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Form 32 (Rule 8-1(4))

No. **H-100741**  
Nanaimo Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

PETITIONER

AND:

KENSINGTON UNION BAY PROPERTIES NOMINEE LTD.,  
KENSINGTON UNION BAY PROPERTIES LIMITED  
PARTNERSHIP, KENSINGTON UNION BAY PROPERTIES  
GP LTD., MO YEUNG CHING a.k.a. MICHAEL CHING, FOX  
ISLAND DEVELOPMENT LTD., ADVANCED VENTURE  
HOLDING CO., LTD., BEEM CREDIT UNION, AND FMD  
ENTERPRISES LTD.

RESPONDENTS

### NOTICE OF APPLICATION

**Name of Applicant:** the Petitioner, Cameron Stephens Mortgage Capital Ltd.

To: the Respondents

TAKE NOTICE that an application will be made by the Applicant to the presiding Judge at the Courthouse at 800 Smithe Street, Vancouver, BC on January 22, 2025 at 2:00 p.m. for the Order set out in Part 1 below.

The applicant estimates that the application will take 1.5 hours.

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

#### PART 1: ORDERS SOUGHT

1. An Order substantially in the form attached as **Schedule "A"** appointing MNP Ltd. (the "**Receiver**") as receiver and manager of the lands located at Lot 2 of 5737 Island Highway S, Union Bay, BC and legally described as PID: 028-731-565,

LOT 2 DISTRICT LOT 28 NELSON DISTRICT PLAN EPP15507 (the “**Lands**”) and all of the assets, undertakings and property of Kensington Union Bay Properties Nominee Ltd. (the “**Nominee**”) and Kensington Union Bay Properties Limited Partnership (the “**LP**”, and together with the Nominee, the “**Debtors**”) situate at, arising out of, used in connection with, or relating to the Lands, including all proceeds thereof (the “**Receivership Order**”);

2. In the alternative, Order Nisi with a one (1) day redemption period and an Order for immediate conduct of sale;
3. Judgment against the Debtors, Kensington Union Bay Properties GP Ltd. (the “**GP**”, and together with the Debtors, the “**Borrowers**”), and Mo Yeung Ching a.k.a. Michael Ching as guarantor (the “**Guarantor**”) under the Loan (as defined below); and
4. Such other relief as this Honourable Court may find appropriate in the circumstances.

## **PART 2: FACTUAL BASIS**

### **BACKGROUND**

1. The Petitioner provided the Borrowers with a \$13,500,000 mortgage loan (the “**Loan**”) subject to the terms of the commitment Letter between the Petitioner, as lender, the Borrowers, as borrowers, and the Guarantor, as guarantor, dated June 7, 2023 (the “**Commitment Letter**”).
2. Under the Commitment Letter, the following loan and security documents, among others, were executed in connection with the Loan:
  - (a) The mortgage granted by the Nominee in favour of the Petitioner over the Lands, registered in the Victoria Land Title Office (the “**LTO**”) as CB995129 (the “**Petitioner’s Mortgage**”);
  - (b) The assignment of rents granted by the Nominee in favour of the Petitioner over the Lands, registered in the LTO as CB995130;
  - (c) The project specific security agreement dated for reference September 1, 2023 granted by the Debtors in favour of the Petitioner;
  - (d) The beneficial mortgage and direction to charge dated for reference September 1, 2023 granted by the Debtors in favour of the Petitioner;
  - (e) The guarantee, indemnity and postponement of claims executed by the Guarantor in favour of the Petitioner dated for reference September 1, 2023;

- (f) The no interest letter dated October 23, 2023 executed by Fox Island Development Ltd. ("**Fox Island**") in favour of the Petitioner (the "**Fox Island No Interest Letter**"); and
- (g) The no interest letter dated October 24, 2023 executed by Advanced Venture Holding Co., Ltd. ("**Advanced**", and together with Fox Island, the "**Second Lenders**") in favour of the Petitioner (the "**Advanced No Interest Letter**" and together with the Fox Island No Interest Letter, the "**Second Lenders' No Interest Letters**")

(collectively, the "**Loan Documents**").

