

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF ONE BLOOR WEST TORONTO
GROUP (THE ONE) INC. AND ONE BLOOR WEST
TORONTO COMMERCIAL (THE ONE) GP INC.

FACTUM OF THE MONITOR

**Stay Extension, Fee Approval, Settlement Approval and SKYGRiD Holdback Release
(Returnable February 3, 2026)**

January 29, 2026

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PART I. INTRODUCTION

1. This factum is filed by Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as Court-appointed monitor (in such capacity, the “**Monitor**”) of One Bloor West Toronto Group (The One) Inc., One Bloor West Toronto Commercial (The One) GP Inc. and One Bloor West Toronto Commercial (The One) LP (collectively, the “**Companies**”), in support of a motion by the Companies for:

- (a) an Order (the “**Stay Extension Order**”), among other things, (i) extending the Stay Period (as defined below) to and including September 25, 2026, (ii) approving the Third Report of the Monitor dated January 23, 2026 (the “**Third Report**”) and the activities of the Monitor described therein, (iii) approving the fees of the Monitor and its counsel, and (iv) approving the Gamma Settlement (as defined below); and
- (b) an Order (the “**SKYGRiD Holdback Release Order**”), among other things, authorizing the Companies to pay the SKYGRiD Holdback Amount (as defined below) to SKYGRiD Construction Inc. (“**SKYGRiD**”), the former interim construction manager for the Project (as defined below).¹

2. A&M was appointed as Receiver by Order dated October 18, 2023. The Receiver’s core mandate (which has continued since A&M’s transition to Monitor) was to facilitate construction of the Project in order to maximize stakeholder recoveries. A key part of this mandate was the Receiver’s engagement of SKYGRiD as interim construction manager in March 2024, which allowed the Receiver to replace Mizrahi Inc. (“**MI**”) (the Project’s developer and general

¹ All capitalized terms used herein and not otherwise defined have the meanings given to them in the Initial Order of this Court dated April 22, 2025 (the “**Initial Order**”), or the Third Report.

contractor at the time and related party to one of the Project's two equity owners), improve a number of construction management processes on the Project, and conduct a successful sale and investment solicitation process in respect of the Project (the "**SISP**").

3. The SISP culminated in a transaction with Tridel Builders Inc. and certain of its affiliates (collectively, "**Tridel**"). To implement this transaction, in April 2025, among other things, the Receivership Proceedings were transitioned to CCAA Proceedings, the Receiver was discharged (except for the performance of certain Receiver Incidental Matters), A&M was appointed as Monitor, FAAN Advisors Group Inc. ("**FAAN**") was appointed as CRO, and the SKYGRiD CMA (as defined below) was terminated. Tridel took over as project manager, construction manager and sales manager effective May 1, 2025 (the "**Effective Date**"), and construction has continued uninterrupted during the CCAA Proceedings.

4. The Monitor, on behalf of the Companies, now brings this motion seeking approval of the proposed Stay Extension Order and the proposed SKYGRiD Holdback Release Order.

5. The proposed Stay Extension Order will extend the Stay Period to provide the Companies with the stability necessary to facilitate ongoing construction, with the assistance of Tridel as construction manager. It will also approve the settlement of a long-standing dispute with a former subcontractor of the Project, Gamma Windows and Walls International Inc. ("**Gamma**"), and generally assist in moving the CCAA Proceedings towards their next phase, which is expected to involve the completion of the ongoing hotel operator selection process (the "**Hotel Process**") and, ultimately, the re-launch of sales of condominium units in the Project.

6. The proposed SKYGRiD Holdback Release Order will authorize the Companies to release the SKYGRiD Holdback Amount. SKYGRiD's work on the Project ended on the Effective Date, but the lien legislation in force when the Project began (i.e., the *Construction Act* (Ontario) as it

existed immediately prior to July 1, 2018 (the “**Provincial Lien Legislation**”)) does not allow the Companies to release the SKYGRiD Holdback Amount until substantial performance (within the meaning of the Provincial Lien Legislation) related to the SKYGRiD CMA occurs, which is not expected to be until early 2028. As a result, absent the relief sought pursuant to the proposed SKYGRiD Holdback Release Order, SKYGRiD must wait at least several years following the completion of its work on the Project to receive full payment for that work.

7. The SKYGRiD Holdback Release Order is substantially similar to the Holdback Release Order granted by the Court in the Receivership Proceedings to facilitate the release of holdback to subcontractors. SKYGRiD played an important role in the Receivership Proceedings by accepting a mandate on an interim basis and moving the Project forward. Permitting the release of the SKYGRiD Holdback Amount will recognize this contribution, and encourage other contractors to accept similar mandates. The Monitor is not aware of any claims or potential claims against the SKYGRiD Holdback Amount. All of SKYGRiD’s subcontractors have been provided notice of this motion, and the Monitor is not aware of any opposition. The Monitor also notes that the Legislature has amended the *Construction Act* (Ontario) to address the very issues that SKYGRiD faces in this case by permitting the release of holdback on an annual or phased basis.

8. For the reasons set out herein and in the Third Report, the Monitor respectfully requests that the Court grant the relief sought pursuant to the proposed Stay Extension Order and the proposed SKYGRiD Holdback Release Order.

PART II. FACTS

A. Background

9. The Companies are entities established for the purpose of developing an 85-storey condominium, hotel and retail tower at 1 Bloor Street West in Toronto, Ontario (the “**Project**”).

10. On October 18, 2023, A&M was appointed by the Court as Receiver of all of the assets, undertakings and properties of the Companies, including the Project. The principal purpose of the Receivership Proceedings was to bring stability and appropriate oversight to the Project, while preserving and protecting it to maximize recoveries for the benefit of stakeholders, including by ensuring the ongoing construction of the Project.²

11. When the Receiver was appointed, MI was the developer and general contractor for the Project. MI continued to act as developer and general contractor following the Receiver's appointment, but the Receiver ultimately determined that it was necessary and appropriate to disclaim the agreements underlying MI's role on the Project and to engage SKYGRiD as construction manager of the Project pursuant to the SKYGRiD CMA.³ SKYGRiD agreed to provide services on an interim basis pending the outcome of the SISP which, among other things, was designed to search for a new developer of the Project in the event that no acceptable acquisition offers were identified in accordance with the SISP.⁴

12. Shortly after the agreements underlying MI's mandate on the Project were disclaimed by the Receiver, the Receiver and MI brought claims against one another. MI claimed it was owed approximately \$7 million for its work on the Project during the Receivership Proceedings. The Receiver sought to recover more than \$60 million that it claimed MI owed to the Project. These disputes culminated in a three-day hearing in June 2025, and the decision from that hearing is currently under reserve.

