

THE KING'S BENCH

Winnipeg Centre

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
DONMAR PROPERTIES LTD. AND 10058984 MANITOBA LTD.

PROPOSED MONITOR'S REPORT

ERNST & YOUNG INC.

April 11, 2023

**FILED
APR 12 2023**

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INTRODUCTION

1. This report (the “**Report**”) is prepared by Ernst & Young Inc. (“**EY**”) as the proposed court-appointed Monitor (the “**Proposed Monitor**”, and if appointed by Order of this Honourable Court, the “**Monitor**”) of Donmar Properties Ltd. (“**Donmar**”) and 10058984 Manitoba Ltd. (“**1005**”) (collectively, the “**Applicants**”) pursuant to their application for relief under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCA**”).
2. This Report should be read in conjunction with the Applicants’ application for an initial order (the “**Proposed Initial Order**”) filed on April 6, 2023, and the supporting affidavit of Mr. Gord Howard sworn on April 10, 2023, (the “**Howard Affidavit**”) in support of the Applicants’ request to commence CCA proceedings.

PURPOSE

3. The purpose of this Report is to provide information to this Honourable Court with respect to, *inter alia*, the following:
 - a) the qualifications of EY to act as Monitor, if appointed;
 - b) an overview of the Applicants;
 - c) an overview of the assets and liabilities of the Applicants;
 - d) the proposed sale and investment solicitation process (the “**Proposed SISP**”);
 - e) an overview of the Applicants’ thirteen (13) week cash flow forecast (the “**Cash Flow Forecast**”); and
 - f) certain relevant matters about the relief sought in the Proposed Initial Order.
4. Capitalized terms used but not defined in this Report are defined in either the Howard Affidavit, or the Proposed Initial Order.

TERMS OF REFERENCE

5. In preparing this Report, and in making the comments herein, the Proposed Monitor has been provided with, and has herein relied upon, unaudited financial information, books, records and financial information prepared by the Applicants, discussions with management of the Applicants (the “**Management**”), and information from other third-party sources (collectively, the “**Information**”). Except as described in this Report in respect of the Cash Flow Forecast:
 - a) the Proposed Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposed Monitor has not audited or otherwise attempted to verify the accuracy or completeness of such information in a manner that would wholly or partially comply with General Accepted Assurance Standards (“**GAAS**”) pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Proposed Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information; and
 - b) some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.
6. Future oriented financial information referred to in this Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not readily and currently ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be material.
7. This Report has been prepared for the use of this Honourable Court and the Applicants’ stakeholders as general information relating to the Applicants and their operations.

Accordingly, the reader is cautioned that this Report may not be appropriate for any other purpose. The Proposed Monitor assumes no responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Report contrary to the provisions of this paragraph.

8. Unless otherwise indicated, the Proposed Monitor's understanding of factual matters expressed in this Report concerning the Applicants business is based on the Information, and not independent factual determinations made by the Proposed Monitor.
9. Unless otherwise stated all monetary amounts contained herein are expressed in Canadian Dollars.

QUALIFICATIONS OF EY TO ACT AS MONITOR

10. EY is a licensed trustee within the meaning of Section 2(1) of the *Bankruptcy and Insolvency Act* (Canada). EY is not subject to any of the restrictions set out in section 11.7(2) of the CCAA on who may be appointed as Monitor.
11. EY has consented to act as Monitor in these proceedings; should this Honourable Court grant the Proposed Initial Order. A copy of EY's consent to act as Monitor in these proceedings is attached to this Report as **Appendix "A"**.
12. EY has significant experience acting as CCAA monitor and other court officer capacities in formal insolvency proceedings. EY has also led numerous in-court initiatives resulting in the successful restructurings (or sale) of numerous real estate development projects such as, but not limited to, the Resort at Copper Point (Fairmont, BC), Aquattro Limited Partnership (Colwood, BC) the SEFC Properties Inc. (Vancouver Olympic Village), the Terrace House (Vancouver, BC), the Jameson House (Vancouver, BC), Blackburn Developments (Coquitlam, BC), and the Falls Golf Club and Resort (Chilliwack, BC), SOPA Developments

(Kelowna, BC), the Oak Bay Beach Hotel (Oak Bay, BC), Princeton Towers and Forest View Suites (Thompson, Manitoba) and Rosa Fortunata Hotel (Brandon, Manitoba).

13. Upon its appointment, if so granted by this Honourable Court, the Proposed Monitor intends to retain Pitblado Law to act as its independent counsel in these CCAA proceedings.

GENERAL BACKGROUND AND CAUSES OF INSOLVENCY

Overview

14. A detailed background with respect to the Applicants is provided in the Howard Affidavit. The following is a summary prepared by the Proposed Monitor to assist this Honourable Court.
15. The Applicants, Donmar and 1005, are affiliated corporations. The Applicants are related to an additional five (5) corporations that are commonly owned. An organizational chart is attached to this Report as **Appendix “B”**.
16. Donmar operates in the Province of Manitoba as a real estate development company. Donmar also owns the shares of 1005. 1005 is a corporation that holds legal title to the real property beneficially owned by Donmar.
17. Neither Donmar nor 1005 employ any employees.

Nature of Business

18. Donmar’s sole development is located at the corner of Donald Street and St. Mary Avenue in Winnipeg, Manitoba on a 0.7 acre lot with a gross floor area of approximately 137,391 square feet. Construction is underway of a 14-storey purpose built rental apartment complex that includes:
 - a) 120 rental apartment units;
 - b) a floor of amenities and storage lockers;

- c) a large commercial restaurant tenant that would occupy approximately 10,000 square feet of space on the ground level; and
 - d) a smaller commercial tenant that would occupy approximately 1,100 square feet.
19. Total gross floor area of the Project is approximately 176,216 square feet (collectively, the “**Project**”), comprising the following:
- a) Tower building – 137,391
 - b) Parkade - 38,825

Land Acquisition

20. The project site originally consisted of two contiguous parcels of land:
- a) a surface parking lot located at the Southeast corner of St. Mary Avenue in Winnipeg, Manitoba (“**Lot 1**”); and
 - b) a parcel located at 175 Donald Street in Winnipeg, Manitoba (“**Lot 2**”).

Lot 1

21. On May 1, 2020, Lot 1 was acquired by Morcourt Properties Ltd. (“**Morcourt**”), a corporation related to the Applicants, from Oggi Investments Ltd. (“**Oggi**”) for the purchase price of \$6,000,000 (the “**Lot 1 Purchase Price**”).
22. Morcourt was the initial purchaser of Lot 1, as Donmar and 1005 were not incorporated until April 6, 2020 (initial offer to purchase Lot 1 was May 28, 2019). Pursuant to a Nomination and Assignment Agreement dated April 14, 2020, Morcourt nominated 1005 to take legal ownership of Lot 1, as bare trustee for and on behalf of Donmar, and nominated Donmar as beneficial owner for the purpose of closing the transaction.
23. The Lot 1 purchase was conditional upon, among other things, 1005 entering into an agreement with Oggi whereby Lot 1 could not be used for the purpose of a parking lot (other

than for tenants, customers of the commercial space or employees visiting the businesses) until May 1, 2040 (the “**Restrictive Covenant**”) and that Oggi was entitled to register a caveat on title to evidence the Restrictive Covenant.

Lot 2

24. The transaction to acquire Lot 2 closed on July 10, 2020 for a purchase price of \$406,442 (the “**Lot 2 Purchase Price**” and together with the Lot 1 Purchase Price, the “**Land Acquisition Price**”). The Land Acquisition Price was paid by Morcourt.
25. Pursuant to a Nomination to Take Title dated July 10, 2020, Donmar nominated 1005 to take legal ownership of Lot 1, as bare trustee for and on behalf of Donmar, and nominated Donmar as beneficial owner for the purpose of closing the transaction. To date, 1005 remains the legal owner of Lot 1 and Lot 2, which it holds as bare trustee for the benefit of Donmar.

Consolidation of Lot 1 and Lot 2

26. Titles to Lot 1 and Lot 2 were registered on separate titles within the Manitoba Land Titles Registry. On or about May 18, 2022, Lot 1 and Lot 2 were consolidated into Status of Title No. 3175100/1. The consolidated land is legally described on title as:

PARCEL “A” PLAN 69663 WLTO
IN RL 1 PARISH OF ST. JOHN (the “**Land**”),

the civic addresses of the Land are 300 St. Mary Avenue (formerly Lot 1) and 185 Donald Street (formerly Lot 2).

Key Contracts

27. Akman Construction Ltd. was engaged as the construction manager (“**Akman**” or the “**Construction Manager**”) with respect to the Project pursuant to a CCDC5B – Construction Management Contract dated December 3, 2021 (the “**Construction Manager Contract**”).

28. Number TEN Architectural Group (the “**Architect**”) was engaged as the architect with respect to the Project pursuant to a Canadian Standard Form of Contract for Architectural Services that was fully executed on February 3, 2020 (the “**Architect Agreement**”).

Increasing Construction Costs

29. As described in the Howard Affidavit, in or about the fall of 2019, and prior to acquiring the Land, Mr. Howard discussed the estimated construction costs with Akman (with whom Mr. Howard maintained a relationship related to a prior apartment building developed by Akman on behalf of Mr. Howard) and Montrose Winnipeg Ltd. (“**Montrose**”), a commercial mortgage broker, engaged to assist with securing construction financing for the Project. At that time, a preliminary budget for construction of the Project of approximately \$40,000,000 was provided by Akman and Montrose.

30. Since then, the estimated construction costs for the Project have continued to increase as summarized in the table below:

No.	Document	Timeframe	Amount*
1.	Verbal discussion (the " Original Estimate ")	Fall 2019 - April 18, 2021	\$ 40,000,000
2.	Pro Forma Budget dated April 19, 2019 (" Cost Overrun #1 ")	April 19, 2021 - Sept. 16, 2021	42,000,000
3.	Tender 1 (" Cost Overrun #2 ")	Sept. 17, 2021 - Sept. 28, 2022	43,839,699
4.	Tender 2 (" Cost Overrun #3 ")	Sept. 29, 2022 - March 23, 2023	48,811,649
5.	Project Report	March 24, 2023 - present	49,049,463
TOTAL COST OVERRUNS - \$			\$ 9,049,463
TOTAL COST OVERRUNS - %			23%

**Amounts are exclusive of GST*

31. Due to increasing construction costs, the Applicants made attempts to reduce the costs of the Project; however, potential cost savings identified were non-substantive.

32. The Applicants also inquired of the Construction Manager about the possibility of a re-design of the Project or pausing the project for a certain amount of time in order to re-strategize. The

Applicants indicate that based on the options presented to them, the Applicants agreed to continue with the development of the Project, at that time.

