



This is the 1st affidavit
of Evan Carew-Gibson in this case
and was made on February 4, 2025

No. **H-250150**
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

PETERSON INVESTMENT GROUP INC.

PETITIONER

AND:

1076255 B.C. LTD., LIGHTSTONE DEVELOPMENT LTD.,
1082463 B.C. LTD., 1218548 B.C. LTD., GOLD COAST
INDUSTRIES LTD., XIAO SONG ZHENG, XIAO LI,
YING ZHENG YU, BLUESHORE LEASING LTD.,
GOULD LEASING LTD., LI JIANG, BEI CHEN, QING SU,
JIDE LIU, 686912366 INVESTMENT LTD., LEI BUN LEUNG,
XIAO LIAN ZHANG, JOHNSON RUI LEUNG, JON KIT LEUNG,
KAREN LEUNG, SHUN FENG INVESTMENT LTD., LIWEI SUN
AND 12503343 B.C. LTD.

RESPONDENTS

AFFIDAVIT

I, Evan Carew-Gibson, of 1701-1166 Alberni Street, Vancouver, British Columbia,
AFFIRM THAT:

1. I am a Vice President of Mortgage Investments and am authorized to swear this Affidavit on behalf of Peterson Investment Group Inc., ("**Peterson**" or the "**Lender**") and have personal knowledge of the facts hereinafter sworn, except where I depose to a matter based on information from an informant I identify, in which case I believe that both the information from the informant and the resulting statement are true. I am authorized to make this affidavit on behalf of Peterson.

2. I make this affidavit in support of Peterson's application for an order seeking, among other things, the appointment of FTI Consulting Inc. ("**FTI**") as receiver and manager (in such capacity, the "**Proposed Receiver**") over the assets, undertakings and property of the Respondents, 1076255 B.C. Ltd. ("**107**") and Lightstone Development Ltd. ("**Lightstone**", and together with 107, the "**Borrower**").

Overview¹

3. As a result of my involvement with the administration of the Borrower's loan with the Lender, I am aware that the Borrower is the developer of a 4-story mixed-used development in Vancouver known as *Chloé* consisting of 46 residential units, 11 commercial units, and 2 levels of underground parking (the "**Project**").
4. The Borrower is indebted to Peterson pursuant to the terms of a Commitment Letter dated October 5, 2022 (the "**Commitment Letter**"), as amended on January 1, 2023 (the "**First Amendment**") and April 19, 2023 (the "**Second Amendment**", and collectively with the Commitment Letter and the First Amendment, the "**Credit Agreement**"). As of February 3, 2025, the Borrower is indebted to the Lender in the amount of \$19,237,061.45, inclusive of accrued and unpaid interest to that date but exclusive of costs (the "**Indebtedness**"), with interest accruing at a per diem rate of \$6,514.70 until February 28, 2025. As of the date of this Affidavit, the Indebtedness is immediately due and owing and remains outstanding.
5. As described in greater detail below, the Borrower's obligations owing to the Lender under the Credit Agreement are secured by the GSA and the Mortgage, in addition to the Guarantees. The GSA and the Mortgage have been perfected by registration, and, to the best of my knowledge, Peterson holds a prior ranking security interest to the Respondents as against the lands described in Schedule "A" (the "**Lands**") and all the Borrower's present and after-acquired personal property as it relates to the Lands.
6. The Borrower has defaulted on numerous obligations owing to Peterson under the Credit Agreement, which also constitute events of default under the GSA and the Mortgage, among other things. Peterson has given the Borrower proper notice of such defaults, made demand upon the Borrower for repayment of the Indebtedness under the Credit

¹ Capitalized terms used but not defined in the Overview are defined below.

Agreement and the Guarantees, and delivered to 107 and Lightstone, and other debtors under the GSA, Notices of Intention to Enforce a Security pursuant to the *Bankruptcy and Insolvency Act* (the "**244 Notices**"). The ten (10) day notice period prescribed by the 244 Notices has expired.

