



NO. B-250061

ESTATE NO. 11-254734

DISTRICT OF BRITISH COLUMBIA
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY & INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF
TRILOGY CONCRETE 2021 LTD.

AFFIDAVIT

I, Jeff Keeble, Licensed Insolvency Trustee of 410 West Georgia Street, Vancouver, British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am a Senior Vice-President at Deloitte Restructuring Inc., the Court-appointed Receiver (in such capacity, the "**Receiver**"), without security, of certain lands, other assets and property of the Respondents Whitewater Concrete Ltd. ("**Concrete**"), Whitewater Developments Ltd. ("**Developments**") and together with Concrete, the "**Operating Companies**") and 145 Golden Drive Ltd. ("**145**") and together with the Operating Companies, the "**Debtors**"), and as such have personal knowledge of the matters herein deposed to, except where stated to be based on information and belief, in which case I verily believe them to be true.
2. I am authorized to make this Affidavit on behalf of the Receiver.
3. That the facts alleged in the Petition are, within my own knowledge, true.

The Receivership Order

4. On July 2, 2024, this Court granted a receivership order (the "**Receivership Order**") in these proceedings. As set out in paragraph 2 of the Receivership Order, the Receiver was appointed over, among other things, all of the current assets, claims and choses in action of the Operating Companies, including without limitation all accounts receivable, inventory, cash (including all funds on deposit at any bank) and pre-paid deposits. Attached and marked as **Exhibit "A"** to this affidavit is a true copy of the Receivership Order.

The Operating Companies

5. Concrete is the primary operating company and provides tower crane rentals and concrete forming equipment and services to multi-storey residential, commercial, and institutional projects and developers. Developments serves as a holding company, and its primary assets include tower cranes, placing booms, and reusable formworks that are rented to Concrete to be used in its operations.

The Project

6. At the time the Receivership Order was pronounced on July 2, 2024, Concrete was involved in eight ongoing projects, including the construction of a new hospital to replace the existing St. Paul's Hospital (the "**Project**") located at 1002 Station Street in Vancouver.
7. PCL Constructors Westcoast Inc. ("**PCL**") serves as the general contractor for the Project.
8. Under a subcontract (the "**Sub-Contract**"), dated February 23, 2022, between Trilogy Concrete 2021 Ltd. ("**Trilogy**") and PCL, Trilogy is engaged as a sub-contractor for the Project. Attached and marked hereto as **Exhibit "B"** is a copy of the Sub-Contract.
9. It is the Receiver's view that all accounts receivable in relation to the Project are captured under the Receivership Order.

The Indebtedness

10. Trilogy is reporting that it is justly and truly indebted to Concrete, in the sum of \$2,847,955 (the "**Indebtedness**") as stated in the Petition. Concrete's books and records indicate that Trilogy is indebted to Concrete for approximately \$6.7 million as at May 31, 2024, but the Receiver has not been provided with information to reconcile this amount.
11. The Indebtedness is the result of sub-sub contract work provided by Concrete to Trilogy on the Project.
12. Trilogy has failed to pay the Indebtedness and the total amount of the Indebtedness remains due and owing to Concrete as of the time of the swearing of this affidavit.

The Holdback Funds

13. In the course of its duties, the Receiver has undertaken efforts to assess the status of the Project, which included obtaining a detailed accounting of all payments made, or that may be made, to Trilogy pursuant to the Sub-Contract.

14. On November 14, 2024, PCL's counsel advised the Receiver and its counsel by email that PCL would be releasing certain holdback funds, in the amount of \$5.9 million (the "**Holdback Funds**"), to Trilogy. A copy of the email thread between the Receiver's counsel and PCL's counsel is attached and marked hereto as **Exhibit "C"**.
15. On November 18, 2024, the Receiver obtained a court order (the "**Holdback Order**") directing PCL to remit the Holdback Funds to the Receiver. As a result, the Receiver currently holds \$5,721,808 in trust under the provisions of the *Builders Lien Act*, to be allocated to Trilogy and its various sub-subcontractors, including Concrete. Attached and marked hereto as **Exhibit "D"** is a copy of the Holdback Order.

Additional Debt

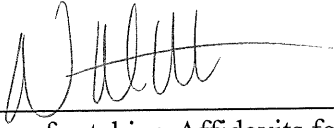
16. Based on the Receiver's review of the invoices issued to Trilogy, the Receiver has reason to believe that Trilogy is in arrears to its other sub-contractors for unpaid invoices related to labor and materials provided for the Project. As of November 30, 2024, Trilogy is indebted to these sub-contractors in the amount of \$8,860,683, plus any applicable interest accruing thereafter. A true and complete summary of the accounts payable is attached hereto as **Exhibit "E"**.
17. In addition to the outstanding debt to its various sub-contractors, Trilogy has advised the Receiver that it owes approximately \$926,695 to Canada Revenue Agency ("**CRA**") for collected but unremitted Goods and Services Tax ("**GST**").
18. To date, the Receiver has confirmed at least \$218,781 owing to the CRA by reviewing Trilogy's records. Attached and marked collectively as **Exhibit "F"** are true copies of Trilogy's records which confirm this amount of debt owing to the CRA.
19. In addition to the Trilogy's debt, Craig Smith, a director of Trilogy, advised the Receiver that the costs to complete the Project are approximately \$500,000.

Consent to Act

20. Attached hereto and marked as **Exhibit "G"** is a copy of the consent to act as Trustee issued by Deloitte Restructuring Inc.

21. I swear this Affidavit in support of a Bankruptcy Order in these proceedings.

AFFIRMED BEFORE ME at the City of)
 Vancouver, in the Province of British Columbia)
 on February 4, 2025.)


 _____)
 A Commissioner for taking Affidavits for the)
 Province of British Columbia)



 JEFF KEEBLE

NOOR MANN
Barrister & Solicitor
1600 - 925 WEST GEORGIA ST.
VANCOUVER, B.C. V6C 3L2
(604) 685-3456



No. H240524
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

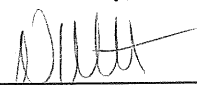
ROYAL BANK OF CANADA

PETITIONER

AND:

NOTICE
1807 05 V-
WHITEWATER CONCRETE LTD.,
WHITEWATER DEVELOPMENTS LTD.,
ROBERT KYLE SMITH,
CRAIG SMITH,
KRYSTLE HOLDINGS LTD.,
BASTIAN HOLDINGS LTD.,
145 GOLDEN DRIVE LTD.,
BARRY CHARLES HOLDINGS LTD.,
BECISON HOLDING CORPORATION,
G.I.H. PROPERTIES LTD.,
MCVICAR & COMPANY HOLDINGS INC.,
TNL DEVELOPMENTS LTD.,
AMAN GILL,
PETER CHAPPELL,
SANDRA CHAPPELL and
TERESA GAUTREAU

This is Exhibit "A" referred to in the affidavit
of Jeff Keeble affirmed before me at
Vancouver, British Columbia, this 4 day of
February, 2025.


A Commissioner for taking Affidavits
within British Columbia.

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE)
JUSTICE STEPHENS) July 2, 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") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "LEA") appointing Deloitte Restructuring Inc. ("Deloitte") as receiver (in such capacity, the "Receiver") without security, of certain lands, other assets and property of the Respondents Whitewater Concrete Ltd.

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(“Concrete”), Whitewater Developments Ltd. (“**Developments**” and together with Concrete, the “**Operating Companies**”) and 145 Golden Drive Ltd. (“**145**”, and together with the Operating Companies, the “**Debtors**”), coming on for hearing this day at Vancouver, British Columbia.

AND ON READING the Affidavit #1 of John Lee made June 3, 2024 and the consent of Deloitte to act as the Receiver; AND ON HEARING Kibben Jackson and Heidi Esslinger, counsel for the Petitioner, and those other counsel as listed on Schedule “A” hereto, and no one else appearing, although duly served.

THIS COURT ORDERS AND DECLARES that:

SERVICE

1. The time for service of the Petition, Notice of Hearing and supporting materials is hereby abridged and deemed good and sufficient so that the application is properly returnable July 2, 2024.

APPOINTMENT

2. Pursuant to Section 243(1) of the BIA and Section 39 of the LEA, Deloitte is appointed Receiver, without security, of:
 - (a) all of the current assets, claims and choses in action of the Operating Companies, including without limitation all accounts receivable, inventory, cash (including all funds on deposit at any bank) and pre-paid deposits; and
 - (b) those lands with a legal description of:

LOT 3 DISTRICT LOT 67 GROUP 1 NEW WESTMINSTER DISTRICT PLAN
LMP35071, PID: 023-895-128

(the “**Lands**” and, together with the aforementioned assets of the Operating Companies, the “**Property**”).

RECEIVER’S POWERS

3. 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 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;
- (d) to receive and collect all monies and accounts now owed or hereafter owing to the Operating Companies and to exercise all remedies of the Operating Companies in collecting these amounts, including, without limitation, enforcement of any security held by the Operating Companies;
- (e) to settle, extend or compromise any indebtedness owing to the Operating Companies;
- (f) 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 Debtors, for any purpose pursuant to this Order;
- (g) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;
- (h) to initiate, manage and direct all legal proceedings now pending or hereafter pending (including appeals or applications for judicial review) in respect of the Debtors, the Property or the Receiver, including initiating, prosecuting, continuing, defending, settling or compromising the proceedings;
- (i) 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;
- (j) 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 \$150,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; 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;

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- (k) 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;
- (l) 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;
- (m) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (n) 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 Debtors;
- (o) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limitation, the ability to enter into occupation agreements for any property owned or leased by the Debtors; and
- (p) 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 Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. Each of (i) the Debtors; (ii) all of the Debtors' current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, "**Persons**" and each a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
5. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, 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.

6. 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 5, 6 or 7 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.
7. 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

8. 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 PROPERTY

9. No Proceeding against or in respect of 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 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 Debtors and the Receiver.

NO EXERCISE OF RIGHTS OR REMEDIES

10. All rights and remedies (including, without limitation, set-off rights) against the Receiver or affecting the Property are stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this Order shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are 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

11. 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 any of the Debtors and which relate specifically to the Property, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.

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

- 12.A The Receiver, on behalf of the Operating Companies, is hereby authorized and directed to take steps to immediately terminate the employment of all employees of the Operating Companies. The Receiver shall not be liable for any employee-related liabilities of the Operating Companies, including any successor employer liabilities as referred to in Section 14.06(1.2) of the BIA.

LIMITATION ON ENVIRONMENTAL LIABILITIES

13. 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.
14. 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.

15. 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.
16. Notwithstanding anything in federal or provincial law, but subject to paragraph 15 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

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

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

RECEIVER'S ACCOUNTS

18. 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.
19. 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.

20. 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

21. 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.
22. 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.
23. 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.
24. 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

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

VALIDITY OF SECURITY AND JUDGMENTS

26. The indenture of mortgage dated February 17, 2023 (the "**February Mortgage**") granted by 145 in favour of the Petitioner and registered in the Land Title Office of British Columbia under charge number CB481917, is a mortgage charging the Lands in priority to the interests therein or claims thereto of all Respondents and all persons claiming by, through or under them.

27. The indenture of mortgage dated April 4, 2021 (together with the February Mortgage, the "**Mortgages**"), granted by 145 in favour of the Petitioner and registered in the Land Title Office of British Columbia under charge number CB576153, is a mortgage charging the Lands in priority to the interests therein or claims thereto of all Respondents and all persons claiming by, through or under them.
28. The General Security Agreement dated December 11, 2001, granted by Developments in favour of the Petitioner, in respect of which a financing statement was filed in the British Columbia Personal Property Registry (the "**PPR**") under base registration number 233360A on February 5, 2002 (the "**Developments GSA**"), constitutes a charge in favour of the Petitioner on all present and after acquired property of Developments in priority to the interests therein or claims thereto of all Respondents.
29. The General Security Agreement dated December 1, 2014, granted by Concrete in favour of the Petitioner, in respect of which a financing statement was filed in the PPR under base registration number 316704I on December 1, 2014 (the "**Concrete GSA**"), constitutes a charge in favour of the Petitioner on all present and after acquired property of Concrete in priority to the interests therein or claims thereto of all Respondents.
30. The payments due under the Mortgages, the Developments GSA, and the Concrete GSA (collectively, the "**Security**") are in default and all moneys secured by the Security are due and owing.
31. The amount of money secured by the Security, and the amount required to redeem the Property, is the sum of \$11,574,543.81, together with interest accruing thereon at the Petitioner's prime rate of interest plus 1.6% from June 28, 2024 to the date of payment and the Petitioner's costs of and related to this proceeding.
32. The Petitioner is hereby granted judgment against Developments in the amount of \$762,380.05 together with interest accruing thereon at the Petitioner's prime rate of interest plus 1.6% from June 28, 2024 to the date of judgment and the Petitioner's cost of and related to this proceeding.
33. The Petitioner is hereby granted judgment against Concrete in the amount of \$10,812,163.76 together with interest accruing thereon at the Petitioner's prime rate of interest plus 1.6% from June 28, 2024 to the date of judgment and the Petitioner's cost of and related to this proceeding.
34. The Petitioner is hereby granted judgment against Craig Smith ("**Craig**"), Robert Kyle Smith ("**Kyle**"), Krystle Holdings Ltd. ("**Krystle**"), and Bastian Holdings Ltd. ("**Bastian**") jointly and severally in the amount of \$107,044.10 together with the Petitioner's cost of and related to this proceeding.
35. The Petitioner is hereby granted judgment against Bastian in the amount of \$1,070,440.89 together with the Petitioner's cost of and related to this proceeding.
36. The Petitioner is hereby granted judgment against Krystle in the amount of \$1,070,440.89 together with the Petitioner's cost of and related to this proceeding.

37. The Petitioner is hereby granted judgment against Kyle in the amount of \$481,698.41 together with the Petitioner's cost of and related to this proceeding.
38. The Petitioner is hereby granted judgment against Craig in the amount of \$481,698.41 together with the Petitioner's costs of and related to this proceeding.
39. The Petitioner is hereby granted judgment against 145 in the amount of \$11,574,543.81 together with interest accruing thereon at the Petitioner's prime rate of interest plus 1.6% from June 28, 2024 to the date of judgment and the Petitioner's costs of and related to this proceeding.

SERVICE AND NOTICE OF MATERIALS

40. The Receiver shall establish and maintain a website in respect of these proceedings at: be <https://www.insolvencies.deloitte.ca/en-ca/pages/WhitewaterConcrete.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.
41. 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 Petitioner a demand for notice in the form attached as **Schedule "C"** (the "**Demand for Notice**"). The Receiver and the Petitioner 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 Petitioner from any requirement to provide further notice in respect of these proceedings until such Person delivers a properly completed Demand for Notice.
42. 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.
43. 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.
44. Notwithstanding paragraph 43 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.