13. In June 2024, the Court in the Receivership Proceedings approved the SISP in respect of the Project, which resulted in Tridel being engaged to complete the construction, development and

² Third Report at para 1.2 [[E1148](#)].

³ Third Report at paras 5.1–5.2 [[E1164](#)–[E1165](#)].

⁴ Third Report at para 5.2 [[E1165](#)].

realization of value from the Project, subject to Court approval of the underlying transaction and the transition of the Receivership Proceedings to the CCAA Proceedings.⁵

14. On April 22, 2025, at the joint hearing of an application brought by the Receiver on behalf of the Companies under the CCAA and a motion brought by the Receiver in the Receivership Proceedings (the “**Joint Hearing**”), the Court granted three orders:

- (a) the Initial Order that, among other things: (i) granted the Companies protection under the CCAA; (ii) appointed A&M as Monitor; (iii) authorized the Companies to enter into and borrow up to \$615 million under the DIP Credit Agreement from the Senior Secured Lenders; (iv) appointed FAAN as CRO; and (v) granted a stay of proceedings up to and including August 15, 2025 (the “**Stay Period**”);
- (b) an order that, among other things, approved the transaction with Tridel; and
- (c) an order that, among other things, discharged A&M as Receiver, provided that A&M shall remain Receiver for the performance of such incidental matters as may be required to complete the administration of the Receivership Proceedings.⁶

15. The transaction with Tridel was successfully implemented on the Effective Date, at which time Tridel became the project manager, construction manager and sales manager of the Project.⁷

16. At a hearing on August 8, 2025, the Court granted the Order (Stay Extension and Ancillary Relief) that, among other things, extended the Stay Period to and including February 12, 2026.⁸

⁵ Third Report at para 1.3 [[E1149](#)].

⁶ Third Report at para 1.4 [[E1149](#)–[E1151](#)].

⁷ Third Report at para 1.5 [[E1151](#)].

⁸ Third Report at para 1.6 [[E1151](#)].

B. Extension of the Stay Period

17. The Stay Period currently expires on February 12, 2026. The Monitor, on behalf of the Companies, has moved for an extension of the Stay Period to and including September 25, 2026. This approximately seven-month extension of the Stay Period is necessary and appropriate to maintain continued stability while the Companies, through the CRO and with the assistance of Tridel and the Monitor, continue to advance construction of the Project and various other matters in connection with the development of the Project, including, without limitation, the completion of the ongoing Hotel Process and the eventual re-launch of sales of condominium units.

C. Approval of the Monitor's Third Report, Activities and Fees

18. The proposed Stay Extension Order provides for the approval of the Third Report and the Monitor's activities described therein, as well as the approval of the fees and disbursements of the Monitor and its counsel incurred from March 16, 2025, to December 31, 2025, and March 17, 2025, to January 4, 2026, respectively (the "**Relevant Period**").

19. The Relevant Period spans approximately nine months, of which about one month predates the commencement of the CCAA Proceedings. Pursuant to the Discharge Order granted by the Court in the Receivership Proceedings on April 22, 2025, the fees and disbursements of the Receiver and its counsel for the period after March 15, 2025, and March 16, 2025, respectively, shall be deemed to be the fees of the Monitor and its counsel, approval of which shall be sought in accordance with the Initial Order.⁹

20. The Motion Record filed on behalf of the Companies attaches affidavits from representatives of the Monitor and its counsel that provide a comprehensive listing of the accounts

⁹ *KEB Hana Bank v Mizrahi Commercial (The One) LP et al* (22 April 2025), Toronto, Ont Sup Ct J [Commercial List] CV-23-00707839-00CL ([Discharge Order](#)) at para 11.

sought to be passed, including each account and summaries identifying the individual professionals who have worked on this matter, their hourly billing rates and total number of hours worked, among other information.¹⁰ The accounts included in each of the A&M Fee Affidavit and the Goodmans Fee Affidavit have been redacted to protect privileged and confidential information.¹¹

21. The accounts for the Monitor and its counsel for the Relevant Period total approximately \$2,933,893.00 and \$2,746,245.50, respectively, exclusive of disbursements and applicable taxes.

22. The evidence is that the Monitor and its counsel billed amounts at standard hourly rates consistent with the relevant market and that the Monitor, in its professional judgment, considered fair and reasonable in the circumstances of these proceedings.¹²

23. The scope of work undertaken by the Monitor and its counsel during the Relevant Period was significant and their efforts, with the assistance of the CRO, have generated substantial benefits for the Project. These efforts are detailed in the Monitor's reports issued in the CCAA Proceedings to date and include, among other things:

- (a) ensuring the uninterrupted construction of the Project, which reached a significant milestone in June 2025 by achieving a structural height of 300 metres and becoming the first “supertall skyscraper” in Canada;
- (b) implementing the Tridel transaction and facilitating the successful transition of construction management from SKYGRiD to Tridel with minimal impact to trades;

¹⁰ Affidavit of Stephen Ferguson sworn January 22, 2026 (the “**A&M Fee Affidavit**”) [[E1326](#)]; Affidavit of Christopher Armstrong sworn January 22, 2026 (the “**Goodmans Fee Affidavit**”) [[E1680](#)].

¹¹ A&M Fee Affidavit at para 6 [[E1327](#)]; Goodmans Fee Affidavit at para 6 [[E1681](#)].

¹² Third Report at para 7.5 [[E1170](#)].

