



amended, for an Order, *inter alia*, (i) approving and ratifying the Settlement Agreement dated as of May 20, 2021 (the “**Castlemore Settlement Agreement**”) among Emerald Castle Developments Inc. (the “**Borrower**”), the Trustee and Olympia Trust Company (“**OTC**”); (ii) ordering the Borrower to pay the Settlement Payment to the Trustee pursuant to the Castlemore Settlement Agreement; and (iii) authorizing the Trustee to, upon the delivery to the Borrower of a copy of the Trustee’s Certificate (as defined below), make a distribution of Castlemore Realized Property (as defined below), was heard this day by videoconference in Toronto, in accordance with the changes to the operations of the Commercial List in light of the COVID-19 pandemic;

**ON READING** the Twenty-Sixth Report of the Trustee dated May 21, 2021 (the “**Twenty-Sixth Report**”), and on hearing the submissions of counsel for the Trustee, Chaitons LLP, in its capacity as Representative Counsel, counsel to the Borrower and such other counsel as were present, no one appearing for any other person on the service list, as appears from the affidavit of service of Chloe Nanfara sworn May 25, 2021, filed;

### **SERVICE AND INTERPRETATION**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Twenty-Sixth Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meanings given to them in the Twenty-Sixth Report or the Castlemore Settlement Agreement, as applicable.

### **APPROVAL OF THE CASTLEMORE SETTLEMENT AGREEMENT**

3. **THIS COURT ORDERS** that (i) the Castlemore Settlement Agreement be and is hereby approved in its entirety; (ii) the Borrower is hereby directed to pay the Settlement Payment in the amount of \$9,875,358 to the Trustee, on behalf of BDMC, on or before the Payment Date, in accordance with the terms of the Castlemore Settlement Agreement; and (iii) the execution of the Castlemore Settlement Agreement by the Trustee and OTC is hereby ratified and approved, and

the Trustee and OTC are hereby authorized and directed to comply with all of their obligations under the Castlemore Settlement Agreement.

4. **THIS COURT ORDERS AND DIRECTS** the Trustee to file with the Court a copy of the Trustee's Certificate as soon as practicable after delivery thereof to the Borrower.

5. **THIS COURT ORDERS** that, only as contemplated by the Castlemore Settlement Agreement, upon the registration in the Land Registry Office for Toronto (#66) of an Application to Register an Order in the form prescribed by the applicable Land Registry Office and attaching a copy of this Order and the executed Trustee's Certificate, the Land Registrar is hereby directed to delete and expunge from title to the real property identified in Schedule "B" hereto (the "**Real Property**") the Lender's Mortgage/Charge listed in Schedule "C" hereto.

#### **REALIZED PROPERTY**

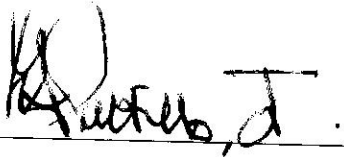
6. **THIS COURT ORDERS AND DECLARES** that only upon the delivery of the Trustee's Certificate to the Borrower, the Settlement Payment (the "**Castlemore Realized Property**") is and shall be deemed to be "Realized Property" as defined in the Order of this Court dated June 26, 2018 (the "**Interim Stabilization Order**") and that rights and claims of the individual lenders under syndicated mortgage loans to BDMC (the "**Individual SMLs**") in respect of the Loan Agreement and related security shall attach to the Castlemore Realized Property and shall have the same nature and priority as they had prior to the consummation of the Castlemore Settlement Agreement, including pursuant to the Appointment Order and the Interim Stabilization Order.

7. **THIS COURT ORDERS** that, as soon as is practicable, the Trustee shall make a distribution to the Castlemore Individual SMLs in an amount equal to 85% of the Castlemore Realized Property, *pro rata* to the Castlemore Individual SMLs entitled to such funds, in accordance with paragraph 3(b) of the Order of this Court dated October 30, 2018, as amended by Orders of this Court dated November 28, 2018 and December 20, 2018.

