Let the within Affidavit be filed notwithstanding that it is not an original Thursham July 9/2012

**COURT FILE NUMBER** 

1201-05843

JUL - 9 2012

JUDICIAL CENTRE

COURT OF QUEEN'S BENCH OF

**ALBERTA** 

JUDICIAL CENTRE

**CALGARY** 

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

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

DOCUMENT

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF PARTY
FILING THIS DOCUMENT

**AFFIDAVIT** 

FRASER MILNER CASGRAIN LLP

**Bankers Court** 

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

Calgary, Alberta T2P 0R8

Attention: David W. Mann / Derek M. Pontin

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

File No.: 549362-1

#### AFFIDAVIT OF ROBERT FRIESEN

## Sworn on July 6, 2012

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

- 1. I am the founder, owner and Chairman of the Board of the Applicants and I am authorized by all of the Applicants to depose this Affidavit and do so on their behalf. I am the controlling mind of all of the Applicants and, as such, I have personal knowledge of the matters herein deposed to, except where stated to be based on information and belief, in which case I do verily believe the same to be true.
- 2. All capitalized terms in this Affidavit shall have the meaning ascribed to them in the Affidavit sworn by me and filed in these proceedings on May 8, 2012 (the "Initial Affidavit") unless otherwise indicated in this Affidavit.
- I make this Affidavit as a supplement to the Affidavit sworn by me in these proceedings on June
   12, 2012 in support of an application for Orders approving the above noted interim financing arrangements with ATB and BNS.
- 4. Attached hereto and marked as Exhibit "A" is a Protocol Agreement executed by Greenboro Homes Limited Partnership, by its general partner, Greenboro Homes (2006) Ltd. (collectively "Greenboro") and Alberta Treasury Branches ("ATB") respecting interim financing to be provided by ATB to Greenboro.
- 5. Attached hereto and marked as Exhibit "B" is a Protocol Agreement executed by South Terwillegar Village Limited Partnership, by its general partner South Terwillegar Village Inc. ("South Terwillegar") and Bank of Nova Scotia ("BNS") respecting interim financing to be provided by BNS to South Terwillegar.
- 6. Attached hereto and marked as Exhibit "C" is a Protocol Agreement executed by Valmont at Aspen Stone Limited Partnership, by its general partner Valmont at Aspen Stone Inc. " (collectively "Aspen Stone") and Bank of Nova Scotia ("BN5") respecting interim financing to be provided by BNS to Aspen Stone.

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

A Notary Public in and for the Province of Ontario

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

# PROTOCOL AGREEMENT

THIS AGREEMENT made this \_\_\_\_\_\_ 5 4h day of July, 2012

**BETWEEN:** 

THIS IS EXHIBIT " A "
referred to in the Affidavit of
Kalanto Fraction
Sworn before me this 6th
Day of July A.D. 7017

ACCOMMISSIONER FOR CATAS
"AND FOR THE PROVINCE OF A SERVIA
Notary Jublic in and for
the france of Contacto

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

BARAGUTER, COLUMN OR.

NOTARY PUBLIC

OF THE FIRST PART

- and -

# ALBERTA TREASURY BRANCHES ("ATB")

OF THE SECOND PART

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

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

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

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

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

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

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

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

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

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

#### 1. Defined Terms

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

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

"Closing Costs" means all ordinary or reasonable costs of closing the sale of a Home including, without limitation: (a) all goods and services and other applicable sales taxes, property taxes, commissions, applicable condominium or community fees, and legal fees and disbursements; (b) payment of any Lot Purchase Amount; (c) such withholdings as may be customary or necessary, including to secure warranty obligations of the Borrower of 0.5% of the total sale proceeds of the Home; and (d) an amount to repay any applicable indebtedness (secured by a mortgage registered in the Land Titles Office of Alberta as instrument 112390252 with a face value of \$1,594.243), in favour of Alberta Builders Capital Inc./Valiant Trust in relation to the acquisition and purchase of the lot relating to a particular Home;

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

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

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

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

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

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

## 2. Confirmation of Indebtedness

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

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

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

#### 4. Future Home Sales

#### (a) General

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

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

#### (b) Interim Financing

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

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

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

# (c) <u>Completion and Sale of Homes Under Construction</u>

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

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

#### 5. Sale of further homes

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

## 6. Sale and Marketing of Remaining Homes

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

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

## 7. General

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

- (c) There is no promise, warranty, representation, undertaking, covenant or understanding by or binding upon the Partles except such as are expressly set forth in this Agreement and the Commitment Letter and the Waiver Letter. The terms of the Commitment Letter shall govern in the event of any inconsistency with the terms of this Agreement.
- This Agreement shall be construed and enforced in accordance with, and the rights of (d) the Parties shall be governed by, the laws of the Province of Alberta.
- No amendment, modification or supplement to this Agreement shall be valid or binding (e) unless set out in writing and executed by the Parties.
- Whenever necessary or appropriate in this A (f) singular, the masculine gende
- (g) Time shall be of the essence h
- (h) This Agreement may be execu in PDF format and the counter

The Parties have entered into this Agre

opriate in this Agreement, the plural shall be interpreted as a ras feminine or neuter and vice versa.
nereof.
ited in counterparts and delivered via facsimile or via email rparts together shall constitute an original.
eement as of the date first above written,
GREENBORO HOMES LIMITED PARTNERSHIP, by its general partner, GREENBORO HOMES (2006) LTD.
Per:
Name:
Title:
ALBERTA TREASURY BRANCHES
Per:
Name: MICHAEL HOFFMAN
Title: ASSOCIATE DIRECTOR ATB CORPORATE FINANCIAL SERVICES
Name:
Title:
The Terms of the memorandum of Understanding
are Approved and Consented to by the Guarantor
Per: UBG Alberta Limited Partnership, by its general
partner, UBG Alberta Builders (2006) Inc.
The Terms of the memorandum of Understanding
are Approved and Consented to by the Monitor, ERNST & YOUNG INC.
Per:
Robert J. Taylor