Funding

33. In or about March 2022, the Applicants were notified by Montrose that Access Credit Union ("**Access**") was prepared to provide a demand construction mortgage facility in the amount of \$42 million (the "**Access Construction Loan**") for the Project to the Applicants.
34. As part of the Access Commitment Letter (as hereinafter defined), Access required confirmation that the Applicants had invested, at least, \$14,502,660 in the Land and the Project prior to any advances from Access (the "**Original Equity Requirement**"). At the time, approximately \$7.2 million had already been invested into the Project, including the Land Acquisition Price and other soft costs paid by a corporation related to the Applicants.
35. Accordingly, Morcourt obtained equity funding from Steinbach Credit Union ("**SCU**") (as described below) and made its first draw therefrom and advance to Donmar in or about May 2022.

Increased Equity Requirement

36. In late 2022, the Construction Manager prepared and provided the Applicants with a Tender Package (Class A) dated September 29, 2022 ("**Tender 2**") that disclosed cost overruns of \$5,499,950. This resulted in the construction budget increasing to \$48,811,649 plus GST ("**Cost Overrun No. 3**").
37. Due to increased construction costs, Access required the Applicants to contribute additional equity into the Project to a total of approximately \$21 million, which was approximately \$7.2 million over the Original Equity Requirement (the "**Increased Equity Requirement**").

38. The Applicants were required to draw most of the credit made available to it by SCU to satisfy the Increased Equity Requirement. To date, the amount advanced by Morcourt into the Project and to the Applicant has increased to a total of \$21,769,756 (the “**SCU Advances**”).

Commencement of Construction

39. With the zoning completed and all required construction and building permits obtained (and current) the construction of the Project commenced in or about April 2022.
40. As of today’s date, the Project is approximately 36% complete based on the recent quantity surveyor report.
41. The scheduled completion date for the Project was to be July 31, 2024.
42. To date, all construction activities of the Applicants have been funded by Morcourt, partially secured by way of a first mortgage on the Land (as described in the Howard Affidavit), and there have been no draws on the Access construction loan facility.

Causes of Insolvency

43. The Howard Affidavit describes the significant challenges faced by the Applicants that have attributed to the Applicants’ current financial position. Such significant challenges include (i) cost overruns; (ii) increasing interest rates; (iii) delays; and (iv) issues with tax incentive approvals.

Cost Overruns

44. As discussed above, the estimated construction costs for this Project have increased by approximately \$9 million or 23% since an original estimate was provided to the Applicants in the fall of 2019.

Increasing Interest Rates

45. The estimated costs to complete the Project have also been significantly impacted by the global increase to interest rates. With respect to the Project, the increased annualized financing burden associated with current interest rates totals more than \$2.443 million (\$4.654 million over tenure of the Project – based on Cost Overrun No. 3):
- a) the interest rate on the SCU Credit Facilities is SCU’s Lender’s Standard Rate plus 1.00 per cent per annum, calculated daily. On the date that the SCU Loan Agreement was executed, the Lender’s Standard Rate was 2.45%. As at March 30, 2023, the Lender’s Standard Rate has increased to 6.70% with the interest currently charged on the SCU Credit Facilities at 7.70%; the estimated annualized cash flow impact of the interest rate increase on the SCU Advances is \$1.143 million; and
 - b) the interest rate of the Access Credit Facilities is Access Prime plus 0.90% payable monthly. On the date that the Access Commitment Letter was executed, Access Prime was 3.60%. As at March 30, 2023, Access Prime has increased to 6.70% (annual interest rate of 7.60%), the estimated annualized cash flow impact of the interest rate increase on the Access Construction Loan is \$1.3 million.

Delays

46. In or about April 2019, the Architect was instructed by the Applicants to create an architectural design that could be constructed within the construction budget of the Original Estimate of \$40,000,000. However, following receipt of the design, Akman generated a rough cost estimate and advised that the designs prepared by the Architect would cost \$53,000,000 to construct.
47. This delayed the Project by approximately one year.

Tax Incentives

48. In planning the Project, and as noted above, the Applicants planned to apply for the City of Winnipeg (the “**City**”) Tax Increment Financing Program (the “**TIF Credit**”). The Applicants expected its application to be successful, as it was aware of similar projects that had been successful.
49. Unfortunately, soon after construction on the Project began, the City’s TIF Credit policy changed, such that projects that had begun construction were no longer eligible for the City TIF Credit. The TIF Credit is a credit on the City’s property taxes, which over time would have resulted in significant value for the Applicants.
50. The Applicants have not, to date, exhausted all options with the City to secure the TIF Credit.
51. The Applicants have also applied for the Province of Manitoba’s Manitoba Works Capital Incentive program. The application is progressing positively but has not yet been approved. This program: (i) provides a rebate of incremental education-related property taxes that are generated as a result of the capital investment on a property for a period up to 20 years, or until the education property tax is eliminated, and (ii) continues during the education property tax phase out period.

Future Viability of Project Uncertain

52. The viability of the Project, even if completed, is uncertain at this time. The current rental rates for apartments and commercial space in the City, do not support the feasibility of the Project for the capital deployed and would require further Project subsidies for the foreseeable future.
53. So far, approximately \$21,769,756 has been advanced by Morcourt to fund the Project. Whether the Project will be completed is uncertain at this time. Neither the Applicants, Morcourt or the sole director of the Applicants are prepared to contribute more funding to the Project at this time.

ASSETS AND LIABILITIES OF THE APPLICANTS

Assets

54. The primary asset of the Applicants is the Project which is legally owned by 1005 and beneficially owned by Donmar.
55. Based on the Proposed Monitor's preliminary review of Project reports and the recent progress claims filed by the Construction Manager, total project costs of approximately \$23 million have been incurred to date. The updated total budget of the Project is approximately \$63.8 million. As such, the construction of the Project is estimated to be approximately 36% complete.
56. In consideration of the current rental rates for apartments and commercial space in the City, and the estimated total costs of the Project, it is more likely than not that the capitalized value of the Project (fair market value), based on estimated future net operating income and increased interest rates (thereby higher capitalization rates), would not yield a positive return to the sole shareholder upon completion.

Liabilities

57. The liabilities of the Applicants are as summarized below:

Secured Indebtedness	
Due to Morcourt Properties Ltd.	\$ 8,557,971
Steinbach Credit Union	12,776,000
Access Credit Union Limited	-
	<u>21,333,971</u>
Other Indebtedness	
Ackman Construction Ltd.	4,078,498
MLT Aikins LLP	50,832
Number TEN Architectural Group	21,591
Postma Consulting Ltd.	7,000
	<u>4,157,920</u>
Total Estimated Indebtedness	\$ <u>25,491,891</u>

58. The secured indebtedness of approximately \$21.42 million consists of the following:
- a) \$8,557,971 owing to Morcourt on the Morcourt Credit Facilities (defined below) pursuant to a Promissory Note between Morcourt and Donmar (the “**Morcourt Note**”) were Morcourt made available loans and certain credit facilities to Donmar (the “**Morcourt Credit Facilities**”). The Morcourt Credit Facilities presently have a limit of up to \$10,000,000; and
 - b) \$12,776,000 owing to Steinbech Credit Union (“**SCU**”) under a demand credit facility (the “**SCU Credit**”) pursuant to a demand promissory note and general security agreement. The SCU Credit presently has a limit of \$13,471,000 upon which interest accrues at a rate of SCU’s Lender’s Standard Rate plus 1% per annum, calculated daily.
59. The Access Construction Loan has a limit of \$42,000,000 and accrues interest at the Access prime lending rate of interest plus 0.90%, payable monthly. No draws have been made under the Access Credit Facilities, to date.
60. The other indebtedness of approximately \$4.16 million primarily consists of the following:
- a) approximately \$4.08 million owing to the Construction Manager pursuant to a construction contract; representing the February 2023 and March 2023 draw requests submitted, but which remain unpaid; and
 - b) unpaid professional firm and consultant fees in the approximate total amount of \$80,000.

PROPOSED SISP

Summary

61. The purpose of the Proposed SISP is to obtain an equity investment, a refinancing or alternatively, a sale of the Project. The Proposed SISP contemplates a 'dual track' process whereby the Monitor, if appointed by this Honourable Court, will concurrently solicit non-binding letters of interest ("**LOIs**") for the following:
- a) Track 1: a refinancing of the Project by securing:
 - i. new financing;
 - ii. additional equity investment; or
 - iii. some combination of both new financing and equity investment; and
 - b) Track 2: a sale of the Project.
62. The Proposed SISP allows the Applicants to retain a commercial real estate agent (a "**Sales Agent**") to market the Project provided that the terms of retention (including remuneration) are approved in advance by this Honourable Court. The Proposed Monitor is recommending to this Honourable Court approval for retention of Pratt McGarry Inc. o/a Colliers International ("**Colliers**" or the "**Sales Agent**") pursuant to the Exclusive Authority to Sell Agreement (the "**Engagement Agreement**") as described below.
63. On or before May 2, 2023 (the "**Marketing Commencement Date**"), the Sales Agent, with the assistance of the Monitor and the Applicants will prepare the following documents in preparation for the Proposed SISP:
- a) a teaser sale document (the "**Teaser**") that provides a brief outline of the opportunity to acquire the Property;

- b) a confidential information memorandum (the “**CIM**”) that summarizes the capital investment and/or acquisition opportunity, provides detailed construction, financial and forward-looking operational information and provides an overview of the Proposed SISP;
 - c) a form of non-disclosure agreement (“**NDA**”); and
 - d) a standardized form of LOI to promote comparability of the offers, to be prepared in consultation with the Applicants.
64. The Monitor will populate an electronic data room (the “**Data Room**”), with key construction (plans, contracts, permits, zoning, and other reports), financial, operational and other information, for potential purchasers to evaluate the capital investment and/or acquisition opportunity following the signing of an NDA. The Monitor intends to have completed populating the Data Room by the Marketing Commencement Date (as defined below).

Phase 1 – Solicitation and Submission of Non-Binding LOIs

65. Should this Honourable Court approve the Proposed SISP, the first step in the sale process would consist of:
- a) distributing the Teaser to a list of potential purchasers;
 - b) upon receipt of an executed NDA, providing interested parties (“**Bidders**”) access to the Data Room and a copy of the CIM;
 - c) placing advertisements in the real estate section of the Winnipeg Free Press, Globe and Mail (National Edition) and select real estate publications and association websites; and
 - d) contacting potential purchasers either by telephone or email soliciting their interest.