7. Peterson has considered the enforcement remedies available to it and has formed the view that the appointment of the Proposed Receiver by this Court is an appropriate remedy to protect and unlock the value of Borrower's business and property for the benefit of all stakeholders. Peterson believes the urgent appointment of the Proposed Receiver is necessary for the following reasons:

(a) The Borrower has committed various Events of Default pursuant to the Commitment Letter, including, without limitation:

- (i) A material change which adversely affects the financial status of the Borrower has occurred, as the Borrower has exhausted its liquid assets, which is expected to cause an imminent and significant erosion in the value of business and property;
- (ii) Various unauthorized subsequent encumbrances, certificates of pending litigation, mortgages, liens or charges, save and except for those permitted in writing by the Lender, are registered against title to the Lands;
- (iii) There is a default by the Borrower of any prior encumbrance approved by the Lender and registered against title to the Lands;
- (iv) There is a default by the Borrower under the Approved First Mortgage Credit Agreement, the DPI Contract or any security provided in connection with the foregoing;
- (v) There is a failure on the part of the Borrower or Guarantors to fund any costs and expenses not being funded by the Approved First Mortgage Lender, except to the extent such amounts are approved by the Lender to be funded under the Loan;

(b) Certain parties who have apparently provided funds to the Borrower (the "**Purchaser Loans**") have secured these loans behind Peterson and the Approved

First Mortgage Lender on strata lots located on the Lands and also by way of agreements for sale at prices lower than fair market value. More alarmingly, some of these strata lots were already subject to presales to third parties;

- (c) To accommodate some of the Purchaser Loans, some of the pre-sales in place to arm's length purchasers for fair market, which were in place at the time of Peterson's loan origination, have been terminated in favour of those lenders of the Purchaser Loans;
- (d) The Borrower appears unable to continue operations as a going concern;
- (e) Peterson believes that a court-supervised sale or other realization process will result in more value for all stakeholders than any opportunity available to the Borrower at this time;
- (f) The Borrower's property appears to be encumbered by the unauthorized registered interests of several potential secured creditors – it would be beneficial to all stakeholders for the business and property to be sold or realized in a transparent, court-supervised process;
- (g) despite having a number of pending transactions for the sale of the remaining units in the Project, the Borrower has failed to close any such opportunity within a reasonable timeframe;
- (h) Peterson has lost confidence in management's ability to effect an out-of-court sale of the units forming the Project.

8. Peterson believes that the urgent appointment of the Proposed Receiver is just and convenient in the circumstances and is indeed necessary to prevent further impairment of Peterson's legitimate interests as the fulcrum secured creditor and those of all other stakeholders.

The Parties

9. Peterson is a private lender and corporation duly registered under the laws of British Columbia. A copy of the Peterson's Company Summary is attached hereto as **Exhibit "A"**.

10. The 107 is the registered owner of the Lands as bare trustee for Lightstone, as the sole beneficial owner, pursuant to the terms of an amended and restated declaration of trust dated August 5, 2021.
11. The guarantors of the obligations of the Borrower under the Credit Agreement, as described in further detail below, are 1082463 B.C. Ltd. ("**108**"), 1218548 B.C. Ltd. ("**121**"), Gold Coast Industries Ltd. ("**Gold Coast**", and together with 108 and 121, the "**Corporate Guarantors**"), Xiao Song Zheng, Xiao Li and Ying Zheng Yu (collectively with the Corporate Guarantors, the "**Guarantors**").
12. I understand from my review of a British Columbia Company Summary for 107 (the "**107 Company Summary**") that 107 is a business incorporated pursuant to the *Business Corporations Act* (British Columbia) ("**BC BCA**"), which has its registered office at 530 - 1200 West 73rd Avenue, Vancouver, BC V6P 6G5. The directors of 107 are Xiao Song Zheng and Ying Zheng Yu, and the sole officer of 107 is Xiao Song Zheng. A copy of the 107 Company Summary is attached hereto as **Exhibit "B"**.
13. I understand from my review of a British Columbia Company Summary for Lightstone (the "**Lightstone Company Summary**") that Lightstone is a business incorporated pursuant to the *BC BCA*, which has its registered office at 530 - 1200 West 73rd Avenue, Vancouver, BC V6P 6G5. The directors of Lightstone are Xiao Song Zheng and Ying Zheng Yu, and the sole officer of Lightstone is Xiao Song Zheng. A copy of the Lightstone Company Summary is attached hereto as **Exhibit "C"**.
14. I understand from my review of a British Columbia Company Summary for 108 (the "**108 Summary**") that 108 is a business incorporated pursuant to the *BC BCA*, which has its registered office at 530 - 1200 West 73rd Avenue, Vancouver, BC V6P 6G5. The directors and officers of 108 are Xiao Song Zheng and Xiao Li. A copy of the 108 Company Summary is attached hereto as **Exhibit "D"**.
15. I understand from my review of a British Columbia Company Summary for 121 (the "**121 Summary**") that 121 is a business incorporated pursuant to the *BC BCA*, which has its registered office at 530 - 1200 West 73rd Avenue, Vancouver, BC V6P 6G5. The directors and officers of 121 are Xiao Song Zheng and Xiao Li. A copy of the 121 Company Summary is attached hereto as **Exhibit "E"**.