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

GREENBORO HOMES LIMITED PARTNERSHIP, by its general partner, GREENBORO HOMES (2006) LTD. Per: Name: GENERAL MANAGER Title: ASSET MANAGEMENT ALBERTA TREASURY BRANCHES Per: Name: MICHAEL HOFFMAN Title: ASSOCIATE DIRECTOR ATB CORPORATE FINANCIAL SERVICES Name: Title: The Terms of the memorandum of Understanding are Approved and Consented to by the Guarantor Per: **UBG Alberta Limited Partnership, by its general** partner, UBG Alberta Builders (2006) Inc. The Terms of the memorandum of Understanding are Approved and Consented to by the Monitor, **ERNST & YOUNG INC.** 

Robert J. Taylor

- There is no promise, warranty, representation, undertaking, covenant or understanding (c) by or binding upon the Parties except such as are expressly set forth in this Agreement and the Commitment Letter and the Waiver Letter. The terms of the Commitment Letter shall govern in the event of any inconsistency with the terms of this Agreement.
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- (g) Time shall be of the essence hereof.
- This Agreement may be executed in counterparts and delivered via facsimile or via email (h) in PDF format and the counterparts together shall constitute an original.

GREENBORO HOMES LIMITED PARTNERSHIP, by its general partner, GREENBORO HOMES (2006) LTD. Name: Title: ASSET MANAGEMENT ALBERTA TREASURY BRANCHES Per: Name: MICHAEL HOFFMAN ASSOCIATE DIRECTOR ATB CORPORATE FINANCIAL SERVICES Name: Title: The Terms of the memorandum of Understanding are Approved and Consented to by the Guarantor Per: UBG Alberta Limited Partnership, by its general partner, UBG Alberta Bullders (2006) Inc. The Terms of the memorandum of Understanding are Approved and Consented to by the Monitor, **ERNST & YOUNG INC.** 

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Robert J. Taylor

Per:

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

GREENBORO HOMES LIMITED PARTNERSHIP, by its general partner, GREENBORO HOMES (2006) LTD. Name: Title: ALBERTA TREASURY BRANCHES Per: Name: MICHAEL HOFFMAN ASSOCIATE DIRECTOR Title: ATB CORPORATE FINANCIAL SERVICES Name: Title: The Terms of the memorandum of Understanding are Approved and Consented to by the Guarantor Per: UBG Alberta Limited Partnership, by its general partner, UBG Alberta Builders (2006) Inc. The Terms of the memorandum of Understanding

are Approved and Consented to by the Monitor,

ERNST & YOUNG INC.

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

Project Code	Model Style	Address	Lot - Legal ID	Block ID	Plan #	Lot	Presold, Spec, or Lot?	Forecasted Pre sale Date	Expected Closing	Sale Proceeds	Customer Deposit	Lot Payable	Seasonal Holdback	Legal Fees	Net Cash	Net GST in Proceeds	Net Proceeds
MAY 2012 POSSESSIONS										IN TRIIST							
Tribute	Duplex	50 Dunlop Wynd	96	3 0	74 0285	10-03096	Presold		11-Mav-12	253.680	•		(1,000)		טבט כבר	ָרָר כּי בי	
Walker Lakes Regular	Two Stor	6103 18 Avenue SW	93	11	102 5132	04-11093	Presold		25-May-12	375 508			(1,000)		224,680	8,356.59	244,322.93
Tribute	Duplex	54 Dunlop Wynd	86	0	374 0285	10-03098	Presold		28-May-12	245 221		ı	(1,000)	,	3/4,508	14,678.39	359,829.63
Southfort	Duplex	80 Radcliffe Wynd	111	18	112 2986	02-18111	Presold		30-May-12	127,012	Ī	•	(1,000)	1	244,221	8,057.36	236,163.62
Tribute	Two Stor				74 0005				20-may-12	717,407	•	1	(T,000)	•	183,212	8,186.05	175,026.31
0	- M		2	_	074 0285	10-03118	Presold		30-May-12	352,263	•	•	(1,000)	ı	351,263	12,448.79	338,814.57
Griesbach	Duplex	5047 Dewolf Road	23	. 25	112 0793	10-25023	Presold		30-May-12	318,712	•	•	(000'9)	,	312,712	10.442.01	302,269,89
Southfort	Duplex	82 Radcliffe Wynd	112	18	12 2986	02-18112	Presold		31-May-12	183,963		,	(1,000)		187 963	8 730 54	174 732 26
Walker Lakes Regular	Two Stor	6123 18 Avenue SW	88	11 1	102 5132	04-11088	Presold		31-May-12	365,370		,	(1,000)	,	364 370	13 578 58	350 791 64
Tribute	Two Stor	74 Dunlop Wynd	17	7 0	374 0285	10-07017	Presold		4-Jun-12	291.652	•	,	(1 000)	,	290,652	0 650 13	190,000,000
Tribute	Duplex	58 Dunlop Wynd	100	3	74 0285	10-03100	Presold	30-Jun-12	15-Jun-12	242,058			(1.000)		241 058	8 151 11	23.392.92
										•							01.100125
Total									-	2,812,639			(15,000)	1	2,797,639	101,789	2,695,851

UBG Group of Companies Greenboro Homes Analysis of Property as at June 25, 2012 C\$, unaudited