- (c) assisting with the development and implementation of various value maximization initiatives for the Project, including the CSA Plan and the CSA Plan Reconfiguration approved by the Court in November 2025;
- (d) advancing complex litigation matters involving MI (including a three-day hearing in June 2025), investigating potential claims of the Companies, and working to resolve or otherwise advance disputes with various other stakeholders;
- (e) together with Tridel and the Hotel Advisor, advancing the Hotel Process and participating in the negotiation and documentation of the Hotel Term Sheet entered into between the Companies and a luxury five-star hotel brand in November 2025;
- (f) planning for the next phase of development of the Project, which is anticipated to include the completion of the Hotel Process and the re-launch of sales of condominium units in the Project; and
- (g) preparing and bringing various motions on behalf of the Companies to assist with the advancement of the CCAA Proceedings, including in connection with the Joint Hearing in April 2025, which required extensive preparation on the part of the Receiver (now Monitor) and its counsel.¹³

D. Approval of the Gamma Settlement

24. Gamma is a former subcontractor that was engaged on the Project to provide cladding and curtain wall services. During the Receivership Proceedings, Gamma delivered two Lien Notices dated May 30, 2024, and October 16, 2024 (together, the “**Gamma Liens**”), and filed a Notice of

¹³ Third Report at para 7.5 [[E1170](#)].

Motion dated June 17, 2024, regarding amounts that Gamma alleged were owing to it in respect of certain unpaid invoices, holdback amounts, and amounts claimed to be owing pursuant to a settlement agreement between Gamma and MI (collectively, the “**Gamma Claims**”).¹⁴

25. In August 2024, the Receiver sought and obtained approval of the Lien Claims Resolution Order (the “**LCRO**”) to provide a process to resolve lien claims advanced by contractors, subcontractors and suppliers relating to the Project. In accordance with the LCRO, in March 2025, the Receiver referred the Gamma Liens to a claims officer for determination.¹⁵

26. The hearing in respect of the First Gamma Lien Claim was originally scheduled to take place in February 2026. However, following extensive negotiations, the Companies, the Receiver and Gamma executed minutes of settlement on January 22, 2026, that fully and finally resolve the Gamma Claims (the “**Gamma Settlement**”), subject to Court approval.¹⁶

27. Pursuant to the terms of the Gamma Settlement, the Companies will make a settlement payment to Gamma that includes the release of certain holdback amounts. The release of holdback amounts to subcontractors is governed by the terms of the Holdback Release Order granted by the Court in the Receivership Proceedings; however, Gamma was expressly excluded from the terms of the Holdback Release Order at its request due to the ongoing disputes regarding its services on the Project (which have now been settled).¹⁷ Accordingly, to give effect to the Gamma Settlement and the contemplated payment of certain holdback amounts to Gamma as part of that settlement, the proposed Stay Extension Order provides that Gamma, and any holdback amounts owing to Gamma, shall now be subject to the terms of the Holdback Release Order, *nunc pro tunc*.¹⁸

¹⁴ Third Report at para 4.15 [[E1160](#)].

¹⁵ Third Report at para 4.16 [[E1161](#)].

¹⁶ Third Report at para 4.17 [[E1161](#)].

¹⁷ Third Report at para 4.18 [[E1161](#)].

¹⁸ Draft Stay Extension Order at para 11 [[E1845](#)].

E. Release of the SKYGRiD Holdback Amount

28. As noted above, in early 2024, the Receiver determined that MI should be replaced as general contractor. The Receiver could not, at that stage, engage a new general contractor because it planned to conduct the SISP and it was important that a new purchaser or developer have the flexibility required to self-perform construction work or hire its preferred general contractor. The Receiver therefore sought to engage a new construction manager on an interim basis.¹⁹

29. SKYGRiD was ultimately selected by the Receiver to act as interim construction manager. By agreeing to work on the Project on an interim basis without any certainty that it would complete the Project, SKYGRiD allowed the Receiver to facilitate ongoing construction with improved construction management processes while retaining the flexibility required to conduct the SISP.

30. SKYGRiD acted as construction manager from March 13, 2024 to April 30, 2025 (the “SKYGRiD Era”), pursuant to a CCDC 5B 2010 Construction Management Contract – for Services and Construction between SKYGRiD and the Receiver dated June 5, 2024 (the “SKYGRiD CMA”). The SKYGRiD CMA allowed the Receiver to terminate SKYGRiD on notice, a right that was ultimately exercised by the Receiver to facilitate the transaction with Tridel. The termination of the SKYGRiD CMA became effective on the Effective Date (May 1, 2025).²⁰

31. During the SKYGRiD Era, a total of \$1,387,952.94 (exclusive of HST) (the “SKYGRiD Holdback Amount”) was retained from SKYGRiD in accordance with the SKYGRiD CMA and the Provincial Lien Legislation.²¹ The SKYGRiD Holdback Amount only includes amounts that have been retained from SKYGRiD specifically in connection with the SKYGRiD CMA, and does

¹⁹ Third Report at para 5.2 [[E1165](#)].

²⁰ Third Report at para 5.3 [[E1165](#)].

²¹ Third Report at para 5.4 [[E1165](#)].

not include any amounts that have been retained in respect of subcontractors and/or suppliers engaged on the Project during the SKYGRiD Era.²²

32. Pursuant to the proposed SKYGRiD Holdback Release Order, the Companies seek the authority to release the SKYGRiD Holdback Amount. Such release, if authorized, will be subject to the execution of such documentation by SKYGRiD as may be requested by the Monitor, including a holdback release agreement in form and substance satisfactory to the Monitor.

PART III. ISSUES AND THE LAW

33. The issues to be considered on this motion are whether the Court should:

- (a) grant the proposed Stay Extension Order, among other things, extending the Stay Period, approving the Third Report and the activities of the Monitor described therein, approving the fees of the Monitor and its counsel, and approving the Gamma Settlement; and
- (b) grant the proposed SKYGRiD Holdback Release Order, among other things, authorizing the Companies to release the SKYGRiD Holdback Amount.

34. The Monitor respectfully submits that the Court should grant the foregoing relief pursuant to the proposed Stay Extension Order and the proposed SKYGRiD Holdback Release Order.