16. I understand from my review of a British Columbia Company Summary for Gold Coast (the "**Gold Coast Summary**") that Gold Coast is a business incorporated pursuant to the *BC BCA*, which has its registered office at 2900 - 733 Seymour Street, Vancouver, BC V6B 0S6. The sole director and officer of Gold Coast is Ying Zheng Yu. A copy of the Gold Coast Company Summary is attached hereto as **Exhibit "F"**.
17. The Borrower's realizable assets consist mainly of the Project and the Lands.

The Credit Agreement and Guarantees

18. As described above, Peterson has made a certain loan available to the Borrower pursuant to the Commitment Letter, as amended by the First Amendment and the Second Amendment. Copies of the Commitment Letter, the First Amendment and the Second Amendment are attached hereto as **Exhibits "G", "H" and "I"**.
19. Pursuant to the terms of the Commitment Letter, Peterson provided the Borrower with a loan for a maximum amount of \$18,500,000 to fund cost overruns on the Project, if and to the extent incurred (the "**Loan**").
20. Pursuant to the First Amendment, Peterson agreed to defer the payment of accrued interest and the remaining balance of the Commitment Fee (as defined therein) from monthly installment to full payment of the accrued balance upon the expiration of the term.
21. In April, 2023, Peterson was informed by the Project's general contractor, Urban One, that the builders' lien holdback account was not funded by the Borrower as required by the *Strata Property Regulation* and *Builders Lien Act*. Peterson was therefore forced to advance the necessary funds. As a result, pursuant to the Second Amendment, additional controls were imposed to ensure that the Borrower fulfills its obligations.
22. Peterson further agreed to subordinate its charge on the Lands to a first mortgage securing a loan (the "**First Mortgage Credit Agreement**") in favour of National Bank of Canada ("**NBC**" or the "**Approved First Mortgage Lender**") by way of a priority agreement registered against title to the Lands under registration numbers CB294025 and CB294026, and agreed to subordinate its debt to the deposit insurer of the Project, Westmount West Services Inc., as agent for Aviva Insurance Company of Canada, Intact Insurance Company and Liberty Mutual Insurance Company ("**Westmount**" or the

"**Deposit Insurer**") in accordance with the terms of the Deposit Insurer's letter of commitment and deposit insurance contract (collectively, the "**DPI Contract**").

23. Pursuant to a Guarantee agreement dated October 19, 2022 the Guarantors guaranteed the Lender of all present and future debts and liabilities of the Borrower up to the principal amount of \$18,500,000 plus interest and together with all costs, charges and expenses (including legal fees on a solicitor and client basis) on a joint and several basis (the "**Joint and Several Guarantee**"). A copy of the Joint and Several Guarantee is attached hereto as **Exhibit "J"**.
24. Pursuant to an Unlimited Guarantee – Cost Overrun and Completion agreement dated October 19, 2022, the Guarantors guaranteed the Lender the payment of any unpaid interest under the Commitment Letter in addition to any cost overruns on the Project in excess of the cost overruns financed by the Lender under the Credit Agreement (the "**Unlimited Guarantee**", and together with the Joint and Several Guarantee, the "**Guarantees**"). A copy of the Unlimited Guarantee is attached hereto as **Exhibit "K"**.
25. Pursuant to a Letter of Undertaking dated October 19, 2022, the Guarantors further undertook to cover any cost overruns on the Project in excess of the cost overruns financed by the Lender under the Credit Agreement (the "**Letter of Undertaking**"). A copy of the Letter of Undertaking is attached hereto as **Exhibit "L"**.
26. As described in greater detail below, Peterson has made demand on each of the Guarantees.