Lots payable (due date)	28-Fob.43	0-Jan-00 31-Jan-13 31-Jan-13 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12	22-May-12 15-May-12 16-May-12 15-Jul-12 15-Jul-12 15-Jun-12	0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00		Dulan-00 Dul	30-Ce-12 31-Aug-12 31-Aug-12 31-Aug-12 29-Jun-12 29-Jun-12 0-Jan-00 10-Jul-12 10-Jul-12
ABC Lot Payable					(79,280)	(113.169) (111.485) (112.546) (122.546) (122.546) (122.546)	
Developer Lot Payable	(89.165)	(112,720) (111,820) (171,820) (108,7	(104,550) (66,300) (96,300) (66,300) (66,300)		P # 1 + 1	(105.701)	(141,186) (141,186) (133,230) (88,060) (88,060) (88,060) (88,060)
Profit	47.250	80.270 45,705 32,946 92,868 94,669 42,662 50,645 48,642 45,688 45,588 45,989 45,989	44,523 33,969 22,479 17,604 22,922 28,315	27,079 (24,496) 23,219 12,628 16,385 24,021	30,714 33,463 26,106 23,405 33,122	56.225 51.321 50.564 50.475 443.986 48.338 62.300 64.315 64.315 64.325 64.326 64.326 64.326 65.721 61.961 61.961 62.305 63.506 63.516 6	109,864 96,636 114,072 42,763 38,431 43,046 22,590 51,043 44,715
Not Cash at Closing	62,985	370,321 53,535 46,862 167,263 146,255 146,255 143,701 151,960 56,357 148,302 148,302 148,302 148,302 148,302 148,302	46,998 96,810 79,816 58,976 52,107 96,801	241,394 280,423 225,098 205,754 188,518 205,685	223,153 119,146 152,862 150,215 171,094	288,107 298,4465 241,136 241,136 241,136 291,023 291,0	100,710 95,144 207,751 110,933 67,080 106,861 104,006 432,949 86,607 78,357
Deficiency costs	1,550	2,500 1,966 1,789 2,452 1,893 1,885 1,902 2,051 1,763 1,763 1,852 2,198 1,878 1,778	1,744 1,279 1,287 1,284 1,260 1,423	1,710 1,582 1,491 1,306 1,259 1,303	1,504 1,502 1,502 1,602	2,004 2,178 1,782 1,855 1,855 1,865 2,005 2,005 2,005 2,005 2,005 2,005 1,805 1,848 1,848 1,848	2.929 3,166 2,810 3,167 1,705 1,633 1,657 1,632 2,506 1,715 1,715
Seasonal [ Holdback	5,000	5.000 5.000 5.000 5.000 5.000 5.000 5.000 5.000 5.000 5.000 5.000	5,000 5,000 5,000 - - 78,079	5,000 5,000 5,000 5,000 5,000 44,718	5,000 5,000 6,000	5,000 5,000 5,000 5,000 123,667 122,867 122,867 123,667 132,500 6,000 6,000 6,000 6,000 6,000 73,412 6,000 73,412 6,000 6,000 73,412 73,412 73,412	5,000 5,000 6,000 5,000 5,000 5,000
Legaí Fees (on close)	2:000	1,000 2,000	2.000 2.000 2.000 2.000 2.000 2.000 1.000	1,000 1,000 1,000 1,000 1,000	1,000 1,000 1,000 1,000 1,000	1,000 1,000	2,000 2,000 2,000 2,000 2,000 2,000 1,000 1,000 2,000 2,000
Remaining Commissio ns on Glose	930	3.000 2.347 2.243 2.262 2.282 2.282 2.282 2.139 2.223 2.238 2.238 2.238 2.238 2.238 2.238 2.258 2.268 2.268 2.268 2.268 2.268	2,093 1,635 1,544 7,04 770 7,56 9,54	6,328 6,328 5,966 5,223 5,036 782	1,744 1,805 901 901 866	2.405 2.424 2.206 2.226 2.439 2.439 2.449 2.248	3.514 2.704 3.371 3.800 2.047 1.858 1.988 3.006 1.020
Commission F on pre sale C date na	8,370	5.300	7, 142 7,142 6,933 8,804 7,582	7,034	9.012 9.012 8.655	5.338 6.875 6.875 6.875 9.605	7.013 9.261 9.065
Cost to Complete	(145,000)	(99,179) (198,242) (162,065) (162,008) (101,649) (102,013) (121,546) (101,635) (101,635) (101,635) (101,635) (101,635) (101,635) (101,635) (101,635)	(173.452) (74.890) (92.917) (128.000) (115.138) (78.079) (101,131)	(73,469) (8,442) (45,703) (34,386) (42,981) (44,718)	(48,348) (82,662) (119,611) (122,258) (105,443)	(90,280) (90,218) (91,161) (91,161) (91,208) (118,203) (	(325,593) (356,410) (317,475) (347,203) (117,007) (116,584) (176,439) (54,479) (156,305)
Cost to 09 Llay-12	104,900	314,051 140,300 144,336 223,756 221,626 221,626 233,238 139,230 139,880 139,880 139,880 222,653 242,554	125,025 142,141 137,137 107,672 107,735 134,786	231,965 323,594 220,870 206,600 186,133	207,439 180,437 142,256 142,310 137,972	246 882 224 885 229 886 229 666 280,026 147 145 290,580 201,53	141,815 172,194 157,415 163,091 128,977 165,490 166,120 281,906 122,791
Land Purchase Price	104,900	173,900 138,900 138,900 135,900 135,900 135,900 135,900 135,900 135,900 135,900 135,900 135,900 135,900 135,900 135,900 135,900	123.000 78.000 78.000 78.000 78.000 78.000 68.000	120.900 107.900 79.900 79.900 79.900	95,020 93,270 93,270 93,270	138,170 138,170 138,170 138,170 131,170 131,170 131,170 140,170 144,170 144,170 144,170 132,200 132,200 132,200 132,200 132,200 131,70	141,375 166,101 149,447 166,741 103,600 103,600 103,600 103,600 103,600 103,600
Constructi on to date		40,151 4,636 78,315 85,656 90,742 85,656 97,338 4,313 75,710 3,980 85,188 85,188 10,6,624	2,025 64,141 59,137 26,672 29,735 56,786 51,133	111.065 215.694 112.970 126.769 106.233	112,419 87,187 48,986 49,040	110,712 113,865 113,865 11,716 12,460 11,716 108,898 108,898 108,898 108,898 108,998 1	440 6,083 7,968 6,350 26,377 61,890 62,520 116,094 261,906 26,352