- 3. The Loan was provided in relation to a real estate development project on the Lands (the "**Lot 2 Project**").
  - 4. The Loan Documents other than the Commitment Letter were granted as first-ranking security for the Loan over the Lands and all of the assets, undertakings and property of the Debtors situate at, arising out of, used in connection with, or relating to the Lands.
  - 5. Adjacent to the Lands are certain other lands owned by the Nominee on which the Debtors have unrelated real estate development projects, as follows:
    - (a) PID: 028-731-492  
LOT 1 DISTRICT LOT 154 NANAIMO DISTRICT SECTIONS 31 AND 32  
TOWNSHIP 1 AND DISTRICT LOT 28 NELSON DISTRICT PLAN  
EPP15507 EXCEPT PLANS EPP56910, EPP95931 AND EPP103248  
("**Lot 1**")
    - (b) PID: 028-731-531  
LOT 3 DISTRICT LOT 154 NANAIMO DISTRICT, SECTION 32  
TOWNSHIP 1 AND DISTRICT LOT 28 NELSON DISTRICT PLAN  
EPP15507  
("**Lot 3**")
    - (c) PID: 028-731-549  
LOT 4 SECTIONS 31 AND 32 TOWNSHIP 1 AND DISTRICT LOT 28  
NELSON DISTRICT PLAN EPP15507 EXCEPT PLANS EPP78068 AND  
EPP103248  
("**Lot 4**")
- (collectively, the "**Adjacent Lots**")
- 6. The Second Lenders have mortgages and assignments of rents on Lot 1, the Lands, Lot 3 and Lot 4.
  - 7. Beem Credit Union (then referred to as Gulf and Fraser Fishermen's Credit Union) ("**Beem**") has a mortgage and assignment of rents on Lot 1 and Lot 3.

8. The Second Lenders and Beem have existing security interests registered against the Borrowers.
9. Accordingly, the Petitioner required the following as conditions to issuing the Loan:
  - (a) discharge of the Second Lenders' mortgages and assignments of rents on the Lands and PPR registrations in respect of the Lands, or otherwise satisfactory undertakings to discharge following issuance of the Loan;
  - (b) the Second Lenders' No Interest Letters and a no interest letter from Beem (the "**Beem No Interest Letter**"), providing that the Second Lenders and Beem's existing security did not extend to the collateral secured in favour of the Petitioner under the Loan Documents, that they would not claim a security interest in such collateral as against the Petitioner, and irrevocably waive and release any and all claim or right to and security interest in or to such collateral.
10. The Second Lenders initially requested that they be permitted to retain a second mortgage and assignment of rents on the Lands, however, the Petitioner would not agree to this.
11. The Petitioner obtained a letter of undertakings dated October 25, 2023 from counsel to the Second Lenders whereby counsel held executed copies of the Second Lenders' No Interest Letters and registrable partial discharges of its mortgages and assignment of rents over the Lands, and would attend to discharge of its mortgages, assignments of rents, and PPR registrations with respect to the Lands and provide the Second Lenders No Interest Letters promptly upon receiving net proceeds of the Loan of \$11,659,804.33 from the Petitioner's solicitors (the "**Second Lenders' Undertaking Letter**").
12. The Borrowers were unable to obtain the Beem No Interest Letter, however, the Borrowers still requested funding on October 31, 2023 in order to not delay funding any further.
13. The Petitioner agreed to advance the Loan on the basis that the Debtors undertake to obtain the Beem No Interest Letter within 30 days from funding the Loan.
14. Accordingly, the Debtors provided the Petitioner with a signed undertaking letter dated September 1, 2023 from the Debtors and the Guarantor to obtain an executed copy of the Beem No Interest Letter within 30 days of funding of the Loan (the "**Beem Undertaking Letter**").
15. Although the Beem Undertaking Letter was dated September 1, 2023, the Debtors delivered it to the Petitioner October 31, 2023.
16. Accordingly, the Petitioner advanced the Loan on November 1, 2023.

17. Further to the Second Lenders' Undertaking Letter, the Borrowers directed the net proceeds of the Loan from the Petitioner to the Second Lenders, and the Second Lenders discharged their security with respect to the Lands and delivered the Second Lenders' No Interest Letters.