The Security

27. The legal descriptions of the Lands result from the stratification into individual strata units of a lot previously described as PID: 031-145-884, Lot 1, Block 2 District Lot 526 Group 1 New Westminster District Plan EPP91453 located at 2069 West 47th Avenue, Vancouver, BC.
28. Pursuant to the terms of Mortgage and Assignment of Rents dated October 19, 2022, which was registered in the New Westminster Land Title Office on October 20, 2022, under registration numbers CB293126 and CB293127 (the "**Mortgage**"), the Borrower mortgaged the Lands in fee simple in favour of the Lender for a principal amount of \$18,500,000 with interest equal to the greater of 10.00% per annum and the Prime Rate

in effect from time to time plus 7.55% per annum, in each case calculated daily and compounded monthly, as security for the payment of all present and future debts and liabilities of the Borrower, and in particular the Loan. A copy of the Mortgage is attached hereto as **Exhibit "M"**. Copies of the Title Searches of the New Westminster Land Title Office are attached hereto as **Exhibit "N"** (collectively, the **"Title Searches"**).

29. Pursuant to the terms of a General Security Agreement dated October 19, 2022, made between the 107, Lightstone, 108, 121, and Gold Coast, as debtors, and Peterson, as the secured party, perfected by registration under the British Columbia Personal Property Security Act under base registration No. 150496P (the **"GSA"**), security was granted in favour of Peterson over all of the Borrower's and the Corporate Guarantors' present and after-acquired personal property as it relates to the Lands and the Project (the **"Collateral"**), as general and continuing security for every obligation, indebtedness and liability of the Borrower and the Corporate Guarantors to Peterson (the **"Obligations"**). A copy of the GSA is attached hereto as **Exhibit "O"**. Copies of the British Columbia Personal Property Registry search results disclosing the financing statements registered against 107, Lightstone, 108, 121, and Gold Coast in favour of Peterson are attached hereto as **Exhibit "P"** (the **"PPR Search Results"**).
30. Subject to statutory rights of way, covenants and equitable charges in favour of the City of Vancouver and utilities, the Title Searches discloses the following third-party registrants who have active registrations against all or part of the Lands:
- (a) NBC;
 - (b) Westmount;
 - (c) Bei Chen, Qing Su and Jide Liu;
 - (d) 686912366 Investment Ltd;
 - (e) Lei Bun Leung, Xiao Lian Zhang, Johnson Rui Leung, Jon Kit Leung and Karen Leung;
 - (f) Li Jiang;
 - (g) Shun Feng Investment Ltd.; and

(h) Liwei Sun and 12503343 B.C. Ltd.

31. The PPR Search Results disclose the following third-party registrants who have active registrations against the Borrower:

(a) 107:

- (i) NBC;
- (ii) Westmount;
- (iii) Blueshore Leasing Ltd.;
- (iv) Li Jiang;
- (v) Bei Chen, Qing Su and Jide Liu.

(b) Lightstone:

- (i) NBC;
- (ii) Westmount;
- (iii) Blueshore Leasing Ltd.;
- (iv) Gould Leasing Ltd.;
- (v) Li Jiang;
- (vi) Bei Chen, Qing Su and Jide Liu.

32. I am not aware of any other potential secured creditors of the Borrower.

33. In addition to the Mortgage and the GSA, Peterson holds, *inter alia*, the following security:

- (a) Joint and Several Environmental Indemnity dated October 19, 2022 (the “**Environmental Indemnity**”) wherein the Borrower and Guarantors indemnify Peterson against all liabilities, costs, and expenses arising from breaches of environmental laws related to the Lands. The Borrower and Guarantors agree to comply with all environmental laws, remove any prohibited substances, and take

necessary actions to rectify any breaches. The Environmental Indemnity remains in effect even after the Loan is repaid. A copy of the Environmental Indemnity is attached hereto as **Exhibit "Q"**.