Total Cost ( Extimale	249,900	413.230 339.142 320.801 400.223 317.538 321.538 323.539 364.784 304.930 313.145 375.360 364.687 322.060	298,477 217.031 230,064 235,672 222,973 212.865 240,264	305.424 332,036 240,889 229,114 226,362	255.787 263.099 261.867 264.558 243.415	339,172 347,250 377,250 371,377 371,800 372,372 373,400 374,142 374,142 374,142 374,142 374,142 374,142 374,142 374,142 374,142 374,143 374,14	467.408 528.604 474.890 510.294 262.570 282.704 289.133 426.385 284.280 278.096
Deposit (not held in trust)		(26,350) (18,650) (25,550) (19,850) (19,850) (19,750) (19,750) (19,750) (18,200) (18,200) (18,200) (18,500) (19,600) (19,600)	(18,000) (13,000) (13,500) (12,250)	(17,650) (18,675) (18,990) (13,475)	(15,000) (15,475) (15,500)	(16,000) (22,805) (19,256) (19,260) (19,260) (19,260) (10,000) (11,001) (11,001) (11,001)	(30,800) (32,500) (29,500) (17,500) (17,100) (17,100)
Total Sale (Inc Options)	310,000	500,000 391,150 359,704 490,476 378,571 380,368 410,138 370,485 439,688 376,440 376,440 376,440 377,673 417,206	346,837 255,814 267,354 264,535 256,783 252,000 284,500	342,054 316,451 296,248 261,143 251,793 260,500	290,698 300,872 300,388 300,388 288,500	400,805 404,016 424,807 370,504 377,462 403,763 381,267 381,267 381,267 371,384 462,381 420,941 420,941 420,943 461,905 383,962 461,905 383,962 461,905 383,962 383,963 383,96	585,715 033,109 561,807 633,333 341,085 326,520 331,385 328,313 500,862 343,000 336,500
Expected	31-Mar-13	28-Jun-12 31-Jan-13 31-Jan-13 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12 30-Jul-12	30-Nov-12 30-May-12 31-May-12 31-Aug-12 31-Aug-12 31-Aug-12	22-Jun-12 30-May-12 30-May-12 11-May-12 28-May-12 15-Jun-12	25-Jun-12 20-Jul-12 31-Jul-12 31-Jul-12 31-Jul-12	29-Jun-12 30-Jul-12 30-Jul	28-Feb-13 15-Dec-12 15-Dec-12 30-Aug-12 20-Aug-12 20-Aug-12 30-Aug-12 30-Aug-12 31-Aug-12 31-Aug-13
Forecasted Pre sale Date	15-Jun-12	0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00	0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 30-Jun-12 31-Jul-12	0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 30-Jun-12	0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 30-Jun-12	Oulando	0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 30-Jin-12
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Lot	5A-15869	2-01000 2-01082 2-01083 2-08040 4A-01127 4A-01130 4A-01136 4A-07023 4A-07025 4A-13004 4A-13007 4A-13007	02-18086 02-18111 02-18112 02-18109 02-18100 02-18095	10-03108 10-03119 10-07017 10-03096 10-03088	04-17568 05-1760A 05-1762A 05-1762B 05-1761B	04-11082 04-11087 04-11087 04-11089 04-	10-24012 10-24023 10-24032 10-26013 10-26010 10-25011 10-25023 10-25025 10-25035
Plan S	102 6673	0092 7123 0002 7123 0092 7123 0092 7123 112 4101 112 4101 112 4101 112 4101 112 4101 112 4101 112 4101 112 4101 112 4101	112 2986 112 2086 112 2986 112 2986 112 2986 112 2986	074 0285 074 0285 074 0285 074 0285 074 0285	102 5143 112 0658 112 0658 112 0658	102 5132 102 5132 102 5132 102 5132 102 5132 102 5132 102 5132 102 5132 103 5132 104 5132 105 5132 107 5132 108	112 0793 112 0793 112 0793 112 0793 112 0793 112 0793 112 0793 112 0793 112 0793
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Address	7542 Ellosmora Wav	3354 21A Aventue 2044 338 Piscent MV 2045 338 Piscent MV 3020 18 Aventue NW 3020 18 Aventue NW 3020 18 Aventue NW 3031 18 Avenue NW	20 Radelffo Wynd 80 Radelffo Wynd 82 Sadelffo Wynd 76 Radelffo Wynd 78 Radelffo Wynd 79 Radelffo Wynd 75 Radelffo Wynd	71 Dunlop Wynd 67 Dunlop Wynd 74 Dunlop Wynd 60 Dunlop Wynd 54 Dunlop Wynd 68 Dunlop Wynd	469 Watt Boulevard SW 1006 Watt Pornariado SW 1016 Watt Promenado SW 1018 Watt Promenado SW 1014 Watt Promenado SW	147 18 Awarine Sty 147 18 Stylen Sty 177 18 Stylen Sty 178 18 Stylen Stylen 178 18 S	6022 Dentel Road e413 Borneanten Annua NW 6413 Borneanten Annua NW 6519 Dentel Stenet NW 6019 Dentel Road 6021 Dentel Road 6022 Dentel Road 6027 Dentel Road 6020 Consellos Stenet 6010 Dentel Road 6010 Dentel Road
Model	Duplox	Two Stor Two Stor	Bi-Leval Duplex Duplex Duplex Duplex Duplex	Two Stor Two Stor Two Stor Duplex Duplex	Duplex Duplex Duplex Duplex	Two Stor Two	Two Star Two Star Two Star Two Star Durbox Durbox Two Star Durbox Durbox Durbox Durbox
Project Goda	Emerald Hills Emorald Hills	Laurei La	Southfort Southfort Southfort Southfort Southfort Southfort Southfort Southfort Tribute	Tribute Tribute Tribute Tribute Tribute	Walker Lakes Duplex Walker Lakes Duplex Walker Lakes Duplex Walker Lakes Duplex Walker Lakes Duplex Walker Lakes Duplex	Walter Lakes Bonater Where Lakes Bonater	Officebach Consideration Consideration Consideration Consideration Consideration Consideration Consideration Consideration