66. Phase I will conclude with the Bidders being requested to submit a non-binding LOI. The Monitor will review and analyze LOI's with the Applicants and select one or more of the Bidders to participate in a second round offering process.
67. All LOIs will be evaluated based upon, but not limited to, the structure proposed by the proponent, transaction value, the prospective purchaser's ability to complete the transaction, and the timeliness and proposed condition of closing, if any.
68. The Monitor will qualify, in consultation with the Applicants, the LOIs judged to be the most attractive, based on the above defined criteria, for Phase II of the Proposed SISP (the "**Qualified Bidders**").
69. The Applicants will not be obliged to accept any offer and reserve the right to reject any or all offers received should they not ascribe sufficient value to the Project. If at the end of Phase I, a recapitalization proposal or offer to purchase that is satisfactory to the Applicants is not received, the Parties may:
 - a) seek a further order of this Honourable Court amending the Proposed SISP to address identified deficiencies in the process, if any;
 - b) suspend the Proposed SISP, for a period of time, to permit value creation by addressing proponent concerns to value within these CCAA proceedings; or
 - c) discontinue the Proposed SISP proceed by way of filing a Plan of Arrangement or otherwise.

Phase II – Negotiation of Definitive Agreement(s) and Auction

70. Qualified Bidders will be invited to:
 - a) undertake final due diligence procedures; and

b) negotiate the terms of a definitive agreement with the Proposed Monitor (“**Qualified Bids**”).

71. The Monitor, in consultation with the Sales Agent and the consent of the Applicants will review and assess all Qualified Bids by the Phase 2 Bid Deadline (as defined below) and will either i) negotiate a definitive agreement with the party that submitted the highest or otherwise best Qualified Bid, or ii) terminate the Proposed SISP and proceed in an alternative manner.
72. The Monitor in consultation with the Sales Agent and the Applicants will review and assess all Qualified Bids received by the Phase 2 Bid Deadline and determine if the Proposed SISP should progress to an “**Auction**”.
73. If an Auction is deemed appropriate, a letter outlining the details of the auction will be sent to all Auction Qualified Bidders. If an Auction occurs, the highest or otherwise best bid will be selected as the “**Starting Bid**”.
74. If an Auction is not deemed to be appropriate, the Monitor (with the consent of the Applicants) will either, a) negotiate a definitive agreement with the party that submitted the highest or otherwise best Qualified Bid, or b) terminate the Proposed SISP and proceed in an alternative manner.
75. All agreements resulting from the Proposed SISP will be subject to approval by this Honourable Court.

The Marketing Period

76. A summary of the proposed timeframe to market the Property (the “**Marketing Period**”) as described above is provided in the table below:

Milestone	Time required	Deadline
Court Approval of the Initial Order and the Proposed SISP		April 18
Phase 1		
Commencement of marketing activities <ul style="list-style-type: none"> • Direct contact with buyer list • Newspaper, print advertisements, website publications • Media strategy and press release, if any • Execution of Confidentiality Agreements to access the data room 	2 weeks	No later than May 2
Preliminary due diligence of prospective purchasers that sign the NDAs including site visits	5 weeks from Court Approval	April 19 – May 23
Deadline for submission of non-binding LOI	8 weeks from Court Approval	June 13
Review submissions and notify Qualified Bidders for Phase II	1 week from LOI submission	June 20
Phase 2	From Commencement of Phase II	
Additional due diligence of Qualified Bidders	3 weeks	June 21 – July 11
Deadline for submission of Bindings Bids	6 weeks	August 1
Negotiation of definitive agreement with successful bidder / Auction (as determined appropriate by the Monitor)	9 weeks	August 22
Court approval of a definitive agreement	1 week	August 29
Closing of transaction		August 29

77. The Proposed Monitor is of the view that there is a captive market for an investment opportunity involving the Project and that the Marketing Period is sufficient: (i) for full

distribution and exposure to the marketplace; and (ii) to permit proponents a sufficient period to complete due diligence to assess fair market value.

78. Notwithstanding the foregoing, the Monitor reserves the right to extend any of the foregoing deadlines should, after consultation with the Applicants and Sales Agent, the complexity of transaction negotiations or any other factor warrant the Monitor to do so in order to maximize value to the Applicants' stakeholders. For greater clarity, the deadlines described are indicated of minimum time periods only.

REAL ESTATE ADVISOR

79. The Applicants are seeking the Court's approval to engage the services of Colliers pursuant to the Engagement Agreement. A copy of the Engagement Agreement is attached hereto to this Report as **Appendix "C"**.
80. Colliers has extensive prior knowledge with the Property and have assisted the Applicants in their recent discussions with potential parties that may be interested in purchasing or investing in the Project.
81. In the within CCAA proceedings, the Sales Agent will assist in executing the Proposed SISP and be responsible for marketing activities and value assessment in accordance with the Proposed SISP. The Monitor will oversee the conduct of the Proposed SISP.
82. Pursuant to the Engagement Agreement, and in accordance with the Proposed SISP, Colliers will earn a sales commission if (i) a joint venture partner or equity investor is sourced or (ii) if the Property is sold outright.
83. Colliers has begun to prepare the marketing materials in connection with its proposed mandate and is ready to commence the Proposed SISP process, subject to the approval of this Honourable Court being obtained.

84. The Proposed Monitor recommends that the Court approve the Engagement Agreement as Colliers is reputable and highly qualified real estate services firm with extensive prior knowledge of the Project and the Applicants', and whose familiarity will provide efficiencies for a smooth transition into the Proposed SISP.

OVERVIEW OF THE THIRTEEN WEEK CASH FLOW PROJECTION

85. The Applicants, with the assistance of the Proposed Monitor, has prepared a Cash Flow Forecast for the thirteen (13) week period from April 10, 2023 to July 9, 2023 (the “**Cash Flow Period**”) for the purpose of projecting the Applicants’ estimated liquidity needs during the Cash Flow Period. A copy of the Cash Flow Forecast is attached to this Report as **Appendix “D”** and summarized below:

	First 10 Days	13 week Total
Opening Cash	\$ 26,000	26,000
Receipts	-	-
Disbursements	(187,622)	(766,627)
DIP interest	(622)	(10,127)
Fencing and Lighting	(3,000)	(19,500)
Insurance	(2,000)	(2,000)
Permit costs	(12,000)	(58,000)
Project Manager	-	(10,000)
Property Taxes	-	(78,500)
Restructuring Costs	(165,000)	(542,500)
Security	-	(15,000)
Utilities	(5,000)	(11,000)
General Contingency	-	(20,000)
Ending Cash Balance	(161,622)	(740,627)
DIP Financing Draw	200,000	755,000
Ending Cash after DIP Financing	\$ 38,378	14,373

86. The Cash Flow Forecast is prepared with the underlying assumption (among others) that the Initial Order will be granted, and that all payments to creditors will be stayed and dealt with as part of the CCAA proceedings.

87. The Cash Flow Forecast projects the Applicants' will have sufficient liquidity during the first thirteen weeks of these CCAA proceedings, subject to the provision of interim financing being provided through a debtor-in-possession ("**DIP**") creditor facility (further discussed below).
88. The Proposed Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to Information supplied to it by key employees of Morcourt (the "**Finance Management**"). Since the probable and hypothetical assumptions need not be supported, the Proposed Monitor's procedures with respect to these assumptions were limited to evaluating whether they were consistent with the purpose and context of the Cash Flow Forecast. The Proposed Monitor also reviewed the support provided by Finance Management for the probable and hypothetical assumptions and the preparation and presentation of the Cash Flow Forecast.
89. Based on the Proposed Monitor's review, nothing has come to its attention that causes it to believe that, in all material respects:
- a) the probable and hypothetical assumptions are not consistent with the purpose of the Cash Flow Forecast;
 - b) as the date of this Report, the probable and hypothetical assumptions developed by Management are not suitably supported and consistent with the restructuring plans of the Petitioners or do not provide a reasonable basis for the Cash Flow Forecast; or
 - c) the Cash Flow Forecast does not reflect the probable and hypothetical assumptions.
90. As described in the Terms of Reference above, since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the probable and hypothetical assumptions occur, and the variations may be material.

Accordingly, the Proposed Monitor expresses no assurance as to whether the Cash Flow Forecast will be achieved.

91. The Cash Flow Forecast has been prepared solely for the purposes described above, and readers are cautioned that it may not be appropriate for other purposes.

INTERIM FINANCING

92. As is noted above, the Cash Flow Forecast contemplates that the Applicants require interim financing to pay for site preservation and restructuring costs while the development of the Project is temporarily paused to conduct the Proposed SISP.
93. Morcourt in its capacity as the DIP lender (the "**DIP Lender**") is supportive of the Applicants' application and has agreed to provide an interim financing facility ("**DIP Loan**"). Pursuant to the term letter for the DIP Loan (the "**DIP Term Sheet**"), if approved, the maximum amount available upon the granting of the Proposed Initial Order is \$200,000 representing the amount estimated to be required by the Applicants to maintain the Project while it is paused during the initial stay of proceedings to April 28, 2023 (the "**Initial Stay Period**"). A copy of the DIP Term Sheet dated April 10, 2023 is attached hereto as **Appendix "E"**.
94. The following is a summary of the material terms of the DIP Term Letter:
- a) the DIP Loan is a revolving credit facility with monies to be advanced in accordance with the Cash Flow Forecast;
 - b) the maximum principal amount is \$755,000; and
 - c) the interest on advances shall bear interest at a rate per annum equal to 8%, calculated daily on the daily closing principal balance owing.

95. The proposed DIP Loan is conditional upon this Honourable Court's approval of the DIP Loan and granting of the DIP Lender's Charge, which is proposed to have a priority against the Applicants' property, subject only to the Administration Charge (as discussed further below).

RELEVANT MATTERS ADDRESSED IN THE PROPOSED INITIAL ORDER

96. The Proposed Initial Order provides for four (4) priority charges (collectively, the "**Charges**") on the current and future assets, undertakings and properties of the Applicants wherever located, including all proceeds thereof, that rank in the following order:
- a) First, the Administration Charge to a maximum amount of \$300,000 (as defined below);
 - b) Second, a DIP Charge;
 - c) Third, a Directors Charge to a maximum amount of \$100,000 (as defined below);
and
 - d) Fourth, a Sales Agent Charge (as defined below).

Administration Charge

97. The Proposed Initial Order provides for a priority charge up to a maximum amount of \$300,000, (the "**Administration Charge**") in favour of the Applicants' legal counsel, the Proposed Monitor and the Proposed Monitor's independent legal counsel, as security for the professional fees and disbursements incurred prior to and after the commencement of the CCAA proceedings. The role of the professionals in the CCAA proceedings is essential to enable the Applicants to restructure their business and financial affairs as contemplated. Professional fee obligations secured by the Administration Charge will be paid in the ordinary course from funding provided by, among other things, the DIP Loan.