### **The First Default – Registration of the Second Lenders' Mortgage**

18. On November 14, 2023, despite having been paid out the amount required for a partial discharge of its security over the Lands and despite the provisions of the Second Lenders' No Interest Letters, the Second Lenders registered a new \$12,000,000 mortgage and assignment of rents over the Lands under CB1021130 and CB1021131 (collectively, the "**Second Lenders' Mortgage**").
19. The Second Lenders' Mortgage indicates that the Nominee executed the Second Lenders' Mortgage on October 19, 2023, which was within one week before the Second Lenders' execution and delivery of the Second Lenders' No Interest Letters and the Second Lenders' counsel's execution and delivery of the Second Lenders' Undertakings Letter.
20. This implies that despite the Second Lenders and the Debtors representing to the Petitioner that the Second Lenders' security would be discharged over the Lands and that the Second Lenders would have no interest in or claim on the Lands or other property secured by the Loan Documents, the Second Lenders and the Debtors had planned on discharging the Second Lenders' security only temporarily to induce the Petitioner in to registering the Petitioner's Mortgage and related security and advance the Loan, for the Second Lenders' benefit, only for the Second Lenders to register the Second Lenders' Mortgage immediately thereafter.
21. The execution and registration of the Second Lenders' Mortgage was a default under the Loan Documents.

### **The First Forbearance Offer**

22. At the time of this default, the Debtors represented to the Petitioner that the status of the Lot 2 Project was awaiting approval of a waste treatment permit, which was a condition to obtain the necessary subdivision approval for the Lot 2 Project (the "**Lot 2 Project Approvals**"), and that the Lot 2 Project Approvals were further conditions for the closing of existing presales on the Lot 2 Project (the "**Presales**").
23. At all material times following this default, the Debtors represented to the Petitioner that the Lot 2 Project Approvals were likely to occur over the next few months and that the Presales were the best way to ensure the Petitioner would be repaid in full.
24. Despite the Debtors' default, and based on the Debtors' representations, the Petitioner offered to forbear from enforcement against the Debtors on the terms of a forbearance letter agreement dated December 7, 2023 (the "**December 7, 2023 Forbearance**").

25. The Debtors never executed and delivered a copy of the December 7, 2023 Forbearance.
26. On January 9, 2024, the Debtors indicated that Beem would not be delivering a copy of the Beem No Interest Letter, and instead Beem would only consider executing a priority agreement. Accordingly, the Debtors were not able to deliver the Beem No Interest Letter, in default of the Beem Undertaking Letter.
27. Despite the further default of the Debtors, on January 11, 2024 the Petitioner provided the Debtors with a copy of a priority agreement for execution by Beem and, in lieu of an immediate discharge by the Second Lenders of the Second Lenders' Mortgage, the Petitioner requested if the Debtors could obtain a priority agreement from the Second Lender in favour of the Petitioner (collectively, the "**Priority Agreements**").

### **The First Demand**

28. As a result of the Debtors' defaults and inability to cooperate with the Petitioner to remedy the defaults, the Petitioner served demand for repayment of all indebtedness under the Loan and a notice of intention to enforce security on the Borrowers and the Guarantor on January 25, 2024 (the "**January 25, 2024 Demand Letters**").

### **The Second Forbearance Offer**

29. Following the January 25, 2024 Demand Letters, the Debtors again requested a forbearance.
30. Accordingly, the Petitioner offered to forbear on the terms of a forbearance letter agreement dated February 8, 2024 (the "**February 8, 2024 Forbearance**"), which included requirements to have the Priority Agreements executed and delivered to the Petitioner by February 29, 2024.
31. On February 15, 2024, the Petitioner's counsel followed up with the Debtors' counsel on execution of the February 8, 2024 Forbearance and provided the Debtors with a copy of the Second Lenders Priority Agreement for execution.
32. The Debtors never executed and delivered the February 8, 2024 Forbearance to the Petitioner nor did they have the Priority Agreements executed and delivered to the Petitioner.
33. Throughout this time, the Petitioner corresponded with the Debtors to seek fulsome updates as to the timing of the Lot 2 Project Approvals and closing of the Presales. While the Debtors provided piecemeal updates as to district meetings, extensions of the Presales, and correspondence with the Cowichan Valley Regional District and Presale purchasers, the Debtors did not provide fulsome responses to the Petitioner's request for the overall status of the Lot 2 Project and timing to completion of the Presales and repayment of the Loan.