	Project Gode	Emorald Hills Enorald Hills Enorald Hills Emorald Hills Emorald Hills Emorald Hills Emorald Hills Emorald Hills	rance	Southfort Southfort Southfort Southfort Southfort Southfort Southfort Southfort	Tribute Tribute Tribute	Walker Lakee Durolex Walker Lakee Durblex Walker Lakee Durblex	Walter Lakos Roquin Waltor Lakos Roquin	Griesbach Griesbach Griesbach Griesbach	Maple Crest
	Model	Two Stor Two Stor Two Stor Two Stor Two Stor Two Stor Two Stor	Two Stor Two Stor Two Stor Two Stor Two Stor Two Stor Two Stor Two Stor Two Stor Two Stor	Two Stor Two Stor Two Stor Two Stor Two Stor Outblox Duplox	Two Stor Two Stor	Duplex Duplex Duplex Duplex Cuplex Cuplex Cuplex Cuplex Cuplex Cuplex Cuplex Cuplex	Two Stor	Two Stor Duplex Two Stor	Duplox Duplox Two Stor Duplox Ouplox
	Address	7700 Elleaneio Lano 7764 Elleaneio Lano 7704 Elseaneio Lano 7706 Elseaneio Link 7821 Elseaneio Link 7821 Elseaneio Link	3336 21 A Avenus 3312 16A Avenus NW 3301 18B Avenus NW 3311 18B Avenus NW 1865 33 Stoot 1NW 1861 33 Stoot 1NW 1861 33 Stoot 1NW 1861 33 Stoot 1NW 3364 18A Avenus NW	13 Ridotoland Wav Seedeliffe Wynd 20 Radeliffe Wynd 34 Radeliffe Wynd 37 Radeliffe Wynd 77 Radeliffe Wynd 73 Radeliffe Wynd	68 Dunlep Wynd 73 Dunlep Wynd	511 Walt Boulevard SW 1010 With Processaries SW 1012 Walt Processaries SW 1003 Walt Processaries SW 1003 Walt Processaries SW 1004 Walt Processaries SW 1006 Walt Processaries SW	1411 00 Street SW 6113 17A Avenus SW 6113 17A Avenus SW 6011 417A Avenus SW 6023 18 Avenus SW 6635 18 Avenus SW 6631 18 Avenus SW 6821 16 Avenus SW 6810 18 Avenus SW	5024 Drwolf Road 5037 Dowolf Road 5014 Dowolf Road	37 18 9 Straat NW 3716 9 Straat NW 733 374 Avanua NW 3714 9 Straat NW 3712 9 Straat NW
	Lot. Legal ID	55 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	66 17 17 17 15 15 15 15 15 15 15 15 15 15 15 15 15	40 85 83 48 89 96	105	51A 60B 61A 67A 67B 68A 68A 69B	24 35 35 1 1 11 12 14 16	8 8 6	4 38 38 4 39 8 9
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ı	Lot	5A-15855 5A-15954 5A-15959 5A-15968 6A-16033 6A-16038	2-01036 4A-13014 4A-13008 4A-13008 4A-07032 4A-13016 4A-07033 4A-07033 4A-07033	01-20017 02-18085 02-16087 02-18088 02-20048 02-18085 02-18098	10-03105	04-1751A 05-1760B 05-1761A 05-1767A 05-1768A 05-1768B 05-1769B	04-06024 04-16030 04-16035 04-16031 06-16037 06-23011 06-23014 06-23014	10-24008 10-25018 10-24003	01-02037 01-02038 01-05026 01-02039 01-02040
ı	Presold, Spec, or Lot?	S S S S S S S S S S S S S S S S S S S	Spec Spec Spec Spec Spec Spec Spec Spec	Spec Spec Spec Spec Spec	Spec	5990 Spec Spec Spec Spec Spec Spec Spec Spec	Spac Spac Spac Spac Spac Spac Spac	Spec Spec	Spec Spec Spec Spec
	Forecasted Pre sale Date	30-3ul-12 30-3ul-12 30-3ul-12 31-Dec-14 30-3ul-12 30-3ul-12	31-Dec-14 30-M-12 30-M-12 31-Oct-12 28-Feb-13 31-Jan-13 28-Feb-13 28-Feb-13	31-Dec-14 31-Jul-12 31-Jul-12 30-Jun-12 30-Jun-12 31-Jul-12	30-Jul-12 30-Jun-12	31-Doc-14 31-May-12 30-Jun-12 31-May-12 31-May-12 31-May-12 31-May-12 30-Jun-12	31-Doc-14 30-Jun-12 30-Jun-12 31-Det-12 30-Jun-12 30-Oct-12 30-Oct-12	31-Oct-12 30-Jun-12 31-Dec-14	16-Aug-12 16-Aug-12 31-Dec-14 30-Sep-13 30-Sep-12
	Expected Closing	30-Sep-12 31-Oct-12 31-Oct-12 31-Dec-14 30-Sep-12 31-Aug-12	31-Dac-14 31-Aup-12 30-Sep-13 31-Jan-13 28-Feb-13 28-Feb-13 31-Mar-13 31-Mar-13	31-Dec-14 31-Oct-12 31-Oct-12 30-Nov-12 30-Sep-12 31-Jul-12	31-Aug-12 31-Jui-12	31-Dec-14 31-Jul-12 31-Jul-12 31-Aug-12 31-Aug-12 30-Sep-12 30-Sep-12 30-Sep-12	31-Dec-14 31-Jul-12 31-Jul-12 30-Nov-12 31-Jul-12 15-Dec-12 15-Dec-12 15-Dec-12	31-Jan-13 31-Aug-12 31-Dec-14	31-Oct-12 30-Nov-12 31-Dec-14 30-Nov-13 16-Dec-12
	Total Sale (Inc Options)	407,000 412,000 426,500 500,000 411,509 449,500	450,000 382,000 405,000 412,900 355,900 397,900 397,900 382,400	370,500 369,000 362,000 374,500 365,000 258,500 289,000	382,000 380,000	299,000 298,500 325,500 315,500 312,600 331,000 330,600	465,000 410,000 402,000 382,000 370,200 370,200 370,200 370,200 370,200	351,000 346,500 530,000	297,500 296,000 365,000 307,000
	Deposit (not held in trust) E				. ,				1