Recommendation

98. The Proposed Monitor is of the view that, given the current liquidity constraints of the Applicants, the proposed Administration Charge is required and reasonable in the circumstances.

DIP Charge

99. The Applicants are unable to fund these CCAA proceedings; absent the DIP Loan. As discussed above, Morcourt is supportive of the Applicants' application and has agreed to provide the DIP Loan, on the terms described above, to enable the Applicants to temporarily pause the development of the Project in order to conduct the Proposed SISP.
100. The Proposed Initial Order provides for a priority charge (the "**DIP Charge**") over all of the present and future assets, undertakings and properties of the Applicants in favour of the DIP Lender subject, only to the Administration Charge, to secure the payment of the DIP Loan.
101. The Applicants, at the Comeback Hearing, will seek to increase the DIP Loan from \$200,000 to a maximum of \$755,000, under the amended and restated Initial Order.

Recommendation

102. The Proposed Monitor is of the view that the Applicants' request for approval of the DIP Loan and the DIP Charge is necessary and reasonable in the circumstances. Additionally, the Proposed Monitor is of the view that the terms of the DIP Loan are reasonable in the circumstances.

Sales Agent Charge

103. Given the difficult financial circumstances facing the Applicants, the Proposed Initial Order includes a charge over all of the present and future assets, undertakings and properties of the Applicants to the maximum amount described in the Exclusive Agreement (the "**Sales**

Agent's Charge"). The Sales Agent's Charge is intended to secure the payment of the professional fees and disbursements associated with its engagement in accordance with the Engagement Agreement. The Engagement Agreement is conditional on the granting of the Sales Agent's Charge by this Honourable Court.

Recommendation

104. The Proposed Monitor is of the view that it is appropriate for Colliers to have the benefit of a Court-approved charge to secure its success fee should a transaction be completed under the Proposed SISP.

Directors and Officers Indemnification and Charge

105. The Proposed Initial Order contemplates that to ensure the continued participation of Mr. Howard (the sole, "**Director**" or "**Officer**") in the restructuring of the Applicants, the Applicants will indemnify the Director and Officer against any obligations and liabilities that they may incur as a result of holding such office or position after the commencement of the CCAA proceedings, except to the extent that, with respect to any the obligation that was incurred as a result of the Director's or Officer's gross negligence or wilful misconduct.
106. The Applicants do not currently have directors and officer's liability insurance ("**D&O Insurance**") in place.
107. In relation to the above, the Proposed Initial Order provides the Director and Officer of Applicants to be granted a directors' and officers' charge in an amount of \$100,000 (the "**Director's Charge**") over the current and future assets, property and undertaking of the Applicants in priority to all other charges, except for the Administration Charge and the DIP Charge, as indemnity for potential liabilities.
108. Mr. Howard is prepared to continue in office as a Director and Officer of the Applicants based on the Court granted charge, notwithstanding that:

- a) the Applicants have no employees from which future employment related director and officer obligations could arise;
- b) the Applicants remain in a refund position with respect to Goods and Services Tax (GST) and have no obligations presently due and owing to the Canada Revenue Agency (CRA). It is not anticipated that the Applicants will be collecting GST on behalf of CRA during the tenure of the CCAA proceedings;
- c) The Applicants are not presently or anticipated during the tenure of the CCAA proceedings to be collecting sales taxes on behalf of the Province of Manitoba; and
- d) the Proposed Monitor is unaware of other liquidated or potentially future liquidated claims of the Applicants to which the Director and Officer could become subject and would form a liability of the Director and Officer.

Recommendation

109. Given the di minimis amount of the proposed Director's Charge and unlikelihood of its application in the CCAA proceedings, the Proposed Monitor is of the view that the Directors' Charge is reasonable under the circumstances.

PROPOSED MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

110. Based on the foregoing, the Proposed Monitor respectfully recommends that the Applicants' request for an Initial Order pursuant to the CCAA and the ancillary relief described in this Proposed Monitor's Report be granted by his Honourable Court.

All of which is respectfully submitted this 11th day of April, 2023.

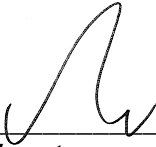
ERNST & YOUNG INC.

*In its capacity as Proposed Monitor
of Donmar Properties Limited and 10058984 Manitoba Ltd.
and not in its personal or corporate capacity*

Per:



**Kevin Brennan, CPA, CA, FCIRP, LIT
Senior Vice President**



**Peter Venetsanos, CPA, CA, CIRP, LIT
Vice President**

Appendix “A”

THE KING'S BENCH
WINNIPEG CENTRE

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 DONMAR PROPERTIES LTD. AND 10058984 MANITOBA LTD.


(the "**Applicants**")

CONSENT TO ACT AS MONITOR

Ernst & Young Inc. hereby consents to act as the court-appointed monitor in these proceedings of the Applicants, Donmar Properties Ltd. and 10058984 Manitoba Ltd., if so appointed by this Honourable Court.

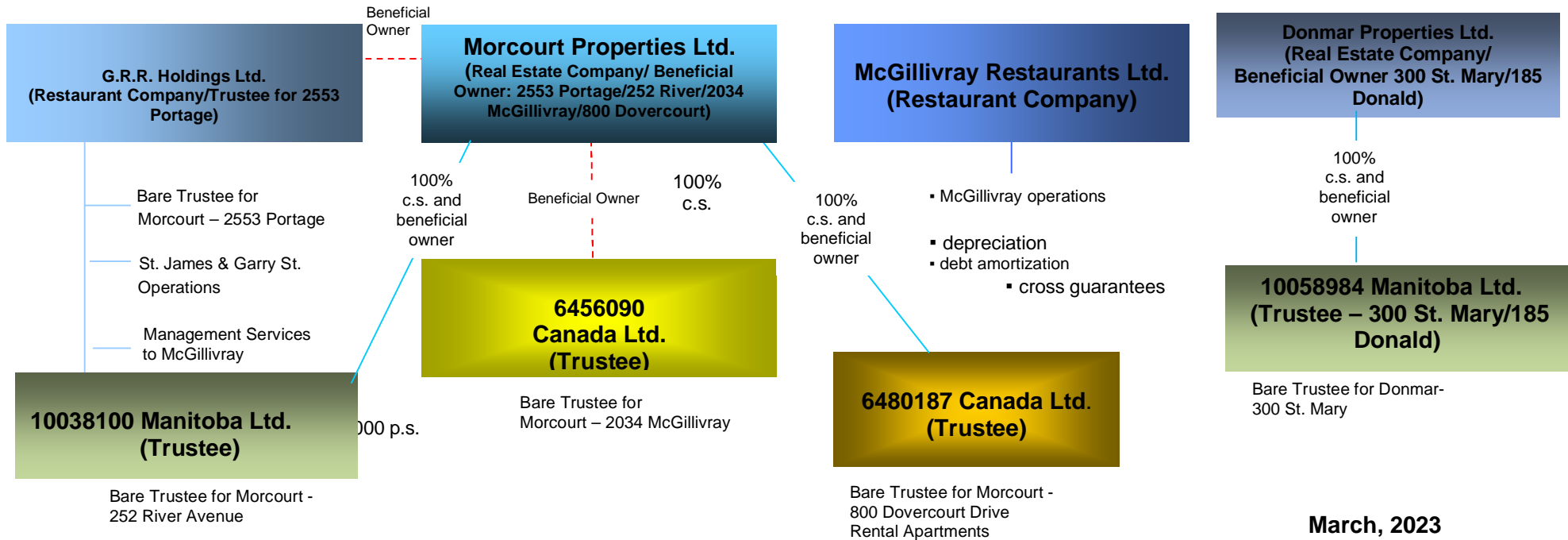
DATED at the City of Vancouver, in the Province of British Columbia this 11th day of April, 2023.

ERNST & YOUNG INC.

Per: 
Name: Kevin Brennan
Title: Senior Vice President

Appendix “B”

ORGANIZATON CHART



Appendix “C”

EXCLUSIVE AUTHORITY TO SELL

THIS AGREEMENT is made this 7th day of April, 2023

BETWEEN: **DONMAR PROPERTIES LTD.**

-and-

10058984 MANITOBA LTD.

(herein collectively referred to as the "Seller")

OF THE FIRST PART.

- and -

PRATT MCGARRY INC. o/a COLLIERS INTERNATIONAL

(herein referred to as "Colliers" or the "Brokerage")

OF THE SECOND PART.

WHEREAS the Seller hereby authorizes the Brokerage to act as its exclusive agent for the purposes of selling those lands and improvements municipally known as 300 St. Mary Avenue and 185 Donald Street in Winnipeg, Manitoba, and legally described as:

PARCEL "A" PLAN 69663 WLTO
IN RL 1 PARISH OF ST JOHN

herein called the "Property";

AND WHEREAS the Seller is desirous of disposing the Property consisting of approximately 30,243 square feet, by sale (including, for greater certainty, any sale of all or part of the equity interests of one or more of the entities comprising the Seller) or by way of entering into a partnership, joint venture or other similar transaction relating to the Property on terms favourable to the Seller (any such transaction, a "**Transaction**");

AND WHEREAS Colliers is a Registered Real Estate Brokerage which has undertaken to act as agent for the Seller to market the Property for sale to potential buyers;

NOW THEREFORE, in consideration of other good and valuable consideration and the mutual covenants and agreements herein contained, Seller hereby appoints Colliers as its sole and exclusive agent to market the Property for sale upon the following terms and conditions:

1. Exclusive Listing Term

The term of the exclusive listing herein referred to shall commence on the date of acceptance of this agreement by both parties and shall expire six (6) months thereafter. Notwithstanding anything contained herein to the contrary, if an offer to purchase or sell or otherwise enter into a Transaction has been accepted by the Seller and a buyer, and the offer is subject to any conditions, and if the date for removal of the condition or conditions (the "**Condition Removal Date**") extends beyond the date set out in this paragraph, then this Agreement shall be extended and shall continue in full force and effect to the later of:

- a) 90 days after the Condition Removal Date; or
- b) the date set out in this paragraph.

It is acknowledged and agreed that the effectiveness of this Agreement shall be subject to a condition precedent that Colliers is provided a specific priority charge over the Property in favour of Colliers, such charge to be in form and substance satisfactory to, in its sole and absolute discretion.

2. Sale Process

Colliers shall offer the Property for sale at a currently unspecified price, and such other terms and conditions that the Seller may find acceptable, subject to any requirement for a minimum price at law.