A. The Extension of the Stay Period Should be Granted

35. The current Stay Period expires on February 12, 2026. Pursuant to subsection 11.02(3) of the CCAA, the Court may grant an extension of a stay of proceedings where: (a) circumstances

²² All amounts retained in respect of such subcontractors and/or suppliers during the SKYGRiD Era will continue to form part of the Project Holdback held in the holdback accounts (save for any Holdback Amounts released pursuant to the Holdback Release Order, or otherwise in accordance with the Provincial Lien Legislation).

exist that make the order appropriate; and (b) the debtor company satisfies the Court that it has acted, and is acting, in good faith and with due diligence.²³

36. The proposed extension of the Stay Period to and including September 25, 2026, is appropriate in the circumstances because:

- (a) the extension of the Stay Period is required to provide the stability necessary to ensure the continuing construction of the Project for the benefit of stakeholders, and for the Companies, through the CRO and with the assistance of the Monitor and Tridel, to advance other key matters in connection with the development of the Project, including, without limitation, the completion of the Hotel Process and the eventual re-launch of sales of condominium units in the Project;
- (b) as detailed in the Updated Cash Flow Forecast, the amount available under the DIP Credit Agreement is projected to provide the Companies with sufficient liquidity to fund the ongoing construction and development of the Project and the CCAA Proceedings through to the end of the proposed extended Stay Period;
- (c) the Companies, under the oversight of the CRO and the Monitor, have acted and continue to act in good faith and with due diligence to advance these proceedings;
- (d) creditors will not suffer any material prejudice if the Stay Period is extended; rather, the extension of the Stay Period will allow for the continuing construction of the Project for the benefit of the Companies' creditors and other stakeholders; and

²³ *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, s 11.02(3) [CCAA].

(e) the CRO, the Monitor and the Senior Secured Lenders are supportive of the request to extend the Stay Period to and including September 25, 2026, and the requested stay extension length is generally consistent with the length of the prior stay extension granted in the within proceedings.²⁴

37. In light of the foregoing, the Monitor respectfully submits that the proposed extension of the Stay Period is necessary and appropriate in the circumstances.

B. The Monitor's Third Report, Activities and Professional Fees

(i) *Approval of the Accounts of the Monitor and its Counsel is Appropriate*

38. This Court's jurisdiction to pass the accounts of the Monitor and its counsel is confirmed in the Initial Order, which directs that: "the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice."²⁵ The Initial Order also provides that the Monitor and counsel to the Monitor "shall be paid their reasonable fees and disbursements (including pre-filing fees and disbursements), in each case at their standard rates and charges [...] by the Companies as part of the costs of these [CCAA Proceedings]."²⁶

39. The test for approval of accounts in insolvency proceedings is well-established. Fees must be reasonable in light of the overall value contributed by the Monitor and its counsel.²⁷ As this Court held in *Laurentian*, "[t]he Court does not engage in a docket-by-docket or line-by-line assessment of the accounts as minute details of each element of a professional services may not be

²⁴ Third Report at para 6.2 [[E1168](#)].

²⁵ Third Report at Appendix "A" (Initial Order), para 29 [[E1197](#)].

²⁶ Third Report at Appendix "A" (Initial Order), para 28 [[E1197](#)].

²⁷ *Laurentian University of Sudbury*, [2022 ONSC 2927](#) at para 9 [*Laurentian*]; *Re Nortel Networks Corporation et al*, [2017 ONSC 673](#) at paras [13-15](#).

instructive when looked at in isolation.”²⁸ Rather, as the Court of Appeal for Ontario stated in *Diemer*, “[t]he focus of the fair and reasonable assessment should be on what was accomplished, not on how much time it took.”²⁹

40. The Monitor respectfully submits that its fees and those of its counsel pass this test. This is a significant insolvency matter involving one of Canada’s most complex mixed-use developments. The Monitor and its counsel have worked diligently and efficiently to advance the Project and address the numerous issues that have arisen in the CCAA Proceedings. Furthermore, the Senior Secured Lenders, the only party with a direct economic interest in the recoveries from the Project, support approval of the fees of the Monitor and its counsel. The Monitor is not aware of any opposition to such approval.

41. As noted above, the Initial Order authorizes the Monitor and its counsel to charge standard hourly rates. The Monitor and its counsel have charged standard hourly rates, as they were authorized to do. The evidence shows that the rates are consistent with market rates for similar services.³⁰ This is a relevant consideration that supports approval.³¹

42. The following factors assist courts in evaluating the quantum of a court-appointed officer’s fees. These factors are not intended to be exhaustive and other factors may be material in any particular case: (a) the nature, extent and value of the assets being handled; (b) the complications and difficulties encountered; (c) the degree of assistance provided by the company, its officers or its employees; (d) the time spent; (e) the court officer’s knowledge, experience and skill; (f) the

²⁸ *Laurentian* at para 9.

²⁹ *Bank of Nova Scotia v Diemer*, [2014 ONCA 851](#) at para 45 [*Diemer*].

³⁰ A&M Fee Affidavit at para 10 [[E1328](#)]; Goodmans Fee Affidavit at para 9 [[E1682](#)].

³¹ See, for example, *Confectionately Yours Inc (Re)* ([2002](#)), [219 DLR \(4th\) 72](#) at para 71 (Ont CA).

diligence and thoroughness displayed; (g) the responsibilities assumed; (h) the results achieved; and (i) the cost of comparable services when performed in a prudent and economical manner.³²

43. Applying these factors to the present case, the Monitor respectfully submits that its accounts, as well as those of its counsel, should be approved:

- (a) **The Project is a complex, valuable and significant asset.** The Project is an 85-storey “supertall” luxury residential and commercial development located in the heart of Toronto that had only been constructed to level 42 when the Receiver (now Monitor) was appointed in October 2023, with construction continuing under the oversight of the Monitor since the commencement of the CCAA Proceedings. As of October 31, 2023, the total secured indebtedness in respect of the Project was over \$1.9 billion (inclusive of interest). Construction of the Project during the Companies’ insolvency proceedings has been funded by the Senior Secured Lenders pursuant to the Receivership Funding Credit Agreement in the Receivership Proceedings (under which approximately \$252.8 million (excluding accrued interest) was drawn by the Receiver) and the DIP Credit Agreement in the CCAA Proceedings (under which approximately \$96.3 million (inclusive of accrued interest) has been drawn to date by the Companies, as at December 31, 2025). Dozens of contractors, trades, consultants and suppliers remain involved in the ongoing development and construction of the Project.
- (b) **The Monitor facilitated the successful transition of project and construction management to Tridel.** The Monitor worked diligently with the CRO, SKYGRiD