	Total Cost Cos Estimate on	343,669 348,042 353,820 417,174 347,646 378,661 357,522	407.976 2 316.788 336.788 338.900 338.900 295.900 325.900 295.900 315.900	331,833 2 306,169 300,310 310,848 308,201 219,094 244,026	331,601 1	237,856 11 252,119 248,716 274,745 266,358 266,358 274,546 274,597 274,597	388,400 2, 350,341 11, 343,423 1, 343,423 1, 325,277 1, 305,200 305,200 305,200 305,200 305,200	289,000 287,261 400,000	246,890 245,643 312,720 224,900
	l Constructi Pur on to date P	78,255 16 89,890 16 67,471 16 247,274 16 86,177 16 87,755 16	238.076 16 56.125 13 18.777 14 4,725 14 3,364 13 3,545 13 3,545 13	207,833 12 37,769 12 30,878 12 28,090 12 70,415 12 56,115 8		136.836 10 68.448 9 42.649 9 69.408 10 66.480 10 67.242 10 57.242 10 50.872 10	246,230 14 133,962 15 141,280 16 6,096 14 120,233 14 4,44 14 4,544 14 4,520 14	4.797 12 19,376 10 105,690 12	22,985 9. 23,393 9. 59,899 13; 4,775 9.
	Land Cos Purchase Ma Price Ma	167,300 24 167,900 25 167,900 23 163,900 41 167,900 25 167,900 33		124,000 33 123,000 16 123,000 15 123,000 14 123,000 19 87,000 14 91,000 14		93,270 18 93,270 18 93,270 13 70 108,770 17 108,770 17 108,770 19 108,770 18	142,170 388 155,170 288 145,170 15 144,170 26 144,200 14 140,200 14 140,200 14	120,000 12, 103,600 12; 120,000 226	94,900 111 94,900 116 132,720 192 94,900 98
	Cost to 09 Co May-12 Con	246.156 (9 257.790 (9 235.371 (11 417.174 (9 254.077 (9 255,655 (12 330,369 (2		331,833 160,769 (14 153,876 (14 149,090 (16 193,415 (7 143,115 (7		237,856 191,719 135,919 171,236 177,236 177,132 177,132 186,712 186,712 186,019 198,642 106,110	388,400 (6 289,132 (6 301,450 (4 151,285 (16 144,670 (16 114,744 (16 114,740 (16 114,740 (16 114,740 (16 114,720 (	124.797 (164 122,976 (164 226,690 (173	117,865 (128 118,293 (121 192,619 (120 99,675 (128
	Cost to Corn Complete on p	(97.513) (90.252) (118.449) (93.569) (124.006) (27.153)	(174,731) (171,871) (188,275) (160,000) (166,636) (186,636) (186,636) (176,636)	(145,400) (146,434) (161,758) (114,786) (74,979) (103,385)	(89,627)	(90.391) (112.797) (96.507) (91.398) (94.420) (196.748) (1108.568)		(164,285) (164,285) (173,310)	(129,026) (127,350) (120,101) (125,225)
	Commission Reson pressule Conduction Conduct	10,888 11,124 11,516 13,500 11,11 12,137	10,350 8,786 9,315 9,497 8,186 8,215 9,152 8,186 8,195	10,247 0,963 9,774 10,112 9,855 0,980 7,803	10,314	8,200 8,835 9,785 9,785 9,485 9,485 9,300	12,555 11,070 10,864 10,314 10,287 10,995 9,995 9,995	9,356 14,310	8,033 7,992 10,395 8,289
	Remaining L Commissio Fee ns on Close of	1,221 1,236 1,280 1,290 1,349 1,349	1,350 1,146 1,238 1,068 1,077 1,194 1,008	1,139 1,107 1,086 1,124 1,095 776 867	1,146	884 884 877 950 950		1.053	, 688 1,155 921
	Legal Sea Fees (on Holi close)	2.000 9 2.000 9 2.000 11 1.000 12 2.000 12 2.000 12		2,000 2,000 2,000 14 2,000 13 2,000 13 1,000 10					2,000 2,000 2,000 2,000 2,000 2,000
	Seasonal Defi Holdback cc	97.513 90.252 118.449 - 33.569 124.006	7.424.731 171.871 188,275 36,000 5,000 5,000 5,000 5,000 5,000	145,400 146,434 161,758 114,786 74,979 103,385	89.627	90,391 112,797 86,507 91,996 94,420 86,748 108,669	61,209 41,873 166,291 60,874 129,424 129,445		29,045
	Deficiency Nel	2,035 16 2,060 16 2,133 14 2,500 48 2,205 16 2,248 16		1,898 36 1,845 10 1,810 9 1,873 9 1,293 9				•	
	Net Cash at Closing	150,527 47 162,613 47 148,408 55 481,500 64 163,863 47 163,097 52		365,218 33 47 104,135 47 104,135 47 104,135 47 130,084 48 130,889 42 130,889 42 174,500 33				-	
	Profit Dev	47,086 (1, 47,538 (1, 56,752 (1, 47,451 (1,				40,124 40,124 33,593 37,386 36,227 36,165 35,684 42,835 42,835			
	Developer AB Lot Payable Pay	(142,715) (142,715) (142,715) (144,665) (144,665)	(144,005) (108,720) (115,920) (108,720) (108,720) (108,720) (108,720) (108,720)	(104,550) (104,550) (104,550) (104,550)		20	. (133 . (122 . (172, 160) (112, 160) (112, 160)	(102,000)	(75,920) (76,920) (96,540) (75,920)
	ABC Lot Lot Payable (d	888988		0.6.6.5.5.5.5		(78.280)	(133,895) 30 - 0 0 - 0 0 (123,395) 31 (122,545) 30 - 30		 2 £ 8 8 8
	Lots payable (dus date)	30-Jun-12 30-Jun-12 30-Jun-12 0-Jan-00 30-Jun-12 30-Jun-12	30-Jun-12 0-Jan-00 31-Jul-12 31-Jun-12 31-Jul-13 31-Jul-13 30-Jul-13 30-Mar-13 30-Mar-13	0-Jan-00 31-Aug-12 31-Aug-12 16-Aug-12 31-Jul-12 15-Jun-12	0-Jan-00	0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00 0-Jan-00	0-Jan-00 30-Jun-12 0-Jan-00 31-Oct-12 30-Jun-12 30-Doc-12 30-Jan-13	10-Jul-12 10-Jul-12 0-Jan-00	31-Jul-12 31-Jul-12 20-Feb-14 30-Sep-12

