver deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
25. The Receiver is authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
26. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

ALLOCATION

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

SERVICE AND NOTICE OF MATERIALS

28. The Receiver shall establish and maintain a website in respect of these proceedings at: <https://www.insolvencies.deloitte.ca/en-ca/Pages/Search-Insolvencies.aspx> (the "**Website**") and shall post there as soon as practicable:
 - (a) all materials prescribed by statute or regulation to be made publicly available, including pursuant to Rule 10-2 of the *Supreme Court Civil Rules*; and,
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
29. Any Person who is served with a copy of this Order and that wishes to be served with any future application or other materials in these proceedings must provide to counsel for each of the Receiver and the Applicant a demand for notice in the form attached as Schedule C (the "**Demand for Notice**"). The Receiver and the Applicant need only provide further notice in respect of these proceedings to Persons that have delivered a properly completed Demand for Notice. The failure of any Person to provide a properly completed Demand for Notice releases the Receiver and the Applicant from any requirement to provide further notice in respect of these proceedings until such Person delivers a properly completed Demand for Notice.
30. The Receiver shall maintain a service list identifying all parties that have delivered a properly completed Demand for Notice (the "**Service List**"). The Receiver shall post and maintain an up-to-date form of the Service List on the Website.

31. The Receiver and the Petitioner need only provide further notice in respect of these proceedings to Persons that have properly requested that they be added to the Service List. The failure of any Person to make written request to be added to the Service List in accordance with this Order releases the Receiver and the Petitioner from any requirement to provide further notice in respect of these proceedings to such Person, unless and until such Person makes a proper written request to be added to the Service List.
32. Any interested party, including the Receiver, may serve any court materials in these proceedings by facsimile or by emailing a PDF or other electronic copy of such materials to the numbers or addresses, as applicable, set out on the Service List. Any interested party, including the Receiver, may serve any court materials in these proceedings by mail to any party on the Service List that has not provided a facsimile number or email address, and materials delivered by mail shall be deemed received five (5) days after mailing.
33. Notwithstanding paragraph 32 of this Order, service of the Petition and any affidavits filed in support shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c.C-50 and its regulations for the Federal Crown and the *Crown Proceedings Act*, R.S.B.C. 1996 c.89 in respect of the British Columbia Crown.
34. The Receiver and its counsel are authorised to serve or distribute this Order, any other orders and any other materials as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies by facsimile or by email to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of any legal or juridical obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*.

GENERAL

35. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.
36. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
37. Nothing in this Order shall prevent the Receiver from acting as the Licensed Insolvency Trustee in bankruptcy of the Debtor.
38. This Court requests the aid, recognition and assistance of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All such courts, tribunals and regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

39. The Receiver is authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order and the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
40. The Petitioner shall have its costs of this motion, up to and including entry and service of this Order, as provided for by the terms of the Petitioner's security or, if not so provided by the Petitioner's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
41. Endorsement of this Order by counsel appearing on this application other than the Petitioner's counsel is dispensed with.

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

APPROVED BY:

Signature of Jennifer Cockbill
lawyer for Petitioner

BY THE COURT

DISTRICT REGISTRAR

SCHEDULE “A”

Appearance List

NAME	APPEARING FOR

SCHEDULE "B"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Deloitte Restructuring Inc., the Receiver (the **"Receiver"**) of all of the assets, undertakings and properties of KS Property Management Inc., Inc. No. BC1281655 also known as KS Property Management Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the **"Property"**) appointed by Order of the Supreme Court of British Columbia and/or the Supreme Court of British Columbia (In Bankruptcy and Insolvency) (the **"Court"**) dated the _____ day of September, 2024 (the **"Order"**) made in SCBC Action No. _____ has received as such Receiver from the holder of this certificate (the **"Lender"**) the principal sum of \$_____, being part of the total principal sum of \$500,000 which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly] not in advance on the _____ day of each month after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at _____.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

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

DATED the [] day of [], 201[].

Deloitte Restructuring Inc. solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per:
Name:
Title:

Schedule "B"

Demand for Notice

TO: **Kootenay Savings Credit Union**
 c/o McMillan Dubo LLP
 Attention: Jennifer Cockbill
 Email: jennifer@mcmillandubo.com

AND TO: **Deloitte Restructuring Inc.**
 c/o [Name of Counsel to the Receiver]
 Attention:
 Email:

Re: In the matter of the Receivership of KS Property Management Inc., Inc. No. BC1281655 also known as KS Property Management Inc.

I hereby request that notice of all further proceedings in the above Receivership be sent to me in the following manner:

1. By email, at the following address (or addresses):

OR

2. By facsimile, at the following facsimile number (or numbers):

OR

3. By mail, at the following address:

Name of Creditor: _____

Name of Counsel (if any): _____

Creditor's Contact Address: _____

Creditor's Contact Phone Number: _____

Action No.

IN THE SUPREME COURT OF BRITISH
COLUMBIA

BETWEEN:

KOOTENAY SAVINGS CREDIT UNION

Petitioner

- and -

**KS PROPERTY MANAGEMENT INC., INC. NO.
BC1281655**

MARWEST INDUSTRIES LTD.

COLAS WESTERN CANADA INC.

PENNCO ENGINEERING (BC) LTD.

GEO STABILIZATION INTERNATIONAL INC.

**HIS MAJESTY THE KING IN RIGHT OF
CANADA**

Respondents

AND:

Action No.

Estate No.

IN THE SUPREME COURT OF BRITISH
COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
**KS PROPERTY MANAGEMENT INC., INC. NO.
BC1281655**

B.C. MODEL RECEIVERSHIP ORDER VERSION
NO. 3, _____, 2015

No. _____
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

KOOTENAY SAVINGS CREDIT
UNION

PETITIONER

AND:

KS PROPERTY MANAGEMENT
INC., INC. NO. BC1281655
MARWEST INDUSTRIES LTD.
COLAS WESTERN CANADA INC.
PENNCO ENGINEERING (BC) LTD.
GEO STABILIZATION INTERNATIONAL INC.
HIS MAJESTY THE KING IN RIGHT OF
CANADA

RESPONDENTS

PETITION TO THE COURT

FILE NO. 404-101

JC

MCMILLAN DUBO LLP
320-301 Victoria Street
Kamloops, BC V2C 2A3
Phone: 778-765-1701