3. Commission

- a) The Seller shall pay Colliers a commission of two and one-half percent (2.5%) of the purchase price (or, if applicable value of the Property in the event of any partnership, joint venture or other similar Transaction relating to the Property) payable to purchase the Property plus applicable taxes (including, but not limited to Goods and Services Taxes). If a Transaction is entered into with respect to the Property in cooperation with a buyer's brokerage, as evidenced in writing and agreed to by Colliers, the commission shall be shared on a 60:40 basis in favour of Colliers;

Said commissions shall be due and payable at the closing of any sale, barter, exchange, merger or joint venture of all or part of the Property from any source whatsoever during the currency of this agreement or any extension thereof. Commissions shall be calculated based on a purchase price excluding any set off agreed to between the parties (calculated using the approved sale value of the Property), or, if applicable, the fair value of any partnership, joint venture or other similar Transaction, as otherwise approved by the Court overseeing the process relating to the Property);

- b) Any deposit tendered with an offer to purchase accepted by the Seller, shall be made payable to the Seller's solicitor In Trust;
- c) The Seller irrevocably instructs its solicitor to pay from the proceeds of the sale, any balance of commission owing to Colliers on closing;
- d) The Seller further agrees to pay commission as per the above to Colliers in the event of a sale, barter, exchange, merger or joint venture within six (6) months from the date of expiry of this agreement or any extension thereto to anyone to whom Colliers introduced the Property during the term of this agreement or extension thereof, providing Colliers has submitted a written list of prospects within thirty (30) days of the termination of this agreement; and
- e) For greater certainty, by example, the commission payable at the closing of a sale of an 80% interest in the Property would be calculated as follows:

value of a 100% interest in the Property	\$10,000,000
proportionate interest sold or transferred	<u> x 80%</u>
purchase price payable	\$8,000,000
commission rate	<u> x 2.5%</u>
commission payable	\$200,000 ^A

^A plus GST payable thereon

4. Disclosure

The Seller acknowledges its potential liability for failure to disclose any latent defects in the Property, including environmental contamination, to any Buyer. The Seller agrees to indemnify and save Colliers harmless in respect of any claims made by any Buyer against Colliers for non-disclosure of information, which the Seller knew or ought to have known and had a duty to disclose at law, which was not disclosed.

5. Representation by Agent

The Seller acknowledges and agrees that Colliers has the exclusive listing for the purposes of selling the Property and Colliers and its licensees shall not represent any other party to a transaction involving the Property without the express written consent of the Seller.

6. Responsibilities of Colliers

As exclusive agent for the Seller, Colliers will use its reasonable best efforts in promoting the Seller's interests and, in particular, to use its knowledge and other resources to the best of its ability to sell the Property on terms satisfactory to the Seller. Colliers undertakes to perform the following:

- a) provide sufficient personnel so that Colliers' responsibilities will be effectively carried out with a comprehensive buyer solicitation campaign;
- b) develop a marketing program for the Property and assist in the development of an advertising program and in the preparation and production of all necessary material required for the sale of the Property, all of which will be subject to the Seller's approval;
- c) actively promote the Property in Colliers' day-to-day activities and contacts with prospective buyers;
- d) provide the services of Colliers' prospect database to identify prospective buyers for the Property and canvass and contact prospective buyers;
- e) immediately bring to the Seller's attention all offers for sale which Colliers obtains, regardless of the source, and regardless of whether or not they comply with the requirements established by the Seller;
- f) develop a detailed offering memorandum providing an executive summary and overview of the offering including a virtual data room with documents pertaining to the Property; and
- g) report to the Seller on a bi-weekly basis or as directed by the Seller on project relevant activity, relevant matters and developments affecting the marketing and sale of the Property including information on prevailing conditions in the market with particular emphasis on the site's submarket and details relating to current transactions and competing listings.

7. Advertising and Sales Promotion

All advertising and sales promotion initiated and paid for by Colliers shall be subject to the

Seller's prior approval.

8. Not Legal, Tax or Environmental Advice

The parties to this Agreement acknowledge that Colliers has recommended that they obtain advice from their legal counsel prior to signing this document. The parties further acknowledge that the information provided by Colliers is not to be construed as expert legal or tax advice and the parties are cautioned not to rely on any such information without seeking specific legal or tax advice with respect to their unique circumstances.

9. General

- a) The Seller agrees that all enquiries from any source whatsoever shall be referred to Colliers and all offers shall be submitted through Colliers;
- b) Neither party to this agreement shall be entitled to assign this agreement or any interest herein;
- c) The parties hereby confirm that the above correctly sets forth the terms of their agreement by executing it at the place hereinafter indicated;
- d) This agreement shall be binding on the successors and assigns of the parties hereto; and
- e) This agreement shall be governed by the laws of the Province of Manitoba.

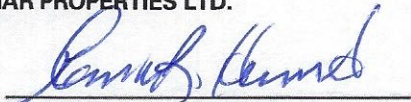
The Seller has read and clearly understands this Agreement and acknowledges this date having received a copy of same and warrants he is authorized to sign this Agreement.

Dated at Winnipeg, Manitoba this 7th day of April, 2023.

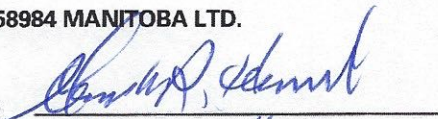
DONMAR PROPERTIES LTD.

-and- **10058984 MANITOBA LTD.**

Per:



Per:



Name:

GORDON HOWARD

Name:

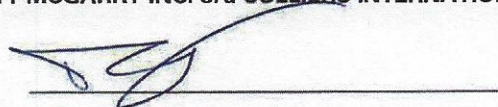
GORDON HOWARD

We hereby agree that the above correctly sets forth the terms of our agreement and undertake to carry out the provisions thereof.

Dated at Winnipeg, Manitoba this 7th day of April, 2023.

PRATT MCGARRY INC. o/a COLLIERS INTERNATIONAL

Per:



Name:

DAN CHUBEY

Appendix “D”

In the matter of the CCAA proceedings of Donmar Properties Ltd. and 10058984 Manitoba Ltd.
 Weekly Cash Flow Projection for the period, April 17, 2023 to July 16, 2023
 \$CAD

	Week Ending	1 23-Apr-23 Forecast	2 30-Apr-23 Forecast	3 7-May-23 Forecast	4 14-May-23 Forecast	5 21-May-23 Forecast	6 28-May-23 Forecast	7 4-Jun-23 Forecast	8 11-Jun-23 Forecast	9 18-Jun-23 Forecast	10 25-Jun-23 Forecast	11 2-Jul-23 Forecast	12 9-Jul-23 Forecast	13 16-Jul-23 Forecast	Total
Receipts	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Site Preservation Costs	2														
Fencing and Lighting	3	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(1,500)	(19,500)
Insurance	4	-	(2,000)	-	-	-	-	-	-	-	-	-	-	-	(2,000)
Project Manager	5	-	-	-	(5,000)	-	-	-	(5,000)	-	-	-	-	-	(10,000)
Security	6	-	-	-	(5,000)	-	-	-	(5,000)	-	-	-	(5,000)	-	(15,000)
Permit costs	7	(10,000)	(2,000)	(2,000)	(10,000)	(2,000)	(2,000)	(2,000)	(10,000)	(2,000)	(2,000)	(2,000)	(10,000)	(2,000)	(58,000)
Property Taxes	8	-	-	-	-	-	-	-	-	-	-	-	(78,500)	-	(78,500)
Utilities	9	(5,000)	-	-	(2,000)	-	-	-	(2,000)	-	-	-	(2,000)	-	(11,000)
Contingency	10	-	-	-	(10,000)	-	-	-	(10,000)	-	-	-	-	-	(20,000)
		(16,500)	(5,500)	(3,500)	(33,500)	(3,500)	(3,500)	(3,500)	(33,500)	(3,500)	(3,500)	(3,500)	(97,000)	(3,500)	(214,000)
Restructuring Costs															
DIP Interest	11	(311)	(311)	(622)	(622)	(622)	(622)	(933)	(933)	(933)	(933)	(933)	(1,174)	(1,174)	(10,127)
Professional Fees	12	(45,000)	(120,000)	(115,000)	(27,500)	(22,500)	(22,500)	(47,500)	(22,500)	(20,000)	(20,000)	(20,000)	(40,000)	(20,000)	(542,500)
		(45,311)	(120,311)	(115,622)	(28,122)	(23,122)	(23,122)	(48,433)	(23,433)	(20,933)	(20,933)	(20,933)	(41,174)	(21,174)	(542,500)
Net Cash Flow		(61,811)	(125,811)	(119,122)	(61,622)	(26,622)	(26,622)	(51,933)	(56,933)	(24,433)	(24,433)	(24,433)	(138,174)	(24,674)	(756,500)
Cash Balance															
Opening Available Cash Balance		26,000	164,189	38,378	119,256	57,633	31,011	4,389	152,456	95,522	71,089	46,656	22,222	39,048	26,000
Net Cash Flow		(61,811)	(125,811)	(119,122)	(61,622)	(26,622)	(26,622)	(51,933)	(56,933)	(24,433)	(24,433)	(24,433)	(138,174)	(24,674)	(766,627)
DIP Draw/(Payback)		200,000	-	200,000	-	-	-	200,000	-	-	-	-	155,000	-	755,000
Closing Available Cash Balance		164,189	38,378	119,256	57,633	31,011	4,389	152,456	95,522	71,089	46,656	22,222	39,048	14,373	14,373

In the Matter of CCAA of Donmar Properties Ltd. (“Donmar”) and 10058984 Manitoba Ltd. (“1005”) (together, the “Applicants”)

Notes to the Unaudited Cash Flow Forecast of the Applicants

Disclaimer:

In preparing this cash flow forecast (the “**Cash Flow Forecast**”), the Applicants have relied upon unaudited financial information and the Applicants have not attempted to further verify the accuracy or completeness of such information. The Cash Flow Forecast includes estimates concerning the undertakings of the Applicants based on the assumptions discussed below. The Cash Flow Forecast assumes the Applicants’ undertakings are in furtherance of proceedings under the *Companies’ Creditor Arrangement Act* (“**CCAA**”).

Since the Cash Flow Forecast is based on assumptions about future events and conditions that are not ascertainable with certainty, the actual results achieved during the Period (as defined below) will vary from the Cash Flow Forecast, even if the assumptions materialize, and such variation may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

The Cash Flow Forecast includes the receipts and disbursements of the Applicants during the Cash Flow Forecast Period (the “**Period**”). The Applicants, with the assistance of Ernst & Young Inc., in its capacity as the proposed monitor of the Applicants (the “**Proposed Monitor**” and if appointed, the “**Monitor**”), have prepared the Cash Flow Forecast for the Period based on estimated receipts and disbursements related to the CCAA proceedings resulting from the cessation (pause) of construction on the project located at the corner of Donald Street and St. Mary Avenue in Winnipeg, Manitoba (the “**Property**”).

