



This is the 1st affidavit of Ellana Chua in this case and was made on June 25, 2024.

No. S240195  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF NEXII BUILDING SOLUTIONS INC.,  
NEXII CONSTRUCTION INC, NBS IP INC., NEXII HOLDINGS INC, 4540514 CANADA  
INC., 1061660 B.C. LTD., 0592286 B.C. LTD, 0713447 B.C. LTD, AND 0597783 B.C. LTD.


PETITIONERS

**AFFIDAVIT**

I, Ellana Chua, Legal Assistant at Bennett Jones LLP, of 2500 – 666 Burrard Street, Vancouver, British Columbia, V6C 2X8, AFFIRM THAT:

1. I am a Legal Assistant at Bennett Jones LLP, counsel for the Monitor, and as such have personal knowledge of the facts and matters hereinafter deposed to, except where stated to be based on information and belief, and whereso stated, I verily believe them to be true.
2. Attached hereto and marked as Exhibit "A" is a true copy of the Amendment to Asset Purchase Agreement made as of June 25, 2024.

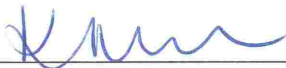
AFFIRMED BEFORE ME at Vancouver, )  
British Columbia, on June 25, 2024. )

  
\_\_\_\_\_  
A Commissioner for taking affidavits for British Columbia )

  
\_\_\_\_\_  
ELLANA CHUA )

**KAREN MACMILLAN, PARALEGAL**  
Commissioner for Taking Affidavits for British Columbia  
**BENNETT JONES SLP**  
2500 PARK PLACE – 666 BURRARD ST  
VANCOUVER, B.C. V6C 2X8  
TEL: 604.891.5312  
Commission Expires: October 31, 2026

This is **Exhibit "A"** referred to in the Affidavit of Ellana Chua affirmed before me at the City of Vancouver, Province of British Columbia, this 25th day of June, 2024



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A Commissioner for taking Affidavits within  
British Columbia

**AMENDMENT**  
**TO**  
**ASSET PURCHASE AGREEMENT**

This AMENDMENT (the “**Amendment**”) is made as of June 25, 2024,

BY AND AMONG:

**NEXIICAN HOLDINGS INC.**, a corporation incorporated pursuant to the laws of British Columbia

(the “**Purchaser**”)

AND:

**NEXII, INC.**, a corporation incorporated pursuant to the laws of the State of Delaware

(“**Nexii**”, and together with the Purchaser, the “**Purchaser Parties**”)

AND:

**NEXII BUILDING SOLUTIONS INC.**, a corporation incorporated pursuant to the laws of British Columbia

(the “**Parent**”)

AND:

**NEXII CONSTRUCTION INC.**, a corporation incorporated pursuant to the laws of British Columbia

(“**Construction**”)

AND:

**NEXII HOLDINGS INC.**, a corporation incorporated pursuant to the laws of the State of Delaware

(“**Holdings**”)

AND:

**NBS IP INC.**, a corporation incorporated pursuant to the laws of British Columbia

(collectively with the Parent, Construction and Holdings, the “**Vendors**” and each a “**Vendor**”)

**WHEREAS:**

- A. The Purchaser Parties and the Vendors (collectively, the “**Parties**”) are parties to an asset purchase agreement dated June 21, 2024 (the “**Asset Purchase Agreement**”) pursuant to which the Purchaser agreed to purchase from the Vendors, and the Vendors agreed to sell to the Purchaser, the Purchased Assets on and subject to the terms of the Asset Purchase Agreement;
- B. The Parties wish to amend the Asset Purchase Agreement on and subject to the terms of this Amendment.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Amendment and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the Parties hereby acknowledge and agree as follows:

1. Interpretation. Defined terms used but not otherwise defined herein shall have the meanings set out in the Asset Purchase Agreement.
2. Amendment. The Parties hereby agree that the Asset Purchase Agreement shall be amended as follows:

- 2.1. The definition of “Assumed Liabilities” shall be amended to remove the word struck out below and to add the provisions underlined below:

“**Assumed Liabilities**” means (a) the Vendors’ Liabilities specifically and expressly designated as assumed Liabilities in Schedule B, which shall include for the avoidance of doubt the Assumed Secured Convertible Debt Obligations and the Assumed Secured Debt Obligations; (b) the Assumed Resale Warranty Obligations; ~~and~~ (c) all Liabilities of the Vendors which relate to the Business under any Assumed Contracts, Personal Property Leases and the Real Property Lease assigned to the Purchaser pursuant hereto, in each case solely in respect of the period from and after the Closing Time and not relating to any default existing prior to or as a consequence of Closing; and (d) all Cure Costs (if any).