- (b) Assignment of Policies of Insurance dated October 19, 2022 (the "**Assignment of Insurance**") wherein the Borrower assigns to Peterson all rights, title, and interest in insurance proceeds related to the Lands, including general public liability insurance, all risk, fire, theft, and earthquake insurance, and course of construction insurance. The Borrower irrevocably authorizes insurers to pay all insurance proceeds directly to Peterson. A copy of the Assignment of Insurance is attached hereto as **Exhibit "R"**.
- (c) Assignment of Contracts dated October 19, 2022 (the "**Assignment of Contracts**") wherein the Borrower assigns to Peterson all rights and benefits in contracts and subcontracts related to the Lands and the Project as additional security for the Loan. The Borrower represents that its interest in the contracts is free from claims and agrees to perform all obligations under the contracts. The Borrower irrevocably appoints Peterson as its attorney to enforce contract rights and agrees not to amend or terminate contracts without Peterson's written consent. A copy of the Assignment of Contracts is attached hereto as **Exhibit "S"**.
- (d) Assignment of Sale Agreements, Proceeds and Deposits dated October 19, 2022 (the "**Assignment of Sale Agreements**") wherein the Borrower assigns to Peterson all rights, title, and interest in all contracts of sale and purchase pertaining to any and all units, including strata lots to be constructed on the Lands, and all related proceeds and deposits, as additional security for the Loan. The Borrower agrees to provide all relevant documents to Peterson, authorizes Peterson to enforce payment, and indemnifies Peterson against any damages or expenses. This Assignment remains in effect as continuing collateral security. A copy of the Assignment of Sale Agreements is attached hereto as **Exhibit "T"**.
- (e) Assignment of Contracts, Warranties, Licenses, Permits and Project Plans dated October 19, 2022 (the "**Assignment of Warranties, Licenses, Permits and Project Plans**") wherein the Borrower assigns to Peterson all rights, title, and interest in bonds, contracts, letters of credit, licenses, permits, project plans, and

warranties related to the Lands (the "**Benefits**"), and any and all benefits and advantages due or accruing due under the Benefits, as additional security for the Loan. The Borrower represents that its interest in these items is free from claims and agrees to perform all obligations. The Borrower irrevocably appoints Peterson as its attorney to enforce rights and agrees to provide all relevant documents. This Assignment remains in effect as continuing collateral security. A copy of the Assignment of Warranties, Licenses, Permits and Project Plans is attached hereto as **Exhibit "U"**.

The Defaults and Demands

34. Peterson has demanded repayment of all amounts due under the Credit Agreement. In addition, a number of defaults have occurred under, without limitation, the GSA and the Mortgage and are continuing.
35. As outlined previously, the Borrower has committed various Events of Default pursuant to the Commitment Letter, including, without limitation:
 - (a) A material change which adversely affects the financial status of the Borrower has occurred;
 - (b) Various subsequent encumbrances, liens or charges, save and except for those permitted in writing by the Lender, are registered against title to the Lands;
 - (c) There is a default by the Borrower of any prior encumbrance approved by the Lender and registered against title to the Lands;
 - (d) There is a default by the Borrower under the Approved First Mortgage Commitment Letter, the DPI Contract or any security provided in connection with the foregoing;
 - (e) There is a failure on the part of the Borrower or Guarantors to fund any costs and expenses not being funded by the Approved First Mortgage lender, except to the extent such amounts are approved by the Lender to be funded under the Loan.
36. Under the Commitment Letter, upon the occurrence of an event of default, Peterson has the right to demand immediate repayment in full of all amounts outstanding, commence

foreclosure and/or appoint a receiver take possession of the assets charged and pursue all or any of the other remedies available.

37. Under the GSA, the Borrower has committed various defaults, including, without limitation:
- (a) The Borrower or the Guarantors make default in payment when due of any of the Obligations;
 - (b) The Borrower or the Guarantors are in breach of any term, condition, proviso, agreement or covenant to the Lender;
 - (c) The Lender in good faith believes and has commercially reasonable grounds to believe that the prospect of payment or performance of any of the Obligations is impaired or that any of the Collateral is or is about to be placed in jeopardy.
38. In addition to the above, the Borrower has committed various events of default and actions contributing to such events pursuant to the Commitment Letter and the GSA, including, without limitation:
- (a) **Unauthorized Mortgages/Encumbrances:** The Borrower has placed or allowed the registration of multiple mortgages and encumbrances on certain strata units, including both residential and commercial units, without the approval of NBC, Peterson, and Westmount (the "**Secured Creditors**"). These unauthorized mortgages have been registered on title, constitute a breach of the terms of the Commitment Letter, complicate the Borrower's financial situation and threaten the security interests of Peterson and other stakeholders;
 - (b) **Side Deals with Third Party Lenders:** Unbeknownst to Peterson, the Borrower has entered into the Purchaser Loans with third party lenders, which Purchaser Loans have been secured behind Peterson and NBC on certain strata lots, including by way of agreements for sale at prices lower than fair market value for units that were already subject to presales. As a result, to accommodate the Purchaser Loans, some existing fair market pre-sales have been terminated in favor of the Purchaser Loan lenders;
 - (c) **Side Deals with Purchasers:** The Borrower has made side deals with several potential purchasers, allowing them to fully prepay for their units directly to the

developer of the Project (Lightstone) without the approval of the Secured Creditors. This action undermines the security interests of the Secured Creditors and constitutes a material breach of the Borrower's obligations under the Credit Agreement;