**AID AND RECOGNITION OF FOREIGN COURTS**

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

9. **THIS COURT ORDERS** that the Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Trustee 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.

  
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**Schedule “A” – Form of Trustee’s Certificate**

Court File No.: CV-18-596204-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**THE SUPERINTENDENT OF FINANCIAL SERVICES**

**Applicant**

- and -

**BUILDING & DEVELOPMENT MORTGAGES CANADA INC.**

**Respondent**

**APPLICATION UNDER SECTION 37 OF THE  
MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006, S.O. 2006,  
c. 29 and SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990 c. C.43**

**TRUSTEE’S CERTIFICATE**

**RECITALS**

- A. Pursuant to an Order of the Honourable Justice Hailey of the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) dated April 20, 2018, FAAN Mortgage Administrators Inc. was appointed as the trustee (the “**Trustee**”) of the assets, undertakings, and properties of Building & Development Mortgages Canada Inc. (“**BDMC**”).
- B. Pursuant to an Order of the Court made on June 7, 2021 (the “**Castlemore Resolution Order**”), the Court approved and ratified the Settlement Agreement and Mutual Release dated as of May 20, 2021 (the “**Castlemore Settlement Agreement**”) among Emerald Castle Developments Inc. (the “**Borrower**”), the Trustee and Olympia Trust Company (“**OTC**”).
- C. Pursuant to the Castlemore Settlement Agreement, the releases contemplated therein are not effective until the Trustee issues the Trustee’s Certificate to the Borrower.
- D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Castlemore Resolution Order.

THE TRUSTEE CERTIFIES the following:

1. The Castlemore Resolution Order has been granted by the Court and either no material objections (in the sole opinion of the Trustee) were raised by any person at the motion for the Castlemore Resolution Order or the appeal periods in respect of the Castlemore Resolution Order have expired with no appeal being filed or, if an appeal has been filed, any such appeal or motion for leave to appeal has been fully disposed of with no further right of appeal or leave to appeal;
2. The Borrower has paid, and the Trustee has received, the Settlement Payment pursuant to the Castlemore Settlement Agreement;
3. The Borrower has abandoned the Application; and
4. The Borrower has certified that all of the representations and warranties contained in paragraph 14 of the Castlemore Settlement Agreement continue to be true as of the Closing Date.

This Certificate was delivered by the Trustee at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**FAAN Mortgage Administrators Inc., solely  
in its capacity as Court-appointed Trustee of  
the assets, undertakings, and properties of  
Building & Development Mortgages Canada  
Inc., and in no other capacity**

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

Name:

Title:

**Schedule "B" – Real Property**

PT LT 13, CON 10 ND TORONTO GORE DES PT 1, PL 43R14071 SAVE AND EXCEPT PT  
1, PL 43R35377; CITY OF BRAMPTON

PIN 14214-0172 (LT)

**Schedule "C" – Lender's Mortgage/Charge**

Registration No. PR2635749 against PIN 14214-0172 (LT), as assigned by Transfers of Charge registered as Instrument Nos. PR2635935, PR2643562, PR2649282, PR2655922, PR2663874, PR2669392, PR2677597, PR2679961, PR2685148, PR2697841, PR2704712, PR2725426, PR2734917, PR2757132, PR2775180, PR2799739, PR2811152, and PR2923347, as amended by notices registered as Instrument Nos. PR2668022, PR2679352, and PR2725417, as postponed by Instrument No. PR3088494.



**THE SUPERINTENDENT OF FINANCIAL SERVICES**

- and -

**BUILDING & DEVELOPMENT MORTGAGES CANADA  
INC.**

Applicant

Respondent

Court File No. CV-18-596204-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

**CASTLEMORE RESOLUTION ORDER**

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in its capacity as Court-appointed Trustee of  
Building & Development Mortgages Canada Inc.