- 2.2. The definition of “Real Property Lease” shall be amended to remove the word struck out below and to add the provisions underlined below:

“**Real Property Lease**” means, collectively, (a) the lease dated for reference October 5, 2017 between BCR Properties Ltd., as landlord, and Westcoast Outbuildings Inc., as tenant; (b) the assignment, consent and modification of lease dated December 20, 2019 among Westcoast Outbuildings Inc., by its trustee in bankruptcy, McEown and Associates Ltd., as assignor, the Parent as Assignee, and BCR Properties Ltd., as landlord; ~~and (c)~~ the lease expansion and modification agreement dated as of April 8, 2020 between BCR Properties Ltd., as landlord, and the Parent, as tenant; (d) the letter dated May 26, 2023, from “Nexii” to BCR Properties Ltd. regarding a rent deferment and repayment schedule; and (e) the letter

dated June 2, 2023, from BCR Properties Ltd. to the Parent, amending terms of the rent deferment and repayment schedule set out in the May 26, 2023, letter.

- 2.3. Schedule A shall be amended to remove and strike the reference in #11 to the following under “A.1 - Contracts and Agreements”:

Employment agreement dated December 21, 2018 between Benedict Dombowsky and 1189102 B.C. Ltd.

and replacing the removed and struck provision with the following as a new #11:

Employment agreement dated July 19, 2021, between Benedict Dombowsky and Nexii Building Solutions Inc.

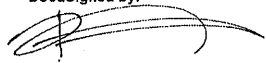
3. Limitation. Except as set out in this Amendment, this Amendment shall in no way (a) limit, impair, constitute a waiver of, or otherwise affect any other right, power, or remedy of any of the Parties under the Asset Purchase Agreement; or (b) alter, modify, amend, or in any way affect any of the other terms, conditions, obligations, covenants, or agreements contained in the Asset Purchase Agreement, all of which shall continue in full force and effect.
4. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the exclusive jurisdiction of the Court, and any appellate courts of the Province of British Columbia therefrom.
5. Further Assurances. Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents, and further assurances as may be reasonably necessary or desirable to give effect to this Amendment.
6. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

*[Signature Page Follows]*

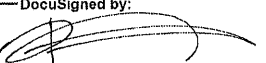
**IN WITNESS WHEREOF** the Parties have executed this Amendment as of the day and year first above written.

VENDORS:

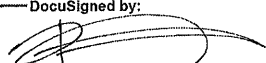
**NEXII BUILDING SOLUTIONS INC.**

DocuSigned by:  
  
3F71018229A948B  
Name: Britt Tucker  
Title: CEO

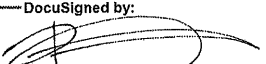
**NEXII CONSTRUCTION INC.**

DocuSigned by:  
  
3F71018229A948B  
Name: Britt Tucker  
Title: CEO

**NEXII HOLDINGS INC.**

DocuSigned by:  
  
3F71018229A948B  
Name: Britt Tucker  
Title: CEO

**NBS IP INC.**

DocuSigned by:  
  
3F71018229A948B  
Name: Britt Tucker  
Title: CEO

NEXII:

**NEXII, INC.**

Name: Russ Lambert  
Title: President

PURCHASER:

**NEXIICAN HOLDINGS INC.**

Name: Blake Beckham  
Title: Director

**IN WITNESS WHEREOF** the Parties have executed this Amendment as of the day and year first above written.

VENDORS:

**NEXII BUILDING SOLUTIONS INC.**

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

**NEXII CONSTRUCTION INC.**

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

**NEXII HOLDINGS INC.**

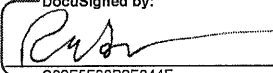
\_\_\_\_\_  
Name:  
Title:

**NBS IP INC.**

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

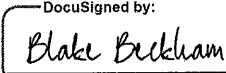
NEXII:

**NEXII, INC.**

DocuSigned by:  
  
\_\_\_\_\_  
Name: Russ Lambert  
Title: President

PURCHASER:

**NEXIICAN HOLDINGS INC.**

DocuSigned by:  
  
\_\_\_\_\_  
Name: Blake Beckham  
Title: Director