45. 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

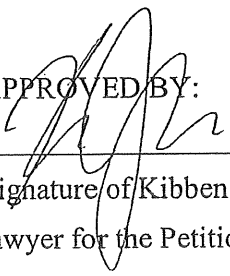
46. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.
47. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
48. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.
49. 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.
50. 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.
51. The Petitioner shall have its costs of this motion, up to and including entry and service of this Order, as provided for by the terms of the Petitioner's security or, if not so provided by the Petitioner's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

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

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

APPROVED BY:



Signature of Kibben Jackson
lawyer for the Petitioner

BY THE COURT


DISTRICT REGISTRAR

CHECKED


SCHEDULE "A"
LIST OF COUNSEL

Counsel/Person Appearing	Party Represented
Brian Marcus	Barry Charles Holdings Ltd., Becision Holding Corporation, G.I.H. Properties Ltd., McVicar & Company Holdings Inc., TNL Developments Ltd., Aman Gill, Peter Chappell, Sandra Chappell and Teresa Gauteau
Douglas Hyndman	Business Development Bank of Canada
Geoffrey Dabbs	Whitewater Concrete Ltd., Whitewater Developments Ltd., Robert Kyle Smith, Craig Smith, Krystle Holdings Ltd., Bastian Holdings Ltd. and 145 Golden Drive Ltd.
Bryan Gibbons	Deloitte Restructuring Inc.

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SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT

\$ _____

1. THIS IS TO CERTIFY that Deloitte Restructuring Inc. (the "**Receiver**") the receiver and manager of certain lands of 145 Golden Drive Ltd. and certain assets, undertakings and property of Whitewater Concrete Ltd. and Whitewater Developments Ltd. (collectively, the "**Debtors**"), including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Supreme Court of British Columbia (the "**Court**") dated July 2, 2024 (the "**Order**") made in SCBC Action No. H240524, Vancouver Registry 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 monthly not in advance on the last day of each month after the date hereof at a notional rate per annum equal to the rate of [] per cent above the prime commercial lending rate of [] from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at [].
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum under this Certificate in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 2024.

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

Per:
Name:
Title:

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Schedule "C"**Demand for Notice**

TO: **Royal Bank of Canada**
 c/o Fasken Martineau DuMoulin LLP
 Attention: Kibben Jackson
 Email: kjackson@fasken.com and svolkow@fasken.com

AND TO: Deloitte Restructuring Inc.
 c/o Lawson Lundell LLP
 Attention: Bryan C. Gibbons
 Email: bgibbons@lawsonlundell.com

Re: In the matter of the Receivership of Whitewater Concrete Ltd. and others

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 mail, at the following address:

Name of Creditor: _____

Name of Counsel (if any): _____

Creditor's Contact Address: _____

Creditor's Contact Phone Number: _____



THE NEW  STpaul's

▶ TOGETHER WE BUILD SUCCESS

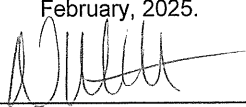
February 23, 2022

Steve Beaton
Trilogy Concrete 2021 Ltd.
 2nd Floor, 27222 Lougheed Highway
 Maple Ridge, BC V2W 1M4

Dear Steve Beaton:

Re: NEW ST. PAUL'S HOSPITAL PHASE 1A
Subcontract Award
Subcontract: 20059013-OS

This is Exhibit "B" referred to in the affidavit of Jeff Keeble affirmed before me at Vancouver, British Columbia, this 4 day of February, 2025.



A Commissioner for taking Affidavits within British Columbia.

We wish to congratulate you on being the successful bidder for the work at the above referenced project.

Enclosed is your Subcontract to complete the work according to the terms and conditions as agreed and set out in the attached subcontract. Please execute the Subcontract and return to our office within **ten (10) days** of receipt of this letter. ***Please do not make any modifications to this Subcontract. The undersigned should be contacted if any errors or omissions are noted.***

Your attention is especially directed to the following information and list of requirements in your Subcontract which require positive action by your office prior to and during the performance of this subcontract:

1. PROJECT LOCATION

The Project is located at: 1002 Station Street
 Vancouver, BC V6A 0B5

2. MAILING ADDRESS

Initially all correspondence is to be addressed to:

PCL Constructors Westcoast Inc.	Attention: Lisa Forrester
#310 – 13911 Wireless Way	Phone: 604-241-5200
Richmond, BC V6V 3B9	

3. PERSONNEL

The supervisory personnel for PCL Constructors Westcoast Inc. are:

Construction Manager	Jackie Trach
General Superintendent	Darrin Joss
Project Accountant	Graham Buhr

PCL CONSTRUCTORS WESTCOAST INC.

310 – 13911 Wireless Way, Richmond, BC, V6V 3B9

Telephone: 604-241-5200 ♦ Fax: 604-241-5301 ♦ Website: www.pcl.com

New St. Paul's Hospital Phase 1a
Subcontract Award
Page 2

We also require the following documentation to be executed and ***received by our office prior to delivery of material/services on the project site or within ten (10) days***, whichever occurs first.

4. SAFETY

- (a) All Subcontractors are to familiarize themselves with the attached site-specific Project Environmental, Health and Safety Plan. This safety policy must be adhered to at all times. **Please review, sign and return Safety Program Sign-Off with your executed subcontract.**
- (b) All Subcontractors are to acknowledge receipt of the PCL's site-specific safety plan.
- (c) All Subcontractors are to appoint a Safety Officer and provide safety training to all site employees in compliance with WorkSafe BC requirements.

5. LETTER OF GOOD STANDING

Within ten (10) days of the issuance of the subcontract and before any personnel are moved onto the jobsite, the Subcontractor will provide a letter of good standing from WorkSafe BC.

6. CERTIFICATE OF INSURANCE

Within ten (10) days of the issuance of the subcontract and before any personnel or materials are moved onto the jobsite, the Subcontractor will furnish PCL with Certificates of Insurance evidencing the coverage for:

- (a) Public Liability and Property Damage insurance on an Occurrence Basis, with a minimum limit of \$5,000,000.00.
- (b) Owned Vehicle insurance with a minimum limit of \$5,000,000.00.
- (c) Non-Owned Vehicle insurance with a minimum limit of \$5,000,000.00.
- (d) Equipment insurance.

Please ensure certificates are addressed to PCL Constructors Westcoast Inc. and list PCL Constructors Westcoast Inc. as an additional insured and contain waivers of subrogation against the Owner and other such persons, cross liability and severability of interest clauses. The certificates must be signed by the insurance company and include a thirty (30) day written notice of changes or cancellations to PCL Constructors Westcoast Inc. clause.

7. APPLICATION OF PAYMENT

- PCL uses Textura for preparing and submitting your monthly progress invoices. This process involves third party internet-based software, entitled Textura Payment Management.
- Please refer to the Textura Information below which describes the benefits and costs of using the system. We request that you provide us with the name and contact information of the individual who should be contacted for this purpose.
- No application for payment will be approved or processed until all documentation, including the signed subcontract, insurance certificates and safety acknowledgement form have been received by PCL Constructors Westcoast Inc.

New St. Paul's Hospital Phase 1a
Subcontract Award
Page 3

We are pleased to have you as a member of our team for this project and look forward to working with you to a mutually successful completion.

Yours truly,

PCL CONSTRUCTORS WESTCOAST INC.



Jackie Trach
Construction Manager
Writer's Direct Line: 604-241-5200

Attachments: Subcontract: 20059013-OS OS
Textura Payment Management

Oracle's Textura Payment Management: Work Faster and More Efficiently

What Is Textura (TPM®)?

Oracle's TPM is an Internet-based construction invoicing and payment solution. With the TPM system, subcontractors can electronically sign and submit their pay applications—including invoices, sworn statements, and conditional and/or unconditional lien waivers. Payments are made electronically via ACH (Automated Clearing House) resulting in faster access to your funds. In addition, TPM facilitates submission and tracking of compliance documents and sub-tier lien waivers. In short, TPM has revolutionized the construction payment process. Thousands of subcontractors currently use TPM to submit their pay applications every month.

Sign Pay Applications and Submit Electronically

TPM automatically generates the required Pay Application documents and transmits them to your GC electronically at the click of a button.

- Invoices are created by simply entering a percent complete or dollar value by line item of your budget.
- Electronic submission of documents eliminates the expense and inconvenience of fax or hand delivery.
- Invoice amounts are verified with lien waiver and payment amounts, reducing the risk of error.

Receive Payments via ACH

TPM uses the secure ACH network for electronic deposit of funds to accelerate draw payments.

- ACH will deliver funds faster than a manual check. Payments are made through TPM directly by the GC and are subject to the terms of your contract.
- ACH works like direct deposit. Funds are immediately available, no waiting for checks to clear.
- TPM alerts you via email that payment has been disbursed.

Know What is Happening, When It Happens

TPM offers complete visibility throughout the draw process and notifies users of critical events.

- Receive real-time notifications when a draw is opened, change order issued, payment disbursed, etc.
- Receive email reminders to update expiring insurance documents and notification of non-compliance.
- Online invoice approval and rejection ensures that both parties are informed of final invoice amounts.

Manage Documents Online

Project documents created in or uploaded to the system are available for viewing, printing or downloading to your computer. TPM will store these documents for a minimum of ten years.

- Pay Application backup documents are submitted quickly and easily via an upload attachment feature.
- Electronic submission & tracking of legal documents such as insurance certificates reduces payment holds.
- Possibility for lost or delayed documents resulting in held payments is virtually eliminated.

What Does It Cost to Use TPM?

0.22% of contract value*

- Maximum – \$3,750 CAD
- Sub-tier subcontractors – \$100

**Plus, applicable taxes*

Technical Requirements:

TPM is completely web-based- there is no software to install. Users need only:

- Internet access (high-speed recommended)
- Email access for each user
- Adobe Acrobat Reader 6.0 or higher (free download)

Free Training & Support:

Our Training Supports your training needs with:

- Free webinars
- Individual training by phone

Support representatives are available to answer your questions at 866 -TEXTURA (866-839-8872).



SUBCONTRACT #20059013-OS

PCL CONSTRUCTORS WESTCOAST INC.
(hereinafter called the "Design-Builder")

This Agreement made on February 15, 2022 by and between:

PCL CONSTRUCTORS WESTCOAST INC.
310 - 13911 Wireless Way
RICHMOND, BC V6V 3B9

District:	BC Region
Project No:	2220059
Contract No:	20059013-OS
Requested By:	DK/GB
Prepared By:	DK
Cost Code:	20030050-S

(hereinafter called the "Design-Builder")
and

Trilogy Concrete 2021 Ltd.
2nd Floor, 27222 Lougheed Highway
Maple Ridge, BC V2W 1M4

(hereinafter called the "Subcontractor")

THIS SUBCONTRACT IS ALSO SUBJECT TO THE GENERAL CONDITIONS AND SPECIAL CONDITIONS ATTACHED
HERETO

RECITALS:

1. PCL NSP 2021 Ltd. together with its successors and assigns ("**Project Co**") has entered into an agreement (together with all general conditions, special conditions, plans, drawings, specifications, schedules, addenda and other documents (as developed from time to time) forming or by reference made a part of such contract and as amended from time to time (the "**Project Agreement**") with Providence Health Care Society, (together with its successors and assigns, the "**Owner**") dated February 24, 2021 pursuant to which Project Co has agreed, among other things, to finance, design, build and operate, on a turnkey basis, a St. Paul's Hospital Phase 1a (the "**Facility**").

Project Address:

1002 Station Street
VANCOUVER, BC
V6V 3B9

2. The Design-Builder has entered into an agreement (which, together with all general conditions, special conditions, plans, drawings, specifications, schedules, addenda and other documents (as developed from time to time forming or by reference made a part of such contract and as amended from time to time, the "**Design-Build Contract**") with Project Co dated February 24, 2021 pursuant to which the Design-Builder has agreed to perform that work (the "**Work**") necessary to, among other things, to design and build the Facility (the "**Project**").

3. The Design-Builder and Project Co has entered into an agreement (together with all general conditions, special conditions, plans, drawings, specifications, schedules, addenda and other documents (as developed from time to time), forming or by reference made a part of such contract and as amended from time to time, the "**Facility Coordination Agreement**") with N/A (together with its successors and assigns, the "**Service Provider**") dated 2/24/2021 pursuant to which the Contractor and the Service Provider coordinate the design, commissioning and transition of the Facility from construction into operations

4. The Subcontractor wishes to undertake a portion of the Work (the "**Subcontract Work**", as defined below) as subcontractor to the Design-Builder.

5. The Subcontractor and the Design-Builder have agreed to enter into this Subcontract, which sets out the terms and conditions upon which the Subcontractor will perform the Subcontract Work.

A: AGREEMENT TO PERFORM THE SUBCONTRACT WORK

The Subcontractor agrees to perform the Subcontract Work in accordance with the terms and conditions of this Subcontract and to the satisfaction and approval of the Design-Builder, Project Co and the Owner or any architect or engineer retained by any one or more of them (the "Consultant").

B: WORK TO BE PERFORMED

The scope of the Subcontract Work is set forth in Schedule "A" to this Subcontract (hereinafter the "Subcontract Work.") It is agreed that the Subcontract Work shall be performed in accordance with the requirements of the Design-Build Contract and all instructions of the Project Co, the Owner and the Consultant pursuant to the Design-Build Contract in relation to the Subcontract Work. The Subcontract Work includes any and all acts, operations, obligations, duties and responsibilities as are necessary for the Subcontractor to perform the scope of the Subcontract Work and to satisfy its obligations under this Subcontract, including the provision and performance, and all supervision, of all necessary labour, services, materials (f.o.b jobsite Freight Terms DDP - Delivered Duty Paid to 1002 Station Street, VANCOUVER, BC, V6A 0B5, CAN - Incoterms 2010, includes offloading by Subcontractor), plant, tools, equipment, services, supplies, permits and licenses.

C: SUBCONTRACT DOCUMENTS

The following are the Subcontract Documents referred to in Article B:

- the recitals and agreement of this Subcontract (being Articles A: to G:, inclusive);
- the General Conditions of this Subcontract;
- the Special Conditions of this Subcontract; and
 1. Appendix A - Subcontract Amendments
 2. Appendix B - Contract Award Meeting Minutes - Dated November 24, 2021
 3. Appendix C - Scope of Work - Dated February 8, 2022
 4. Appendix D - Unit Rates for Changes and Force Account Rates - Dated January 18, 2022
 5. Appendix E - Project Schedule - Data Date November 13, 2021
 6. Appendix F - Contract Documents Log - Dated February 4, 2022
 7. Appendix G - Apprenticeship Program Guidelines - Dated March 2016
 8. Appendix H - Project HSE Plan Sign-Off - Dated December 1, 2021

D: SUBCONTRACT PRICE

The total amount to be paid to the Subcontractor for the performance of the Subcontract (the "Subcontract Price") is set forth in Schedule "B", which amount is exclusive of the federal goods and services tax but inclusive of all other federal, provincial, territorial and municipal taxes of any kind whatsoever and which amount shall be subject to adjustment in accordance with the terms hereof.

E: PAYMENT

The Design-Builder agrees to pay the Subcontractor for the performance of the Subcontract Work as follows:

1. Subject to any requirement to retain a holdback pursuant to the applicable builders', mechanics' or construction lien legislation (the "Lien Legislation") (or where no requirement exists, Design-Builder shall have the right to retain a holdback from the Subcontractor consistent with the applicable Lien Legislation) and provided that no lien or written notice of lien has been filed in respect of the Subcontract Work that has not been satisfied, released, vacated, or discharged by the Subcontractor in accordance with the requirements of this Subcontract, the Design-Builder shall pay the amount payable to the Subcontractor based on progress estimates invoiced by the Subcontractor in accordance with Article 16 of the General Conditions as approved by the Design-Builder for the value of the Subcontract Work completed by the Subcontractor to the end of the previous month within the earlier of five (5) Working Days, as defined below, after the Design-Builder receives payment for such work from Project Co., or sixty (60) days from the end of the month in which the Subcontract Work included in the invoice was completed.
2. Subject to the expiry of the applicable holdback period pursuant to the Lien Legislation, and provided that no lien or written notice of lien has been filed in respect of the Subcontract Work that has not been satisfied, released, vacated, or discharged in accordance with the requirements of this Subcontract, the Design-Builder shall, within the earlier of five (5) Working Days after the Design-Builder has received payment from Project Co or sixty (60) days after final acceptance of the Subcontract Work by Project Co or its Consultant, pay the applicable holdback to the Subcontractor.