- (d) **Contractor's Claim:** The project's general contractor, Urban One, has filed a claim against the builders' lien holdback account currently held by Borrower's legal counsel for an unpaid invoice of approximately \$680,000. A copy of Urban One's Notice of Civil Claim is attached hereto as **Exhibit "V"**. This claim further complicates the Borrower's financial situation and may potentially add to the encumbrances on the Lands and the Collateral. As discussed previously, the Borrower had once failed to fund the builder's lien holdback account, forcing the Peterson to finance same and creating an event of default pursuant to the Commitment Letter;
 - (e) **Certificates of Pending Litigation ("CPL"):** A CPL was registered by Shun Feng Investment Ltd. against two retail units at the end of December due to another undisclosed and allegedly fully paid Purchase and Sale Agreement. A copy of the CPL registered by Shun Feng Investment Ltd. is attached hereto as **Exhibit "W"**. On January 31, 2025, another CPL was registered by Liwei Sun and 12503343 B.C. Ltd. against all of the residential units in connection with the sale of units that are also subject to unauthorized mortgage charges. A copy of the CPL registered by Liwei Sun and 12503343 B.C. Ltd. is attached hereto as **Exhibit "X"**. These CPLs represent a significant legal complication and potential liability for the Borrower, and are symptomatic of the ongoing double-dealing and lack of transparency by the Borrower.
39. Peterson has been in discussion with the Borrower in respect of events of defaults under the Credit Agreement since October 2024 when it discovered the unauthorized Purchaser Loans for the first time.
40. By letters from Peterson's external legal counsel dated as of January 16, 2025 (the "**Demand Letters**") and served on January 17, Peterson, among other things, formally notified the Borrower and the Guarantors that they were in default under the Credit

Agreement and demanded repayment of the Indebtedness. A copy of the Demand Letters is attached hereto as **Exhibit "Y"**.

41. The Demand Letters enclosed, among other things, the 244 Notices issued to each of the Borrower and Guarantors and provided an unlimited list of the Borrower's defaults under the Credit Agreement, which included the defaults listed in paragraph 37 above. A copy of the 244 Notices is attached hereto as **Exhibit "Z"**.
42. Despite demand and Peterson's previous effort to work with the Borrower to remedy the defaults, the Indebtedness remains outstanding, and the Borrower has failed to remedy the various defaults under the Credit Agreement, and the Indebtedness remains due and owing.
43. On January 24, 2025, NBC issued its own demand letters to the Borrower and the Guarantors, alongside notices of intention to enforce its security. The indebtedness of the Borrower to NBC as of January 22, 2025 was \$47,390,783.16 plus professional and late reporting fees, with interest at per diem rate of CAD \$8,679.69. Copies of NBC's demand letters and enforcement notices are attached hereto as **Exhibits "AA", "BB" and "CC"**.

Appointment of the Receiver is Needed on an Urgent Basis

44. As described above, the Borrower is in default of its obligations to Peterson under the Credit Agreement. In light of these defaults and for the reasons described below, I believe there is an urgent need to appoint the Proposed Receiver to safeguard the value of the Borrower's business and property for the benefit of all stakeholders and to prevent further erosion of Peterson's security.
45. In Peterson's view, the urgent appointment of the Proposed Receiver is necessary because:
 - (a) **The Borrower is facing an ongoing liquidity crisis and may be unable to continue operations.** Peterson has serious concerns that the Borrower is unable to make critical payments necessary to safeguard the interests of its Secured Creditors. These payments include the unpaid lien holdback invoice to Urban One, the funds necessary to discharge the improperly registered encumbrances against title to the Lands, refunding the purchasers who had already prepaid their units

and whose units were not delivered to them, as well as paying NBC's accrued monthly interest;

- (b) **The Borrower has no credible funding, investment, or sale opportunities available to address its cash needs within the requisite timeframe and has no acceptable go-forward plan to fulfill all obligations towards the Secured Creditors.** Borrower received the Project's occupancy permit from the City of Vancouver on June 11, 2024. Since that time, the Borrower has only managed to close 22 out of 31 presold residential units and none of the 8 commercial presold units from loan origination in a round of closings that occurred in November 2024. The principals of the Borrower have repeatedly made representations to Peterson that they would be able to close additional presold units in the Project, but no such closings have come to fruition. To date, there are still seven (7) presold condo units that remain unclosed. Most recently, since Peterson issued its Demand Letter, the Borrower provided Peterson with executed copies of Purchase and Sale Agreements ("**PSAs**") for six commercial strata lots with a projected closing date of January 30, 2025 which was subsequently delayed to February 15, 2025. In light of a history of continuously moving deadlines for both residential and commercial closings and a history of Borrower project mismanagement to-date, Peterson does not have faith in the Borrower's ability to consummate these transactions and questions the legitimacy of the PSAs. Peterson is of the view that a court-supervised sale or other realization process will result in more value for all stakeholders than any opportunity available to the Borrower at this time.
- (c) **The Proposed Receiver is needed to stabilize Borrower and effect a sale or realization process for the benefit of stakeholders.** As set forth above, Borrower's realizable assets consist primarily of the Lands and the Project, which are unlikely to satisfy the claims of all of the Secured Creditors of the Borrower, thereby rendering Peterson the fulcrum secured creditor;
- (d) **Peterson has lost confidence in the management of Borrower and their ability to preserve the Lands and the Collateral.** Without the urgent appointment of the Proposed Receiver, Peterson is concerned that the value of the Borrower's business and property will continue to erode to the detriment of all stakeholders, particularly Peterson who is, in all likelihood, the fulcrum secured creditor of the

Borrower. Given that other potential secured creditors have registered financing statements in respect of the Borrower, Peterson believes that all stakeholders of the Borrower would benefit from the immediate appointment of a neutral court officer, which can then oversee the Borrower's operations, assets, and finances;

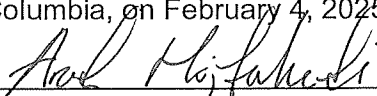
(e) **The Borrower and its principals have engaged in various problematic dealings, which further undermine the confidence of Peterson:**

- (i) **Improperly Secured Loans:** As mentioned previously, certain parties who have recently provided funds to the developer have secured these loans not only unbeknownst to Peterson and other Secured Creditors on title but also via PSAs for such units at lower than fair market value. Some of these units were subject to presales to third parties at loan origination. This action undermines the value of the pre-sold units and the overall security of the Project.
- (ii) **Termination of Pre-Sales:** To accommodate the Purchaser Loans, some pre-sales to arm's length purchasers at fair market value, which were in place at the time of Peterson's loan origination, have been terminated in favour of new purchasers. This leads to significant issues with deposit insurance and further erodes the value of the Project;
- (iii) **Double-Dealings:** A purchaser of two retail units, who allegedly had already fully paid for its units, registered a CPL on title at the end of December following Borrower's apparent failure to consummate the transaction. In light of the ongoing double-dealings and lack of transparency by the Borrower, Peterson has genuine reasons to question the legitimacy of any PSA;
- (iv) **Mounting Litigation:** Another CPL was registered on title of all of the residential units, in connection with the sale of Strata Lots 37 and 43, which are in turn subject to unauthorized encumbrances. The mounting litigation is a clear result of the double-dealings of the Borrower and significantly hinders the closing of additional sales;

- (v) **Failure to Close Condo Units:** Despite the availability of presold condo units that could have been closed by now, the Borrower has failed to close these units. This failure to close units exacerbates the Borrower's liquidity crisis and undermines the potential recovery for Secured Creditors.

46. As of the date of this affidavit, only 22 out of 46 available residential units have closed. Four (4) residential strata lots (Lots 19, 34, and 43; PIDs: 032-299-664; 032-299-818; 032-299-842 and 032-299-907) and five (5) commercial strata lots (Lots 1, 2, 6, 7, and 8; PIDs: 032-299-958; 032-299-966; 032-300-000; 032-300-018; 032-300-026) have unauthorized charges registered on their title. Two (2) of these commercial units (Lots 1 and 2; PIDs: 032-299-958; 032-299-966) and all remaining residential units are also subject to CPLs. Three (3) fully paid residential strata lots (Lots 7, 9 and 46; PIDs: 032-299-541; 032-299-567; 032-299-931) appear to be subject to unauthorized side-deals.
47. Given these complications, Peterson believes that the urgent appointment of the Proposed Receiver is just and necessary to prevent further impairment of Peterson's legitimate interests as the fulcrum secured creditor and those of all other stakeholders.
48. I believe that the Proposed Receiver is qualified to act. FTI has consented to its appointment as receiver and manager of the Borrower, if so ordered by this Court. Attached hereto as **Exhibit "DD"** is a copy of the Consent to Act as Receiver executed by an authorized signatory of FTI.

AFFIRMED BEFORE ME at Vancouver,
British Columbia, on February 4, 2025.


A Commissioner for taking Affidavits for
British Columbia.

Arad Mojtahedi
Barrister & Solicitor
DLA Piper (Canada) LLP
1133 Melville Street, Suite 2700
Vancouver, BC V6E 4E5
604.687.9444


EVAN CAREW-GIBSON

Schedule "A"
Description of the Lands

Residential Units located at 2096 47th Avenue West, Vancouver, BC, legally described as District Lot 526 Group 1 New Westminster District Strata Plan EPS9999:

- (i) PID: 032-299-508, Strata Lot 3;
- (ii) PID: 032-299-524, Strata Lot 5;
- (iii) PID: 032-299-532, Strata Lot 6;
- (iv) PID: 032-299-541, Strata Lot 7;
- (v) PID: 032-299-559, Strata Lot 8;
- (vi) PID: 032-299-567, Strata Lot 9;
- (vii) PID: 032-299-575, Strata Lot 10;
- (viii) PID: 032-299-605, Strata Lot 13;
- (ix) PID: 032-299-621, Strata Lot 15;
- (x) PID: 032-299-648, Strata Lot 17;
- (xi) PID: 032-299-656, Strata Lot 18;
- (xii) PID: 032-299-664, Strata Lot 19;
- (xiii) PID: 032-299-672, Strata Lot 20;
- (xiv) PID: 032-299-729, Strata Lot 25;
- (xv) PID: 032-299-737, Strata Lot 26;
- (xvi) PID: 032-299-745, Strata Lot 27;
- (xvii) PID: 032-299-761, Strata Lot 29;
- (xviii) PID: 032-299-800, Strata Lot 33;

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- (xix) PID: 032-299-818, Strata Lot 34;
- (xx) PID: 032-299-842, Strata Lot 37;
- (xxi) PID: 032-299-851, Strata Lot 38;
- (xxii) PID: 032-299-869, Strata Lot 39;
- (xxiii) PID: 032-299-907, Strata Lot 43;
- (xxiv) PID: 032-299-931, Strata Lot 46;

Commercial Units located at District Lot 526 Group 1 New Westminster District Strata Plan EPS9998:

- (i) PID: 032-299-958, Strata Lot 1, Civic address: 2092 47th Avenue West, Vancouver, BC;
- (ii) PID: 032-299-966, Strata Lot 2, Civic address: 2094 47th Avenue West, Vancouver, BC;
- (iii) PID: 032-299-974, Strata Lot 3, Civic address: 6306 East Boulevard, Vancouver, BC;
- (iv) PID: 032-299-982, Strata Lot 4, Civic address: 6316 East Boulevard, Vancouver, BC;
- (v) PID: 032-299-991, Strata Lot 5, Civic address: 6326 East Boulevard, Vancouver, BC;
- (vi) PID: 032-300-000, Strata Lot 6, Civic address: 6336 East Boulevard, Vancouver, BC;
- (vii) PID: 032-300-018, Strata Lot 7, Civic address: 6346 East Boulevard, Vancouver, BC;
- (viii) PID: 032-300-026, Strata Lot 8, Civic address: 6350 East Boulevard, Vancouver, BC;

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- (ix) PID: 032-300-034, Strata Lot 9, Civic address: 6370 East Boulevard, Vancouver, BC;
 - (x) PID: 032-300-042, Strata Lot 10, Civic address: 6390 East Boulevard, Vancouver, BC;
 - (xi) PID: 032-300-051, Strata Lot 11, Civic address: 2099 48th Avenue West, Vancouver, BC;
- (collectively, the "**Lands**").