34. The last substantive response to the Petitioner's information requests came on July 5, 2024 when, after the Petitioner followed up, the Debtors provided current amendments to the Presales and a summary of their corresponding sales prices and outside closing dates (the "**Presales Summary**").
35. The amendments to the Presales as reflected in the Presales Summary indicates outside closing dates for the Presales as of December 31, 2024.
36. The Petitioner has received no further update on the status of the Presales, and is not aware if any of them are still effective following expiry of the December 31, 2024 outside closing dates.

### **Further Defaults – Registration of Beem Judgment, Second Lenders' Foreclosure and FMD Mortgage**

37. On August 6, 2024, Beem registered a judgment on title to the Lands under CB1490658 (the "**Beem Judgment**") obtained in foreclosure proceedings in respect of its security over the Debtors on the Adjacent Lots in the Supreme Court of British Columbia, Vancouver Registry under action no. H-240208.
38. The registration of the Beem Judgment constituted a further default of the Borrowers under the Loan Documents.
39. On August 9, 2024, the Second Lenders commenced foreclosure proceedings over the Lands, among other things, in respect of the Second Lender's Mortgage in the Supreme Court of British Columbia, Vancouver Registry under action no. H-240731 (the "**Second Lenders' Foreclosure**").
40. The Second Lenders' Foreclosure constituted a further default of the Borrowers under the Loan Documents.
41. On August 15, 2024, FMD Enterprises Ltd. registered a mortgage on title to the Lands under CB1515864 (the "**FMD Mortgage**").
42. At all times up to this point, the Debtors were represented in this matter by Fasken Martineau Dumoulin LLP ("**Fasken**").
43. FMD Enterprises Ltd. is the holding company for Fasken.
44. The FMD Mortgage indicates that the Nominee executed the FMD Mortgage in favour of FMD Enterprises Ltd. on March 27, 2024.
45. The execution of the FMD Mortgage was a further default under the Loan Documents by the Borrowers, and was done so while the Petitioner was expecting execution and delivery of the February 8, 2024 Forbearance and the Priority Agreements.

### **The Second Demand**

46. Due to the defaults of the Debtors, including the further defaults of failing to deliver the February 8, 2024 Forbearance and the Priority Agreements, allowing registration of the Beem Judgment and the FMD Mortgage on title to the Lands, and the commencement of the Second Lenders' Foreclosure, the Petitioner served a fresh demand for repayment of all indebtedness under the Loan on the Borrowers and the Guarantor on August 16, 2024 (the "**August 16, 2024 Demand Letter**").
47. The Petitioner received no response to the August 16, 2024 Demand Letter and no repayment of the Loan was made.
48. On September 6, 2024, the Petitioner commenced this proceeding.
49. At an in-person meeting on November 29, 2024, the Petitioner reiterated its requests for information regarding the Lot 2 Project, including the status of the Presales, as-is versus as-if appraisal value, the Debtors' financials, overall timelines and further funds required to obtain the Lot 2 Project Approvals, close the Presales, and pay out the Petitioner, and the current positions of other creditors.
50. The Petitioner further detailed its information requests by way of email to the Debtors on December 3, 2024.
51. To date, the Petitioner has not received a substantive response to its requests.

### **Request for Further Funds**

52. On January 7, 2025, my colleague, Jerry Marriot, a consultant with the Petitioner's special loans department, attended a conference call with, among others, the Guarantor as principal for the Borrowers.
53. Mr. Marriot informs me and I verily believe that on the conference call, the Borrowers advised they were out of funds and required a further \$1,800,000 to complete their projects, including the Lot 2 Project, and requested that either or both of the Petitioner and the Second Lenders provide the \$1,800,000 in further funding.
54. It is not clear to the Petitioner how the further funding would be used in relation to the Lot 2 Project and facilitate completion, and the Petitioner is concerned that any further funding in the hands of the Borrowers would be depleted without any material progress of the Lot 2 Project.

### **Appointment of Receiver and Manager**

55. The Petitioner has completely lost confidence in the Debtors' ability to manage and complete the Lot 2 Project and otherwise repay the Loan.