3. Due performance of the Subcontract Work in strict accordance with its terms (including the invoicing procedure as set out in Article 16 of the General Conditions) by the Subcontractor shall be a condition precedent to all payments by the Design-Builder.
4. The Design-Builder's payment obligations shall be subject to Article 12 of the General Conditions.
5. Payments will not be due and owing nor shall any interest accrue thereon until all required documents as set out in Article 16.2 of the General Conditions are provided to the Design-Builder in the format requested and, if required, fully executed by the Subcontractor.
6. Subcontractor hereby represents to Design-Builder that it
 - (a) is not a non-resident of Canada for purposes of the Income Tax Act (Canada); or
 - (b) ~~is a non-resident of Canada for purposes of the Income Tax Act (Canada).~~

Any and all payments made under this Subcontract shall be made subject to withholding and deduction on account of taxes where required by applicable laws or the administration thereof by relevant governmental authorities, including without limitation withholding on account of Canadian federal or provincial taxes from a payment to a non-resident of Canada in respect of services rendered in Canada. Where an amount is so withheld or deducted, such amount will be treated for all purposes of this Subcontract as having been paid by Design-Builder to Subcontractor at the time it was withheld or deducted, and Design-Builder shall remit such amount to the relevant governmental authorities. Notwithstanding the foregoing, the Subcontractor may, no later than 30 days prior to commencing the Subcontract Work, provide the Design-Builder with a letter from the Canada Revenue Agency ("CRA") authorizing an exemption from a withholding required by applicable law. If the Subcontractor provides such letter from the CRA, the Design-Builder shall not reduce payments made under this Subcontract by any withholding and deduction on account of taxes exempted by such letter.

F: NOTICE REQUIREMENTS

1. Any notice required or permitted under this Subcontract shall be in writing and be considered to have been sufficiently given if (a) delivered personally; (b) sent by recognized express mail or courier service; or (c) sent by electronic mail to the following respective addresses:
 - (a) if to the Subcontractor: Trilogy Concrete 2021 Ltd.
2nd Floor, 27222 Lougheed Highway, Maple Ridge, BC V2W 1M4
Attention: Steve Beaton
steve@syberconcreteforming.com
 - (b) if to the Contractor: PCL CONSTRUCTORS WESTCOAST INC.
310 - 13911 Wireless Way, RICHMOND, BC V6V 3B9
Attention: Bruce Norman
bnorman@pcl.com
2. Any notice given under this Article F: shall be deemed to have been given and to have been received on the date of delivery if delivered personally or by express mail or courier service, or, if emailed, at the time and date received by the recipient, provided that such day in either event is a working day (being a day other than a Saturday or Sunday or holiday which is observed by the construction industry in the area of the place of the Work, "**Working Day**") and the communication is so delivered or emailed before 4:30 p.m. local time of the location of the Project on such day. Otherwise, such notice shall be deemed to have been given and to have been received on the next following Working Day.

G: GENERAL

1. Except to the extent otherwise expressly provided in this Subcontract, if there is a conflict between provisions of this Subcontract or provisions incorporated into this Subcontract, the order of priority, from highest to lowest, shall be:
 - (a) the recitals and agreement of this Subcontract (being Articles A to G, inclusive);

- (b) the Special Conditions of this Subcontract;
- (c) the General Conditions of this Subcontract;
- (d) the specifications incorporated into this Subcontract; and
- (e) the drawings incorporated into this Subcontract. Drawings of a larger scale shall govern over those of small scale of the same date. Dimensions shown on drawings shall govern over dimensions scaled from drawings.

Later dated documents shall govern over earlier documents of the same type. To the extent that this Subcontract and the Design Build Contract deal with the same subject matter in respect of the Subcontract Work, both such provisions shall apply except to the extent that such provisions are contradictory. To the extent that a provision in this Subcontract contradicts a provision in the Design Build Contract, the provision in this Subcontract shall prevail to the extent necessary to avoid such contradiction.

2. The Subcontractor and the Design-Builder for themselves, their heirs, executors, administrators, successors and permitted assigns, do hereby agree to the full performance of the covenants and agreements contained in this Subcontract.
3. This Subcontract is the entire agreement between the parties relating to the Subcontract Work and replaces any earlier agreements, and the parties agree that there are no other agreements, representations, collateral agreements or warranties other than as expressed herein. The Subcontractor acknowledges that it has not entered into this Subcontract on the basis of, and has not relied upon, any statement or representation, whether or not negligently made, whether oral, written, express or implied, except as expressly set forth in this Subcontract. No amendment to this Subcontract shall be valid and binding unless set forth in a Subcontract Revision, a Design-Builder Directive or an instrument in writing signed by the parties.
4. Time is of the essence of this Subcontract and any time specified for the completion of the Subcontract, the Subcontract Work or any portion thereof is a material provision of this Subcontract.
5. The Design-Builder and the Subcontractor are independent contractors. This Subcontract does not create or establish between the Design-Builder and the Subcontractor or between the Subcontractor, Owner and Project Co any relationship as partners, fiduciaries, joint venturers, employer and employee, master and servant or principal and agent.
6. Each provision of this Subcontract shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Subcontract shall be invalid, unenforceable or illegal, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Subcontract. If any such provision of this Subcontract is invalid, unenforceable or illegal, the parties shall promptly negotiate in good faith new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Subcontract as nearly as possible to its original intent and effect.
7. This Subcontract shall be governed by and construed in accordance with the laws of the place of the Project and shall be treated in all respects as a contract in that place without regard to conflict of laws principles.
8. Subject to Article 20 of the General Conditions, the courts of the place of the Work shall have jurisdiction to hear and determine any action, suit, proceeding or dispute in connection with this Subcontract, and the parties hereby irrevocably attorn to the exclusive jurisdiction of those courts. Each of the Parties agrees that a final judgment (after any appeal) in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner to the extent provided by law.
9. Each party shall do all things and execute all further documents necessary to give full effect to this Subcontract.
10. This Subcontract shall be interpreted neutrally and without regard to which party drafted it and, in particular, no rule of construction shall be applied that would result in the resolution of an ambiguity herein on the basis of which party drafted this Subcontract.

11. In this Subcontract, the word "including" shall mean "including, without limitation," and the words "include" and "includes" shall have corresponding meanings and the word "Losses" shall refer to losses, damages, costs, expenses, deductions and/or liabilities.
12. Headings or subheadings in this Subcontract are for convenience of reference only, do not constitute part of this Subcontract, and will not be taken into consideration in the interpretation or construction of, or affect the meaning of, this Subcontract.

IN WITNESS WHEREOF the parties hereto have executed this Subcontract by their proper officers or duly authorized agents.
Trilogy Concrete 2021 Ltd. PCL CONSTRUCTORS WESTCOAST INC.

Per: Steve Beaton

Per: Antonio Hsu

Steve Beaton

Subcontractor

[Signature]

Design-Builder

GENERAL CONDITIONS

1. PERFORMANCE OF SUBCONTRACT WORK

The Subcontractor shall perform its obligations under this Subcontract at its own cost and risk except as expressly provided in this Subcontract.

- 1.1 The Subcontractor agrees to begin, carry on and complete the Subcontract Work in a prompt and diligent manner and in accordance with the Design-Builder's schedule for the Project so as not to interfere with or delay the work of the Design-Builder or the work of any other subcontractors. The Design-Builder shall have the right to adjust the Design-Builder's schedule for the Project, or direct the Subcontractor to accelerate the Subcontract Work to ensure compliance with the Design-Builder's schedule, from time to time provided however that, if:

- .1 such adjustment is not undertaken in response to an act or omission of the Subcontractor or a party engaged by or through the Subcontractor;
- .2 such adjustment reduces the time that the Subcontractor has to carry out the Subcontract Work prior to such adjustment; and
- .3 the Design-Builder has not previously reimbursed the Subcontractor for such adjustment,

the Design-Builder shall pay the reasonable expenses incurred by the Subcontractor in accelerating the Subcontract Work to adhere to Design-Builder's schedule (as adjusted). The Subcontractor shall, if requested by the Design-Builder, furnish adequate evidence to substantiate its ability to meet the performance schedules and planned progress of the Subcontract Work, including periodic reports setting forth the status of the Subcontract Work. Without limiting any other right or remedy of the Design-Builder, if the Subcontractor fails to observe any provision of this Article 1.2 and by reason thereof the Design-Builder becomes liable for Losses, the Subcontractor shall be liable to pay or reimburse the Design-Builder for same.

The Subcontractor represents and warrants that it is experienced and knowledgeable in the performance of work such as the Subcontract Work and has the required ability, experience, skills, qualifications, capability, workforce, and financial resources to perform the Subcontract Work in a timely manner in accordance with the terms of this Subcontract. During the performance of the Subcontract Work, the Subcontractor shall maintain one person designated as its Project supervisor. The Project supervisor shall be the same person throughout the performance of the Subcontract Work unless the Design-Builder, acting reasonably, consents to a replacement. The Project supervisor, and any replacement, shall be fully qualified and experienced in its trade.

- 1.2 The Subcontractor has:

- .1 conducted its own independent inspection and analysis of the location of the Project and the Subcontract Work and all other locations relevant to the performance of the Subcontract Work and accepts the conditions of the location of the Project and such other locations as they are (except as otherwise provided in the Design Build Contract);
- .2 conducted its own independent inspection and analysis of all drawings, reports, studies, data, documents or other information given or made available by the Design-Builder, Project Co, the Owner or the Consultant ("**Background Information**"); and
- .3 relied solely on its own independent inspection and analysis and has not relied on any Background Information or any representation given or made by the Design-Builder, Project Co, the Owner or the Consultant, except as expressly set forth in this Subcontract or as otherwise provided in the Design Build Contract.

- 1.3 Subcontractor personnel remaining at or returning to the location of the Project outside regular Project working hours must have prior authorization to do so from the Design-Builder.

2. PRIME CONTRACT

- 2.1 The Subcontractor is deemed to have full knowledge of the provisions of the Design-Build Contract, other than the provisions relating to payment to the Design-Builder under the Design-Build Contract and other than any other provisions of the Design-Build Contract which are identified in the Special Conditions of this Subcontract to be excluded from the knowledge of the Subcontractor or which the Design-Builder, in its sole and absolute discretion, determines are confidential.

- 2.2 To the extent that the Design-Builder is required under the Design-Build Contract to obtain rights, powers or remedies for the direct benefit of Project Co or the Owner (or both) as against the Subcontractor, the Subcontractor hereby grants such rights, powers or remedies to Project Co and the Owner. The Subcontractor agrees that Project Co and the Owner are third party beneficiaries of this Subcontract in respect of all rights, powers and remedies granted by the Subcontractor to them and the Design-Builder is contracting as agent for Project Co and the Owner in respect of the granting of such rights, powers and remedies in favour of Project Co and the Owner. Except for rights, powers and remedies granted by the Subcontractor in favour of Project Co and the Owner pursuant to this Subcontract, nothing herein shall be construed as creating any privity of contract between the Subcontractor, Project Co and the Owner.
- 2.3 To the extent that the Design-Builder is required under the Design-Build Contract to include certain terms or conditions in this Subcontract, such terms and conditions shall be deemed to be incorporated herein. To the extent that the Design-Builder is required under the Design-Build Contract to ensure that its subcontractors include certain terms and conditions in their sub-subcontracts or purchase orders, the Subcontractor shall include such terms and conditions in its sub-subcontracts and purchase orders.
- 2.4 Except as expressly provided to the contrary herein:
- .1 the Subcontractor shall assume and perform all the duties, responsibilities and liabilities of the Design-Builder under the Design-Build Contract in relation to the performance of the Subcontract Work as if the Design-Builder was Project Co and the Subcontractor was the Design-Builder under the Design-Build Contract;
 - .2 the Subcontractor shall have, in respect of the performance of the Subcontract Work, the same duties, responsibilities, obligations and liabilities to the Design-Builder under this Subcontract as the Design-Builder has to Project Co and the Owner under the Design-Build Contract as if the Design-Builder was the Owner and the Subcontractor was the Design-Builder under the Design-Build Contract;
 - .3 the Design-Builder shall have, in respect of the performance of the Subcontract Work, the same rights, powers and remedies against the Subcontractor under this Subcontract as Project Co and the Owner have against the Design-Builder under the Design-Build Contract as if the Design-Builder was Project Co and the Subcontractor was the Design-Builder under the Design-Build Contract;
 - .4 the Subcontractor shall be bound by all rulings of the Consultant, Project Co and the Owner in relation to the performance of the Subcontract Work, to the same extent that the Design-Builder is bound; and
 - .5 the Subcontractor will not be entitled to greater rights, entitlements or relief against the Design-Builder under this Subcontract than the Design-Builder actually has or obtains from Project Co under the Design-Build Contract in relation to the performance of the Subcontract Work or any claims of the Subcontractor relating thereto provided however that where the Subcontractor is delayed in the performance of the Subcontract Work due to a breach of this Subcontract by the Design-Builder, the Subcontractor will be entitled to the reasonable expenses incurred by the Subcontractor due to such breach in accordance with the terms of this Subcontract .
- 2.5 The Subcontractor will so execute, complete and maintain the Subcontract Work that no act or omission of the Subcontractor in relation thereto shall constitute, cause or contribute to any breach by the Design-Builder of any of the Design-Builder's obligations under the Design-Build Contract or of Project Co's obligations under the Project Agreement.
- 2.6 The Subcontractor hereby acknowledges that:
- .1 any breach by the Subcontractor of its obligations under this Subcontract (including its obligations under Article 1 or this Article 2) may result in the Design-Builder committing breaches of and becoming liable for damages, including liquidated damages in the amount of \$30,000.00 per day, under the Design-Build Contract, and under other subcontracts made by the Design-Builder and may occasion further loss or expense to the Design-Builder;
 - .2 all such Losses are hereby agreed to be within the contemplation of the parties as being probable results of any such breach by the Subcontractor; and
 - .3 the Subcontractor shall be liable to the Design-Builder for such Losses to the extent caused by the Subcontractor (and/or parties for whom the Subcontractor has engaged in respect of the Subcontract Work or is otherwise responsible).

- 2.7 Subject to Article 2.8, in the event that a circumstance should arise that has an impact on the cost of performance of the Subcontract Work or the time required to perform the Subcontract Work and, as a result of the occurrence of such circumstance, the Design-Builder receives additional payment from Project Co in respect of the Subcontract Work or is granted an extension of the time for performance of the Subcontract Work by Project Co, the Subcontractor shall be entitled to a like additional payment, exclusive of any amount attributable to the Design-Builder's fee for profit or overhead, and to a like extension of time for performance of the Subcontract Work.
- 2.8 Whenever the Design-Builder is required by the terms of the Design-Build Contract to give any return, account or notice, the Subcontractor will, in relation to the Subcontract Work, give a similar return, account or notice in writing in such form and within such period of time as will enable the Design-Builder to comply with the requirements of the Design-Build Contract. If by reason of any breach of this Article 2.8 the Design-Builder is prevented from recovering any sum from Project Co or from obtaining any extension of time in respect of the Subcontract Work, then, without prejudice to any other remedy the Design-Builder may have for such breach, the Subcontractor shall be disentitled from recovering a like sum or any portion thereof or obtaining a like extension of time or any portion thereof under this Subcontract.