³² See, for example, [Diemer](#) at para 33; [Laurentian](#) at para 10.

and Tridel to ensure a smooth transition of project and construction management with minimal disruption to trades, consultants and suppliers. Among other transition-related activities, the Monitor: (i) provided Tridel with Project-related information and assisted Tridel in completing transition-related tasks; (ii) facilitated the assignment of subcontracts from SKYGRiD to Tridel; (iii) communicated with trades, consultants and suppliers regarding the transition; (iv) communicated with the City of Toronto, Tarion Warranty Corporation and the Home Construction Regulatory Authority regarding the transition; and (v) communicated with various other Project stakeholders regarding the transition, including secured lenders and Unit Purchasers.³³

(c) **The Monitor assisted with the development and implementation of key value-maximization initiatives.** Together with the CRO and Tridel, the Monitor assisted with the development and implementation of various value-maximization initiatives in respect of the Project, including, without limitation: (i) the CSA Plan, being a plan for the treatment of existing condominium sale agreements in the Project, which involved months of extensive analysis, planning and consultation with various advisors, and continues to involve ongoing engagement with Aviva (as deposit insurer), Aviva's agent and affected Unit Purchasers to facilitate the return of deposits pursuant to the related Deposit Return Protocol; (ii) the CSA Plan Reconfiguration, being a further reconfiguration of the Residential Component of the Project that is aligned with the CSA Plan and similarly involved months of

³³ The Monitor's transition-related activities are described in further detail in paragraphs 4.1 through 4.4 of the [First Report of the Monitor dated July 30, 2025](#).

planning, analysis and consultation; and (iii) the Hotel Process, which has resulted in the execution of a term sheet with a luxury five-star hotel operator, and is expected to result in the formal engagement of such hotel operator in the coming months, which is anticipated to bring significant incremental value to the Project.³⁴

(d) **The Monitor diligently attended to complex litigation matters, disputes and investigations.** During the CCAA Proceedings, the Monitor has devoted significant professional time to investigating certain potential claims of the Companies, and to resolving or otherwise advancing certain litigation matters and disputes involving the Companies. The most complex and significant claim involved MI. As noted, MI asserted a claim for approximately \$7 million, and the Receiver asserted a counter-claim against MI for more than \$60 million. The Receiver (now Monitor) conducted a detailed investigation into the issues relevant to this litigation, tendered evidence, cross-examined MI on its evidence, and ultimately participated in a three-day hearing on the merits. The Monitor also addressed a number of other litigation matters, including the long-standing dispute with Gamma described above.

(e) **The Monitor actively engaged with trades, consultants, suppliers and other stakeholders in respect of the Project.** Significant efforts have been undertaken by the Monitor and its counsel to manage trades, consultants and suppliers engaged on the Project, and to liaise with the Companies' stakeholders, including secured creditors, Unit Purchasers, Tarion Warranty Corporation, the Home Construction

³⁴ The Monitor's activities in relation to the development of the CSA Plan, the CSA Plan Reconfiguration and the Deposit Return Protocol are described in further detail throughout the [Second Report of the Monitor dated November 3, 2025](#).

Regulatory Authority and the City of Toronto regarding various Project-related matters. The Monitor's ongoing engagement with these parties assists in ensuring stability among trades, transparency for stakeholders and regulatory compliance.

(f) **The professional time devoted to the Project is commensurate with the responsibilities undertaken by the Monitor.** The Monitor and its counsel have devoted significant professional time to the various work streams described herein and in the Monitor's reports to the Court. The time spent, and thus the resulting fees and expenses, are commensurate with the significant responsibilities undertaken by the Monitor, which has assumed an enhanced role in the context of these proceedings in conjunction with the CRO given the remaining director(s) and officer(s) of the Companies have no involvement in the management of the Companies. A significant majority of the work has been undertaken by a core team of professionals who have developed considerable knowledge of the Project and the various issues in the case and, where appropriate, work has also been delegated to lower cost professionals.

(g) **The Monitor and its counsel are experienced professionals.** The Monitor and its counsel (formerly the Receiver and its counsel) are experienced restructuring and legal professionals that have over two years of experience with the Project. The Monitor and its counsel have been integral in the CCAA Proceedings and have at all times demonstrated diligence and thoroughness.

44. The Monitor submits that the fees and disbursements of the Monitor and its counsel are reasonable and appropriate in the circumstances having regard to the scope of activity undertaken

by the Monitor in the CCAA Proceedings, and have been validly incurred in accordance with the provisions of the Initial Order.³⁵ Furthermore, the Monitor has confirmed that the fees and disbursements of its counsel set out in the invoices appended to the Goodmans Fee Affidavit relate to advice sought by the Monitor and assistance provided by the Monitor's counsel in respect of the CCAA Proceedings and that, in the Monitor's view, its counsel's fees and disbursements are properly chargeable, reasonable and appropriate.³⁶

45. For the reasons set out above, consideration of the applicable factors supports the approval of the accounts of the Monitor and its counsel as being fair and reasonable.

(ii) Approval of the Third Report and the Monitor's Activities is Appropriate

46. This Court has held that there are good policy and practical reasons for approving a court officer's reports and activities, including that Court approval: (a) allows the court officer to move forward with the next steps in the proceedings; (b) brings the court officer's activities before the Court; (c) allows an opportunity for the concerns of stakeholders to be addressed, and any problems to be rectified; (d) enables the Court to satisfy itself that the court officer's activities have been conducted in a prudent and diligent manner; (e) provides protection for the court officer not otherwise provided by the applicable legislation; and (f) protects creditors from the delay in distribution that would be caused by: (i) re-litigation of steps taken to date; and (ii) potential indemnity claims by the court officer.³⁷

47. The Third Report and the actions, conduct and activities of the Monitor as described therein, should be approved. All such activities were necessary, undertaken in good faith, and

³⁵ Third Report at para 7.5 [[E1170](#)].

³⁶ Third Report at para 7.4 [[E1169](#)].