## Schedule "B"

Clerk's stamp:

**COURT FILE NUMBER** 

1201-05843

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

**CALGARY** 

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

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

DOCUMENT

Order

(re: ATB Protocol)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

FRASER MILNER CASGRAIN LLP

Bankers Court

15th Floor, 850 - 2nd Street S.W.

Calgary, Alberta T2P OR8

Attention: David W. Mann / Derek M. Pontin Ph. (403) 268-7097/6301 Fx. (403) 268-3100

File No.: 549362-1

DATE ON WHICH ORDER WAS PRONOUNCED

July \_\_\_\_, 2012

NAME OF JUSTICE WHO MADE THIS ORDER

The Honourable Madam Justice K.M. Horner

#### ORDER (re: ATB Protocol)

UPON the application of the Applicants in these proceedings (collectively, "UBG"); AND UPON having read the Application of the Applicants, dated July \_\_\_\_\_\_\_ 2012, the Affidavit of Robert Friesen, dated June 12, 2012, the Affidavit of Robert Friesen, dated July \_\_\_\_\_\_ 6, 2012, the ("Second Friesen Affidavit"), the Second Report of the Monitor, dated June 12, 2012, the Third Report of the Monitor, dated July \_\_\_\_\_\_ 2012, the Affidavit of Dawn Roy, dated July \_\_\_\_\_\_, 2012 (the "Service Affidavit"), and such other material in the pleadings and proceedings as deemed necessary; AND UPON hearing counsel for UBG, counsel for Alberta Treasury Branches ("ATB"), counsel for the Monitor, and other interested parties; IT IS HEREBY ORDERED AND DECLARED THAT:

#### Service

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

## Approval of the ATB Interim Financing Agreement

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

## Approval of the ATB Charge

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

#### Miscellaneous

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

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

Justice of the Court of Queen's Bench of Alberta

#### AGREEMENT

THIS AGREEMENT made this \_\_\_\_\_ day of July, 2012

BETWEEN:

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

THIS IS EXHIBIT " ? "
referred to in the Affidavit of Referred to in the Affidavit of Referred To the Affidavit of Referred To the Affidavit of Action of Action of Action of Control of Co

NOTARY PUBLIC

OF THE FIRST PART

- and -

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

OF THE SECOND PART

- and -

## BANK OF NOVA SCOTIA ("BNS")

OF THE THIRD PART

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

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

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

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

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

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

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

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

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

#### 1. Defined Terms

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

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

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

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

## "Guarantees" means:

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

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

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

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

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

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

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

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

#### 2. BNS Indebtedness

## (a) Confirmation of Indebtedness

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

## (b) Payment of Interest

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

#### 3. Future Unit Sales

#### (a) General

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

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

#### (b) <u>Interim Financing</u>

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

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

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

## (c) Completion and Sale of Units Under Construction

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

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

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

## 4. Sale and Marketing of Remaining Units

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

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

## 5. Construction and Loan Maturity

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

### 6. The Guarantees

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

## 7. General

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

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

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

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

TERWILLEGAR VILLAGE INC. Per: Name: Title: **UBG ALBERTA BUILDERS LIMITED** PARTNERSHIP by its general partner UBG ALBERTA BUILDERS (2006) Inc. Per: Name: Title: BANK OF NOVA SO Per: The Terms of the memorandum of Understanding are Approved and Consented to by the Monitor, ERNET & YOUNG INC. Per: Robert J. Taylor

SOUTH TERWILLEGAR VILLAGE LIMITED PARTNERSHIP, by its general partner, SOUTH

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

SOUTH TERWILLEGAR VILLAGE LIMITED PARTNERSHIP, by its general partner, SOUTH TERWILLEGAR VILLAGE INC. Title: Persident **UBG ALBERTA BUILDERS LIMITED** PARTNERSHIP by its general partner UBG ALBERTA BUILDERS (2006) Inc. Per: Name: Tom Chisholm Title: Pics. dux Per: The Terms of the memorandum of Understanding are Approved and Consented to by the Monitor, ERNST & YOUNG INC. Per: Robert J. Taylor

SCHEDULE A-Part I

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

Gross Total	\$ 9,298,232.27	\$ 606,785.33
Less: GST	\$ (297,039.37)	2 2 22 3 3 3
NET TOTAL	\$ 9,001,192.90	

# SCHEBULE A - Port I

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

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

## Schedule "B"

Clerk's stamp:

COURT FILE NUMBER

1201-05843

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

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

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

DOCUMENT

Order

(re: BNS Protocol (ST))

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

FRASER MILNER CASGRAIN LLP

Bankers Court

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

Calgary, Alberta T2P 0R8

Attention: David W. Mann / Derek M. Pontin Ph. (403) 268-7097/6301 Fx. (403) 268-3100

File No.: 549362-1

DATE ON WHICH ORDER WAS PRONOUNCED

•

NAME OF JUSTICE WHO MADE THIS ORDER

The Honourable Madam Justice K.M. Horner

# ORDER (re: BNS Protocol (ST))

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

#### Service

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

## Approval of the BNS Interim Financing Agreement

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

## Approval of the BNS Charge

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

#### Miscellaneous

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

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

Justice of the Court of Queen's Bench of Alberta

## **AGREEMENT**

THIS AGREEMENT made this \_\_\_\_\_\_ 5 to \_\_\_\_ day of July, 2012

**BETWEEN:** 

Sworn before me this but Day of This A.D. 2012

THE DAY OF THE PROVINCE OF ALSE TO ALL FOR STONE LIMITED PRINCE OF ALSE TO ALL EN STONE LIMITED PHOSON B.A., LL.E.