3. INSURANCE AND BONDING

- 3.1 In respect of the Subcontract Work, the Subcontractor shall obtain and maintain at its own expense all such insurance as set out in the Special Conditions including liability, property damage, owned/non-owned vehicle and Subcontractor's equipment insurance satisfactory to the Design-Builder, and shall furnish certificates of such insurance to the Design-Builder.
- 3.2 Each insurance policy to be obtained and maintained by the Subcontractor shall:
- .1 be in form, on terms and with insurers satisfactory to the Design-Builder;
 - .2 for any liability insurance, name the Design-Builder as an additional insured, and shall contain provisions that the insurer shall have no right of subrogation against the Design-Builder, and when required by the Design-Build Contract, shall name the Owner, Project Co or other persons as additional insureds and contain waivers of subrogation against the Owner, Project Co and such other persons;
 - .3 contain a cross liability clause and a severability of interests clause;
 - .4 be primary insurance and not in excess to any similar coverage provided by insurance procured by or available to the Design-Builder, Project Co or the Owner unless this requirement is amended or waived by the Design-Builder in writing; and
 - .5 issued by insurers licensed to underwrite insurance in the jurisdiction of the place of the Work.
- 3.3 All amounts of insurance specified by this Subcontract to be procured by the Subcontractor, Owner, Project Co or Design-Builder are the minimum policy limits that shall be provided. The Subcontractor shall be solely responsible for determining whether the specified amounts of insurance are adequate and for placing any excess insurance and any additional insurance which it considers necessary to protect and indemnify itself. Notwithstanding any other provision of this Subcontract, it is hereby agreed that the limits of liability specified in this Subcontract for insurance policies, whether such policies are required to be procured by the Subcontractor, Owner, Project Co or the Design-Builder, shall in no way limit the Subcontractor's liability to the Design-Builder.
- 3.4 Where a loss occurs to the Subcontractor which is covered or would be covered in whole or part by the insurance required to be obtained and maintained by the Subcontractor, the Design-Builder shall not be liable to the Subcontractor for so much of such loss as is so covered or as would have been covered.
- 3.5 On projects where the Design-Builder, Project Co or the Owner carries builders' risk insurance, wrap-up insurance or other property or liability insurance, any deductible from the sums otherwise payable thereunder shall be borne by the party responsible for the loss, or if no responsible party can be determined, by the party receiving the direct benefit of such insurance.
- 3.6 Where the Subcontractor has provided a surety bond in connection with the Subcontract Work, the Subcontractor shall report to and obtain the written consent of the surety for all amendments to and increases in the Subcontract where the aggregate increase of the value of the Subcontract is greater than ten (10%) percent, and shall ensure continued bonding of the Subcontract, provided that no failure of the Subcontractor to fulfil such obligations shall invalidate the surety bond or affect the obligations of the surety under the surety bond. Where the Subcontractor has provided a labour and material payment bond in connection with the Subcontract

Work, the Subcontractor shall give prompt written notice to any potential beneficiary that such bond exists and be responsible to the Design-Builder to the extent of Losses that arise from the Subcontractor's failure to do so.

- 3.7 Prior to commencement of the Subcontract Work and upon the placement, renewal, or extension of all or any part of the insurance to be obtained and maintained by the Subcontractor hereunder, the Subcontractor shall promptly provide the Design-Builder with confirmation of coverage and, if required, a certified true copy of the policies certified by an authorized representative of the insurer together with copies of any amending endorsements and all other related information as requested.
- 3.8 The Subcontractor shall provide the Design-Builder with a minimum thirty (30) days' advance written notice of cancellation, non-renewal or material change in coverage of any insurance policies obtained and maintained by the Subcontractor.

4. SUBCONTRACTING AND ASSIGNMENT

- 4.1 The Subcontractor agrees not to subcontract all or any portion of the Subcontract Work except with the prior written consent of the Design-Builder (which will not be unreasonably withheld) and then only to sub-subcontractors or material suppliers acceptable to the Design-Builder (acting reasonably).
- 4.2 The Subcontractor shall not assign this Subcontract or any portion thereof except with the prior written consent of the Design-Builder.
- 4.3 The Design-Builder may assign this Subcontract or any portion hereof.

5. CLEAN-UP AND DEBRIS

- 5.1 The Subcontractor shall be responsible for cleaning up during and immediately after its performance of the Subcontract Work, and shall leave areas "broom clean" daily. The Subcontractor shall at its own expense remove from the location of the Project all debris resulting from the carrying out of the Subcontract Work. The Subcontractor shall, upon request of the Design-Builder, remove excess debris from the work areas within four working hours. If the Subcontractor fails to so perform, the Design-Builder may perform or have this work performed at the Subcontractor's expense.

6. INDEMNIFICATION

- 6.1 The Subcontractor further specifically obligates itself to the Design-Builder in the following respects:

.1 To defend and indemnify the Design-Builder and its directors, officers, affiliates, employees and agents (collectively, the **"Design-Builder Indemnitees"**) against and save them harmless from any and all claims, suits, proceedings or Losses incurred by the Design-Builder Indemnitees (or any of them) for or on account of:

- .1 any alleged or actual infringement or violation of any patent, copyright, or other intellectual or industrial property right arising in connection with this Subcontract and anything done hereunder;
- .2 damage to property, injuries to persons including death, and any negligent act or omission, wilful misconduct or other wrongful act or omission of the Subcontractor, or any of its directors, officers, agents, employees, servants, material suppliers, sub-subcontractors or assignees;
- .3 any breach by the Subcontractor of any of its obligations under this Subcontract; and
- .4 the operation of Article 2.6

- 6.2 All obligations by the Subcontractor pursuant to this Subcontract to defend, indemnify or save harmless the Design-Builder Indemnitees or any other person or entity shall:

- .1 survive the termination of this Subcontract for any reason and shall be without limitation to any other right or remedy that may be available to the Design-Builder; and
- .2 include the obligation to indemnify the Design-Builder Indemnitees or such other person or entity from and against all costs, expenses and fees, including agency fees and legal fees and disbursements on a solicitor and his or her own client basis. Any entity or person entitled to indemnification hereunder shall, at its or their option, have the right to undertake its or their own

defence at the expense of the Subcontractor and to recover from the Subcontractor all such costs, expenses and fees in relation thereto.

7. LAWS, PERMITS, WARRANTY, DEFECTS AND QUALITY CONTROL

7.1 The Subcontractor shall comply with the provisions of any applicable construction legislation (including builders', mechanics' or construction lien legislation) including any trust provisions thereof.

7.2 The Subcontractor shall obtain and pay for all permits, licences and official inspections made necessary by the Subcontract Work, and to comply with all laws, ordinances and regulations bearing on its work and the conduct thereof, including those in respect of environmental protection or enhancement.

7.3 The Subcontractor warrants and guarantees the work and materials covered by this Subcontract and agrees to make good, at its own expense, any non-compliance in carrying out the Subcontract Work including any defect or deficiency in materials or workmanship which may occur or develop, or may be properly condemned or ordered modified by the Consultant, the Design-Builder or any municipal or government inspector as the result of any work, goods or materials provided by the Subcontractor, together with detrimental direct or indirect effects of such defect or deficiency or of such making good.

7.4 The Subcontractor will examine all of the Subcontract Work and the work (of others) near to or necessary for the completion of the Subcontract Work, detect and notify the Design-Builder of all flaws or defects therein, and cooperate to make the two works come together and fit and function smoothly.

7.5 The Subcontractor shall:

- .1 perform quality control covering all activities, products, and services related to the execution of the Subcontract Work so as to ensure:
 - .1 compliance of the Subcontract Work with the stated project performance requirements as well as compliance with the intent of such requirements; and
 - .2 that defects in the performance in the Subcontract Work, if any, are identified and remedied;
- .2 ensure that its quality control program meets or exceeds the requirements of the Design-Builder's quality control program;
- .3 present quality control documentation to the Design-Builder if requested, as a minimum, on a monthly basis with the Subcontractor's monthly progress estimate; and
- .4 notify the Design-Builder immediately upon discovering evidence of a non-conformance quality event.

8. SHOP DRAWINGS, SAMPLES & OTHER DOCUMENTS

8.1 The term "**Shop Drawings**" means drawings, diagrams, illustrations, schedules, performance charts, brochures and other data which are to be provided by the Subcontractor to illustrate details of a portion of the Subcontract Work.

8.2 The Subcontractor shall submit Shop Drawings to the Design-Builder for its review with reasonable promptness and in an orderly sequence so as to cause no delay in the Subcontract Work or in the work of others. Shop Drawings shall be submitted electronically as the Design-Builder may direct. At the time of submission the Subcontractor shall notify the Design-Builder, by notice in writing separate and apart from the Shop Drawings themselves, of any deviations in the Shop Drawings from the requirements of the Design-Build Contract. The Subcontractor shall be responsible for all on-site and field dimensioning confirmation as may be required to ensure the accuracy of the Subcontractor's Shop Drawings and to ensure the proper fitting of the Subcontract Work to the work of others. Review or approval of Shop Drawings submitted by the Subcontractor shall not relieve the Subcontractor of its responsibilities for those Shop Drawings.

8.3 The Subcontractor shall submit any samples required to be provided for approval to the Design-Builder with reasonable promptness and in an orderly sequence so as to cause no delay in the Subcontract Work or in the work of others.

8.4 The Subcontractor agrees to provide the Design-Builder with such information as the Design-Builder may demand from time to time to evaluate the progress and coordination of the Subcontract Work or to prepare and revise construction and coordination schedules.

8.5 "By Others" or similar comments on Shop Drawings will not be recognized unless they specifically concur with the specifications.

8.6 The Subcontractor shall maintain accurate and complete Subcontract documents (including all Shop Drawings, as-built drawings, maintenance manuals, instructions, brochures, guarantees, warranties, certificates and other similar documents) at all times during the performance of the Subcontract Work at the location of the Project or at such other location approved by the Design-Builder in writing, shall make all such documents available to the Design-Builder at all such times and shall deliver to the Design-Builder all such documents as and when required by the Design-Builder and in any event no later than the Subcontractor's final progress claim or two weeks before the Consultant's final inspection, whichever is the earlier.

8.7 The Subcontractor shall provide maintenance manuals, as-built drawings and spare parts in an approved form prior to completion of the Subcontract Work or as required in the Design Build Contract. The Subcontractor agrees that this requirement is equal to the greater of five (5) percent of the Subcontract Price and \$5,000, to a maximum of \$100,000.

9. CHANGES

9.1 The Design-Builder shall have the right, without invalidating this Subcontract, to order any change to the Subcontract Work, including changes by way of addition to the Subcontract Work or deletion of portions of the Subcontract Work, and in each such case shall do so in writing.

9.2 When a change to the Subcontract Work is proposed, the Design-Builder shall provide notice in writing to the Subcontractor describing the proposed change to the Subcontract Work. The Subcontractor shall propose, in a form and in detail acceptable to the Design-Builder and within such time as may be prescribed by the Design-Builder, a method of adjustment or an amount of adjustment to the Subcontract Price, if any, and the adjustment to the Subcontract schedule, if any, for the proposed change to the Subcontract Work.

9.3 When the Design-Builder and the Subcontractor agree to the adjustments to the Subcontract Price and the Subcontract schedule or the method to be used to determine such adjustments, such agreement shall be recorded in a Subcontract Revision, signed by the Design-Builder and the Subcontractor (a "**Subcontract Revision**").

9.4 If the Design-Builder requires the Subcontractor to proceed with a change to the Subcontract Work prior to the Design-Builder and the Subcontractor agreeing upon the adjustments to the Subcontract Price and the Subcontract schedule, the Design-Builder shall issue a written authorization (a "**Design-Builder Directive**") to the Subcontractor authorizing such change, and the Subcontractor shall proceed promptly with the performance of the change to the Subcontract Work. If the parties are unable to agree on the amount of any adjustments to the Subcontract Price or the Subcontract schedule, the same shall be determined in accordance with the provisions of the Design-Build Contract dealing with changes to the Subcontract Work (and, for the purposes of determining such adjustment in accordance with the provisions of the Design Build Contract, such change shall be treated as a change initiated by Project Co as if the Design-Builder were Project Co and as if the Subcontractor were the Design-Builder) but such adjustments shall exclude any fee or overhead to which the Design-Builder is entitled in respect of changes to the Subcontract Work. In the event that the Design-Build Contract prescribes limitations on adjustments to schedule or to payments to be made to the Design-Builder in respect of changes to the work being performed by subcontractors, such limitations shall apply to adjustments to schedule and to payments to the Subcontractor in respect of changes to the Subcontract Work.

9.5 The Subcontractor shall not undertake any changes to the Subcontract Work without a written Subcontract Revision or Design-Builder Directive and the Design-Builder shall not be liable to the Subcontractor in any way for any work carried out by the Subcontractor in respect of changes to the Subcontract Work where such work was carried out without a written Subcontract Revision or Design-Builder Directive. All Subcontract Revisions and Design-Builder Directives will be considered incorporated into this Subcontract and governed by its terms.

9.6 In the event of a dispute as to whether a written instruction by the Design-Builder to the Subcontractor constitutes a change to the Subcontract Work, the Subcontractor shall act in accordance with the Design-Builder's instructions. If it is subsequently determined that the instructions constituted a change to the Subcontract Work, the Subcontract Price shall be adjusted and the Subcontract schedule shall be adjusted in respect of such instruction in accordance with this Article 9 provided however that no such instructions shall constitute a change to the Subcontract Work unless the Subcontractor has provided the Design-Builder with:

.1 notice in writing that it believes that such instructions constitute a change in the Subcontract Work by the earlier of:

.1 five (5) days from the date the Subcontractor received the written instruction from the Design-Builder; or

.2 the day that is two (2) Working Days immediately preceding the day that the Design-Builder must provide a similar notice to Project Co under the Design Build Contract in respect of such instructions; and

.2 a further notice in writing to the Design-Builder detailing why the Subcontractor believes that such instructions constitute a change in the Subcontract Work, the value of such change, and any schedule impacts associated with such change by the earlier of:

.1 ten (10) days from the date the Subcontractor received the written instruction from the Design-Builder;

.2 the day that is two (2) Working Days immediately preceding the day that the Design-Builder must provide a similar notice to Project Co under the Design Build Contract in respect of such instructions.

10. CLAIMS

10.1 For the purposes of this Article 10 and Article 20,

.1 “Subcontractor **Claim**” means any claim or allegation of the Subcontractor against the Design-Builder relating to this Subcontract wherein the Subcontractor is seeking to obtain:

.1 an entitlement alleged to be owing under the Subcontract (including in respect to a Subcontract Revision or for a change to the Subcontract Price or to the schedule);

.2 a clarification of a matter in question (including a clarification as to Subcontract Work scope); or

10.2 If the Subcontractor intends to make a Subcontractor Claim, it shall provide the Design-Builder with

.1 a notice in writing (a “**Notice of Subcontractor Claim**”) which specifies the occurrence or event giving rise to such Subcontractor Claim no later than the earlier of:

.1 five (5) Working Days from the day of first becoming aware of the occurrence or event; or

.2 the day that is two (2) Working Days immediately preceding the day that the Design-Builder must provide a similar notice to Project Co under the Design Build Contract in respect of such event giving rise to the Subcontractor Claim; and

.2 a further notice in writing (a “**Notice of Subcontractor Claim Support**”) which provides full details of the Subcontractor Claim, including complete facts and details supporting the basis upon which the Subcontractor believes that it is entitled to compensation or schedule relief, the method of valuation, the relevant sections of the Subcontract and the Design-Build Contract, if applicable, that support the Subcontractor Claim and any other relevant matters, by no later than the earlier of:

.1 Fifteen (15) Working Days after the date of the Notice of Subcontractor Claim; or

.2 the day that is two (2) Working Days immediately preceding the day that the Design-Builder must provide a similar notice to Project Co under the Design Build Contract in respect of such event giving rise to the Subcontractor Claim.