³⁷ *Target Canada Co (Re)*, [2015 ONSC 7574](#) at para [12](#); *Laurentian* at paras [13–14](#).

carried out pursuant to the Monitor's duties and powers set out in the Initial Order, and were at all times in the best interests of the Companies' stakeholders generally. Approval of the Monitor's reports and activities will assist in advancing the CCAA Proceedings. Moreover, only the Monitor, in its personal capacity and with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.³⁸

C. The Gamma Settlement Should be Approved

48. This Court has jurisdiction to approve the Gamma Settlement pursuant to its general discretion granted by section 11 of the CCAA.³⁹ In determining whether to exercise that discretion, the following factors are typically considered: (a) whether the settlement is fair and reasonable in the circumstances; (b) whether the settlement will benefit the debtor and its stakeholders generally; and (c) whether the settlement is consistent with the purpose and spirit of the CCAA.⁴⁰

49. The Gamma Settlement is fair and reasonable in the circumstances. The terms of the Gamma Settlement have been negotiated extensively with Gamma and provide for a consensual resolution to a complex dispute involving significant claims that would otherwise be subject to costly and time-consuming arbitration before a claims officer, thereby detracting from resources that could otherwise be used towards advancing the construction and development of the Project for the benefit of its stakeholders, including the Senior Secured Lenders who support the terms of the Gamma Settlement.⁴¹ The Gamma Settlement will also advance these proceedings in a manner consistent with the purpose and spirit of the CCAA by bringing finality to a long-standing dispute,

³⁸ Draft Stay Extension Order at para 4 [[E1843](#)].

³⁹ CCAA, [s 11](#).

⁴⁰ *In Re DCL Corporation*, [2025 ONSC 4976](#) at para [14](#). See also *Robertson v ProQuest Information and Learning Company*, [2011 ONSC 1647](#) at para [22](#); *Labourers' Pension Fund of Central and Eastern Canada v Sino-Forest Corporation*, [2013 ONSC 1078](#) at para [49](#).

⁴¹ Third Report at paras 4.20–4.21 [[E1162–E1163](#)].

eliminating the litigation risk that the Companies would be liable for the amount claimed in the Gamma Claims, providing certainty with respect to the Companies' liability, and allowing funds that had been reserved to fund potential payments to Gamma to be used for other purposes.⁴²

50. This Court similarly has jurisdiction to order that Gamma, and any holdback amounts owing to Gamma, be subject to the Holdback Release Order pursuant to its general discretion granted by section 11 of the CCAA.⁴³ The release of holdback amounts owing to Gamma is consistent with the Provincial Lien Legislation, which contemplates that holdback under a subcontract may be released where the subcontract has been certified complete and all liens in respect of the completed subcontract have expired or been satisfied, discharged or otherwise provided for.⁴⁴ No certification process was in place on the Project for the period during which MI served as general contractor; however, Gamma is no longer providing services on the Project (whether pursuant to its subcontract with MI or otherwise) and, as a condition to payment of the settlement amount contemplated by the Gamma Settlement, Gamma will be required to provide a statutory declaration confirming that Gamma has no unpaid sub-subcontractors.⁴⁵ In the circumstances, ordering that Gamma, and any holdback amounts owing to Gamma, be subject to the Holdback Release Order is fair and reasonable, including because such an order will not prejudice any party, and will ensure that Gamma is paid amounts it has earned in accordance with an existing Court-approved holdback release mechanism that has been continued in the CCAA Proceedings pursuant to the terms of the Initial Order.⁴⁶

⁴² Third Report at para 4.20 [[E1162](#)].

⁴³ CCAA, [s 11](#).

⁴⁴ [Construction Act, RSO 1990, c C.30 \(as it existed immediately prior to July 1, 2018\)](#) at s [25](#) [Provincial Lien Legislation].

⁴⁵ Third Report at Appendix "C" (Gamma Settlement Agreement), s 1(ii) [[E1303](#)].

⁴⁶ Third Report at Appendix "A" (Initial Order), para 49 [[E1205](#)].

51. In light of the foregoing, the CRO and the Monitor support the Gamma Settlement and recommend this Court's approval of same and the related relief sought.

D. The SKYGRiD Holdback Release Order Should be Granted

52. The SKYGRiD Holdback Release Order will, if granted, solve a problem that arises because of the length of construction of the Project and the version of the *Construction Act* (Ontario) that was in force when the first contract relating to the Project was executed in 2014.

53. The Provincial Lien Legislation in force in relation to the Project (i.e., the *Construction Act* (Ontario) as it existed immediately prior to July 1, 2018) authorizes the release of holdback after all liens that may be claimed against that holdback have expired or been satisfied, discharged or otherwise provided for.⁴⁷ The lien rights available to a subcontractor and/or supplier expire at the conclusion of the 45-day period following, among other things, publication of the certificate of substantial performance of the underlying contract (i.e., the SKYGRiD CMA) or, where no such publication has occurred, the date on which the subcontractor last supplied services or materials.⁴⁸

54. Notwithstanding the termination of the SKYGRiD CMA in accordance with its terms, substantial performance (within the meaning of the Provincial Lien Legislation) related to the SKYGRiD CMA will not be achieved until the overall Project is substantially complete and ready for use, which is not expected to occur until early 2028, and substantially all subcontractors and suppliers who supplied services and materials during the SKYGRiD Era continue to supply services and materials in connection with the construction of the Project on an ongoing basis.⁴⁹

⁴⁷ [Provincial Lien Legislation](#) at s [26](#).

⁴⁸ [Provincial Lien Legislation](#) at s [31\(3\)](#).

⁴⁹ Third Report at para 5.6 [[E1166](#)].

Accordingly, without the proposed SKYGRiD Holdback Release Order, SKYGRiD will likely not be paid in full for its work on the Project for several years.