56. The Debtors' conduct throughout this matter has been to intentionally mislead the Petitioner to induce advancement of the Loan or delay enforcement and fail to provide reasonable information requests from the Petitioner.
57. The Debtors have showed no material progress on the Lot 2 Project since the Loan was advanced.
58. The current assessment value of the Lands is \$2,207,000.
59. The Petitioner understands that a reliable as-is appraisal of the Lands cannot be obtained due to a lack of recent comparable sales in the area around the Lands and, considering the development status of the lands, appraisers have only indicated a willingness to produce as-if appraisals based on an estimate of the sales value of the Lands if the Lot 2 Project were complete or appraisals with qualifications and assumptions that contemplate completion of the Lot 2 Project. Accordingly, the Petitioner understands that the assessment value of the Lands is closer to the current value of the Lands than what could be determined on an appraisal.
60. The Petitioner is highly concerned that given the lack of progress and funding, there will not be sufficient value in the Lot 2 Project to enable repayment of the Loan, let alone other creditors, and believes immediate steps need to be taken to remove control of the Lot 2 Project from the Debtors.
61. The current indebtedness as at January 13, 2025 under the Loan is \$13,908,030.45 and interest continues to accrue thereon.
62. Accordingly, the Petitioner is seeking the appointment of the Receiver in order to take control of the Lot 2 Project and assess the best outcomes for recovery.

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

#### **JURISDICTION**

63. The jurisdiction of this Court to grant the Receivership Order is found in subsection 39(1) of the *Law and Equity Act*, R.S.B.C. 1996, c. 253 and section 243 of the BIA.

#### **APPOINTMENT OF RECEIVER**

64. Subsection 39(1) of the *Law and Equity Act* allows for the appointment of a receiver where it is "just or convenient" to do so. Section 243 of the BIA provides that this Court may appoint a receiver to do any or all of the following if it considers it to be "just or convenient" to do so:
  - (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;

- (b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or
  - (c) take any other action that the court considers advisable.
65. This Honourable Court has previously held that there are a number of factors that figure into the determination of whether it is appropriate to appoint a receiver including:
- (a) the fact that the creditor has the right to appoint a receiver under the documentation providing for the loan;
  - (b) the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties more efficiently;
  - (c) the conduct of the parties; and
  - (d) the goal of facilitating the duties of the receiver

*Maple Trade Financing Inc. v. CY Oriental Holdings Ltd.*, 2009 B.C.S.C. 1527  
 (“**Maple Trade**”).

*Textron Financial Canada Limited v. Chetwynd Motels Ltd.*, 2010 B.C.S.C. 477

66. In applying these factors, the Court has held that the right of a secured creditor to apply for a receiver under a security agreement holds considerable weight and is a “strong factor” in support of a petition. Further, the appointment of a receiver is not an extraordinary remedy where there has been a default under a mortgage.

*Maple Trade* at para. 26;

*BCIMC Construction Fund Corporation et al. v. The Clover on Yonge Inc.*  
 (“**Clover**”), 2020 ONSC 1953 at paras 43-44

*Romspen Investment Corporation v. 6711162 Canada Inc.*, 2014 ONSC 2781 at  
 para 63.

67. *Clover* has also set out the following considerations when considering appointment of a receiver in the real estate context:

- (a) Although receivership is generally considered to be an extraordinary remedy, there is ample authority for the proposition that its extraordinary nature is significantly reduced when dealing with a secured creditor who has the right to a receivership under its security arrangements;
- (b) The relief becomes even less extraordinary when dealing with a default under a mortgage;
- (c) In *Confederation Life Insurance Co. v. Double Y Holdings Inc.*, 1991 CarswellOnt 1511 (Ont. S.C.J.(Commercial List) (“**Confederation Life**”), at paras. 19-24 Farley J. set out four additional factors the court may

consider in determining whether it is just and convenient to appoint a receiver:

- (i) The lenders' security is at risk of deteriorating;
- (ii) There is a need to stabilize and preserve the debtors' business;
- (iii) Loss of confidence in the debtors' management; and
- (iv) Positions and interests of other creditors.

*Clover* at paras 42-45.