10.3 The Design-Builder shall, within 15 Working Days from the date of receipt from the Subcontractor of the Notice of Subcontractor Claim Support, provide the Subcontractor with the Design-Builder’s response. If the Design-Builder fails to accept the Subcontractor Claim (or any aspect of it), or fails to provide its response within the time specified above, then the Subcontractor shall be entitled to proceed under Article 20 by issuing to the Design-Builder a written notice to resolve the Subcontractor Claim pursuant to Article 20 (a “**Resolution Notice**”) and delivering such Resolution Notice no later than the day that is thirty (30) Working Days after the date that the Subcontractor provided the Design-Builder with the Notice of Subcontractor Claim Support.

10.4 The Subcontractor acknowledges that the requirement to provide all of the Notices described in Article 10.2.1 and 10.2.2 in strict accordance with the time requirements provided therein are mandatory pre-conditions to the Subcontractor’s entitlement to any compensation or relief sought, and the Subcontractor agrees to waive in favour of the Design-Builder any Subcontractor Claim if the Subcontractor has failed to satisfy such pre-conditions.

10.5 The Subcontractor shall mitigate the consequences of the occurrence or event giving rise to a Claim or possible Claim upon the performance of the Subcontract Work.

10.6 Should any Subcontractor Claim arise that is the proper subject of an equivalent claim by the Design-Builder to Project Co pursuant to the Design-Build Contract or between Design-Builder and Service Provider under the Facility Coordination Agreement, such Subcontractor Claim (and any resultant dispute, if applicable) shall, at the election of the Design-Builder, be addressed in the same manner and at the same time as the claim (and any resultant dispute) is to be addressed as between Project Co and the Design-Builder or between Service Provider and the Design-Builder, as applicable.

10.7 Similarly, should any Subcontractor Claim arise that is the same claim or a related claim in respect of the Project by another subcontractor or subcontractors, the Subcontractor Claim (and any resultant dispute, if applicable) shall, at the election of the Design-Builder, be addressed in the same manner and at the same time as the claim (and any resultant dispute) is to be addressed as between the other subcontractor(s) and the Design-Builder.

11. EMPLOYMENT, PERSONNEL AND COLLECTIVE AGREEMENTS

11.1 The Subcontractor agrees to comply with all applicable municipal, provincial, territorial and federal employment and labour laws.

11.2 The Subcontractor shall provide a sufficient number of personnel to enable timely and proper execution and completion of the Subcontract Work. All such personnel shall be competent and qualified by education, training and experience and in all other respects capable of carrying out the tasks to which each is assigned. At the Design-Builder's request, the Subcontractor shall reassign, replace or remove personnel who, in the Design-Builder's reasonable discretion, do not meet the above requirements, or become intoxicated, intemperate, disorderly, incompetent, or negligent, or who have committed a violation of the Design-Builder's regulations, policies or procedures including those related to safety, environment, and security. Such requests by the Design-Builder shall not limit in any way the Subcontractor's responsibilities and obligations, pursuant to the Contract Documents or in tort, for any costs or damages that may arise as a result of the actions of the Subcontractor's personnel.

11.3 The Subcontractor shall comply with those provisions of the Design-Builder's collective agreements relating to the Subcontract Work. Should the Design-Builder be found liable for any breach of the Design-Builder's relevant collective agreements as a result of the Subcontractor's actions, the Subcontractor agrees to defend and indemnify the Design-Builder in respect of any damages, costs and expenses incurred by the Design-Builder by reason of the failure by the Subcontractor to comply with those collective agreements or its failure to meet the subcontracting or jurisdiction provisions of those collective agreements.

12. LIENS AND RIGHTS OF SET OFF

12.1 The Subcontractor shall not permit any lien to be filed in respect to the Subcontract Work except the Subcontractor may file a lien for amounts owing to the Subcontractor under this Subcontract which are not paid when due. The Subcontractor shall pay for all materials furnished and work and labour performed under this Subcontract and all taxes, imposts, levies, assessments, premiums, fees or union dues relating thereto directly or indirectly when such payments are due, and shall satisfy the Design-Builder thereupon whenever demand is made.

12.2 The Design-Builder, acting reasonably, may withhold payments from the Subcontractor to such extent as may be considered necessary by the Design-Builder to protect the Design-Builder from loss on account of:

- .1 defective work or materials not remedied;
- .2 the failure of the Subcontractor to make payments for material, labour or otherwise under this Subcontract;
- .3 the failure of the Subcontractor to perform any of its obligations hereunder; or
- .4 claims asserted by Project Co, the Service Provider, the Owner or any third party in respect of acts or omissions of the Subcontractor,

(each a "Design-Builder Claim"). The Subcontractor hereby authorizes the Design-Builder to pay any or all of the Subcontractor's unpaid obligations, whether or not such unpaid obligations have been disclosed by the Subcontractor to the Design-Builder, and to reduce the amount owing to the Subcontractor by the amount or amounts so paid, plus a reasonable allowance for the Design-Builder's overhead and administration. The amount of any obligations in dispute, plus a reasonable allowance for the Design-Builder's overhead and administration, may be retained by the Design-Builder pending determination of the dispute. The Design-Builder may issue a notice

of dispute to the Subcontractor ("**Design-Builder Dispute**") with respect to a Design-Builder Claim, including with respect to any amounts claimed against the Subcontractor which are not otherwise set off.

12.3 The Subcontractor hereby acknowledges and agrees that the Design-Builder may set-off against any obligation of the Design-Builder to the Subcontractor, and that the Design-Builder's obligation to pay the Subcontractor shall be reduced by, any claim of any nature or kind by the Design-Builder against the Subcontractor or any subsidiary or affiliate of the Subcontractor, whenever arising, whether liquidated or unliquidated, whether or not arising from or related to this Subcontract, as allowed by law, and including any claim against the Subcontractor by any other person which has been assigned at any time to the Design-Builder. Any right which the Subcontractor may have to assign rights under this Subcontract shall be subject to the Design-Builder's right of set-off as aforesaid and any rights acquired by any assignee shall be subject to the Design-Builder's right of set-off as aforesaid, whether the claim or claims of the Design-Builder against the Subcontractor arise before, upon or after the assignment to the assignee, or before, upon or after the Design-Builder is notified of such assignment.

12.4 Without limiting the generality of the foregoing or any other right or remedy of the Design-Builder, if a builders', mechanics' or construction lien in respect of the Subcontract Work is registered by a sub-subcontractor, employee, or supplier (or any other entity engaged by or through the Subcontractor) of the Subcontractor and such registration is not released, vacated or discharged by the Subcontractor at least ten (10) days prior to the date that the Design-Builder is required to discharge such a lien under the provisions of the Design-Build Contract or, if the Design-Build Contract does not specify such a date, within ten (10) days after notice by the Design-Builder to the Subcontractor to discharge such lien, then the Design-Builder may settle and pay the claim for such lien or make such court applications and make such payments into court as the Design-Builder deems necessary, in its sole and absolute discretion, to release, vacate or discharge such lien. All amounts paid by the Design-Builder to release, vacate or discharge such lien or otherwise incurred by the Design-Builder arising from the registration of such lien, including legal costs on a solicitor and his or her own client basis, shall be paid by the Subcontractor to the Design-Builder on demand and the Design-Builder may deduct all such amounts from payments otherwise due to the Subcontractor.

13. MATERIALS, SUPPLIES AND EQUIPMENT

13.1 The Subcontractor shall store all construction materials to be supplied for the Subcontract Work ("**Materials**"), whether such Materials are supplied by the Subcontractor, or by the Design-Builder or Owner to the Subcontractor, until such Materials have been incorporated into the Subcontract Work. Such Materials shall be stored so as to:

- .1 ensure the preservation of their cleanliness, quality and fitness for the Subcontract Work;
- .2 be protected from vandalism and theft; and
- .3 be protected from moisture and other conditions promoting the growth of mould or the propagation of corrosion, rust or any other damage or deterioration.

Such Materials shall be located so as to facilitate prompt inspection by the Design-Builder, Project Co or the Owner. The Subcontractor shall be responsible to ensure that any Materials transported to the location of the Project by or for it shall be protected from moisture and kept clean during transportation and handling. Any unclean materials shall be cleaned or replaced to the Design-Builder's satisfaction. Any Materials that have become moist shall be immediately dried to ensure that no mould, corrosion, rust or any other damage or deterioration will result from such moisture, to the satisfaction of the Design-Builder. Wet Materials or Materials that have not been dried in a timely way or to the satisfaction of the Design-Builder shall be removed from the location of the Project and replaced with Materials satisfactory to the Design-Builder. The Subcontractor shall notify the Design-Builder prior to the incorporation of any moist materials in the Subcontract Work, or before using any water in any of its construction methods. The Subcontractor shall immediately notify the Design-Builder of any leaks or spills of which it becomes aware. The Subcontractor shall undertake all of the foregoing requirements at its own cost and shall be responsible for the cost of any rework or replacement required due to improper material storage or installation. The Subcontractor shall ensure that these provisions are incorporated into all of its subcontracts or purchase orders on this Project.

13.2. If the Design-Builder, accepts delivery on behalf of the Subcontractor of any of the Subcontractor's Materials, supplies or equipment, whether or not the Subcontractor is then absent from the location of the Project, the Design-Builder, will not be liable for any deficiency or defect in quantity, quality, or content of what was delivered, nor shall the Design-Builder, be deemed to have accepted such Materials, supplies or equipment. The Design-Builder, shall not be responsible for storage of any such Materials, supplies or equipment.

13.3 Without limitation to the rights of the Design-Builder pursuant to Article 7, 13.1.2, 13.2 or 13.4 of this Subcontract, title to Materials supplied under this Subcontract shall pass to the Design-Builder on the earliest of (i) the date required pursuant to the Design-Build Contract for the passage of title to Project Co or the Owner, (ii) the date of delivery of such Materials to the location of the Project or to such other location as may be directed by the Design-Builder, or (iii) the date of payment by the Design-Builder to the Subcontractor for such Materials. The Subcontractor agrees to execute such documents as the Design-Builder may reasonably require to evidence the transfer of such title.

13.4 Whether or not title has passed to the Design-Builder, Project Co or the Owner, all risk of loss of or damage to the Subcontract Work not fully or finally accepted by Project Co or the Owner, or to Materials, supplies, equipment or scaffolds, shall rest solely on the Subcontractor, including loss or damage due to vandalism or theft unless, and only to the extent that, such loss or damage is covered by insurance obtained by the Design-Builder or the Owner that is primary to any insurance obtained or required to be obtained by the Subcontractor.

14. EVENTS OF DEFAULT

14.1 For the purposes of this Article 14, an Event of Default will occur if any of the following events should occur:

- .1 the Subcontractor is insolvent, or is adjudged bankrupt, or makes a general assignment for the benefit of creditors, or commences any proceedings under the Companies' Creditors Arrangement Act or the Bankruptcy and Insolvency Act or any similar legislation in any jurisdiction, or a receiver is appointed in respect of the Subcontractor; or
- .2 the Subcontractor fails to comply with any of the requirements of this Subcontract or fails to prosecute the Subcontract Work with promptness and diligence, or delays the progress of the Design-Builder and the Subcontractor fails to cure such default within the Cure Period.

14.2 "Cure Period" in respect of a default described in Article 14.1.2 means the lesser of:

- .1 70% of the cure period prescribed in the Design-Build Contract in respect of such default, if such default gives rise to a default by the Design-Builder under the Design-Build Contract; or
- .2 three (3) Working Days immediately following notice of such default from the Design-Builder, provided that if:
 - .1 the default is capable of being corrected, but is not capable of being corrected within three (3) Working Days;
 - .2 the Subcontractor commences the correction of the default within three (3) Working Days after receipt of the Design-Builder's notice; and
 - .3 the Subcontractor provides the Design-Builder within such period of three (3) Working Days with a schedule acceptable to the Design-Builder for such correction and the Subcontractor diligently works to correct the default in accordance with such schedule, such cure period shall be extended to the time prescribed in such schedule.

14.3 Upon the occurrence of an Event of Default, the Design-Builder may, at its option, and without prejudice to any other right or remedy the Design-Builder may have:

- .1 cure such default at the expense of the Subcontractor, including a reasonable allowance for the Design-Builder's overhead and administration;
- .2 suspend this Subcontract;
- .3 terminate this Subcontract;
- .4 take possession of all materials, supplies, products, tools, machinery and equipment of the Subcontractor at the location of the Project;
- .5 do or pay anything the Subcontractor has failed to do or pay either by the Design-Builder itself or by employing others for the purpose; or
- .6 any two or more of the foregoing.

In any of these cases the Design-Builder may charge all costs, expenses and losses incurred by it including all fees, including agency fees and legal fees on a solicitor and his or her own client basis, to the Subcontractor who covenants forthwith to reimburse the Design-Builder therefor.

14.4 If the Design-Builder fails to pay to the Subcontractor any undisputed amounts owing to the Subcontractor under this Subcontract when due and the Design-Builder fails to rectify such default within thirty (30) days following its receipt of written notice of such default from the Subcontractor, the Subcontractor shall have the right to suspend its performance of the Subcontract Work until such default has been rectified. If the Subcontractor suspends the Subcontract Work in accordance with this Article 14.4, the Subcontractor shall recommence all suspended Subcontract Work within five (5) days of the paying to the Subcontractor of such outstanding undisputed amounts owing to the Subcontractor.

15. RIGHT TO TERMINATE / SUSPEND

15.1 The Design-Builder shall have the right at any time by written notice to the Subcontractor to terminate or suspend this Subcontract.

15.2 If this Subcontract is suspended by the Design-Builder for reasons other than the default of the Subcontractor or any other event referred to in Article 14, the Subcontractor shall be entitled to an equitable adjustment of the Subcontract Price and the schedule for performance of the Subcontract Work in respect of such suspension provided that the Subcontractor has taken all reasonable steps to mitigate the cost and schedule impacts arising from the suspension.

15.3 Notwithstanding the foregoing, if such suspension is as a result of suspension of the Work or the Subcontract Work under the Design-Build Contract, other than as a result of default of the Design-Builder not caused or contributed to by the Subcontractor, the Design-Builder's obligation to make an equitable adjustment of the Subcontract Price and the schedule for performance of the Subcontract Work shall be conditional upon the Design-Builder being in receipt of funds and being granted an extension of time for the same pursuant to the terms of the Design-Build Contract, the Design-Builder having taken all commercially reasonable steps to obtain such compensation and extension.

15.4 If this Subcontract is terminated for reasons other than the default of the Subcontractor or any other event referred to in Article 14, the Subcontractor shall be entitled to be paid for all Subcontract Work properly performed to the date of termination, as provided in the payment provisions of this Subcontract, for loss sustained with respect to sub-subcontracts and supply contracts and such other damage as the Subcontractor may reasonably have sustained as a result of termination of this Subcontract provided that:

- .1 the Subcontractor has taken all reasonable steps to mitigate such loss or damages; and
- .2 the Design-Builder may require the Subcontractor to assign to the Design-Builder any agreements that the Subcontractor has with sub-subcontractors and suppliers in respect of the Subcontract Work.

Notwithstanding anything to the contrary, in no circumstance (including in the event of termination) shall the Design-Builder be liable to the Subcontractor for any consequential, indirect or special damages, or for any loss of actual or anticipated profit, revenue or commercial opportunity, that arises from, or is related to, this Subcontract

15.5 Any payments owing to the Subcontractor under this Article 15 shall be made in accordance with Article E: PAYMENT of this Subcontract.

16. INVOICING PROCEDURE

16.1 No later than the twenty-fifth (25th) day of the month in which materials were supplied or work performed, the Subcontractor shall submit:

- .1 an invoice in an electronic format acceptable to the Design-Builder through the Oracle Textura Payment Management system ("Textura");
- .2 supporting documents required by the Design-Builder as set out in Article 16.2 to the project manager for the Project, or other designate as applicable, in a format acceptable to the Design-Builder; and
- .3 any other documents as identified in the Special Conditions.

16.2 Subcontractor shall submit the following supporting documents:

.1 To be submitted with the first invoice or prior to mobilization at the location of the Project, whichever occurs first:

- .1 Executed Project Health Safety and Environment (HSE) Plan Acknowledgement;
- .2 Subcontractor HSE plan or safe work practices/procedures as applicable to the Subcontract Work;
- .3 A document from the workers' compensation board of the location of the Project evidencing the Subcontractor's account is in good standing;
- .4 Certificates of insurance; and
- .5 If the Subcontractor is a non-resident of the location of the Project, evidence of registration with the applicable sales tax department.

.2 To be submitted with each subsequent invoice, each holdback invoice and the final invoice:

- .1 a Statutory Declaration or a Statement of Progress Payment Distribution stating that all obligations incurred by the Subcontractor in the performance of this Subcontract up to the end of the previous invoice have been paid, or stating particulars of any obligations remaining unpaid; and
- .2 a document from the workers' compensation board of the location of the Project evidencing the Subcontractor's account is in good standing.

.3 To be submitted with each holdback invoice:

- .1 current certificates of insurance.

16.3 No later than the five (5) Working Days after the end of any month in which materials were supplied or work performed, the Subcontractor shall submit to the project manager, or other designate as applicable, in a format acceptable to the Design-Builder:

- .1 the Monthly Safety Submittals as set out in the Project Specific HSE Plan; and
- .2 any other documents as identified in the Special Conditions

16.4 In the event an invoice, back up to an invoice or supporting documents with respect to an invoice as set out in Article 16.1 are received later than the twenty-fifth (25th) day of the month in which materials were supplied or work performed, the Design-Builder may choose, in its reasonable discretion and without obligation, not to include the value of the materials supplied or work performed by the Subcontractor in the Design-Builder's invoice to Project Co, notwithstanding anything contained elsewhere in this Subcontract.

16.5 The Subcontractor shall not be entitled to payment for materials supplied or work performed under this Subcontract until the Design-Builder receives, as a condition of payment, the required documentation specified in Article 16.1, 16.2 or 16.3 including, without limitation, the invoice referred to in Article 16.1.1. No monies shall be payable to the Subcontractor under this Subcontract until the required documentation is submitted to the Design-Builder, whether or not monies have been received from Project Co in respect of the materials supplied or work performed by the Subcontractor.

16.6 The Subcontractor is responsible for all fees and costs associated with the use of Textura as set out in the Special Conditions to the Subcontract. The Subcontractor agrees to enter into an agreement with Textura with respect to the payment of fees for the use of Textura and to pay such fees directly to Textura.

17. NO WAIVER

17.1 Each of payment by the Design-Builder to the Subcontractor, approval of progress payments by the Design-Builder, failure by the Design-Builder to complain against or to sue the Subcontractor, inspection or testing of any of the Subcontract Work by the Design-Builder, the Consultant, Project Co or the Owner, the issuance of any certificate for payment by Project Co, the Consultant or the Owner, or the delivery of a notice of non-payment, shall not be deemed to be a waiver by the Design-Builder of any of its rights against the Subcontractor including the right of the Design-Builder to either withhold payments from the Subcontractor or set-off against any

obligation of the Design-Builder to the Subcontractor in accordance with this Subcontract unless there is an express agreement in writing to that effect.

17.2 Whenever it may be useful or necessary, the Design-Builder, Project Co or the Owner shall be permitted to occupy and use any portion of the Subcontract Work that has been either partially or fully completed by the Subcontractor, but such occupation or use shall not be deemed to be a waiver by the Design-Builder of any of its rights against the Subcontractor unless there is an express agreement in writing to that effect. The Subcontractor shall not be responsible for any damage caused by the Design-Builder or the Owner during such occupation.

18. UNITED NATIONS CONVENTION ON CONTRACTS

18.1 The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Subcontract.

19. CONFIDENTIAL INFORMATION

19.1 In this Article 19, “**Confidential Information**” means all information, documentation or records of one party that are disclosed to the other that are marked “Confidential” at the time of disclosure or that would be considered by a prudent and reasonable businessperson to be confidential or proprietary in nature and includes all analyses, compilations, studies or other documents that contain or are derived from the foregoing information, documentation or records.

19.2 Each party (the “**Recipient**”) will hold in confidence any Confidential Information disclosed to it by the other party (the “**Disclosing Party**”), to be used only for the purpose for which such Confidential Information was disclosed. Such obligation shall not apply to any information, documentation or records:

- .1 which the Disclosing Party confirms in writing is not required to be treated as Confidential Information;
- .2 which is in or becomes a part of the public domain otherwise than through disclosure prohibited by this Article 19;
- .3 to the extent either party is required to disclose such Confidential Information by applicable law;
- .4 to the extent such information, documentation or records were lawfully in the possession of the Recipient prior to its disclosure by the Disclosing Party; or
- .5 to the extent such information, documentation or records are received by the Recipient on a non-confidential basis from a third party, provided that to the best of the Recipient’s knowledge, such third party was not bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Recipient.

19.3 The obligations of the Subcontractor pursuant to this Article 19 are in addition to any confidentiality obligations under the Design-Build Contract that are incorporated into this Subcontract pursuant to Article 2.

19.4 All obligations of the Subcontractor and the Design-Builder pursuant to this Article 19 shall survive termination of this Subcontract for any reason.

20. DISPUTE RESOLUTION

20.1 Subcontractor Dispute:

- .1 In the event that pursuant to Article 10.3, the Subcontractor has provided the Design-Builder with a Resolution Notice, the parties shall attempt to resolve a Subcontractor Claim by negotiation between the designated representatives of the Subcontractor and Design-Builder.
- .2 The Design-Builder and the Subcontractor each commit to seeking resolution of such matters in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Project.
- .3 If a Subcontractor Claim cannot be resolved by the parties’ designated representatives for the Project within a period of twenty (20) Working Days, either party shall be at liberty to provide written notice of its desire to elevate the negotiation to representatives from executive management from each of the Design-Builder and the Subcontractor who shall attempt to resolve the matter through additional good faith negotiations.

.4 If resolution of the Subcontractor Claim is not achieved by executive management within thirty (30) Working Days, the Subcontractor Claim shall be considered by the parties to constitute a dispute and the Subcontractor shall be entitled to provide the Design-Builder with a notice of dispute.

.5 If the Subcontractor provides a written notice of dispute to the Design-Builder in respect of a Subcontractor Claim within sixty (60) Working Days after delivery of the Resolution Notice (a “**Subcontractor Dispute**”), the Subcontractor Dispute shall be processed in accordance with Article 20.4; if the Subcontractor does not provide a written notice of dispute within such period of sixty (60) Working Days, the Subcontractor unconditionally waives in favour of the Design-Builder such Subcontractor Claim.

20.2 Design-Builder Dispute

.1 If the Design-Builder provides a written notice of dispute to the subcontractor in respect of a Design-Builder Claim (a “**Design-Builder Dispute**”), the Design-Builder Dispute shall be processed in accordance with Article 20.4.

20.3 Notwithstanding the existence of a Subcontractor Claim, Design-Builder Claim, Subcontractor Dispute or Design-Builder Dispute, the Subcontractor shall continue to diligently perform the Subcontract Work in accordance with the directions of the Design-Builder. Provided the Subcontractor has provided all applicable notices to the Design-Builder with respect to a Subcontractor Claim or Subcontractor Dispute, the Subcontractor’s continued performance of the Subcontract Work shall not prejudice any right of the Subcontractor to contest, dispute or challenge the relevant matter in accordance with the provisions of this Subcontract. Should any Subcontractor Dispute or Design-Builder Dispute (collectively referred to as a “**Dispute**”) arise that is related to a dispute between the Design-Builder and, Project Co, the Service Provider, the Owner, the Consultant, another subcontractor(s) or any third party(ies), such Dispute shall, at the election of the Design-Builder, be disposed of in the same manner, by the same mediator, arbitrator or arbitration panel, or the same court, at the same time, and in the same proceeding as the dispute is to be disposed of as between the Design-Builder and Project Co, the Service Provider, the Owner, the Consultant, another subcontractor(s) or any third party(ies).

20.4 Subject to Article 20.3, in respect to a Dispute, either party may by written notice to the other party refer the Subcontract Dispute to mediation. Thereafter, the parties shall, within ten (10) Working Days of such notice, jointly appoint a mediator (the “**Project Mediator**”). If the parties fail to jointly appoint a Project Mediator within such ten (10) Working Day period, either party may request a neutral appointing authority operating in the province of the Project or, if applicable, a judge of the superior court of the jurisdiction of the Project, to appoint the Project Mediator and the Project Mediator so appointed shall be deemed acceptable to the parties and appointed by them.

20.5 If a Project Mediator is appointed, the parties shall submit their position regarding the Dispute in writing to the Project Mediator and shall afford to the Project Mediator access to all records, documents and information the Project Mediator may request. The parties shall meet with the Project Mediator at such reasonable times that the Project Mediator may request and shall, through the intervention of the Project Mediator, negotiate in good faith to resolve the Dispute. All proceedings involving a Project Mediator are agreed to be without prejudice and the cost of the Project Mediator shall be shared equally between the parties.

20.6 If a Dispute has not been resolved within six months after the appointment of a Project Mediator, either party may by notice to the other party withdraw from the mediation process.

20.7 Any Dispute that has not been resolved through or as a result of a mediation shall be referred to and finally resolved by arbitration conducted by a single arbitrator in accordance with the applicable commercial arbitration statute in force in the jurisdiction of the Project, unless the parties mutually agree otherwise in writing. The award rendered by the arbitrator shall be final subject only to appeal on issues of law, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The prevailing party shall be entitled to reasonable solicitor’s fees and costs, and the arbitrator shall have the power to make such an award.

21. SAFETY

21.1 Employers on a construction project are responsible for the health and safety of their workers as regulated by provincial, territorial and federal acts and regulations. Prior to the commencement of the Subcontract Work, the Subcontractor shall familiarize itself with and at all times during the progress of the Subcontract Work shall fully comply with the Design-Builder’s HSE related policies, the Design-Builder’s Project HSE Plan, the applicable provincial workplace safety legislation and all other laws, regulations and codes concerning health, safety or the environment as they may be revised or amended from time to time. The Subcontractor shall, if so required, furnish to the Design-Builder satisfactory evidence that the terms of this Article are being complied with.

21.2 The Subcontractor shall be responsible for the administration, implementation, monitoring, supervision, and enforcement of its own environment, health, and safety programs as well as those of its own subcontractors throughout the progress of the Subcontract Work. The Subcontractor shall actively promote safe working performance on the part of the workers of its own subcontractors in the same manner as to its own employees and is responsible to ensure that its own subcontracted workers are included in all activities carried out in respect of the Subcontractor's safety obligations set out in Article 21.1.

21.3 The Subcontractor will designate on-site supervisory personnel to ensure adherence by all of its workers and its own subcontractors to the Project HSE Plan as well as its own safety programs. The supervisory personnel shall participate in such activities as safety meetings, safety inspections, and safety incentive programs operated by the Design-Builder, and conduct its own safety programs best suited to its particular needs provided its own safety program meets or exceeds the expectations as identified in the Project HSE Plan.

21.4 The Subcontractor's Project supervisor or its representative shall give a current address and telephone number to the Design-Builder's Project superintendent so that the Project supervisor may be contacted after hours in case of emergency involving hazard, loss, or damage to the Subcontract Work or equipment.

21.5 The Subcontractor shall immediately report all unsafe or dangerous conditions to the Design-Builder's Project Superintendent.

21.6 The Subcontractor shall comply with all paperwork and reporting requirements as detailed in the Project HSE Plan. Payment of the Subcontractor's monthly progress claims may be contingent on the submission of all such documents to the Design-Builder. Records and proof of training for all employees and subcontractors must be produced upon request from the Design-Builder.

22. CODE OF CONDUCT AND ANTI-BRIBERY

22.1 The Design-Builder has adopted and maintains a compliance program including a code of conduct and other applicable policies and procedures. The Design-Builder expects the Subcontractor to conduct its business in an ethical manner consistent with the principles set out in the Design-Builder's code of conduct.

22.2 The Subcontractor certifies, represents, warrants and undertakes to the Design-Builder that:

- .1 it has not offered, promised, given or agreed to give and shall not during the term of this Subcontract or the conduct of the Subcontract Work offer, promise, give or agree to give to any person any bribe on behalf of the Design-Builder or Owner or otherwise with the object of obtaining a business advantage for the Design-Builder or Owner or otherwise;
- .2 it will not engage in any activity or practice which would constitute an offence under any applicable anti-corruption laws including, the Foreign Corrupt Practices Act of 1977 (United States of America), the Bribery Act 2010 (United Kingdom) and Corruption of Foreign Public Officials Act (Canada);
- .3 it has and will maintain in place effective accounting procedures and internal controls necessary to record all expenditures in connection with this Subcontract;
- .4 from time to time during the term of this Subcontract or the conduct of the Subcontract Work, whichever period may be longer, at the reasonable request of the Design-Builder or the Owner, it will confirm in writing that it has complied with its undertakings under this Article 22 and will provide any information reasonably requested by the Design-Builder or the Owner, as applicable, in support of such compliance;
- .5 it will report to the Design-Builder as soon as practicable any request or demand for any undue financial or other advantage of any kind received by the Subcontractor from the Owner, the Design-Builder, each of the foregoing's respective employees, officers, directors or agents, all persons for whom any of the foregoing are legally responsible, or any other person in connection with the performance of this Subcontract; and
- .6 it shall notify the Design-Builder as soon as practicable of any breach of any of the undertakings contained in this Article 22 of which the Subcontractor becomes aware.

Schedule "A"**SUBCONTRACT WORK**

Supply all labour, materials, tools, equipment, temporary facilities, and supervision to complete the concrete form, place and finish scope as per Appendices A through G.

Schedule "B"

SUBCONTRACT PRICE

Cost Breakdown

Cost Code	Description	Amount
20030050-S	Form, Place and Finish Concrete	\$65,317,600.00
20030050-S	Credit for B-Weekly Payments	(\$225,000.00)
20030050-S	50% Payment Bond	\$422,857.00
20030050-S	50% Performance Bond	\$1,057,143.00
		\$66,572,600.00

(MANDATORY IN BRITISH COLUMBIA)

Notwithstanding any other provision of this Subcontract, the Subcontractor acknowledges and agrees as follows:

- (i) Materials, equipment, or assemblies supplied by the Contractor or others, and to be installed as part of the Subcontract Work, may or may not bear union labels;
- (ii) union and non-union contractors and subcontractors may be working on Site concurrently and the Subcontractor's workers may have to perform work together or in conjunction with the workers of these other contractors and subcontractors;
- (iii) there will be no work stoppages, work slowdowns, or any other form of withdrawal of labour or disruptions of labour by the Subcontractor's workers, or by the workers of other subcontractors on the Site as a result of the union affiliations or activities of the Subcontractor or the Subcontractor's workers, while the Subcontractor is engaged in performing the Subcontract Work. In the event the Subcontract Work is delayed or disrupted as a result of any work stoppages, work slowdowns or any other form of withdrawal of labour or disruptions by the Subcontractor's workers, or the workers of any of its fabricators, subcontractors or suppliers, or as a result of the union affiliations or activities of any of them which directly or indirectly cause work stoppages, slowdowns, withdrawals or interruptions, the Contractor may immediately terminate this Subcontract, and the Subcontractor shall compensate the Contractor for any damages, losses, costs or expenses suffered by the Contractor in completing the Subcontract Work and the Subcontractor shall have no recourse against the Contractor, Project Co or the Owner on account of termination of this Subcontract. The Subcontractor shall defend, indemnify and save harmless the Contractor, Project Co and the Owner from and against any Claims sustained by the Contractor, Project Co and the Owner as a result of any such stoppage, slowdown, withdrawal or disruption;
- (iv) if the Subcontractor or any of its fabricators, subcontractors or suppliers is or becomes bound by any collective agreements, prior to the commencement of Subcontract Work on Site, or as a condition of continuing with Subcontract Work on Site, the Subcontractor shall provide evidence satisfactory to the Contractor that all applicable unions have waived any rights to prohibit work by non-union or non-affiliated workers on Site;
- (v) the Subcontractor shall defend, indemnify and save harmless the Contractor, Project Co and the Owner as a result of any Claims sustained as a result of the invoking of any affiliation clause under collective agreements to which the Subcontractor or any of its fabricators, subcontractors or suppliers is bound, or to which any of them become bound, while the Subcontractor is engaged in performing the Subcontract Work; and
- (vi) the Subcontractor shall ensure that its fabricators, subcontractors and suppliers are bound by the provisions of this Article.

SPECIAL CONDITIONS**1. Schedule**

Time is of the essence; service commencement by 6/25/2026 and ready for turnover to Owner. This Subcontractor agrees to co-ordinate all work with the General Contractor's Master Schedule and add workers, or work extra hours as required to meet this schedule.

2. Safety**General Safety Requirements**

(a) The Subcontractor shall actively promote safe working performance on the part of their employees and its own third-party subcontractors. Site supervisors shall participate in such activities as safety meetings, safety inspections, and safety incentive programs operated by the Design-Builder. It is expected that each Subcontractor will also conduct their own safety programs best suited to their particular needs.

(b) All Subcontractors shall hold "tailgate" safety meetings with their workers and their own subcontractors at least once a week. Minutes of these meetings in an agreed format shall be forwarded to the site superintendent.

(c) An effective system of orientation and education to the work for all new and transferred workers and all of its own subcontractors is expected of each Subcontractor. Subcontractors shall inform both their workers and their own subcontractors of all safety rules and safety procedures before they begin work on site. A suggested system such as a review of local regulations and Design-Builder's Project Safety Plan for construction could be used.

(d) Approved safety head protection, boots and safety glasses must be worn by personnel at all times on site.

Safety Documentation

The Subcontractor shall hold and document regular tailgate safety meetings (minimum once a week) and undertake and document pre-job safety instructions and job hazard assessments (as conditions necessitate or warrant). Copies of this documentation are to be provided to the Design-Builder on a regular basis. If requested in writing, the Subcontractor will be required to submit monthly safety reports detailing such information as total person hours per month and to date, information and classification of incidents this month and to date, breakdown of injury types and causes, and any other such information requested by the Design-Builder. Payment of the Subcontractor's monthly progress claims will be contingent on the submission of all such documents to the Design-Builder.

Project Safety Plans

The Subcontractor shall review and familiarize itself and its project staff (including all of its own subcontractors) with the Design-Builder's Project Safety Plan and will comply with it at all times during the progress of the work, including adherence to Design-Builder's requirement for approved fall protection plans while working or travelling at heights above 6 feet (1.8m) or above. The Subcontractor will designate on-site supervisory personnel to ensure adherence by all of its workers and subcontractors to this plan as well as its own safety programs. The attached Safety Acknowledgement form shall be completed and must be returned with this subcontract as a condition of payment.

3. Federal Hazardous Products Act

In keeping with the Federal Hazardous Products Act (HPA), and subsequent Provincial Occupational Safety and Health Regulations governing Workplace Hazardous Materials Information System Legislative (WHMIS), we require that Subcontractors and Suppliers ensure that the appropriate Material Safety Data Sheets (MSDS) accompany or precede all controlled products to the project.

4. Cleaning During Construction

Each Subcontractor shall, at all times, assemble and remove their bulk debris from the site. In addition, one workman for each 10 people employed, or pro-rated portion thereof, shall be assigned to the contractor's clean-up crew one day per week for the duration of the subcontractor's installation period. In lieu of the workman, arrangements may be made with the Design-Builder for use of their labour force for such clean-ups which will be chargeable to the subcontractor.

5. Insurance \$5 Million

In accordance with Article 3 of this Subcontract, the Subcontractor shall maintain at his expense:

- A. Public Liability and Property Damage Insurance with minimum limits of \$5 million per occurrence.
- B. Owned Vehicle Insurance with minimum limits of \$5 million.
- C. Non-Owned Vehicle Insurance with minimum limits of \$5 million.
- D. Equipment Insurance

Upon receipt of this subcontract the Subcontractor shall furnish certificates of such insurance to the Design-Builder and such certificates shall include:

- The clause "The Insurer shall mail to Design-Builder 30 days written notice of any material change in or cancellation of these policies".
- The Design-Builder as an Additional Insured and certificates issued to the Design-Builder shall list the Design-Builder as an Additional Insured.
- Waiver of Subrogation in favour of PCL Constructors Westcoast Inc. with respect to insured losses under Commercial General Liability coverage.
- Cross Liability and Severability of Interest Clause.

6. After Hours Supervision

Regular site hours are from 7:30am to 4:30pm Monday to Friday. If a subcontractor is unable to complete their work scope inside of regular hours of work the Design-Builder may recover Supervision costs from the Subcontractor.

7. Performance and Payment Bonds - Payment by Subcontractor

The Subcontractor shall provide a 50% percent performance bond and a 50% percent payment bond referring to this Subcontract and made in favour of the Design-Builder on approved forms, and with a bonding company approved by the Design-Builder. The bonds shall be signed and sealed by both the Subcontractor and bonding company and returned with the signed copies of this agreement provided that such bonds shall be binding on each signatory to the bonds, whether or not they have been signed by both the Subcontractor and the bonding company. The cost of these bonds shall be borne by the Subcontractor.

8. Labour and Material Escalations

All labour and material escalations are included in total contract price.

9. Hoisting

The Subcontract price includes all hoisting necessary to carry out the work when man hoist and crane are not available.

10. FastTrack Acknowledgement

The Subcontractor acknowledges that this is a fasttrack project under which the Subcontract Price has been set, the schedule has been established, the Subcontract has been entered into and the Subcontract Work will commence before the completion of the design of the Subcontract Work. While construction is in progress, drawings, and specifications for the Subcontract Work will be issued in progressive phases from time to time. The Subcontractor acknowledges that in entering into this subcontract, it has anticipated and allowed for conditions and costs associated with a fast-track project. The Subcontractor acknowledges that as a result of the development of the design for the Project, there may have been changes in the design of the Subcontract Work from the date that the Subcontract Price was determined and there may be further changes in the design of the Subcontract Work after the date of this Subcontract, until the design of the Subcontract Work is finalized (collectively, "Design Development Changes"). Design Development Changes may include revisions, additions and deletions which may affect the Subcontractor's scope of work, including types and quantities of work to be performed. The Subcontractor acknowledges that it has allowed for the effect of Design Development Changes in its Subcontract Price and in its schedule for the performance of the Subcontract Work. Notwithstanding any

provision of the Subcontract: (a) the Subcontractor will assume the risk of additional costs and will not be entitled to any adjustment to the Subcontract Price or any additional compensation in respect of Design Development Changes unless the Contractor is entitled to additional compensation in respect of such Design Development Changes pursuant to the Design Build Contract; and (b) the Subcontractor will assume the schedule risk and the costs of acceleration and will not be entitled to time extensions in respect of Design Development Changes unless the Contractor is entitled to time extensions in respect of such Design Development Changes under the Design Build Contract. In the event that the Contractor is entitled to additional compensation or a schedule extension under the Design Build Contract in respect of a led Design Development Change, such Design Development Change shall be dealt with as a change to the Subcontract Work in accordance with the terms of this Subcontract.

11. Shop Drawings

Each miscellaneous iron item location must be identified on the shop drawings in terms of grid lines and elevations.

12. BIM 360 Docs Requirements

The construction documents will be housed in the cloud collaboration site BIM 360 Docs accessible through desktop (Chrome/Mozilla/Firefox browsers preferred), iPad, iPhone, Android phone and tablet apps. The Subcontractor is responsible for keeping an up to date record of construction documents and will always utilize BIM 360 Docs to access the latest documents. The Subcontractor is responsible to ensure that their field staff utilizing paper copies of construction documents receive updated documents when changes are made to the construction documents in BIM 360 Docs.

13. BIM 360 Field Requirements

The Contractor will be utilizing *BIM 360 Field* software/applications on this project and each Subcontractor is required to monitor and utilize this software for the duration of the project. *BIM 360 Field* will be used for various inspections, punchlists, and quality control items. BIM 360 Docs is accessible through desktop (Chrome/Mozilla/Firefox browsers preferred), iPad, iPhone, Android phone, and tablet apps. Each Subcontractor is required to provide their field and office supervisory personnel with the necessary devices to appropriately monitor and utilize this software. The Contractor will provide access to *BIM 360 Field* software to each Subcontractor at no cost.

14. Textura

Subcontractor is responsible for all fees and costs associated with the use of Textura. Fees are listed below and will be deducted from the amount owed to Subcontractor.

For projects initiated in Textura on or after June 13, 2019, fees to Subcontractors are calculated as 0.22% (22 basis points) of contract value (plus applicable taxes), with a maximum fee of \$3,750 CDN.

Subcontract Amount (CDN)	Fee (CDN)

\$0 - \$1,704,543	0.22%
>\$1,704,544	\$3,750

15. Public Communications

Unless expressly provided in this Subcontract or otherwise required by any applicable law (but only to that extent), Subcontractor will not make or permit to be made any public announcement or disclosure whether for publication in the press, radio, television, social media, or any other medium of any: (i) Confidential Information, or any matters relating thereto; or (ii) any matters relating to the Project or the Owner, without the consent of the Contractor (which will not be unreasonably withheld or delayed). As a condition precedent to this consent, Subcontractor shall submit for review, approval and coordination by Contractor all such public announcements or disclosures.

Kimia Jalilvand (3603) - 14Flr

Subject: FW: PCL / Trilogy holdback

From: Laudan, Dirk H. <DLaudan@blg.com>
Sent: Thursday, November 14, 2024 3:41 PM
To: Bryan Gibbons (3152) - 14Flr <bgibbons@lawsonlundell.com>
Cc: jkeeble@deloitte.ca; Butt, Kaleb <kbutt@deloitte.ca>
Subject: RE: PCL / Trilogy holdback

This is Exhibit "C" referred to in the affidavit of Jeff Keeble affirmed before me at Vancouver, British Columbia, this 4 day of February, 2025.

A Commissioner for taking Affidavits within British Columbia.

[THIS MESSAGE ORIGINATED FROM OUTSIDE OUR FIRM]

Bryan

I do not yet have the exact figures, but my understanding is that it will be in the range of \$5.9 million.

Regards

Dirk Laudan

Partner

T (604) 640-4154 | M (604) 512-6203 | dlaudan@blg.com

Borden Ladner Gervais LLP

BLG | Calgary | Vancouver | Montreal | Ottawa | Toronto

This message is intended only for the named recipients. This message may contain information that is privileged, confidential or exempt from disclosure under applicable law. Any dissemination or copying of this message by anyone other than a named recipient is strictly prohibited. If you are not a named recipient or an employee or agent responsible for delivering this message to a named recipient, please notify us immediately, and permanently destroy this message and any copies you may have. Warning: Email may not be secure unless properly encrypted.

From: Bryan Gibbons <bgibbons@lawsonlundell.com>
Sent: Thursday, November 14, 2024 11:02 AM
To: Laudan, Dirk H. <DLaudan@blg.com>
Cc: jkeeble@deloitte.ca; Butt, Kaleb <kbutt@deloitte.ca>
Subject: RE: PCL / Trilogy holdback

[External / Externe]

Dirk,

How much net funds will be flowing?

Bryan Gibbons* | Partner
 Lawson Lundell LLP

D 604.631.9152 | F 604.694.2958

*Law Corporation

From: Laudan, Dirk H. <DLaudan@blg.com>
Sent: Thursday, November 14, 2024 10:52 AM
To: Bryan Gibbons (3152) - 14Flr <bgibbons@lawsonlundell.com>
Cc: jkeeble@deloitte.ca; Butt, Kaleb <kbutt@deloitte.ca>
Subject: PCL / Trilogy holdback
Importance: High

[THIS MESSAGE ORIGINATED FROM OUTSIDE OUR FIRM]

Bryan

I am instructed that the date for holdback release by PCL to Trilogy is **Monday, 18 November 2024**. I am confirming that proper certification of completion has been made. PCL intends to make payment to Trilogy on that date, net of a significant backcharge, an amount to be paid directly to one of Trilogy's subcontractors, and potentially a retainage to cover ongoing legal fees. I do not have the amount of the set-off at hand but will transmit them to you.

I am in meetings between now and 1:00 p.m. but will be available after that time.

Regards

Dirk Laudan

Partner

T (604) 640-4154 | M (604) 512-6203 | dlaudan@blg.com

Borden Ladner Gervais LLP

BLG | Calgary | Vancouver | Montreal | Ottawa | Toronto

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Disclaimer

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This is Exhibit "D" referred to in the affidavit of Jeff Keeble affirmed before me at Vancouver, British Columbia, this 4 day of February, 2025.

A Commissioner for taking Affidavits within British Columbia.

No. H240524
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ROYAL BANK OF CANADA

PETITIONER

AND:

WHITEWATER CONCRETE LTD.,
WHITEWATER DEVELOPMENTS LTD.,
ROBERT KYLE SMITH,
CRAIG SMITH,
KRYSTLE HOLDINGS LTD.,
BASTIAN HOLDINGS LTD.,
145 GOLDEN DRIVE LTD.,
BARRY CHARLES HOLDINGS LTD.,
BECISON HOLDING CORPORATION,
G.I.H. PROPERTIES LTD.,
MCVICAR & COMPANY HOLDINGS INC.,
TNL DEVELOPMENTS LTD.,
AMAN GILL,
PETER CHAPPELL,
SANDRA CHAPPELL and
TERESA GAUTREAU

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE MADAM
JUSTICE TUCKER

MONDAY, THE 18TH DAY
OF NOVEMBER 2024.