55. The Monitor respectfully submits that granting the proposed SKYGRiD Holdback Release Order is appropriate in the circumstances, including because:

- (a) **It will better align the treatment of the SKYGRiD Holdback Amount with the treatment of subcontractor holdback under the Holdback Release Order.** This Court addressed similar concerns relating to subcontractors by granting the Holdback Release Order, which permits the release of holdback to subcontractors.⁵⁰ The terms of the SKYGRiD Holdback Release Order are substantially similar to those of the Holdback Release Order, subject to certain conforming changes to reflect the transition to CCAA Proceedings and the fact that holdback is being released to a contractor rather than a subcontractor.
- (b) **It will better align the treatment of the SKYGRiD Holdback Amount with the provisions of the current version of the *Construction Act* (Ontario).** After the Project commenced, the Legislature amended the *Construction Act* (Ontario) to permit the interim (annual or phased) release of holdback amounts.⁵¹ These amendments do not apply to the Project because it began in 2014, but the proposed SKYGRiD Holdback Release Order seeks to accomplish the same objective as the

⁵⁰ *KEB Hana Bank v Mizrahi Commercial (The One) LP et al* (11 June 2024), Toronto, Ont Sup Ct J [Commercial List] CV-23-00707839-00CL ([Endorsement of Justice Osborne](#)) at paras 29–34 [Holdback Release Endorsement].

⁵¹ In July 2018, the *Construction Act* (Ontario) was amended to provide that holdback may be released on an annual or phased basis if certain conditions are met (see ss [26.1](#) and [26.2](#)). In January 2026, the *Construction Act* (Ontario) was amended to provide for a mandatory annual release of holdback (see s [26\(2\)](#)), and the section dealing with “phased” holdback was repealed. These amendments do not apply to the Project, which continues to be governed by the provisions of the *Construction Act* (Ontario) as it existed immediately prior to July 1, 2018, given the Project began before 2018.

legislative amendments (i.e., release of the SKYGRiD Holdback Amount before the Project is substantially complete).

(c) **It will facilitate timely payment to an important contractor.** As noted, SKYGRiD agreed to act as construction manager without any assurance that it would complete the Project. The progress of the Project, and by extension stakeholder recoveries, would likely have been impaired if SKYGRiD (or a similarly qualified construction firm) had not been willing and able to serve as construction manager on these terms. Timely payment of the SKYGRiD Holdback Amount to SKYGRiD, who has completed its scope of work under the SKYGRiD CMA (subject to surviving obligations), will recognize this important work, and potentially incentivize other firms to accept similar insolvency mandates.

(d) **The Monitor does not believe that it will prejudice any stakeholder.** The SKYGRiD Holdback Amount relates solely to amounts paid to SKYGRiD in relation to work performed by its own forces or in relation to its fees as construction manager. Accordingly, the Monitor does not believe that other subcontractors or suppliers could reasonably claim against the SKYGRiD Holdback Amount. Moreover, SKYGRiD's work on the Project ended more than 250 days ago and neither the Monitor nor SKYGRiD is aware of any parties that seek (or could seek) to assert a claim against the SKYGRiD Holdback Amount. Furthermore, notice of the motion for approval of the release of the SKYGRiD Holdback Amount has been given to all known subcontractors, suppliers and lien claimants on the Project.⁵²

⁵² Third Report at para 5.7 [[E1167](#)].

(e) **This Court has jurisdiction to grant the relief sought.** It is well established that the CCAA grants broad discretion to the supervising court. Section 11 of the CCAA authorizes the Court to make any order that it considers appropriate in the circumstances, and CCAA courts (as well as this Court in the Receivership Proceedings) have previously exercised that jurisdiction to fashion appropriate procedures and solutions governing the interplay between insolvency proceedings and the Provincial Lien Legislation.⁵³

PART IV. CONCLUSION

56. For the reasons set out herein and in the Third Report, the Monitor respectfully requests that this Court grant the proposed Stay Extension Order and the proposed SKYGRiD Holdback Release Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 29th day of January, 2026.

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⁵³ CCAA, [s 11](#). See also, for example, [Holdback Release Endorsement](#); *KEB Hana Bank v Mizrahi Commercial (The One) LP et al* (7 March 2024), Toronto, Ont Sup Ct J [Commercial List] CV-23-00707839-00CL ([Lien Regularization Order](#)); *Comstock Canada Ltd et al* (7 August 2013), Ont Sup Ct J [Commercial List] CV-13-10181-00CL ([Lien Regularization Order](#)); *Carillion Canada Inc et al* (14 March 2018), Ont Sup Ct J [Commercial List] CV-18-590812-00CL ([Lien Regularization Order](#), and subsequent [Amended Lien Regularization Order](#) dated May 23, 2019).

SCHEDULE A
LIST OF AUTHORITIES

1. *KEB Hana Bank v Mizrahi Commercial (The One) LP et al* (22 April 2025), Toronto, Ont Sup Ct J [Commercial List] CV-23-00707839-00CL ([Discharge Order](#))
2. *Laurentian University of Sudbury*, [2022 ONSC 2927](#)
3. *Re Nortel Networks Corporation et al*, [2017 ONSC 673](#)
4. *Bank of Nova Scotia v Diemer*, [2014 ONCA 851](#)
5. *Confectionately Yours Inc (Re)* [\(2002\), 219 DLR \(4th\) 72](#) (Ont CA)
6. *Target Canada Co (Re)*, [2015 ONSC 7574](#)
7. *In Re DCL Corporation*, [2025 ONSC 4976](#)
8. *Robertson v ProQuest Information and Learning Company*, [2011 ONSC 1647](#)
9. *Labourers' Pension Fund of Central and Eastern Canada v Sino-Forest Corporation*, [2013 ONSC 1078](#)
10. *KEB Hana Bank v Mizrahi Commercial (The One) LP et al* (11 June 2024), Toronto, Ont Sup Ct J [Commercial List] CV-23-00707839-00CL ([Endorsement of Justice Osborne](#))
11. *KEB Hana Bank v Mizrahi Commercial (The One) LP et al* (7 March 2024), Toronto, Ont Sup Ct J [Commercial List] CV-23-00707839-00CL ([Lien Regularization Order](#))
12. *Comstock Canada Ltd et al* (7 August 2013), Ont Sup Ct J [Commercial List] CV-13-10181-00CL ([Lien Regularization Order](#))
13. *Carillion Canada Inc et al* (14 March 2018), Ont Sup Ct J [Commercial List] CV-18-590812-00CL ([Lien Regularization Order](#)), and subsequent [Amended Lien Regularization Order](#) dated May 23, 2019)

I certify that I am satisfied as to the authenticity of every authority.