68. The considerations from *Clover* were also recently cited with approval by endorsement in *AFC Mortgage Administrative Inc. v. Sunrise Acquisitions (Stayner) Inc. et al* (February 29, 2024) CV-23-00710361-00C (ONSCJ (CL)); *AFC Mortgage Administrative Inc. v. Sunrise Acquisitions (Elmvale) Inc. et al* (February 29, 2024) CV-24-00713287-00CL (ONSCJ (CL)); and *In The Matter Of A Plan Of Compromise Or Arrangement Of Sunrise Acquisitions (Stayner) Inc., 2846862 Ontario Inc. and Sunrise Acquisitions (Elmvale) Inc.* (February 29, 2024) CV-24-00715345-00CL (ONSCJ (CL)) at para 7.
69. In the present case, it is just and convenient to appoint a receiver and manager over all the assets, undertakings, and property of the Borrowers as it relates to the Lands and the proceeds thereof.
70. The Borrowers are in default of the Loan Documents.
71. The considerations from *Clover* and *Confederation Life* support the appointment of a receiver, as follows:
- (a) The Petitioner is a secured creditor with the contractual right to a receivership under its security arrangements, as provided by the Loan Documents, including the Petitioner's Mortgage. Accordingly, the extraordinary nature of the receivership remedy is significantly reduced.
  - (b) The Petitioner's security is at risk of deteriorating. The closest approximation of the current value of the Lands is much less than the indebtedness under the Loan. While the value of the Lands may increase with completion of the Lot 2 Project, the Petitioner is highly concerned about the Borrowers' ability to complete the Lot 2 Project and realize this value.
  - (c) The Petitioner have completely lost confidence in the management of the Borrowers. The Borrowers misled the Petitioner into believing that the Second Lenders' security would be finally discharged from Lot 2 on advancement of the Loan, but surreptitiously executed the Second Lenders' Mortgage during negotiations of the Loan and allowed for its

registration on the Lands immediately after advance of the Loan. The Borrowers have delayed enforcement and providing material information to the Petitioner through repeated requests of forbearances and priority agreements on the premise that completion of the Lot 2 Project was the best way to pay out the Loan – and even though the Petitioner was willing to accommodate these requests, the Borrowers never executed the December 7, 2023 Forbearance or the February 8, 2024 Forbearance, nor did they arrange for execution of the Beem No Interest Letter and the Priority Agreements. The last update on the status of the Presales in July 2024 seems to indicate that the Presales have lapsed absent further amendment and update, and the Borrowers have failed to provide a timeline to completion of the Lot 2 Project and closing of the Presales since the Petitioner's request for a fulsome status update in April 2024. No material progress has been made on the Lot 2 Project since the Loan was advanced on November 1, 2023, over a year ago. In that time, the Borrowers also executed the FMD Mortgage and allowed its registration on the Lands, and allowed registration of the Beem Judgment and commencement of the Second Lenders' Foreclosure. Finally, the Borrowers have indicated to the Petitioner that they are out of funds to complete the Lot 2 Project and require a further \$1,800,000 in financing to complete the Lot 2 Project and requested the Petitioner and/or the Second Lenders provide this funding. The Petitioner is concerned any such funding in the hands of the Borrowers would be depleted without any material progress on the Lot 2 Project.

- (d) The Petitioner is the first ranking mortgagee on the Lands and only proposes the receivership over the Lands and related personal property. The receivership appointment is intended to maximize recovery for creditors.
72. There are no compelling commercial or other reason why the Receivership Order ought not to be made. The appointment of a receiver and manager will protect the interests of the stakeholders. The balance of convenience favours the appointment of a receiver and manager in these circumstances.
73. For the foregoing reasons, the Lender submits that it is just and convenient that this Court appoint MNP Ltd. as receiver and manager over all the assets, undertakings, and property of the Borrowers as it relates to the Lands on the terms set out in the proposed Receivership Order.
74. The Lender further relies on Rules 10-2 (Receivers) and 13-5 (Sales by Court) of the *Supreme Court Civil Rules*, BC Reg 16812009.

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

1. Affidavit #1 of Brad Wise, filed September 6, 2024.

2. Affidavit #1 of Jasmine Wu, filed September 6, 2024.
3. Affidavit #2 of Brad Wise, made January 13, 2025.
4. Such other materials as this Honourable Court may allow.