ON THE WITHOUT NOTICE APPLICATION of Deloitte Restructuring Inc. ("**Deloitte**"), in its capacity as receiver (the "**Receiver**"), without security, over certain lands, other assets and property of the Respondents Whitewater Concrete Ltd., Whitewater Developments Ltd. and 145

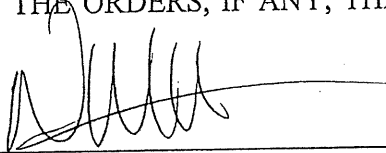
Golden Drive Ltd., coming on for hearing at Vancouver, British Columbia, on Monday, November 18th, 2024, and on hearing Peter J. Roberts, K.C. and Noor Mann, counsel for the Receiver, and those other counsel listed on Schedule "A" hereto;

AND ON READING the material filed, including Affidavit #1 of Jeff Keeble, made November 15, 2024;

THIS COURT ORDERS that:

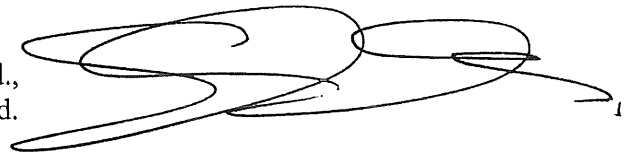
1. PCL Constructors Westcoast Inc. ("PCL") be and is ordered to pay any and all funds (the "**Holdback Funds**") due and owing to Trilogy Concrete 2021 Ltd. ("Trilogy") to the Receiver to be held in trust on behalf of Trilogy pending the provision to the Receiver by Trilogy of satisfactory evidence establishing the entitlement of any third party subcontractor or creditor of Trilogy to any portion of the Holdback Funds, or further order of this Court.
2. Upon proof satisfactory to the Receiver, and subject to the provisions of the *Builders Lien Act*, S.B.C. 1997, c. 45, the Receiver is authorized to pay out any amount of the Holdback Funds to subcontractors or creditors of Trilogy.
3. The relief sought in paragraphs 3 and 4 of the Notice of Application filed November 18, 2024 are adjourned generally.
4. The approval of all parties as to the form of this Order, with the exception of counsel for the Receiver, be and is hereby dispensed with.

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

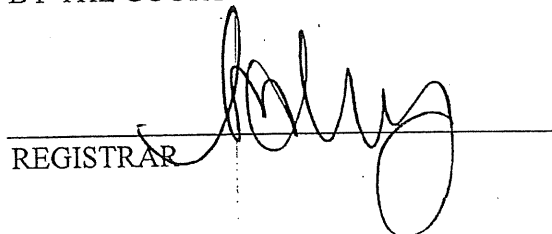


NOOR MANN

Counsel for Deloitte Restructuring Inc., in its capacity as receiver without security, over certain lands, other assets and property of the Respondents Whitewater Concrete Ltd., Whitewater Developments Ltd., and 145 Golden Drive Ltd.



BY THE COURT



REGISTRAR



SCHEDULE "A"
LIST OF COUNSEL

Counsel/Person Appearing	Party Represented
Peter J. Roberts, K.C. Noor Mann	The Receiver, Deloitte Restructuring Inc.
Glen Nesbitt	Royal Bank of Canada
Geoffrey Dabbs	Robert Kyle Smith, Craig Smith, Krystle Holdings Ltd. and Bastian Holdings Ltd.

NO. H240524
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ROYAL BANK OF CANADA

Petitioner

AND:

WHITEWATER CONCRETE LTD.,
WHITEWATER DEVELOPMENTS LTD.,
AND OTHERS

Respondents

ORDER MADE AFTER APPLICATION



Barristers & Solicitors
1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia
V6C 3L2
Phone: (604) 685-3456
Attention: Noor Mann
nmann@lawsonlundell.com

	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL Trade Payables	Holdbacks Payable (incl GST)	Total Amount Due Nov 30, 2024
1297649 BC Ltd (Greuter Engineering)	1,050.00	1,207.50	0.00	0.00	0.00	2,257.50		2,257.50
1385308 BC Ltd (WGL Construction)	9,397.50	14,868.00	0.00	0.00	0.00	24,265.50		24,265.50
1489933 BC Ltd (WGL Formwork Ltd)	19,647.69	24,128.51	35,311.77	108,282.43	21,287.21	208,997.61	23,109.29	231,776.90
A&H Steel Vancouver	0.00	14,590.74	0.00	0.00	0.00	14,590.74		14,590.74
Aluma Systems Inc	0.00	10,233.91	0.00	0.00	4,760.17	14,994.08		14,994.08
Astra Concrete Ltd.	6,352.50	6,244.88	8,079.75	9,207.20	182,915.78	212,800.11		212,800.11
Atlas Scaffolding Ltd	0.00	0.00	0.00	740.21	76,668.29	77,408.50		77,408.50
Central Concrete Accessories	1,358.28	2,612.06	0.00	0.00	0.00	3,970.34		3,970.34
Coastal City Concrete	0.00	0.00	0.00	0.00	43,888.42	43,888.42		43,888.42
Cooper Equipment Rentals Limited	0.00	0.00	0.00	0.00	130,136.72	173,732.51		173,732.51
Doka Canada Ltd. / LTEE	0.00	0.00	0.00	609.10	28,832.21	29,441.31		29,441.31
F&O Truck & Crane Ltd	26,548.52	0.00	0.00	14,011.44	81,750.75	122,310.71		122,310.71
Fileco Forming Ltd.	7,493.69	10,440.64	97,198.03	0.00	0.00	97,198.03		97,198.03
Gegra Equipment Ltd	425.50	0.00	14,226.24	19,468.26	55,069.49	106,638.29		106,638.29
Hazmasters Inc	1,677.37	5,142.37	2,315.25	0.00	0.00	425.50		425.50
JCC Construction	0.00	50.00	0.00	0.00	0.00	50.00		50.00
Jimmy Martinez	0.00	0.00	0.00	0.00	0.00	0.00		0.00
Keltek Concrete Ltd	12,636.75	42,531.04	0.00	0.00	0.00	55,167.79		55,167.79
Legacy Cranes & Equipment Ltd	0.00	0.00	0.00	0.00	2,338,073.40	2,338,073.40		2,338,073.40
Multivista Construction Documentation ULC	1,344.00	0.00	672.00	0.00	0.00	2,016.00		2,016.00
OptiCrane Inc	1,204.88	0.00	0.00	0.00	0.00	1,204.88		1,204.88
Pacific Document Exchange Ltd	0.00	0.00	0.00	0.00	101.43	101.43		101.43
Pasman Smith & Company Ltd	2,354.53	3,105.37	3,224.81	0.00	0.00	393.75		393.75
Pinpoint Construction Ltd	0.00	0.00	0.00	0.00	0.00	6,684.81		6,684.81
Rich Brodowski	0.00	0.00	260.59	0.00	0.00	260.59		260.59
RKM Crane Services Ltd	76,561.00	0.00	0.00	0.00	0.00	76,561.00		76,561.00
Rogers	0.00	1,848.20	0.00	0.00	0.00	1,848.20		1,848.20
Soyra Concrete	12,961.20	15,808.80	0.00	0.40	0.00	28,770.40		28,770.40
Suspended Stages Inc.	0.00	1,725.62	0.00	0.00	0.00	1,725.62		1,725.62
Sutherland Concrete Ltd	1,155.00	0.00	0.00	0.00	0.00	1,155.00		1,155.00
Syber Concrete Forming Ltd.	75,416.92	731,509.11	90,523.21	100,097.70	2,364,346.81	3,361,893.75	1,420,441.29	4,782,335.04
Syber Engineering Ltd	0.00	0.00	0.00	0.00	6,930.00	6,930.00		6,930.00
Tall Crane Equipment Ltd	61,004.14	(593.40)	2,122.66	3,688.28	71,271.10	137,492.76		137,492.76
Ultma Construction Systems Canada Inc	0.00	0.00	0.00	12,796.00	10,243.14	23,039.14		23,039.14
Velocity Cranes Ltd	27,088.04	38,686.42	4,326.66	7,796.34	150,126.79	228,038.25		228,038.25
Whitewater Concrete Ltd.	0.00	0.00	0.00	0.00	1,444,383.76	1,444,383.76	1,403,571.25	2,847,955.01
TOTAL	347,517.58	924,152.77	258,263.97	320,666.88	7,010,785.47	8,861,516.57	2,847,955.01	11,708,538.50

Additional Considerations:	
Cost to Complete (CTC) - New St. Paul's Hospital (NSP)	\$ 850,000
Trilogy GST Liability	
November 2024 - GST Return	\$ 218,781
GST ITCs to be repaid on quarterly payable adjustments	\$ 335,000
GST ITCs to be repaid on Total Payables above less amount available for distribution	\$ 372,814
Trilogy Concrete 2021 Ltd - Estimated GST Liability	\$ 926,695

This is Exhibit "E" referred to in the affidavit of Jeff Keeble affirmed before me at Vancouver B.C., on February 4, 2025.

A Commissioner for taking Affidavits
within British Columbia

8:19 AM

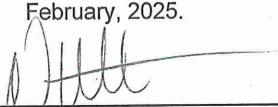
2024-12-19

Accrual Basis

Trilogy Concrete 2021 Ltd
GST/HST Return Report
November 2024

	Nov 24
Line 101 Sales and other revenue	7,196,628.14
Line 103 GST/HST collected or collectible	359,831.40
Line 104 Adjustments	0.00
Line 105 Total GST/HST and adjustments for period	359,831.40
Line 106 Input tax credits (ITCs)	141,050.26
Line 107 Adjustments	0.00
Line 108 Total ITCs and adjustments	141,050.26
Line 109 Net Tax	218,781.14
Line 110 Instalment and other annual filer payments	0.00
Line 111 Rebates	0.00
Line 112 Total other credits	0.00
Line 113A Balance	218,781.14
Line 205 GST/HST due on acquisition of taxable real prope...	0.00
Line 405 Other GST/HST to be self-assessed	0.00
Line 113B Total other debits	0.00
Line 113C Balance	218,781.14

This is Exhibit "F" referred to in the affidavit
of Jeff Keeble affirmed before me at
Vancouver, British Columbia, this 4 day of
February, 2025.



A Commissioner for taking Affidavits
within British Columbia.



Summerside PE C1N 6A2

Notice details

Business number	77511 9506 RT0001
Period covered	Nov 1, 2024 - Nov 30, 2024
Date issued	Jan 6, 2025

TRILOGY CONCRETE 2021 LTD.
27222 LOUGHEED HWY
2ND FLOOR
MAPLE RIDGE BC V2W 1M4

Notice of assessment for goods and services tax/harmonized sales tax (GST/HST)

This notice explains the results of our assessment of your GST/HST return(s).

The amount you need to pay is **\$219,069.01**.

Thank you,

Bob Hamilton
Commissioner of Revenue

Account summary

Previous payments may not appear if they have not been processed. If you have already paid the balance owing, please ignore this request.

Total balance: \$219,069.01

Sign up for MyBA

MyBA lets you:

- Submit elections online
- View filed returns; and
- View account history.

Go to:
canada.ca/my-cra-business-account

TRILOGY CONCRETE 2021 LTD.

Notice details

Business number	77511 9506 RT0001
Period covered	Nov 1, 2024 - Nov 30, 2024
Date issued	Jan 6, 2025

GST/HST assessment**Results**

This notice explains the results of our assessment of the GST/HST return(s) received on **December 31, 2024**, for the period shown above.

Description	\$ Amount	CR
Result of this assessment	219,069.01	
Previous balance		0.00
Total balance	219,069.01	

To view your up-to-date account information, including payment transactions, go to **canada.ca/my-cra-business-account**.

We may take legal action to collect debts that you do not pay voluntarily.

Need to make a payment? Pre-authorized debit is now available for businesses. You can set up a pre-authorized debit agreement using the CRA's My Business Account service. For more information on payment options, go to **canada.ca/payments**.

For more information, please see the "Summary" and "Explanation of changes and other important information" sections of this notice.

Please keep this notice of assessment for your records.

TRILOGY CONCRETE 2021 LTD.

Notice details

Business number	77511 9506 RT0001
Period covered	Nov 1, 2024 - Nov 30, 2024
Date issued	Jan 6, 2025

Summary

Reporting Period: Nov 1, 2024 - Nov 30, 2024
Reference Number: 24366000172370173

Sales and other revenue

Line	Description	\$ Amount	CR
101	Sales and other revenue	7,196,628.14	

Balance calculation

Line	Description	\$ Amount	CR
105	Total GST/HST and adjustments	359,831.40	
108	Total ITCs and adjustments	141,050.26	CR
109	Net tax assessed	218,781.14	
	Arrears interest	287.87	
	Result of assessment	219,069.01	

Explanation of changes and other important information

We processed your GST/HST return for the period ending **November 30, 2024**.
We charged arrears interest because you did not pay the amount owing by the due date.

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More information

If you need more information, go to canada.ca/taxes.

To see your latest account information, including payment transactions, go to canada.ca/my-cra-business-account.

For information regarding options for adjusting your return, go to canada.ca/taxes-business-online and select "GST/HST return and/or rebate" under "Change", or see Guide RC4022, General Information for GST/HST Registrants. For faster service, submit your request electronically.

If you disagree with this assessment, go to canada.ca/cra-complaints-disputes and select the topic "Goods and services tax/harmonized sales tax (GST/HST)" for your objection options. You have 90 days from the date of this notice to register your dispute.

Definitions

CR (credit) is the amount we owe you.

Help for persons with visual impairments

You can get this notice in braille, large print, or audio format. For more information about other formats, go to canada.ca/cra-multiple-formats.

Direct deposit

Direct deposit is a faster, more convenient, reliable, and secure way to get all amounts deposited into one account or to have refunds and rebates from different programs deposited into different accounts. For more information, go to canada.ca/cra-direct-deposit.

Get your mail online

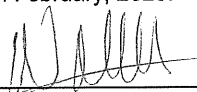
You can choose to receive your mail online. When you register for this new service, we will no longer print and mail most correspondence to you. Instead, we will notify you by email when you have mail to view in your secure online account. For more information, go to canada.ca/my-cra-business-account.

Deloitte.

Deloitte Restructuring Inc.
410 West Georgia Street
Vancouver BC V6B 1Z3
Canada

Tel: 604-669-4466
Fax: 604-602-1583
www.deloitte.ca

This is Exhibit "G" referred to in the affidavit of Jeff Keeble affirmed before me at Vancouver, British Columbia, this 4 day of February, 2025.



A Commissioner for taking Affidavits
within British Columbia.

**IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT
TRILOGY CONCRETE 2021 LTD.**

CONSENT OF TRUSTEE

WE, DELOITTE RESTRUCTURING INC., of the City of Vancouver, in the Province of British Columbia hereby consent to being appointed as Trustee in Bankruptcy of Trilogy Concrete 2021 Ltd.

Dated at the City of Vancouver, in the Province of British Columbia, this 30th day of January, 2025.

DELOITTE RESTRUCTURING INC.



Per: Jeff Keeble, CPA, CA, LIT, CIRP, CBV
Senior Vice President