THIS IS EXHIBIT " C "
referred to in the Affidavit of
Rohe-A Filesen

VALMONT AT ASPEN STONE INC., as general partner for VALMONT AT ASPEN S

BARRISTER, SOLICITOR,

- and -

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

OF THE SECOND PART

- and -

## BANK OF NOVA SCOTIA ("BNS")

OF THE THIRD PART

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

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

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

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

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

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

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

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

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

### 1. Defined Terms

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

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

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

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

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

#### "Guarantees" means:

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

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

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

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

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

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

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

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

#### 2. BNS Indebtedness

## (a) <u>Confirmation of Indebtedness</u>

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

## (b) Payment of Interest

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

#### 3. Future Unit Sales

#### (a) General

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

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

## (b) <u>Interim Financing</u>

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

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

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

#### (c) Completion and Sale of Units Under Construction

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

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

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

## 4. Sale and Marketing of Remaining Units

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

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

## 5. Construction and Loan Maturity

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

#### 6. The Guarantees

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

#### 7. General

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

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

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK

VALMONT AT ASPEN STONE INC. Per: Name: Title: **UBG ALBERTA BUILDERS LIMITED** PARTNERSHIP by its general partner UBG ALBERTA BUILDERS (2006) Inc. Per: Name: Title: **TODAY'S COMMUNITIES LIMITED** PARTNERSHIP by its general partner TODAY'S COMMUNITIES (2006) INC. Per: Name: Title: BANK-OF NOWA SCO Per: The Terms of the memorandum of Understanding are Approved and Consented to by the Monitor, ERNST & YOUNG INC.

VALMONT AT ASPEN STONE LIMITED PARTNERSHIP, by its general partner,

Per:

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

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

VALIVION I AT ASPEN STONE INC.
Per: Tom Clintile
Name: Ton Chishdin
Title: Frosident use
UBG ALBERTA BUILDERS LIMITED
PARTNERSHIP by its general partner UBG
ALBERTA BUILDERS (2006) Inc.
Per: Tom Chilith
Name: Tom Chisholm
Title: President use.
TODAY'S COMMUNITIES LIMITED
PARTNERSHIP by its general partner TODAY'S
COMMUNITIES (2006) INC.
Per: Tom Chilibh
Name: Tom Chisholm
Title: Prasider
BANK-GE NOVA SCOTIA
Per: Holling Tolas
Name: Henry Jensen Title: Somer Account Manager
The Terms of the memorandum of Understanding are Approved and Consented to
by the Monitor, ERNST & YOUNG INC.

Robert J. Taylor

Schedule A - Part I Building C - Units Sold

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

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

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

Job#	Job# Suite Model Name			Buyer Last Name		Conditional Sale/Rescission Period		Listed Price		posit Amount	Rescission Expiry
2C-00103	103	В1-а	SPIESS		\$	322,215.00			\$	16,916.29	07/30/2012
2C-00106	106	C1		·			\$	479,900.00			
2C-00111	111	B1	KLINAKIS		\$	316,620.00			\$	16,622.55	07/06/2012
2C-00115	115	C1					\$	467,900.00			
2C-00116	116	B1		SALES CENTRE			\$	309,900.00			
2C -00206	206	C1					\$	489,900.00			
2C -00215	215	C1					\$	477,900.00			
2C-00301	301	E1					\$	319,900.00			
2C -00302	302	E1					\$	319,900.00			
2C-00303	303	E1					\$	319,900.00			
2C-00304	304	E1					\$	319,900.00			
2C -00305	305	E1					\$	319,900.00			
2C-00306	306	E1					\$	319,900.00			
2C -00317	317	C1					\$	487,900.00			~
2C-00318	318	D1					\$	478,900.00			

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

## Schedule "B"

Clerk's stamp:

**COURT FILE NUMBER** 

1201-05843

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

**CALGARY** 

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

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

DOCUMENT

<u>Order</u>

(re: BNS Protocol (Valmont))

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

FRASER MILNER CASGRAIN LLP

Bankers Court

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

Calgary, Alberta T2P 0R8

Attention: David W. Mann / Derek M. Pontin Ph. (403) 268-7097/6301 Fx. (403) 268-3100

File No.: 549362-1

DATE ON WHICH ORDER WAS PRONOUNCED

•

NAME OF JUSTICE WHO MADE THIS ORDER

The Honourable Madam Justice K.M. Horner

#### ORDER

(re: BNS Protocol (Valmont))

	(i.e. she i recess (validatiy)
read to July 2012, mater counse	the application of the Applicants in these proceedings (collectively, "UBG"); AND UPON having the Application of the Applicants, dated July, 2012, the Affidavit of Robert Friesen, dated, 2012 (the "Friesen Affidavit"), the Second Report of the Monitor, dated July the Affidavit of Dawn Roy, dated June, 2012 (the "Service Affidavit"), and such other lal in the pleadings and proceedings as deemed necessary; AND UPON hearing counsel for UBG for Bank of Nova Scotia ("BNS"), counsel for the Monitor, and other interested parties; IT IS ON ORDERED AND DECLARED THAT:
Service	2
1.	The time for service of notice of this application is abridged to the time actually given and service of the Application and supporting material as described in the Service Affidavit is good

2. All capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Initial Order granted in these proceedings on May 9, 2012 (the "Initial Order").

and sufficient, and this hearing is properly returnable before this Honourable Court today and

## Approval of the BNS Interim Financing Agreement

further service thereof is hereby dispensed with.

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

## Approval of the BNS Charge

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

#### Miscellaneous

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

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

Justice of the Court of Queen's Bench of Alberta