The Cash Flow Forecast assumes that the Applicants obtain a stay of proceedings under the CCAA until April 28, 2023. The Cash Flow Forecast covers the period from April 17, 2023 to July 16, 2023 (the “**Cash Flow Period**”).

- 1. Receipts:** No receipts are forecast during the Cash Flow Period.
- 2. Site Preservation:** The Cash Flow assumes construction on the Property will pause and future costs incurred during the Period will be limited to the preservation and security of the site.
- 3. Fencing and Lighting:** Represents rentals costs for fencing and lighting to the site.
- 4. Insurance:** Represents the estimated cost to obtain general liability insurance coverage for the site.
- 5. Project Manager:** Represents the estimated cost for a project manager to oversee the preservation and securing of the site, including on-going oversight and maintenance.
- 6. Security:** Represents the estimated cost for security patrols for the site during the Period.
- 7. Permit Costs:** Relates to costs to the City of Winnipeg for continued street, sidewalk and parking meter closures at or around the site paid either weekly or monthly during the Period.
- 8. Property Taxes:** Represents the estimated 2023 property tax based on historical cost.

9. **Utilities:** Represents the estimated cost for set up and consumption at the site during the Period.
10. **Contingency:** A small contingency is built into the Cash Flow Forecast for unforeseen expenses.
11. **DIP Interest:** Represents interest of 8% on advances in accordance with the DIP Term Sheet.
12. **Restructuring Costs:** Represents professional fee payments to legal counsel to the Applicant, the Monitor and the Monitor's legal counsel.

Appendix “E”

INTERIM FINANCING TERM SHEET

APRIL 10, 2023

WHEREAS on April 10, 2023, the Borrower (as defined below) sought and was granted protection under the *Companies' Creditors Arrangement Act* (Canada), as amended (the "**CCAA**") to restructure its affairs pursuant to an initial order (the "**Initial Order**") of the Court of King's Bench of Manitoba (the "**Court**") granted in Suit No: **CI 23-01-40369** (the "**CCAA Proceedings**");

AND WHEREAS pursuant to the Initial Order, Ernst & Young Inc. ("**EY**") was appointed Monitor of the Borrower (in such capacity, the "**Monitor**") in the CCAA Proceedings;

AND WHEREAS the Borrower has requested that the Interim Lender (as defined below) provide financing to fund certain cash requirements of the Borrower during the pendency of the CCAA Proceedings;

AND WHEREAS the Interim Lender is willing to provide the Interim Facility herein to the Borrower in accordance with the terms and conditions set out in this Term Sheet (as defined below).

NOW THEREFORE in consideration of the mutual covenants, terms and conditions set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **BORROWER** Donmar Properties Ltd. and 10058984 Manitoba Ltd. (collectively, the "**Borrower**").
2. **LENDER** Morcourt Properties Ltd. (the "**Interim Lender**").
3. **DEFINED TERMS** Capitalized terms used in this Interim Financing Term Sheet (including in the recitals above) (referred to herein as this "**Term Sheet**") not otherwise defined herein shall have the meanings given thereto in **Schedule A**.
4. **CURRENCY** Except as otherwise expressly provided herein, all dollar amounts listed in this Term Sheet are in Canadian Dollars. All payments made hereunder shall be made in the currency in respect of which the obligation requiring such payment arose.
5. **PURPOSE**

The Borrower shall use the proceeds of the Interim Facility solely for the following purposes and in the following order, in each case during and for the purposes of the Borrower's pursuit of a restructuring or sale under its CCAA Proceedings:

 - (a) to fund professional fees of the Monitor and the legal fees of counsel to the Borrower, the Interim Lender and the Monitor;
 - (b) to fund the payment of interest and other amounts payable under the Interim Facility in accordance with the terms hereof;
 - (c) To finance (i) agreed operating expenses, restructuring costs in the CCAA Proceedings, and (ii) agreed general corporate purposes of the Borrower, in each case as set out in the Borrower's 13-week cash flow forecast prepared in the CCAA Proceedings; and

- (d) to fund such other costs and expenses as agreed to by the Interim Lender, in writing.

For greater certainty, the Borrower may not use the proceeds of the Interim Facility to pay any pre-filing obligations of the Borrower without the prior written consent of the Interim Lender; it being agreed by the Interim Lender that such consent is not required for the Borrower to pay (i) reasonable fees and disbursements for the pre-filing period incurred in contemplation of the CCAA Proceedings owing to counsel to the Borrower, the Monitor and counsel to the Monitor (ii) taxes, accrued payroll and other ordinary course liabilities, provided that such amounts are included in the Agreed Budget, or (iii) any other amounts owing by the Borrower to the extent specifically identified in the Agreed Budget.

6. MAXIMUM AMOUNT

A super-priority, debtor-in-possession interim, revolving credit facility (the "**Interim Facility**") up to a maximum principal amount of \$755,000.00 (the "**Maximum Amount**"), subject to the terms, conditions and adjustments contained herein.

7. INTERIM FACILITY

Advances under the Interim Facility (collectively the "**Interim Advances**" and individually an "**Interim Advance**") shall be deposited into the Deposit Account and utilized by the Borrower solely in accordance with the Agreed Budget and the terms hereof.

8. **CONDITIONS
PRECEDENT TO
EFFECTIVENESS AND
INTERIM ADVANCES**

- (a) The effectiveness of this Term Sheet and the agreement of the Interim Lender to make advances of the Interim Facility shall be subject to the satisfaction of the following conditions precedent, as determined by the Interim Lender:
 - (i) the Court shall have granted the Initial Order (or other order of the Court) which shall: (A) approve this Term Sheet and the Interim Facility; (B) grant the Interim Lender a first-ranking charge (the "**Interim Lender Charge**") over all of the assets, undertaking and property (collectively, the "**Property**") of each of the Borrower securing all obligations owing by the Borrower to the Interim Lender under this Term Sheet (collectively, the "**Interim Financing Obligations**"), which shall have super-priority over all Liens and encumbrances, whether registered or not, other than the Permitted Priority Liens; and (C) treat the Interim Lender as an unaffected creditor in the CCAA Proceedings;
 - (ii) the Interim Lender shall have received and approved the Agreed Budget;
- (b) The making of each Interim Advance by the Interim Lender shall be further subject to the approval of the Monitor and the satisfaction of the following conditions precedent (collectively, the "**Funding Conditions**") as determined by the Interim Lender:
 - (i) the Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or materially amended, restated or modified, without the consent of the Interim Lender; provided that the comeback order in the CCAA Proceedings shall be deemed to be approved by the Interim Lender;
 - (ii) all Interim Financing Fees and Expenses for which invoices have been provided to the Borrower shall have been paid, or arrangements satisfactory to the Interim Lender shall have been made to pay such amounts;
 - (iii) the Borrower shall be in compliance with all orders issued in the CCAA Proceedings;
 - (iv) the Borrower shall have paid all statutory liens, trust and other priming government claims including, without limitation, source deductions, except, in each case, for any such amounts that are not yet due and payable or which are in dispute in which case appropriate reserves have been made;
 - (v) all of the representations and warranties of the Borrower as set forth herein shall be true and accurate in all material respects;
 - (vi) no Default or Event of Default shall have occurred or, if applicable, shall occur as a result of the requested Interim Advance;

- (vii) no Material Adverse Change shall have occurred after the date hereof;
- (viii) there shall be no Liens ranking in priority to the Interim Lender Charge other than the Permitted Priority Liens;
- (ix) the Interim Lender shall have received a written request for an Interim Advance from the Borrower which shall be executed by a director or officer of the Borrower, and shall certify, *inter alia*, that (A) the requested Interim Advance is within the Maximum Amount and is consistent with the Agreed Budget, (B) has been approved by the Monitor and (C) the Borrower is in compliance with this Term Sheet and all Court Orders; and
- (x) the requested Interim Advance shall not cause the aggregate amount of all outstanding Interim Advances to exceed the Maximum Amount or be greater than the amount shown on the Agreed Budget as at the date of such Interim Advance.

For greater certainty, the Interim Lender shall not be obligated to make any Interim Advance or otherwise make available funds pursuant to this Term Sheet unless and until all the foregoing applicable conditions have been satisfied and all the foregoing applicable documentation and confirmations have been obtained (for certainty, each of the same, as applicable, as a condition precedent to each Interim Advance), each in form and content satisfactory to the Interim Lender (unless specified otherwise), unless otherwise waived in writing by the Interim Lender.

- 9. **COSTS AND EXPENSES** The Borrower shall pay all of the reasonable and documented legal and advisory fees, out-of-pocket disbursements and any reasonable costs of the Interim Lender, including, without limitation, in connection with or otherwise related to the Interim Facility, the Interim Lender Charge and the CCAA Proceedings (collectively, the "**Interim Financing Fees and Expenses**").
- 10. **INTERIM LENDER CHARGE** All Interim Financing Obligations of the Borrower shall be secured by the Interim Lender Charge which shall be granted by the Court on terms and conditions satisfactory to the Interim Lender. The Borrower shall not permit any Liens to charge or affect any of the Collateral, except for the Permitted Liens.
- 11. **MONITOR** The Monitor in the CCAA Proceedings is EY. The Monitor shall be authorized to have direct discussions with the Interim Lender, and the Interim Lender shall be entitled to receive information from the Monitor as may be requested by the Interim Lender from time to time.
- 12. **TERM AND MATURITY** (a) The Borrower shall repay all of the Interim Financing Obligations in full, on the earlier of: (i) the occurrence of any Event of Default hereunder which is continuing and has not been cured; (ii) the implementation of a plan of compromise or arrangement within the CCAA Proceedings (a "**Plan**") which has been approved by the requisite majorities of the Borrower's creditors and by an order entered by the Court; (iii) a successful sale of the assets and undertakings of the Borrower in the within

CCAA Proceedings (a "**Sale**"); and (iv) the date that is 13 weeks from the date of the Initial Order, subject to the Interim Lender having the right to extend the Maturity Date for an additional 1 month period by notice in writing to the Borrower delivered prior to the expiry of the initial 13 weeks term (the earliest of such dates being the "**Maturity Date**").

- (b) The commitment in respect of the Interim Facility shall expire on the Maturity Date and all amounts outstanding under the Interim Facility shall be repaid in full no later than the Maturity Date (unless otherwise extended in writing by the Interim Lender), without the Interim Lender being required to make demand upon the Borrower or to give notice that the Interim Facility has expired and the obligations are due and payable.

13. CASH FLOW AND BUDGET

The Borrower has delivered, with consent of the Monitor, and the Interim Lender has accepted on the date hereof a current weekly line item budget covering the period of at least 13 weeks following the date of this Term Sheet (together with all updates thereto approved by the Interim Lender, including the Revised Budget (as defined below) if approved by the Interim Lender, the "**Agreed Budget**"). The Agreed Budget sets forth expected receipts and the expected operating and other expenditures to be made during each calendar week and in the aggregate for the period of time covered by the Agreed Budget.