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 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: January 13, 2025

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Signature of Lawyer for Applicant  
Lawyer: Nick Carlson

This NOTICE OF APPLICATION is prepared by Nick Carlson of the firm of **Clark Wilson LLP** whose place of business is 900 – 885 West Georgia Street, Vancouver, British Columbia, V6C 3H1 (Direct #: 604.891.7797, Email: ncarlson@cwilson.com) (File #: 52304.0024).

**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:

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Date: \_\_\_\_\_

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

## APPENDIX

*[The following information is provided for data collection purposes only and is of no legal effect.]*

### **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 matters 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. **H-100741**  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

PETITIONER

AND:

KENSINGTON UNION BAY PROPERTIES NOMINEE LTD.,  
KENSINGTON UNION BAY PROPERTIES LIMITED  
PARTNERSHIP, KENSINGTON UNION BAY PROPERTIES  
GP LTD., MO YEUNG CHING a.k.a. MICHAEL CHING, FOX  
ISLAND DEVELOPMENT LTD., ADVANCED VENTURE  
HOLDING CO., LTD., BEEM CREDIT UNION, AND FMD  
ENTERPRISES LTD.

RESPONDENTS

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE RECEIVERSHIP OF  
KENSINGTON UNION BAY PROPERTIES NOMINEE LTD. and KENSINGTON UNION  
BAY PROPERTIES LIMITED PARTNERSHIP

**ORDER MADE AFTER APPLICATION**

BEFORE THE HONOURABLE

)

)

22/JAN/2025

JUSTICE COVAL

)

ON THE APPLICATION of the Petitioner, Cameron Stephens Mortgage Capital Ltd., for an Order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the “**LEA**”) appointing MNP Ltd. as Receiver and Manager (in such capacity, the “**Receiver**”) without security, of the lands located at Lot 2 of 5737 Island Highway S, Union Bay, BC and legally described as PID: 028-731-565, LOT 2 DISTRICT LOT 28 NELSON DISTRICT PLAN EPP15507 (the “**Lands**”) and all of the assets, undertakings and property of Kensington Union Bay Properties Nominee Ltd. (the “**Nominee**”) and Kensington Union Bay Properties Limited Partnership (the “**LP**”, and together with the Nominee, the “**Debtors**”) situate at, arising out of, used in connection with, or relating to the Lands, including all proceeds thereof, coming on for hearing this day at the Courthouse, 800 Smithe Street, Vancouver, BC.

AND ON READING the Affidavit #2 of Brad Wise sworn January 13, 2025 and the consent of MNP Ltd. to act as the Receiver; AND ON HEARING Nick Carlson, Counsel for the Petitioner and other counsel as listed on Schedule “A” hereto, and no one else appearing, although duly served.

THIS COURT ORDERS AND DECLARES that:

#### **APPOINTMENT**

1. Pursuant to Section 243(1) of the BIA and Section 39 of the LEA, MNP Ltd. is appointed Receiver, without security, of the lands located at Lot 2 of 5737 Island Highway S, Union Bay, BC and legally described as PID: 028-731-565, LOT 2 DISTRICT LOT 28 NELSON DISTRICT PLAN EPP15507 (the “**Lands**”) and all of the assets, undertakings and property of the Debtors situate at, arising out of, used in connection with, or relating to the Lands, including all proceeds thereof (the “**Property**”).

#### **RECEIVER’S POWERS**

2. The Receiver is empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all receipts and disbursements arising out of or from the Property;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, changing locks and security codes, relocation of Property, engaging independent security personnel, taking physical inventories and placing insurance coverage;
  - (c) to manage, operate and carry on the business of the Debtors as it relates to the Property, including the powers to enter into any agreements, incur

any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof as such business relates to the Property;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors as such amounts relate to the Debtors, and to exercise all remedies of the Debtors in collecting these amounts, including, without limitation, enforcement of any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors as such indebtedness relates to the Property;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors as such operations relate to the Property;
- (j) to initiate, manage and direct all legal proceedings now pending or hereafter pending (including appeals or applications for judicial review) in respect of the Property, the Receiver or the Debtors as such proceedings relate to the Property, including initiating, prosecuting, continuing, defending, settling or compromising the proceedings;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
  - (i) without the approval of this Court in respect of a single transaction for consideration up to \$100,000, provided that the aggregate

consideration for all such transactions does not exceed \$500,000;  
and

- (ii) with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out in subparagraph (i) above,

and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;

- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to confidentiality terms as the Receiver considers appropriate;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if considered necessary or appropriate by the Receiver, in the name of the Debtors as such permits, licences, approvals, permissions or renewals relate to the Property;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limitation, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

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

### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

3. Each of (i) the Debtors; (ii) all of the Debtors' current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; and (iii) all other individuals,

firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, "**Persons**" and each a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.

4. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (collectively, the "**Records**") in that Person's possession or control. Upon request, governmental authorities shall advise the Receiver of the existence of any Records in that Person's possession or control.
5. Upon request, all Persons shall provide to the Receiver or permit the Receiver to make, retain and take away copies of the Records and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities, provided however that nothing in paragraphs 4, 5 or 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to solicitor client privilege or statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

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

## **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

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

## **NO EXERCISE OF RIGHTS OR REMEDIES**

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

## **NO INTERFERENCE WITH THE RECEIVER**

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

## **CONTINUATION OF SERVICES**

11. All Persons having oral or written agreements with the Debtors in relation to the Property or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors in relation to the Property are restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers,

internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

## RECEIVER TO HOLD FUNDS

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

## EMPLOYEES

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

## PERSONAL INFORMATION

14. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does

not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

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

## **LIMITATION ON THE RECEIVER'S LIABILITY**

19. The Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except:

- (a) any gross negligence or wilful misconduct on its part; or
- (b) amounts in respect of obligations imposed specifically on receivers by applicable legislation.

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

## RECEIVER'S ACCOUNTS

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

## FUNDING OF THE RECEIVERSHIP

- 23. The Receiver is authorized and empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as the Receiver deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

### **ALLOCATION**

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

### **SERVICE AND NOTICE OF MATERIALS**

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

Receiver shall post and maintain an up-to-date form of the Service List on the Website.

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

## **GENERAL**

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

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

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

APPROVED BY:

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Signature of Lawyer for the Petitioner  
Lawyer: Nick Carlson

BY THE COURT

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DISTRICT REGISTRAR

**SCHEDULE "A"**

**LIST OF COUNSEL**


**SCHEDULE "B"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that MNP Ltd., the Receiver and Manager (the "**Receiver**") of the lands located at Lot 2 of 5737 Island Highway S, Union Bay, BC and legally described as PID: 028-731-565, LOT 2 DISTRICT LOT 28 NELSON DISTRICT PLAN EPP15507 (the "**Lands**") and all of the assets, undertakings and property of Kensington Union Bay Properties Nominee Ltd. and Kensington Union Bay Properties Limited Partnership situate at, arising out of, used in connection with, or relating to the Lands, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Supreme Court of British Columbia and/or the Supreme Court of British Columbia (In Bankruptcy and Insolvency) (the "**Court**") dated the 22nd day of January, 2025 (the "**Order**") made in SCBC Action No. H-100741 has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
  
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily / monthly] not in advance on the \_\_\_\_\_ day of each month after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of \_\_\_\_\_ from time to time.
  
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.
  
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at \_\_\_\_\_, British Columbia.
  
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum under this Certificate in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**MNP Ltd.**, solely in its capacity as  
Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE "C"**  
**DEMAND FOR NOTICE**

TO: Cameron Stephens Mortgage Capital Ltd.  
c/o Clark Wilson LLP  
Attention: Nick Carlson  
Email: ncarlson@cwilson.com

AND TO: MNP Ltd.  
c/o [Name of Counsel to the Receiver]  
Attention: ♦  
Email: ♦

**Re: In the matter of the Receivership of Kensington Union Bay Properties  
Nominee Ltd. And Kensington Union Bay Properties Limited Partnership**

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

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

\_\_\_\_\_

OR

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

\_\_\_\_\_

OR

3. By mail, at the following address:

\_\_\_\_\_

Name of Creditor: \_\_\_\_\_

Name of Counsel (if any): \_\_\_\_\_

Creditor's Contact Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Creditor's Contact Phone  
Number: \_\_\_\_\_