Date: January 29, 2026


Signature

SCHEDULE B STATUTORY REFERENCES

Companies' Creditors Arrangement Act, RSC 1985, c C-36

General power of court

11 Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Stays, etc. — other than initial application

11.02 (2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a)** staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b)** restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c)** prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

11.02 (3) The court shall not make the order unless

- (a)** the applicant satisfies the court that circumstances exist that make the order appropriate; and
- (b)** in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

Construction Act, RSO 1990, c C.30 (as it existed immediately prior to July 1, 2018)

Payment where subcontract certified complete

25 Where a subcontract has been certified complete under section 33, each payer upon the contract and any subcontract may, without jeopardy, make payment reducing the holdbacks required by this Part to the extent of the amount of holdback the payer has retained in respect of the completed subcontract, where all liens in respect of the completed subcontract have expired or been satisfied, discharged or otherwise provided for under this Act.

Payment of basic holdback

26 Each payer upon the contract or a subcontract may, without jeopardy, make payment of the holdback the payer is required to retain by subsection 22 (1) (basic holdback), so as to discharge all claims in respect of that holdback, where all liens that may be claimed against that holdback have expired or been satisfied, discharged or otherwise provided for under this Act.

Expiry of liens

31 (1) Unless preserved under section 34, the liens arising from the supply of services or materials to an improvement expire as provided in this section.

Contractor's liens

(2) Subject to subsection (4), the lien of a contractor,

(a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,

(i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published as provided in section 32, and

(ii) the date the contract is completed or abandoned; and

(b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified or declared to be the date of substantial performance, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,

(i) the date the contract is completed, and

(ii) the date the contract is abandoned.

Liens of other persons

(3) Subject to subsection (4), the lien of any other person,

(a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earliest of,

(i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published, as provided in section 32, and

(ii) the date on which the person last supplies services or materials to the improvement, and

(iii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under or in respect of that subcontract; and

(b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,

- (i) the date on which the person last supplied services or materials to the improvement, and
- (ii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under or in respect of that subcontract.

Separate liens when ongoing supply

(4) Where a person has supplied services or materials to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract and has also supplied, or is to supply, services or materials after that date, the person's lien in respect of the services or materials supplied on or before the date of substantial performance expires without affecting any lien that the person may have for the supply of services or materials after that date.

Declaration of last supply

(5) Where a person who has supplied services or materials under a contract or subcontract makes a declaration in the prescribed form declaring,

- (a) the date on which the person last supplied services or materials under that contract or subcontract; and
- (b) that the person will not supply any further services or materials under that contract or subcontract,

then the facts so stated shall be deemed to be true against the person making the declaration.

Construction Act, RSO 1990, c C.30 (in force between 2018-07-01 and 2018-12-05)

Payment of holdback on annual basis

26.1 (1) If the conditions in subsection (2) are met, a payer may make payment of the accrued holdback he or she is required to retain under subsection 22 (1) on an annual basis, in relation to the services or materials supplied during the applicable annual period.

Conditions

(2) Subsection (1) applies if,

- (a) the contract provides for a completion schedule that is longer than one year;
- (b) the contract provides for the payment of accrued holdback on an annual basis;
- (c) the contract price at the time the contract is entered into exceeds the prescribed amount; and
- (d) as of the applicable payment date,
 - (i) there are no preserved or perfected liens in respect of the contract, or
 - (ii) all liens in respect of the contract have been satisfied, discharged or otherwise provided for under this Act.

Payment of holdback on phased basis

26.2 (1) If the conditions in subsection (2) are met, a payer may make payment of the accrued holdback he or she is required to retain under subsection 22 (1) on the completion of phases of an improvement, in relation to the services or materials supplied during each phase.

Conditions

(2) Subsection (1) applies if,

- (c) the contract provides for the payment of accrued holdback on a phased basis and identifies each phase;
- (d) the contract price at the time the contract is entered into exceeds the prescribed amount; and
- (e) as of the applicable payment date,
 - (i) there are no preserved or perfected liens in respect of the contract, or
 - (iii) all liens in respect of the contract have been satisfied, discharged or otherwise provided for under this Act.

Payment on completion of design phase

(3) If a contract provides for payment of accrued holdback on a phased basis but only with respect to a specified design phase, clause (2) (b) does not apply.

Construction Act, RSO 1990, c C.30 (in force since 2026-01-01)

Payment of basic holdback

26 (1) A payer who is required by subsection 22 (1) to retain a holdback shall make payment of the holdback in accordance with this section.

Mandatory annual payment

(2) Following each anniversary of the date on which the contract was entered into, the owner shall,

- (a)** give notice in accordance with subsection (3); and
- (b)** make payment of accrued holdback under subsection 22 (1) in accordance with subsection (4).

Notice

(3) Not later than 14 days after the anniversary, the owner shall publish a notice of annual release of holdback in the prescribed form specifying the amount of holdback that the owner intends to pay under subsection (4) and the intended payment date.

Payment by owner

(4) At least 60 days but not later than 74 days after the date on which the notice of annual release of holdback is published, the owner shall make payment to the contractor of all of the accrued holdback in respect of services or materials supplied by the contractor during the year immediately preceding the anniversary, unless a lien has been preserved or perfected in respect of the contract, and,

- (a)** if the lien attaches to the premises,
 - (i)** the lien has not been discharged under clause 41 (1) (a), and
 - (ii)** an order declaring that the lien has expired, discharging the lien or vacating the registration of the claim for lien or the certificate of action has not been registered under section 49; or
- (b)** if the lien does not attach to the premises,
 - (i)** the lien has not been satisfied,
 - (ii)** the lien has not been discharged under clause 41 (1) (b), and
 - (iii)** an order declaring that the lien has expired or vacating the lien has not been made.

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

Court File No. CV-25-00740512-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
ONE BLOOR WEST TORONTO GROUP (THE ONE) INC. AND ONE BLOOR
WEST TORONTO COMMERCIAL (THE ONE) GP INC.

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

FACTUM OF THE MONITOR
(Stay Extension, Fee Approval, Settlement Approval
and SKYGRiD Holdback Release)
Returnable February 3, 2026

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