14. AVAILABILITY UNDER INTERIM FACILITY

Provided that the Funding Conditions are satisfied to the satisfaction of the Interim Lender, each Interim Advance (as defined below) shall be made separately by the Interim Lender to the Borrower within **two (2)** Business Days of delivery by the Borrower to the Interim Lender of a written request for an Interim Advance, substantially in the form attached hereto as **Schedule B**. Each Interim Advance shall be in a minimum aggregate amount that is no less than \$50,000. All proceeds of Interim Advances shall be deposited into the Deposit Account. The Deposit Account shall be subject to the Interim Lender Charge.

15. EVIDENCE OF INDEBTEDNESS

The Interim Lender's accounts and records constitute, in the absence of manifest error, conclusive evidence of the indebtedness of the Borrower to the Interim Lender under the Interim Facility.

16. VOLUNTARY PREPAYMENTS AND MANDATORY PREPAYMENTS

- (a) Provided the Monitor is satisfied that there are sufficient cash reserves in the Borrower's bank accounts to satisfy amounts secured by the Permitted Priority Liens, the Borrower may prepay any amounts outstanding or any portion of any amounts outstanding under the Interim Facility at any time prior to the Maturity Date with at least **two (2)** Business Days' prior written notice, and provided that any such prepayment is not less than \$10,000 and in excess thereof in integral multiples of \$10,000. Any amounts prepaid by the Borrower can be re-borrowed prior to the Maturity Date.
- (b) Unless otherwise consented to in writing by the Interim Lender, and provided the Monitor is satisfied that the Borrower has sufficient cash reserves to satisfy amounts secured by the Permitted Priority Liens, the Interim Financing Obligations shall be promptly repaid upon any of (or a combination of) (i) a sale

of any of the Collateral out of the ordinary course of business and consented to in writing by the Interim Lender, in an amount equal to the net cash proceeds of such sale (for greater certainty, net of reasonable transaction fees and expenses and applicable taxes in respect thereof) or (ii) the issuance of any shares, warrants or other equity interests or rights to acquire equity interests of the Borrower or any other Loan Party, in an amount equal to the net cash proceeds of such sale (for greater certainty, net of reasonable transaction fees and applicable taxes in respect thereof).

17. INTEREST RATE

The Interim Advances shall bear interest at a rate per annum equal to 8%. Such interest shall be calculated daily on the daily closing principal balance owing hereunder in respect of the Interim Facility, and shall be payable monthly in arrears on each Interest Payment Date for each Interim Advance for the period from and including the date upon which the Interim Lender advances such Interim Advance to the Borrower to and including the day such Interim Advance is repaid or paid, as the case may be, to the Interim Lender, and shall be calculated on the principal amount of each Interim Advance outstanding during such period. All interest shall be computed on the basis of a 360-day year of twelve 30-day months, provided that, whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

18. REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Interim Lender, which representations and warranties shall be deemed to be repeated at each request for an Interim Advance, and upon which the Interim Lender relies on entering into this Term Sheet, that:

- (a) Subject to the granting of the Initial Order, the execution and delivery of, and transactions contemplated by, this Term Sheet:
 - (i) are within the powers of each of the Borrower;
 - (ii) have been duly authorized by all necessary corporate and, if required, shareholder approval of;
 - (iii) have been duly executed and delivered by or on behalf of the Borrower;
 - (iv) constitute legal, valid and binding obligations of the Borrower; and
 - (v) do not require the consent or approval of, registration or filing with, or any other action by, any Governmental Authority.
- (b) The activities of the Borrower have been conducted in compliance with all applicable law, subject to the provisions of the CCAA and any Court Order, unless: (i) otherwise ordered by the Court, (ii) the sanctions for non-compliance

are stayed by a Court Order; or (iii) such non-compliance would not result in a Material Adverse Change.

- (c) The Borrower has, in all material respects, maintained its obligations for payroll, source deductions, goods and services tax and harmonized sales tax, and other taxes, as applicable, and is not in arrears in respect of payment of these obligations.
- (d) The Agreed Budget is reasonable and prepared in good faith.
- (e) No Default or Event of Default has occurred and is continuing.

19. AFFIRMATIVE COVENANTS

The Borrower jointly and severally covenants and agrees to perform and do each of the following until the Interim Financing Obligations are permanently and indefeasibly repaid in full and the Interim Facility is terminated:

- (a) (i) allow the Interim Lender or its advisors, on reasonable written notice during regular business hours, and at any time after and during the continuance of an Event of Default, to enter on and inspect each of the Borrower assets and properties; (ii) provide the Interim Lender or its advisors, on reasonable written notice and during normal business hours, full access to the books and records of the Borrower; and (iii) cause management of the Borrower to fully co-operate with the Interim Lender and the Monitor or their respective agents and advisors, as applicable;
- (b) use the proceeds of the Interim Facility only for the purposes described in Section 5, and in a manner consistent with the restrictions set out herein;
- (c) comply with the provisions of the Court orders made in the CCAA Proceedings (collectively, the "**Court Orders**" and each a "**Court Order**");
- (d) operate within the Agreed Budget;
- (e) notify the Interim Lender and the Monitor of the occurrence of any Default or Event of Default;
- (f) comply with all applicable laws in all material respects except to the extent not required to do so pursuant to the Initial Order or any other Court Order; and
- (g) provide to the Interim Lender regular updates regarding the status of the CCAA Proceedings including, without limitation, reports on the progress of any Plan or Restructuring Option.

20. NEGATIVE COVENANTS

The Borrower covenants and agrees not to do the following, other than with the prior written consent of the Interim Lender:

- (a) transfer, lease, or otherwise dispose of all or any material part of its Property, except for Permitted Dispositions.
- (b) make any material investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than as expressly provided for, or permitted to be incurred, in the Agreed Budget and the Court Orders.

- (c) make any material payments or distributions of any kind other than as may be permitted by a Court Order and that does not result in an Event of Default and is provided for in the Agreed Budget.
- (d) create or permit to exist indebtedness, liabilities or obligations (including guarantees thereof or indemnities or other financial assistance in respect thereof) other than (i) any other existing pre-filing debt, (ii) debt contemplated by this Term Sheet, (iii) post-filing trade payables or other post-filing unsecured obligations incurred in the ordinary course of business in accordance with the Agreed Budget and any Court Order, and (iv) indebtedness, liabilities or obligations expressly provided for, or permitted to be incurred, in the Agreed Budget and the Court Orders.
- (e) other than as contemplated herein, cease (or threaten to cease) to carry on their business or activities as currently being conducted or modify or alter in any material manner the nature and type of their operations, business or the manner in which such business is conducted.
- (f) enter into any contract or other agreement which involves potential expenditures in excess of \$10,000 or the equivalent amount thereof in any other currency without the prior written consent of the Interim Lender, provided that the payment of such amount must be permitted by and will not constitute a default under the Agreed Budget or any Court Order.
- (g) create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens.

21. EVENTS OF DEFAULT

The occurrence of any one or more of the following events without the Interim Lender's written consent shall constitute an event of default (each an "**Event of Default**") under this Term Sheet:

- (a) the issuance of an order of the Court (including any Court Order) or any other court of competent jurisdiction:
 - (i) dismissing the CCAA Proceedings, or lifting the stay in the CCAA Proceedings to permit (A) the enforcement of any material Lien against a Loan Party, or a material portion of their respective property, assets or undertaking, or (B) the appointment of a receiver and manager, receiver, interim receiver or similar official, or substituting the Monitor, or the making of a bankruptcy order against any Loan Party; granting any Lien which is senior to or *pari passu* with the Interim Lender Charge, other than the Permitted Priority Liens; or
 - (ii) staying, reversing, vacating or otherwise modifying any Court Order relating to the Interim Facility that adversely affects the Interim Lender;
- (b) the filing of any pleading by any Loan Party seeking any of the matters set out in Section 21(a) above, or failure of the Borrower to diligently oppose any Person that brings an

application or motion for the relief set out in Section 21(a) above;

- (c) failure of the Borrower to comply with (i) any of the negative covenants in this Term Sheet, and to the extent such failure or default is capable of being remedied, such failure or default shall continue unremedied for a period of five (5) Business Days or (ii) any of the positive covenants in this Term Sheet, and to the extent such failure or default is capable of being remedied, such failure or default shall continue unremedied for a period of five (5) Business Days;
- (d) the occurrence of a Material Adverse Change;
- (e) any representation or warranty by the Borrower in this Term Sheet is incorrect or misleading in any material respect;
- (f) the aggregate amount of the outstanding Interim Advances under the Interim Facility exceeds the Maximum Amount;
- (g) any violation or breach of any Court Order;
- (h) failure of the Borrower to pay any principal amount owing under this Term Sheet when due;
- (i) failure of the Borrower to pay (i) interest or any portion thereof owing under this Term Sheet when due and such Default shall remain unremedied for a period of **five (5)** Business Days or (ii) Interim Financing Fees and Expenses of the Interim Lender within **fifteen (15)** days after receipt by the Borrower of an invoice for such fees (provided that nothing shall limit Interim Lender's ability to pay such amounts directly from the Interim Facility);
- (j) the expiry without further extension of the stay of proceedings provided for in the Initial Order;
- (k) the Borrower ceases (or threatens to cease) to carry on business in the ordinary course, except where such cessation occurs in connection with a Plan or a Sale which otherwise satisfies the terms and conditions contained herein; or
- (l) the denial or repudiation by any Loan Party of the legality, validity, binding nature or enforceability of this Term Sheet.

22. REMEDIES

Upon the occurrence of an Event of Default that is continuing, and subject to the Court Orders, the Interim Lender may elect to terminate their respective commitments to make Interim Advances to the Borrower hereunder and declare all Interim Financing Obligations in respect of this Term Sheet to be immediately due and payable and cease making any further Interim Advances.

In addition, upon the occurrence of an Event of Default that is continuing, the Interim Lender may, on not less than **five (5)** Business Days' written notice to the Borrower and the Monitor, and subject to any Court Order:

- (a) apply to a court to further enhance any powers of the Monitor, seek the appointment of a receiver, an interim receiver or a receiver and manager over the Collateral, or to seek the appointment of a trustee in bankruptcy of the Borrower;

- (b) set-off or combine any amounts then owing by the Interim Lender (or any one or more of them) to any of the Borrower against the obligations of any of the Borrower to the Interim Lender hereunder;
- (c) apply to the Court for an order or orders, on terms satisfactory to the Monitor and the Interim Lender, providing the Monitor with the power, in the name of and on behalf of the Borrower, to take all necessary steps in the CCAA Proceedings;
- (d) subject to obtaining prior approval from the Court, exercise the powers and rights of a secured party under *The Personal Property Security Act* (Manitoba), *The Real Property Act* (Manitoba) or any other applicable law relating to the enforcement of Liens by secured creditors against any types of property and for certainty including the Collateral; and
- (e) subject to obtaining prior approval from the Court, exercise all such other rights and remedies under the, the Court Orders and applicable law.

