



NO. S-246124  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

NATIONAL BANK OF CANADA

PETITIONER

AND:

BY THE BAY HOME DEVELOPMENT LTD.

RESPONDENT

**NOTICE OF APPLICATION**

**Name of applicant:** FTI Consulting Canada Inc. ("FTI") in its capacity as court-appointed receiver (the "**Receiver**") without security, of all of the assets, undertakings and property of By The Bay Home Development Ltd. (the "**Debtor**"), including all proceeds (the "**Property**").

TO: The attached Service List (**Schedule "A"**)

TAKE NOTICE that an application will be made by the applicant to the presiding judge at the courthouse at 800 Smithe Street, Vancouver, British Columbia on **Monday, the 24<sup>th</sup> day of November, 2025 at 9:45 a.m.** for the order set out in Part 1 below.

The applicant estimates that the application will take 20 minutes.

- ☐ This matter is within the jurisdiction of an associate judge.
- ☒ This matter is not within the jurisdiction of an associate judge.

**PART 1: ORDER SOUGHT**

1. An order substantially in the form attached hereto as **Schedule "B"** (the "**Approval and Vesting Order**"), among other things:
  - (a) approving the completion and consummation of the sale transaction (the "**Transaction**") of the land legally described as PID 031-425-909, Lot 1, Block 51, District Lot 185, Group 1, New Westminster District Plan EPP109066, and

municipally known as 1289 Nicola Street, Vancouver British Columbia ("**1289 Nicola**") contemplated by the contract of purchase and sale dated October 15, 2025 (the "**Purchase Agreement**") between the Receiver, as vendor and 1561466 B.C. Ltd. as permitted assignee of Epix Developments Ltd. (in such capacity, the "**Purchaser**"), as purchaser; and

- (b) effective upon the Receiver filing a certificate with the Court, substantially in the form attached as Schedule "B" to the Approval and Vesting Order, vesting the purchased assets described in the Purchase Agreement (the "**Purchased Assets**") in the Purchaser's nominee, 1561472 B.C. Ltd. (the "**Nominee**") free and clear of all claims and encumbrances.

- 2. Such further and other relief as this Court may deem just.

## **PART 2: FACTUAL BASIS**

### **Background**

- 1. The Debtor is a property development company with a municipal address of 610-1155 West Pender Street, Vancouver British Columbia.
- 2. The Debtor's primary secured lender is the National Bank of Canada (the "**Bank**"). The indebtedness owing by the Debtor to the Bank was \$7,472,019.99 as at August 21, 2024, plus interest—increasing at \$1,478.69 per day with \$547,007.40 outstanding and accrued as of August 21, 2024—together with fees and other amounts accruing under the various agreements between the Debtor and the Bank (the "**Indebtedness**"). The Debtor has not made any interest payments on the Indebtedness since September 2023 and has made numerous defaults on its agreements with the Bank. The Debtor cannot repay the Bank, and accordingly, the Bank sought the appointment of the Receiver.

Affidavit #1 of Erin Welte, made August 27, 2024  
(the "**Welte Affidavit**") at paras. 6, 30-31 and Exhibit "A"

- 3. On October 3, 2024 (the "**Appointment Date**"), the Supreme Court of British Columbia (the "**Court**") granted an order (the "**Receivership Order**"), which among other things, appointed FTI as the Receiver of the Property pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "**BIA**") and section 39 of the *Law and Equity*

Act, R.S.B.C. 1996 c. 253 (the “LEA”) and granted the Receiver the authority to list, market, and sell the Property.

Order Made After Application (Receivership) pronounced  
October 3, 2024 (“Receivership Order”) at paras. 1, 2(k)-(m)

First Report of the Receiver, dated October 22, 2025  
(the “First Report”) at paras. 1-2

**1289 Nicola**

4. The Debtor’s primary asset is 1289 Nicola, a multi-unit residential development site. 1289 Nicola remains bare land, as no significant construction work was completed by the Debtor.

First Report at paras. 3-4

5. The Bank has a first-ranking mortgage and assignment of rents registered against 1289 Nicola under instrument nos. CA7942637 and CA7942638 respectively.

Welte Affidavit, at para. 25

Affidavit #1 of Jennifer Alambre at Exhibit D

6. The second-ranking lender—Genesis Mortgage Investment Corp. (“Genesis”)—is secured by a second-ranking mortgage over 1289 Nicola, among other security. Genesis commenced foreclosure proceedings in November 2023 and obtained an order for conduct of sale in January 2024, but no sale was completed prior to the Receivership Order being granted, after which all proceedings were stayed.

Welte Affidavit, at paras. 28-29

First Report at paras. 6-7

7. Under the Receivership Order, the Receiver has the powers to
  - (a) take possession of and exercise control of the Property, including 1289 Nicola;
  - (b) manage, operate, and carry on the business of the Debtor; and
  - (c) market and sell the Property (subject to Court approval if any one transaction exceeds \$500,000 or if the aggregate of the transactions exceeds \$1,000,000).

Receivership Order at paras. 2(a)-(c), (k)-(l)

8. The Receivership Order allows the Receiver to apply for any vesting order necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances.

Receivership Order at para. 2(m)

#### **Marketing and Sale of 1289 Nicola**

9. Pursuant to its mandate to maximize recovery for the Debtor's secured lenders, the Receiver commenced sale efforts with respect to the Debtor's assets.

First Report at para. 13

10. The Receiver solicited competing proposals from three real estate brokers to act as listing agent for the 1289 Nicola. The Receiver, in consultation with the Bank, reviewed the proposals and selected Colliers Macaulay Nicolls Inc. ("**Colliers**") to act as exclusive listing agent.

First Report at paras. 13-14

11. The decision to engage Colliers was supported by:

- (a) pre-receivership discussions with Colliers and its submitted proposal, which demonstrated its extensive due diligence undertakings;
- (b) Colliers' broad experience marketing properties across Canada, including in the context of receivership proceedings, and its strong profile in the Vancouver market;
- (c) Colliers' commission structure was more competitive than other submissions received; and
- (d) Colliers' pricing guidance aligned the Receiver's goal to maximize recovery while promoting a timely sale in Vancouver's current (challenging) real estate market.

First Report at para. 15

12. In January 2025, Colliers listed 1289 Nicola for sale. The original listing price was \$5.6 million, which was subsequently revised in May 2025 to \$4.99 million.

First Report at para. 16

13. The marketing campaign for 1289 Nicola (the “**Marketing Process**”) undertaken by Colliers included the following efforts:
- (a) publication on the multiple listing service (the “**MLS**”) and the Colliers Canada web listing, which received approximately 2,508 views;
  - (b) an online brochure highlighting the key attributes and selling features of the property;
  - (c) an email marketing campaign, with distributions to 4,196 recipients in January 2025 and 4,500 recipients in May 2025;
  - (d) social media posts on Meta platforms, including Facebook and Instagram, generating 28 leads, 33 views, and 3,520 impressions;
  - (e) advertisements in print and online media, including *Business in Vancouver*, *Western Investor*, and *Insolvency Insider*, and
  - (f) data room access to those who executed a confidentiality agreement.

First Report at paras. 17-18

14. The Marketing Process resulted in Colliers’ engagement with 18 interested parties, the signing of 15 confidentiality agreements, and receipt of 9 offers. However, these offers were either withdrawn, submitted below the listing price, or contained significant conditions that extended the proposed completion date beyond an acceptable timeline.

First Report at paras. 18-19

15. On September 5, 2025, after 1289 Nicola had been listed for over eight months, the Receiver instructed Colliers to commence a call for offers (the “**Call for Offers**”). Colliers distributed emails to 4,500 recipients on September 9, 2025, inviting parties who had previously expressed interest to submit their highest and best bids by September 23, 2025.

First Report at para. 20

16. Five interested parties submitted bids in response to the Call for Offers. After negotiating with certain offerors to determine whether a better deal could be achieved, the Receiver

entered into the Purchase Agreement on October 15, 2025 as it was the best offer received as a result of the Call for Offers.

First Report at para. 21

17. The original purchaser under the Purchase Agreement, Epix Developments Ltd., assigned all of its right, title and interest in and to the purchase Agreement to the Purchaser. The Purchaser in turn has provided the Receiver a direction to convey legal title to 1289 Nicola to the Nominee.

First Report at paras. 22-23

18. The key commercial terms of the Purchase Agreement are summarized as follows:

- (a) the purchase price is \$3,595,010 (the “**Purchase Price**”);
- (b) a deposit of \$359,500 is to be held by the Purchaser's legal counsel in trust and will form part of the Purchase Price;
- (c) the transaction is conditional upon approval by this Court; and
- (d) closing is to occur no later than 14 days following the date on which the Purchase Agreement is approved by this Court.

First Report at para. 24

19. In accordance with the Receivership Order, and as set out in the First Report, the Receiver has accepted the Purchase Agreement and is presenting it to this Court for approval. Sale of 1289 Nicola under the Purchase is reasonable in the circumstances and is in the best interests of the Debtor's creditors.

First Report at paras. 26(e)-(f)

20. The Marketing Process, and manner in which offers have been solicited and received, has been fair and transparent, with the interest of all parties being considered.

First Report at para. 26(a)

21. 1289 Nicola has been listed and exposed to the market since January 2025. The Receiver believes that the Purchase Agreement represents the highest and best purchase price offered for 1289 Nicola. Attempting to hold and list 1289 for a longer

period of time would incur substantial holding costs related to preserving 1289 Nicola and administering the Receivership.

First Report at paras. 26(b)-(c)

22. The Bank, as the senior secured and primary affected creditor of the Debtor, supports the proposed sale.

First Report at para. 26(d)

23. The Receiver is satisfied that the Purchase Agreement represents market value, as the Purchase Price is the most any party is willing to pay after a full and proper marketing process was undertaken. Based on the information that is currently available to it, the Receiver is of the view that the Purchase Agreement is the best available offer and asks this Court to grant the Approval and Vesting Order.

First Report at paras. 26 and 30

### **PART 3: LEGAL BASIS**

24. Paragraph 2(k) of the Receivership Order granted the Receiver the power to, among other things:

market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of the sale as the Receiver considers appropriate.

Receivership Order at para. 2(k)

25. Both subsection 243(1) of the BIA and section 39 of the LEA provide the court with jurisdiction to grant a receiver the authority to take any action that the Court considers advisable and where the Court determines that it is just and convenient to do so.

BIA s. 243(1);

LEA s. 39

26. The factors considered by a court when determining whether to approve a sale in receivership proceedings include:

- (a) whether the receiver has made a sufficient effort to get the best price and has not acted improvidently;
- (b) the interests of all parties;

- (c) the efficacy and integrity of the process by which offers are obtained; and
- (d) whether there has been unfairness in the working out of the process.

*Royal Bank v. Soundair Corp.* 1991 CanLII 2727 (ONCA);

see also, e.g.:

*RBC Investor Services Trust v Asfars Holdings Ltd.*, 2024 BCSC 2142  
[**Asfars**] at para. 31;

*Farm Credit Canada v. Gidda*, 2015 BCSC 2188, at paras. 17-19.

27. Further, as a court-appointed officer, the business decisions of the Receiver are entitled to deference.

*Asfars*, at para. 32

28. Here, the Receiver conducted a commercially reasonable, efficacious, and fair marketing process of 1289 Nicola.

29. Specifically, and as described in further detail in the Receiver's First Report:

- (a) the Marketing Process undertaken by Colliers produced a fair, transparent, and reasonable sales process which sufficiently solicited parties interested in 1289 Nicola;
- (b) the Receiver made sufficient efforts to market 1289 over the months from January 2025 to present;
- (c) 1289 Nicola was widely exposed to the market generally, as well as potentially interested parties known to the Receiver, for a sufficient length of time; and
- (d) the Receiver received five offers, negotiated with the offerors, and ultimately decided that the Purchase Offer represented the best purchase price offered for the 1289 Nicola.

First Report at paras. 14-21

30. The Receiver is of the opinion that the Purchase Agreement is reasonable, in the best interests of the Debtor's creditors and ought to be approved.

First Report at para. 26(f)



31. The price to be paid for 1289 Nicola pursuant to the Purchase Agreement represents the highest and best price that can be obtained for 1289 Nicola in the circumstances—including the significant volatility recently experienced in the Vancouver real estate market. The Purchase Agreement, as proposed, is in the best interests of the Debtor's stakeholders, as no higher and better offer for 1289 Nicola was received in the period the property was listed. Moreover, the Purchase Agreement is commercially reasonable. The Receiver made sufficient efforts through the Marketing Process to obtain the best price for the Property.

First Report at para. 26

32. The Bank is owed the Indebtedness pursuant to various credit facilities. The Bank holds various registered and first ranking security over the Property, including a first-ranking collateral mortgage and assignment of rents on 1289 Nicola dated December 19, 2019, a general security agreement dated December 12, 2019, and corporate and personal guarantees from the Debtor's parent companies and their founder. The Bank is the fulcrum creditor and will suffer a material shortfall under the proposed sale. Nonetheless, the Bank believes this is the best offer and should be accepted. Accordingly, the support of the Bank should be a material consideration for the Court.

Welte Affidavit, at paras. 25-27

33. The Bank supports the Receiver's acceptance of the Purchase Agreement.

First Report at para. 26(d)

34. In light of the above-noted considerations, the Receiver submits that the Purchase Agreement should be approved.

#### **PART 4: MATERIAL TO BE RELIED ON**


1. Affidavit #1 of Jennifer Alambre, made August 26, 2024;
2. Affidavit #1 of Erin Welte, made August 27, 2024;
3. Order Made After Application (Receivership) pronounced October 3, 2024;
4. First Report of the Receiver, dated November 4, 2025; and

5. Such further and other materials as counsel may advise and this Honourable Court may permit.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following
  - (i) a copy of the filed application response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

DATE: November 10, 2025

  
\_\_\_\_\_  
Lawyer for FTI Consulting Canada Inc.  
McCarthy Tétrault LLP  
(Ashley Bowron and Nico Rullmann)

***To be completed by the court only:***

Order made

- ☐ in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this notice of application
- ☐ with the following variations and additional terms:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature of ☐ Judge  
☐ Associate Judge

## APPENDIX

### THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above

## SCHEDULE "A"

No. S-246124  
Vancouver Registry

### IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

NATIONAL BANK OF CANADA

PETITIONER

AND

BY THE BAY HOME DEVELOPMENT LTD.

RESPONDENT

### SERVICE LIST

(updated January 2, 2025)

<p><b>Blake, Cassels &amp; Graydon LLP</b> 1133 Melville Street Suite 3500, The Stack Vancouver, BC V6E 4E5</p> <p><b>Peter Rubin</b> email: <a href="mailto:peter.rubin@blakes.com">peter.rubin@blakes.com</a></p> <p><b>Claire Hildebrand</b> email: <a href="mailto:claire.hildebrand@blakes.com">claire.hildebrand@blakes.com</a></p> <p><i>Counsel for the Petitioner</i></p>	<p><b>By the Bay Home Development</b> 2388 – 4720 Kingsway Burnaby, BC V5H 4N2</p> <p><b>Sundhir (Sunny) Dhillon</b> email: <a href="mailto:sunny@dimexgroup.com">sunny@dimexgroup.com</a></p> <p><i>Respondent</i></p>
<p><b>FTI Consulting Canada Inc.</b> 701 West Georgia Street Vancouver, BC V7Y 1G5</p> <p><b>Tom Powell</b> email: <a href="mailto:tom.powell@fticonsulting.com">tom.powell@fticonsulting.com</a></p> <p><b>Hailey Liu</b> email: <a href="mailto:hailey.liu@fticonsulting.com">hailey.liu@fticonsulting.com</a></p> <p><i>Receiver</i></p>	<p><b>McCarthy Tétrault LLP</b> 745 Thurlow Street, Suite 2400 Vancouver, BC V6E 0C5</p> <p><b>H. Lance Williams</b> email: <a href="mailto:lwilliams@mccarthy.ca">lwilliams@mccarthy.ca</a></p> <p><b>Ashley Bowron</b> email: <a href="mailto:abowron@mccarthy.ca">abowron@mccarthy.ca</a></p> <p><i>Counsel for the Receiver</i></p>

<b>Owen Bird Law Corporation</b> P.O. Box 1 Vancouver Centre II 2900-733 Seymour Street Vancouver, BC V6B 0S6  <b>Alan A. Frydenlund, K.C.</b> email: <a href="mailto:afrudenlund@owenbird.com">afrudenlund@owenbird.com</a> <a href="mailto:aliquori@owenbird.com">aliquori@owenbird.com</a>  <i>Counsel for Genesis Mortgage Investment Corp.</i>	<b>City of Vancouver</b> 453 West 12 <sup>th</sup> Avenue Vancouver, BC V5Y 1V4  <b>Jeffrey Greenberg</b> email: <a href="mailto:law.bankruptcy@vancouver.ca">law.bankruptcy@vancouver.ca</a>     <i>City of Vancouver</i>
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**SCHEDULE "B"**

NO. S-246124  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

NATIONAL BANK OF CANADA

PETITIONER

AND:

BY THE BAY HOME DEVELOPMENT LTD.

RESPONDENT

**ORDER MADE AFTER APPLICATION  
(APPROVAL AND VESTING ORDER)**

BEFORE THE HONOURABLE

JUSTICE \_\_\_\_\_

)  
)  
)  
)

MONDAY, THE 24<sup>th</sup> DAY

OF NOVEMBER, 2025

ON THE APPLICATION of FTI Consulting Canada Inc., in its capacity as the court-appointed receiver (the "**Receiver**"), without security, of all of the assets, undertakings and property of By The Bay Home Development Ltd. (the "**Debtor**") including all proceeds, coming on for hearing at Vancouver, British Columbia, on the 24<sup>th</sup> day of November, 2025 AND ON HEARING Ashley Bowron and Nico Rullmann, counsel for the Receiver, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the First Receiver's Report, dated November 4, 2025 (the "**First Report**");

THIS COURT ORDERS AND DECLARES THAT:

1. The sale transaction (the "**Transaction**") (i) contemplated by the contract of purchase and sale dated October 15, 2025 (the "**Purchase Agreement**") between the Receiver and 1561466 B.C. Ltd. as permitted assignee of Epix Developments Ltd. (in such capacity, the "**Purchaser**"), a copy of which is attached to the First Report as Appendix

"A", is hereby approved, and the Purchase Agreement is commercially reasonable (including as assigned). The execution of the Purchase Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the assets described in the Purchase Agreement (the "**Purchased Assets**") to 1561472 B.C. Ltd. (the "**Nominee**") as directed by the Purchaser.

2. Upon delivery by the Receiver to the Purchaser of a certificate substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Purchase Agreement and listed on **Schedule "C"** hereto shall vest absolutely in the Nominee in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Court dated October 3, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims listed on **Schedule "D"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "E"** hereto), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.
3. Upon presentation for registration in the Land Title Office for the Land Title District of New Westminster of a certified copy of this Order, together with a letter from McCarthy Tétrault LLP, solicitors for the Receiver, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:
  - (a) enter the Nominee as the owner of the Lands identified in **Schedule "C"** hereto, together with all buildings and other structures, facilities and improvements



located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Lands, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Nominee in and to the Lands is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Nominee as aforesaid; and

- (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in **Schedule "E"**.
- 4. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.
- 5. The Receiver is to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof.
- 6. Subject to the terms of the Purchase Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Receiver to the Nominee at 12:00 noon on the Closing Date (as defined in the Purchase Agreement), subject to the permitted encumbrances as set out in the Purchase Agreement and listed on **Schedule "E"**.
- 7. The Receiver, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court.

8. The Receiver, with the consent of the Purchaser, shall be at liberty to make amendments or modifications to the Purchase Agreement that would not be materially prejudicial to the interest of the Debtor's stakeholders and to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court.

9. Notwithstanding:

(a) these proceedings;

(b) any applications for a bankruptcy order in respect of the Debtor now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made by or in respect of the Debtor,

the vesting of the Purchased Assets in the Nominee pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. The Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

11. Endorsement of this Order by counsel appearing on this application, other than counsel for the Receiver, is hereby dispensed with.

THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to

give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

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Lawyer for FTI Consulting Canada Inc.  
McCarthy Tétrault LLP  
(Ashley Bowron and Nico Rullmann)

BY THE COURT

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REGISTRAR

**SCHEDULE "A"**

**LIST OF COUNSEL**

<b>Name of Counsel</b>	<b>Party Represented</b>

**SCHEDULE "B"**

NO. S-246124  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

NATIONAL BANK OF CANADA

PETITIONER

AND:

BY THE BAY HOME DEVELOPMENT LTD.

RESPONDENT

**RECEIVER'S CERTIFICATE**

1. Pursuant to an Order of Honourable Justice Weatherill of the Supreme Court of British Columbia (the "**Court**") dated October 3, 2024, FTI Consulting Canada Inc. was appointed as the receiver (the "**Receiver**") of all of the property, undertakings and property of By the Bay Home Development Ltd., including all proceeds and the land legally described as PID: 008-620-741 District Lot 72, Alberni District, and buildings thereon (the "**Lands**").
2. Pursuant to the Approval and Vesting and Order of the Court dated November \_\_\_\_, 2025, the Court, among other things, approved the contract of purchase and sale dated October 15, 2025 (the "**Purchase Agreement**") between the Receiver, as vendor, and 1561466 B.C. Ltd. as permitted assignee of Epix Developments Ltd. (in such capacity, the "**Purchaser**") as purchaser, and the transactions contemplated thereby, and provided for the occurrence of certain events in the specified sequence upon delivery by the Receiver to the Purchaser of a certificate confirming (i) payment by the Purchaser of the Purchase Price; and (ii) the Transaction has been completed to the satisfaction of the Receiver.
3. Unless otherwise indicated herein, the capitalized terms have the meanings set out in the Purchase Agreement.

**THE RECEIVER HEREBY CONFIRMS AND CERTIFIES THE FOLLOWING:**

4. The Purchaser has paid and the Receiver has received the Purchase Price payable on the Completion Date pursuant to the Purchase Agreement; and
5. The Transaction has been completed, to the satisfaction of the Receiver.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.

**FTI Consulting Canada Inc.**, in its capacity as the court-appointed receiver of all of the assets, undertakings and properties of By The Bay Home Development Ltd., including all proceeds, and not in its personal capacity.

Per: \_\_\_\_\_

Name:

Title:

## **SCHEDULE "C"**

### **PURCHASED ASSETS**

1. Those lands in the Province of British Columbia legally described as:

Parcel Identifier 031-425-909

Lot 1, Block 51, District Lot 185, Group 1, New Westminster District Plan EPP109066

and all buildings, structures, and improvements thereon.

## **SCHEDULE "D"**

### **ENCUMBRANCES TO BE DISCHARGED AGAINST PURCHASED ASSETS**

#### **Charges, Liens and Interests**

MORTGAGE CA7942637

ASSIGNMENT OF RENTS CA7942638

PRIORITY AGREEMENT CA9394163

PRIORITY AGREEMENT CA9394166

PRIORITY AGREEMENT CA9833654

PRIORITY AGREEMENT CA9833657

PRIORITY AGREEMENT CA9833660

PRIORITY AGREEMENT CA9833663

PRIORITY AGREEMENT CA9833666

PRIORITY AGREEMENT CA9833669

PRIORITY AGREEMENT CA9833672

MODIFICATION CA9998974

MODIFICATION CA9998975

MORTGAGE CB4503

ASSIGNMENT OF RENTS CB4504

PRIORITY AGREEMENT CB5166

PRIORITY AGREEMENT CB5167

PRIORITY AGREEMENT CB79456

PRIORITY AGREEMENT CB79457

CLAIM OF BUILDERS LIEN CB695039

CERTIFICATE OF PENDING LITIGATION CB1027281

CLAIM OF BUILDERS LIEN BB1551980



## **SCHEDULE "E"**

### **PERMITTED ENCUMBRANCES, EASEMENTS AND RESTRICTIVE COVENANTS RELATED TO REAL PROPERTY**

#### **Legal Notations**

HOUSING AGREEMENT, VANCOUVER CHARTER, S. 565.2, SEE CA9833674

#### **Charges, Liens and Interests**

EASEMENT AND INDEMNITY AGREEMENT CA9394162

STATUTORY RIGHT OF WAY CA9394165

COVENANT CA9833653

COVENANT CA9833656

COVENANT CA9833659

STATUTORY RIGHT OF WAY CA9833662

COVENANT CA9833665

COVENANT CA9833668

COVENANT CA9833671

COVENANT CB79455