The rights and remedies of the Interim Lender under this Term Sheet are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise, including under the CCAA.

23. AMENDMENTS, WAIVERS, ETC.

No amendment or waiver of any provisions of this Term Sheet or consent to any departure by the Borrower from any provision thereof is effective unless it is in writing and signed by the Interim Lender (and in the case of amendments, the Borrower). Such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.

24. COUNTERPARTS AND FACSIMILE SIGNATURES

This Term Sheet may be executed in any number of counterparts, each of which when taken together shall constitute one and the same instrument. Any counterpart of this Term Sheet can be executed and delivered by any manner of direct electronic transmission including without limitation "pdf email" or "DocuSign", each of which shall be deemed to be an original hereof.

25. FURTHER ASSURANCES

Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated hereby and thereby.

26. TIME IS OF THE ESSENCE

Time is of the essence in this Term Sheet and all transactions contemplated thereby.

27. ENTIRE AGREEMENT

This Term Sheet constitute the entire agreement between the parties hereto pertaining to the matters herein and supersede and replace any prior understandings or arrangements pertaining to the Interim Facility.

28. SEVERABILITY

Each of the provisions contained in this Term Sheet is distinct and severable and a declaration of invalidity, illegality or unenforceability of any such provision or part thereof by a court of competent

jurisdiction shall not affect the validity or enforceability of any other provision hereof.

29. GOVERNING LAW

This Term Sheet shall be governed by and construed in accordance with the laws of the Province of Manitoba and the federal laws of Canada applicable therein. Without prejudice to the ability of the Interim Lender to enforce this Term Sheet in any other proper jurisdiction, each of the Borrower irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of the Province of Manitoba.


30. NOTICES

Any notice, request, consent, waiver or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or direct electronic transmission, including email, pdf email or "DocuSign" to such Person at its address set out on its signature page hereof. Any such notice, request or other communication hereunder shall be concurrently sent to the Monitor and its counsel. Any such notice shall be deemed to be given and received when received, unless received after **5:00** pm (Winnipeg time) or on a day other than a Business Day, in which case such notice, request, consent, waiver or other communication shall be deemed to be received on the next following Business Day.


[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF the parties hereto have executed this Term Sheet as of April 10, 2023.


DONMAR PROPERTIES LTD.

Per: 
Name: Gordon Howard
Title: PRESIDENT

10058984 MANITOBA LTD.

Per: 
Name: Gordon Howard
Title: PRESIDENT

MORCOURT PROPERTIES LTD.

Per: 
Name: Gordon Howard
Title: PRESIDENT

SCHEDULE A DEFINED TERMS

"**Administration Charge**" means the administration charge on the Collateral in an aggregate amount not to exceed \$300,000.00.

"**Agreed Budget**" has the meaning given thereto in Section 13(a).

"**Business Day**" means a day, excluding Saturday and Sunday, on which banks are generally open for business in the Province of Manitoba.

"**Canadian Dollars**" means the lawful currency of Canada.

"**CCAA**" has the meaning given thereto in the preamble.

"**CCAA Proceedings**" has the meaning given thereto in the preamble.

"**Collateral**" means all present and future assets and property of the Borrower, real and personal, tangible or intangible, and whether now owned or which are hereafter acquired.

"**Court**" has the meaning given thereto in the preamble.

"**Court Order**" and "**Court Orders**" have the meanings given thereto in Section 21(c).

"**D&O Charge**" means the directors and officers charge on the Collateral in an aggregate amount not to exceed \$100,000.

"**Default**" means any event or condition which, with the giving of notice, lapse of time or upon a declaration or determination being made (or any combination thereof), would constitute an Event of Default.

"**Deposit Account**" means the account(s) maintained by the Borrower to which payments and transfers under the Term Sheet are to be deposited, which are specified in writing by the Borrower to the Interim Lender or such other account or accounts as the Borrower may from time to time designate by written notice to the Interim Lender.

"**Event of Default**" has the meaning given thereto in Section 21.

"**Funding Conditions**" has the meaning given there in Section 8(b).

"**Governmental Authority**" means any federal, provincial, state, regional, municipal or local government or any department, agency, board, tribunal or authority thereof or other political subdivision thereof and any entity or person exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government or the operation thereof.

"**Interest Payment Date**" means the first day of each month in respect of the immediately preceding month; provided that, in any case, on the Maturity Date or, if applicable, any earlier date on which the Interim Facility is fully cancelled or permanently reduced in full, shall be an Interest Payment Date with respect to all Interim Advances then outstanding under the Interim Facility.

"**Interim Advance**" and "**Interim Advances**" have the meanings given thereto in Section 7.

"**Interim Facility**" has the meaning given thereto in Section 6.

"**Interim Financing Fees and Expenses**" has the meaning given thereto in Section 9.

"**Interim Financing Obligations**" has the meaning given thereto in Section 8(a)(i).

"**Interim Lender**" has the meaning given thereto in Section 2.

"**Interim Lender Charge**" has the meaning given thereto in Section 8(a)(i).

"**Liens**" means all mortgages, charges, pledges, hypothecs, assignments by way of security, conditional sales or other title retention arrangements, liens, encumbrances, security interests or other interests in property, howsoever created or arising, whether fixed or floating, perfected or not, which secure payment or performance of an obligation;

"**Material Adverse Change**" means any event, circumstance, occurrence or change which, individually or in the aggregate, results, or could reasonably be expected to result, in a material adverse change (and for certainty including a series of adverse effects, none of which is material in and of itself but which, cumulatively, result in a material adverse change) in:

- (a) the ability of the Borrower to timely and fully perform any material obligation under this Term Sheet or any Court Order, or the ability of the Borrower to carry out a Plan or Restructuring Option;
- (b) the validity or enforceability of any of the Interim Lender Charge or the ranking of any of the Liens granted thereby or the material rights or remedies intended or purported to be granted to the Interim Lender under or pursuant to such Interim Lender Charge;
- (c) the ability of the Borrower to carry on its business in a substantially similar manner as conducted as of the date of this Term Sheet;
- (d) the Collateral; or
- (e) the discharge, resignation or termination of the Monitor.

"**Maturity Date**" has the meaning given thereto in Section 12(a).

"**Maximum Amount**" has the meaning attributed thereto in Section 6.

"**Permitted Disposition**" means assets sold, leased or disposed of during a fiscal year expressly provided for, or permitted to be incurred, in the Agreed Budget and the Court Orders.

"**Permitted Liens**" means (i) the Interim Lender Charge; (ii) any charges created under the Initial Order or other order of the Court in the CCAA Proceedings subsequent in priority to the Interim Lender Charge, the limit and priority of each of which shall be acceptable to the Interim Lender as confirmed in writing by the Interim Lender and for certainty, including the D&O Charge and the Sales Agreement Charge; (iii) inchoate statutory Liens arising in the ordinary course of business, provided to pay all such amounts are paid as and when due; and (iv) the Permitted Priority Liens.

"**Permitted Priority Liens**" means (i) the Administration Charge; (ii) statutory super-priority Liens for unpaid employee source deductions to the extent they are given first priority over other Liens by applicable law; and (iii) such other Liens as may be agreed to in writing by the Interim Lender. For greater certainty, except as expressly set forth herein, Liens arising from the construction, repair, maintenance and/or improvement of real or personal property, shall not be "Permitted Priority Liens".

"**Person**" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"**Plan**" has the meaning given thereto in Section 12(a).

"**Restructuring Option**" means any transaction involving the refinancing of a Loan Party, a transaction involving the recapitalization of the Borrower, the sale of all or substantially all of the assets of any Loan Party or any other restructuring of the Borrower' businesses and operations, including any liquidation, bankruptcy or other insolvency proceeding in respect of any of Loan Party.

"**Sale**" has the meaning given thereto in Section 12(a).

SCHEDULE B

REQUEST FOR ADVANCE

TO: The Interim Lender

AND TO: The Monitor

DATE: _____

Dear Sirs:

The undersigned refers to the interim financing term sheet dated as of April 10, 2023 (the "**Term Sheet**") made among Donmar Properties Ltd. and 10058984 Manitoba Ltd. (collectively the "**Borrower**") and the Interim Lender.

Capitalized terms used in this Request for Advance have the same meanings herein as are ascribed thereto in the Term Sheet.

1. The Borrower hereby gives you notice pursuant to the Term Sheet that the undersigned requests an Interim Advance under the Interim Facility (the "**Interim Facility Advance**") in the Term Sheet be deposited into the Deposit Account as follows:
 - (a) Borrower entity: Donmar Properties Ltd. and 10058984 Manitoba Ltd.
 - (b) Amount of Interim Advance requested: \$ _____
 - (c) Requested funding date: _____
 - (d) Total principal amount currently outstanding (excluding this Interim Facility Advance):
\$ _____
 - (e) Availability remaining under the Interim Facility (excluding this Interim Facility Advance): \$ _____

2. The undersigned, being an officer of the Borrower, hereby certifies for and on behalf of the Borrower (and not in his or her personal capacity) as follows:
 - (a) all of the representations and warranties contained in the Term Sheet are true and correct in all material respects in each case on and as of the date hereof and will be true and correct as of the date of the requested Interim Facility Advance as though made on and as of such date (unless expressly stated to be made as of a specified date);
 - (b) no Default or Event of Default has occurred and is continuing or shall result from the requested Interim Facility Advance;
 - (c) the Interim Facility Advance shall not cause the aggregate amount of all outstanding Interim Advances to exceed the Maximum Amount or be greater than the amount shown on the Agreed Budget as at the date of such Interim Facility Advance;
 - (d) the Interim Facility Advance is consistent with the Agreed Budget; and
 - (e) the other Borrower are in compliance with the Term Sheet and the Court Orders.

The undersigned certifies that he is President of the Borrower, and that as such they are authorized to execute this certificate on behalf of the Borrower. The undersigned further certifies, represents and warrants on behalf of the Borrower (and not in his or her personal capacity) that the Borrower is entitled to receive the requested Interim Advance under the terms and conditions of the Term Sheet.

DONMAR PROPERTIES LTD.

Per: _____
Name:
Title:

10058984 MANITOBA LTD.

Per: _____
Name:
Title: