Court File No. CV-23-00703161-00CL
Court of Appeal File No. COA-23-CV-1129

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant (Respondent on Appeal)

\- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESMENT LIMITED PARTNERSHIP

Respondents (Appellants on Appeal)

MOTION RECORD OF THE MOVING PARTY, ERNST & YOUNG INC.
(Receiver's Motion for Directions Before a Single Judge
of the Court of Appeal returnable November 9, 2023)
[VOLUME 1 OF 4]

November 1, 2023

BLANEY McMURTRY LLP
2 Queen Street East, Suite 1500
Toronto, ON M5C 3G5

Eric Golden (LSO #38239)
(416) 593-3927 (Tel)
egolden@blaney.com

Chad Kopach (LSO #48084G)
(416) 593-2985 (Tel)
ckopach@blaney.com

Lawyers for the Court-appointed Receiver, Ernst & Young Inc.

TO: **SERVICE LIST**

Court File No. CV-23-00703161-00CL
Court of Appeal File No. COA-23-CV-1129

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant (Respondent on Appeal)

- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESMENT LIMITED PARTNERSHIP

Respondents (Appellants on Appeal)

INDEX

TAB 1

Court File No. CV-23-00703161-00CL
Court of Appeal File No.

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant (Respondent on Appeal)

\- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESMENT LIMITED PARTNERSHIP

Respondents (Appellants on Appeal)

NOTICE OF MOTION
(Receiver's Motion for Directions Before a Single Judge of the Court of Appeal returnable November 9, 2023)

Ernst & Young Inc. in its capacity as receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of the Respondents, will make a motion to a single Judge of the Court of Appeal, on an urgent basis, on Thursday, the 9th day of November, 2023 at 10:00 a.m., or as soon after that time as the motion can be heard at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. an Order abridging the time for service of the Receiver's Motion Record, validating service of the Motion Record, and dispensing with further service thereof;

2. advice and directions regarding the Notice of Appeal of 2816513 Ontario Inc. ("**281 Ontario**") dated October 27, 2023 (the "**281 Notice of Appeal**") of the decision of The Honourable Mr. Justice Osborne of the Ontario Superior Court of Justice (Commercial List) dated October 19, 2023, (a) appointing the Receiver (the "**Appointment Order**"), and (b) approving the sale transaction (the "**Times Transaction**") by the Receiver contemplated in an agreement of purchase and sale between the Applicant Romspen Investment Inc. ("**Romspen**") and Times 1010 Inc. dated September 15, 2023, as amended by a waiver, assignment and amending agreement dated September 29, 2023 between Romspen, Times 1010 Inc., 3143 Holdings Inc., and Times 3143 Limited Partnership (such agreement of purchase and sale, as so amended, the "**Times APS**") of the property municipally known as 3143 19th Avenue, Markham, Ontario (the "**Real Property**"), scheduled to close on November 15, 2023 (the "**Approval and Vesting Order**", or "**AVO**");

3. an Order declaring that 281 Ontario has no standing to appeal the Appointment Order or the AVO;

4. in the alternative, if 281 does have standing, an Order declaring that 281 Ontario cannot appeal the Appointment Order or the AVO as of right, and that pursuant to section 193 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 as amended ("**BIA**"), it requires leave of the Court to do so, which it has not sought nor obtained;

5. an Order declaring that neither the Appointment Order nor the AVO are stayed by the 281 Notice of Appeal, or in the alternative if they are stayed, lifting the stay;

6. advice and directions regarding the Notice of Appeal of the Respondents dated October 30, 2023 (the "**Respondents' Notice of Appeal**") of the Appointment Order and the AVO;

7. an Order declaring that the Respondents cannot appeal the Appointment Order or the AVO as of right, and that pursuant to s. 193 of the *BIA* they require leave of the Court to do so, which they have not sought nor obtained;

8. an Order declaring that neither the Appointment Order nor the AVO are stayed by the Respondents' Notice of Appeal, or in the alternative if they are stayed, lifting the stay;

9. an Order directing the closing of the Times Transaction on November 15, 2023, pursuant to the AVO and Times APS;

10. the Receiver's costs of this motion on a substantial indemnity scale; and

11. such further and other relief as counsel may advise and this Honourable Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

Appointment of the Receiver

1. further to an application issued by Romspen on July 21, 2023, and pursuant to the Appointment Order, Ernst & Young Inc. was appointed Receiver over the assets, undertakings and properties of the Respondents, including the Real Property;

2. the Real Property consists of three separate legally described parcels which collectively comprise approximately 66.29 acres of developable vacant land at the southeast corner of 19^{th} Avenue and Woodbine Avenue East in Markham;

3. there are five mortgages (collectively, the "**Five Mortgages**") and one lien claim registered on title to the Real Property, summarized below:

Ranking Priority	**Creditor**	**Approximate Amount Owing (per Romspen Factum)**
First	Romspen	$33.552 million
Second	Amber Mortgage Investment Corporation	$9.869 million
Third	2149602 Ontario Inc.	$11.394 million
Fourth	Frank Pa and Steven Tung	$3.54 million
Fifth	Sow Capital Ontario Limited	$11.965 million
Lien Claim	DX Strategies Inc.	$4,653,028

4. the Receiver is in the process of performing an independent security review of the Five Mortgages and the lien to determine validity and priority;

5. Romspen's mortgage loan over the Real Property had been in default since September 1, 2022;

6. the Appointment Order was not opposed by any of the Five Mortgagees or the Respondents. As per the Reasons for Decision of Justice Osborne in respect of the Appointment Order and the AVO, the appointment of the Receiver was "in fact consented to and indeed supported by the Respondents / Debtors themselves". The Respondents, in their responding record, were unequivocal in their support of the Receivership application, and the appointment of the Receiver;

7. Justice Osborne found that "the factors relevant to the appointment of a receiver are easily satisfied here." In addition to the defaults on the Romspen mortgage loan, among other things, Justice Osborne noted that the Real Property "is highly leveraged with numerous mortgages. Romspen has lost faith in the ability of the Debtors and their management to address the situation, and none of the efforts of the Debtors to refinance the loan or sell the Real Property have yielded any results.";

8. However, the fifth-ranking mortgagee, SOW Capital Ontario Limited ("**SOW**") supported the appointment of the Receiver but sought an order that the Receiver's powers under the Appointment Order be suspended to allow for the closing of the 281 Transaction (defined below), which suspension was opposed by "Romspen and the supporting subordinate mortgagees", as well as by the Respondents. Justice Osborne denied SOW's request to suspend the Receiver's powers (and, as set out below, authorized the Receiver to close the Times Transaction);

Approval of the Pre-Receivership Sales Process

9. at the return of the receivership application on October 19, 2023, Justice Osborne was asked to decide between two competing motions to approve agreements of purchase and sale, making the receivership application a "pre-packaged" insolvency, albeit with two

competing transactions. First, Romspen sought the approval of the Times Transaction pursuant to the Times APS, which was the result of a pre-receivership sales process that Romspen had commenced on or about April 3, 2023, and was conditional on the appointment of the Receiver, and the issuance of the AVO. Second, the fifth-ranking mortgagee, SOW, sought approval of a sale of the Real Property to 281 Ontario under power of sale that began on or about May 17, 2023 (the "**281 Transaction**");

10. Justice Osborne examined the proposed transactions and the steps undertaken in light of the principles set out in *Royal Bank of Canada v Soundair Corp*., (1991), 4 O.R. (3d) 1 ("***Soundair***"), with the caveat that in "quick flip" or "pre-pack" transactions, the Court will scrutinize with special care the adequacy and the fairness of the sales and marketing process (as per Justice D.M. Brown, as he then was, in *Montrose Mortgage Corp. v. Kingsway Arms Ottawa Inc.*, 2013 ONSC 6905). Justice Osborne found that these factors weighed in favour of an immediate sale of the Real Property as appropriate in the circumstances;

11. the sales process conducted by Royal LePage on behalf of Romspen was thorough and extensive. Justice Osborne noted that the "Property was listed for sale on MLS for 162 days, and exposed to a wide audience of land developers and commercial brokers". The multifactorial sales process included, among other things:

    a. physical signs at the Real Property;

    b. advertising on the realtors' business websites and through marketing brochures, as well as advertising on over 100 other websites. Statistics from realtor.ca, the largest online search engine in Canada, reflect that the Real Property was viewed 6309 times on 32 sites;

c. proactive email announcements by Royal LePage to subscribers that included over 1000 cooperating and regional brokers and 201 land developers in Ontario. Of those recipients, 540 brokers and 70 land developers opened the email; and

d. advertising specifically to the Mandarin speaking and Asian market in Canada;

12. Justice Osborne further noted that "the availability of the Property, and the opportunity to purchase it if such was desired, has not caught the market by surprise. The Respondents themselves have attempted to sell or refinance the Property since January 2022 and have failed";

13. interest accrues on the Five Mortgages against the Real Property at a rate of approximately $709,000 per month, being approximately $22,871 per day. These costs, and the costs of "additional professional fees reasonably expected to be incurred to conduct a sales and marketing process weigh heavily in favour of a realization of proceeds as soon as possible" as per the Reasons for Decision of Justice Osborne dated October 19, 2023;

14. in its motion material seeking approval of the Times Transaction, Romspen sought a sealing order in respect of the unredacted purchase price in the Times APS, and in respect of an appraisal for the Real Property, on the basis that the information, if revealed, may negatively impact realization on the Real Property if the Times Transaction does not close. SOW, on the other hand, did not redact confidential information in connection with the 281 Transaction, and specifically included in its motion material (and repeated in its factum) the purchase price in that transaction, and the results of the two appraisals that it had commissioned;

15. SOW's disclosure of confidential information effectively sets a price ceiling at an amount between the appraisal values publicly disclosed by SOW. If neither the Times Transaction nor the 281 Transaction were authorized to proceed, a further sales process would be unlikely to realize net proceeds greater than the Times Transactions (which, per the below, is the superior transaction);

Approval of the Times Transaction over the 281 Transaction

16. both the Times Transaction and the 281 Transaction are unconditional, save for the Receivership and AVO conditions in respect of the Times Transaction. While the scheduled closing date for each is not sufficiently different to be a material factor, with the Times Transaction scheduled to close 15 days before the 281 Transaction, given the dollars at play the Times Transaction represents interest savings of approximately $334,000 over the 281 Transaction;

17. Justice Osborne found that the Times Transaction represents the better outcome for all stakeholders because, among other things:

    a. the purchase price, even net of the real estate commission payable to Royal LePage, is higher than under the 281 Transaction (and also higher than the three appraisals commissioned by Romspen and by 281 Ontario, as well as $4 million more than a purchase agreement that the Respondents had been prepared to accept from a different purchaser;

    b. the Times APS purchaser is part of a well-known developer group in the GTA with a track record of over 35 years, during which it has completed numerous commercial and residential developments. Romspen was provided with a letter from the purchaser's bank confirming financial resources to close the Times Transaction;

c. the 281 Transaction included an extension in the closing date from October 16, 2023, to November 30, 2023, which was sought and granted after the deal had become firm and conditions were waived and satisfied, with no explanation as to why it was requested and granted; and,

d. unlike the sales process undertaken by Romspen in respect of the Times Transaction, the process leading to the 281 Transaction did not include the typical hallmarks of a power of sale process, with non-specific evidence from SOW's affiant that "raises more questions than it provides answers" about the 218 Transaction, and no evidence that the Real Property was listed on MLS nor widely advertised to the open market by or on behalf of SOW;

18. Justice Osborne found that the latter two issues (the unexplained extension of the 281 Transaction and the "opaque" sales process underlying that transaction) reflects a greater execution risk with the 281 Transaction;

281 Ontario Lacks Standing on any Appeal

19. 281 Ontario submitted a Responding Motion Record at first instance, and had counsel who appeared on the motion. Without granting standing, Justice Osborne agreed to hear submissions on behalf of 281 Ontario. However, Justice Osborne found that 281 Ontario, as the unsuccessful bidder for the Real Property, had no standing to challenge a sale approval motion to another purchaser;

20. given that 281 Ontario, as an unsuccessful prospective purchaser, did not acquire an interest sufficient to warrant being added as a party to the motion to approve the Times Transaction, it follows that 281 Ontario does not have a right that was finally disposed of by the Approval and Vesting Order. Accordingly, 281 Ontario as a "bitter bidder" has no standing to appeal the Approval and Vesting Order, for the reasons set out by this Court in *Skyepharma PLC v. Hyal Pharmaceutical Corporation*, 2000 CanLII 5650 (ON CA);

The Notices of Appeal

21. under cover of e-mail dated October 27, 2023 at 12:04 pm., eight days after the approval of the Appointment Order and the AVO, counsel to 281 Ontario, delivered a Notice of Appeal and Certificate Respecting Evidence with a cover letter asking that the Receiver confirm that it "will take no steps in default pending disposition of the Appeal". By way of email of the same date sent at 1:50 pm that same day, counsel to the Respondents advised that her office "also received instructions to appeal the Approval and Vesting Order";

22. by way of e-mail dated October 27, 2023 sent at 6:09 pm, counsel to the Receiver advised counsel to 281 Ontario and counsel to the Respondents that:

   a. 281 Ontario had no standing to appeal;

   b. neither 281 Ontario (even it had standing) or the Respondents had an appeal as of right;

   c. 281 Ontario (if it had standing) and the Respondents must seek leave to appeal;

   d. based on the current caselaw for leave, neither should be granted leave to appeal;

and

e. the Receiver would bring a motion for directions before the Court of Appeal regarding the Notices of Appeal, and given the closing date for the Times Transaction (November 15, 2023), the Receiver's counsel advised that the Receiver's motion would be scheduled for a day the week of November 6, 2023;

23. on October 30, 2023, the Respondents' counsel's office delivered a Notice of Appeal and Certificate Respecting Evidence on behalf of the Respondents;

24. neither 281 Ontario nor the Respondents have delivered a notice of motion seeking leave to appeal the Appointment Order or the AVO, nor seeking a stay of either the Appointment Order or the AVO. The Respondents in their Notice of Appeal seek an order in the alternative "if necessary, granting leave to appeal the [Appointment Order and the AVO]";

25. the purported appeals of the Appointment Order and the AVO do not fall within the ambit of s.193(a) through (d) of the *BIA;*

26. the Respondents consented to the Appointment Order. As a result, leave is required for the Respondents to appeal the Appointment Order pursuant to s.133(a) of the *Courts of Justice Act*, R.S.O. 1990, c C.43;

27. similarly, if 281 Ontario has standing, which is denied, it is also subject to s.133(a) of the *Courts of Justice Act*, R.S.O. 1990, c C.43

28. there is no automatic stay of either the Appointment Order or the AVO, and leave to appeal should also not be granted. The purported appeals do not raise an issue that is of general importance to the practice in bankruptcy/insolvency matters or to the administration of justice as a whole. They are also not *prima facie* meritorious. Granting leave to appeal

would also unduly hinder the progress of the within proceedings;

29. although there is currently no motion before this Court to stay the Appointment Order or the AVO, and in any event neither of the groups of purported Appellants meet the test for a stay;

30. counsel for the Receiver certifies his estimate that 0.5 hours will be required for his oral argument, not including reply;

31. sections 193 and 195 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B.3;

32. section 133 of the *Courts of Justice Act*, R.S.O. 1990, c C.43;

33. Rules 2.03, 3.02, 25.11, 37 and 61.16 of the *Rules of Civil Procedure,* R.R.O. 1990, Reg. 194; and

34. such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED ON THE HEARING OF THE MOTION:

1. the Affidavit of Wesley Roitman sworn July 19, 2023;
2. the Affidavit of Wesley Roitman sworn September 29, 2023;
3. the Affidavit of Philip Wong sworn September 26, 2023;
4. the Report of the Proposed Receiver dated October 4, 2023;
5. the Affidavit of Hunter Lam sworn October 4, 2023;
6. the Affidavit of Pui Ling Lai sworn October 5, 2023;
7. the First Report of the Receiver dated October 31, 2023; and,

8. such further and other grounds as counsel may advise and this Honourable Court may permit.

October 31, 2023

BLANEY McMURTRY LLP
Barristers & Solicitors
2 Queen Street East, Suite 1500
Toronto ON M5C 3G5

Eric Golden (LSO #38239M)
(416) 593-3927 (Tel)
Email: egolden@blaney.com

Chad Kopach (LSO #48084G)
(416) 593-2985 (Tel)
Email: ckopach@blaney.com

Lawyers for the Court-appointed Receiver,
Ernst & Young Inc.

TO: **SERVICE LIST**

Court File No. CV-23-00703161-00CL
Court of Appeal File No.

ROMSPEN INVESTMENT CORPORATION Applicant	-and-	**TUNG KEE INVESTMENT CANADA LTD. et al.** Respondents

COURT OF APPEAL FOR ONTARIO

NOTICE OF MOTION

BLANEY McMURTRY LLP
Barristers & Solicitors
2 Queen Street East, Suite 1500
Toronto ON M5C 3G5

Eric Golden (LSO #38239M)
(416) 593-3927 (Tel)
Email: egolden@blaney.com

Chad Kopach (LSO #48084G)
(416) 593-2985 (Tel)
Email: ckopach@blaney.com

Lawyers for the Court-appointed Receiver,
Ernst & Young Inc.

TAB 2

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

\- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

FIRST REPORT OF THE RECEIVER AND MANAGER
DATED OCTOBER 31, 2023

INTRODUCTION

1. This first report of the Receiver and Manager (the "**First Report**") is filed by Ernst & Young Inc. ("**EYI**" or the "**Receiver**") in its capacity as receiver and manager of all the assets, undertakings and properties of the Respondents acquired for, or used in relation to a business carried on by them, pursuant to the Order of Justice Osborne dated October 19, 2023 (the "**Appointment Order**"). A copy of the Appointment Order is attached hereto as **Appendix** "**A**".

2. The Report of the Proposed Receiver dated October 4, 2023 (the "**Pre-Receivership Report**") provided, among other things, background information regarding the Respondents and the property known municipally as 3143 19th Avenue, Markham, Ontario (the "**Real Property**"), a summary of the Sale Process that was undertaken by the Applicant prior to the Appointment Order being made, the Receiver's views on the

issuance of an Approval and Vesting Order ("**AVO**") without the Receiver launching its own marketing and sale process for the Real Property, and a request for a Sealing Order sealing terms of the Times APS (defined below), and the competing offers and appraisals for the Real Property. A copy of the Pre-Receivership report is attached hereto as **Appendix** "**B**", without the confidential appendices thereto.

3. The Receivership Application proceeded as a "pre-packaged" receivership, with two competing transactions. The first transaction (the "**Times Transaction**") was contemplated in an agreement of purchase and sale between the Applicant and first-ranking mortgagee Romspen Investment Corporation ("**Romspen**") and Times 1010 Inc. dated September 15, 2023, as amended by a waiver, assignment and amending agreement dated September 29, 2023 (the "**Times APS",** attached hereto as **Confidential Appendix "1"**) between the Applicant and Times 1010 Inc., 3143 Holdings Inc., and Times 3143 Limited Partnership (collective, the "**Times Group**"). The Times APS was conditional on the Appointment Order and the AVO being issued.

4. The second transaction (the "**281 Transaction**") was between SOW Capital Ontario Limited ("**SOW**", the fifth-ranking mortgagee) and the Appellant 2816513 Ontario Inc. ("**281 Ontario**") pursuant to an agreement of purchase and sale dated July 18, 2023 (the "**281 APS**", attached to the affidavit filed by SOW, reproduced at Appendix H, described below).

5. On October 19, 2023, Justice Osborne issued the AVO approving, among other things, the Times Transaction. A copy of the AVO and the related endorsement of Justice Osborne are attached hereto as **Appendices "C"** and **"D"**, respectively.

6. On October 19, 2023, Justice Osborne issued an Order (the "**Sealing Order**") sealing, among other things, confidential information attached to the Affidavit of Wesley Roitman sworn July 19, 2023 (copy attached hereto as **Appendix "E"**, without confidential exhibits thereto), the Affidavit of Wesley Roitman sworn September 26, 2023 (copy attached hereto as **Appendix "F"**, without confidential exhibits thereto), and to the Pre-Receivership Report.

7. The Sealing Order and the Appointment Order were not opposed by any of the mortgagees or the Respondents. In fact, the Respondents delivered a responding Affidavit of Pui Ling Lai sworn October 5, 2023 (attached hereto **as Appendix "G"**) supporting the appointment of a Receiver.

8. The Respondents, SOW and 281 Ontario opposed the AVO. SOW brought a separate motion to approve the sale of the Real Property to 281 Ontario, and in support of that motion delivered an Affidavit of Philip Wong sworn September 26, 2023, a copy of which is attached at **Appendix "H"**. In support of SOW's motion, 281 Ontario delivered an Affidavit of Hunter Lam sworn October 4, 2023, a copy of which is attached at **Appendix "I"**.

9. The Receiver's Pre-Receivership Report included a summary of the competing offers for the Real Property, including the Times APS and the 281 APS. A copy of the Receiver's summary is attached at **Confidential Appendix "2"**.

10. On October 19, 2023, among other things Justice Osborne approved the AVO authorizing the Times Transaction and the Times APS.

PURPOSE

11. The First Report is being filed in connection with an urgent motion regarding the Appointment Order, the AVO and the Times Transaction, which is scheduled to close on **<u>Wednesday, November 15, 2023</u>**.

12. On October 27, 2023, 281 Ontario served a Notice of Appeal seeking, among other things, an Order setting aside the Appointment Order and the AVO, and for leave to hear its Appeal on an expedited basis.

13. On October 30, 2023, the Respondents filed a Notice of Appeal, among other things, to set aside the Appointment Order and the AVO. As alterative relief, the Respondents seek, "if necessary" leave to appeal the Appointment Order and the AVO, and staying the Orders pending Appeal.

14. Neither 281 Ontario nor the Respondents have delivered a notice of motion seeking leave to appeal the AVO, nor seeking a stay of either the Appointment Order or the AVO.

15. The Receiver seeks directions before a single judge of the Court of Appeal regarding, among other things:

a) whether 281 Ontario has standing to appeal, and if so, whether 281 Ontario's appeal of the Appointment Order and the AVO is as of right, or whether it requires leave to appeal;

b) whether the Respondents have an appeal as of right of the Appointment Order and AVO, or whether they require leave to appeal;

c) if leave to appeal is required (and if 281 Ontario has standing with respect to its purported appeal), whether leave should be granted; and

d) if leave is not required (and if 281 Ontario has standing with respect to its purported appeal), whether the Appointment Order and the AVO are stayed by the Notices of Appeal, and if stayed, whether the stays should be lifted.

16. The Receiver's position is that 281 Ontario had no standing on the underlying Application and continues to have no standing on its purported appeal. Furthermore, the Receiver's position is that there is no automatic right of appeal with respect to the Appointment Order or the AVO, pursuant to subsections 193(a) through (d) of the *Bankruptcy and Insolvency Act* (the "**BIA**")*,* and as a result of Respondents' consent to the Appointment Order, section 133 of the *Courts of Justice Act*, R.S.O. 1990, c C.43 precludes its appeal of the Appointment Order. In the alternative, the Receiver 's position is that the Appointment Order and the AVO are not automatically stayed pursuant to section 195 of the *BIA* by the filing of the Notices of Appeal, and that a stay is required to preclude the Times Transaction from closing on November 15, 2023.

TERMS OF REFERENCE

17. In preparing this First Report and making the comments herein, the Receiver has been provided with, and has relied upon, certain unaudited, draft and/or internal financial statements, the motion materials filed in respect of these proceeding, and discussions with management and its counsel (collectively, the "**Information**"). Future oriented financial information relied upon in the First Report is based on assumptions regarding future events. Actual results achieved may vary from this information and these variations may be material.

18. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

19. The Receiver will make a copy of the First Report, and related documents with respect to this Receivership application, available on the Receiver's website at www.ey.com/ca/tungkee. The Receiver has also established a toll-free phone number that is referenced on the Receiver's website so that parties may contact the Receiver if they have questions with respect to this proceeding.

20. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

BACKGROUND

21. The Respondent Tung Kee Investment Canada Ltd. is an Ontario corporation and is the registered owner of the Real Property. The Respondent Tung Kee Investment Limited Partnership is an Ontario limited partnership and is the beneficial owner of the Real Property. The Real Property consists of three separate legally described parcels which collectively comprise approximately 66.29 acres of developable vacant land at the southeast corner of 19th Avenue and Woodbine Avenue East in Markham, and collectively bear the municipal address of 3143 19th Avenue, Markham, Ontario. The Respondents

planned to develop the Real Property as a mixed used development comprised of film studios, offices, a hotel and retail.

22. On or about September 1, 2022, the Respondents defaulted in payment of interest due under the loan that Romspen extended to the Respondents (the "**Romspen Mortgage Loan**"). On October 7, 2022, Romspen made formal written demand for payment of the Romspen Mortgage Loan and delivered a Notice of Intention to Enforce Security pursuant to section 244 of the BIA. The Respondents failed to repay the Romspen Mortgage Loan following the expiry of the ten-day statutory notice period under the BIA.

23. On October 25, 2022, Romspen, by its lawyers, issued a Notice of Sale under the Romspen Mortgage. In early April 2023, the Applicant engaged Royal LePage Your Community Realty and launched a process for the marketing and sale of the Real Property (the "**Sale Process**"). The Sale Process undertaken by Romspen resulted in a firm and binding agreement between Romspen and the Times Group, subject to the appointment of a receiver and the issuance of an AVO. The Times APS contemplates a closing date of November 15, 2023.

24. In July 2023, SOW, the fifth ranking mortgage on title to the Real Property, under its own power of sale in respect of the Real Property entered into an agreement of purchase of sale with 281 Ontario (the "**281 APS**"), for a purchase price that is less than the Times APS (on a net basis).

25. On October 19, 2023 Justice Osborne released his Reasons for Decision issuing the Appointment Order and issuing the AVO approving the sale transaction and the Times APS. The Sale Process undertaken prior to the Appointment Order, the Times APS, and the 281 APS are described in detail in the Pre-Receivership Report.

26. The same day (October 27, 2023) counsel for 281 Ontario delivered its client's Notice of Appeal and counsel to the Respondents advised in writing of its clients' intention to appeal, the Receiver's counsel advised counsel for 281 Ontario and the Respondents that their clients' required leave to appeal, and that the Receiver would be seeking directions in a motion before a single judge of the Court of Appeal the week of November 6, 2023, as the

Times Transaction was scheduled to close on November 15, 2023.

27. The relevant email correspondence from counsel for the Receiver on October 27, 2023 is attached at **Appendix "J"**.

ENCUMBRANCES/SECURED CLAIMS AGAINST THE REAL PROPERTY

28. There are five mortgages (the "**Five Mortgages**") registered on title to the Real Property, summarized below:

Ranking Priority	**Creditor**	**Approximate Amount Owing (per Romspen factum)**
First	Romspen	$33.552 million
Second	Amber Mortgage Investment Corporation	$9.869 million
Third	2149602 Ontario Inc.	$11.394 million
Fourth	Frank Pa and Steven Tung	$3.54 million
Fifth	SOW	$11.965 million

29. On April 14, 2023, DX Strategies Inc.("**DX**") registered a claim for a lien over the Real Property in the amount of $4,653,028 and perfected the lien by registering a certificate of action on June 16, 2023. DX seeks priority over the mortgages registered on title to the Real Property.

30. The Receiver is in the process of performing an independent security review of the Five Mortgages, and of DX's lien, to determine validity and priority.

APPRAISED VALUE OF THE REAL PROPERTY

31. The Times Transaction reflects a purchase price higher than the value of the Real Property as reflected by the appraisals commissioned by Romspen and SOW. Romspen produced the appraisal of Altus Group Limited dated January 28, 2023 as a confidential appendix (attached hereto as **Confidential Appendix "3"**), and sought (and obtained) the Sealing Order keeping the purchase price in the Times APS and the value in the appraisal confidential. SOW, on the other hand, did not seek a sealing order, and has publicly disclosed the purchase price in the 281 APS, and the valuations set out in the two appraisals SOW had commissioned.

RISKS ASSOCIATED WITH A STAY OF THE APPOINTMENT ORDER AND AVO

32. The prejudice associated with a stay of the Appointment Order and the AVO would include:

   a. erosion of the net recovery through per diem interest of approximately $22,871, plus continued costs of the Receivership;
   b. a likely cap or ceiling on the amount of any future offer for the Real Property at an amount below the two appraisal values publicly disclosed by SOW (both of which are below the purchase price in the Times APS);
   c. the risk of losing the Times APS in the face of not just uncertainty, but in the face of a strong likelihood that a superior offer will not be received; and,
   d. the risk that a second sale process is likely to have a chilling effect on the market for the Real Property.

All of which is respectfully submitted this 31st day of October, 2023.

ERNST & YOUNG INC.,
solely in its capacity as Receiver of the assets, property and undertaking of the Tung Kee Investment Canada Ltd. and Tung Kee Investment Limited Partnership and not in its personal capacity
Per:

Jeffrey D. Kerbel
Senior Vice-President

Appendix “A”

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	THURSDAY THE 19TH
	)	
JUSTICE OSBORNE	)	DAY OF OCTOBER, 2023

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

\- and -

TUNG KEE INVESTMENT CANADA LTD. AND
TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

ORDER
(appointing Receiver)

THIS APPLICATION made by the Applicant Romspen Investment Corporation (the "Applicant") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing Ernst & Young Inc. as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of the Respondents (collectively, the "Debtors"), acquired for, or used in relation to a business carried on by the Debtors, was heard on October 6, 2023 by Zoom videoconference.

ON READING the Affidavit of Wesley Roitman sworn July 19, 2023, and the Exhibits thereto, including Confidential Appendices A through G, the Affidavit of Wesley Roitman sworn September 29, 2023 and the exhibits thereto, including Confidential Exhibits 1 through 3, the

Affidavit of Philip Wong sworn September 26, 2023, and the exhibits thereto, the pre-filing report of Ernst & Young Inc., as proposed receiver of the Respondents, dated October 4, 2023, and the Appendices thereto, including Confidential Appendix A, the Affidavit of Hunter Lam sworn October 4, 2023, and the Exhibits thereto, the Affidavit of Pui Ling Lai sworn October 5, 2023, and the Exhibits thereto, and the Affidavit of Dan Teh sworn October 5, 2023, and the Exhibits thereto, and on hearing the submissions of counsel for Romspen, counsel for Amber Mortgage Investment Corp., counsel for 2149602 Ontario Inc., Frank Pa and Stephen Tung, counsel for SOW Capital Ontario Limited, counsel for the Respondents, counsel for the Receiver, counsel for DX Strategies Inc., counsel for 2816513 Ontario Inc., and counsel for Times 1010 Inc., no one appearing for any other person on the service list, although properly served as appears from the Affidavits of Janet Nairne sworn August 23, 2023, and October 2, 2023, filed:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Ernst & Young Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including and without in any way limiting the generality of the foregoing, the lands and premises described in Schedule "A" hereto, and all proceeds thereof (collectively, the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

(a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

(b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

(c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;

(d) to engage consultants, appraisers, agents, real estate brokers, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

(e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;

(f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;

(g) to settle, extend or compromise any indebtedness owing to the Debtors;

(h) to deal with any lien claims, trust claims, and trust funds that have been or may be registered (as the case may be) or which arise in respect of the Property, including any part or parts thereof, and, with approval of this Court, to make any required distribution(s) to any contractor or subcontractor of the Debtors or to or on behalf of any beneficiaries of such trust funds pursuant to section 85 of the *Construction Act*;

(i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;

(j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

(k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof, whether directly, or through such real estate broker(s) as the Receiver may in its discretion engage, and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

(l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business subject to the approval of the Court;

(m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

(n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

(o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

(p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;

(q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;

(r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and

(s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “Persons” and each being a “Person”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “Records”) in that Person’s

possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

12. THIS COURT ORDERS that in the event that an account for the supply of goods and/or services is transferred from the Debtors to the Receiver, or is otherwise established in the Receiver's name, no Person, including but not limited to a utility service provider, shall assess or otherwise require the Receiver to post a security deposit as a condition to the transfer/establishment of the account.

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings. The Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. THIS COURT ORDERS that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed $250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

The charges granted in this paragraph 21 as security for the payment of monies borrowed by the Receiver are hereinafter referred to as to the "Receiver's Borrowing Charge".

22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.ey.com/ca/tungkee.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the

records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

27. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

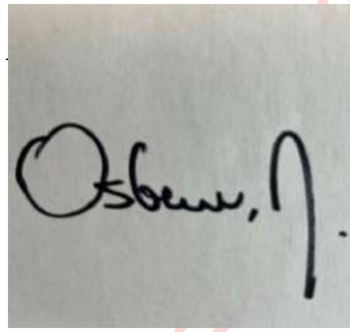
28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

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

30. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

31. THIS COURT ORDERS that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estates with such priority and at such time as this Court may determine.

32. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



2023.10.26 07:58:25 -04'00'

SCHEDULE "A"

Municipal Address: 3143 19th Avenue, Markham, Ontario

PIN: 03055-0377 (LT) in LRO #65

Legal Description: PART LOT 30 CONCESSION 4 DESIGNATED AS PARTS 8 AND 9 PLAN 65R39839; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 1 TO 3 INCLUSIVE PLAN 65R39880 AS IN YR3454770; CITY OF MARKHAM

PIN: 03055-0379 (LT) in LRO #65

Legal Description: PART LOT 30, CONCESSION 4, PARTS 1, 4 & 5 PLAN 65R39839; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 7 & 8 PLAN 65R39880 & PART 2 PLAN 65R39948 AS IN YR3455770; CITY OF MARKHAM

PIN: 03055-0380 (LT) in LRO #65

Legal Description: PART LOT 30, CONCESSION 4, PARTS 2, 6 & 7 PLAN 65R39839; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 4 & 5 PLAN 65R39880 AS IN YR3455770; CITY OF MARKHAM

SCHEDULE "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. ______________

AMOUNT $_____________________

1. THIS IS TO CERTIFY that Ernst & Young Inc., the receiver (the "Receiver") of the assets, undertakings and properties of Tung Kee Investment Canada Ltd., and Tung Kee Investment Limited Partnership (collectively, the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 19th day of October, 2023 (the "Order") made in an action having Court file number CV-23-00703161-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of $___________, being part of the total principal sum of $___________ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _______ day of each month] after the date hereof at a notional rate per annum equal to the rate of ______ per cent above the prime commercial lending rate of Bank of _________ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of ______________, 2023.

ERNST & YOUNG INC., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: ____________________________________

Name:

Title:

ROMSPEN INVESTMENT CORPORATION
Applicant

-and-

TUNG KEE INVESTMENT CANADA LTD. et al.
Respondents

Court File No. CV-23-703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

ORDER APPOINTING A RECEIVER

DICKINSON WRIGHT LLP
Barristers & Solicitors
199 Bay Street
Suite 2200, Box 447
Commerce Court Postal Station
Toronto, ON M5L 1G4

DAVID PREGER (36870L)
Email: dpreger@dickinsonwright.com
Tel: 416-646-4606

LISA S. CORNE (27974M)
Email: lcorne@dickinsonwright.com
Tel: 416-646-4608

DAVID Z. SEIFER (77474F)
Email: DSeifer@dickinson-wright.com
Tel: 416-646-6867

Lawyers for the Applicant

Appendix “B”

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

\- and -

TUNG KEE INVESTMENT CANADA LTD. and
TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

REPORT OF THE PROPOSED RECEIVER
DATED OCTOBER 4, 2023

INTRODUCTION

1. Ernst & Young Inc. ("**EY**" or the "**Receiver**") is filing this pre-filing report (the "**Pre-Filing Report**") in connection with an application by Romspen Investment Corporation ("**Romspen**" or the "**Applicant**") to appoint EY as the Court-appointed receiver and manager (the "**Receiver**") of the undertaking, assets and properties of Tung Kee Investment Canada Ltd. ("**TKIC**") and Tung Kee Investment Limited Partnership ("**TKI LP**" and together with TKIC, collectively, the "**Debtors**"), acquired for, or used in relation to a business carried on by the Debtors, including and without in any way limiting the generality of the foregoing, the property known municipally as 3143 19th Avenue, Markham, Ontario (the "**Property**").

2. This Pre-Filing Report has been prepared by the proposed Receiver prior to its appointment as Receiver, should this Court grant the receivership Order being sought, to provide information to the Court for its consideration in respect of the Applicant's receivership Application.

PURPOSE

3. The purpose of this Pre-Filing Report is to:

(a) provide background information to the Court regarding the Property and the Debtors;

(b) summarize the Sale Process (defined below) undertaken by Romspen, and related offers made for the Property therein;

(c) summarize the appraisals for the Property;

(d) summarize the terms of the competing Agreements of Purchase and Sale entered into by Romspen and by Sow Capital Ontario Limited ("**Sow Capital**") under power of sale proceedings, in their respective capacities as first and fifth mortgagees over the Property;

(e) provide the proposed Receiver's views on the following:

a) the Receivership Order;

b) the issuance of an Approval and Vesting Order without the Receiver (if appointed) launching a marketing and sale process for the Property, which:

i. approves the pre-Receivership Sale Process undertaken by Romspen that resulted in the Times APS (as defined below) between Romspen and Times 3143 Limited Partnership (as buyer) and 3143 Holdings Inc. (as nominee, collectively the "**Times Group**"); and

ii. authorizes the Receiver (if appointed) to execute and implement the Times APS; and

c) the Sealing Order sealing the terms of the Times APS, the Competing Offers (as defined below) and the appraisals for the Property.

TERMS OF REFERENCE

4. Capitalized terms used but not defined in this Pre-Filing Report are as defined in the Affidavit of Wesley Roitman sworn July 19, 2023 (the "**Moving Roitman Affidavit**") and the Supplemental Affidavit of Wesley Roitman sworn September 29, 2023 (the "**Reply Roitman Affidavi**t") sworn in support of the Romspen Application herein, and the responding Affidavit of Philip Wong sworn September 26, 2023 on behalf of Sow Capital (the "**Sow Affidavit**").

5. In preparing this Pre-Filing Report and making the comments herein, the proposed Receiver has been provided with, and has relied upon, certain materials prepared and provided by Romspen and materials as filed in these proceedings (collectively, the "**Information**"). The proposed Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided.

6. The proposed Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the proposed Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information. Some of the Information referred to in this Pre-Filing 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.

7. Unless otherwise indicated, the proposed Receiver's understanding of factual matters expressed in this Pre-Filing Report concerning the Debtors and their business is based on the materials filed in these proceedings, and not independent factual determinations made by the proposed Receiver.

8. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

BACKGROUND AND FINANCIAL POSITION OF THE DEBTORS

9. TKIC is an Ontario corporation, and is the registered owner of the Property. TKI LP is an Ontario limited partnership, and is the beneficial owner of the Property. The Property consists of three separate legally described parcels which collectively comprise approximately 66.29 acres of developable vacant land at the southeast corner of 19th Avenue and Woodbine Avenue East in Markham, and collectively bear the municipal address of 3143 19th Avenue, Markham, Ontario. The Debtors planned to develop the Property as a mixed used development comprised of film studios, offices, a hotel and retail.

Secured Creditors

10. The proposed Receiver understands there are five mortgages registered on title to the Property, summarized below:

Ranking Priority	**Creditor**	**Principal Face Amount**
First	Romspen	$30 million
Second	Amber Mortgage Investment Corporation	$8.5 million
Third	2149602 Ontario Inc.	$3,744,759.41 (CAD) and $26,279,223.54 (HKD) (which is equivalent to approximately $4,600,000 CAD)
Fourth	Frank Pa and Steven Tung	$3.54 million
Fifth	Sow Capital	$20 million

11. The proposed Receiver understands that pursuant to Subordination and Postponement Agreements dated January 2022 (see Exhibits 47 to the Moving Roitman Affidavit) between Romspen and each of Amber Mortgage Investment Corporation ("**Amber**"), Sow Capital, 2149602 Ontario Inc. ("**214**"), Frank Pa and Steven Tung ("**Pa and Tung**" and collectively with Amber, Sow Capital and 214, the "**Subordinate Encumbrancers**"), each of the Subordinate Encumbrancers subordinated and postponed all of their rights under their security over the Property of the Debtors in favour of Romspen.

12. The proposed Receiver has not yet performed an independent security review of any of the five mortgages to determine validity or priority.

13. On or about September 1, 2022, the Debtors defaulted in payment of interest due under the loan that Romspen extended to the Debtors (the "**Romspen Mortgage Loan**"). On October 7, 2022, Romspen made formal written demand for payment of the Romspen Mortgage and delivered a Notice of Intention to Enforce Security pursuant to section 244 of the BIA (see Exhibit 49, Moving Roitman Affidavit). The proposed Receiver understands the Debtors failed to repay the Romspen Mortgage Loan following the expiry of the ten-day statutory notice period under the BIA.

POWER OF SALE BY ROMSPEN

14. On October 25, 2022, Romspen, by its lawyers, issued a Notice of Sale under the Romspen Mortgage (see Exhibit 50, Moving Roitman Affidavit) . After the redemption period under Romspen's Notice of Sale expired, Romspen commissioned an appraisal of the Property, which is marked as Confidential Exhibit "3" to the Reply Roitman Affidavit.

15. On or about April 3, 2023, Royal LePage Your Community Realty ("**Royal LePage**") and Romspen entered into a listing agreement (the "**Royal LePage Listing Agreement**") whereby Royal LePage was engaged to conduct a process for the marketing and sale of the Property. The Royal Lepage Listing Agreement provides for a commission of 2% plus HST of the gross sale price if there is no co-operating broker. If there is a co-operating broker, the commission increases to 3% plus HST. A copy of the Royal LePage listing agreement for the Property is attached hereto as **Appendix** "**A**".

16. On April 4, 2023, Royal LePage launched its sale process for the Property (the "**Sale Process**"). It listed the Property for sale for $69.5 million, and set a bid deadline of April 27, 2023 (the "**Initial Bid Deadline**"). A copy of the initial Royal Lepage marketing brochure is part of Exhibit "B" to the Reply Roitman Affidavit

17. On the same day, the Property was listed on Multiple Listing Service (MLS#: N6007225). A copy of the MLS listing is attached hereto as **Appendix** "**B**".

18. From April 4, 2023, through to the Initial Bid Deadline, Royal LePage received two offers (discussed below). However, neither of these offers resulted in an unconditional Agreement of Purchase and Sale.

19. On July 12, 2023, Royal LePage, with Romspen's consent, lowered the listing price of the Property to $64.5 million. A copy of the Royal Lepage marketing brochure with the updated purchase price is also part of Exhibit "B" to the Reply Roitman Affidavit.

20. Below is a summary of the timeline setting out the key dates with respect to the Sale Process:

Timeline	**Activity**
April 3, 2023	Romspen engaged Royal LePage
April 4, 2023	Royal LePage launched the Sale Process and listed the Property on MLS
April 4, 2023 through April 27, 2023	Royal LePage took steps to implement the Sale Process, as further described below
April 27, 2023	Initial Bid Deadline for submission of an executed and binding agreement of purchase and sale
April 27, 2023 / April 28, 2023	Two offers received, as further described below.
May 1, 2023	Romspen selected and signed back the First Offer (as defined below) which was subject to a 45-day due diligence condition.

June 19, 2023	Due diligence condition in the First Offer is not waived. Romspen and the proposed purchaser under the First Offer execute a mutual release
July 12, 2023	Listing Price was amended to $64.5 million
July 14, 2023 – July 18, 2023	Two amended offers and a Letter of Intent were received, as further described below.
August 25, 2023	Times Offer delivered, as further described below
September 15, 2023	Romspen and Times Group enter into the Times APS. First deposit received.
September 28, 2023	Letter from Times Group's financier serving as a positive reference for the Times Group
September 29, 2023	Times Group waives due diligence condition albeit with a lower purchase price, subject to the issuance of an Approval and Vesting Order
October 4, 2023	Second deposit received. Times APS is firm, subject to issuance of an Approval and Vesting Order

21. In addition to the marketing and sales steps in the Sale Process set out in paragraph 8 of the Reply Roitman Affidavit, the proposed Receiver understands that Royal LePage also undertook the following additional steps during the marketing period to sell the Property:

(a) attended the 2023 Building Industry luncheon in April 2023 to meet with local developers and builders to promote the Property, and followed up with emails with certain potentially interested parties;

(b) on April 4, 2023, emailed the acquisition opportunity internally to over 900 Royal LePage sales agents, and emailed them again on July 12, 2023, to indicate the revised listing price;

(c) created and posted a listing on Multiple Listing Service (MLS#: N6007225);

(d) communicated with potential interested parties via email and phone calls;

(e) established a Google Drive link to provide information for interested parties to conduct their due diligence; and

(f) gathered information for interested parties to conduct due diligence.

Results of the Sale Process

22. On or around the Bid Deadline of April 27, 2023, two parties submitted conditional binding offer to Romspen. In July 2023, two additional binding offers and a letter of intent were submitted with various conditions. A summary of these offers and the letter of intent (the "**Competing Offers**") received by Romspen (the "**Summary of Offers**") is attached hereto as **Confidential Appendix "A"**.

The First Offer and Revised First Offer

23. The first offer dated May 1, 2023 (the "**First Offer**"), included the highest cash purchase price and was subject to a 45-day due diligence condition in favour of the buyer. A copy of the First Offer is attached as the Confidential Appendix A to the Moving Roitman Affidavit.

24. On May 3, 2023, Romspen entered into an agreement of purchase and sale with the first offeror (the "**First APS**"), and an initial deposit was submitted to Romspen. However, the proposed purchaser did not waive the due diligence condition prior to the due diligence deadline. On June 19, 2023, the parties executed a mutual release terminating the First APS, and the deposit was returned.

25. On or around July 12, 2023, the first offeror submitted a revised offer (the "**Revised First Offer**") to Romspen that was for approximately 25% less than the First APS. Romspen did not accept this offer. A copy of the Revised First Offer is attached as Confidential Appendix B to the Moving Roitman Affidavit.

The Second Offer and Revised Second Offer

26. The second offer, dated April 28, 2023 (the "**Second Offer**"), provided for a cash purchase price that was approximately 45% lower than the First Offer, and subject to a 60-day due diligence condition in favour of the buyer. Romspen did not accept this offer. A copy of the Second Offer is included as part of Confidential Exhibit 1 to the Reply Roitman Affidavit**.**

27. On or around July 18, 2023, this buyer submitted a revised offer to Romspen for the Property. However, it was for an amount that was lower than the proposed purchase price in a letter of intent received the day before (as further described below) (the "**Revised Second Offer**"). Romspen did not accept the Revised Second Offer. A copy of the Revised Second Offer is included as part of Confidential Exhibit 1 in the Reply Roitman Affidavit**.**

28. Romspen and Royal LePage continued to market the property after the First Offer was terminated in June 2023. On July 12, 2023, the listing price of the Property was reduced to $64.5 million.

The Letter of Intent

29. A letter of intent dated July 17, 2023 (the "**Letter of Intent**"), was for a purchase price higher than the Revised Second Offer and subject to a 45-day due diligence condition. The proposed Receiver understands that Romspen negotiated with the party who delivered the Letter of Intent in an effort to convert it into an agreement of purchase and sale. However, the negotiations did not result in the parties advancing to that stage. A copy of the Letter of Intent is included as part of Confidential Exhibit 1 to the Reply Roitman Affidavit.

SUCCESSFUL BID

The Times APS

30. On August 25, 2023, Romspen received a conditional offer (the "**Times Offer**") from the Times Group. The proposed Receiver understands Romspen entered into discussions with the Times Group, which resulted in an increase in the cash value of the offer. On September 15, 2023, Romspen and the Times Group entered into the Times APS that provided for a

due diligence condition deadline of September 30, 2023.

31. The Times APS represents the highest and best offer received through Romspen's marketing and sale process (or through Sow Capital's attempts to market and sell the Property, as set out below under the heading "Sow Capital").

32. The proposed Receiver understands that Times Group made the first deposit required under the Times APS. While the Times Group subsequently requested, and Romspen granted, an extension of the due diligence deadline to October 2, 2023, this condition was waived on September 29, 2023 subject to the appointment of Ernst & Young Inc. as receiver and manager of the Debtors and the issuance of an order approving the sale, authorizing the Receiver to complete the Transaction, and vesting title to the Property in Times (see paras. 11 and 14 of the Reply Roitman Affidavit). On the same date, the Times APS was amended to, among other things, substitute the proposed purchaser, and to reduce the purchase price, although the net purchase price remained higher than the purchase price in the Sow APS (as defined below).

33. A redacted copy of Times APS as amended is marked as Exhibits "D" and "G" to the Reply Roitman Affidavit, and an unredacted copy with the purchase price is marked as Confidential Exhibits "2A"and "2B" to the Reply Roitman Affidavit.

34. On October 4, 2023, the Times Group delivered the second deposit due under the Times APS. Upon the payment of the second deposit, Times APS became a firm and binding agreement, subject to the issuance of a Receivership Order and an Approval and Vesting Order.

Evaluation of the Times APS

35. The Times APS is the result of a competitive sale process, and the negotiation between Romspen, the Times Group and their respective counsel. The Times Group and the Debtors are not related parties pursuant to section 65.13 of the BIA.

36. The Times APS provides that closing will occur on November 15, 2023.

37. The background and ability of the Times Group to complete the Times APS is set out at paragraphs 12 and 13 of the Reply Roitman Affidavit, and Exhibits “E” and “F to that affidavit.

38. The purchase price for the Property will be paid in cash and is sufficient to repay the indebtedness to the First, Second, Third and Fourth ranking secured creditors in full. Sow Capital, the Fifth ranking secured creditor, will receive a substantial payment but is not expected to be repaid in full.

39. A general summary of the key terms and conditions of the Times APS are set out below under the headings “Comparison of the Key Terms under the Times APS and the Sow APS”.

POWER OF SALE BY SOW CAPITAL

40. On July 18, 2023, Sow Capital and 2816513 Ontario Inc. (“**281 Ontario**”) entered into an agreement of purchase and sale which was amended on August 17, 2023 (the “**Sow APS**”, which is marked as Exhibit “C” to the Sow Affidavit and Exhibit “G” to the Reply Romspen Affidavit).

41. The proposed purchase price under the Sow APS is also lower than the proposed net purchase price under the Times APS.

42. As with the Times APS, the purchase price under the Sow APS will be paid in cash and is also sufficient to repay the indebtedness to the First, Second, Third and Fourth ranking secured creditors in full. However, while Sow Capital (the Fifth ranking secured creditor) will also not be repaid in full by the Sow APS (like with the Times APS), it will receive even less net proceeds under the Sow APS than the Times APS.

43. Romspen’s concerns regarding Sow Capital, 281 Ontario and the Sow APS, and why Sow Capital would want to proceed with the Sow APS instead of the Times APS, are set out in paragraphs 16 to 34 of the Reply Roitman Affidavit.

44. As set out in the Factum Sow Capital delivered in the herein proceeding dated September 26, 2023 (the “**Sow Factum**”), 281 Ontario waived the due diligence condition period and

paid the first and second deposits to Sow Capital. However, while the Sow APS has allegedly gone firm, for reasons not explained yet by Sow Capital, even though the Sow APS provides that closing will occur on October 16, 2023, the closing date has been amended to November 30, 2023, contrary to the terms of the Sow APS (or 15 days after the scheduled closing date under the Times APS).

45. Furthermore, while the Sow APS indicates that the purchase price is not subject to payment of a sale commission, as set out in paragraph 35 of the Reply Roitman Affidavit, the proposed Receiver understands that Royal LePage may assert that it is entitled to a commission from the sale under the Sow APS because the authorized signing officer for 281 Ontario that executed the Sow APS had initially reached out to Royal LePage about the Property on June 20, 2023, while Royal LePage was acting as sales broker.

46. A general summary of the key terms and conditions of the Sow APS are set out below.

COMPARISON OF THE KEY TERMS IN THE TIMES APS AND THE SOW APS

47. A summary and comparison of the significant terms of the Times APS and the Sow APS is attached hereto as **Confidential Appendix "A"**. A comparison, excluding financial information, is set out below:

	Times APS	**Sow APS**
Purchase Price	Higher than Sow APS	Lower than Times APS
Closing Date	November 15, 2023	November 30, 2023
Conditions	Approval and Vesting Order	None
Deposit	Same as Sow APS	Same as Times APS
Ability to Close	Romspen satisfied with evidence of financial wherewithal to close	No evidence of financial wherewithal to close provided to Romspen.

Relationship to Debtors	Unrelated	Appears Related
Commission	2%	None, but potentially subject to claim by Royal Lepage for its commission

COMPARISON OF THE APPRAISALS, TIMES APS AND THE SOW APS

48. A total of three appraisals were commissioned for this Property.

49. Romspen commissioned an appraisal from Altus Group with the effective date of January 28, 2023 (see Confidential Exhibit “3” to the Reply Roitman Affidavit).

50. Sow Capital commissioned two appraisal reports from Wagner Andrews Kovacs and Avison Young, each with the effective date of July 17, 2023 (see Exhibits “K” and “L” to the Sow Affidavit).

51. The Times APS provides for a gross purchase price that is higher than all three appraisals. The proposed Receiver notes that the purchase price in the Times APS, net of sale commission, is also higher than all three appraisals.

52. The Sow APS provides for a gross purchase price that is higher than the two appraisals it commissioned, but lower than the Altus Group appraisal.

53. A summary of these three appraisals for the Property is attached hereto as **Confidential Appendix “B”.**

OBSERVATIONS OF ROMSPEN’S SALE PROCESS

54. The proposed Receiver believes that Romspen’s Sale Process was conducted in a manner that:

(a) was fair to all who participated in it and considered the interests of all parties;

(b) maintained appropriate efficacy, integrity, and a level playing field for all potential and actual bidders;

(c) was marketed to a wide range of audience, including land developers and commercial brokers;

(d) made sufficient efforts to obtain the best price and not act improvidently;

(e) resulted in an offer for the Property that provides certainty as to closing; and

(f) resulted in an offer for the Property that is higher than all other offers, and higher than the three appraisals commissioned for the Property.

55. In the circumstances, the proposed Receiver does not believe that further marketing campaign of the Property would yield any higher or better offers.

56. The proposed Receiver notes that when Sow Capital filed its responding material, it did not redact confidential information in the Sow APS (including the purchase price), or in the appraisals that it had commissioned. These amounts are also reproduced in the Sow Factum (paras 6, 18 and 19), which the proposed Receiver understands was also filed with the Court in an unredacted form. Disclosure of this confidential information is likely to have a negative impact on any future sales process, as it effectively sets a price ceiling at an amount between the two appraisal values disclosed by Sow Capital.

Approval and Vesting Order

57. The proposed Receiver has reviewed the terms of the proposed Approval and Vesting Order and believes that it is reasonable.

Sealing Order

58. The Confidential Appendices attached hereto contain financial and other information. The proposed Receiver believes that disclosure of this information could further adversely affect any further sale process for the Property in the event the Times APS does not close.

Receivership Order

59. The proposed Receiver has reviewed the terms of the proposed Receivership Order. The draft order is substantially similar to the model receivership order of this Court.

All of which is respectfully submitted this 4th day of October, 2023.

ERNST & YOUNG INC.,
solely in its capacity as Proposed Receiver of the assets, property and undertaking of the Tung Kee Investment Canada Ltd. and Tung Kee Investment Limited Partnership and not in its personal capacity

Per:
Jeffrey D. Kerbel
Senior Vice-President

Appendix “A”

OREA Ontario Real Estate Association

Form 520
for use in the Province of Ontario

Listing Agreement - Commercial
Seller Representation Agreement
Authority to Offer for Sale

This is a Multiple Listing Service® Agreement MG (Seller's Initials) **OR** **This Listing is Exclusive** EXCLUSIVE (Seller's Initials)

BETWEEN:
BROKERAGE: ROYAL LEPAGE YOUR COMMUNITY REALTY

8854 YONGE STREET RICHMOND HILL, ONT L4C 0T4 (the "Listing Brokerage") Tel. No. (905) 731-2000

SELLER: ROMSPEN INVESTMENT CORPORATON (AS TRUSTEE UNDER POWER OF SALE) (the "Seller")

In consideration of the Listing Brokerage listing the real property **for sale** known as 3143 19TH AVENUE MARKHAM ON L6C 1L8 (the "Property")
the Seller hereby gives the Listing Brokerage the **exclusive and irrevocable** right to act as the Seller's agent,

commencing at 12:01 a.m. on the 4 day of April, 20 23,

until 11:59 p.m. on the 4 day of January, 20 24 (the "Listing Period"),

Seller acknowledges that the length of the Listing Period is negotiable between the Seller and the Listing Brokerage and, if an MLS® listing, may be subject to minimum requirements of the real estate board, however, in accordance with the Real Estate and Business Brokers Act, 2002, (REBBA), **if the Listing Period exceeds six months, the Listing Brokerage must obtain the Seller's initials.** MG (Seller's Initials)

to offer the Property **for sale** at a price of:

Sixty-Nine Million Five Hundred Thousand Dollars ($CDN) 69,500,000.00
and upon the terms particularly set out herein, or at such other price and/or terms acceptable to the Seller. It is understood that the price and/or terms set out herein are at the Seller's personal request, after full discussion with the Listing Brokerage's representative regarding potential market value of the Property.

The Seller hereby represents and warrants that the Seller is not a party to any other listing agreement for the Property or agreement to pay commission to any other real estate brokerage for the sale of the property. MG (Seller's Initials)

1. **DEFINITIONS AND INTERPRETATIONS:** For the purposes of this Agreement ("Authority" or "Agreement"):
"Seller" includes vendor and a "buyer" includes a purchaser or a prospective purchaser. A purchase shall be deemed to include the entering into of any agreement to exchange, or the obtaining of an option to purchase which is subsequently exercised, or the causing of a First Right of Refusal to be exercised, or an agreement to sell or transfer shares or assets. "Real property" includes real estate as defined in the Real Estate and Business Brokers Act (2002). The "Property" shall be deemed to include any part thereof or interest therein. A "real estate board" includes a real estate association. Commission shall be deemed to include other remuneration. This Agreement shall be read with all changes of gender or number required by the context. For purposes of this Agreement, anyone introduced to or shown the Property shall be deemed to include any spouse, heirs, executors, administrators, successors, assigns, related corporations and affiliated corporations. Related corporations or affiliated corporations shall include any corporation where one half or a majority of the shareholders, directors or officers of the related or affiliated corporation are the same person(s) as the shareholders, directors, or officers of the corporation introduced to or shown the Property.

2. **COMMISSION:** In consideration of the Listing Brokerage listing the Property for sale, the Seller agrees to pay the Listing Brokerage a commission of 3% + HST % of the sale price of the Property or ....
for any valid offer to purchase the Property from any source whatsoever obtained during the Listing Period, as may be acceptable to the Seller.

INITIALS OF LISTING BROKERAGE: LC **INITIALS OF SELLER(S):** MG

The Seller authorizes the Listing Brokerage to co-operate with any other registered real estate brokerage (co-operating brokerage), and to offer to pay the co-operating brokerage a commission of ....1........ % of the sale price of the Property or .... out of the commission the Seller pays the Listing Brokerage.
The Seller further agrees to pay such commission as calculated above if an agreement to purchase is agreed to or accepted by the Seller or anyone on the Seller's behalf within ....90......... days after the expiration of the Listing Period (**Holdover Period**), so long as such agreement is with anyone who was introduced to the Property from any source whatsoever during the Listing Period or shown the Property during the Listing Period. If, however, the offer for the purchase of the Property is pursuant to a new agreement in writing to pay commission to another registered real estate brokerage, the Seller's liability for commission shall be reduced by the amount paid by the Seller under the new agreement.
The Seller further agrees to pay such commission as calculated above even if the transaction contemplated by an agreement to purchase agreed to or accepted by the Seller or anyone on the Seller's behalf is not completed, if such non-completion is owing or attributable to the Seller's default or neglect, said commission to be payable on the date set for completion of the purchase of the Property.
Any deposit in respect of any agreement where the transaction has been completed shall first be applied to reduce the commission payable. Should such amounts paid to the Listing Brokerage from the deposit or by the Seller's solicitor not be sufficient, the Seller shall be liable to pay to the Listing Brokerage on demand, any deficiency in commission and taxes owing on such commission.
In the event the buyer fails to complete the purchase and the deposit or any part thereof becomes forfeited, awarded, directed or released to the Seller, the Seller then authorizes the Listing Brokerage to retain as commission for services rendered, fifty (50%) per cent of the amount of the said deposit forfeited, awarded, directed or released to the Seller (but not to exceed the commission payable had a sale been consummated) and to pay the balance of the deposit to the Seller.
All amounts set out as commission are to be paid plus applicable taxes on such commission.

3. **REPRESENTATION:** The Seller acknowledges that the Listing Brokerage has provided the Seller with written information explaining agency relationships,including information on Seller Representation. Sub-agency, Buyer Representation, Multiple Representation and Customer Service. The Seller understands that unless the Seller is otherwise informed, the co-operating brokerage is representing the interests of the buyer in the transaction. The Seller further acknowledges that the Listing Brokerage may be listing other properties that may be similar to the Seller's Property and the Seller hereby consents to the Listing Brokerage acting as an agent for more than one seller without any claim by the Seller of conflict of interest. Unless otherwise agreed in writing between Seller and Listing Brokerage, any commission payable to any other brokerage shall be paid out of the commission the Seller pays the Listing Brokerage.
The Seller hereby appoints the Listing Brokerage as the Seller's agent for the purpose of giving and receiving notices pursuant to any offer or agreement to purchase the Property.

MULTIPLE REPRESENTATION: The Seller hereby acknowledges that the Listing Brokerage may be entering into buyer representation agreements with buyers who may be interested in purchasing the Seller's Property. In the event that the Listing Brokerage has entered into or enters into a buyer representation agreement with a prospective buyer for the Seller's Property, the Listing Brokerage will obtain the Seller's written consent to represent both the Seller and the buyer for the transaction at the earliest practical opportunity and in all cases prior to any offer to purchase being submitted or presented.
The Seller understand and acknowledges that the Listing Brokerage must be impartial when representing both the Seller and the buyer and equally protect the interests of the Seller and buyer. The Seller understands and acknowledges that when representing both the Seller and the buyer, the Listing Brokerage shall have a duty of full disclosure to both the Seller and the buyer, including a requirement to disclose all factual information about the Property known to the Listing Brokerage.
However, the Seller further understands and acknowledges that the Listing Brokerage shall not disclose:

- that the Seller may or will accept less than the listed price, unless otherwise instructed in writing by the Seller;
- that the buyer may or will pay more than the offered price, unless otherwise instructed in writing by the buyer;
- the motivation of or personal information about the Seller or buyer, unless otherwise instructed in writing by the party to which the information applies or unless failure to disclose would constitute fraudulent, unlawful or unethical practice;
- the price the buyer should offer or the price the Seller should accept; and
- the Listing Brokerage shall not disclose to the buyer the terms of any other offer.

However, it is understood that factual market information about comparable properties and information known to the Listing Brokerage concerning potential uses for the Property will be disclosed to both Selle r and buyer to assist them to come to their own conclusions.

Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be entitled or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.

MULTIPLE REPRESENTATION AND CUSTOMER SERVICE: The Seller understands and agrees that the Listing Brokerage also provides representation and customer service to other sellers and buyers. If the Listing Brokerage represents or provides customer service to more than one seller or buyer for the same trade, the Listing Brokerage shall, in writing, at the earliest practicable opportunity and before any offer is made, inform all sellers and buyers of the nature of the Listing Brokerage's relationship to each seller and buyer.

INITIALS OF LISTING BROKERAGE: DS LC **INITIALS OF SELLER(S):** DS MG

4. **REFERRAL OF ENQUIRIES:** The Seller agrees that during the Listing Period, the Seller shall advise the Listing Brokerage immediately of all enquiries from any source whatsoever, and all offers to purchase submitted to the Seller shall be immediately submitted to the Listing Brokerage by the Seller before the Seller accepts or rejects the same. If any enquiry during the Listing Period results in the Seller's accepting a valid offer to purchase during the Listing Period or within the Holdover Period after the expiration of the Listing Period described above, the Seller agrees to pay the Listing Brokerage the amount of commission set out above, payable within five (5) days following the Listing Brokerage's written demand therefor.

5. **MARKETING:** The Seller agrees to allow the Listing Brokerage to show and permit prospective buyers to fully inspect the Property during reasonable hours and the Seller gives the Listing Brokerage the sole and exclusive right to place "For Sale" and "Sold" sign(s) upon the Property. The Seller consents to the Listing Brokerage including information in advertising that may identify the Property. The Seller further agrees that the Listing Brokerage shall have sole and exclusive authority to make all advertising decisions relating to the marketing of the Property during the Listing Period. The Seller agrees that the Listing Brokerage will not be held liable in any manner whatsoever for any acts or omissions with respect to advertising by the Listing Brokerage or any other party, other than by the Listing Brokerage's gross negligence or wilful act.

6. **WARRANTY:** The Seller represents and warrants that the Seller has the exclusive authority and power to execute this Authority to offer the Property for sale and that the Seller has informed the Listing Brokerage of any third party interests or claims on the Property such as rights of first refusal, options, easements, mortgages, encumbrances or otherwise concerning the Property, which may affect the sale of the Property.

7. **INDEMNIFICATION AND INSURANCE:** The Seller will not hold the Listing Brokerage and representatives of the Brokerage responsible for any loss or damage to the Property or contents occurring during the term of this Agreement caused by the Listing Brokerage or anyone else by any means, including theft, fire or vandalism, other than by the Listing Brokerage's gross negligence or wilful act. The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury, including but not limited to loss of the commission payable under this Agreement, caused or contributed to by the breach of any warranty or representation made by the Seller in this Agreement and, if attached, the accompanying data form.
   The Seller warrants the Property is insured, including personal liability insurance against any claims or lawsuits resulting from bodily injury or property damage to others caused in any way on or at the Property and the Seller indemnifies the Brokerage and all of its employees, representatives, salespersons and brokers (Listing Brokerage) and any co-operating brokerage and all of its employees, representatives, salespersons and brokers (co-operating brokerage) for and against any claims against the Listing Brokerage or co-operating brokerage made by anyone who attends or visits the Property.

8. **ENVIRONMENTAL INDEMNIFICATION:** The Seller agrees to indemnify and save harmless the Listing Brokerage and representatives of the Brokerage and any co-operating brokerage from any liability, claim, loss, cost, damage or injury as a result of the Property being affected by any contaminants or environmental problems.

9. **FAMILY LAW ACT:** The Seller hereby warrants that spousal consent is not necessary under the provisions of the Family Law Act, R.S.O. 1990, unless the spouse of the Seller has executed the consent hereinafter provided.

10. **FINDERS FEES:** The Seller acknowledges that the Brokerage may be receiving a finder's fee, reward and/or referral incentive, and the Seller consents to any such benefit being received and retained by the Brokerage in addition to the commission as described above.

11. **VERIFICATION OF INFORMATION:** The Seller authorizes the Listing Brokerage to obtain any information from any regulatory authorities, governments, mortgagees or others affecting the Property and the Seller agrees to execute and deliver such further authorizations in this regard as may be reasonably required. The Seller hereby appoints the Listing Brokerage or the Listing Brokerage's authorized representative as the Seller's attorney to execute such documentation as may be necessary to effect obtaining any information as aforesaid. The Seller hereby authorizes, instructs and directs the above noted regulatory authorities, governments, mortgagees or others to release any and all information to the Listing Brokerage.

12. **USE AND DISTRIBUTION OF INFORMATION:** The Seller consents to the collection, use and disclosure of personal information by the Brokerage for the purpose of listing and marketing the Property including, but not limited to: listing and advertising the Property using any medium including the Internet; disclosing Property information to prospective buyers, brokerages, salespersons and others who may assist in the sale of the Property; such other use of the Seller's personal information as is consistent with listing and marketing of the Property. The Seller consents, if this is an MLS® Listing, to placement of the listing information and sales information by the Brokerage into the database(s) of the MLS® System of the appropriate Board, and to the posting of any documents and other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) provided by or on behalf of the Seller into the database(s) of the MLS® System of the appropriate Board. The Seller hereby indemnifies and saves harmless the Brokerage and/or any of its employees, servants, brokers or sales representatives from any and all claims, liabilities, suits, actions, losses, costs and legal fees caused by, or arising out of, or resulting from the posting of any documents or other information (including, without limitation, photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions) as aforesaid.
    The Seller acknowledges that the database, within the board's MLS® System is the property of the real estate board(s) and can be licensed, resold, or otherwise dealt with by the board(s). The Seller further acknowledges that the real estate board(s) may: during the term of the listing and thereafter, distribute the information in the database, within the board's MLS® System to any persons authorized to use such service which may include other brokerages, government departments, appraisers, municipal organizations and others; market the Property, at its option, in any medium, including electronic media; during the term of the listing and thereafter, compile, retain and publish any statistics including historical data within the board's MLS® System and retain, reproduce and display photographs, images, graphics, audio and video recordings, virtual tours, drawings, floor plans, architectural designs, artistic renderings, surveys and listing descriptions which may be used by board members to conduct comparative analyses; and make such other use of the information as the Brokerage and/or real estate board(s) deem appropriate, in connection with the listing, marketing and

INITIALS OF LISTING BROKERAGE: DS LC **INITIALS OF SELLER(S):** DS MG selling of real estate during the term of the listing and thereafter. The Seller acknowledges that the information, personal or otherwise ("information"), provided to the real estate board or association may be stored on databases located outside of Canada, in which case the information would be subject to the laws of the jurisdiction in which the information is located.

In the event that this Agreement expires or is cancelled or otherwise terminated and the Property is not sold, the Seller, by initialling: consent to allow other real estate board members to contact the Seller after expiration or other termination of this Agreement to discuss listing or otherwise marketing the Property.	(Does)	DS MG (Does Not)

13. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms of this Agreement.
14. **CONFLICT OR DISCREPANCY:** If there is any conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement, including any Schedule attached hereto, shall constitute the entire Authority from the Seller to the Brokerage. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein.
15. **ELECTRONIC COMMUNICATION:** This Agreement and any agreements, notices or other communications contemplated thereby may be transmitted by means of electronic systems, in which case signatures shall be deemed to be original. The transmission of this Agreement by the Seller by electronic means shall be deemed to confirm the Seller has retained a true copy of the Agreement.
16. **ELECTRONIC SIGNATURES:** If this Agreement has been signed with an electronic signature the parties hereto consent and agree to the use of such electronic signature with respect to this Agreement pursuant to the *Electronic Commerce Act, 2000,* S.O. 2000, c17 as amended from time to time.
17. **SCHEDULE(S)** .... and data form attached hereto form(s) part of this Agreement.

THE LISTING BROKERAGE AGREES TO MARKET THE PROPERTY ON BEHALF OF THE SELLER AND REPRESENT THE SELLER IN AN ENDEAVOUR TO OBTAIN A VALID OFFER TO PURCHASE THE PROPERTY ON THE TERMS SET OUT IN THIS AGREEMENT OR ON SUCH OTHER TERMS SATISFACTORY TO THE SELLER.

DocuSigned by: Laura Cormaggi 113F0A72B64047D...
(Authorized to bind the Listing Brokerage) — 4/3/2023 | 13:17 EDT (Date) — LAURA CORMAGGI (Name of Person Signing)

THIS AGREEMENT HAS BEEN READ AND FULLY UNDERSTOOD BY ME, I ACCEPT THE TERMS OF THIS AGREEMENT AND I ACKNOWLEDGE ON THIS DATE I HAVE SIGNED UNDER SEAL. Any representations contained herein or as shown on the accompanying data form respecting the Property are true to the best of my knowledge, information and belief.

SIGNED, SEALED AND DELIVERED I have hereunto set my hand and seal:

ROMSPEN INVESTMENT CORPORATION (AS TRUSTEE UNDER POWER OF SALE)
(Name of Seller)

DocuSigned by: Mary Gianfriddo B3BCFAEB87944E4...
(Signature of Seller/Authorized Signing Officer) Per:Mary Gianfriddo Authorized Signing Officer (Seal) — 4/3/2023 | 13:32 EDT (Date) — (Tel. No.)

(Signature of Seller/Authorized Signing Officer) (Seal) — (Date) — (Tel. No.)

SPOUSAL CONSENT: The undersigned spouse of the Seller hereby consents to the listing of the Property herein pursuant to the provisions of the Family Law Act, R.S.O. 1990 and hereby agrees to execute all necessary or incidental documents to further any transaction provided for herein.

(Spouse) (Seal) — (Date) — (Tel. No.)

DECLARATION OF INSURANCE

The Salesperson/Broker/Broker of Record .... LAURA CORMAGGI ....
(Name of Salesperson/Broker/Broker of Record)

hereby declares that he/she is insured as required by REBBA.

DocuSigned by: Laura Cormaggi 113F0A72B64047D...
(Signature(s) of Salesperson/Broker/Broker of Record)

ACKNOWLEDGEMENT

The Seller(s) hereby acknowledge that the Seller(s) fully understand the terms of this Agreement and have received a copy of this Agreement on the .... day of ...., 20 .... 4/3/2023 | 13:32 EDT

DocuSigned by: Mary Gianfriddo B3BCFAEB87944E4...
(Signature of Seller) Per:Mary Gianfriddo Authorized Signing Officer — 4/3/2023 | 13:32 EDT (Date)

(Signature of Seller) — (Date)

Appendix “B”

Prepared by: LAURA CORMAGGI, CLHMS, ASA, Salesperson
ROYAL LEPAGE YOUR COMMUNITY REALTY, BROKERAGE
8854 Yonge Street, Richmond Hill, ON L4C0T4 905-731-2000

Printed on 04/21/2023 3:03:38 PM

3143 19th Ave **List: $69,500,000.00**
Markham Ontario L6C 1L8 **For Sale**
Markham Victoria Square York 344-29-N

SPIS: N **For:** Sale
Taxes: $6,534.00 / 2023 / Annual **Last Status:** New
Legal: See Schedule C For Full Legal Description **DOM: 17**

Land **Occup:** Vacant **Lse Term Mnths:** /
Designated **Freestanding:** **SPIS:** N **Holdover:** 90
Franchise:
Com Cndo Fee:
Dir/Cross St: Woodbine Avenue + 19th Avenue

MLS#: N6007225 **Sellers:** Romspen Investment Corporation (As Trustee Under Power Of Sale) **Contact After Exp:** N
Possession Remarks: Immediate/Tba
PIN#: **ARN#:**

Total Area:	80 Acres	**Survey:**		**Soil Test:**	
Ofc/Apt Area:		**Lot/Bldg/Unit/Dim:**	0 x 0 Acres	**Out Storage:**	
Indust Area:		**Lot Irreg:**	Land Is Irregular Per Survey	**Rail:**	
Retail Area:		Attached		**Crane:**	
Apx Age:		**Bay Size:**		**Basement:**	
Volts:		**%Bldg:**		**Elevator:**	
Amps:		**Washrooms:**		**UFFI:**	
Zoning:	Business Park	**Water:**	None	**Assessment:**	
Truck Level:		**Water Supply:**		**Chattels:**	
Grade Level:		**Sewers:**	None	**LLBO:**	
Drive-In:		**A/C:**		**Days Open:**	
Double Man:		**Utilities:**	N	**Hours Open:**	
Clear Height:		**Garage Type:**		**Employees:**	
Sprinklers:		**Park Spaces:**	**#Trl Spc:**	**Seats:**	
Heat:		**Energy Cert:**		**Area Infl:**	Major Highway
Phys Hdcp-Eqp:		**Cert Level:**			
		GreenPIS:			

Bus/Bldg Name: **For Year:** **Financial Stmt:**
Actual/Estimated:

Taxes:		**Heat:**		**Gross Inc/Sales:**		**EstValueInv At Cost:**	
Insur:		**Hydro:**		**-Vacancy Allow:**		**Com Area Upcharge:**	
Mgmt:		**Water:**		**-Operating Exp:**		**% Rent:**	
Maint:		**Other:**		**=NetIncB4Debt:**			

Client Remks: *Rare* Prime Land In Markham, Strategically Located Employment Land,With Broad Zoning.Original Parent Parcel Approximately +/- 99 Acres Under Power Of Sale, Subject To A Development Agreement With The Municipality Dated January 19, 2022, Which Conveys A Portion Of The Original Tract (Part 3 Of Plan) To The Municipality, Leaving Approximately +/- 80 Acres,Less Green Space,Waterways,Etc, Resulting In Usable Area Of Approximately +/- 66 Acres.Property Is Well Situated Being Approximately 1Km East Of 404.A Minister's Zoning Order (Mzo) Was Issued In 2021 Which Re-Zoned The Property As Developable Area To Business Park Zone, Allowing For A Wide Range Of Permitted Uses.Property Is Comprised Of 2 Non-Contiguous Parcels Of Land Separated By A Forested Area + Portions Of Berczy Creek Along 19th Ave. The Western Parcel Occupies A Corner Position With Frontage On 19th Avenue + Woodbine Avenue While The Eastern Parcel Occupies A Mid-Block Position.

Extras: York Region Official Plan Adopted 2022, Designates The Property As Being Within The "Urban Area"+Further Identifies The Property As Employment Area.Property Is Designated In Both Regional+Local Official Plan For Employment Uses.

Inclusions: La/Brokerage+Seller Make No Representation Or Warranty Of Anykind.Buyer & Buyer Agent To Conduct Their Due Diligence & Verify All Lot Measurements,Information&Taxes.Subject Property Land Is Being Sold In 'As Is,Where Is' Condition.No Services To Land

Exclusions:

Rental Items: Potential Severance Of Parcels, Subject To A Development Agreement & Site Plan Approval.

Brkage Remks: As Per Seller's Instructions,All Offers To Be Submitted To La By End Of Day Thursday April 27th With 72 Hour Min.Irrevocable.Attach Schedules B,C,+D To Offer.*Note 3 Pins On Schedule 'C' Providing Updated Legal Descriptions.*Tax Info Amount Stated On Mls Is Not Complete*

Mortgage Comments: Email: Lauracormaggi@Royallepage.Ca To Receive Non Disclosure Agreement(Nda) Prior To Relevant Documents Being Shared.

ROYAL LEPAGE YOUR COMMUNITY REALTY, BROKERAGE **Ph:** 905-731-2000 **Fax:** 905-886-7556
8854 Yonge Street Richmond Hill L4C0T4
LAURA CORMAGGI, CLHMS, ASA, Salesperson 905-731-2000
FRANK CORMAGGI, Salesperson 905-731-2000

Contract Date: 4/04/2023 **Condition:** **Ad:** N
Expiry Date: 1/04/2024 **Cond Expiry:** **Escape:**

Appendix “C”

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	THURSDAY, THE 19TH
	)	
JUSTICE OSBORNE	)	DAY OF OCTOBER, 2023

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

and

TUNG KEE INVESTMENT CANADA LTD., and
TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by the Applicant, Romspen Investment Corporation ("**Romspen**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between Romspen and Times 1010 Inc. dated September 15, 2023, as amended by a waiver, assignment and amending agreement dated September 29, 2023 between Romspen, Times 1010 Inc., 3143 Holdings Inc., and Times 3143 Limited Partnership (such agreement of purchase and sale, as so amended, the "**Sale Agreement**") and attached to the Supplementary Affidavit of Wesley Roitman sworn September 29, 2023, authorizing and directing Ernst & Young Inc., in its capacity as Court-appointed receiver and manager of the Respondents (in such capacities, the "**Receiver**"), to complete the Transaction as vendor and vesting in 3143 Holdings Inc. all rights, title and interests of Tung Kee Investment Canada Ltd. in and to the property municipally known as 3143 19th Avenue, Markham, Ontario and legally described in Schedule "B" hereto (the "**Property**"), was heard this day at 330 University Avenue, Toronto, Ontario, via judicial videoconference.

ON READING the Affidavit of Wesley Roitman sworn July 19, 2023, and the Exhibits thereto, including Confidential Appendices A through G, the Affidavit of Wesley Roitman sworn September 29, 2023 and the exhibits thereto, including Confidential Exhibits 1 through 3, the Affidavit of Philip Wong sworn September 26, 2023, and the exhibits thereto, the pre-filing report of Ernst & Young Inc., as proposed receiver of the Respondents, dated October 4, 2023, and the Appendices thereto, including Confidential Appendix A, the Affidavit of Hunter Lam sworn October 4, 2023, and the Exhibits thereto, the Affidavit of Pui Ling Lai sworn October 5, 2023, and the Exhibits thereto, and the Affidavit of Dan Teh sworn October 5, 2023, and the Exhibits thereto, and on hearing the submissions of counsel for Romspen, counsel for Amber Mortgage Investment Corp. ("**Amber**"), counsel for 2149602 Ontario Inc., Frank Pa and Stephen Tung, counsel for SOW Capital Ontario Limited, counsel for the Respondents, counsel for the Receiver, counsel for DX Strategies Inc., counsel for 2816513 Ontario Inc., and counsel for Times 1010 Inc., 3143 Holdings Inc. and Times 3143 Limited Partnership, no one appearing for any other person on the service list, although properly served as appears from the Affidavits of Janet Nairne sworn August 23, 2023, and October 2, 2023, filed:

1. THIS COURT ORDERS that the time for service of Romspen's Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today, and all further service thereof is hereby dispensed with.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the Receiver is hereby authorized and directed to complete the Transaction as vendor, in accordance with the Sale Agreement, with such minor amendments as the Receiver may deem necessary, and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Property to 3143 Holdings Inc.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to 3143 Holdings Inc., substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all rights, title and interests of Tung Kee Investment Canada Ltd. in and to the Property shall vest absolutely in 3143 Holdings Inc., free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Osborne dated October 19, 2023 appointing Ernst & Young Inc. as Receiver; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule "C1", Schedule "C2" and Schedule "C3" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Property are hereby expunged and discharged as against the Property.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of York Region LRO No. 65 of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter 3143 Holdings Inc. as the registered owner of the Property in fee simple, and is hereby directed to delete and expunge from title to the Property all of the Claims listed in Schedule "C1", Schedule "C2" and Schedule "C3" hereto.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Property shall stand in the place and stead of the Property, and that from and after the delivery of the Receiver's Certificate, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. THIS COURT ORDERS that, subject to the Receiver obtaining an opinion from its counsel that the respective security held by Romspen and Amber over the Property is valid and enforceable, subject to the usual assumptions and qualifications, the Receiver is authorized and directed to make distributions to Romspen and Amber in respect of all of the secured obligations owing to each of Romspen and Amber, in accordance with payout statements to be delivered by each of Romspen and Amber to the Receiver, from the proceeds derived from the Transaction, which distributions will be made forthwith after the closing of the Transaction.

7. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

8. THIS COURT ORDERS that, notwithstanding:

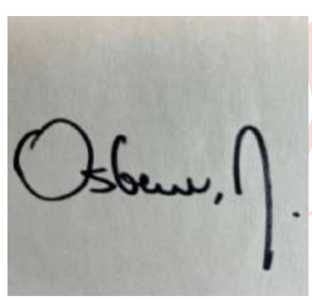
(a) the pendency of these proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Respondents and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Respondents;

the vesting of the Property in 3143 Holdings Inc., pursuant to this Order shall be binding on any Trustee in bankruptcy that may be appointed in respect of the Respondents and shall not be void or voidable by creditors of the Respondents, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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



2023.10.26 15:40:17 -04'00'

Schedule "A" - Form of Receiver's Certificate

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

and

TUNG KEE INVESTMENT CANADA LTD., and
TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Ontario Superior Court of Justice (the "**Court**") dated October 19, 2023, Ernst & Young Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Tung Kee Investment Canada Ltd., and Tung Kee Investment Limited Partnership (collectively, the "**Debtors**").

B. Pursuant to an Order of the Court dated October 19, 2023, the Court approved the agreement of purchase and sale between Romspen and Times 1010 Inc. dated September 15, 2023, as amended by a waiver, assignment and amending agreement dated September 29, 2023 between Romspen, Times 1010 Inc., 3143 Holdings Inc., and Times 3143 Limited Partnership (such agreement of purchase and sale, as so amended, the "**Sale Agreement**") and authorized the

Receiver to complete the Transaction as vendor and provided for the vesting in 3143 Holdings Inc. all rights, title and interests of Tung Kee Investment Canada Ltd. in and to the property municipally known as 3143 19th Avenue, Markham, Ontario (the "**Property**"), which vesting is to be effective with respect to the Property upon the delivery by the Receiver to 3143 Holdings Inc. of a certificate confirming (i) the payment by Times 3143 Limited Partnership of the Purchase Price for the Property; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and Times 3143 Limited Partnership; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. Times 3143 Limited Partnership has paid and the Receiver has received the Purchase Price for the Property payable on the Closing Date pursuant to the Sale Agreement;

2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and Times 3143 Limited Partnership; and

3. The Transaction has been completed to the satisfaction of the Receiver.

4. This Certificate was delivered by the Receiver at ________ [TIME] on ________________ 2023.

Ernst & Young Inc., in its capacity as Receiver of the undertaking, property and assets of Tung Kee Investment Canada Ltd., and Tung Kee Investment Limited Partnership and not in its personal capacity

Per: ____
Name:
Title:

Schedule "B" - Property

Municipal Address: 3143 19th Avenue, Markham, Ontario

PIN: 03055-0377 (LT) in LRO #65

Legal Description: PART LOT 30 CONCESSION 4 DESIGNATED AS PARTS 8 AND 9 PLAN 65R39839; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 1 TO 3 INCLUSIVE PLAN 65R39880 AS IN YR3454770; CITY OF MARKHAM

PIN: 03055-0379 (LT) in LRO #65

Legal Description: PART LOT 30, CONCESSION 4, PARTS 1, 4 & 5 PLAN 65R39839; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 7 & 8 PLAN 65R39880 & PART 2 PLAN 65R39948 AS IN YR3455770; CITY OF MARKHAM

PIN: 03055-0380 (LT) in LRO #65

Legal Description: PART LOT 30, CONCESSION 4, PARTS 2, 6 & 7 PLAN 65R39839; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 4 & 5 PLAN 65R39880 AS IN YR3455770; CITY OF MARKHAM

Schedule "C1"

Claims to be deleted and expunged from PIN 03055-0377 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
YR1618190	2011/03/07	TRANS PARTNERSHIP		TUNG KEE INVESTMENT LIMITED PARTNERSHIP	TUNG KEE INVESTMENT CANADA LTD.
YR3083072	2020/03/26	CHARGE	$5,000,000	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED JIAYI INTERNATIONAL INVESTMENTS LTD.
YR3083073	2020/03/26	NO ASSGN RENT GEN		TUNG KEE INVESTMENTS CANADA LTD.	SOW CAPITAL ONTARIO LIMITED JIAYI INTERNATIONAL INVESTMENTS LTD.
YR3247257	2021/05/07	TRANSFER OF CHARGE		JIAYI INTERNATIONAL INVESTMENTS LTD.	SOW CAPITAL ONTARIO LIMITED
YR3247258	2021/05/07	NO ASSGN RENT GEN		JIAYI INTERNATIONAL INVESTMENTS LTD.	SOW CAPITAL ONTARIO LIMITED
YR3300382	2021/08/18	TRANSFER OF CHARGE		SOW CAPITAL ONTARIO LIMITED	F A CREDIT SOLUTIONS CANADA INC. SOW CAPITAL ONTARIO LIMITED
YR3373212	2022/01/27	CHARGE	$30,000,000	TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION
YR3373213	2022/01/27	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION
YR3373214	2022/01/27	CHARGE	$8,500,000	TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.
YR3373215	2022/01/27	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.
YR3373216	2022/01/27	CHARGE	$8,000,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3373217	2022/01/27	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3373218	2022/01/27	TRANSFER OF CHARGE		F A CREDIT SOLUTIONS CANADA INC.	SOW CAPITAL ONTARIO LIMITED
YR3373219	2022/01/27	CHARGE	$3,540,000	TUNG KEE INVESTMENT CANADA LTD.	PA, FRANK TUNG, STEPHEN
YR3373403	2022/01/28	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	ROMSPEN INVESTMENT CORPORATION
YR3373404	2022/01/28	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	AMBER MORTGAGE INVESTMENT CORP.
YR3373405	2022/01/28	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	2149602 ONTARIO INC.
YR3385745	2022/02/24	NOTICE	$8,000,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3397627	2022/03/22	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	THE CORPORATION OF THE CITY OF MARKHAM
YR3397628	2022/03/22	POSTPONEMENT		ROMSPEN INVESTMENT CORPORATION	THE CORPORATION OF THE CITY OF MARKHAM

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
YR3397629	2022/03/22	POSTPONEMENT		AMBER MORTGAGE INVESTMENT CORP.	THE CORPORATION OF THE CITY OF MARKHAM
YR3397630	2022/03/22	POSTPONEMENT		2149602 ONTARIO INC.	THE CORPORATION OF THE CITY OF MARKHAM
YR3397631	2022/03/22	POSTPONEMENT		PA, FRANK TUNG, STEPHEN	THE CORPORATION OF THE CITY OF MARKHAM
YR3440956	2022/06/17	NOTICE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3440959	2022/06/17	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	PA, FRANK TUNG, STEPHEN
YR3441040	2022/06/17	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	2149602 ONTARIO INC.
YR3447697	2022/07/04	NOTICE	$8,500,000	TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.
YR3454771	2022/07/20	POSTPONEMENT		2149602 ONTARIO INC.	ALECTRA UTILITIES CORPORATION
YR3454772	2022/07/20	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	ALECTRA UTILITIES CORPORATION
YR3454773	2022/07/20	POSTPONEMENT		ROMSPEN INVESTMENT CORPORATION	ALECTRA UTILITIES CORPORATION
YR3454774	2022/07/20	POSTPONEMENT		AMBER MORTGAGE INVESTMENT CORP.	ALECTRA UTILITIES CORPORATION
YR3454775	2022/07/20	POSTPONEMENT		PA, FRANK TUNG, STEPHEN	ALECTRA UTILITIES CORPORATION
YR3470726	2022/08/30	CHARGE	$8,500,000	TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.
YR3470727	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.
YR3505530	2022/12/06	NOTICE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3505547	2022/12/06	POSTPONEMENT		PA, FRANK TUNG, STEPHEN	2149602 ONTARIO INC.
YR3505567	2022/12/06	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	2149602 ONTARIO INC.
YR3513700	2023/01/09	TRANSFER OF CHARGE		SOW CAPITAL ONTARIO LIMITED	MILTOM SERVICES LIMITED SOW CAPITAL ONTARIO LIMITED
YR3538686	2023/04/05	NOTICE	$2	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED
YR3541410	2023/04/14	CONSTRUCTION LIEN	$4,653,028	DX STRATEGIES INC.	
YR3541425	2023/04/17	NO CHNG ADDR INST		SOW CAPITAL ONTARIO LIMITED	
YR3563830	2023/06/16	CERTIFICATE		ONTARIO SUPERIOR COURT OF JUSTICE	DX STRATEGIES INC.

Schedule "C2"

Claims to be deleted and expunged from PIN 03055-0379 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
YR3412266	2022/04/21	TRANSFER		TUNG KEE INVESTMENT CANADA LTD.	TUNG KEE INVESTMENT CANADA LTD.
YR3470724	2022/08/30	CHARGE	$30,000,000	TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION
YR3470725	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION
YR3470726	2022/08/30	CHARGE	$8,500,000	TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.
YR3470727	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.
YR3470728	2022/08/30	CHARGE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3470729	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3470730	2022/08/30	CHARGE	$3,540,000	TUNG KEE INVESTMENT CANADA LTD.	PA, FRANK TUNG, STEPHEN
YR3470731	2022/08/30	CHARGE	$5,000,000	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED
YR3470732	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENTS CANADA LTD.	SOW CAPITAL ONTARIO LIMITED
YR3505533	2022/12/06	NOTICE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3505555	2022/12/06	POSTPONEMENT		PA, FRANK TUNG, STEPHEN	2149602 ONTARIO INC.
YR3505559	2022/12/06	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	2149602 ONTARIO INC.
YR3513701	2023/01/09	TRANSFER OF CHARGE		SOW CAPITAL ONTARIO LIMITED	MILTOM SERVICES LIMITED SOW CAPITAL ONTARIO LIMITED
YR3538687	2023/04/05	NOTICE	$2	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED
YR3541410	2023/04/14	CONSTRUCTION LIEN	$4,653,028	DX STRATEGIES INC.	
YR3541426	2023/04/17	NO CHNG ADDR INST		SOW CAPITAL ONTARIO LIMITED	
YR3563830	2023/06/16	CERTIFICATE		ONTARIO SUPERIOR COURT OF JUSTICE	DX STRATEGIES INC.

Schedule "C3"

Claims to be deleted and expunged from PIN 03055-0380 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
YR3412266	2022/04/21	TRANSFER		TUNG KEE INVESTMENT CANADA LTD.	TUNG KEE INVESTMENT CANADA LTD.
YR3470724	2022/08/30	CHARGE	$30,000,000	TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION
YR3470725	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION
YR3470726	2022/08/30	CHARGE	$8,500,000	TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.
YR3470727	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.
YR3470728	2022/08/30	CHARGE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3470729	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3470730	2022/08/30	CHARGE	$3,540,000	TUNG KEE INVESTMENT CANADA LTD.	PA, FRANK TUNG, STEPHEN
YR3470731	2022/08/30	CHARGE	$5,000,000	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED
YR3470732	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENTS CANADA LTD.	SOW CAPITAL ONTARIO LIMITED
YR3505533	2022/12/06	NOTICE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.
YR3505555	2022/12/06	POSTPONEMENT		PA, FRANK TUNG, STEPHEN	2149602 ONTARIO INC.
YR3505559	2022/12/06	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	2149602 ONTARIO INC.
YR3513701	2023/01/09	TRANSFER OF CHARGE		SOW CAPITAL ONTARIO LIMITED	MILTOM SERVICES LIMITED SOW CAPITAL ONTARIO LIMITED
YR3538687	2023/04/05	NOTICE	$2	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED
YR3541410	2023/04/14	CONSTRUCTION LIEN	$4,653,028	DX STRATEGIES INC.	
YR3541426	2023/04/17	NO CHNG ADDR INST		SOW CAPITAL ONTARIO LIMITED	
YR3563830	2023/06/16	CERTIFICATE		ONTARIO SUPERIOR COURT OF JUSTICE	DX STRATEGIES INC.

Schedule "D" – Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property

(Unaffected by the Vesting Order)

"Permitted Encumbrances" means the following:

1. The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act*, R.S.O. 1990, and any amendments thereto or any successor legislation, except paragraph 11;
2. The reservations, limitations, provisos and conditions expressed in the original grant from the Crown;
3. As of the date hereof, any registered easements or rights of way in favour of any governmental authority or public utility provided same are in good standing and that none of the foregoing interfere in any material adverse respect with the current use of the Property;
4. Any unregistered hydro easements provided same are in good standing and that none of the foregoing interfere in any material adverse respect with the current use of the Property
5. Inchoate liens for taxes, assessments, public utility charges, governmental charges or levies not at the time due;
6. Any registered agreements, for utilities and services for hydro, water, heat, power, sewer, drainage, cable and telephone serving the Property, adjacent or neighbouring properties, provided none of the foregoing interfere in any material adverse respect with the current use of the Property and same are in good standing;
7. Any encroachments, minor defects or irregularities indicated on any survey of the Property or which may be disclosed on an up-to-date survey of the Property provided that in either case same do not materially adversely impair the use, operation, or marketability of the Property;
8. Zoning (including, without limitation, airport zoning regulations), use and building by-laws and ordinances, federal, provincial or municipal by-laws and regulations, work orders;
9. Any breaches of any applicable laws, including work orders, if any;
10. Any registered subdivision agreements, site plan agreements, developments and any other agreements with the Municipality, Region, publicly regulated utilities or other governmental authorities having jurisdiction provided that same are in good standing;
11. Minor title defects, if any, that do not in the aggregate materially affect the use of the Property for the purposes for which it is used as of the date hereof;
12. The following instruments registered on title against the Property:

Permitted Instruments on PIN 03055-0377 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
YR688928	2005/08/24	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF	

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
				CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT	
YR3397626	2022/03/22	NOTICE		THE CORPORATION OF THE CITY OF MARKHAM	TUNG KEE INVESTMENT CANADA LTD.
65R39839	2022/04/07	PLAN REFERENCE			
65R39880	2022/05/16	PLAN REFERENCE			
YR3454770	2022/07/20	TRANSFER EASEMENT	$2	TUNG KEE INVESTMENT CANADA LTD.	ALECTRA UTILITIES CORPORATION

Permitted Instruments on PIN 03055-0379 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
YR688928	2005/08/24	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT	
YR3397626	2022/03/22	NOTICE		THE CORPORATION OF THE CITY OF MARKHAM	TUNG KEE INVESTMENT CANADA LTD.
65R39839	2022/04/07	PLAN REFERENCE			
65R39880	2022/05/16	PLAN REFERENCE			
65R39948	2022/07/12	PLAN REFERENCE			
YR3454770	2022/07/20	TRANSFER EASEMENT	$2	TUNG KEE INVESTMENT CANADA LTD.	ALECTRA UTILITIES CORPORATION

Permitted Instruments on PIN 03055-0380 (LT)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
YR688928	2005/08/24	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT	
YR3397626	2022/03/22	NOTICE		THE CORPORATION OF THE CITY OF MARKHAM	TUNG KEE INVESTMENT CANADA LTD.
65R39839	2022/04/07	PLAN REFERENCE			
65R39880	2022/05/16	PLAN REFERENCE			
YR3454770	2022/07/20	TRANSFER EASEMENT	$2	TUNG KEE INVESTMENT CANADA LTD.	ALECTRA UTILITIES CORPORATION

ROMSPEN INVESTMENT CORPORATION
Applicant

-and-

TUNG KEE INVESTMENT CANADA LTD. et al.
Respondents

Court File No. CV-23-703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER

DICKINSON WRIGHT LLP
Barristers & Solicitors
199 Bay Street
Suite 2200, Box 447
Commerce Court Postal Station
Toronto, ON M5L 1G4

DAVID PREGER (36870L)
Email: dpreger@dickinsonwright.com
Tel: 416-646-4606

LISA S. CORNE (27974M)
Email: lcorne@dickinsonwright.com
Tel: 416-646-4608

DAVID Z. SEIFER (77474F)
Email: DSeifer@dickinson-wright.com
Tel: 416-646-6867

Lawyers for the Applicant

Appendix “D”

SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

COUNSEL SLIP / ENDORSEMENT

COURT FILE NO.: CV-23-00703161-00CL **DATE:** **19 October 2023**

NO. ON LIST: **1**

TITLE OF PROCEEDING: **ROMSPEN INVESTMENT CORPORATION v. TUNG KEE INVESTMENT CANADA LTD. et al**

BEFORE JUSTICE: **Osborne**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Davis Preger, Lisa Corne and David Seifer	Romspen Investment Corp.	dpreger@dickinsonwright.com lcorne@dickinsonwright.com dseifer@dickinsonwright.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Maya Poliak	Respondents	maya@chaitons.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
Roger Jaipargas	Amber Mortgage Inv. Corp.	rjaipargas@blg.com
Vern DaRe	2149602 Ontario Inc., Frank Pa and Stephen Tung	vdare@foglers.com
Bota McNamara and Amandeep Sidhu	Sow Capital Ontario Limited	bmcnamara@kmblaw.com asidhu@kmblaw.com
Justin Chan	DX Strategies	jchan@jtcprofcorp.com
Ian Klaiman	2816513 Ontario Inc.	iklaiman@lzwlaw.com

Ken Rosenberg	Times Group	ken.rosenberg@paliareroland.com
Chad Kopach	Proposed Receiver - EY	ckopach@blaney.com

ENDORSEMENT OF JUSTICE OSBORNE:

The Receivership Application, the Two Sale Approval Motions and the Positions of the Parties

1. The Applicant, Romspen Investment Corporation ("Romspen"), seeks an order allowing the Application and appointing Ernst & Young Inc. as receiver and manager (the "Receiver") over the assets and property of the Respondents / Debtors Tung Kee Investment Canada Ltd. (TKIC") and Tung Kee Investment Limited Partnership ("TKIL") including the property at 3143 19th Ave., Markham, Ontario (the "Property").

2. The Property consists of three separate legally described parcels which collectively comprise an area of approximately 66.29 acres of developable vacant land. The Debtors had planned a mixed-use development including a film studio, offices a hotel and retail, although that did not proceed.

3. Within the Application, Romspen moves for an order approving an agreement of purchase and sale between Romspen and Times 1010 Inc. ("Times") dated September 15, 2023, as amended (the "Times Transaction"), and authorizing the Receiver to complete the Times Transaction and vest title to the Property in Times. The Times Transaction is scheduled to close on November 15, 2023. Romspen has first position mortgage security registered against title to the Property.

4. Romspen also seeks as corollary relief a sealing order in respect of Confidential Exhibits 1 through 3 to the Supplementary Affidavit of Wesley Roitman sworn September 29, 2023, and the Confidential Appendices to the First Report of the Proposed Receiver.

5. Sow Capital Ontario Limited ("Sow") moves by way of its own motion for an order authorizing and permitting the completion of the sale of the Property, under power of sale, to 2816513 Ontario Inc. (the "281 Transaction"). Sow does not oppose the appointment of the Receiver, but seeks in its motion an order that the Receivership Order, if granted, be suspended until after November 30, 2023, the scheduled closing date for the 281 Transaction.

6. The appointment of a receiver is not opposed by any party appearing today, and indeed is supported by the Respondents / Debtors as well as subsequent ranking mortgagees and the holder of a lien registered against title to the Property. As stated, Sow however seeks an order that no receivership powers be executed or acted upon until after the 281 Transaction closes.

7. Approval of either sale transaction is, obviously, contested.

8. Approval of the Times Transaction sought by Romspen is supported by Amber Mortgage Investment Corporation ("Amber") as second mortgagee, 2149602 Ontario Inc. ("214") as third mortgagee, and DX Strategies Inc. ("DX") as lienholder.

9. I pause to observe that DX takes the position that it should be entitled to a priority over all five mortgages although all parties agree that priority and distribution issues are for another day and need not be determined to dispose of the competing motions today.

10. The third mortgagees, Frank Pa and Steven Tung, were represented in Court but did not take a position on either sale.

11. The Respondents / Debtors oppose the approval of either transaction and submit that only an auction conducted by the Receiver can generate the highest price for the Property. They further request that if either transaction is approved, this Court grant an order specifically reserving their rights to bring an action for improvident sale, as their counsel advised they intend to do.

12. By way of related relief, the Respondents / Debtors seek an order that the proceeds of sale be held in trust and not be distributed to any mortgagees until their improvident sale action has been determined.

13. The proposed Receiver, in its First Report dated October 4, 2023, supports and recommends approval of the Times Transaction and recommends that no auction process be undertaken, as the proposed Receiver does not believe that further marketing of the Property would yield any higher or better offers. It submits that the terms of the proposed approval and vesting order are reasonable.

14. Many of the background facts and the chronology are not in dispute.

15. Romspen advanced a secured loan to the Debtors, which are Ontario corporations. The loan has been in default since September 1, 2022. As of July 6, 2023, the amount owing under the Romspen loan was $32,628,671.54. Interest accrues at a *per diem* rate of $8359.84.

16. Romspen's security includes a first ranking mortgage over the Property and security interest over all of the personal property of the Debtors. The mortgage and the security documents contain contractual agreements to the appointment of a receiver upon default.

17. There are five mortgages registered on title to the Property including the Romspen mortgage and the Sow mortgage:

Ranking Priority	**Creditor**	**Principal Face Amount**
First	Romspen	$30 million
Second	Amber Mortgage Investment Corporation	$8.5 million
Third	2149602 Ontario Inc,	$3,744,759.41 (Cdn) and $26,279,223.54 (HK)
Fourth	Frank Pa and Steven Tung	$3.54 million
Fifth	Sow Capital Ontario Limited	$20 million

18. In addition to the mortgages, a construction lien and certificate of action are also registered against title to the Property. They reflect that the Respondent TKIC is indebted to DX Strategies Inc. in the amount of $4,653,028.11 in respect of the supply of project management and architectural services.

19. Efforts on the part of the Debtors to refinance and sell the Property have not borne fruit.

20. On October 7, 2022, Romspen made formal demand for payment of its loan and issued a Notice of Intention to Enforce Security under section 244 (1) of the *Bankruptcy and Insolvency Act* ("BIA"). The cure period has long expired. The loan has not been repaid.

21. On October 25, 2022, Romspen issued a notice of sale under its mortgage, and on May 1, 2023, it accepted an offer to purchase the Property although the buyer terminated that agreement prior to the expiry of the condition period. The Property has been subsequently listed for sale by Romspen since April 4, 2023 with Royal LePage as broker.

22. Romspen has lost faith in the ability of the Debtors and their management to resolve the situation, with the result that it seeks the appointment of a receiver pursuant to both section 243(1) of the *BIA* and section 101 of the *Courts of Justice Act* ("*CJA*").

23. The Appointment Order, if granted, authorizes the Receiver to sell the Property.

24. The Property has been marketed extensively since being listed with Royal LePage in April, and has been listed for sale on MLS for over 160 days. In addition, the Respondents and Sow have been attempting to sell and/or refinance the Property since at least 2021.

25. Romspen therefore seeks the approval of the Times Transaction and an order authorizing the Receiver to complete the Transaction and, upon delivery of a Receiver's certificate, an order vesting title to the Property, free and clear of all Encumbrances other than Permitted Encumbrances as defined in the Times Transaction, in Times.

26. The Times Transaction reflects a purchase price that is higher than the fair market value of the Property as reflected in appraisals commissioned by each of Romspen and Sow. It is unconditional save for the issuance of an approval and vesting order.

27. For its part, Sow, as fifth ranking mortgagee, served its own Notice of Sale on May 17, 2023 and entered into the 281 Transaction on July 18, 2023. That agreement therefore predates the agreement for the Times Transaction. The 281 Transaction is now unconditional. Sow therefore seeks an order permitting it to complete its power of sale to 281 pursuant to section 23 of the *Mortgages Act*.

<u>The Proposed Receivership</u>

28. The first issue is whether a receiver should be appointed.

29. The test for the appointment of a receiver pursuant to section 243 of the *BIA* or section 101 of the *CJA* is not in dispute. Is it just or convenient to do so?

30. In making a determination about whether it is, in the circumstances of a particular case, just or convenient to appoint a receiver, the Court must have regard to all of the circumstances, but in particular the nature of the property and the rights and interests of all parties in relation thereto. These include the rights of the secured creditor pursuant to its security: *Bank of Nova Scotia v. Freure Village on the Clair Creek*, 1996 O.J. No. 5088, 1996 CanLII 8258.

31. Where the rights of the secured creditor include, pursuant to the terms of its security, the right to seek the appointment of a receiver, the burden on the applicant is lessened: while the appointment of a receiver is generally an extraordinary equitable remedy, the courts do not so regard the nature of the remedy where the relevant security permits the appointment and as a result, the applicant is merely seeking to enforce a term of an agreement already made by both parties: *Elleway Acquisitions Ltd. v. Cruise Professionals Ltd.,* 2013 ONSC 6866 ("*Elleway*") at para. 27. However, the presence or lack of such a contractual entitlement is not determinative of the issue.

32. The Courts have considered numerous factors which have been historically taken into account in the determination of whether it is appropriate to appoint a receiver and which I have considered in this case:

a. whether irreparable harm might be caused if no order is made, although as stated above, it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by the security documentation;

b. the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of assets while litigation takes place;

c. the nature of the property;

d. the apprehended or actual waste of the debtor's assets;

e. the preservation and protection of the property pending judicial resolution;

f. the balance of convenience to the parties;

g. the fact that the creditor has a right to appointment under the loan documentation;

h. the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulties with the debtor;

i. the principle that the appointment of a receiver should be granted cautiously;

j. the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;

k. the effect of the order upon the parties;

l. the conduct of the parties;

m. the length of time that a receiver may be in place;

n. the cost to the parties;

o. the likelihood of maximizing return to the parties; and

p. the goal of facilitating the duties of the receiver.

See: *Canadian Equipment Finance and Leasing Inc. v. The Hypoint Company Limited*, 2022 ONSC 6186, and *Maple Trade Finance Inc. v. CY Oriental Holdings Ltd.*, 2009 BCSC 1527 at para. 25, citing *Bennett on Receivership*, 2nd ed. (Toronto, Carswell, 1999).

33. How are these factors to be applied? The British Columbia Supreme Court put it, I think, correctly: "these factors are not a checklist but a collection of considerations to be viewed holistically in an assessment as to whether, in all the circumstances, the appointment of a receiver is just or convenient: *Pandion Mine Finance Fund LP v. Otso Gold Corp.*, 2022 BCSC 136 at para. 54.

34. Accordingly, is it just or convenient to appoint a receiver in the present case. In my view, it is.

35. While certainly not determinative of the issue, the fact that the appointment of a receiver is not opposed by any party, and the somewhat unusual fact that the appointment of the receiver is in fact consented to and indeed supported by the Respondents / Debtors themselves, is very telling.

36. Romspen has a contractual entitlement to the appointment of a receiver in the event of a default, which has clearly occurred here, as is acknowledged by the Respondents. But even more substantively, I am satisfied that a Court-appointed receiver is appropriate here to bring order and transparency to the chaos that has been the hallmark of dealings with the Property for a considerable period of time prior to the bringing of this Application, and continue to date. This chaos is clearly evidenced by the competing

motions for sale approval and the strongly held views and acrimony between and among many of the key stakeholders even today.

37. Chaos is usually antithetical to the achievement of the overarching objective of maximizing recovery for stakeholders. I am satisfied that this objective can be achieved, and indeed in the present circumstances can only be achieved, under the supervision of a Court-appointed Receiver. I recognize, naturally, that if either Transaction is approved, the role of the Receiver will necessarily be materially impacted accordingly.

38. The factors relevant to the appointment of a receiver are easily satisfied here. The Romspen loan has been in default for over a year and has not been repaid notwithstanding demands, the section 244 *BIA* notice, and the Romspen notice of sale. The loan matured according to its terms on January 1, 2023. As is evident from the summary above, the Property is highly leveraged with numerous mortgages. Romspen has lost faith in the ability of the Debtors and their management to address the situation, and none of the efforts of the Debtors to refinance the loan or sell the Property have yielded any results.

39. A Court-appointed receiver will ensure that the interests of all of the stakeholders of the Debtors are considered.

40. The proposed Receiver is an appropriate candidate to fulfil this role and is extremely qualified to do so. It has consented to the appointment.

41. EY is appointed Receiver.

42. In my view, there is no basis or justification here to appoint the Receiver, but suspend or hold in abeyance its ability to exercise its receivership powers. Romspen and the supporting subordinate mortgagees all oppose any such suspension, and so do the Respondents who want the Receiver to immediately commence a sales and auction process.

43. The only party who submits that a suspension would be appropriate is Sow. It advances no adequate basis for what is, effectively, an adjournment of the appointment of the Receiver since for all practical purposes the appointment of the Receiver albeit with the suspension of its powers, amounts to the same thing.

44. Sow makes this request openly and transparently so that the Receiver cannot and will not interfere with the closing of the 281 Transaction. I am satisfied that there is no basis upon which the appointment of the Receiver, which I have found to be both just and convenient now, should be impaired and held in abeyance for approximately two months.

45. In certain circumstances, and particularly with the consent of the parties where there is a pending transaction that is scheduled to be completed imminently, it may well be appropriate to appoint a receiver but suspend for a brief period of time all or some of the powers granted to it under the receivership order. However, I would think it would be the relatively rare case where, on a contested basis, it is on the one hand just or convenient to appoint a receiver at a given point in time, and yet on the other hand also just and equitable that receivership powers not be exercised for a period of time.

Should Either Transaction be Approved?

46. The next issue is whether any (either) Transaction should be approved now, or whether a further sales process ought to be undertaken by the Receiver.

47. The factors to be considered by the Court in determining whether a sale transaction in a receivership should be approved are well settled:

    a. whether the party seeking sale approval has made a sufficient effort to obtain the best price and to not act improvidently;

    b. the interests of all parties;

    c. the efficacy and integrity of the process by which the party obtained offers; and

    d. whether the working out of the process was unfair.

    See: *Royal Bank of Canada v. Soundair Corp*., [1991] 46 OAC 321 1991, CanLII 2727 (ONCA) at para. 16.

48. Courts have approved immediate sales of property (colloquially referred to as "quick flip sales") in circumstances where a marketing process was conducted by a party other than a receiver, if the process was nonetheless fair and reasonable and where the court was of the view that no purpose would be served by a further marketing process: see *Textron Financial Canada Limited v. Beta Limitee/Beta Brands Limited*, 2007 CanLII 297 (ONSC); *Fund 321 Limited Partnership v. Samsys Technologies Inc*., 2006 CanLII 13572 (ONSC); *Tool-Plas Systems Inc., Re*, 2008 CanLII 54791 (ONSC) at para. 15; and *Montrose Mortgage Corp. v. Kingsway Arms Ottawa Inc*., 2013 ONSC 6905 ("*Montrose*").

49. In such circumstances, the *Soundair* Principles still apply, but courts will scrutinize with special care the adequacy and the fairness of the sales and marketing process. D. M. Brown, J., as he then was, expressed it this way in *Montrose* at para. 10:

> "Quick flip" or "pre-pack" transactions are becoming more common in the Ontario distress marketplace. In certain circumstances, a "quick flip" involving the appointment of a receiver and then immediately seeking court approval of a "pre-packaged" sale transaction may well represent the best, or only, commercial alternative to a liquidation. In such situations the court still will assess the need for a receiver and the reasonableness of the proposed sale against the standard criteria set out in decisions such as *Bank of Nova Scotia v. Freure Village on Clair Creek* and *Royal Bank v. Soundair Corp*., respectively. However, courts will scrutinize with especial care the adequacy and the fairness of the sales and marketing process in "quick flip" transactions:
>
>> Part of the duty of a receiver is to place before the court sufficient evidence to enable the court to understand the implications for all parties of any proposed sale and, in the case of a sale to a related party, the overall fairness of the proposed related-party transaction. As stated by Morawetz J. in the *Tool-Plas* case:
>>
>>> [T]he Court should consider the impact on various parties and assess whether their respective positions and the proposed treatment that they will receive in the quick flip transaction would realistically be any different if an extended sales process were followed.
>
> The need for such a robust and transparent record is heightened even more where the proposed purchase involves a credit bid by one of the debtor's secured creditors, the practical effect of which usually is to foreclose on all subordinate creditors.

50. I am satisfied that it is not appropriate in the circumstances of this case to direct the Receiver to conduct a further sales and marketing process, with the result that one or other of the two Transactions should be approved now.

51. The availability of the Property, and the opportunity to purchase it if such was desired, has not caught the market by surprise. On the contrary, it has been openly available for approximately two years.

52. I am satisfied that the potential reward to be realized with a further sales process is outweighed by the risk of lower recovery for stakeholders. The Respondents themselves have attempted to sell or refinance the Property since January 2022 and have failed.

53. The process undertaken by or at the direction of Romspen, which is discussed further below, has been robust. Royal LePage was engaged to list the Property for sale on MLS in April, 2023 at a listing price of $69.5 million. Two offers were received by the initial bid deadline, and Romspen accepted the higher offer although it was subject to a due diligence condition. Regrettably, the buyer terminated the agreement and a few months later, on July 15, 2023, the same buyer submitted an unconditional offer with a purchase price equivalent to 75% of the price originally offered. Romspen did not accept that offer.

54. On July 12, 2023, the listing price of the Property was reduced by $5 million to $64.5 million.

55. Royal LePage conducted a process that I am satisfied was thorough and extensive. The Property was listed for sale on MLS for 162 days and exposed to a wide audience of land developers and commercial brokers. The process was multifactorial and included, among other things:

    a. physical signs at the Property;

    b. advertising on the realtors' business websites and through marketing brochures, as well as advertising on over 100 other websites. Statistics from realtor.ca, the largest online search engine in Canada, reflect that the Property was viewed 6309 times on 32 sites;

    c. proactive email announcements by Royal LePage to subscribers that included over 1000 cooperating and regional brokers and 201 land developers in Ontario. Of those recipients, 540 brokers and 70 land developers opened the email; and

    d. advertising specifically to the Mandarin speaking and Asian market in Canada.

56. The Receiver recommends approval of the Times Transaction and states that it does not believe that further marketing of the Property will result in superior offers.

57. In its First Report, the (then proposed) Receiver concludes that Romspen sales process was conducted in a manner that:

    a. was fair to all who participated in it and consider the interests of all parties;

    b. maintained appropriate efficacy, integrity, and a level playing field for all potential and actual bidders;

    c. was marketed to a wide range of audiences, including land developers and commercial brokers;

    d. made sufficient efforts to obtain the best price and not act improvidently; and

    e. resulted in an offer for the Property that provides certainty as to closing, is higher than all other offers, and is also higher than the three appraisals commissioned for the Property (one by Romspen, and two by Sow).

58. All of these factors lead the Receiver to the conclusion that a further marketing campaign of the Property would not yield higher or better offers.

59. Even Sow submits that appointing a receiver, or at least appointing a receiver with the power to act immediately and not suspending those powers, would increase costs and likely would not realize a more favourable sale price with the result that creditors would be prejudiced (see Wong Affidavit, para. 30).

60. As against this, given the very significant encumbrances against the Property, interest is accruing at a rate of approximately $709,000 per month. Those costs, combined with the additional professional fees reasonably expected to be incurred to conduct a sales and marketing process, weigh heavily in favour of a realization of proceeds as soon as possible.

61. Finally, I observe that in its responding materials filed on these motions, Sow did not redact confidential information in connection with the 281 Transaction specifically including the purchase price or the results of the appraisals that it had commissioned. That information is reproduced again in its factum, also openly filed. Even at the hearing of these motions, no sealing order was sought by Sow.

62. While this may not be fatal to the success of a further sales and marketing process if one were ordered, I agree with the conclusion of the Receiver that the disclosure of this confidential information is likely to have a negative impact on any future sales process, as it effectively sets a price ceiling at an amount between the two appraisal values now publicly disclosed by Sow. At best, it is unhelpful to a new sales process.

63. For all of these reasons, I am satisfied that a further sales process is neither necessary nor appropriate here.

Which Transaction Should be Approved?

64. The next question, then, is which Transaction ought to be approved: the Times Transaction or the 281 Transaction.

65. In my view, the Times Transaction should be approved.

66. While both Transactions are unconditional and the scheduled closing date for each of them is not sufficiently different to be a material factor (they are only two weeks apart, although given the dollar values at play in the present case even that short period of time represents an interest cost savings of approximately $334,000 in favour of the Times Transaction), the Times Transaction represents the better outcome for all stakeholders.

67. The purchase price payable under the Times Transaction is higher than:

    a. the purchase price payable under the 281 Transaction;

    b. the values reflected in the appraisal reports of the appraisers commissioned by each of Romspen (who commissioned one appraisal report from Altus), and Sow (who commissioned two appraisal reports, one each from Avison Young and Wagner Andrews Kovacs respectively); and

    c. the purchase price payable under the purchase agreement entered into in April, 2023 by the Debtors and the proposed purchaser Lee Li international Inc., by a delta of $4 million.

68. The proposed purchaser in the Times Transaction, Times 1010, is a well-known developer in the greater Toronto area with a good track record. It has carried on business in Ontario for over 35 years and has completed numerous commercial and residential developments. It has provided Romspen with a letter from its bank confirming that it has the financial resources to close the transaction.

69. On the other hand, the 281 Transaction was entered into on July 18, 2023 with an initial closing date of October 16, 2023. That was subsequently extended to November 30, 2023 although no explanation has

been offered as to why that extension was required or granted. This extension was also sought and granted after the deal had become firm and conditions waived or satisfied, with the result that the unexplained extension of closing is further perplexing.

70. The process leading to the 281 Transaction did not include many of the hallmarks of the typical power of sale process with attendant marketing and sale features. On the contrary, the affidavit evidence of Mr. Philip Wong on which Sow relies, is non-specific. He states that Sow engaged various “investment consultants” to market the Property to “potential investors” and that its investment consultant was actively speaking with the potential buyer but that buyer was “outbid”. There is no explanation for what any of this actually means, and raises more questions than it provides answers. I note that I have specifically reviewed and considered the evidence of Mr. Wong as set out in his affidavit at paragraphs 26 – 35. The Property was not listed on MLS nor widely advertised to the open market.

71. Moreover, Mr. Wong is a director of both the fifth mortgagee, Sow, which endorses and supports the 281 Transaction, and also of the Respondent TKIC. He was involved, at least for a period of time, and the pursuit of zoning and other municipal approvals in respect of the Property and the potential development thereof.

72. The evidence of the Respondents is to the effect that Mr. Wong, the principal of Sow, was a “business partner” of the Respondents, who was involved in both assisting them with their municipal zoning applications and communicating with potential purchasers. They say that Mr. Wong was “well apprised of all of the municipal approvals obtained”. However, they submit, “on or around June, 2023, the Respondents and Mr. Wong had a falling out. The Respondents have not had any business or personal dealings with Mr. Wong or Sow since then.”

73. The Respondents and Sow rely on this “falling out on or around June, 2023”, without further context or explanation, to support their argument that there has been no acting in concert between the Respondents and Sow.

74. There is no evidence of a non-arm’s-length relationship at the relevant time. However, in my view, the unexplained extension of the closing date reflects a greater execution risk with the 281 Transaction, and a sales process undertaken by Sow leading to that agreement that was at best more opaque, and was less transparent and clear, than was the process undertaken by Romspen.

75. Separate entirely from the involvement of Mr. Wong, the Respondents themselves submit, and the evidence of Pui Ling Lai on which they rely states, that the process undertaken by Sow “has not demonstrated that it has sufficiently exposed the Real Property to market” and that “the Real Property was marketed by Sow to a close small group of Sow’s private clients only. Sow did not retain industry recognized commercial realtors and did not demonstrate that it has the necessary commercial real estate experience to market this property for sale.”

76. Another factor is the fact that the affidavit filed by the proposed purchaser and the 281 Transaction (the relevance and appropriateness of which is discussed below) is from Hunter Lam, who is the Vice President of Business Development and Planning of Lee Li Holdings Inc., which he describes as a related and associated company of the proposed purchaser, 281. Lee Li was the purchaser in the earlier agreement of purchase and sale referred to above that ultimately did not close. The position of these parties is that they have no relationship with Sow, the fifth mortgagee who endorses and supports the closing of the 281 Transaction.

77. What remains unexplained is why Sow, who supported the earlier agreement at a purchase price some $4 million lower than the purchase price reflected in the Times Transaction, now does not support approval of the latter.

78. Having considered all of the relevant factors, I find that the balance favours the process leading to the Times Transaction.

79. Moreover, and in any event, and as stated above, the purchase price payable under the 281 Transaction is less than the proceeds that will be generated under the Times Transaction net of the real estate commission payable to Royal LePage.

80. This itself is a significant factor. That significance is magnified, in my view, when one considers the lack of any explanation from Sow, as fifth mortgagee, to explain its support for the 281 Transaction and its opposition to the Times Transaction, since the risk that it will suffer a greater shortfall is greater with the 281 Transaction.

81. The Respondents rely on the Affidavit of Pui Ling Lai sworn October 5, 2023 in support of their position that neither Transaction should be approved and that the Receiver should undertake a sales and marketing process. They submit that neither Transaction represents the best and highest price for the Property and, as stated above, such can be realized only through a further sales process undertaken by the Receiver.

82. In my view, however, none of those submissions, which are advanced vigourously, can overcome the practical reality that the Property has been exposed to the market as described above for a very significant period of time, and to an audience that includes both any potential purchasers with access to realtor.ca, and specific, targeted marketing to known commercial real estate brokers and land developers. Yet, none stepped forward with a higher price or otherwise more favourable offer.

83. Finally, the Respondents submit that they are really the only fulcrum stakeholders affected by the result here, since Romspen in first position, and maybe also Sow in fifth position, will be paid out in full. They therefore submit that there is no prejudice to any of the mortgagees, specifically including Romspen and Sow, to permit the Receiver time to market and sell the property.

84. I cannot accept that there is no prejudice to the mortgagees. The market is uncertain as evidenced by, among other things, the lack of a large number of offers generally and by the fact that the purchaser under the April, 2023 transaction who initially walked away, subsequently submitted an unconditional offer but only at 75% of its originally proposed purchase price.

85. I cannot accept the bald assertion by the Respondents that this case is distinguishable from the facts in *Elleway*, since the facts here clearly demonstrate that there will be no erosion of realization on security by the mortgagees caused by additional delay. There may very well be erosion of realization by further delay, with the professional costs and the very significant interest that continues to accrue on all of the mortgages.

86. In short, I am satisfied that it is in the best interests of the stakeholders that, as recommended by the Receiver, the Times Transaction, representing an unconditional commitment to purchase the Property in a very short period of time, be approved, and that another sales process is unlikely to yield a higher or otherwise better offer for the Property.

87. It follows that I decline to impose the term urged by the Respondents to the effect that this approval is without prejudice to their right to still attack the transaction as an improvident sale. I accept the submission of Romspen that such a condition or term is antithetical to the basis upon which the sale transaction is approved in the first place. The purchaser in the Times Transaction wants, and in my view is entitled to, a vesting order confirming that title is free and clear. The other stakeholders equally desire this, in order that purchasers are properly incentivized to offer maximum value and favourable terms.

88. Finally, I observe that 281, the proposed purchaser in the 281 Transaction, submitted a Responding Motion Record containing the affidavit of a senior officer of 281 and related entities, submitted a factum, and had counsel who appeared on the motion.

89. As a preliminary matter, I accept the general proposition urged by counsel for Times 1010, that unsuccessful bidders have no standing to challenge a receiver's motion to approve the sale to another candidate. As stated by Farley, J. in *Skyepharma PLC and Hyal Pharmaceutical Corporation*, 1999 CarswellOnt 3641, [1999] O.J. No. 4300, [2000] B.P.I.R. 531, 12 C.B.R. (4th) 87, 92 A.C.W.S. (3d) 455, 96 O.T.C. 172 at para. 8:

> Unsuccessful bidders have no standing to challenge a receiver's motion to approve the sale to another candidate. They have no legal or proprietary right as technically they are not affected by the order. They have no interest in the fundamental question of whether the court's approval is in the best interest of the parties directly involved. See *Crown Trust Co. v. Rosenberg* at pp. 114-119 and *British Columbia Development Corp. v. Spun Cast Industries Ltd.* (1977), 26 C.B.R. (N.S.) 28 (B.C. S.C.) at pp. 30-31. The corollary of this is that no weight should be given to the support offered by a creditor *qua* creditor as to its offer to purchase the assets.

90. 281 argues here that the prohibition expressed in *Skyepharma* does not apply here since 281 does not come to Court as an unsuccessful purchaser, but rather as a successful purchaser under a power of sale proceeding who is entitled at law to have its agreement approved.

91. In the circumstances, and without granting standing, I agreed to hear brief submissions from 281, and, in fairness, therefore from Times 1010. I remain of the view that unsuccessful bidder has no standing to challenge a sale approval motion in respect of that sale to another purchaser. In in my view, the fact that in this case the sale agreement was entered into before the Receiver was appointed, does not change that analysis.

92. 281 is still only a proposed purchaser pursuant to one of two transactions before the Court. Its views can and should be accorded little if any weight in a consideration of the appropriate factors affecting the determination of whether a "quick flip" transaction should be approved as set out in *Soundair* and *Montrose*.

93. Even if I am in error with respect to the weight to be given to any submissions from 281, they do not in any event change my conclusion as to the result here.

94. 281 argues that this Court cannot approve the Times Transaction since, as soon the 281 Transaction agreement of purchase and sale was entered into, a constructive trust arose resulting in an equitable conversion that transferred beneficial ownership in the Property to the purchaser under that agreement: in this case, 281.

95. It relies on the decision of the Court of Appeal for Ontario in *Simcoe Vacant Land Condominium Corp. No. 272 v. Blue Shores Developments Ltd.*, 2015 ONCA 378 at paras. 47 and 48.

96. I do not read that decision as supporting the relief sought by 281 in the present circumstances. In *Blue Shores*, the Court of Appeal stated that the common law has long recognized that a valid contract for the purchase and sale of land gives rise to a trust relationship, with the purchaser acquiring a beneficial interest, and that this principle applies to condominiums.

97. However, in *Blue Shores*, there was no insolvency of the debtor (or mortgagor), no competing power of sale proceedings, and no Court-appointed receivership. In my view, that case does not stand for the proposition for which it is advanced here, which is that, effectively and for all practical purposes, a mortgagee who holds a mortgage of an insolvent mortgagor/debtor who has defaulted on that mortgagee's mortgage as well as other mortgages registered on title to the same property, can circumvent completely a process already underway and somehow "trump" that process or the rights of any purchaser that derived therefrom, and force the completion of its own power of sale.

98. That would thwart a fair, open and transparent sales process intended to maximize the outcome for all stakeholders which is the outcome sought to be achieved by the application of the factors as set out in cases like *Soundair* and *Montrose*.

99. To be clear, it is certainly not the case that a mortgagee who holds a mortgage that is in default is not entitled to institute power of sale proceedings, or that a purchaser under that power of sale is not entitled to insist upon the completion of the transaction just because the mortgagor may be in default of its obligations under other mortgages registered against title to the same Property.

100. However, in circumstances such as those present here, where the power of sale proceeding instituted by Romspen was already underway, a subsequent ranking mortgagee ought not to be able to "jump the line" and, off on its own and without the knowledge or involvement of any other parties, enter into an agreement with the purchaser, and then take the position that such an agreement is beyond challenge because the purchaser enjoys an equitable conversion of the beneficial interest in the property through a constructive trust that arises upon execution of the agreement of purchase and sale.

101. The 281 Transaction resulted from the power of sale proceeding initiated by Sow, whose mortgage ranks fifth in priority. Separate and apart from the insolvency context referred to above, the position of Sow is that, as fifth mortgagee, it has the legal right to foreclose any rights of redemption held by prior ranking mortgagees, without paying out the amounts owing under those prior ranking mortgages, and circumvent a sales and marketing process already underway by the first ranking mortgagee. I do not accept that, in the particular circumstances of this case.

Sealing Order

102. Subsection 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.42, provides for the Court's authority to grant a sealing order. It provides that the Court may order that any document filed in a civil proceeding be treated as confidential, sealed and not part of the public record.

103. The Supreme Court of Canada in *Sherman Estate v Donovan,* 2021 SCC 25, at para. 38, recast the test from *Sierra Club of Canada v. Canada (Minister of Finance)* 2002 SCC 41 (CanLII):

> The test for discretionary limits on presumptive court openness has been expressed as a two-step inquiry involving the necessity and proportionality of the proposed order (*Sierra Club*, at para. 53). Upon examination, however, this test rests upon three core principles that a person seeking such a limit must show. Recasting the test around these three prerequisites, without altering its essence, helps to clarify the burden on an applicant seeking an exception to the open court principle. In order to succeed, the person asking the court to exercise discretion in a way that limits the open court presumption must establish that:
>
> a) court openness poses a serious risk to an important public interest;
>
> b) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and
>
> c) as a matter of proportionality, the benefits of the order outweigh its negative effects.

> Only where all of these prerequisites have been met can a discretionary limit on openness - for example, a sealing order, a publication ban, an order excluding the public from the hearing, or a redaction order - properly be ordered. This test applies to all discretionary limits on court openness, subject only to valid legislative enactments: *Toronto Star Newspapers Ltd. v. Ontario*, 2005 SCC 41, [2005] 2 S.C.R. 188 at paras. 7 and 22.

104. Under the first branch of the three-part test, an "important commercial interest" is one that can be expressed in terms of the public interest in confidentiality. Here, as in *Sierra Club*, the moving party submits that the commercial interest affected can be characterized more broadly as the general commercial interest of preserving confidential information as well as maintaining the sanctity of contract.

105. As noted above, there is no opposition to the sealing order requested here. In my view, the test is easily met. The material sought to be sealed represents sensitive commercial information that could reasonably expected to negatively affect any sales and marketing process in the event that the Times Transaction does not close and the Property must be marketed again.

106. Such a result would negatively affect the interests of all stakeholders and the process generally. The order sought is proportionate and time-limited, with effect only until the Transaction is completed.

107. The sealing order is appropriate and is granted.

Result and Disposition

108. The Receiver is appointed and the receivership is effective immediately. The form of receivership order is consistent with the Model Order with the Commercial List modified as appropriate to reflect the circumstances of this proceeding. The terms and scope of the receivership are appropriate.

109. The Times Transaction is approved and the Purchaser is entitled to an approval and vesting order.

110. The sealing order is granted.

111. Orders to go to reflect these Reasons. The draft orders submitted require modest changes to reflect the parties present, the materials reviewed, and the result. Counsel for Romspen may submit revised draft orders for signature through my judicial assistant, Ms. Mary Sibenik at mary.sibenik@ontario.ca.

Osborne, J.

Appendix “E”

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

(Court Seal)

ROMSPEN INVESTMENT CORPORATION

Applicant

\- and -

TUNG KEE INVESTMENT CANADA LTD. and
TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

AFFIDAVIT OF WESLEY ROITMAN

(Sworn July 19, 2023)

I, WESLEY ROITMAN, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

I.INTRODUCTION

1. I am the Managing General Partner of the Applicant Romspen Investment Corporation ("**Romspen**") and have knowledge of the matters to which I hereinafter depose.

2. I am swearing this Affidavit in support of an application to appoint Ernst & Young Inc. as receiver and manager of all of the assets, undertakings and properties of the Respondents Tung

Kee Investment Canada Ltd. ("**TKIC**") and Tung Kee Investment Limited Partnership ("**TKIL**" and together with TKIC, collectively, the "**Debtors**").

3. Romspen is a non-bank commercial/industrial mortgage lender.

4. The Debtors are indebted to Romspen in connection with a secured loan (the "**Loan**") which has been in financial default since September 1, 2022. On October 7, 2022, Romspen, through its counsel, made demand for payment on the Debtors of the amount then owing of $30,570,589.19 and issued a notice of intention to enforce its security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (the "**BIA**").

5. Notwithstanding the demand and the expiry of the statutory ten day notice period under the BIA, the Debtors have failed to repay the Loan. As of July 6, 2023, the amount owing under the Loan was $32,628,671.54.

II.LOAN AND SECURITY

6. Romspen extended the Loan to the Debtors pursuant to a commitment letter dated October 18, 2021. The commitment letter was amended by an amendment dated December 14, 2021, two further amendments dated January 7, 2022 and January 23, 2022, and a Mortgage Loan Modification and Extension Agreement dated May 1, 2022. The commitment letter, as amended, is hereinafter referred to, collectively as, the "**Loan Agreement**"). A copy of the Loan Agreement is attached as **Exhibit 1**. Pursuant to the Loan Agreement, the Lender agreed to lend the Debtors up to a maximum principal amount of $30 million, with interest at the rate of 9.4% *per annum*, calculated and compounded monthly, in arrears, for a term expiring on January 1, 2023.

7. TKIC is an Ontario corporation. A copy of a profile report in respect of TKIC is attached as **Exhibit 2**.

8. TKIL is an Ontario limited partnership. A copy of a profile report in respect of TKIL is attached as **Exhibit 3**.

9. TKIC is the registered owner of property municipally known as 3143 19th Avenue, in Markham, Ontario (the "**Property**").

10. TKIL is the beneficial owner of the Property. A copy of the Beneficial Owner Agreement, Direction and Acknowledgement delivered by the Debtors in favour of Romspen is attach as **Exhibit 4**.

11. The Property consists of three separate legally described parcels which, collectively comprise approximately 66.29 acres of developable vacant land at the southeast corner of 19th Avenue and Woodbine Avenue East, approximately one kilometre east of Highway 404, in the City of Markham (the "**City**"). The area surrounding the Property is predominantly rural, with urban residential and commercial uses in close proximity. The Debtors planned to develop the Property as a mixed use development comprised of film studios, offices, a hotel and retail.

12. As security for the Loan, Romspen holds, among other security:

(a) a Promissory Note dated January 24, 2022 in the principal amount of $30 million (the "**Note**");

(b) a first-ranking mortgage/charge registered on title to the Property (the "**Mortgage**") on January 27, 2022; and

(c) a security agreement over the personal property of each of the Debtors dated January 24, 2022 (the "**Security Agreement**").

Copies of the Note, the Mortgage and the Security Agreement are attached, respectively, as **Exhibits 5, 6, and 7**.

13. Both the Mortgage and the Security Agreement contain contractual rights on the part of Romspen to appoint a receiver on default.

14. The Property was originally identified in parcel identification number ("**PIN**") 03055-002 but was subsequently split into four PINS, namely 03055-0377, 03055-0378, 03055-0379 and 03055-0380.

15. The Debtors transferred PIN 03055-0378 to the City on August 8, 2022. To facilitate the transfer, Romspen and the other mortgagees registered on title to the Property granted partial discharges of their mortgages against PIN 03055-0378. Inadvertently, however, discharges were also registered against PINs 03055-0379 and 03055-0380. To cure the error, all of the mortgages that were discharged, including the Mortgage, were registered on title to the affected parcels on August 30, 2022 and the priority of Romspen's security over the Property was unaffected. A copy of the Mortgage registered on title to PINS 03055-0379 and 03055-0380 is attached as **Exhibit 8**.

16. Copies of the current parcel registers in respect of the three PINS that comprise the Property are attached, collectively, as **Exhibit 9**.

17. The existing financial encumbrances registered on title to the Property are summarized in the table below. Copies are attached as **Exhibits 10 through 47** as set out in the far right column of the table.

Financial Encumbrances Registered Against Property

Order of Reg.	**Instrument Number**	**Date Registered**	**Nature of Encumb.**	**Registered Holder**	**Face Amount**	**Notes**	**Exhibit**
1.	YR3083072	2020/03/26	Mortgage	Sow Capital Ontario Limited JIAYI International Investments Ltd.	$5,000,000		**10**
2.	YR3247257	2021/05/07	Transfer/Charge	Sow Capital Ontario Limited		From JIAYI International Investments Ltd.	**11**
3.	YR3300382	2021/08/18	Transfer of Charge	FA Credit Solutions Canada Inc. Sow Capital Ontario Limited		From Sow Capital Ontario Limited	**12**
4.	YR3373212	2022/01/27	Charge	Romspen	$30,000,000		**6**
5.	YR3373214	2022/01/27	Charge	Amber Mortgage Investment Corp.	$8,500,000		**13**
6.	YR3373216	2022/01/27	Charge	2149602 Ontario Inc.	$8,000,000		**14**
7.	YR3373218	2022/01/27	Transfer/Charge	Sow Capital Ontario Limited		From FA Credit Solutions Canada Inc.	**15**

Financial Encumbrances Registered Against Property							
Order of Reg.	**Instrument Number**	**Date Registered**	**Nature of Encumb.**	**Registered Holder**	**Face Amount**	**Notes**	**Exhibit**
8.	YR3373219	2022/01/27	Charge	Pa, Frank Tung, Stephen	$3,540,000		**16**
9.	YR3373403	2022/01/28	Postponement	Romspen		From Sow Capital Ontario Limited	**17**
10.	YR3373404	2022/01/28	Postponement	Amber Mortgage Investment Corp.		From Sow Capital Ontario Limited	**18**
11.	YR73373405	2022/01/28	Postponement	2149602 Ontario Inc.		From Sow Capital Ontario Limited	**19**
12.	YR3385745	2022/02/24	Notice	2149602 Ontario Inc.	$8,000,000		**20**
13.	YR3397626	2022/03/22	Notice	Tung Kee Investment Canada Ltd.			**21**
14.	YR3397627	2022/03/22	Postponement	The City		From Sow Capital Ontario Limited	**22**
15.	YR3397628	2022/03/22	Postponement	The City		From Romspen	**23**
16.	YR3397629	2022/03/22	Postponement	The City		From Amber Mortgage Investment Corp.	**24**
17.	YR3397630	2022/03/22	Postponement	The City		From 2149602 Ontario Inc.	**25**
18.	YR3397631	2022/03/22	Postponement	The City		PA, Frank	**26**

Financial Encumbrances Registered Against Property							
Order of Reg.	**Instrument Number**	**Date Registered**	**Nature of Encumb.**	**Registered Holder**	**Face Amount**	**Notes**	**Exhibit**
						Tung, Stephen	
19.	YR3440956	2022/06/17	Notice	2149602 Ontario Inc.	$9,500,000		**27**
20.	YR3440959	2022/06/17	Postponement	Pa, Frank Tung, Stephen		From Sow Capital Ontario Limited	**28**
21.	YR3441040	2022/06/17	Postponement	2149602 Ontario Inc.		From Sow Capital Ontario Limited	**29**
22.	YR3447697	2022/07/04	Notice	Amber Mortgage Investment Corp.	$8,500,000		**30**
23.	YR3470724	2022/08/30	Charge	Romspen	$30,000,000	Not registered on PIN 03055-0377 (LT)	**8**
24.	YR3470726	2022/08/30	Charge	Amber Mortgage Investment Corp.	$8,500,000		**31**
25.	YR3470728	2022/08/30	Charge	2149602 Ontario Inc.	$9,500,000	Not registered on PIN 03055-0377 (LT)	**32**
26.	YR3470730	2022/08/30	Charge	Pa, Frank Tung, Stephen	$3,540,000	Not registered on PIN 03055-0377 (LT)	**33**
27.	YR3470731	2022/08/30	Charge	Sow Capital Ontario Limited	$5,000,000	Not registered on PIN 03055-0377 (LT)	**34**

Financial Encumbrances Registered Against Property							
Order of Reg.	**Instrument Number**	**Date Registered**	**Nature of Encumb.**	**Registered Holder**	**Face Amount**	**Notes**	**Exhibit**
28.	YR3505530	2022/12/06	Notice	2149602 Ontario Inc.	$9,500,000		**35**
29.	YR3505533	2022/12/06	Notice	2149602 Ontario Inc.	$9,500,000	Not registered on PIN 03055-0377 (LT)	**36**
30.	YR3505547	2022/12/06	Postponement	2149602 Ontario Inc.			**37**
31.	YR3505555	2022/12/06	Postponement	2149602 Ontario Inc.		From Pa, Frank Tung, Stephen Not registered on PIN 03055-0377 (LT)	**38**
32.	YR3505567	2022/12/06	Postponement	2149602 Ontario Inc.		From Sow Capital Ontario Limited	**39**
33.	YR3505559	2022/12/06	Postponement	2149602 Ontario Inc		From Sow Capital Ontario Limited. Not registered on PIN 03055-0377 (LT)	**40**
34.	YR3513700	2023/01/09	Transfer/Charge	Miltom Services Limited Sow Capital Ontario Limited			**41**

Financial Encumbrances Registered Against Property							
Order of Reg.	**Instrument Number**	**Date Registered**	**Nature of Encumb.**	**Registered Holder**	**Face Amount**	**Notes**	**Exhibit**
35.	YR3513701	2023/01/09	Transfer of Charge	Miltom Services Limited Sow Capital Ontario Limited		From Sow Capital Ontario Limited Not registered on PIN 03055-0377 (LT)	**42**
36.	YR3538686	2023/04/05	Notice	Sow Capital Ontario Limited	$2		**43**
37.	YR3538687	2023/04/05	Notice	Sow Capital Ontario Limited		Not registered on PIN 03055-0377 (LT)	**44**
38.	YR3541410	2023/04/14	Construction Lien	DX Strategies Inc.	$4,653,028		**45**
39.	YR3563830	2023/06/16	Certificate	DX Strategies Inc.			**46**

18. Pursuant to Subordination and Postponement Agreements dated January 2022 between Romspen and each of Amber Mortgage Investment Corporation ("**Amber**"), Sow Capital Ontario Limited ("**Sow Capital**") 2149602 Ontario, Inc. **("214**"), Frank Pa and Steven Tung ("**Pa and Tung**" and, collectively, with Amber, Sow Capital and 214, the "**Subordinate Encumbrancers**"), each of the Subordinate Encumbrancers subordinated and postponed all of their rights under their security over the property of the Debtors in favour of Romspen. Copies of the Subordination and Postponement Agreement are attached, collectively, as **Exhibit 47**.

19. By virtue of the postponements and transfers registered on title, the mortgages registered on title to the Property are held by the following creditors, rank in the following order of priority and secure the following principal face amounts:

Ranking Priority	**Creditor**	**Principal Face Amount**
First	Romspen	$30 million
Second	Amber	$8.5 million
Third	214	$3,744,759.41 (Cdn) and $26,279,223.54 (HK)
Fourth	Pa and Tung	$3.54 million
Fifth	Sow Capital	$20 million

20. Notice of Romspen's security interest in the Debtors' personal property is registered under the *Personal Property Security Act* (the "**PPSA**"). Copies of PPSA Enquiry Response Certificates in respect of the Debtors current to July 5, 2023 together with summaries are attached, collectively, as **Exhibit 48**.

21. The PPSA summaries, disclose that Romspen's registration is prior in time to the registration by UBS AG. All other registered secured parties have postponed and subordinated their security in favour of Romspen pursuant to the Subordination and Postponement Agreement (copy attached as Exhibit 48).

III.DEFAULT AND DEMAND FOR PAYMENT

22. On September 1, 2022, the Debtors defaulted in payment of interest due under the Loan. By letter dated October 7, 2022, Romspen made formal written demand for payment of the indebtedness under the Loan and delivered a Notice of Intention to Enforce Security pursuant to section 244 of the BIA. Copies of the demand letter and Notice of Intention to Enforce Security are attached, collectively, as **Exhibit 49**.

23. Despite the demand and the expiry of the ten day statutory notice under the BIA, the Debtors have failed to repay the Loan

IV.POWER OF SALE

24. On October 25, 2022, Romspen, by its lawyers, issued a notice of sale under the Mortgage. A copy of the notice of sale, together with the registered mail receipts, are attached, collectively, as **Exhibit 50**.

25. After the redemption period under the notice of sale expired, Romspen commissioned an appraisal of the Property. Thereafter, in early April of 2023, Romspen engaged Royal LePage Your Community Realty brokerage ("**Royal LePage**") to list the Property for sale under power of sale for a listing price of $69.5 million on MLS. Offers were requested for submission by end of day on April 28, 2023.

26. Two offers were received. Both were from credible buyers. One was for a significantly higher purchase price than the other.

27. On May 1, 2023, Romspen accepted the higher offer. An unredacted copy of the agreement of purchase and sale (the "**APS**") is attached as **Confidential Appendix A**. A redacted copy is attached as **Exhibit 51**. The APS was subject to a broad due diligence condition in favour of the buyer. Additionally, the APS precluded Romspen from accepting the redemption of its Loan and terminating the APS without liability.

28. On May 5, 2023, Romspen's counsel, David Preger of Dickinson Wright LLP, notified the Debtors' counsel, Miller Thomson LLP and Teplitsky Colson LLP, that Romspen had entered into the APS. A copy of the email notification is attached as **Exhibit 52.**

29. Unfortunately, prior to the expiry of the conditional period, the buyer terminated the APS.

30. On July 15, 2023, the same buyer submitted an unconditional offer to Romspen purchase the Property for a purchase price equivalent to 75% of the price originally payable under the APS. Romspen was not prepared to accept that offer. An unredacted copy of the offer is attached as **Confidential Appendix B**. A redacted copy is attached as **Exhibit 53**.

31. On July 12, 2023, Romspen reduced the listing price of the Property to $64.5 million.

32. Although the Property continues to be listed for sale by Romspen under power of sale, given the current economic climate of high interest rates and real estate market illiquidity, I believe that a Court-supervised marketing and sale process is likely to be a better approach to achieving a definitive sale than a power of sale process in which buyers may be inclined to try to and leverage price reductions before waiving conditions.

V.THE DEBTORS' CHALLENGES

33. Since May of 2022, the Debtors were promoting a sale of the easterly parcel of the Property identified in PIN 03055-0379 to Element Media Group, Inc. ("**Element**"), who purportedly planned to develop a studio thereon. An unredacted copy of the agreement of purchase and sale between TKIC and Element, as amended, is attached as **Confidential Appendix C**. A redacted copy is attached as **Exhibit 54**.

34. Copies of unredacted communications exchanged between the Debtors' counsel and Romspen's counsel, Friedman Law Professional Corporation and Dickinson Wright LLP, between November 4, 2022 and February 24, 2023 are attached, collectively, as **Confidential Appendix D**. Redacted copies of the communications are attached as **Exhibit 55**.

35. As appears from the communications:

- the deposit money payable under the Element transaction that was promised from overseas never materialized;
- other efforts on the part of the Debtors to refinance and sell the Property also never materialized;
- the Debtors were unable or unwilling to put the Loan into financial good standing, which was consistently expressed to be the basis upon which Romspen would agree to forbear from continuing with enforcement of its security; and

- the Debtors unilaterally attempted to impose a forbearance arrangement by wiring $80,000 to Romspen, which Romspen refused to accept and the Debtors have refused to cooperate with Romspen's efforts to return the funds.

36. On April 27, 2023, Mr. Preger received a letter from the Debtors' counsel, Ali Baniasadi of Miller Thomson LLP advising that TKIC had been negotiating a sale of the Property and was contemplating finalizing a purchase agreement. An unredacted copy of the letter is attached as **Confidential Appendix E**. A copy of the letter, with the commercial terms and identity of the buyer redacted, is attached as **Exhibit 56**. Bizarrely, in the letter, Romspen was asked to confirm within 24 hours that TKIC should not enter into the purchase agreement, failing which TKIC would finalize and execute the purchase agreement.

37. On April 28, 2023, Mr. Preger responded by email that he was at a loss to understand why TKIC was asking Romspen to approve anything, as TKIC was free to do whatever it wished. A copy of the email is attached as **Exhibit 57**.

38. No purchase agreement was subsequently produced by TKIC to Romspen.

39. On June 7, 2023, Mr. Preger received a letter from the Debtors' counsel, Jonathan Kulathungam of Teplitsky Colson LLP, taking issue with Romspen's power of sale efforts. An unredacted copy of the letter is attached as **Confidential Appendix F**. A redacted copy of the letter is attached as **Exhibit 58**. Curiously, notwithstanding Mr. Kulathungam's criticisms (none of which were valid), the purchase price payable under the transaction referred to in Mr.

Baniasadi's letter of April 27, 2023 was lower than the price that would have been payable under the power of sale transaction contemplated in the APS, had Romspen's buyer waived conditions.

40. On June 20, 2023, Mr. Preger emailed Mr. Kulathungam advising that Romspen's buyer under the APS did not waive conditions and that his instructions were to apply to Court for the appointment of a receiver to market and sell the Property. Mr. Preger further confirmed that it remained open to the Debtors to exercise their right to redeem Romspen. A copy of the email is attached as **Exhibit 59**.

VI.COMMUNICATIONS WITH SOW CAPITAL

41. Copies unredacted communications exchanged between Sow Capital's counsel and Dickinson Wright LLP and Royal LePage, between May 8, 2023 and July 19, 2023 are attached, collectively, as **Confidential Appendix G**. Redacted copies of the communications are attached as **Exhibit 60**.

42. Romspen has not been provided a copy of the agreement of purchase and sale purportedly entered into by Sow Capital under power of sale and is unaware of the terms of such agreement, including whether the transaction is subject to due diligence conditions and the buyer is credible. Given the time that has passed, Romspen is also not comfortable with Sow Capital, as the most junior-ranking mortgagee, controlling the sale of the Property, particularly in view of its refusal to facilitate the offer being made to Royal LePage.

VII.JUST AND CONVENIENT TO APPLYING TO RECEIVER

43. As of July 6, 2023, the amount owing under the Loan was $32,628,671.54 and interest was accruing and continues to accrue thereon at the *per diem* rate of $8,359.84. A copy of Romspen's statement summary is attached as **Exhibit 61**.

44. The appointment of the proposed receiver over the assets, undertakings, and property of the Debtors is just and convenient in the circumstances of this case for the following reasons:

(a) notwithstanding the issuance of demand, the section 244 BIA notice and the notice of sale, the Debtors have failed to repay the Loan;

(b) the statutory notice periods under the BIA and the *Mortgages Act* have long expired;

(c) the Loan matured on January 1, 2023;

(d) the Mortgage and Romspen's security agreements contain contractual entitlements to appoint a receiver upon default;

(e) the Property is deeply leveraged with numerous subordinate-ranking mortgages;

(f) Romspen has lost faith in the ability of the Debtors' management to turn the situation around. None of their efforts to refinance the Loan or sell the Property have yielded any tangible results and they are now purporting to shift blame on Romspen for their inability to refinance or sell; and

(g) a Court-appointed receiver will ensure that the interests of all of the Debtors' stakeholders are considered and facilitate a fair and transparent marketing and sale process for achieving a definitive disposition of the Property.

SWORN BEFORE ME by videoconference, at the City of Toronto, in the Province of Ontario, on this 19th day of July, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits
(or as may be)

DAVID PREGER

WESLEY ROITMAN

This is Exhibit "1" referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

ROMSPEN

Our File: 8923

October 18, 2021

Tung Kee Investment Limited Partnership
c/o CT Green Financial
1600-1200 West 73rd Avenue
Vancouver, British Columbia
V6P 6G5

Attention: Jeremy Leung

Ladies and Gentlemen:

Re: $30,000,000 First Mortgage Financing (the "Loan")
3143 19th Avenue, Markham, Ontario

We are pleased to inform you that, on the basis of the information and the documents supplied by you, Romspen Investment Corporation, as trustee (the "**Lender**"), hereby submits to you this offer of mortgage financing ("**Commitment**") in connection with the properties more fully described in Section 4 below.

This Commitment must be accepted by the Borrower and received by the Lender, together with the portion of the Standby Fee as hereinafter set out, no later than 5 days from the date hereof, failing which this Commitment shall become null and void without further notice.

1. BORROWER

Tung Kee Investment Canada Ltd. ("**Nominee**"), as nominee for, and in its capacity as general partner of Tung Kee Investment Limited Partnership ("**Beneficial Owner**") (together, the "**Borrower**").

2. COVENANTORS

Tung Kee Investment Canada Ltd., on its own behalf and in its capacity as general partner of Tung Kee Investment Limited Partnership, Tung Kee Investment Canada Ltd., 2407720 Ontario Inc., 2407721 Ontario Inc., and Yung Man Tung (Tony Man Tung Yung) (collectively, the "**Covenantors**", and each, a "**Covenantor**").

The Covenantors, jointly and severally with the Borrower, covenant and agree to satisfy all terms, conditions and requirements herein contained and the Borrower and Covenantors acknowledge and agree that their obligations hereunder, including, without limitation, the obligations to repay the Loan, shall constitute primary obligations and shall be joint and several. The Borrower and the Covenantors represent that they are the legal and beneficial owners of all of the property and assets comprising the security required under this Commitment.

3. APPROVED LOAN AMOUNT

The approved maximum Loan amount is the lesser of: (a) $30,000,000 and (b) 67% of the Lender's determination of the Property's value, to be secured as further described in this Commitment. The Loan will be funded by way of a single advance (the "**Advance**").

4. PROPERTY

The real estate security for the Loan is the real property set out in Schedule R of this Commitment, together with all improvements located thereon (the "**Property**"). The Property is a 99.73 acre site, with 65 acres of usable land, with future development as workspace and industrial zoning for 2.5 times density, to be approved by Lender prior to funding of the Loan. The Borrower represents that the "as is" value of the Property is not less than $44,000,000.

5. ADVANCE DATES

Subject to the conditions contained herein, the first Advance (the **"First Advance**") will take place on or around October 26, 2021 (the "**First Advance Date**").

6. INTEREST RATE

The interest rate for the Loan is nine and four-tenths percent (9.40%) per annum, calculated and compounded monthly, in arrears, on the amounts advanced from time to time from the date of each Advance, as well after as before maturity, default or judgment.

7. TERM

All indebtedness under the Loan shall be repaid on November 1, 2022 (the "**Loan Maturity Date**"). The Interest Adjustment Date is November 1, 2021. The period between the Interest Adjustment Date and the Loan Maturity Date is referred to as the "**Loan Term**".

8. USE OF FUNDS

The proceeds of the Loan will be used as follows:

(a) to pay fees and transaction costs;
(b) to establish an interest reserve to service the Loan during the Loan Term; and
(c) the balance to assist in the repayment of existing registered indebtedness as approved by Lender. In this regard, Lender acknowledges that indebtedness in favour of Sow Capital Ontario Limited (not to exceed $5,000,000 and Amber Mortgage Investment Corp. (not to exceed $8,500,000) shall be permitted provided each provides the subordination and standstill agreements provided for in Section 9(g) of this Commitment.

The Borrower represents and warrants that no portion of the Loan will be used for the supply of any services or for any erection, installation, addition, removal, construction, renovation, alteration, or repair to the Property or to any building, structure or works thereon. In the event that a claim for lien is subsequently made under the *Construction Act*, and not vacated within 15 days, the Lender may, in addition to any other remedy available to it and in its unfettered discretion, accelerate the Loan Maturity Date upon 10 day's written notice to the Borrower.

9. SECURITY

The following security for the Loan shall be granted to the Lender, in form and content satisfactory to the Lender (the "**Security**"):

(a) a first-ranking mortgage and charge of the Property;

(b) first-ranking general assignment of all present and future leases and rents affecting the Property;

(c) beneficial owners' agreement from the Beneficial Owner;

(d) general security agreements creating security interests charging all the assets and undertaking of Borrower and Covenantors;

(e) a specific assignment of the Nominee's right, title and interest in, to and under all material contracts and agreements affecting or with respect to the Property, including licenses, permits, plans and specifications, economic incentives, development approvals and agreements, and purchase agreements and related deposits ("**Material Contracts**"), as required by the Lender, with all necessary consents of the counterparties to the Material Contracts. If a contract is incapable of assignment, Borrower will hold the benefit of such contract in trust for Lender;

(f) acknowledgment of the status and terms of any contracts affecting or with respect to the Property including, without limitation, any pertaining to ownership, insurance, shared facilities, passageway agreements or other similar matters, specifically, but without limitation, confirming the good standing of such contracts and the rights of the Lender under its security;

(g) for any other indebtedness of the Borrower, or if a charge or security interest is to be registered (with the Lender's prior written consent) on title to the Property or against the Borrower subordinate in priority to the Lender's Security, such creditor, subordinate chargee or secured party shall provide to the Lender a subordination and standstill agreement in a form acceptable to the Lender;

(h) an unconditional, joint and several guarantee by each Covenantor as principal debtor and not as surety for the performance of all obligations of the Borrower with respect to the Loan, it being understood that the Lender shall not be obliged to proceed against the Borrower or to enforce or exhaust any security before enforcing its rights against any Covenantor;

(i) assignment of all insurance policies with respect to the Property and all proceeds and benefits therefrom;

(j) assignment, postponement and subordination of any and all loans, indebtedness, distributions of income and/or capital owing or due (i) to Covenantors (or affiliates or related persons) from the Borrower or (ii) to any affiliates or related persons from Covenantors;

(k) an environmental indemnity from the Borrower and Covenantors;

(l) such further and other security as legal counsel for the Lender may reasonably require.

10. TRANSACTION FEES AND RELATED COSTS

Administration Fee:	$ 1,000
Advance Fee (per Advance):	$ 1,000
Lender's Fee:	$ 600,000
Broker's Fee (CT Green)	$375,000
Insurance Risk Management Fee (estimated):	$ 1,500*
Lender's Basic Legal Fee (estimated):	$ 35,000*

* Plus disbursements and taxes, if applicable.

In addition, the Borrower agrees to pay all costs, fees and expenses in connection with the transaction contemplated by this Commitment, including, without limitation:

(a) engineering, environmental assessment, appraisal, credit information, inspection, architectural, project monitoring, cost consultancy, survey and any and all other professional and advisory costs as may be reasonably incurred by the Lender;

(b) registration, recording and filing fees, taxes and similar costs with regard to all documents required by the Lender's solicitors to be registered, recorded or filed.

Such fees and costs may, at the option of the Lender, be deducted from any Advance.

11. STANDBY DEPOSIT

In consideration of the issuance of this Commitment and in recognition of the considerable effort that the Lender must immediately undertake in order to make funds available for closing, the Borrower agrees to submit to the Lender, together with this executed Commitment, a deposit of One Hundred Ten Thousand Dollars ($110,000). Lender acknowledges receipt of Thirty-Five Thousand Dollars ($35,000) ("**Standby Deposit**"). The Standby Deposit will not bear interest while in the possession of the Lender. Except as otherwise provided for herein, such Standby Deposit will be credited to the Borrower on the First Advance Date. The Lender acknowledges receipt of the Standby Deposit.

12. ADVANCES AND CONDITIONS PRECEDENT

(a) General

(i) Subject to the other terms and conditions set forth in this Commitment, the Lender shall disburse the proceeds of the Loan to or on behalf of the Borrower in the amounts and as specified in Section 3 herein.

(ii) Borrower is the legal owner and Beneficial Owner is the beneficial owner of a good and marketable freehold title to the Property and all personal property associated therewith. The Property and the personal property related thereto or used in connection with the operation thereof or which is necessary to the use and operation thereof, shall be free and clear of all security interests, charges, liens, mortgages, claims or other encumbrances, with the exception of the Security provided for in this Commitment and the Permitted Encumbrances (as defined in Schedule R), the whole to the complete satisfaction of legal counsel for the Lender.

(iii) All taxes, duties, assessments, utility charges and other levies and charges affecting the Property, other than amounts which are not yet due and payable, shall have been paid prior to the First Advance, failing which they shall be paid from the proceeds of any Advance.

(iv) The Borrower shall fulfill all obligations under any laws entitling a creditor to exercise rights against the Property. In this respect, the Borrower shall provide to the appropriate taxation, municipal utilities and other authorities an authorization by which the Lender or any person authorized by it as its legal counsel, agent or manager, shall be able to obtain, in the name of the Borrower, a confirmation from such authorities that all payments, declarations and other filings are up to date, whether the authorities concerned have issued or will issue a default notice or demand for payment and whether any such notice concerns arrears. This authorization shall remain in effect and will be replaced as required by the Lender from time to time until the Loan has been fully repaid.

(v) Within 5 business days prior to the First Advance Date, the Borrower shall deliver to the Lender's legal counsel the following documents (where applicable):

A. copies of all Material Contracts;
B. required insurance policies;
C. evidence that property taxes have been paid;
D. copies of resolutions of the Borrower's directors authorizing this transaction;
E. certified copies of the Borrower's and entity Covenantors' constating documents;
F. a current survey of the Property in a form acceptable to the Lender's counsel; and
G. any other documents required hereunder and reasonably requested by legal counsel for the Lender.

(b) Advance Requirements

Advances are conditional upon the receipt by the Lender of the following documents, in form and substance satisfactory to the Lender and upon fulfillment by the Borrower and Covenantors of the following conditions precedent as well as those set out in Schedule "B" hereof or elsewhere herein, to the entire satisfaction of the Lender:

(i) the Security and any other documents relating to the Loan that are required or contemplated hereunder or which the Lender and its legal counsel may deem necessary, shall have been received and approved to the complete satisfaction of the Lender and its counsel and duly executed and registered and perfected, as the case may be and all approvals required by the Lender or its counsel shall have been given;

(ii) a title insurance policy for the Loan issued by a title insurance company acceptable to the Lender and in form and content satisfactory to the Lender the premium for which will be paid by the Borrower;

(iii) a favourable opinion of the Borrower's and entity Covenantors' counsel on the due formation, power and authority, the due authorization, execution, delivery, validity and enforceability of this Commitment and the Security and such other matters as the Lender or its counsel may reasonably require;

(iv) a certificate of the Borrower and Covenantors confirming the truth and survival of the representations and warranties contained herein;

(v) delivery of an opinion from a Professional Engineer (approved by Lender) confirming servicing costs for the Property will not exceed $300,000 per acre and confirming the time frame in which such servicing can be completed, together with a reliance letter in favour of Lender;

(vi) delivery of a legal opinion satisfactory to Lender confirming cost sharing agreements related to the development of the Property and further setting out credits available to Borrower for costs incurred and latecomer fees to be paid;

(vii) evidence that the Borrower has complied with the obligations with respect to insurance requirements as more fully set out in Schedule "L", together with a favourable opinion of the Lender's insurance consultant on the adequacy of all insurance policies and or bonding required to be delivered and/or maintained hereunder;

(viii) evidence that all taxes, rates, assessments and charges which may be levied or imposed against the Property or Borrower's business, including all utilities charges and all amounts capable of forming a charge against the Property or Borrower's interest therein, have been paid in full;

(ix) evidence that Borrower has complied with all statutory requirements for deduction at source and remittance to applicable fiscal authorities, including, without limitation, those under the *Income Tax Act* (Canada), the *Excise Tax Act* (Canada), the *Canada Pension Plan Act* (Canada) and the *Employment Insurance Act* (Canada);

(x) a site inspection of the Property has been completed on behalf of the Lender and the results of the inspection are satisfactory to the Lender;

(xi) a satisfactory interview with the principals of the Borrower has been conducted by the Lender;

(xii) verification of the uses of the Property and satisfactory operating statements and pro forma;

(xiii) satisfactory review of the development status, site plan, zoning status, schedule and plans and specifications (and any changes) of the Property, including satisfactory verification of the Minister's Zoning Orders approved for rezoning and site plan as represented and provided to Lender;

(xiv) verification of the net worth of each Covenantor in amounts satisfactory to the Lender;

(xv) an environmental report prepared, at the expense of the Borrower, by qualified environmental consultants acceptable to the Lender, addressed to the Lender or, alternatively, accompanied by a letter of transmittal from the environmental consultants who prepared the report allowing the Lender to rely upon the same and to use it for mortgage purposes, disclosing no site contamination or hazardous substances in excess of permissible limits, and confirming, to the satisfaction of the Lender, that the Property complies with Environmental Laws (as defined in Schedule "B" hereof). The Borrower hereby agrees to provide all available information with respect to environmental matters and to fully disclose to the Lender any relevant facts about environmental matters promptly as they come to light;

(xvi) Lender's verification of the Property's value, including receipt of an appraisal report of the Property prepared in a form and substance satisfactory to the Lender, at the expense of the Borrower, by a qualified appraiser acceptable to the Lender, addressed to the Lender or, alternatively, accompanied by a letter of transmittal from the appraiser allowing the Lender to rely upon the same and use it for mortgage purposes;

(xvii) verification of Borrower's contribution of cash equity in an amount acceptable to Lender;

(xviii) Verification of any Borrower's capital improvements to the building on the Property;

(xix) verification of Borrower's organizational structure;

(xx) copies of all leases affecting the Property, or a certified rent roll in a form acceptable to the Lender and reviewed by and found satisfactory to the Lender and its counsel;

(xxi) if there are existing structures on the Property, a report from a qualified structural engineer, addressed to the Lender, addressing the structural soundness of those improvements, the contents of which are acceptable to the Lender;

(xxii) no event shall have occurred and be continuing or would result from making an Advance, which constitutes an event of default or would constitute an event of default under Borrower's or any Covenantor's obligations, except when such default is cured by notice or elapsed time or both;

(xxiii) the Lender and its counsel shall have approved all Material Contracts;

(xxiv) the Lender has approved any project management agreement, co-owners agreement, or trust agreement in effect with respect to the Property.

(xxv) Borrower and each Covenantor have provided the Lender with Lender's standard anti-money laundering documentation requirements;

(xxvi) notwithstanding anything contained herein, no Advance shall be made by the Lender if a material adverse change (as determined by the Lender) has occurred in respect of the Property, the Borrower or a Covenantor, or in respect of the condition (financial or otherwise), operations, business, properties or prospects of the Property, the Borrower or a Covenantor, or any asset or property of the Borrower or a Covenantor has changed in a manner that would impair the value of any security provided to the Lender for the Loan, prevent the timely repayment of the Loan or otherwise prevent the Borrower or any Covenantor from the timely performance of, or its ability to perform, any of their obligations under this Commitment, the Security or any other agreement entered into between the Borrower or any Covenantor and the Lender.

(xxvii) notwithstanding anything contained herein, no Advances shall be made by the Lender until such time as the Lender is in receipt of, and has reviewed, all due diligence material referred to in Schedule A of the letter agreement dated August 10, 2021, and not hereinbefore requested; and

(xxviii) notwithstanding anything contained herein, no Advance shall be made by the Lender until the Lender is advised by its legal counsel that, having regard to all the circumstances, such Advance should be made.

13. REPRESENTATIONS AND WARRANTIES

Borrower and each Covenantor, as applicable, represents and warrants to the Lender as follows, which shall be true and correct for each advance of the Loan, and acknowledges that the Lender is relying on all such representations and warranties in entering into this Commitment and making Advances hereunder:

(a) The request for and use of proceeds of an Advance by the Borrower will constitute an affirmation or re-affirmation of the representations and warranties contained herein and in any document related hereto, including, without limitation, any Security delivered pursuant hereto;

(b) It is an entity duly organized and validly existing and in good standing under the laws of the jurisdiction of formation, and registered to do business in each jurisdiction in which it carries on business;

(c) It has full power, right which it is a party and has full right, power and authority to own and operate its assets and property and to carry on its business; and authority to enter into and perform its obligations under each of the documents to which it is a party and has full right, power and authority to own and operate its assets and property and to carry on its business;

(d) The execution and delivery of this Commitment and the applicable Security and the performance of its obligations thereunder do not and will not conflict with or result in a breach of any of the terms, conditions or provisions of their charter documents or bylaws, any agreement, instrument or arrangement to which it is a party or constitute a default thereunder, any judgment or order, writ, injunction or decree of any court, or any applicable law, regulation or regulatory policy;

(e) The execution and delivery of this Commitment and the applicable Security and the performance of its obligations thereunder have been duly authorized or will, prior to the First Advance Date, have been ratified by all necessary entity action, and no authorization under any applicable law and no registration, qualification, approval, designation, declaration or filing with any government body, agency or authority having jurisdiction is or was necessary therefore, except as contemplated herein;

(f) The Borrower possesses all consents, approvals, licenses, permits and authorizations under any applicable law which are necessary in connection with the operation of its businesses. All such consents, approvals, licenses, permits and authorizations are in full force and effect and good standing, and the Borrower is not in default in any respect thereunder which default would have a material adverse effect. The Borrower is conducting its business in compliance in all material respects with all applicable laws, rules and regulations of each jurisdiction in which its business is carried on, and no action exists, is pending or threatened which has as its object the revocation, amendment or qualification of any such consent, approval, license, permit or authorization and all applicable appeal periods in respect of such actions have expired;

(g) It is not in default in any respect under any material indenture, mortgage, deed of trust, agreement or other instrument to which they are a party or by which they or any of their property may be bound and which default would have a material adverse effect on their property or their prospects;

(h) Other than as disclosed to Lender, there are no litigation or governmental proceedings commenced or pending against or affecting it or its assets, in which an adverse decision would constitute or result in a material adverse change in its business, operations, properties or assets, or in its condition, financial or otherwise;

(i) The Borrower is the legal and beneficial owner of the Property, and has good and marketable title and possession thereto, free from all mortgages, charges, liens or other encumbrances whatsoever, except for the Security and any Permitted Encumbrances;

(j) It has filed all tax returns which are required to be filed by each of them and has paid or remitted when due all taxes, assessment and government charges imposed upon them which if unpaid could result in any charge or other encumbrance on their properties except such tax, assessment or charge which is being contested in good faith and for which it has made adequate reserves;

(k) With respect to the Property, the Borrower has obtained and is in compliance (i) with all terms and conditions of all authorizations which are required under any environmental law, the non-obtaining of which and the lack of compliance with which would have a material adverse effect, and (ii) with all environmental laws, non-compliance with which would have a material adverse effect. The Borrower does not generate hazardous materials or transport, treat or dispose of any hazardous materials nor is the Borrower aware of any underground storage tanks or surface contaminants located on the Property other than those that have been reported to the Lender. The Borrower, to the best of its knowledge and belief, has never caused or permitted (i) a release of any contaminant from or on the Property or (ii) any hazardous materials to be placed, held, located or disposed of on or under the Property the effect of which could reasonably be anticipated to have a material adverse effect. No enforcement action, investigation or outstanding order from any official body in respect of any hazardous materials or release of contaminants is existing, threatened or impending;

(l) The Property is in compliance with all relevant zoning and by-laws of the applicable municipality;

(m) All property taxes, levies, assessments, penalties or other costs payable to a municipality or other local government in respect of the Property have been paid and no such amount is in arrears or is due and unpaid;

(n) All information pertaining to the current and proposed use of the Property and the business to be operated by the Borrower, and each Covenantor's and Borrower's financial condition has been fully disclosed to the Lender. There is no legal action instituted, threatened or pending against the Borrower or any Covenantor or the Property which has not been disclosed to the Lender in writing in connection with the application for the Loan and the Borrower has no notice of any work orders, deficiency notices or notices of violation pertaining to the Property or its business;

(o) All financial and other information provided to the Lender, including but not limited to financial and other information provided in respect of the values and other matters pertaining to the Property and the Borrower's business is true and accurate and may be relied upon by the Lender in executing this Commitment and making the Loan.

14. <u>GENERAL COVENANTS</u>

Notwithstanding any other provision of this Commitment, Borrower and each Covenantor, as applicable, covenants and agrees as follows:

(a) Upon obtaining (i) knowledge of the occurrence of any default under any material agreements to which it is a party, (ii) notice of litigation, arbitration, or proceedings before any official body, or (iii) information respecting the its business, operations or financial condition as the Lender may from time to time reasonably request, promptly to give the Lender details of such occurrence or other matter including copies of relevant documents;

(b) To timely provide the Lender with copies of any material notices received from any public authority or agency, including with respect to the Property or the Borrower's business;

(c) To preserve and maintain in full force and effect its qualifications to carry on business including, without limitation, all rights, consents and authorizations relating thereto and not cease to conduct its business as conducted at the date of this Commitment, and to conduct its business in a proper, efficient and businesslike manner and in accordance with good business practices;

(d) To comply with all applicable laws and duly observe in all material respects all consents and authorizations and valid requirements of any governmental body, agency or authority having jurisdiction applicable to it;

(e) To keep proper books of account in accordance with sound accounting practice, and provide the Lender with such financial information in respect of the Property that the Lender may request, and to provide the Lender with access thereto during normal business hours;

(f) To permit the Lender or any representative of the Lender on reasonable notice to visit and inspect the Property;

(g) To keep in force insurance in respect of the Property which meets the Lender’s requirements herein or in the Security;

(h) To keep the Property or cause the Property to be kept in good repair, working order and condition consistent with all consents, authorizations, and applicable laws and, from time to time, (i) to make and cause to be made all needful and proper repairs, renewals, replacements, additions and improvements thereto in accordance with prudent management practices, and (ii) not to permit to be terminated or suspended for any period of time any of its right, title or interest in or to any authorization or consent applicable to the completion of the improvements;

(i) To maintain and cause to be maintained and to defend and take all action necessary or advisable at any time and, from time to time, to maintain, defend, exercise, or renew their right, title and interest to their respective properties and assets including, without limitation, the Property;

(j) To make full and timely payment of all obligations hereunder whether now existing or hereafter arising and duly comply with all the terms and covenants contained in this Commitment, the Security or in any other agreements entered into pursuant hereto;

(k) To pay and discharge as they become due all payments due and owing under, or with respect to, any previous indebtedness created or security given by them to any person and will observe, perform and carry out all the terms, covenants, provisions and agreements relating thereto;

(l) To notify the Lender promptly upon obtaining knowledge of the institution or anticipated or threatened institution of any proceedings for the expropriation of any part of the Property. If any such property or assets are taken or damaged in or by any such expropriation proceedings or otherwise, the awards of compensation payable to the Borrower as a result of such expropriation shall be and are hereby assigned to the Lender;

(m) At the Borrower’s cost and expense, upon request of the Lender, duly execute and deliver, or cause to be duly executed and delivered, such further instruments and do and cause to be done such other acts as may be necessary or proper in the reasonable opinion of the Lender to carry out more effectually the provisions and purposes of this Commitment, the Security or any other agreements entered into with the Lender;

(n) If it is in default, beyond any applicable cure or notice period, in any covenant to be performed by them hereunder or under the Security, the Lender may perform any covenant capable of being performed by the Lender and if the Lender is put to any costs, charges, expenses or outlays to perform any such covenant, they will indemnify the Lender for such costs, charges, expenses or outlays and such costs, charges, expenses or outlays incurred by the Lender (including solicitors' fees and charges incurred by the Lender on a full indemnity basis) and will be secured by the Security;

(o) That in any judicial proceedings taken to enforce this Commitment and the covenants hereunder or to enforce or redeem the Security or to foreclose the interest of the Borrower in the Property, the Lender will be entitled to costs on a full indemnity basis;

(p) To observe the requirements of the *Construction Act* (Ontario) and the regulations pursuant thereto.

15. NEGATIVE COVENANTS

Borrower and each Covenantor, as applicable, covenants with the Lender that it will not, without the consent in writing of the Lender:

(a) make, give or create or attempt to make, give or create any mortgage, charge, lien, security interest or encumbrance upon the Property or any part or parts thereof, or its personal property subject to any of the Security, except as permitted by this Commitment;

(b) declare or pay any dividends or distributions on any of its shares;

(c) make any payments to any person other than in the normal course of its business;

(d) make any payment (whether for principal, interest or otherwise) on account of indebtedness or other amounts owing to, or when initially incurred was owing to, partners, shareholders or directors or related companies or individuals;

(e) make loans or extend credit to any person except customers of in the ordinary course of business;

(f) purchase or redeem any of its ownership interests;

(g) in any way vary or alter its ownership structure of or permit the transfer of any shares or other ownership interests;

(h) except for operating lines of credit maintained in the ordinary course of business, raise or borrow any money from any person other than the Lender, shareholders, partners and trade creditors in the ordinary course of business; or guarantee, indemnify any person for, or endorse for accommodation, the obligations of any other person, directly or indirectly.

16. EVENTS OF DEFAULT

The whole of the outstanding balance of the Loan (including principal, interest, bonus and costs) will immediately become due and payable and the Security will become enforceable in each and every of the following events (each an “**Event of Default**”):

(a) if Borrower or any Covenantor (a “**Credit Party**”) fails to observe or perform something required to be done or some covenant or condition required to be observed or performed hereunder or pursuant to the Security, including but not limited to the payment of monies when due hereunder, whether principal, interest, fees, costs or other charges;

(b) if any Credit Party does, or permits to be done, anything which they have herein agreed not to do or permit to be done hereunder or pursuant to the Security or this Commitment;

(c) if any representation or warranty given by any Credit Party (or any director or officer thereof) hereunder or pursuant to the Security is untrue in any material respect;

(d) if any Credit Party is not in material compliance with all applicable laws, where such non-compliance would have a material adverse effect;

(e) if any permit, license, certification, authorization, consent or quota is cancelled, revoked or reduced, or any order is enforced, preventing the Borrower's business from being carried on for more than 5 days or materially adversely changing the condition (financial or otherwise) of the Borrower's business;

(f) if an order is made or a resolution passed for the winding-up of any Credit Party, or if a petition is filed for the winding-up either of any Credit Party;

(g) if any Credit Party commits any act of bankruptcy or becomes insolvent or makes an assignment or proposal under the *Bankruptcy and Insolvency Act* (Canada) or a general assignment in favour of its creditors or a bulk sale of its assets, or if a bankruptcy petition is filed or presented against any Credit Party;

(h) if any proceedings with respect to any Credit Party are commenced under the *Companies Creditors Arrangement Act* (Canada);

(i) if any execution, sequestration, extent or any other process of any court become enforceable against any Credit Party or if a distress or analogous process is levied against the property of any Credit Party or any part thereof;

(j) if any Credit Party permits any sum which has been admitted as due by it or is not disputed to be due by it and which forms or is capable of being made a charge upon the Property or a Credit Party's interest therein or other properties and assets subject to the Security, in priority to the Security to remain unpaid after proceedings have been taken to enforce the same as a prior charge;

(k) if any Credit Party defaults in any material respect in observing or performing any term, covenant or condition of any debt instrument or similar obligation by which it is bound, whether secured or not, beyond any applicable cure period, which default would constitute or result in a material adverse change in such Credit Party's business, operations, properties or assets, or in its condition, financial or otherwise;

(l) if, without the prior written consent of the Lender, any Credit Party sells, agrees to sell all or substantially all, or otherwise disposes or agrees to dispose of, the Property or an interest therein or any part or parts thereof or any interest therein, except for the Haven Sale;

(m) if, without the prior written consent of the Lender, the Borrower grants or agree to grant any further mortgage or charge over the Borrower's interest in the Property or any part or parts thereof or any interest therein or otherwise permit the Property to be encumbered in any manner other than by encumbrances specifically permitted hereunder;

(n) if, without the prior written consent of the Lender, there is, in the reasonable opinion of the Lender, a change of effective control of any Credit Party which is not otherwise permitted by the terms of this Commitment;

(o) if a Credit Party, either directly or indirectly, ceases to carry on business;

(p) if, in the opinion of the Lender, an adverse material change occurs in respect of any Credit Party, its business, the Property or the Security;

(q) if the Lender believes that the ability of any Credit Party to repay the Loan to the Lender or to perform any of the covenants contained in this Commitment or the Security is materially impaired or is about to be materially impaired or in material jeopardy; or

(r) if an event of default occurs under any of the Security.

Upon the occurrence of an Event of Default, the applicable Credit Party shall, in respect of an Event of Default that is a default in the payment of any installment or other sum or money (a "monetary Event of Default"), have 3 business days to cure such monetary Event of Default, and, in respect of an Event of Default that is not a monetary Event of Default and that is capable of being cured ("non-monetary Event of Default"), shall have 30 days after receipt of written notice from the Lender of such non-monetary Event of Default, to cure such non-monetary Event of Default, provided, however, that if any non-monetary Event of Default has not been cured within such 30-day period after the applicable Credit Party has promptly commenced curing the same upon receipt of the aforesaid notice and has exercised reasonable diligence in pursuing the curing of the same throughout such 30-day period, the time to cure such non-monetary Event of Default shall be extended for up to another 30 days, provided the applicable Credit Party continues to exercise due diligence in pursuing the curing of such default throughout such period. Notwithstanding the foregoing, if the Event of Default is described in paragraph (g), (h) or (i), and relates to proceedings commenced by, or a resolution passed by, or an order consented to by, or an assignment or proposal made by, or a judgment of bankruptcy made against the applicable Credit Party, then no cure period shall apply.

The Lender may waive any Event of Default, provided always that no waiver by the Lender or any failure to take any action to enforce its rights or to enforce any security will extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

All remedies stipulated for by the Lender hereunder or in any of the Security will be deemed to be in addition to and not restrictive of the remedies which the Lender might be entitled to at law or in equity and the Lender may realize any of the Security or any part thereof in such order as it may be advised and any such realization by any means will not bar realization of any other security or any part or parts thereof nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof nor will the failure on the part of the Lender or any delay in exercising any rights under this Commitment or any of the Security operate as a waiver.

If an Event of Default has occurred and is continuing, in addition to and not in limitation of any rights now or hereafter granted under applicable law or the Security, the Lender may without notice to any Credit Party and at any time and from time to time set-off, apply or transfer any or all sums owing from time to time by the Lender to the Borrower towards the satisfaction of the outstanding balance of the Loan (including principal, interest and other amounts owing).

The Credit Parties agree to indemnify and save harmless the Lender and each of its directors, officers, employees and agents from and against all liabilities, claims, losses, damages, costs and expenses in any way caused by or arising directly or indirectly from or in consequence of the occurrence of any Event of Default under this Commitment or the Security. The Credit Parties further agree to indemnify and save harmless the Lender and each of its directors, officers, employees and agents from and against all liabilities, claims, losses, damages, costs and expenses (including investigation costs, clean-up costs, and any other actions necessary pursuant to any applicable environmental laws, and all reasonable legal fees, costs and expenses, on a solicitor and own client basis), asserted against or for the account of the Lender, in any way caused by or arising directly or indirectly from or in consequence of the occurrence of any material non-compliance by any Credit Party or any of their agents or other representatives of applicable environmental laws. The indemnities provided for in this paragraph shall survive the termination of this Commitment and the repayment of the Loan. The indemnity will not apply to any liabilities or other costs that result from the Lender's gross negligence or willful misconduct.

17. TERMINATION

In the event a Credit Party is in default for any reason whatsoever under the terms of this Commitment past any applicable cure period, or if it does not fulfill the conditions for disbursement of the Loan in accordance with the terms and conditions contained herein or in any other agreement or document relating to this Commitment, prior to the First Advance Date, or if any information or document supplied by any Credit Party is found to be incomplete or inaccurate in a material respect or if for any reason the Borrower does not accept all or a part of the proceeds of the Loan when the Lender makes them available, or if a Credit Party purports to terminate this Commitment, the parties to this Commitment hereby acknowledge that the Lender shall be entitled, at its discretion, to cancel its obligations under this Commitment and to retain the Standby Deposit as liquidated damages and in such event, this Commitment shall thereafter, subject as hereinafter provided, be null and of no further effect, without any further recourse by either party against the other. In addition, notwithstanding the forfeiture of the Standby Deposit, the Borrower and Covenantors shall remain liable and be required to pay and reimburse the Lender all fees, costs and expenses as set out in Section 10 whether or not the Loan is proceeded with. The aforesaid covenants and agreements with respect to the Standby Deposit and the Credit Party's obligations to pay and reimburse the abovementioned amounts are enforceable by the Lender notwithstanding the termination of this Commitment, each of such covenants and agreements having an independent existence from this Commitment. If the Loan is not proceeded with due solely to the default of the Lender, the Standby Deposit will be returned, less any reasonable third-party expenses incurred.

18. OTHER FINANCING TERMS

(a) Repayment and Monthly Instalments

Interest computed as provided in Section 6 shall be payable monthly in arrears on the same day of each and every month throughout the Loan Term.

With respect to any Advance, funds shall be deemed advanced on the earliest of:

(i) the date that the funds are removed from the Lender's account and designated to the Borrower's account or as the Borrower may direct, or

(ii) the date upon which the Borrower or its authorized representative has requested the funds to be advanced; or
(iii) in the case of the first advance, the date scheduled for the first advance as herein set out or as amended pursuant to any written agreement between the Borrower and the Lender.

Upon expiry of the Loan Term, the principal of the Loan, together with interest and all other amounts due and owing by the Borrower to the Lender under the Security (as defined herein) shall become immediately due and payable.

If Borrower defaults in payment of any sum due for interest, compound interest shall be payable and the sum in arrears for interest from time to time, as well after as before maturity, shall bear interest at the rate aforesaid. If the interest and compound interest are not paid within one (1) month from the time of default, a rest shall be made and interest at the rate aforesaid shall be calculated on the aggregate amount (including all unpaid interest) then due, as well after as before maturity, and so on each month. All such interest and compound interest shall be a charge upon the Property.

The Borrower acknowledges and agrees that the Lender shall retain from the initial advance, for its benefit, an amount it reasonably determines to be sufficient to pay a portion of the interest payable on the Loan (as set out in this Section 18) from the date of such advance until the Loan Maturity Date (the "Interest Reserve"). The Interest Reserve amount is described in Section 8. Interest accrued on the Loan may be deducted from the Interest Reserve and be paid when due, without the necessity of any instruction or request from the Borrower. Borrower shall be responsible to pay from its own resources any further amounts required to enable the monthly payments to be made. In the event that the Interest Reserve is exhausted, or is insufficient to pay any amount due herein, the Lender shall so advise the Borrower, and the Borrower shall make such payments from its own funds, as provided for in this Section. Exhaustion of the Interest Reserve or the inability of the Interest Reserve to fully fund any interest payment shall not release the Borrower from any of Borrower's obligations herein, including but not limited to the obligation to pay interest accruing on the Loan Amount. So long as any default herein has occurred and is continuing, all interest payments herein shall be made by the Borrower using its own funds; provided that the Lender, at its option, and in its sole discretion, may make disbursements from the Interest Reserve notwithstanding such default. Upon the occurrence of default, the entire balance (if any) of the Interest Reserve shall be retained by the Lender and applied by the Lender as it shall determine in its sole discretion to the Borrower's indebtedness.

Use of the Interest Reserve shall in no way waive or otherwise modify any of the Borrower's obligations hereunder, including, without limitation, the obligation to make monthly interest payments.

(b) Reserve Fund for Realty Taxes

The Borrower shall maintain all tax accounts current. However, the Lender shall have the right to require the establishment of a tax reserve by way of monthly payments representing the Lender's estimate of 1/12 of the annual taxes payable in accordance with the Standard Charge Terms set out in Schedule "B" hereto.

The Lender shall not be responsible for the payment of any taxes except as expressly provided for in Schedule "B".

(c) Method of Payment of Monthly Instalments of Interest

If required, the Borrower shall remit payments via an automatic debit service, by submitting the Authorization Form attached hereto as Schedule “D.

(d) Condition upon Maturity

In the event that the Borrower fails to repay the principal and interest outstanding on the Loan Maturity Date or any renewal thereof agreed to by the Lender, the Lender may, at its sole discretion, extend the mortgage and the Loan Term for a period of one (1) month from the original Loan Maturity Date or any renewal thereof agreed to by the Lender, at an interest rate equal to the higher between the interest rate for the Loan and the then Royal Bank of Canada Prime Rate per annum plus 5% per annum, calculated and payable monthly. If the Lender does so elect to extend the term for one month but the Loan has not been repaid or renewal has not been finalized within this one (1) month period, then there will be no further extensions and the Lender may exercise its remedies under the Security.

The interest rate applicable will be determined by the Lender as of the first Banking Day of the month in which the Loan matures.

In this Commitment, "Royal Bank of Canada Prime Rate" means the rate of interest, expressed as a percentage per annum, published and quoted by Royal Bank of Canada or its successor at the bank's head office in Toronto, Ontario, as a reference rate then in effect for determining interest rates on commercial loans in Canadian Dollars in Canada and which is commonly known as the prime lending rate for commercial loans in Canadian Dollars.

"Banking Day" for the purposes of this clause, will mean a day on which the said head office in Toronto, Ontario, for the Royal Bank of Canada or its successor is open for business and which is not a Saturday, Sunday, civic or statutory holiday.

All other terms and covenants under the existing Security shall continue to apply after the term of the Loan is so extended.

The Loan may be paid in full at any time during the one (1) month extension period without notice, bonus or penalty, other than payment of the Extension Fee and any applicable discharge fees as hereafter set out.

An extension fee which is the greater of $5,000 or 1% of the outstanding balance shall be added to the principal balance of the Loan if the Lender elects to extend the Loan Term under this clause.

19. <u>COSTS</u>

The Borrower shall be responsible for all of Lender’s costs involved in the preparation, settlement, execution and delivery of this Commitment, the Security and all other documentation related to the Loan.

20. PREPAYMENT PRIVILEGE

The Borrower, when not in default, may prepay all of the amount outstanding under the Loan, on any payment date, upon one month's written notice in advance of payment and payment of one month's interest as a bonus.

21. PARTIAL DISCHARGES

There are no partial discharge privileges. Borrower may, upon presentation to Lender of firm and binding agreement(s) of purchase and sale, request Lender provide partial discharge(s) but Lender shall not be obliged to agree to provide same, any decision in this regard being in the Lender's sole discretion.

22. SURVEY

If Lender's title policy does not cover standard survey matters, the Borrower shall deliver to the Lender prior to the First Advance Date for its examination an up-to-date fully monumented survey of the Property prepared by a duly qualified Ontario Land Surveyor showing, inter alia:

(a) boundaries and dimensions of the Property;

(b) location of all buildings and other improvements (if any) on the Property and, if any structure offends municipal set-back requirements, the amount of the encroachment on the set-back area;

(c) names of adjacent streets;

(d) location of all registered easements, rights of way, etc.

The survey certificate shall be approved by the legal counsel for the Lender. If said survey is not an original signed and sealed survey, the Borrower hereby undertakes to deliver to the Lender, at least 5 business days prior to the First Advance Date, an original signed and sealed copy of the said survey. In addition, the Borrower shall deliver to the Lender: (i) at least 5 business days prior to the First Advance date, a letter, in form satisfactory to the legal counsel of the Lender, from the land surveyor who has prepared the same addressed to the Lender confirming that the Lender may rely upon such survey; and (ii) immediately prior to each Advance, a solemn declaration of a senior officer of the Borrower certifying that, since the preparation of the said survey, no new easement has been created, no construction or modification of any building shown thereon has been effected and no new construction has been erected by a neighbor along the boundaries of the land described therein.

23. REFINANCING

(a) The Lender shall have a right of first opportunity to finance or arrange any replacement financing for the Property, or for any further development of the Property or any improvements to be developed on the Property (herein collectively referred to as the "**Permanent Financing**").

(b) In connection therewith the Borrower shall provide to the Lender in writing as soon as same is applicable a request for Permanent Financing together with all information necessary for the Lender to process such request and within a reasonable time after delivery to the Lender of all reasonably required information, the Lender shall be given a first opportunity to provide an offer of Permanent Financing.

(c) The Lender shall also be given a continuing right of first offer to provide an offer of Permanent Financing to the Borrower.

24. SPECIAL PROVISIONS

None.

25. CROSS-DEFAULT

Reserved.

26. SIGNAGE

If the Property is vacant land, or if an improvement thereon is vacant, or if the provisions of any lease so permit, the Lender may post signage upon the Property, to not exceed 4 feet by 8 feet, stating, “Financing by ROMSPEN INVESTMENT CORPORATION”, or words to that effect, and its address and phone number, during the term of the loan or any portion thereof.

27. ADVERTISING BY LENDER

The Lender may, in its advertising, describe and/or picture the Property without identifying the Borrower. The cost of any such advertising shall be paid by the Lender.

28. APPLICABLE LAW

The terms and conditions of this Commitment as well as all other documents relating to the execution of the transactions provided for by this Commitment shall be governed by and interpreted in accordance with the laws of the Ontario and the parties hereby irrevocably attorn to the jurisdiction of the courts of Ontario.

29. MAXIMUM RATE

If the "interest" (as defined or determined by the statute establishing or defining illegal rates of interest) charged or chargeable ("**Interest**") under the offer of credit in this Commitment, on the credit advanced pursuant to this Commitment or pursuant to any Security (any of which Interest provision is referred to as the "**Interest Provisions**") would, except for this paragraph, constitute an illegal rate of interest, then the Interest on the credit so advanced or secured will be reduced such that the total Interest under the Interest Provisions will be that amount or rate which collectively equates to that rate of interest that is 1% per annum less than the minimum rate that would be an illegal rate of interest, calculated according to generally accepted actuarial practices and principles. Such reduction will be effected by reducing, or refunding to the Borrower, such of the interest, charges, and expenses (or a combination thereof) constituting Interest payable as may be designated by the Lender in its sole discretion.

30. FURTHER ASSURANCES

The Credit Parties shall with reasonable diligence do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by the Commitment, and shall provide such further documents or instruments required by the Lender as it may deem necessary or desirable to effect the purpose of this Commitment and carry out its provisions.

31. WITHHOLDING TAXES

All payments in respect of interest under this Commitment will be made free and clear without deduction or withholdings for any taxes, duties, fees or other charges, unless those deductions or withholdings are required by law. If the Borrower is required by law to make any such deduction or withholding, it will pay such additional amounts as will result in receipt by the Lender of the full amount which would have been paid had no such deduction or withholding been made. If the Borrower is required by law to make a deduction or withholding, the Borrower shall make that deduction or withholding within the time allowed and in the minimum amount required by law. Within 30 days of making any such deduction or withholding, the Borrower shall deliver to the Lender evidence satisfactory to the Lender that the deduction or withholding has been made and that appropriate payment has been made to the relevant taxing authority.

32. AMENDMENT

The terms or requirements of this Commitment or any Security may not be waived or varied orally, or by any course of conduct of any officer, employee or agent of the Lender. Any amendment to this Commitment must be in writing and signed by a duly authorized officer of the Lender and the Credit Parties; provided, however, that the Lender may unilaterally extend the date for return of this Commitment or receipt of any documentation upon written notice to the Borrower.

33. ASSIGNMENT BY BENEFICIAL OWNER AND/OR BORROWER

No Credit Party shall assign its rights or obligations pursuant to the Commitment or the Security, in whole or in part, without the Lender's prior written consent, which consent may be withheld in the Lender's sole and absolute discretion.

34. NO OBLIGATION TO ADVANCE

It is understood that neither the preparation nor the registration of any of the documents contemplated herein shall bind the Lender to advance the Loan or any unadvanced portion thereof, it being agreed that the advance of the Loan or any part thereof from time to time shall be in the sole, absolute, unfettered and unqualified discretion of the Lender, in accordance with the terms of this Commitment. If the Loan is not proceeded with due solely to the default of the Lender, the Standby Deposit will be returned, less any reasonable third-party expenses incurred.

35. ENUREMENT

This Commitment shall enure to the benefit of the Lender and its successors and assigns and be binding upon the Credit Parties and their respective heirs, personal representatives, successors and permitted assigns.

36. CONFIDENTIALITY

The Credit Parties acknowledge and agree that the terms and conditions recited herein are confidential. The Credit Parties agree not to disclose the information contained herein to a third party without the express consent of the Lender.

37. ASSIGNMENT AND SYNDICATION

The Lender shall have the right from time to time, without the consent of any Credit Party, to assign, sell, pledge, convey, syndicate, grant participations or transfer all or any portion of the Loan and the Security, whether directly or by way of securitization, and as part of any such transaction the Lender is hereby authorized to provide to prospective participants in such transactions all information received by the Lender regarding the Credit Parties and the Property. The Credit Parties agree to cooperate with Lender's efforts to do any of the foregoing and to execute all documents reasonably required by Lender in connection therewith. Lender’s syndication or participation of the Loan is not a condition precedent to any Advance.

38. CREDIT AUTHORIZATION AND CONSENT TO DISCLOSURE

The Lender may collect, retain, release, disclose, exchange, share, transfer and assign from time to time, as it may determine in its sole discretion, all information and materials (including financial statements and information concerning the status of the Loan, such as existing or potential Loan defaults, lease defaults or other facts or circumstances which might affect the performance of the Loan) provided to or obtained by it relating to any Credit Party, the Property or the Loan (both before and after the disbursement of funds and/or default thereunder) without restriction and without notice to or the consent of any Credit Party (and each Credit Party hereby irrevocably consents thereto):

(a) to any person who has, who acquires, or who proposes to acquire an interest in the Loan;
(b) to the respective third party advisors and agents (such as lawyers, accountants, auditors, consultants, appraisers and credit verification sources) of such persons;
(c) to the public or any group in any offering memorandum, prospectus or other disclosure document relating to any sale, syndication or securitization of the Loan (including all initial and continuing disclosure requirements), regardless of format or scope of distribution;
(d) to the public or other interested persons, directly or indirectly through information service providers or other market participants, for the purpose of providing market information from time to time relating to the status of the Loan or any related securitization or any interest therein, regardless of format or scope of distribution;
(e) to any governmental authority having jurisdiction over the Lender or over any sale, syndication or securitization of the Loan or any trade of any interest therein;
(f) to any other person in connection with the sale, syndication or securitization of the Loan, including insurers and rating agencies; and
(g) to any other person in connection with the collection or enforcement proceedings taken under or in respect of the Loan.

Without limiting the foregoing, each Credit Party hereby consents to the Lender obtaining all information as may be necessary from all available sources as to its creditworthiness and acknowledges that the Lender may collect or come into possession of personal information relating to certain individuals either comprising or otherwise connected with a Credit Party, which information may include contact information (mailing address, e-mail address, telephone number or fax number), financial information and status (bank account numbers, existing debts, personal net worth or credit history), date of birth, place of employment and social insurance number. Each Credit Party acknowledges and agrees that such personal information may be used by Lender in connection with the processing, approving, funding, servicing and administering the Loan and any sale, syndication or securitization of the Loan, and in so doing the Lender may disclose and otherwise deal with personal information in the same manner and to the same persons as provided in the preceding paragraph without restriction and without notice to or the consent of any Credit Party or any related individual. Each Credit Party, for itself and on behalf of its directors, officers, shareholders, partners and principals, hereby consents to and authorizes such use and disclosure of all such personal information by the Lender and represents and warrants that it has full power and authority to give such consent and authorization. Lender will comply with all applicable laws relating to privacy and personal information.

39. MATERIAL ADVERSE CHANGES

In the event that at any time either before the First Advance Date or while any indebtedness remains outstanding pursuant to the Loan, the Lender discovers a discrepancy or inaccuracy in any written information, statements or representations made or furnished to the Lender by or on behalf of any Credit Party or concerning the Property or the financial condition and responsibility of any Credit Party or in the event that the Lender discovers any material adverse change in the value of the Property or the financial status of any Credit Party or any lessee on which the Lender relied in making any advances pursuant to the Loan, which material change, discrepancy or inaccuracy cannot be or is not rectified by such Credit Party or lessee (as applicable) within 30 days after written notification thereof by the Lender, the Lender shall be entitled to decline to advance any funds pursuant to the Loan and at its option terminate this Commitment or in the event that any funds have already been advanced, to declare any and all amounts advanced together with interest thereon and any costs incurred by the Lender to such date, to be forthwith due and payable.

40. JOINT AND SEVERAL OBLIGATIONS

All payment and performance obligations of the Borrower existing from time to time under this commitment, the Security and all other documents related or entered into pursuant hereto and thereto (collectively, the “**Obligations**”), shall constitute joint and several obligations of the all the entities comprising the Borrower (a “**Borrower Party**”) and each of them. Each Borrower Party expressly represents and acknowledges that it is part of a common enterprise with the other Borrower Parties and that any advances of the Loan made by the Lender to one or more persons who is a Borrower Party hereunder are and will be of direct and indirect interest, benefit and advantage to each of the Borrower Parties. Each Borrower Party acknowledges that any Advance request or other notice or request given by one Borrower Party to the Lender shall bind each Borrower Party, and that any notice given by the Lender or its agent to any Borrower Party shall be effective with respect to all Borrower Parties. Each Borrower Party acknowledges and agrees that each Borrower Party shall be liable, on a joint and several basis, for the Loan and all other Obligations, regardless of which Borrower Party actually may have received the proceeds of the Loan or other extensions of credit or the amount of such loan received or the manner in which the Lender accounts among the Borrower Parties for the Loan advanced, or other extensions of credit on its books and records, and further acknowledges and agrees that Loan and other extensions of credit to any Borrower Party inure to the mutual benefit of all the Borrower Parties and that the Lender is relying on the joint and several liability of the Borrower Parties in extending the Loan hereunder.

41. SCHEDULES

The following documents marked “X” are attached as schedules to this Commitment and form a part hereof:

X	Schedule B	Standard Charge Terms and Conditions
X	Schedule C	Certificate of Identification
X	Schedule D	Pre-authorized debit form for automatic deduction from bank account of Borrower to which must be attached a specimen cheque
X	Schedule L	Insurance Requirements
X	Schedule R	Property

42. DATES OF EXPIRY

(a) The Security shall be properly executed and delivered to the Lender’s lawyers, where applicable, in registerable form no later than 3 business days prior to the First Advance Date and the First Advance must take place no later than the First Advance Date.

(b) If on or before the date specified above the Security documents provided to the Borrower or its lawyers have not been so delivered, the Lender may at any time thereafter, in its sole discretion, terminate its obligations under this Commitment in accordance with its provisions.

(c) The Lender may, at its sole option from time to time, elect to extend the above-mentioned date by which the Security documents are to be executed and delivered or the date by which the Loan is to be advanced or any of the other time periods contained in this Commitment. Notwithstanding any such extension, time shall remain of the essence of this Commitment and all other terms and conditions shall remain unchanged.

43. WAIVER

The terms and conditions contained in this Commitment are inserted for the exclusive benefit of the Lender and may be waived in whole or in part by the Lender at any time. No Advance, either singularly or collectively, shall constitute a waiver of any Credit Party’s obligations nor obligate the Lender to make further advances.

The Lender’s failure to insist upon a strict performance of any obligation or covenant of this Commitment by any Credit Party or to exercise any option or right herein shall not be a waiver, or relinquishment for the future of such obligation or covenant, option or right, but the same shall remain in full force and effect and the Lender shall have the right to insist upon the strict performance by the Credit Parties of any and all of the terms and provisions of this Commitment and the Security.

44. SURVIVAL

Except as specifically provided herein, the terms, conditions, representations and warranties expressed herein shall continue in effect as long as any part of the Loan remains outstanding and shall bind the personal representatives, heirs, successors and assigns of the Credit Parties, shall enure to the benefit of the successors and assigns of the Lender, and shall not merge on the execution or registration of the Security.

45. COUNTERPARTS

This Commitment may be executed in one or more counterparts, each of which so executed will constitute an original and all of which will constitute one and the same agreement. This Commitment may be executed by any party and transmitted to the other party or parties by facsimile or other electronic means and if so executed and transmitted this Commitment will be for all purposes as effective as if the party in question had delivered an executed original.

ROMSPEN INVESTMENT CORPORATION

By: ______________________________

Name: Blake Cassidy
Title: Managing Partner

I have authority to bind the corporation.

ACCEPTANCE

We hereby accept the terms and conditions set out in this Commitment and submit the Standby Deposit, on this ____ day of __________________, 2021.

TUNG KEE INVESTMENT LIMITED PARTNERSHIP
BY ITS GENERAL PARTNER, TUNG KEE INVESTMENT CANADA LTD.

Per:______________________________
Name:
Title:
I have authority to bind the Limited Partnership

TUNG KEE INVESTMENT CANADA LTD., on its own behalf and in its capacity as general partner of TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Per:______________________________
Name:
Title:
I have authority to bind the Corporation.

COVENANTORS:

We hereby accept the terms and conditions of this Commitment and hereby agree, jointly and severally and unconditionally, to observe and perform all obligations of the Borrower with respect to the Loan.

2407720 ONTARIO INC.

Per:______________________________
Name:
Title:
I have authority to bind the Corporation.

2407721 ONTARIO INC.

Per:______________________________
Name:
Title:
I have authority to bind the Corporation.

_________________________ Witness: _________________________
YUNG MAN TUNG (Tony Man Tung Yung)

SCHEDULE R

PROPERTY

Municipal Address	**PIN**	**Legal Description**	**Permitted Financial Encumbrances**
3143 19th Avenue, Markham, ON	030550002	PT LT 30 CON 4 Markham, as in R614168 EXCEPT EXPROP PL MA49271; MARKHAM	

ROMSPEN

December 14th, 2021 **Our File: 8923**

To: Romspen Investment Corporation, as Trustee ("**Romspen**")

And to: Friedman Law Professional Corporation, its solicitors herein

Re: Romspen Loan to Tung Kee Investment Limited and Tung Kee Investment Canada Ltd. **(collectively the "Borrower")** $30,000,000 First Mortgage Financing **(the "Loan")** against the property municipally known as 3143 19th Avenue, Markham, Ontario pursuant to a commitment letter dated October 18, 2021 as amended (the "**Commitment**")

In consideration of Romspen extending the time for closing the above noted transaction and in consideration of the expenses and costs incurred by Romspen in connection therewithin, the undersigned covenant and agree as follows:

1. To provide a further deposit to Romspen of $100,000 no later than December 14th, 2021 and an additional deposit of $100,000 no later than December 17th 2021; and

2. That interest on the total Loan amount at the interest rate specified in the commitment letter of 9.4% shall start accruing effective as of December 14th,2021.

The amounts set forth in paragraph 1 shall be credited against Romspen' fees on closing.

The Borrower acknowledges that closing of the financing must take place on or before January 14, 2022, failing which the Lender shall have the option to either cancel the loan or to require an additional fee to provide a further extension. Notwithstanding, the foregoing the full lender fees plus all legal and other costs due to the Lender pursuant to the Commitment shall be due and payable to the Lender in full.

Dated this 14th day of December, 2021

Agreed and accepted this ____ day of December, 2021.

TUNG KEE INVESTMENT LIMITED PARTNERSHIP **By its general partner** **TUNG KEE INVESTMENT CANADA LTD.**	**TUNG KEE INVESTMENT CANADA LTD.**
Per: ______________________	Per: ______________________
Name:	Name:
Title:	Title:
I have the authority to bind the Corporation	*I have the authority to bind the Corporation*

AMENDMENT TO COMMITMENT

TO: Romspen Investment Corporation, As Trustee

AND TO: Friedman Law Professional Corporation, its solicitors herein

RE: Romspen Investment Corporation loan to Tung Kee Investment Limited Partnership and Tung Kee Investment Canada Ltd. (collectively, the "Borrowers" or individually a "Borrower") with respect to the property municipally known as 3143 19th Avenue, Markham Ontario (the "Property")

AND RE: Commitment Letter dated October 18, 2021 (the "Commitment") as amended by amendment dated December 14, 2021 (the "First Amendment")

---

1. The undersigned hereby agree that the Commitment as amended by the First Amendment shall be amended (the "Further Amendment") as follows:

    (a) the term of the Loan shall be reduced from twelve(12) months to three(3) months;

    (b) the interest reserve shall be reduced from twelve(12) months to six(6) months;

    (c) the Lender's fee shall be reduced from two percent (2%) of the loan amount ($600,000) to one point six percent (1.6%) of the loan amount ($480,000); and

    (d) the Borrower shall have the option to extend the term of the Loan with the consent of the Lender and provided the Loan and any subordinate loan are not then in default, for an additional term of six(6) months upon payment of a fee equal to 0.40% of the committed Loan amount and provided all subordinate lenders and mortgagees provide a co-terminus standstill agreement.

2. All other terms and conditions of the Commitment Letter and the First Amendment shall remain in full force and effect, unamended and time shall continue to be of the essence.

3. Tung Kee Investment Limited Partnership, Tung Kee Investment Canada Ltd., 2407720 Ontario Inc., 2407721 Ontario Inc. and Tony Man Tung Yung hereby agree with Romspen Investment Corporation, As Trustee to be bound by the provisions of the Commitment and this Amendment To Commitment.

This Further Amendment To Commitment may be executed by the parties in separate counterparts each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

[remainder of this page was intentionally left blank]

The execution, acceptance and delivery of this Further Amendment by facsimile transmission and or PDF shall be as effective and binding on the parties hereto as if this Further Amendment were executed, accepted and delivered in the original.

DATED this _________ day of December, 2021.

ROMSPEN INVESTMENT CORPORATION, AS TRUSTEE

Per: ________________________
Name: Blake Cassidy
Office:
Per: ________________________
Name:
Office:
I/we have authority to bind the Corporation.

TUNG KEE INVESTMENT LIMITED PARTNERSHIP BY ITS GENERAL PARTNER TUNG KEE INVESTMENT CANADA LTD.

Per: ________________________
Name: Tony Man Tung Yung
Title: President
I have authority to bind the corporation.

TUNG KEE INVESTMENT CANADA LTD.

Per: ________________________
Name: Tony Man Tung Yung
Title: President
I have authority to bind the corporation.

2407720 ONTARIO INC.

Per: ________________________
Name: Pui Ling Lai
Title: President
I have authority to bind the corporation.

2407721 ONTARIO INC.

Per: ________________________
Name: Pui Ling Lai
Title: President
I have authority to bind the corporation.

SIGNED, SEALED & DELIVERED
In the presence of:

____
Name:

____
TONY MAN TUNG YUNG

AMENDMENT TO COMMITMENT

TO: Romspen Investment Corporation, As Trustee

AND TO: Friedman Law Professional Corporation, its solicitors herein

RE: Romspen Investment Corporation loan to Tang Kee Investment Limited Partnership and Tang Kee Investment Canada Ltd. (collectively, the "Borrowers" or individually a "Borrower") with respect to the property municipally known as 3143 19th Avenue, Markham Ontario (the "Property")

AND RE: Commitment letter dated October 18, 2021 (the "Commitment") as amended by an amendment dated December 14th and accepted December 20th, 2021 (the "First Amendment") and as further amended by an amendment dated January 7th 2022 (the "Second Amendment")

The undersigned hereby agree that the Commitment as amended by the First Amendment and the Second Amendment shall be amended by this amendment (hereafter called the "Third Amendment") as follows:

(a) in consideration of Romspen's agreement to provide a renewal of the Loan on terms acceptable to the Lender, the Borrowers agree that Romspen will be entitled to an interest reserve for the renewal term and will be paid a renewal fee of 0.4% of the loan amount.

(b) provided the Loan and any subordinate loans are not then in default and provided all subordinate lenders and mortgagees provide a co-terminus subordinate agreement, Romspen and the Borrowers have agreed that the renewal term will be three (3) months and that in consideration of Romspen's agreement to provide the renewal in accordance with the terms of the Commitment as amended, the Borrowers consent to Romspen retaining on closing a three (3) month additional interest reserve and its renewal fee. Romspen will therefore on closing of the loan retain a total nine (9) month interest reserve.

(c) in the event a further renewal beyond the first renewal of three (3) months, a further interest reserve and fee shall be required.

(d) the Borrower's right to the renewal will be subject to the Borrowers not then being in default and being in good standing pursuant to the Commitment as amended by the First Amendment, Second Amendment and this Third Amendment.

(remainder of this page is intentionally left blank)

The execution, acceptance and delivery of this Third Amendment by facsimile transmission and or PDF shall be as effective and binding on the parties hereto as if this Third Amendment were executed, accepted and delivered in the original.

DATED this 23 day of January, 2022.

ROMSPEN INVESTMENT CORPORATION, AS TRUSTEE

Per:____________________
Name:
Office:
Per:____________________
Name:
Office:
I/we have authority to bind the Corporation.

TUNG KEE INVESTMENT LIMITED PARTNERSHIP BY ITS GENERAL PARTNER TUNG KEE INVESTMENT CANADA LTD.

Per:____________________
Name: Tony Man Tung Yung
Title: President
I have authority to bind the corporation.

TUNG KEE INVESTMENT CANADA LTD.

Per:____________________
Name: Tony Man Tung Yung
Title: President
I have authority to bind the corporation

2407720 ONTARIO INC.

Per:____________________
Name: Pui Ling Lai
Title: President
I have authority to bind the corporation

2407721 ONTARIO INC.

Per:____________________
Name: Pui Ling Lai
Title: President
I have authority to bind the corporation

SIGNED, SEALED & DELIVERED
In the presence of:

____________________ ____________________

MORTGAGE LOAN MODIFICATION AND EXTENSION AGREEMENT
(Loan 8923)

THIS AGREEMENT is made effective May 1, 2022 (the "Effective Date").

AMONG:

ROMSPEN INVESTMENT CORPORATION

(the "**Lender**")

AND:

TUNG KEE INVESTMENT LIMITED PARTNERSHIP, TUNG KEE INVESTMENT CANADA LIMITED

(together the "**Borrower**")

AND:

2407720 ONTARIO INC., 2407721 ONTARIO INC., TUNG KEE INVESTMENT CANADA LTD. TUNG KEE INVESTMENT CANADA LTD., YUNG MAN TUNG (TONY MAN TUNG YUNG)

(collectively the "**Covenantors**")

(the parties, save for Lender, are collectively herein referred to as the "**Debtors**")

RECITALS:

A. By a mortgage loan commitment letter dated October 18, 2021, as amended by Supplements dated as of December 14, 2021, December 20, 2021 and January 7, 2022 (the "Commitment"), Lender agreed to make a loan in the maximum principal amount of $30,000,000.00 (the "Loan") to Borrower.

B. As security for Borrower' liabilities and obligations in respect of the Loan, Borrower granted to Lender a certain Mortgage registered in the Land Titles Office for York Region (65) on January 27, 2022 as Instrument No. YR3373212 (the "Mortgage") on a certain real property described therein (the "Property").

C. The Loan is guaranteed by the Covenantors pursuant to certain unlimited guarantees ("Guarantees").

D. As additional security for the Loan, Borrower and the Covenantors granted certain other security to Lender (the Mortgage and any other additional or collateral security now held or hereafter granted by Borrower or the Covenantors as security for the indebtedness under the Loan, including the Guarantees, are collectively referred to as the "Security").

E. As at the date of this Agreement, Borrower's indebtedness under the Loan is $28,805,035.07 (the "Loan Balance").

F. The Debtors have requested and Lender has agreed, subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Debtors, to renew the Loan for a further period of eight (8) months, commencing as at the date of this Agreement.

G. Capitalized terms used herein but not defined shall have the meanings given to them in the Commitment or the Security, as the case may be.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the provisions, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, the parties hereto covenant and agree as follows:

1. Acknowledgement of Indebtedness and Security

(a) The Debtors hereby acknowledge and agree that they continue to remain indebted to Lender under the Loan and Security for a sum equal to the Loan Balance, plus any fees, costs and interest, in accordance with the terms of the Commitment and the Security ("Indebtedness").

(b) The Debtors acknowledge and represent to Lender that none of them have any defences, set-offs or counterclaims against Lender pursuant to the Commitment, the Security or otherwise, which would entitle them to dispute the Indebtedness.

2. Extension

Notwithstanding the amendments set forth in Supplement 3 dated January 23, 2022, Lender agrees to modify the Extension Term from three (3) months to eight (8) months, commencing on the Effective Date and expiring on January 1, 2023. Any reference in the Commitment or the Security to the maturity date shall reflect such date.

3. Renewal Fee

In consideration of Lender agreeing to amend the Extension Term to eight (8) months, the Renewal Fee is modified from 0.40% of the Committed Loan Amount to 1.0% of the Committed Loan Amount. Lender agrees to allocate $300,000 from the additional three (3) month interest reserve referred to in Supplement 3 dated January 23, 2022 to pay the Renewal Fee with such payment to be made by way of an advance of funds.

4. Additional Broker Fee

In consideration of an agreement between Broker and Borrower, Borrower will pay directly to CT Green an additional broker fee equal to .25% of the Committed Loan Amount.

5. Interest Reserve

Upon acceptance of this Agreement and provided no event of default has occurred and is continuing, Lender shall make available the remainder of the original interest reserve and the additional three (3) month interest reserve provided for in Supplement 3 dated January 23, 2022 (hereinafter referred to as the "Reserve") for the monthly debt service. If at any time the Reserve is depleted, Borrower shall make payment of all sums when due from its own resources.

6. Partial Discharges

The Loan is hereby modified to include the following:

Provided there has been no event of default, Borrower may be entitled to a partial discharge of any mortgaged parcel on the following terms:

(a) The provisions of any land use planning legislation are fully complied with in respect to each such partial discharge;

(b) Payment to Lender of an administration fee of $500 per each such property discharged (plus legal fees, if applicable);

(c) Lender receives, for each parcel to be discharged, an amount equal to 100% of the net sale proceeds of any bona fide arm's length sale in respect of the subject parcel. Borrower will provide Lender, at least five (5) business days prior to closing the purchase and sale agreement and any and all amendments thereto, real estate commission statement, draft statement of adjustments and any other sales documents requested by Lender; and

(d) Any such partial discharge does not materially adversely affect Lender's overall security position.

"Net Sale Proceeds" means the amount determined by subtracting from 100% of gross sale proceeds of the unit or parcel: (i) excise taxes if applicable and payable thereon (if payable by Borrower); (ii) the closing costs which consist of reasonable (as compared to the sale of a similar property) fees and expenses of Borrower's attorneys with respect to each such sale and the reasonable (as compared to the sale of a similar property) real estate commissions payable by Borrower with respect to such sale.

Notwithstanding paragraphs (a)-(d). immediately above, Lender agrees it will provide a partial discharge for Parts 1, 4, and 5 of the Property (as referred to in the Agreement of Purchase and Sale dated April 30, 2022, between Tung Kee Investment Canada Ltd. (as Vendor) and Element Media Group Inc. (as Purchaser) and as set out in the attached Schedule A) upon payment to Lender of $18,500,000 plus $500 administration fee. Lender's agreement to do so is contingent upon receiving such payment on or before July 29, 2022.

7. Conditions Precedent

The renewal contemplated herein is conditional upon the satisfaction or waiver of each of the following:

(a) receipt by Lender of an executed copy of this Agreement;

(b) receipt by Lender of an executed copy of Borrower Disclosure;

(c) evidence that Property taxes have been paid in full and are up to date to the date of this Agreement;

(d) receipt by Lender of the Renewal Fee referred to above;

(e) receipt by Lender of the additional Interest Reserve referred to above;

(f) payment to CT Green of the Additional Broker Fee referred to above;

(g) evidence that any and all subordinate loans are current and in good standing and no event of default have occurred that remains outstanding;

(h) all subordinate lenders and mortgagees shall enter into a co-terminus subordination agreement and such agreement shall be provided to Lender within 30 days of acceptance of this Agreement;

(i) Borrower shall pay from its own resources any and all Broker Fees that are currently due or will be due in the future;

(j) the execution and delivery of all security, certificates, resolutions and instruments contemplated by this Agreement or that Lender or its solicitors consider necessary to give effect to this Agreement.

8. Debtors' Reaffirmation

Each of the Debtors hereby ratify, reaffirm, acknowledge and agree that all obligations contained in the Commitment as modified by this Agreement, and that all Security, as may be modified by this Agreement, granted by any Debtor, and any other documents executed and delivered pursuant thereto or in connection therewith, and all representations, warranties, covenants and other obligations set forth therein continue in full force and effect, continue to be binding on each of the Debtors in respect of the Indebtedness and all of the obligations and liabilities of the Debtors to Lender under or pursuant to the Commitment, and that the Security is valid and enforceable. Each Debtor hereby consents and agrees to the amendments of the Commitment and the Security described herein.

Each Debtor acknowledges that Lender is relying on this reaffirmation in connection with the renewal and any advance under the Loan made after the date hereof, and represents and warrants to Lender that the execution, delivery and performance of this Agreement has been duly authorized by all requisite corporate action on the part of Borrower, that this Agreement has been duly executed and delivered, and that this Agreement constitutes a legal, valid and binding agreement enforceable against each Debtor in accordance with its terms.

9. Representation and Warranty

To induce Lender to enter into this Agreement, Borrower hereby reaffirms to Lender that, as of the date hereof, its representations and warranties contained in the Commitment, and except to the extent such representations and warranties relate solely to an earlier date, are true and correct and additionally represents and warrants as follows:

(a) the execution and delivery of this Agreement and the performance by it of its obligations under this Agreement: (i) are within its corporate powers, (ii) has been duly authorized by all necessary corporate action, (iii) have received all necessary governmental approval (if any were required), and (iv) does not and will not contravene or conflict with any provision of applicable law or any of its constating documents or of any material agreement, judgment, license, order or permit applicable to or binding upon it; and

(b) the Commitment is and will continue to be a legal, valid and binding obligation of it, enforceable in accordance with its terms except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, winding-up, moratorium or similar applicable laws relating to the enforcement of creditors' rights generally and by general principles of equity.

10. Provision of Materials by Debtors

The Debtors covenant and agree to provide Lender, upon their acceptance of this Agreement, with the following (as applicable):

(a) an executed copy of this Agreement;

(b) a signed Disclosure to Borrowers form (to be provided by Lender);

(c) evidence of payment of all property taxes due and owing for the Property(s) up to and including the date of this Agreement;

(d) if there has been any change to the insurance policies since January 1, 2022, copies of the currently valid policies with the same coverages approved at closing and showing loss payable to Romspen Investment Corporation as first mortgagee;

(e) copies of filed tax returns and notices of assessment;

(f) a copy of the last year end financial statements for Borrower and year end to date operating statements for the Property;

(g) current net worth statements for the Covenantors;

(h) If in the past year there have been change(s) of directors, or officers, or shareholders for Borrower, we require the following:

i. An updated incumbency certificate listing all of the directors, officers and shareholders, showing names and addresses for all directors as well as names, addresses and occupations for all shareholders owning more than 25% of the corporation or entity;
ii. copies of the front and back of 2 pieces of government issued ID (one with a picture) i.e. a driver's licence, passport, immigration card, etc. for each of the newly authorized signing officers of the corporation or entity;
iii. solicitor's Client Identification Certificates for each of the newly authorized signing officers of the corporation, together with confirmation regarding their PEFP (Politically Exposed Foreign Person) status. Enclosed are the forms to be completed and signed by the solicitor for the corporation or entity for each of the said parties, where applicable, in order to satisfy this requirement.

It is understood and agreed by all Parties that the terms of this section are solely for the benefit of Lender. Failure by any Debtor to comply with the terms of this section may, in Lender's sole discretion, constitute a default under the Commitment and the Security.

11. General Provisions

(a) Nothing in this Agreement shall be construed or interpreted as novating any obligations, terms or conditions contained in the Commitment or the Security or any other document entered into pursuant thereto or contemplated thereby, all of which obligations, terms and conditions remain in full force and effect, without any amendment or modification thereto, save and except only as expressly amended by this Agreement.

(b) Time shall be of the essence hereof.

(c) This Agreement is binding upon and shall enure to the benefit of Lender, the Debtors, and their heirs, personal representatives, successors and assigns, as applicable.

(d) Should any provision of this Agreement be declared or held invalid or unenforceable by a court of competent jurisdiction, then such invalidity or unenforceability shall not affect the validity or enforceability of any or all of the remaining provisions of this Agreement which shall continue in full force and effect and be construed as if this Agreement had been executed without the invalid and unenforceable provision.

(e) The Debtors shall execute such other and further documents and assurances as may be necessary and shall do such other acts and things as may be required in order to carry out the transactions contemplated by this Agreement.

(f) In this Agreement words importing a gender shall include either gender and words importing the singular shall include the plural and vice versa and words importing the person shall include persons, firms or corporations.

(g) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario. In the event of any dispute arising out of this Agreement, the courts of Ontario shall have exclusive jurisdiction.

(h) This Agreement and the agreements referred to herein constitute the entire agreement between the parties hereof and supersede any prior agreements, undertakings, declarations, representations and understandings, both written and verbal, in respect of the subject matter hereof. Any amendment of this Agreement shall not be binding unless in writing and signed by all parties hereto. To the extent that any provision of the Commitment or the Security is inconsistent with this Agreement, this Agreement shall prevail.

(i) This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same Agreement. Counterparts may be executed either in original or faxed or emailed form and the parties adopt any signature received by a receiving fax machine or email server as original signatures of the parties.

THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

ROMSPEN INVESTMENT CORPORATION AS TRUSTEE (LENDER)

Per: ______________________________

Name:
Title:
I have authority to bind the corporation.

BORROWER:

TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Per: ______________________________

Name:
Title:
I have authority to bind the corporation

TUNG KEE INVESTMENT CANADA LTD.

Per: ______________________________

Name:
Title:
I have the authority to bind the corporation

COVENANTORS:

2407720 ONTARIO INC.

Per: ______________________________

Name:
Title:
I have the authority to bind the corporation

2407721 ONTARIO INC.

Per: ______________________________

Name:
Title:
I have the authority to bind the corporation

YUNG MAN TUNG (TONY MAN TUNG YUNG)

______________________________ Witness: ______________________________

#8923 DISCLOSURE TO BORROWER (Mortgage Renewal)

Mortgage Brokerages, Lenders and Administrators Act (Ontario)

This document must be provided to the borrower 2 business days prior to the signing of any mortgage renewal instruments, unless waived below.

Important

Nature of Brokerage Relationship:

Romspen Investment Corporation ("RIC" or "we") acts solely as an agent and/or trustee of the lender, Romspen Mortgage Limited Partnership ("RMLP") and certain other lenders. In this relationship, RIC only has an obligation to represent the best interests of such lenders at all times. RIC is not representing your interests.

Brokerage Compensation:

RIC will be compensated for this mortgage loan ("Loan") renewal by way of charging you a renewal fee of $300,000. RIC is also compensated by way of a fee payable by RMLP, under a mortgage management agreement, for managing a pool of mortgage loans advanced by RMLP, calculated as a percentage of the total pool managed. RIC has not paid any fee or remuneration, directly or indirectly, to another person or entity in connection with the Loan renewal.

Brokerage Relationship with Lender:

RIC is affiliated with and/or related to RMLP. RIC is not affiliated with any other lenders. In the past fiscal year, RIC has acted as agent and/or trustee for 5 lenders other than RMLP. RIC was not itself a lender during that period.

Acknowledgement

I/We acknowledge receipt of a copy of this form, and that I/we have reviewed the information and have signed this document prior to signing any document relating to the Loan renewal. I/We waive the 2 business day's requirement for this disclosure.

Borrower: **TUNG KEE INVESTMENT LIMITED PARTNERSHIP**

By: ______________________
Name:
Title:
I have authority to bind the corporation

Date: ____________ ____________, 20

This is Exhibit "2" referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

Transaction Number: APP-A10228323014
Report Generated on July 13, 2023, 18:42

Ontario

Ministry of Public and
Business Service Delivery

Profile Report

TUNG KEE INVESTMENT CANADA LTD. as of July 13, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	TUNG KEE INVESTMENT CANADA LTD.
Ontario Corporation Number (OCN)	1018493
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	February 11, 1993
Registered or Head Office Address	118 Grey Alder Ave, Richmond Hill, Ontario, Canada, L4B 3P9

Active Director(s)

Minimum Number of Directors	[Not Provided]
Maximum Number of Directors	[Not Provided]

Name	PUI LING LAI
Address for Service	118 Grey Alder Ave, Richmond Hill, Ontario, Canada, L4B 3P9
Resident Canadian	Yes
Date Began	February 11, 1993

Name	PHILIP KUN TO WONG
Address for Service	South Horizons, Flat E Block 19 Ap Lei Chau 2/f, Hong Kong, China,
Resident Canadian	No
Date Began	August 30, 2019

Name	MAN TUNG YUNG
Address for Service	16 Shui Hau, Lantau Island Hong Kong, China,
Resident Canadian	No
Date Began	April 23, 1993

Active Officer(s)

Name	PUI LING LAI
Position	Secretary
Address for Service	118 Grey Alder Ave, Richmond Hill, Ontario, Canada, L4B 3P9
Date Began	November 18, 2016

Name	MAN TUNG YUNG
Position	President
Address for Service	16 Shui Hau, Lantau Island Hong Kong, China,
Date Began	November 18, 2016

Corporate Name History

Name	TUNG KEE INVESTMENT CANADA LTD.
Effective Date	February 26, 1993
Previous Name	1018493 ONTARIO INC.
Effective Date	February 11, 1993

Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Document List

Filing Name	Effective Date
CIA - Notice of Change PAF: PUI LING LAI - DIRECTOR	November 03, 2020
CIA - Notice of Change PAF: PUI LING LAI - DIRECTOR	October 03, 2019
CIA - Notice of Change PAF: PUI LING LAI - DIRECTOR	November 21, 2016
CIA - Notice of Change PAF: MAN TUNG YUNG - DIRECTOR	November 01, 2016
Annual Return - 2016 PAF: YVONNE YUNG - DIRECTOR	June 12, 2016
Annual Return - 2015 PAF: YVONNE YUNG - DIRECTOR	June 12, 2016
Annual Return - 2014 PAF: YVONNE YUNG - DIRECTOR	August 02, 2014
Annual Return - 2013 PAF: YVONNE YUNG - DIRECTOR	August 02, 2014
Annual Return - 2012 PAF: YVONNE YUNG - DIRECTOR	December 01, 2012
Annual Return - 2011 PAF: YVONNE YUNG - DIRECTOR	November 17, 2012
Annual Return - 2010 PAF: YVONNE YUNG - DIRECTOR	November 10, 2012
Annual Return - 2009 PAF: YVONNE YUNG - DIRECTOR	July 17, 2010
Annual Return - 2003 PAF: YVONNE YUNG - DIRECTOR	March 11, 2006

Annual Return - 2004 PAF: YVONNE YUNG - DIRECTOR	March 11, 2006
Annual Return - 2005 PAF: YVONNE YUNG - DIRECTOR	March 11, 2006
Annual Return - 2002 PAF: YVONNE YUNG - DIRECTOR	March 11, 2006
Annual Return - 2002 PAF: YVONNE YUNG - DIRECTOR	August 31, 2003
Annual Return - 2001 PAF: YVONNE YUNG - DIRECTOR	May 20, 2002
CIA - Notice of Change PAF: PUI LING LAI YUNG - DIRECTOR	October 05, 1995
BCA - Special Resolution	October 02, 1995
Other - SPECIAL NOTICE 2 PAF: LAI PUI LING YUNG - DIRECTOR	May 20, 1994
CIA - Notice of Change PAF: PUI LING LAI YUNG - DIRECTOR	June 08, 1993
CIA - Initial Return PAF: PUI LING LAI YUNG - Director	February 26, 1993
BCA - Articles of Amendment	February 26, 1993
BCA - Articles of Incorporation	February 11, 1993

All “PAF” (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

This is Exhibit "3" referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

Ontario

Ministry of Public and
Business Service Delivery

Profile Report

TUNG KEE INVESTMENT LIMITED PARTNERSHIP as of July 13, 2023

Act	Limited Partnerships Act
Type	Ontario Limited Partnership
Firm Name	TUNG KEE INVESTMENT LIMITED PARTNERSHIP
Business Identification Number (BIN)	131179558
Declaration Status	Active
Declaration Date	October 24, 2003
Expiry Date	October 20, 2023
Principal Place of Business	118 Grey Alder Ave, Richmond Hill, Ontario, Canada, L4B 3P9
Activity (NAICS Code)	[Not Provided] - [Not Provided]

General Partners

Number of General Partners	1

Partners

Partner 1

Name	TUNG KEE INVESTMENT CANADA LTD.
Ontario Corporation Number (OCN)	1018493
Entity Type	Ontario Business Corporation
Registered or Head Office Address	118 Grey Alder Ave, Richmond Hill, Ontario, Canada, L4B 3P9

Firm Name History

Name	TUNG KEE INVESTMENT LIMITED PARTNERSHIP
Effective Date	October 24, 2003

Active Business Names

This entity does not have any active business names registered under the Business Names Act in Ontario.

Expired or Cancelled Business Names

This entity does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Document List

Filing Name	Effective Date
Renewal of an Ontario Limited Partnership Declaration	January 13, 2020
Renewal of an Ontario Limited Partnership Declaration	October 17, 2013
Renewal of an Ontario Limited Partnership Declaration	October 22, 2008
LPA - File a Declaration of an Ontario Limited Partnership	October 24, 2003

This is Exhibit "4" referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

BENEFICIAL OWNER AGREEMENT, DIRECTION AND ACKNOWLEDGEMENT

THIS AGREEMENT, DIRECTION AND ACKNOWLEDGEMENT made effective as of the 24 day of January, 2022.

AMONG:

TUNG KEE INVESTMENT LIMITED PARTNERSHIP
(the "**Beneficial Owner**")

OF THE FIRST PART

- and -

TUNG KEE INVESTMENT CANADA LTD.
(the "**Trustee**")

OF THE SECOND PART

IN FAVOUR OF: **ROMSPEN INVESTMENT CORPORATION**
(the "**Chargee**")

OF THE THIRD PART

WHEREAS Tung Kee Investment Limited Partnership is the beneficial owner of a 100% fee simple interest in certain lands in the Province of Ontario, legally described in Schedule "A" attached hereto (the "**Property**");

AND WHEREAS the Beneficial Owner and Trustee have entered into a Commitment Letter dated October 18, 2021, as amended by an amendment dated December 14th and accepted December 20th, 2021 and as further amended by an amendment dated January 7th, 2022 and accepted by the Trustee (collectively, the "**Commitment Letter**") pursuant to which a loan in the amount of $30,000,000 will be made to the Beneficial Owner and the Trustee and pursuant to which the Trustee in its personal capacity and as one of borrowers is obligated to grant or cause to be granted to the Chargee certain mortgage security, including a charge/mortgage of land and a general assignment of rents and leases in relation to the Property, all as more particularly described in the Commitment Letter (hereinafter referred to collectively as the "**Security**");

AND WHEREAS the Trustee is required to execute and deliver certain loan documents (the "**Loan Documents**") contemplated by the Commitment Letter and grant the Security;

NOW THEREFORE that in consideration of the premises, of $1.00 paid by each party hereto to each of the other parties hereto and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each of the parties hereto), the parties hereto hereby covenant and agree with each other and the Chargee as follows:

1. The Trustee acknowledges and declares that as of the date hereof it now holds title to the Property for and on behalf and as a bare trustee/nominee for the Beneficial Owner.

2. The Beneficial Owner hereby unconditionally and irrevocably authorizes and directs the Trustee to execute and deliver to the Chargee the Loan Documents and the Security required to be delivered pursuant to the Commitment Letter, including, without limitation, a charge/mortgage of land of the Property, assignments of rents and leases applicable to the Property and all other Security required by the Chargee.

3. The Beneficial Owner hereby unconditionally and irrevocably directs and authorizes the Trustee to execute and deliver to the Chargee at all times in the future such further agreements or documents or such amendments, modifications, supplements, deletions and revisions as may be required in connection with the Commitment Letter, the Loan Documents or the Security or such further agreements or documents as may be executed by the Trustee pursuant to paragraph 2 hereof, and the Beneficial Owner does hereby agree that all of its right, title and beneficial interest in and to the Property shall be bound

by any such amendments, modifications, supplements, deletions or revisions which may be made or done by the Trustee.

4. (a) Subject to the limitations set forth in paragraph 4(b) below and any specific limitation set forth in the Security relating thereto, the Beneficial Owner acknowledges and confirms that: (i) the Security stands as security for the performance of the covenants and the obligations of the Trustee for and on behalf of the Beneficial Owner under or with respect to the Commitment Letter, the Loan Documents and the Security; (ii) all right, title and interest of the Beneficial Owner in and to the Property and all personal property relating thereto is or will be charged by the Security; (iii) by way of confirmation of and in supplement to the Security, and for the better assuring, granting, conveying, assigning, transferring, mortgaging, pledging and charging the Property unto the Chargee, the Beneficial Owner hereby grants, conveys, assigns, transfers, mortgages, pledges, grants a security interest in and charges as and by way of a fixed and specific mortgage and charge to and in favour of the Chargee, all the right, title, estate and interest which the Beneficial Owner may have or may hereafter acquire in and to the Property and all personal property relating thereto subject to the terms of the Security and proviso for defeasance contained in the Security; and (iv) the Beneficial Owner covenants with the Chargee to do, observe, keep and perform every covenant, act, proviso, condition or stipulation contained respectively therein on the part of the Trustee to be done, observed, kept and performed.

(b) The parties hereto agree and acknowledge that notwithstanding paragraph 4(a) above and the granting of the Security by the Beneficial Owner and the Trustee in favour of the Chargee, to the extent that the creation of the security interests thereby created would constitute a breach or cause the acceleration of any agreement, right, licence or permit or breach of any law (including the Planning Act (Ontario) to which the Beneficial Owner is a party, or is prohibited by applicable law to which the Beneficial Owner or its assets are subject, and requires the consent of the other party thereto or any governmental authority, as applicable, which consent has not been obtained, the security interests thereby created shall not attach thereto, but the Beneficial Owner shall hold its interest therein in trust for the Chargee, and the security interests thereby created shall attach to such agreement, right, license or permit forthwith upon obtaining the consent of such party or governmental authority, as applicable.

5. The Beneficial Owner hereby irrevocably releases the Chargee, its officers and directors from and against any and all claims they may now herein or hereafter have resulting from the Trustee providing the security to the Chargee contemplated herein and with respect to the application by the Trustee of any investments made by the Beneficial Owner, shareholders, officers and directors relating to or employed in the purchase or development of the Property.

6. The Beneficial Owner and the Trustee represent and warrant to the Chargee that the recitals contained in this Agreement are true and accurate.

7. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

8. The parties hereto shall make, execute or deliver all such further acts, documents and things as may be necessary or desirable to implement the true intent of this Agreement.

9. This Agreement shall be governed by, and shall be construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

10. This document may be executed in counterpart and via facsimile and/or PDF and each such counterpart shall for all purposes constitute one document binding on all parties hereto, notwithstanding that all parties are not signatories to the same counterpart, provided that each party has signed at least one counterpart.

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

IN WITNESS WHEREOF the Beneficial Owner and the Trustee have executed this Agreement as of the day and year first written above.

DATED this 24 day of January, 2022.

TUNG KEE INVESTMENT LIMITED PARTNERSHIP by its general partner TUNG KEE INVESTMENT CANADA LTD.

Per: ______________________
Name: Tony Man Tung Yung
Title: President
I have authority to bind the corporation.

TUNG KEE INVESTMENT CANADA LTD.

Per: ______________________
Name: Tony Man Tung Yung
Title: President
I have authority to bind the corporation.

SCHEDULE "A"

Property

PIN 03055-0002 (LT) –3143 19th Avenue, Markham, ON

PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271; MARKHAM

This is Exhibit “5” referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

PROMISSORY NOTE

AMOUNT: $30,000,000.00 **DUE: May 1, 2022 (the "Due Date")**

FOR VALUE RECEIVED the undersigned, Tung Kee Investment Limited Partnership and Tung Kee Investment Canada Ltd. (collectively, the Borrowers"), jointly and severally, acknowledge themselves indebted to and promise to pay on the Due Date to or to the order of ROMSPEN INVESTMENT CORPORATION, AS TRUSTEE (the "Lender") at 162 Cumberland Street, Suite 300, Toronto, Ontario M5R 3N5 or such other address as the Lender may designate from time to time in writing, the principal sum of $30,000,000.00 in lawful money of Canada. Interest shall be payable on the principal amount of this promissory note at the rate of 9.40% per annum (the "Interest Rate"). Interest shall be calculated daily and compounded semi-annually and shall be payable monthly on the 1st day of each and every month commencing on March 1, 2022 until the Due Date on which date the principal balance of this Promissory Note together with all accrued but unpaid interest thereon shall become due and payable in full. Interest at the aforesaid rate shall be payable on overdue but unpaid interest and principal.

The Borrowers waive and renounce all rights of set-off, at law and equity, they may now or hereafter have against the Lender.

The Borrowers hereby waive demand, protest and notice of maturity, non-payment or protest and any other requirements necessary to hold the Borrowers liable as maker of this promissory note.

This Promissory Note shall enure to the benefit of the Lender and its successors and assigns and shall be binding upon the Borrowers and their successors and assigns.

This Promissory Note is given pursuant to a Letter of Commitment dated October 18, 2021, as amended by an amendment dated December 14th and accepted December 20th, 2021 and as further amended by an amendment dated January 7th, 2022, issued by Romspen Investment Corporation, as Trustee (collectively, the "Letter of Commitment"). Any default pursuant to the letter of Commitment or any document delivered pursuant thereto shall constitute a default pursuant to this Promissory Note.

This Promissory Note shall be fully, completely and freely assignable by the Lender and all parties are directed by the Borrowers to act accordingly.

The Borrowers agree that limitation periods established by the Limitations Act, 2002 (Ontario) other than the ultimate 15 year limitation period, do not apply to this Promissory Note.

This Promissory Note shall be governed by and construed in accordance with the laws of the Province of Ontario. The Borrowers and the Lender hereby irrevocably attorn to the jurisdiction of the courts of the Province of Ontario. A facsimile signature on this Promissory Note shall be fully effective for all purposes and binding on the undersigned, their successors and assigns.

DATED this 24 day of January, 2022.

TUNG KEE INVESTMENT LIMITED PARTNERSHIP by its general partner TUNG KEE INVESTMENT CANADA LTD.

Per: ______________________

Name: Tony Man Tung Yung
Title: President
I have authority to bind the corporation.

TUNG KEE INVESTMENT CANADA LTD.

Per: ______________________

Name: Tony Man Tung Yung
Title: President
I have authority to bind the corporation.

This is Exhibit "6" referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

Properties

PIN	03055 - 0002 LT	*Interest/Estate*	Fee Simple
Description	PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271 ; MARKHAM		
Address	3143 19TH AVE MARKHAM		

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name TUNG KEE INVESTMENT CANADA LTD.
Address for Service 118 Grey Alder Avenue, Richmond Hill, Ontario L4B 3P9

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

This document is not authorized under Power of Attorney by this party.

Chargee(s) *Capacity* *Share*

Name ROMSPEN INVESTMENT CORPORATION
Address for Service 162 Cumberland Street, Suite 300, Toronto, Ontario M5R 3N5

Statements

Schedule: See Schedules

Provisions

Principal	$30,000,000.00	*Currency*	CDN
Calculation Period	monthly, not in advance		
Balance Due Date	2022/05/01		
Interest Rate	9.40%		
Payments	$235,000.00		
Interest Adjustment Date	2022 02 01		
Payment Date	first day of each and every month		
First Payment Date	2022 03 01		
Last Payment Date	2022 05 01		
Standard Charge Terms	200033		
Insurance Amount	Full insurable value		
Guarantor	See Additional Provisions		

Additional Provisions

The Chargor acknowledges and agrees that in the event of a conflict between the Standard Charge Terms No. 200033 and this Charge, the terms of this Charge shall prevail.

2407720 Ontario Inc., 2407721 Ontario Inc., Tony Man Tung Yung are guaranteeing the obligations of the Chargor under this Charge.

Guarantors' address for service is 118 Grey Alder Avenue, Richmond Hill, Ontario L4B 3P9

The Charge is being provided by the Chargor to the Chargee as collateral security for the obligations of Tung Kee Investment Limited Partnership and the Chargor (collectively, the Borrowers and individually a Borrower) pursuant to a joint and several promissory note dated the date hereof in the principal sum of $30,000,000 issued by the Borrowers to the Chargee and a Commitment Letter Dated October 18, 2021, as amended by an amendment dated December 14th and accepted December 20th, 2021 and as further amended by an amendment dated January 7th, 2022 (collectively, the Commitment), issued by the Chargee to and accepted by the Chargor and Tung Kee Investment Limited Partnership.

Signed By

Xuqin Wang	150 Ferrand Drive #800 Toronto M3C 3E5	acting for Chargor(s)	Signed	2022 01 26

Tel 416-496-3340

Fax 416-497-3809

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

WILLIAM FRIEDMAN BARRISTER & SOLICITOR 150 Ferrand Drive #800
Toronto
M3C 3E5
2022 01 27

Tel 416-496-3340
Fax 416-497-3809

Fees/Taxes/Payment

Statutory Registration Fee	$66.30
Total Paid	$66.30

File Number

Chargee Client File Number : 210962/8923

SCHEDULE "B"

CHARGE TERMS AND CONDITIONS

1. DEFINED TERMS

Unless otherwise expressly defined or otherwise required by the context, the following words and phrases shall have the following meanings when used in the Charge:

1.1 "**Borrower**" means all Persons who have given the Charge and who have executed the same as Borrower;

1.2 "**Charge**" means the Charge/Mortgage of Land and all schedules attached to the Charge and all amendments thereto and replacements thereof from time to time;

1.3 "**Costs**" includes all costs, fees, charges and expenses of every nature and kind whatsoever incurred by the Lender or paid by the Lender to any other party in connection with the protection and preservation of the Property or any other security held by the Lender, or for the purpose of preserving and maintaining the enforceability and priority of the Charge and any such other security, or in connection with any and all demands and enforcement proceedings of every nature and kind made or carried out by or on behalf of the Lender under or pursuant to the Charge, and includes, without limitation, legal costs incurred by the Lender on a full indemnity basis;

1.4 "**Commitment**" means each and every letter of commitment, loan approval, term sheet or other similar agreement establishing or pertaining to the loan secured by the Charge or pursuant to which the Charge has been given, and all amendments thereto and renewals or replacements thereof from time to time;

1.5 "**Condominium Corporation**" means each corporation created or continued pursuant to the *Condominium Act, 1998* (Ontario) and pertaining to all or any part of the Property which are governed by the said Act;

1.6 "**Covenantor**" means any party to the Charge expressly defined as such and any and all Persons who have directly, indirectly, as principal debtor or as surety covenanted to pay or guaranteed payment of the whole or any part of the amount or amounts secured by the Charge or which are owing under the loan facilities referred to in this Commitment or who have covenanted to perform or guaranteed performance by the Borrower of its obligations under the Charge or under this Commitment or under any security given in connection therewith;

1.7 "**Environmental Laws**" means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations, and all applicable directives, orders, codes, judgments and decrees of Governmental Bodies, whether now in existence or hereafter arising, intended to regulate and/or protect the environment and/or any living thing and/or relating to Hazardous Substances;

1.8 "**Governmental Body**" means any government, parliament, legislature, or any regulatory authority, bureau, tribunal, department, instrumentality, agency, commission or board of any government, parliament or legislature, or any court, and without limiting the foregoing, any other law, regulation or rule-making entity having or purporting to act under the authority of any of the foregoing (including, without limitation, any arbitrator) and "Governmental Bodies" means any one or more of the foregoing collectively;

1.9 "**Hazardous Substance**" means any hazardous or dangerous waste or substance, pollutant, contaminant, waste or other substance without limitation, whether solid, liquid or gaseous in form, which when released into the natural environment may, based upon reasonably authoritative information then available concerning such substance, immediately or in the future directly or indirectly cause material harm or degradation to the natural environment or to the health or welfare of any living thing and includes, without limiting the generality of the foregoing,

1.9.1 any such substance as defined or designated under any Environmental Laws;

1.9.2 asbestos, urea formaldehyde, poly-chlorinated byphenyl (PCB) and materials manufactured with or containing the same; and,

1.9.3 radioactive and toxic substances;

and "Hazardous Substances" means any one or more of the foregoing collectively;

1.10 "**Lender**" means all Persons in whose favour the Charge is given and who is or are named in the Charge as Lender;

1.11 "**Person**" means an individual, sole proprietorship, partnership, joint venture, syndicate, association, trust, body corporate, a natural person in its capacity as trustee, personal representative or other legal representative, the Crown or any agency or instrumentality thereof, and/or any other entity recognized by law;

1.12 "**Property**" means the Property, tenements, hereditaments and appurtenances and any estate or interest therein described in the Charge, and all buildings and improvements now or hereafter situate or constructed thereon, and all easements, rights-of-way and other appurtenances thereto, and all structures, additions, improvements, machinery, equipment, decorations and other fixtures of every nature and kind (whether or not affixed in law) attached thereto or placed, installed or erected thereon or used in connection therewith;

1.13 "**Receiver**" means any receiver, receiver and manager, receiver-manager or trustee of the Property as may be appointed from time to time by the Lender pursuant to the provisions of the Charge or by any court of competent jurisdiction;

1.14 "**Taxes**" means all taxes, rates, assessments, local improvement charges, levies, penalties and other charges imposed upon or in respect of the Property by any Governmental Body having jurisdiction.

2. STATUTORY REFERENCES

Unless expressly stipulated or otherwise required by the context, all references in the Charge to any federal, provincial or municipal statute, regulation, by-law, order, directive or other governmental enactment shall be deemed to be and construed as a reference to the same as amended or re-enacted from time to time.

3. EXCLUSION OF STATUTORY COVENANTS

The implied covenants deemed to be included in a charge under sub-section 7(1) of the *Land Registration Reform Act* (Ontario) shall be and are hereby expressly excluded and replaced by the terms hereof which are covenants by the Borrower, for and on behalf of the Borrower, with the Lender.

4. SHORT FORMS OF MORTGAGES ACT

If any of the forms of words contained herein are substantially in the form of words contained in Column One of Schedule B of the *Short Forms of Mortgages Act,* R.S.O. 1980, c. 474, and distinguished by a number therein, the Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column Two of Schedule B of the said Act, distinguished by the same number, and the Charge shall be interpreted as if the said Act was still in full force and effect.

5. PROVISO FOR REDEMPTION

Provided the Charge to be void upon payment of the principal sum hereby secured, in lawful money of Canada, with interest as herein provided and taxes and performance of statute labour and performance of all covenants and agreements contained in the Charge.

6. RELEASE

And the Borrower releases to the Lender all its claims upon the Property subject to the proviso for redemption herein.

7. ADVANCE OF FUNDS

The Borrower agrees that neither the preparation, execution nor registration of the Charge shall bind the Lender to advance the monies hereby secured, nor shall the advance of a part of the principal sum herein bind the Lender to advance any unadvanced portion thereof, but nevertheless the estate hereby charged shall take effect forthwith upon the execution of the Charge by the Borrower, and the expenses of the examination of the title and of the Charge and valuation are to be secured hereby in the event of the whole or any balance of the principal sum herein not being advanced, the same to be charged hereby upon the Property, and shall be without demand thereof, payable forthwith with interest at the rate provided for in the Charge, and in default the remedies herein shall be exercisable.

8. BORROWER'S COVENANTS

The Borrower covenants with the Lender that the Borrower will pay the principal sum herein and interest and observe the proviso for redemption herein, and will pay as they fall due all Taxes and when required by the Lender, shall transmit the receipts therefore to the Lender;

The Borrower further covenants with the Lender that the Borrower will pay all amounts which are payable hereunder or which are capable of being added to the principal sum herein pursuant to the provisions of the Charge including, without limiting the generality of the foregoing, all servicing or other fees, costs or charges provided for herein; all insurance premiums; the amount paid for the supply of any fuel or utilities to the Property; all costs, commissions, fees and disbursements incurred by the Lender in constructing, inspecting, appraising, selling, managing, repairing or maintaining the Property; all Costs incurred by the Lender with respect to the Charge or incurred by the Lender arising out, of or in any way related to the Charge; any amounts paid by the Lender on account of any encumbrance, lien or charge against the Property and any and all Costs incurred by the Lender arising out of, or in any way related to, the Lender realizing on its security by sale or lease or otherwise;

And that the Borrower has a good title in fee simple to the Property and has good right, full power and lawful and absolute authority to charge the Property and to give the Charge to the Lender upon the covenants contained in the Charge;

And that the Borrower has not done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the Property, or any part or parcel thereof, is or shall or may be in any way impeached, charged, affected or encumbered in title, estate or otherwise, except as the records of the land registry office disclose; and free from all encumbrances except as may be permitted by the Lender;

And that the Borrower will execute such further assurances of the Property as may be requisite;

And that the Borrower will produce the title deeds and allow copies to be made at the expense of the Borrower.

9. COMPLIANCE WITH LAWS AND REGULATIONS

The Borrower shall, in its ownership, operation and use of the Property, promptly and at all times observe, perform, execute and comply with all laws, rules, requirements, orders, directions, ordinances and regulations of every Governmental Body having jurisdiction with respect to the same, and further agrees at its cost and expense to take any and all steps or make any improvements or alterations thereto, structural or otherwise, ordinary or extraordinary, which may be required at any time hereafter by any such present or future laws, rules, requirements, orders, directions, ordinances or regulations.

10. CHANGE OF USE

The Borrower will not change or permit to be changed the existing use or uses of the Property without the prior written consent of the Lender.

11. REPAIR

The Borrower will keep the Property including the buildings, erections and improvements thereon in good condition and repair according to the nature and description thereof, and the Lender may, whenever it deems necessary, enter upon and inspect the Property, and the cost of such inspection shall be added to the indebtedness secured hereunder, and if the Borrower neglects to keep the Property in good condition and repair, or commits or permits any act of waste on the Property (as to which the Lender shall be sole judge) or makes default as to any of the covenants or provisos herein contained, the principal sum herein shall, at the option of the Lender, forthwith become due and payable, and in default of payment thereof with interest as in the case of payment before maturity, the powers of entering upon and leasing or selling hereby given may be exercised forthwith and the Lender, upon five days notice to the Borrower and in the event that the Borrower does not in such period cause and diligently proceed with such repairs, may make such repairs as it deems necessary, and the cost thereof with interest at the rate aforesaid shall be added to the monies hereby secured and shall be payable forthwith and be a charge upon the Property prior to all claims thereon subsequent to the Charge.

12. ALTERATIONS OR ADDITIONS

The Borrower will not make or permit to be made any alterations or additions to the Property without the prior written consent of the Lender, which consent may be withheld in the Lender's sole discretion or may be given only subject to compliance with such terms and conditions at the cost of the Borrower as the Lender may impose. Notwithstanding the foregoing, the Borrower shall be permitted to make those alternations and additions to the Property as contemplated by and in accordance with the Commitment and, otherwise, subject to the reasonable approval of the Lender.

13. PROPERTY INCLUDE ALL ADDITIONS

The Property shall include all structures and installations brought or placed on the Property for the particular use and enjoyment thereof or as an integral part of or especially adapted for the buildings thereon whether or not affixed in law to the Property including, without limiting the generality of the foregoing, piping, plumbing, electrical equipment or systems, aerials, refrigerators, stoves, clothes washers and dryers, dishwashers, incinerators, radiators and covers, fixed mirrors, fitted blinds, window screens and screen doors, storm windows and storm doors, shutters and awnings, floor coverings, fences, air conditioning, ventilating, heating, lighting, and water heating equipment, cooking and refrigeration equipment and all component parts of any of the foregoing and that the same shall become fixtures and an accession to the freehold and a part of the realty.

14. ENVIRONMENTAL WARRANTY AND INDEMNITY

The Borrower and each Covenantor jointly and severally represent, warrant, covenant and agree that:

14.1. They have not, and to the best of their knowledge, information and belief after making due inquiry, no other Person has caused or permitted any Hazardous Substance to be placed, discharged, stored, located or disposed of, on, under, at or near the Property nor to be released from the Property;

14.2. The Property have never been used as a land fill site, waste disposal site or coal gasification site, or to store Hazardous Substances either above or below ground in storage tanks, pipes, conduits or otherwise;

14.3. They and, to the best of their knowledge, information and belief after making due inquiry, the tenants, invitees and all other occupiers of the Property have at all times carried out all business and other activities upon the Property in strict compliance with all Environmental Laws;

14.4. They will at all times carry out all business and other activities upon the Property in strict compliance with all Environmental Laws, and they will at all times take all necessary measures to ensure that those for whom they are liable in law will also at all times carry out all business and other activities upon the Property in strict compliance with all Environmental Laws.

14.5. To the best of their knowledge, information and belief after making due inquiry, the use and occupation of the Property have at all times been in strict compliance with all Environmental Laws;

14.6. No notice, order, stop work order, inspection file, investigation, directive, enforcement action, regulatory action, suit, claim, action, proceeding or charge relating to any Hazardous Substance or to a breach or non-compliance with any Environmental Laws has been issued by any Governmental Body with respect to the Borrower or the Property, or is otherwise threatened to be issued;

14.7. They will provide the Lender with full and complete copies of all communications received from time to time from all Governmental Bodies with respect to the Property;

14.8. They will provide to the Lender on request and from time to time, information with respect to the status of the environmental matters referred to herein and will complete and deliver, on request, the Lender's standard form of report, if any, on environmental matters;

14.9. The representations and warranties contained in this Warranty and Indemnity are true and accurate in all respects as of the date of the first advance made pursuant to the Charge, and such representations and warranties shall remain true and accurate in all respects and shall survive the release and discharge of the Charge and the repayment and satisfaction of the indebtedness secured by the Charge; and,

14.10. The Lender may delay or refuse to make any advance to the Borrower if the Lender believes that any of the representations and warranties set out in this Warranty and Indemnity are not presently true and accurate or if such representations and warranties have become untrue or inaccurate at any time hereafter.

The Borrower hereby agrees to permit the Lender to conduct, at the Borrower's sole expense, from time to time as required, any and all tests, inspections, appraisals and environmental audits of the Property so as to determine and ensure continuing compliance with the provisions of this Warranty and Indemnity including, without limitation, the right to conduct soil tests and to review and copy any records relating to the Property and/or to the businesses and other activities conducted thereon.

The Borrower and each Covenantor jointly and severally agrees to indemnify and save fully and completely harmless the Lender and its officers, directors, employees, agents and shareholders from and against any and all losses, damages, demands, claims, actions, charges, orders, directives, undertakings, costs, legal fees and expenses, of every nature and kind, whatsoever and howsoever, which at any time or from time to time may be paid by, or incurred by, or suffered by, or asserted against, any of them as a direct or indirect result of:

a) a breach of any of the representations, warranties or covenants hereinbefore set out;

b) the presence of any Hazardous Substance in, on, under or about the Property;

c) the breach of any Environmental Laws; and/or,

d) the discharge, emission, release, spill or disposal of any Hazardous Substance from the Property into or upon any land, the atmosphere, any watercourse, body of water or wetland or any other property.

The representations, warranties, covenants, acknowledgments and indemnifications set out in this Warranty and Indemnity shall survive the release and discharge of the Charge and of any other security held by the Lender and the repayment and satisfaction of the indebtedness secured by the Charge.

15. INSPECTION

The Lender shall have access to and the right to inspect the Property at all reasonable times.

16. TAXES

WITH respect to Taxes, the Borrower covenants and agrees with the Lender that:

16.1. The Lender may deduct from any advance of the monies secured by the Charge an amount sufficient to pay all Taxes which have become due and payable during any calendar year.

16.2. The Lender may at its sole option estimate the amount of the Taxes payable in each year and the Borrower shall forthwith upon demand of the Lender pay to the Lender one-twelfth (1/12) of the estimated annual amount of such Taxes on the 1st day of each and every month during the term of the Charge commencing with the 1st day of the first full month of the term of the Charge. The Lender may at its option apply such payments to the Taxes so long as the Borrower is not in default under any covenant or agreement contained in the Charge, but nothing herein contained shall obligate the Lender to apply such payments on account of Taxes more often than yearly. Provided however, that if the Borrower shall pay any sum or sums to the Lender to apply on account of Taxes, and if before such payments have been so applied by the Lender, there shall be default by the Borrower in respect of any payment of principal or interest as herein provided, the Lender may at its option apply such sum or sums in or towards payment of the principal and interest in default. If the Borrower desires to take advantage of any discounts or avoid any penalties in connection with the payment of Taxes, the Borrower may pay to the Lender such additional amounts as are required for that purpose.

16.3. In the event that the Taxes actually charged in a calendar year, together with any interest and penalties thereon, exceed the amount estimated by the Lender as aforesaid, the Borrower shall pay to the Lender, on demand, the amount required to make up the deficiency. The Lender may at its option, pay any of the Taxes when payable, either before or after they are due, without notice, or may make advances therefore in excess of the then amount of credit held by the Lender for Taxes. Any excess amount advanced by the Lender shall be secured as an additional principal sum under the Charge and shall bear interest at the rate as provided for in the Charge until repaid by the Borrower.

16.4. The Borrower shall transmit to the Lender all assessment notices, tax bills and other notices pertaining to the imposition of Taxes forthwith after receipt thereof.

16.5. The Borrower shall pay to the Lender, in addition to any other amounts required to be paid hereunder, the amount required by the Lender in its sole discretion for a reserve on account of future liability for Taxes.

16.6. In no event shall the Lender be liable for any interest on any amount paid to it on account of Taxes and the monies so received may be held with its own funds pending payment or application thereof as herein provided; provided that in the event that the Lender does not utilize the funds received on account of Taxes in any calendar year, such amount or amounts may be held by the Lender on account of any pre-estimate of Taxes required for the next succeeding calendar year, or at the Lender's option the Lender may repay such amount to the Borrower without any interest.

16.7. The Borrower shall in all instances be responsible for the payment of any and all penalties resulting from any arrears of Taxes or any late payment of current instalments thereof, and at no time shall such penalties be the responsibility of the Lender.

16.8. In the event the Lender does not collect payments on account of Taxes as aforesaid, the Borrower shall deliver to the Lender within thirty (30) days following the due date for each instalment of Taxes written evidence from all taxing authorities having jurisdiction to the effect that the then current instalment of Taxes and all other Taxes due in respect of the then current calendar year and any preceding calendar years have been paid in full, failing which, the Lender shall be entitled to charge a servicing fee for each written inquiry directed to such taxing authorities or the Borrower for the purpose of ascertaining the status of the Taxes together with any costs payable to such taxing authorities for such information.

17. UTILITIES

The Borrower covenants that it will pay all utility and fuel charges related to the Property as and when they are due and that the Borrower will not allow or cause the supply of utilities or fuel to the Property to be interrupted or discontinued and that, if the supply of fuel oil or utilities is interrupted or discontinued, the Borrower will take all steps that are necessary to ensure that the supply of utilities or fuel is restored forthwith. It is specifically agreed that the failure to pay all fuel and utility charges as and when they are due or the interruption or discontinuing of the supply of fuel or utilities to the Property shall constitute a default by the Borrower within the meaning of the Charge and in addition to all other remedies provided for herein, the principal sum of the Charge shall, at the sole option of the Lender forthwith become due and payable.

18. INSURANCE

The Borrower will insure and keep insured during the term of the Charge the buildings and other improvements on the Property (now or hereafter erected) on an all-risks basis in an amount of not less than the greater of the full replacement value of the buildings located thereon from time to time, or the principal money herein, with no co-insurance provisions and with the Lender's standard mortgage clause forming part of such insurance policy. The Borrower shall carry such liability, rental, loss of income, business interruption, boiler, plate glass and other insurance coverage as is required by the Lender to be placed with such insurance companies and in such amounts and in such form as may be acceptable to the Lender. All such policies shall provide for loss payable to the Lender and contain such additional clauses and provisions as the Lender may require. An original of all insurance policies and endorsements from the insurer to the effect that coverage has been bound and/or extended for a minimum period of at least one year and that all premiums with respect to such term of such coverage have been paid for in full, shall be produced to the Lender prior to any advance and at least thirty (30) days before expiration of any term of any such respective policy, failing which the Lender may provide therefore and charge the premium paid therefore and interest thereon at the aforesaid rate to the Borrower and any amounts so paid by the Lender shall be payable forthwith to the Lender and shall also be a charge upon the Property and secured by the Charge. It is further agreed that the Lender may at any time require any insurance on the said buildings to be cancelled and new insurance effected with a company to be named by it, and also may, of its own accord, effect or maintain any insurance herein provided for, and any amount paid by the Lender therefore shall be forthwith payable to it, together with interest at the rate aforesaid by the Borrower (together with any Costs of the Lender as herein set out), and shall be a charge upon the Property and secured by the Charge.

In the event that the evidence of continuation of such insurance as herein required has not been delivered to the Lender within the required time, the Lender shall be entitled to a servicing fee for each written inquiry which the Lender shall make to the insurer or the Borrower pertaining to such renewal (or resulting from the Borrower's non-performance of the within covenant). In the event that the Lender pursuant to the within provision arranges insurance coverage with respect to the Property, the Lender, in addition to the aforenoted servicing fee, shall be entitled to a further servicing fee for arranging the necessary insurance coverage.

In the event of any loss or damage, the Borrower shall forthwith notify the Lender in writing and notwithstanding any other provision to the contrary, statutory or otherwise, in the event of any monies becoming payable pursuant to any insurance policy herein required, the Lender may, at its option, require the said monies to be applied by the Borrower in making good the loss or damage in respect of which the money is received, or in the alternative, may require that any or all of the monies so received be applied in or towards satisfaction of any or all of the indebtedness hereby secured whether or not such indebtedness has become due. No damage may be repaired nor any reconstruction effected without the approval in writing of the Lender in any event.

The Borrower, upon demand, will transfer all policies of insurance provided for herein and the indemnity which may become due therefrom to the Lender. The Lender shall have a lien for the indebtedness hereby secured on all the said insurance proceeds and policies, and may elect to have these insurance monies applied as it may deem appropriate, including payment of monies secured hereby, whether due or not, but the Lender shall not be bound to accept the said monies in payment of any principal not yet due.

19. REMITTANCE AND APPLICATION OF PAYMENTS

All payments of principal, interest and other monies payable hereunder to the Lender shall be payable at par in lawful money of Canada at the Lender's address for service as set out in the Charge or at such other place as the Lender shall designate in writing from time to time. In the event that any of the monies secured by the Charge are forwarded to the Lender by mail, payment will not be deemed to have been made until the Lender has actually received such monies and the Borrower shall assume and be responsible for all risk of loss or delay.

Notwithstanding anything herein to the contrary, in the event of any default under the Charge, the Lender may apply any payments received in whatever order the Lender may elect as between principal, interest, realty taxes, insurance premiums, repairs, Costs and any other advances or payments made by the Lender hereunder.

20. RECEIPT OF PAYMENT

Any payment received after 1:00 p.m. on any date shall be deemed, for the purpose of calculation of interest to have been made and received on the next bank business day and the Lender shall be entitled to interest on the amount due it, to and including the date on which the payment is deemed by this provision to have been received.

21. NO DEEMED RE-INVESTMENT

Except in the case where the Charge provides for blended payments of principal and interest whether paid monthly or otherwise, the parties hereto agree that the Lender shall not be deemed to reinvest any monthly or other payments received by it hereunder.

22. PRE-AUTHORIZED CHEQUING PLAN

If and when required by the Lender, all payments made under the Charge by the Borrower shall be made by a pre-authorized cheque payment plan as approved by the Lender. The Lender shall not be obligated to accept any payment other than payment made by pre-authorized cheque. Failure to make all payments by pre-authorized cheque shall be an act of default within the meaning of the Charge and the Lender shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option.

23. POSTDATED CHEQUES

The Borrower shall, if and when required by the Lender, deliver to the Lender upon the first advance of moneys hereunder or upon request and thereafter on each anniversary date thereof in each year for the duration of the term of the Charge, postdated cheques for the payments of principal, interest and estimated realty taxes required to be made herein during the twelve month period commencing on each such anniversary date. In the event of default by the Borrower in delivery to the Lender of the postdated cheques as herein provided, the Charge shall be deemed in default and the Lender shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option. In addition, the Lender upon the Borrower's failure to deliver such postdated cheques as required hereunder shall be entitled to a servicing fee for each written request that it makes to the Borrower for the purpose of obtaining such postdated cheques. Any step taken by the Lender hereunder by way of a request for further postdated cheques shall be without prejudice to the Lender's rights hereunder to declare the Charge to be in default in the event that such postdated cheques are not delivered within the required time.

24. DISHONOURED CHEQUES

In the event that any of the Borrower's cheques are not honoured when presented for payment to the drawee, the Borrower shall pay to the Lender for each such returned cheque a servicing fee to cover the Lender's administration costs with respect to same. In the event that the said cheque which has not been honoured by the drawee is not forthwith replaced by the Borrower, the Lender shall be entitled to a further servicing fee for each written request therefore which may be necessitated by the Borrower not forthwith replacing such dishonoured cheque.

25. FINANCIAL AND OPERATING STATEMENTS

The Borrower covenants that, within the periods of time hereinafter specified, or within such other period(s) of time as may be specified by this Commitment, the Borrower shall deliver or cause to be delivered to the Lender the following:

25.1. within one hundred and twenty (120) days after the end of each fiscal year of operation of the Property, an annual operating statement in respect of the Property for the immediately preceding fiscal year setting forth the gross rents and other income derived from the Property, the cost and expenses of operation and maintenance of the Property and such other information and explanations in respect of the same as may be required by the Lender;

25.2. within one hundred and twenty (120) days after the end of each fiscal year of each Borrower and Covenantor which is a corporation or partnership, the annual financial statements of each such corporation or partnership for its immediately preceding fiscal year including, without limitation, the balance sheet of the corporation or partnership as at its fiscal year end with comparative figures for prior years, statements of earnings, retained earnings and changes in financial position as at the fiscal year end with comparative figures for prior fiscal years, any supporting schedules and notes thereto and such other information and explanations as may be required by the Lender; and

25.3. with respect to each Borrower and Covenantor who is an individual and within thirty (30) days after each anniversary of the date of this Commitment, an annual updated net worth statement of each such individual in such form and including such content and other information and explanations as may be required by the Lender.

All such operating and financial statements shall be prepared at the expense of the Borrower and in accordance with generally accepted accounting principles applied on a consistent basis and by a duly qualified chartered accountant or certified public accountant which is acceptable to the Lender, and shall be submitted in audited form if so required by the Lender in the event of a default occurring pursuant to the Charge, and the completeness and correctness of such statements shall be supported by an affidavit of an authorized officer of the Borrower or Covenantor, as the case may be.

The Lender reserves the right to disclose to third parties, any of the foregoing financial information or otherwise acquired in respect to the Loan as may be required in connection with the fulfillment of its rights and/or obligations under this Commitment or the Charge or to carry out its terms of to enforce its security for mortgage securitization purposes.

26. ESTOPPEL ACKNOWLEDGEMENTS

If and whenever the Lender requests an acknowledgement from the Borrower as to the statement of account with respect to the Charge or the status of the terms and conditions of the Charge, the Borrower shall execute such an acknowledgement in such form as may be required by the Lender provided that the contents of such form are correct, and the Borrower shall do so forthwith upon request and without cost to the Lender and shall return such acknowledgement duly executed within two (2) business days of such request.

27. STATEMENTS OF ACCOUNT

The Borrower shall be entitled to receive upon written request, a statement of account with respect to the Charge as of any payment date under the Charge and the Lender shall be entitled to a servicing fee for each such statement.

28. RENEWAL OR EXTENSION OF TIME; ATTENTION SUBSEQUENT INTERESTS

No renewal or extension of the term of the Charge given by the Lender to the Borrower, or anyone claiming under it, or any other dealing by the Lender with the owner of the equity of redemption of the Property, shall in any way affect or prejudice the rights of the Lender against the Borrower or any other Person liable for the payment of the monies hereby secured. The Charge may be amended, extended and/or renewed by an agreement in writing at maturity for any term with or without an increased rate of interest, or amended from time to time as to any of its terms, including, without limitation, an increase of interest rate or principal amount and notwithstanding that there may be subsequent encumbrancers, and it shall not be necessary to register any such agreement in order to retain priority for the Charge so altered over any instrument registered subsequent to the Charge. PROVIDED that nothing contained in this paragraph shall confer any right of amendment, extension or renewal upon the Borrower.

The terms of the Charge may be amended, extended and the Charge may be renewed from time to time by mutual agreement between the then current owner of the Property and the Lender and the Borrower hereby further covenants and agrees that, notwithstanding that the Borrower may have disposed of its interest in the Property, the Borrower will remain liable as a principal debtor and not as a surety for the observance of all of the terms and provisions herein and will in all matters pertaining to the Charge well and truly do, observe, fulfill and keep all of the covenants, provisos, conditions and agreements in the Charge and all amendment(s), extension(s) and renewal(s) thereof, and without limiting the foregoing, notwithstanding the amendment, extension and/or renewal of the Charge, and notwithstanding the giving of time for the payment of the Charge or the varying of the terms of the payment thereof or of the rate of interest thereon, and notwithstanding any other indulgence by the Lender to the Borrower.

The Borrower covenants and agrees with the Lender that no agreement for amendment, extension and/or renewal hereof, or for extension of the time for payment of any monies payable hereunder shall result from, or be implied from, any payment or payments of any kind whatsoever made by the Borrower to the Lender after the expiration of the original term of the Charge or of any subsequent term agreed to in writing between the Borrower and the Lender, and that no amendment, extension and/or renewal hereof or any extension of the time for payment of any monies hereunder shall result from, or be implied from, any other act, matter or thing, save only express agreement in writing between the Borrower and the then current owner of the Property.

29. EXPROPRIATION

If the Property or any part thereof which, in the reasonable opinion of the Lender is material to the viability and operations thereon shall be expropriated by any Governmental Body clothed with the powers of expropriation, the principal sum herein remaining unpaid shall at the option of the Lender forthwith become due and payable together with interest thereon at the rate provided for herein to the date of payment together with a bonus equal to the aggregate of (a) three months' interest at the said rate calculated on the amount of the principal remaining unpaid, and (b) one month's interest at the rate provided for herein calculated on the principal remaining unpaid, for each full year of the term of the Charge or any part of such year from the said date of payment to the date the said principal sum or balance thereof remaining unpaid would otherwise under the provisions of the Charge become due and payable and in any event all the proceeds of any expropriation shall be paid to the Lender at its option in priority to the claims of any other party.

30. LETTERS OF CREDIT

The parties to the Charge hereby acknowledge and agree that, in addition to all other amounts advanced and/or secured hereby, the Charge shall stand as good and valid security with respect to any and all letters of credit, letters of guarantee or similar instruments (collectively the "Letters of Credit") issued by or on behalf of the Lender for the benefit of or on account of the Borrower and in favour of any other party as may be requested or directed by the Borrower from time to time, and that the total amount of the financial obligations under each Letter of Credit shall be deemed to have been advanced and fully secured under the Charge as of and from the date of issuance of each such Letter of Credit regardless of when the same may be called upon by the holder thereof. In the event that at any time the Lender is of the opinion, in its sole and unfettered discretion, that the Property or such part(s) thereof as remain undischarged are insufficient to secure the aggregate amount of all of the Lender's outstanding obligations under, pursuant to or in connection with such Letters of Credit from time to time outstanding, the Lender shall be entitled to retain out of any payment received under the Charge or out of the proceeds of any sale or revenue received in respect of the Property or any part(s) thereof or out of the proceeds of any amounts received by the Lender upon the enforcement of the Charge, an amount equal to the aggregate amount of all of the Lender's outstanding obligations under, pursuant to or in connection with Letters of Credit as remain from time to time outstanding without being obliged to apply any portion of such amount on account of any principal, interest or other monies otherwise outstanding and secured by the Charge; and the Lender shall be entitled to retain such amount for such period of time as any of the Letters of Credit remain outstanding and the Lender is hereby irrevocably authorized and directed to utilize the same in order to satisfy payment of any amounts called upon for payment pursuant to the Letters of Credit.

31. SALE OR CHANGE OF CONTROL

In the event of any sale, conveyance or transfer of the Property or any portion thereof, or a change in control or beneficial ownership of the Borrower or a change in the beneficial ownership of the Property or any portion thereof or a lease of the whole of the Property, all sums secured hereunder shall, at the Lender's option, become due and payable forthwith unless the prior written consent of the Lender has been obtained, which consent may be arbitrarily or unreasonably withheld. The rights of the Lender pursuant to this provision shall not be affected or limited in any way by the acceptance of payments due under the Charge from the Borrower or any Person claiming through or under it and the rights of the Lender hereunder shall continue without diminution for any reason whatsoever until such time as the Lender has consented in writing as required by this provision.

Provided further that no permitted sale or other dealing by the Borrower with the Property or any part thereof shall in any way change the liability of the Borrower or in any way alter the rights of the Lender as against the Borrower or any other Person liable for payment of the monies hereby secured.

32. NO FURTHER ENCUMBRANCES

In the event of that the Borrower enters into, creates, incurs, assumes, suffers or permits to exist any additional charge, encumbrance, pledge or other financing of the Property, or of the chattels, equipment or personal property related to the Property, all sums secured hereunder shall, at the Lender's option, become due and payable forthwith unless the prior written consent of the Lender has been obtained, which consent may be arbitrarily or unreasonably withheld.

33. EVENTS OF DEFAULT

Without limiting any of the provisions of the Charge, each of the following events shall be considered events of default hereunder upon the happening of which the whole of the principal sum outstanding and all interest accruing thereon shall immediately become due and payable at the option of the Lender exercised by notice in writing to the Borrower:

33.1 Failure by the Borrower to pay any instalment of principal, interest and/or Taxes under the Charge or under any charge or other encumbrance of the Property, on the date upon which any of the payments for same become due;

33.2 Failure by the Borrower or any Covenantor to strictly and fully observe or perform any condition, agreement, covenant or term set out in the application or Commitment for the loan secured by the Charge, the provisions of the Charge, or any other document creating a contractual relationship as between them or any of them or if it is found at any time that any representation to the Lender with respect to the loan secured by the Charge or in any way related thereto is incorrect or misleading;

33.3 Default by the Borrower in the observance or performance of any of the covenants, provisos, agreements or conditions contained in any charge or other encumbrance affecting the Property, whether or not it has priority over the Charge;

33.4 Upon the registration of any construction lien against the Property which is not discharged or vacated within a period of ten (10) days after the date of registration thereof;

33.5 In the event that any Hazardous Substance is discovered in, on or under the Property or any part thereof and the same is not completely removed therefrom to the entire satisfaction of the Lender within ten (10) days after demand therefore by the Lender;

33.6 In the event that the Property are abandoned or there is any cessation of the business activities or any material part thereof now being conducted upon the Property by the Borrower or the beneficial owner of the Property or any of their respective officers, agents, employees, tenants or invitees;

33.7 If the Borrower or any Covenantor commits an act of bankruptcy or becomes insolvent or has a receiver or receiver and manager appointed for it or over any of its assets or if any creditor takes possession of any of its assets or if any execution, distress or other like process is levied or enforced upon the Property or any part thereof or if any compromise or arrangement with creditors is made by any of them; or,

33.8 Default by the Borrower, its successors or assigns, or any of the Covenantor(s) in the observance or performance of any representation, warranty, covenant, proviso, agreement or condition contained in any charge or encumbrance or document securing, evidencing or relating to any indebtedness owing by the Borrower, its successors or assigns, to the Lender from time to time whether or not related to or affecting the within Loan and the Property or any other loan and property given as security thereforer.

34. <u>DEFAULT</u>

The Lender may, on default of payment or in the performance of any covenant in the Charge contained or implied by law or statute, enter on and lease the Property, or in default of payment or in default in performance of any covenant in the Charge contained or implied by law or statute for at least fifteen (15) days may, on at least thirty-five (35) days' notice sell the Property. Such notice shall be given to such Persons and in such manner and form and within such time as provided under the *Mortgages* Act (Ontario). In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable it is agreed that notice may be effectually given by leaving it with a grown-up person on the Property, if occupied, or by placing it on the Property if unoccupied, or at the option of the Lender, by mailing it in a registered letter addressed to the Borrower at the Borrower's last known address, or by publishing it once in a newspaper published in the city, county or district in which the Property are situate; and such notice shall be sufficient although not addressed to any Person or Persons by name or designation; and notwithstanding that any Person to be affected thereby may be unknown, unascertained, or under disability. If there be legal personal representatives of the Borrower on the death of the Borrower, such notice may, at the option of the Lender, be given in any of the above modes or by personal service upon such representatives.

Without prejudice to the statutory powers of the Lender under the preceding proviso, that in case default be made in the payment of the said principal or interest or any part thereof and such default continues for two months after any payment of either principal or interest falls due, the Lender may exercise the powers given under the preceding proviso with or without entry on the Property without any notice, it being understood and agreed, however, that if the giving of notice by the Lender shall be required by law then notice shall be given to such Persons and in such manner and form and within such time as so required by law. The Lender may sell the whole or any part or parts of the Property by public auction or private contract, or partly one or partly the other; and the proceeds of any sale hereunder may be applied in payment of any Costs incurred in taking, recovering or keeping possession of the Property or by reason of non-payment or procuring payments of monies secured hereby or otherwise. The Lender may sell any of the Property on such terms as to credit and otherwise as shall appear to it most advantageous and for such prices as can reasonably be obtained therefore and may make any stipulations as to title or evidence or commencement of title or otherwise which it shall deem proper; and may buy in or rescind or vary any contract for the sale of the whole or any part of the Property and resell without being answerable for loss occasioned thereby, and in the case of a sale on credit the Lender shall be bound to pay the Borrower only such monies as have been actually received from purchasers after the satisfaction of the claims of the Lender and for any of said purposes may make and execute all agreements and assurances as it shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease hereunder and the title of a purchaser or lessee upon a sale or lease made in professed exercise of the above power shall not be liable to be impeached on the ground that no cause had arisen to authorize the exercise of such power or that such power had been improperly or irregularly exercised, or that such notice had not been given, but any Person damnified by an unauthorized, improper or irregular exercise of the power shall have its remedy against the Person exercising the power in damages only.

It is hereby agreed that the Lender may pay all premiums of insurance and all Taxes which shall from time to time fall due and be unpaid in respect of the Property, and that such payments together with all Costs which may be incurred in taking, recovering and keeping possession of the Property, and of negotiating this loan, investigating title, and registering the Charge and other necessary deeds, and generally in any other proceedings taken in connection with or to realize this security, (including legal fees, real estate commissions, appraisal costs and other Costs incurred in leasing or selling the Property or in exercising the power of entering, leasing and selling herein contained) shall be with interest at the rate aforesaid and shall be a charge upon the Property in favour of the Lender and that the Lender may pay or satisfy any lien, charge or encumbrance now existing or hereafter created or claimed upon the Property, and that any amount paid by the Lender shall be added to the monies hereby secured and shall be payable forthwith with interest at the rate herein, and in default the Charge shall immediately become due and payable at the option of the Lender and all powers in the Charge conferred shall become exercisable. In the event of the Lender paying the amount of any such encumbrance, lien or charge, taxes or rates, either out of the money advanced on the security of the Charge or otherwise, the Lender shall be entitled to all the rights, equities and securities of the Person or Persons so paid and is hereby authorized to obtain an assignment or discharge thereof, and to retain same, for whatever period the Lender shall deem it proper to do so.

Whenever a power of sale is hereby conferred upon the Lender, all provisions hereof relating to exercising such power, including, without in any way limiting the generality of the foregoing, the Persons to whom notice of exercising such power shall be given and the manner of giving such notice, shall be deemed to have been amended so as to comply with the requirements of law from time to time in force with respect to exercising such power of sale, and wherever there shall be a conflict between the provisions of the Charge relating to exercising such power of sale and the requirements of such law, the provisions of such law shall govern. Insofar as there is no such conflict, the provisions of the Charge shall remain unchanged.

The Lender may lease or sell as aforesaid without entering into possession of the Property.

The Lender may distrain for arrears of interest and the Lender may distrain for arrears of principal and arrears of Taxes in the same manner as if the same were arrears of interest.

Upon default of the payment of the interest hereby secured the principal hereby secured shall become payable at the option of the Lender, together with interest thereon.

Upon default of payment of instalments of principal promptly as the same become due, the balance of the principal and interest shall immediately become due and payable at the option of the Lender.
Upon default under the Charge, the Lender shall be entitled and shall have full power to assume control of, manage, operate and carry on the business of the Borrower being conducted at or upon the Property on the date of the Charge or at any time thereafter.

Until default hereunder the Borrower shall have quiet possession of the Property.

On default the Lender shall have quiet possession of the Property.

The Lender may in writing at any time or times after default waive such default and upon such waiver the time or times for payment of the principal secured herein shall be as set out in the proviso for redemption herein. Any such waiver shall apply only to the particular default waived and shall not operate as a waiver of any other or future default. No waiver shall be effective or binding on the Lender unless made in writing.

It is further agreed that the Lender may at its discretion at any time, release any part or parts of the Property or any other security or any surety for the money hereby secured either with or without any sufficient consideration therefore, without responsibility therefore, and without thereby releasing any other part of the Property or any Person from the Charge or from any of the covenants herein contained, it being especially agreed that every part or lot into which the Property are or may hereafter be divided does and shall stand charged with all of the monies hereby secured and no Person shall have the right to require the principal secured hereunder to be apportioned; further the Lender shall not be accountable to the Borrower for the value thereof, or for any monies except those actually received by the Lender. No sale or other dealing by the Borrower with the equity of redemption in the Property or any part thereof shall in any way change the liability of the Borrower or in any way alter the rights of the Lender as against the Borrower or any other Person liable for payment of the monies hereby secured.

It is further agreed that the Lender may exercise all remedies provided for in the Charge concurrently or in such order and at such times as it may see fit and shall not be obligated to exhaust any remedy or remedies before exercising its rights under any other provisions contained in the Charge.

Without limiting any other provision of the Charge, the Borrower acknowledges and agrees that, upon the occurrence of any default under the Charge and whether or not the monies hereby secured have been fully advanced, the Lender may, at any time and from time to time as the Lender shall determine at its sole option and discretion, advance such further sums under the Charge as are necessary to pay any arrears of Taxes, utilities or other charges capable of constituting a lien upon the Property *pari passu* with or in priority to the Charge, to pay all amounts due under any encumbrance having priority over the Charge, to pay all amounts required to discharge or vacate any construction lien registered against the Property whether or not priority is claimed over the Charge, to maintain in good standing any policies of insurance in respect of the Property, to maintain, repair, operate and/or manage the Property and any or all improvements thereon, to complete construction or renovation of any improvements on the Property, to realize upon any security held by the Lender for the loan secured by the Charge and generally to enforce all of the Lender's rights, title and interest hereunder and to protect the Property and to preserve the enforceability and priority of the Charge, and to pay any and all Costs; and all amounts advanced by the Lender for any of the purposes as aforesaid shall bear interest at the rate applicable under the Charge from the date so advanced until repaid in full and shall be secured by the Charge in the same priority as the principal amount hereof.

35. **<u>RIGHT OF LENDER TO REPAIR, ETC.</u>**

The Borrower covenants and agrees with the Lender that in the event of default in the payment of any instalment or other monies payable hereunder by the Borrower or on breach of any covenant, proviso or agreement herein contained after all or any of the monies hereby secured have been advanced, the Lender may, at such time or times as the Lender may deem necessary and without the concurrence of any Person, enter upon the Property and may make such arrangements for completing the construction of, repairing or putting in order any buildings or other improvements on the Property or for inspecting, taking care of, leasing, collecting the rents of and generally managing the Property, as the Lender may deem expedient; and all Costs including, but not limited to, allowances for the time and services of any employee of the Lender or other Person appointed for the above purposes and a servicing fee shall be forthwith payable to the Lender by the Borrower and shall be a charge upon the Property and shall bear interest at the rate applicable under the Charge until paid.

36. **<u>APPOINTMENT OF A RECEIVER</u>**

It is agreed that at any time and from time to time when there shall be default under the provisions of the Charge, the Lender may at such time and from time to time and with or without entering into possession of the Property appoint in writing a Receiver of the Property, or any part thereof and of the rents and profits thereof and with or without security, and may from time to time by similar writing remove any such Receiver and appoint another in its place and stead, and in making any such appointment or removal, the Lender shall be deemed to be acting as the agent or attorney for the Borrower. The Borrower hereby irrevocably agrees and consents to the appointment of such Receiver of the Lender's choice and without limitation whether pursuant to the Charge, the *Mortgages Act* (Ontario), the *Construction Lien Act* (Ontario), or the *Trustee Act* (Ontario), as the Lender may at its sole option require. Without limitation, the purpose of such appointment shall be the orderly management, administration and/or sale of the Property or any part thereof and the Borrower hereby consents to a court order for the appointment of such Receiver, if the Lender in its discretion chooses to obtain such order, and on such terms and for such purposes as the Lender at its sole discretion may require, including, without limitation, the power to manage, charge, pledge, lease and/or sell the Property and/or to complete or partially complete any construction thereon and to receive advances of monies pursuant to any charges, pledges and/or loans entered into by the Receiver or the Borrower, and if required by the Lender, in priority to any existing encumbrances affecting the Property, including without limitation, charges and construction lien claims.

Upon the appointment of any such Receiver from time to time the following provisions shall apply:

36.1. A Statutory Declaration made by the Lender or by any authorized representative of the Lender as to default under the provisions of the Charge shall be conclusive evidence thereof;

36.2. Every such Receiver shall be the irrevocable agent or attorney of the Borrower for the collection of all rents falling due in respect to the Property, or any part thereof, whether in respect of any tenancies created in priority to the Charge or subsequent thereto and with respect to all responsibility and liability for its acts and omissions;

36.3. The Lender may from time to time fix the remuneration of every such Receiver which shall be a charge on the Property, and may be paid out of the income therefrom or the proceeds of sale thereof;

36.4. The appointment of every such Receiver by the Lender shall not incur or create any liability on the part of the Lender to the Receiver in any respect and such appointment or anything which may be done by any such Receiver or the removal of any such Receiver or the termination of any such receivership shall not have the effect of constituting the Lender a mortgagee in possession in respect of the Property or any part thereof;

36.5. The Receiver shall have the power to lease any portion of the Property for such term and subject to such provisions as it may deem advisable or expedient and shall have the authority to execute any lease of the Property or any part thereof in the name and on behalf of the Borrower and the Borrower undertakes to ratify and confirm, and hereby ratifies and confirms, whatever acts such Receiver may do on the Property;

36.6. In all instances, the Receiver shall be acting as the attorney or agent of the Borrower;

36.7. The Receiver shall have full power to complete any unfinished construction upon the Property;

36.8. The Receiver shall have full power to manage, operate, amend, repair, alter or extend the Property or any part thereof in the name of the Borrower for the purposes of securing the payment of rental from the Property or any part thereof;

36.9. The Receiver shall have full power to assume control of, manage, operate and carry on the business of the Borrower being conducted at or upon the Property on the date of the Charge or at any time thereafter;

36.10. The Receiver shall have full power to do all acts and execute all documents which may be considered necessary or advisable in order to protect the Lender's interest in the Property including, without limiting the generality of the foregoing, increasing, extending, renewing or amending all charges, mortgages and other encumbrances which may be registered against the Property from time to time, whether or not any of the same are prior to the interest of the Lender in the Property; selling of the Property; borrowing money on the security of the Property; applying for and executing all documents in any way related to any re-zoning applications, severance of Property pursuant to the provisions of the *Planning Act* (Ontario), as amended, subdivision agreements and development agreements and agreements for the supply or maintenance of utilities or services to the Property, including grants of Property or easements or rights of way necessary or incidental to any such agreements; executing all grants, documents, instruments and agreements related to compliance with the requirements of any competent Governmental Body, whether pursuant to a written agreement or otherwise and applying for and executing all documents in any way related to registration of the Property as a condominium; completing any application for first registration pursuant to the provisions of the *Land Titles Act* (Ontario) or pursuant to the *Certification of Titles Act* (Ontario); and for all and every of the purposes aforesaid the Borrower does hereby give and grant unto the Receiver full and absolute power and authority to do and execute all acts, deeds, matters and things necessary to be done as aforesaid in and about the Property, and to commence, institute and prosecute all actions, suits and other proceedings which may be necessary or expedient in and about the Property, as fully and effectually to all intents and purposes as the Borrower itself could do if personally present and acting therein.

36.11. The Receiver shall not be liable to the Borrower to account for monies or damages other than cash received by it in respect of the Property or any part thereof and out of such cash so received every such Receiver shall pay in the following order:

i) its remuneration;

ii) all payments made or incurred by it in the exercise of its powers hereunder;

iii) any payment of interest, principal and other money which may from time to time be or become charged upon the Property in priority to the monies owing hereunder and all taxes, insurance premiums and every other proper expenditure made or incurred by it in respect of the Property or any part thereof.

The Borrower hereby irrevocably appoints the Lender as its attorney to execute such consent or consents and all such documents as may be required in the sole discretion of the Lender and/or its solicitors so as to give effect to the foregoing provisions and the signature of such attorney shall be valid and binding on the Borrower and all parties dealing with the Borrower, the Lender and/or the Receiver and/or with respect to the Property in the same manner as if such documentation was duly executed by the Borrower itself.

37. <u>LENDER NOT TO BE DEEMED LENDER IN POSSESSION</u>

It is agreed that the Lender in exercising any of the rights given to the Lender under the Charge shall be deemed not to be a Lender or mortgagee in possession.

38. <u>ENFORCEMENT OF ADDITIONAL SECURITY</u>

In the event that, in addition to the Property charged hereby, the Lender holds further security on account of the monies secured hereby, it is agreed that no single or partial exercise of any of the Lender's powers hereunder or under any of such security, shall preclude other and further exercise of any other right, power or remedy pursuant to any of such security. The Lender shall at all times have the right to proceed against all, any, or any portion of such security in such order and in such manner as it shall in its sole discretion deem fit, without waiving any rights which the Lender may have with respect to any and all of such security, and the exercise of any such powers or remedies from time to time shall in no way affect the liability of the Borrower under the remaining security, provided however, that upon payment of the full indebtedness secured hereunder the rights of the Lender with respect to any and all such security shall be at an end.

39. TAKING OF JUDGMENT NOT A MERGER

The taking of a judgment or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Lender's right to interest at the rate and times herein provided; and further that the said judgment shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until the said judgment shall have been fully paid and satisfied.

40. BANKRUPTCY AND INSOLVENCY ACT

The Borrower hereby acknowledges and agrees that the security held by the Lender is not all or substantially all of the inventory, accounts receivable or other property of the Borrower acquired for or used in relation to any business carried on by the Borrower. The Borrower hereby further acknowledges and agrees that notwithstanding any act of the Lender by way of appointment of any Person or Persons for the purposes of taking possession of the Property as agent on behalf of the Borrower or otherwise or by taking possession of the Property itself pursuant to any rights that the Lender may have with respect thereto shall not constitute the Lender or any such Person, a receiver within the meaning of subsection 243(2) of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"), and that any and all requirements of Part XI of the BIA as it may pertain to obligations of receivers shall not be applicable to the Lender with respect to the transaction pursuant to which the Charge has been given or with respect to enforcement of the Charge or any other security held by the Lender. The Borrower hereby acknowledges and agrees that no action shall lie against the Lender as a receiver and manager or otherwise for any loss or damage arising from non-compliance with any obligations of a receiver pursuant to the provisions of the BIA whether or not the Lender had reasonable grounds to believe that the Borrower was not insolvent.

The Borrower further acknowledges and agrees that any and all Costs as may be incurred from time to time by the Lender in order to effect compliance or avoid any adverse ramifications of the BIA shall be entirely for the account of the Borrower. The Lender shall be entitled to incur any such Costs, including any costs of its personnel in administering any requirements of the BIA and to add the same to the indebtedness owing pursuant hereto and the same shall be secured hereunder and under any and all security held by the Lender for the indebtedness owing to the Lender in the same manner and in the same priority as the principal secured hereunder.

41. PERMISSIBLE INTEREST RATE

It is not the intention of the Charge to violate any provisions of the *Interest Act* (Canada), the *Criminal Code* (Canada) (the "Code") or any other statute dealing with permitted rates of interest in the Province of Ontario or in Canada. Notwithstanding any provisions set out herein, in no event shall the "interest" (as that term is defined in the Code) exceed the "criminal rate" (as defined therein) of interest on the "credit advanced" (as defined therein) lawfully permitted under the said legislation. In the event that it is determined at any time that, by virtue of this Commitment, the Charge or any other document given as security for the herein contemplated loan, the payments of interest required to be made by the Borrower exceed the "criminal rate", then the Borrower shall only be required to pay interest at the highest rate permitted by law. Nothing herein shall invalidate any requirements for payment pursuant to this Commitment, the Charge or such other security documents, and any excess interest paid to the Lender shall be refunded to the Borrower and the provisions of the Charge shall in all respects be deemed to be amended accordingly.

42. INDEMNIFICATION

The Borrower and Covenantor hereby agree to indemnify and save harmless the Lender, its officers, agents, trustees, employees, contractors, licensees or invitees from and against any and all losses, damages, injuries, expenses, suits, actions, claims and demands of every nature and kind whatsoever and howsoever arising out of the provisions of this Commitment and the Security, any letters of credit or letters of guarantee issued, sale or lease of the Property and/or the use or occupation of the Property including, without limitation, those arising from the right to enter the Property from time to time and to carry out the various tests, inspections, management and other activities permitted by the Commitment and the Security.

In addition to any liability imposed on the Borrower and Covenantor under any instrument evidencing or securing the Loan indebtedness, the Borrower and Covenantor shall be jointly and severally liable for any and all of the Lender's costs, expenses, damages or liabilities, including, without limitation, all reasonable legal fees, directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about the Property of any hazardous or noxious substances. The Borrower and the Covenantor(s) shall be further bound by the representations, warranties and indemnity set out herein.

The representations, warranties, covenants and agreements of the Borrower and Covenantor set forth in this Section:

42.1. are separate and distinct obligations from the Borrower's and Covenantor's other obligations;

42.2. survive the payment and satisfaction of their other obligations and the discharge of the Security from time to time taken as security therefore;

42.3. are not discharged or satisfied by foreclosure of the charges created by any of the Security; and

42.4. shall continue in effect after any transfer of the Property including, without limitation, transfers pursuant to foreclosure proceedings (whether judicial or non-judicial) or by any transfer in lieu of foreclosure.

43. NON-MERGER

The Borrower's obligations as contained in this Commitment shall survive the execution and registration of the mortgage and other security documentation and all advances of funds under the mortgage, and the Borrower agrees that those obligations shall not be deemed to be merged in the execution and registration of the mortgage and other security. All terms and conditions of the mortgage and other security documentation shall be deemed to be incorporated in and form part of the Commitment, except to the extent provided for herein. In the event of conflict, the terms of this Commitment shall prevail.

44. NOTICES

All notices or other communications to be given pursuant to or in connection with the Charge shall be in writing, signed by the party giving such notice or by its solicitors, and shall be personally delivered or sent by registered mail or facsimile transmission to the party or parties intended at its or their respective addresses for service as set out in the Charge. The date of receipt of such notice or demand, if served personally or by facsimile, shall be deemed to be the date of the delivery thereof, or if mailed as aforesaid, the date of mailing thereof. For the purposes hereof, personal service on the Borrower or any Covenantor shall be effectively given by delivery to any officer, director or employee of such Borrower or Covenantor. Any party may from time to time by notice given as provided herein change its address for the purpose of this provision.

45. PRIORITY OVER VENDOR'S LIEN

The Borrower hereby acknowledges that the Charge is intended to have priority over any vendor's lien, whether in favour of the Borrower or otherwise, and the Borrower covenants that it has done no act to give priority over the Charge to any vendor's lien, nor is it aware of any circumstances that could create a vendor's lien. Further, the Borrower covenants to do all acts and execute or cause to be executed all documents required to give the Charge priority over any vendor's lien and to give effect to the intent of this clause.

46. CONSENT OF LENDER

Whenever the Borrower is required by the Charge to obtain the consent or approval of the Lender, it is agreed that, subject to any other specific provision contained in the Charge to the contrary, the Lender may give or withhold its consent or approval for any reason that it may see fit in its sole and absolute discretion, and the Lender shall not be liable to the Borrower in damages or otherwise for its failure or refusal to give or withhold such consent or approval, and all costs of obtaining such approval shall be for the account of the Borrower.

47. DISCHARGE

The Lender shall have a reasonable period of time after payment in full of the monies hereby secured within which to prepare and execute a discharge of the Charge; and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Lender; and all legal and other expenses for the preparation and execution of such discharge shall, together with the Lender's fee for providing same, be borne by the Borrower. The discharge shall be prepared and executed by such Persons as are specifically authorized by the Lender and the Lender shall not be obligated to execute any discharge other than a discharge which has been so authorized.

If the Charge, this Commitment or any other document provides for the giving of partial discharges of the Charge, it is agreed that, notwithstanding any other provision to the contrary, the Borrower shall not be entitled to request or receive any such partial discharge if and for so long as the Borrower is in default under the Charge, this Commitment or such other document.

48. FAMILY LAW ACT

The Borrower shall forthwith after any change or happening affecting any of the following, namely, (a) the spousal status of the Borrower, (b) the qualification of the Property or any part thereof as a matrimonial home within the meaning of Part II of the *Family Act* (Ontario), (c) the ownership of the equity of redemption in the Property or any part thereof, and (d) a shareholder of the Borrower obtaining rights to occupy the Property or any part thereof by virtue of shareholding within the meaning of Section 18(2) of the *Family Law Act* (Ontario), the Borrower will advise the Lender accordingly and furnish the Lender with full particulars thereof, the intention being that the Lender shall be kept fully informed of the names and addresses of the owner or owners for the time being of the said equity of redemption and of any spouse who is not an owner but who has a right of possession in the Property by virtue of Section 19 of the *Family Law Act* (Ontario). In furtherance of such intention, the Borrower covenants and agrees to furnish the Lender with such evidence in connection with any of (a), (b), (c) and (d) above as the Lender may from time to time request.

49. INDEPENDENT LEGAL ADVICE

The Borrower and each Covenantor acknowledge that they have full knowledge of the purpose and essence of this transaction, and that they have been appropriately and independently legally advised in that regard or have been advised of their right to independent legal advice and have declined same. Such parties agree to provide to the Lender a Certificate of Independent Legal Advice as and when same may be required, regarding their knowledge and understanding of this transaction.

50. SERVICING FEES

All servicing fees as herein provided are intended to and shall be in an amount sufficient in the sole opinion of the Lender to compensate the Lender for its administrative costs and shall not be deemed a penalty. The amount of such servicing fees if not paid shall be added to the principal amount secured hereunder, and shall bear interest at the rate aforesaid and the Lender shall have the same rights with respect to collection of same as it does with respect to collection of principal and interest hereunder or at law.

51. CONSENT TO REGISTRATION OF A PLAN OF CONDOMINIUM

Provided the Borrower is not in default of the provisions of this Commitment or any loan documents and provided that there are no costs or financial obligations to the Lender, the Lender hereby agrees that it will consent to the Borrower registering a plan of condominium and declaration (the "Condominium") pursuant to the *Condominium Act, 1998* (Ontario), as amended, with respect to the Property or any part thereof provided that the Lender has received and approved the draft plan of condominium and the declaration and provided further that the Borrower, if requested by the Lender, shall deliver to the Lender prior to the registration of the Condominium, a further charge of the Property (the "Replacement Charge") on the same terms and conditions save and except for the new legal description of the Property. It is agreed that the Replacement Charge shall secure the same indebtedness as the original Charge. In connection with the provision of the Replacement Charge, the Borrower shall also provide a replacement general assignment of rents (the "Replacement Assignment of Rents"), and together with and each Covenantor, where applicable, shall provide a re-confirmation of all existing security and such further and other documentation as may then be required by the Lender's solicitors.

Provided further that the original Charge and the original assignment of rents and leases relating thereto shall not be released or discharged from the Property (save and except for any partial discharge provisions provided for therein) until the expiration of ninety (90) days immediately following the later of the registration of the Condominium and the registration of the Replacement Charge and Replacement Assignment of Rents. Provided further that at the time of the request for a discharge of the Charge and the original assignment of rents and leases the Borrower shall not be in default of the provisions of the Charge, the Replacement Charge and/or this Commitment, failing which the Lender shall not be obliged to discharge same.

52. CONDOMINIUM PROVISIONS

If all or any part of the Property is or becomes a condominium unit pursuant to the provisions of the *Condominium Act, 1998* (Ontario) (the “Act”), the following covenants and provisions shall apply in addition to all other covenants and provisions set forth in the Charge:

52.1. For the purposes of all parts of the Property comprising one or more such condominium units, all references in the Charge to the Property shall include the Borrower's appurtenant undivided interest in the common elements and other assets of the Condominium Corporation;

52.2. The Borrower shall at all times comply with the Act and shall forward to the Lender proof of such compliance as the Lender may request from time to time including, without limitation, status certificates issued by the Condominium Corporation; and if the Borrower fails to so comply in any respect, the Lender may do so at its option and all Costs incurred by the Lender in connection therewith shall be secured by the Charge and payable by the Borrower to the Lender forthwith upon demand, together with interest thereon as herein provided;

52.3. The Borrower shall pay, when due, all monies payable by the Borrower or with respect to the Property in accordance with the provisions of the Act and the declaration, by-laws and rules of the Condominium Corporation, including all required contributions to common expenses and any special levies, charges and assessments, and shall provide proof of such payment to the Lender upon request; and if the Borrower fails to make any such payment, the Lender may do so at its option and all amounts so paid by the Lender shall be secured by the Charge and shall be payable by the Borrower to the Lender forthwith upon demand, together with interest thereon as herein provided;

52.4. The Borrower hereby irrevocably appoints, authorizes and empowers the Lender to exercise the rights of the Borrower to vote or to consent as an owner within the meaning of the Act with respect to all matters relating to the affairs of the Condominium Corporation, or to abstain from doing so, provided that:

51.4.1. the Lender may at any time and from time to time give notice in writing to the Borrower and to the Condominium Corporation that the Lender does not intend to exercise such right to vote or to consent, in which case the Borrower may exercise its right to vote or to consent for so long as such notice remains effective or until such notice is revoked by the Lender; and any such notice may be for an indeterminate period of time, a limited period of time or for a specific meeting or matter;

51.4.2. the Lender shall not be under any obligation to vote or to consent or to protect the interests of the Borrower; and,

51.4.3. the exercise by the Lender of its right to vote or to consent or to abstain from doing so shall not constitute the Lender as a mortgagee or Lender in possession and shall not give rise to any liability on the part of the Lender;

52.5. The Borrower shall forward to the Lender by delivery or by prepaid registered mail copies of every notice, assessment, claim, demand, by-law, rule, request for consent and other communication relating to all or any part of the Property or the common elements or affairs of the Condominium Corporation on or before the date which is the earlier of:

51.5.1. fourteen (14) days after receipt of the same by the Borrower;

51.5.2. seven (7) days prior to the date set for any meeting of the Condominium Corporation or any committee thereof;

51.5.3. seven (7) days prior to the due date of any claim or demand for payment; and,

51.5.4. within twenty-four (24) hours after becoming aware of any information concerning termination of any insurance policy, insurance trust agreement or management agreement relating to the Condominium Corporation or any of its assets;

52.6. The Borrower hereby authorizes and directs the Condominium Corporation to permit the Lender to inspect the records of the Condominium Corporation at any reasonable time;

52.7. In addition to and notwithstanding any other provisions of the Charge, the outstanding principal amount and all accrued interest and other charges secured by the Charge shall, at the Lender's option, become immediately due and payable without notice or demand if any of the following events or circumstances shall occur and be continuing:

51.7.1. the government of the Condominium Corporation or the government of the Property by the Condominium Corporation is terminated;

51.7.2. a vote of the Condominium Corporation authorizes the sale of all or substantially all of its property or assets or all or any part of its common elements or all or any part of the Property, or any part of the same is expropriated;

51.7.3. the Condominium Corporation fails to comply with any provision of the Act or its declaration or any of its by-laws and rules;

51.7.4. the Condominium Corporation fails to insure its assets, including the Property, in accordance with the Act and the declaration and by-laws of the Condominium Corporation, or any insurer thereof cancels or threatens cancellation of any existing obligation to insure the same.

53. ASSIGNMENT OF RENTS

As additional primary security for the monies secured by the Charge, the Borrower transfers and assigns to the Lender all rents, income, profits, rights and other benefits (collectively the "Rents") now or hereafter due or arising pursuant to all present and future oral or written leases, agreements to lease, tenancies or other agreements for the use or occupancy of the whole or any part of the Property and all extensions and renewals thereof (collectively the "Leases" and individually a "Lease") granted to any and all tenants, licensees and other occupiers thereof (collectively the

"Tenants" and individually a "Tenant"); and in furtherance thereof, the Borrower covenants and agrees as follows:

53.1. the Leases and details thereof heretofore provided by the Borrower to the Lender are in full force and effect and have not been assigned or pledged to any other party except as disclosed by registered title to the Property;

53.2. except with the prior written consent of the Lender, the Borrower shall not amend, terminate, release or accept a surrender of any Lease or any guarantee thereof or waive, release, reduce, discount, discharge or otherwise compromise any Rents payable thereunder, and any attempt to do any of the foregoing without such prior written consent shall be null and void as against the Lender;

53.3. except for the last month's rent and any security deposit, the Borrower has not received and shall not accept payment of any Rents more than thirty (30) days in advance;

53.4. except with the prior written consent of the Lender, the Borrower shall not further assign the Rents, the Leases or any interest therein or consent or agree to any postponement or subordination of the same in favour of any mortgage or other encumbrance now or hereafter affecting the Property;

53.5. except with the prior written consent of the Lender, the Borrower shall not consent to or permit any assignment or subletting of the interest of any Tenant under any Lease or exercise any right of election thereunder which would in any way lessen the liability of any Tenant or shorten the stated term of any Lease;

53.6. the Borrower shall diligently and in good faith observe and perform all of the landlord's covenants contained in the Leases and shall likewise require that the Tenants and other parties to the Leases fully observe and perform the covenants and agreements imposed upon them by the Leases, failing which, the Lender may, at its option, require the same at the expense and in the name of the Borrower, and all such expenses incurred by the Lender shall be a charge upon the Property and be paid by the Borrower to the Lender forthwith upon demand;

53.7. the Borrower shall give prompt written notice to the Lender of default by any Tenant and any notice of default received from any Tenant, including a copy of such notice;

53.8. all of the Leases are and shall be bona fide and at rental rates and upon terms which are commercially reasonable and consistent with comparable space in the municipality within which the Property are situate;

53.9. the Borrower shall, at its own expense, execute and deliver to the Lender all such further assurance and assignments with respect to the Rents and the Leases and enforce and do all other acts with respect to the Leases as may be required from time to time by the Lender.

Upon default hereunder by the Borrower, the Lender shall be entitled, as agent and attorney of the Borrower, to collect, sue for, waive or compromise the Rents and to enforce performance of the Leases or amend, terminate, release or accept a surrender of the same as the Lender may determine in its sole discretion;

The Lender shall not be obligated to perform or discharge any obligation or liability under the Leases, or under or by reason of the assignment herein contained, and the Borrower agrees to save and hold harmless the Lender of and from any and all actions, proceedings, claims, demands, liability, damages, Costs or expenses which the Lender may incur under or by reason of the Leases or the assignment herein contained; and all Costs incurred by the Lender in connection therewith shall be a charge upon the Property and be paid by the Borrower to the Lender forthwith upon demand.

In the event that the Lender collects any Rents by reason of the Borrower's default, the Lender shall be entitled to payment from the same of an administration fee equal to 5.0% of the gross amount of Rents collected, and the Borrower acknowledges and agrees that such administration fee is just and equitable having regard to the circumstances.

54. MATERIAL ADVERSE CHANGES

In the event that at any time while any indebtedness remains outstanding pursuant to the provisions of the Charge, the Lender discovers a discrepancy or inaccuracy in any written information, statements or representations made or furnished to the Lender by or on behalf of the Borrower or any Covenantor concerning the Property or the financial condition and responsibility of the Borrower or any Covenantor in the event of any material adverse change in the value of the Property or the financial status of the Borrower or any Covenantor or any lessee on which the Lender relied upon in making any advances hereunder, which material change, discrepancy or inaccuracy cannot be rectified by the Borrower or such Covenantor (if applicable) within thirty (30) days after written notification thereof by the Lender to the Borrower or such Covenantor, the Lender shall be entitled to decline to advance any further funds pursuant hereto and/or to declare any and all amounts advanced pursuant hereto together with interest thereon to be forthwith due and payable.

55. PROFESSIONAL MANAGEMENT

The Property must at all times be professionally managed by property managers acceptable to the Lender, failing which the Lender reserves the right, in its sole discretion, to appoint new or other property managers at the sole expense of the Borrower. A change in the property managers for Property shall require the prior written consent of the Lender. No management fee shall be payable to the manager of the Property, other than to a professional arm's-length manager approved by the Lender, without the prior written consent of the Lender. No management fees in excess of market fees for similar properties in the general location of the Property shall be payable without the prior written consent of the Lender.

56. NO PREPAYMENTS

Save and except as otherwise provided for in the Commitment or any schedule to a specific charge, the Borrower shall have no right to prepay all or any part of the amount outstanding under the Charge prior to the maturity date thereof.

57. NO PARTIAL DISCHARGES

Save and except as otherwise provided for in the Commitment or any schedule to a specific charge, the Borrower shall have no right to obtain a partial discharge(s) of the Charge

58. ADDITIONAL FEES

All advances, in addition to legal fees and disbursements of the Lender's solicitors, shall be subject to an administrative processing fee of One Thousand Dollars ($1,000.00) for each advance made under the Loan in favour of the Lender. The Borrower shall be permitted one advance per month. If the Lender, in its sole discretion, agrees to make an advance in an amount not less than the minimum amount per advance as specified in this Commitment, an additional processing fee of One Thousand Dollars ($1,000.00) for any such advance so made shall be payable by the Borrower.

59. ABANDONMENT

In the event of abandonment of the Project for a period in excess of fifteen (15) consecutive days, the Lender shall be entitled, after giving the Borrower written notice of any abandonment and provided the Borrower fails to rectify same within ten (10) days after such notice, has been given, to forthwith withdraw and cancel its obligations hereunder and/or decline to advance further funds as the case may be and in addition to declare any funds advanced to forthwith become due and payable plus interest all at the Lender's option.

60. INTERPRETATION

It is hereby agreed that, in construing the Charge, everything herein contained shall extend to and bind and may be enforced or applied by the respective heirs, personal representatives, successors and assigns, as the case may be, of each and every of the parties hereto, and where any of the Borrower, the Lender and any Covenantor is more than one Person, their respective covenants shall be deemed to be joint and several, and the provisions of the Charge shall be read and construed with all changes of gender and number as required by the context.

61. HEADINGS

The headings with respect to the various paragraphs of the Charge are intended to be for identification of the various provisions of the Charge only and the wording of such headings is not intended to have any legal effect.

62. INVALIDITY

If any of the covenants or conditions in the Charge inclusive of all schedules forming a part hereof shall be void for any reason it shall be severed from the remainder of the provisions hereof and the remaining provisions shall remain in full force and effect notwithstanding such severance.

63. COUNTERPARTS

The Charge may be executed and/or registered in counterparts, each of which, so executed, and/or registered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, and notwithstanding their date of execution shall be deemed to bear date as of the date above written.

This is Exhibit "7" referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

SECURITY AGREEMENT

THIS AGREEMENT is made this 24 day of January, 2022.

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION, AS TRUSTEE
162 Cumberland Street, Suite 300
Toronto, Ontario M5R 3N5

(hereinafter called the "Secured Party")

OF THE FIRST PART,

- and -

TUNG KEE INVESTMENT CANADA LTD.
118 Grey Alder Avenue
Richmond Hill, Ontario L4B 3P9

(hereinafter called the "Debtor")

OF THE SECOND PART.

1.0 CONSIDERATION

(1) For valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, the Debtor enters into this security agreement (the "Agreement") with the Secured Party.

(2) Obligations Secured

The Security Interest (as hereinafter defined) is granted to the Secured Party by the Debtor as continuing security for the payment of all past, present and future indebtedness (hereinafter, the "Indebtedness") of the Debtor and Tung Kee Investment Limited Partnership to the Secured Party pursuant to a Promissory Note in the principal amount of $30,000,000 and a commitment letter dated October 18, 2021, as amended by an amendment dated December 14th and accepted December 20th, 2021 and as further amended by an amendment dated January 7th, 2022 (collectively, the "Commitment") and for the payment and performance of all other present and future obligations of the Debtor to the Secured Party , whether direct or indirect, contingent or absolute (including obligations under this Agreement) (collectively the "Obligations").

2.0 CREATION OF SECURITY INTEREST

(1) The Debtor grants, mortgages, charges, transfers, assigns, creates to and in favour of the Secured Party as and by way of a fixed and specific charge and as and by way of a floating charge, a security interest (the "Security Interest") in the present and future undertaking, property and assets of the Debtor and in all goods (including all parts, accessories, attachments, special tools, additions and accessions thereto), chattel paper, documents of title (whether negotiable or not), instruments, intangibles and securities now owned or hereafter owned or acquired by or on behalf of Debtor (including such as may be returned to or repossessed by Debtor) and in all proceeds and renewals thereof, accretions thereto and substitutions therefor (hereinafter collectively called "Collateral"), including, without limitation, all of the following now owned or hereafter owned or acquired by or on behalf of Debtor:

(i) **Inventory** - all goods now or hereafter comprising part of the inventory of the Debtor including but not limited to goods now or hereafter held for sale or lease or furnished or to be furnished under a contract of service or that are raw materials, work in process or materials used or consumed in a business or profession or finished goods, goods used for packing, materials used in the business of the Debtor not intended for sale and goods acquired or held for sale or furnished or to be furnished under contracts of rental or service;

(ii) **Equipment** - all goods now or hereafter used or intended to be used in any business of the Debtor (and which are not inventory) including but not limited to fixtures, plant, tools, furniture, equipment, machinery, appliances, heating and cooling, plumbing, electrical, mechanical, all spare parts, accessories installed in or affixed or attached to any of the foregoing, and all drawings, specifications, plans and manuals relating thereto, vehicles and other tangible personal property;

(iii) **Accounts** - all accounts, debts, demands and choses in action which are now due, owing or accruing due or which may hereafter become due, owing or accruing due to the Debtor, and all claims of any kind which the Debtor now has or may hereafter have including but not limited to claims against the Crown and claims under insurance policies and accounts receivable, and all contracts, security interests and other rights and benefits in respect thereof;

(iv) **Chattel Paper** - all chattel paper now or hereafter owned by the Debtor, all present and future agreements made between the Debtor as secured party and others which evidence back a monetary obligation and a security interest in or lease of specific goods;

(v) **Documents of Title** - all warehouse receipts, bills of lading and other documents of title, whether negotiable or non-negotiable, now or hereafter owned by the Debtor;

(vi) **Documents** - with respect to the personal property described in subparagraphs (iii), (iv) and (v), all books, accounts, invoices, letters, papers, documents and other records in any form evidencing or relating thereto and all contracts, securities, instruments and other rights and benefits in respect thereof;

(vii) **Securities** - all present and future securities held by the Debtor, including shares, options, rights, warrants, joint venture interests, interests in limited partnerships, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of the Debtor in property or in an enterprise or which constitutes evidence of an obligation of the issuer; and including an uncertified security within the meaning of Part VI (investment securities) of the *Business Corporations Act, (Ontario)* and all substitutions therefor, and dividends and income derived therefrom;

(viii) **Proceeds** - all personal property in any form derived directly or indirectly, from any dealings with collateral or subject to the Security Interest or the proceeds therefrom, and including any payment representing indemnity or compensation for loss or damage thereto or the proceeds therefrom;

(ix) **Intangibles** - all goodwill, contract rights, patents, trade marks, licences copyrights and other industrial property and all other intangibles and other choses in action of the Debtor of every kind, whether owned or otherwise provided to the Debtor for its use at the present time or hereafter to become owned or otherwise provided to the Debtor for its use;

(x) with respect to the personal property described in subparagraphs (i) to (ix) inclusive, all substitutions and replacements thereof, increases, additions and accessions thereto and any interest of the Debtor therein;

(xi) with respect to the personal property described in subparagraphs (i) to (x) inclusive, personal property in any form or fixtures derived directly or indirectly from any dealing with such property or that indemnifies or compensates for such property destroyed or damaged;

(xii) **Money** - all present and future monies of the Debtor (other than trust monies lawfully belonging to others) whether authorized or adopted by the Parliament of Canada or as part of its currency or any foreign government as part of its currency; and

(xiii) all property described in any schedule now or hereafter annexed hereto.

(2) The last day of the term of any lease, sublease or agreement therefor is specifically excepted from the Security Interest, but the Debtor agrees to stand in possession of such last day in trust for any person acquiring such interest of the Debtor. To the extent that the creation of the Security Interest would constitute a breach or cause the acceleration of any agreement, right, licence or permit to which the Debtor is a party, the Security Interest shall not attach thereto but the Debtor shall hold its interest therein in trust for the Secured Party and shall assign such agreement, right, licence or permit to the Secured Party forthwith upon obtaining the consent of the other party thereto.

(3) The terms "goods", "chattel paper", "documents of title", "instruments", "intangibles", "securities", "proceeds", "inventory", "monies" and "accessions" whenever used herein shall be interpreted pursuant to their respective meanings when used in the *Personal Property Security Act of Ontario*, as amended from time to time, which Act, including amendments thereto and any Act substituted therefor and amendments thereto is herein referred to as the "P.P.S.A." Provided always that the term "goods" when used herein shall not include "consumer goods" of Debtor as that term is defined in the P.P.S.A., and the term "inventory" when used herein shall include livestock and the young thereof after conception and crops that become such within one year of execution of this Agreement. Any reference herein to "Collateral" shall, unless the context otherwise requires, be deemed a reference to "Collateral or any part thereof". In this Agreement "Collateral" shall include the proceeds thereof.

Without limiting the generality of the description of Collateral as set out in paragraph 2 hereof, for greater certainty the Collateral shall include all present and future personal property of the Debtor located on or about or in transit to or from the address of the Debtor set forth in Schedule "A" attached hereto. The Debtor agrees to promptly inform the Secured Party in writing herein and the Debtor agrees to forthwith execute and deliver at its own expense from time to time, amendments to this Agreement or additional security agreements as may be required by the Secured Party in order that the Security Interest shall attach to such personal property.

3.0 DEALINGS WITH COLLATERAL

Until the occurrence of an Event of Default (as hereinafter defined) the Debtor may sell its inventory and collect its accounts in the ordinary course of business; provided that all accounts so collected shall be held by the Debtor as agent and in trust for the Secured Party and paid to the Secured Party immediately upon its request. The Debtor agrees to deposit all proceeds from the disposition of inventory into its ordinary operating general business bank account. The Secured Party shall have the right at any time and from time to time to confirm the existence and state of Collateral in any manner Secured Party may consider appropriate and Debtor agrees to furnish all assistance and information and to perform all such acts as Secured Party may reasonably request in connection therewith and for such purpose to grant to Secured Party or its agents access during normal business hours to all places where Collateral may be located and to all premises occupied by Debtor.

4.0 RECEIPT OF INCOME FROM AND INTEREST ON COLLATERAL

(1) Until default, Debtor shall have the right to receive any monies constituting income from or interest on Collateral and if Secured Party receives any such monies prior to default, Secured Party shall either credit the same to the account of Debtor or pay the same promptly to Debtor.

(2) After default Debtor will not request or receive any monies constituting income from, or interest on, Collateral and if Debtor receives any such monies without any request by it, Debtor will receive the same in trust for, and promptly pay the same to, Secured Party.

5.0 INCREASES, PROFITS, PAYMENTS OR DISTRIBUTIONS REGARDING COLLATERAL

(1) Upon the occurrence of an Event of Default the Debtor authorizes the Secured Party:

(i) to receive any increase in or profits on Collateral (other than money) and to hold the same as part of Collateral. Money so received shall be treated as income for the purposes of paragraph 4 hereof and dealt with accordingly; and

(ii) to receive any payment or distribution upon redemption or retirement or upon dissolution and liquidation of the issuer of Collateral; to surrender such Collateral in exchange therefor; and to hold any such payment or distribution as part of Collateral.

(2) If Debtor receives any such increases or profits (other than money) or payments or distributions, Debtor will receive the same in trust for and deliver the same promptly to Secured Party to be held by Secured Party as herein provided.

6.0 SECURITIES FORMING PART OF COLLATERAL

Until the occurrence of an Event of Default, the Debtor shall be entitled to:

(a) Keep all securities which may be included as part of Collateral registered in its own name; and

(b) exercise all voting and other rights in respect of such securities.

7.0 COLLECTION OF DEBTS FORMING PART OF COLLATERAL

Before or after default under this Agreement, Secured Party may notify all or any account debtors (as hereinafter defined) of the Security Interest and may also direct such account debtors to make all payments on Collateral to Secured Party. Debtor acknowledges that any payments on or other proceeds of Collateral received by Debtor from account debtors after default under this Agreement, whether before or after notification of the Security Interest to account debtors, shall be received and held by Debtor in trust for Secured Party and shall be turned over to Secured Party upon request.

8.0 REPRESENTATIONS AND WARRANTIES OF DEBTOR

Debtor represents, warrants and acknowledges that Secured Party is relying thereupon and so long as this Agreement remains in effect shall be deemed to continuously represent and warrant that:

(1) The Collateral is or will be when Collateral is acquired genuine and beneficially owned by Debtor free of all security interests, mortgages, liens, claims, charges, taxes, assessments or other encumbrances, pledges (hereinafter collectively called "encumbrances"), except those which may have been approved by the Secured Party;

(2) Each account, chattel paper and instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same (the "account debtor"), and the amount represented by Debtor to Secured Party from time to time as owing by each account debtor or by all account debtors will be the correct amount actually and unconditionally owing by such debtor or account debtors, except for normal cash discounts where applicable;

(3) The locations specified in Schedule "A" as to business operations and records of Debtor are accurate and complete and, with respect to goods (including inventory) constituting Collateral, the locations specified in Schedule "A" are accurate and complete save for goods in transit to such locations and all fixtures or goods about to become fixtures which form part of the Collateral will be situate at one of such locations;

(4) The Debtor has, or will have when Collateral is acquired, the capacity, authority and the right to create mortgages and charges of, and grant a security interest in the Collateral in favour of the Secured Party and generally perform its obligation under this Agreement;

(5) This Agreement has been duly and properly authorized by all necessary action and constitutes a legal, valid and binding obligation of the Debtor; and

(6) The Collateral does not include any goods which are used or acquired by the Debtor for use primarily for personal, family or household purposes.

9.0 COVENANTS OF DEBTOR

So long as this Agreement remains in effect Debtor covenants and agrees:

(1) **Payment** - To pay or satisfy all Obligations when due;

(2) **Encumbrances** - To defend the Collateral against the claims and demands of all other parties claiming the same or an interest therein; to keep the Collateral or any part thereof free from all encumbrances, except for the Security Interest; and except as otherwise provided herein, not to sell, exchange, transfer, assign, lease, or otherwise dispose of Collateral or any interest therein without the prior written consent of Secured Party which consent may not be unreasonably withheld or delayed;

(3) **Notice to Secured Party:** - To notify Secured Party promptly of:

(i) any significant change in the information contained herein or in the schedules hereto relating to Debtor, Debtor's business or Collateral;

(ii) the details of any significant acquisition of Collateral;

(iii) the details of any claims or litigation of a material nature affecting Debtor or Collateral;

(iv) any material loss of or damage to Collateral;

(v) any material default by any account debtor in payment or other performance of its obligations to the Debtor; and

(vi) the return to or repossession by Debtor of Collateral.

(4) **Care of Collateral** - To keep the Collateral in good order, condition and repair (reasonable wear and tear excepted) and not to use Collateral in violation of the provisions of this Agreement or any other agreement relating to Collateral or any policy insuring Collateral or any applicable statute, law, by-law, rule, regulation or ordinance;

(5) **Further Assurances** - To do, execute, acknowledge and deliver such financing statements and further assignments, transfers, documents, acts, matters and things as may be reasonably requested by Secured Party of or with respect to Collateral in order to give effect to these presents and to pay all reasonable costs for searches and filings in connection therewith;

(6) **Taxes and Charges** - To pay all taxes, rates, levies, assessments and other charges of every nature which may be lawfully levied, assessed or imposed against or in respect of Debtor or Collateral as and when the same become due and payable, except for such taxes, rates, levies, assessments and other charges which are being contested in good faith by proper legal proceedings and with respect to which adequate reserves have been established and are being maintained;

(7) **Insurance** - To carry insurance from financially responsible insurance companies and to maintain such insurance against fire, theft, water damage, public liability, property damage, business interruption losses and all other related risks, with loss payable to Secured Party, to cover the full insurable value of the Collateral as Secured Party may reasonably require or, in the absence of such requirement, to the extent insured against by comparable corporations engaged in comparable businesses and owning or operating similar properties, and to deliver to Secured Party copies of all policies, renewals and replacements within fifteen (15) days of their issue and delivery to Debtor, and to cause Secured Party to be named as loss payee on such policies;

(8) **Accession** - To prevent Collateral, except for inventory sold or leased as permitted hereby, from being or becoming an accession to other property not covered by this Agreement;

(9) **Business Activities** - To carry on and conduct the business of Debtor in a proper and efficient manner and so as to protect and preserve the Collateral and the earnings, incomes, rents, issues and profits thereof and to keep, in accordance with generally accepted accounting principles, consistently applied, proper books of account for Debtor's business as well as accurate and complete records concerning Collateral, and mark any and all such records and Collateral, at Secured Party's request, so as to indicate the Security Interest;

(10) **Deliveries** - To deliver to Secured Party from time to time promptly upon request:

(i) Any documents of title, instruments, securities and chattel paper constituting, representing or relating to Collateral;

(ii) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to Collateral for the purpose of inspecting, auditing or copying the same;

(iii) all financial statements prepared by or for Debtor regarding Debtor's business, including aged lists of inventory and accounts;

(iv) all policies and certificates of insurance relating to Collateral; and

(v) such information concerning Collateral, the Debtor and Debtor's business and affairs as Secured Party may reasonably request.

(11) **Conformity** - To duly observe and conform to all valid requirements of any governmental authority relative to any of the Collateral and all covenants, terms and conditions upon or under which the Collateral is held.

(12) **Maintain Existence** - The Debtor shall maintain its existence and shall not change its name or amalgamate or sell, exchange, assign or lease or otherwise dispose of the Collateral or any interest therein without the prior written consent of the Secured Party which consent may not be unreasonably withheld or delayed except that until an event of default as described in paragraph 10.0 occurs, the Debtor may sell or lease inventory in the ordinary course of its business.

(13) **Payment of Expenses** - To pay all expenses, including solicitors' and receivers' fees and disbursements incurred by the Secured Party or its agents (including any receiver, as hereinafter defined) in connection with the preparation, perfection, preservation and enforcement of this Agreement; including but not limited to all expenses incurred by the Secured Party or such agents in dealing with other creditors of the Debtor in connection with the establishment and confirmation of the priority of the Security Interest, all of which expenses shall be payable forthwith upon demand and shall form part of the Obligations.

Upon failure by the Debtor to perform any of the covenants described in this paragraph, the Secured Party is authorized and has the option to take possession of the Collateral and, whether it has taken possession or not, to perform any of the agreements in any manner deemed proper by the Secured Party, without waiving any rights to enforce this Agreement. The reasonable expenses (including the cost of any insurance and payment of taxes or the charges and reasonable legal costs on a solicitor and client basis) incurred by the Secured Party in respect of the custody, preservation, use or operation of the Collateral shall be deemed advanced to the Debtor by the Secured Party, shall bear interest at 9.40% per annum (the "Interest Rate") and shall be secured by this Agreement.

10.0 EVENTS OF DEFAULT

The happening of any of the following events or conditions shall constitute default hereunder which is herein referred to as "default" or an "Event of Default":

(1) The Debtor fails to satisfy or perform any of the Obligations when due;

(2) The Debtor is in default pursuant to the Commitment and such default has not been waived or cured within any applicable curative period;

(3) The nonpayment when due, whether by acceleration or otherwise, of any principal or interest forming part of the Indebtedness or the failure of Debtor to observe or perform any obligation, covenant, term, provision or condition contained in this Agreement or any other agreement between Debtor and Secured Party and such failure has not been waived or cured within any applicable period of grace;

(4) The bankruptcy or insolvency of Debtor or any guarantor of the indebtedness; the filing against Debtor or any guarantor of the Indebtedness of a petition in bankruptcy; the making of an

authorized assignment for the benefit of creditors by Debtor or any guarantor of the Indebtedness; the appointment of a receiver or trustee for Debtor or any guarantor of the Indebtedness or for any assets of Debtor or any guarantor of the Indebtedness; or the institution by or against Debtor or any guarantor of the Indebtedness of any other type of insolvency proceeding under the *Bankruptcy and Insolvency Act* or otherwise;

(5) The institution by or against the Debtor or any guarantor of the Indebtedness of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against or winding up of affairs of Debtor or any guarantor of the Indebtedness;

(6) If any encumbrance affecting the Collateral becomes enforceable against the Collateral;

(7) If Debtor or any guarantor of the Indebtedness ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets without complying with applicable law or commits or threatens to commit an act of bankruptcy;

(8) If any execution, sequestration, extent or other process of any court becomes enforceable against Debtor or any guarantor of the Indebtedness or if a distress or analogous process is levied upon the assets of Debtor or any guarantor of the Indebtedness or any part thereof;

(9) If any certificate, statement, representation, warranty or audit report heretofore or hereafter furnished by or on behalf of Debtor pursuant to or in connection with this Agreement, or otherwise (including, without limitation, the representations and warranties contained herein) or as an inducement to Secured Party to enter into this or any other agreement with Debtor, proves to have been false in any material respect at the time as of which the facts therein set forth were stated or certified or becomes incorrect in any respect at any time or proves to have omitted any substantial contingent or unliquidated liability or claim against Debtor; or if upon the date of execution of this Agreement, there shall have been any material adverse change in any of the facts disclosed by any such certificate, representation, statement, warranty or audit report, which change shall not have been disclosed to Secured Party at or prior to the time of such execution; and

(10) If Secured Party, in good faith, believes and has commercially reasonable grounds to believe that the prospect of payment of the Indebtedness or performance of the Obligations is or is about to be placed in jeopardy.

11.0 ACCELERATION

Secured Party, in its sole discretion, may declare all or any part of the Indebtedness which is not by its terms payable on demand to be immediately due and payable, without demand or notice of any kind, in the event of default.

12.0 REMEDIES

(1) Upon default, if the Secured Party declares that the Indebtedness shall become immediately due and payable in full, the Debtor and the Secured Party shall have, in addition to any other rights and remedies provided by law, the rights and remedies of a debtor and a secured party respectively under the P.P.S.A and this Agreement. Secured Party may appoint or re-appoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of Secured Party or not, to be a receiver or receivers (hereinafter called a "receiver", which term when used herein shall include a receiver and manager) of Collateral (including any interest, income or profits therefrom) and may remove any receiver so appointed and appoint another in his stead. Any such receiver shall, so far as concerns responsibility for his acts, be deemed the agent of Debtor and not Secured Party, and Secured Party shall not be in any way be responsible for any misconduct, negligence, or nonfeasance on the part of any such receiver, his servants, agents or employees. Subject to the provisions of the instrument appointing him, any such receiver shall have power to take possession of Collateral, to preserve Collateral or its value, to carry on or concur in carrying on all or any part of the business of Debtor and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of Collateral. To facilitate the foregoing powers, any such receiver may, to the exclusion of all others, including Debtor, enter upon, use and occupy all premises owned or occupied by Debtor wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral directly in carrying on Debtor's business or as security for loans or advances to enable him to carry on Debtor's business or otherwise as such receiver shall in his discretion

determine. Except as may be otherwise directed by Secured Party, all monies received from time to time by such receiver in carrying out his appointment shall be received in trust for and paid over to Secured Party. Every such receiver may, in the discretion of Secured Party, be vested with all or any of the rights and powers of Secured Party.

(2) Upon default, Secured Party may, either directly or through its agents or nominees, exercise all the powers and rights given to a receiver by virtue of the foregoing subparagraph (1).

(3) Secured Party may take possession of, collect, demand, sue on, enforce, recover and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof and, upon default, Secured Party may sell, lease or otherwise dispose of Collateral in such manner, at such time or times and place or places, at public auction, by public tender or by private sale, for such consideration and upon such terms and conditions as to Secured Party may seem reasonable.

(4) Secured Party shall not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of Collateral or to institute proceedings for such purposes. Furthermore, Secured Party shall have no obligation to take any steps to preserve rights against prior parties to any instrument or chattel paper, whether Collateral or proceeds, and whether or not in Secured Party's possession and shall not be liable or accountable for failure to do so.

(5) Debtor acknowledges that Secured Party or any receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and Debtor agrees upon request from Secured Party or any such receiver to assemble and deliver possession of Collateral at such place or places as directed.

(6) Debtor agrees to pay all costs, charges and expenses reasonably incurred by Secured Party or any receiver appointed by it, whether directly or for services rendered (including legal costs on a solicitor and client basis and auditors' costs and receiver remuneration), in operating Debtor's accounts, in preparing or enforcing this Agreement, taking custody of, preserving, repairing, processing, preparing for disposition and disposing of Collateral and in enforcing or collecting indebtedness and all such costs, charges and expenses together with any monies owing as a result of any borrowing by Secured Party or any receiver appointed by it, as permitted hereby, shall be a first charge on the proceeds of realization, collection or disposition of Collateral and shall be secured hereby.

(7) Unless the Collateral in question is perishable or unless Secured Party believes on reasonable grounds that the Collateral in question will decline speedily in value, Secured Party will give Debtor such notice of the date, time and place of any public sale or of the date after which any private disposition of Collateral is to be made, as may be required by the *Personal Property Security Act.*

13.0 STANDARDS OF SALE

Without prejudice to the ability of the Secured Party to dispose of the Collateral in any manner which is commercially reasonable, the Debtor acknowledges that a disposition of Collateral by the Secured Party which takes place substantially in accordance with the following provisions shall be deemed to be commercially reasonable:

(1) Collateral may be disposed of in whole or in part;

(2) Collateral may be disposed of by public sale upon written notice to the Debtor following one advertisement in a newspaper having general circulation in the location of the Collateral to be sold at least seven (7) days prior to such sale;

(3) Collateral may be disposed of by private sale after receipt by the Secured Party of two (2) written offers;

(4) The purchaser or lessee of such Collateral may be a customer of the Secured Party; and

(5) The disposition may be cash or credit or part cash or credit; and the Secured Party may establish a reserve in respect of all or any portion of the Collateral.

14.0 DISPOSITION OF MONIES

Any proceeds of any disposition of any of the Collateral may be applied by Secured Party to the payment of expenses incurred in connection with the retaking, holding, repairing, processing, preparing for disposition and disposing of the Collateral (including legal costs on a solicitor and client basis and any other reasonable expenses), and any balance of such proceeds may be applied by Secured Party towards the payment of the Indebtedness in such order of application as Secured Party may from time to time effect. All such expenses and all amount's borrowed on the security of the Collateral under paragraph 12.0 hereof shall bear interest at the Interest Rate and shall be included as the Indebtedness under this Agreement. If the disposition of the Collateral fails to satisfy the Indebtedness and the expenses incurred by Secured Party, Debtor shall be liable to pay for any deficiency on demand.

15.0 MISCELLANEOUS

(1) Debtor hereby authorizes Secured Party to file such financing statements and other documents and do such acts, matters and things (including completing and adding schedules hereto identifying Collateral or any permitted encumbrances affecting Collateral or identifying the locations at which Debtor's business is carried on and Collateral and records relating thereto are situate) as Secured Party may deem appropriate to perfect and continue the Security Interest, to protect and preserve Collateral and to realize upon the Security Interest and Debtor hereby irrevocably constitutes and appoints Secured Party (or the president from time to time of Secured Party) the true and lawful attorney of Debtor, with full power of substitution, to do any of the foregoing in the name of Debtor whenever and wherever in the event that the Debtor refuses to do so or the occurrence of a default.

(2) Upon Debtor's failure to perform any of its duties hereunder, Secured Party may, but shall not be obligated to, perform any or all of such duties, and Debtor shall pay to Secured Party, forthwith upon written demand therefor, an amount equal to the expense incurred by Secured Party in so doing plus interest thereon from the date such expense is incurred until it is paid at the Interest Rate.

(3) Secured Party may grant extensions of time and other indulgences, take and give security, accept compositions, compromise, settle, grant releases and discharges and otherwise deal with Debtor, debtors of Debtor, sureties and others and with Collateral and other security as Secured Party may see fit without prejudice to the liability of Debtor or Secured Party's right to hold and realize the Security Interest. Furthermore, Secured Party may demand, collect and sue on Collateral in either Debtor's or Secured Party's name, at Secured Party's option, and may endorse Debtor's name on any and all cheques, commercial paper and any other instruments pertaining to or constituting Collateral.

(4) No delay or omission by Secured Party in exercising any right or remedy hereunder or with respect to any indebtedness shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. Furthermore, Secured Party may remedy any default by Debtor hereunder or with respect to any indebtedness in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by Debtor. All rights and remedies of Secured Party granted or recognized herein are cumulative and may be exercised at any time and from time to time independently or in combination.

(5) Debtor waives protest of any instrument constituting Collateral at any time held by Secured Party on which Debtor is in any way liable and, subject to subparagraph 15 (8) hereof, notice of any other action taken by Secured Party.

(6) This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. In any action brought by an assignee of this Agreement and the Security Interest or any part thereof to enforce any rights hereunder, Debtor shall not assert against the assignee any claim or defence which Debtor now has or hereafter may have against Secured Party.

(7) Save for any schedules which may be added hereto pursuant to the provisions hereof, no modification, variation or amendment of any provision of this Agreement shall be made except by a written agreement executed by the parties hereto and no waiver of any provision hereof shall be effective unless in writing.

(8) This Agreement and the transactions evidenced hereby shall be governed by and construed in accordance with the laws of the Province of Ontario as the same may from time to time be in effect, including the *Personal Property Security Act*.

(9) Subject to the requirements of subparagraph 15(7), any notice to Debtor in connection with this Agreement shall be well and sufficiently given if sent by prepaid registered mail to or delivered to Debtor at the address set out on page one hereof or to such other address as Debtor may from time to time designate in writing to Secured Party. Any notice to Secured Party in connection with this Agreement shall be well and sufficiently given if sent by prepaid registered mail or delivered to Secured Party at the address set out on page one or to such other address as Secured Party may from time to time designate in writing to Debtor. Any such notice shall be deemed to have been given if delivered, when delivered, and if mailed, on the fourth business day following that on which it was mailed. In the event of a known interruption of postal services, any notice required or contemplated herein shall be deemed to have been delivered to Debtor only if delivered by hand to Debtor at the address specified herein or pursuant hereto and to Secured Party only if delivered by hand to Secured Party at the address specified herein or pursuant hereto.

(10) This Agreement and the Security Interest is in addition to and not in substitution for any other security now or hereafter held by Secured Party and is intended to be a continuing Agreement and shall remain in full force and effect until the indebtedness has been paid in full.

(11) In this Agreement the term "successors" shall include (and without limiting its meaning) any corporation resulting from the amalgamation of one corporation with another corporation.

(12) The headings used in this Agreement are for convenience only and are not to be considered a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

(13) When the context so requires, the singular number shall be read as if the plural were expressed and the provisions hereof shall be read with all grammatical changes necessary dependent upon the person referred to being a male, female, firm or corporation.

(14) In the event any provisions of this Agreement, as amended from time to time, shall be deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions of this Agreement shall remain in full force and effect.

(15) The parties acknowledge that value has been given and the Security Interest created hereby is intended to attach when this Agreement is signed by Debtor and Debtor agrees that it is not the intention of Secured Party or Debtor to postpone the attachment of the Security Interest and accordingly, attachment, as defined in the P.P.S.A, will occur simultaneously upon the execution of this Agreement.

(16) Time shall be of the essence of this Agreement.

(17) If this Agreement has been executed by more than one Debtor, the obligations of each Debtor shall be joint and several.

(18) This Agreement, including any schedules attached hereto, constitutes the entire agreement between the Debtor and the Secured Party relating to the subject matter hereof, and no amendment shall be effective unless made in writing. There are no representations, warranties or collateral agreements in effect between the Debtor and Secured Party relating to the subject matter hereof; and possession of an executed copy of this Agreement by the Secured Party constitutes conclusive evidence that it was executed and delivered by the Debtor free of all conditions.

(19) This Agreement and the Obligations may be assigned in whole or in part by the Secured Party to any person, firm or corporation without notice or consent of the Debtor. This Agreement may not be assigned by the Debtor without the prior written consent of the Secured Party.

(20) Notwithstanding any provision to the contrary contained in this agreement, in no event shall the aggregate "interest" (as defined in Section 347 of the Criminal Code, R.S.C. 1985, c. 46 as the same may be amended, replaced or re-enacted from time to time) payable under this agreement exceed the maximum amount of interest on the "credit advanced" (as defined in that section) under this agreement lawfully permitted under that section and, if any payment, collection or demand pursuant to this agreement in respect of "interest" (as defined in that section) is determined to be contrary to the

provisions of that section, such payment, collection or demand shall be deemed to have been made by mutual mistake of the Secured Party and the Debtor and the amount of such payment or collection shall be refunded to the Debtor. For purposes of this agreement, the effective annual rate of interest shall be determined in accordance with generally accepted actuarial practices and principles over the term that the Loan is outstanding on the basis of annual compounding of the lawfully permitted rate of interest and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Secured Party will be conclusive for the purposes of such determination.

(21) Nothing contained in this Agreement, including the execution of same and/or the filing of a financing statement(s) shall obligate the Secured Party to make any loan to or accommodation to the Debtor or to extend the time for payment or satisfaction of any Obligations.

16.0 ACKNOWLEDGEMENTS OF DEBTOR

Debtor hereby acknowledges receipt of an executed copy of this Agreement and that the failure of Secured Party to receive full payment or satisfaction of the Indebtedness through its rights and remedies herein provided shall not in any way release the Debtor who covenants to pay or satisfy any deficiency.

IN WITNESS WHEREOF this Security Agreement has been signed, sealed and delivered on the date set out above.

TUNG KEE INVESTMENT CANADA LTD.

Per: ______________________

Name: Tony Man Tung Yung
Title: President
I have authority to bind the corporation.

SCHEDULE "A"

LOCATION OF BUSINESS, COLLATERAL AND RECORDS RELATED TO COLLATERAL

PIN 03055-0002 (LT) –3143 19th Avenue, Markham, ON

PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271; MARKHAM

SCHEDULE "B"

PERSONAL PROPERTY SECURITY ACT SUMMARY

Nil

This is Exhibit "8" referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

Properties

PIN 03055 - 0376 LT *Interest/Estate* Fee Simple ☑ Affects Part of Prop

Description PART LOT 30 CONCESSION 4 DESIGNATED AS PARTS 1, 2 AND 4 TO 7 BOTH INCLUSIVE PLAN 65R39839; CITY OF MARKHAM

Address MARKHAM

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name TUNG KEE INVESTMENT CANADA LTD.

Address for Service 118 Grey Alder Avenue
Richmond Hill, Ontario L4B 3P9

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

This document is not authorized under Power of Attorney by this party.

Chargee(s) *Capacity* *Share*

Name ROMSPEN INVESTMENT CORPORATION

Address for Service 162 Cumberland Street
Suite 300
Toronto, Ontario M5R 3N5

Statements

Schedule: See Schedules

Provisions

Principal	$30,000,000.00	*Currency*	CDN
Calculation Period	monthly, not in advance		
Balance Due Date	2022/05/01		
Interest Rate	9.40%		
Payments	$235,000.00		
Interest Adjustment Date	2022 02 01		
Payment Date	first day of each and every month		
First Payment Date	2022 03 01		
Last Payment Date	2022 05 01		
Standard Charge Terms	200033		
Insurance Amount	Full insurable value		
Guarantor	See Additional Provisions		

Additional Provisions

Whereas by inadvertance the prior Charge/Mortgage of Land in favour of the Chargee receipted as YR3373212 on January 27, 2022 was discharged from the whole of PIN 03055-0376(LT) rather than only Part 3, Plan 65R39839.

And whereas the Chargor and Chargee has agreed to re-register the Charge on the PIN referred to above.

And whereas this Charge shall secure the same obligations as the prior Charge which continues to be registered on PIN 03055-0377 (the "0377Charge"), the Chargor and the Chargee acknowledge and agree that this Charge and the 0377 Charge secure the same obligation and payment on one shall constitute payment on the other.

The Chargor acknowledges and agrees that in the event of a conflict between the Standard Charge Terms No. 200033 and this Charge,the terms of this Charge shall prevail.

2407720 Ontario Inc., 2407721 Ontario Inc., Tony Man Tung Yung are guaranteeing the obligations of the Chargor under this Charge.

Guarantors' address for service is 118 Grey Alder Avenue, Richmond Hill, Ontario L4B 3P9

The Charge is being provided by the Chargor to the Chargee as collateral security for the obligations of Tung Kee Investment LimitedPartnership and the Chargor (collectively, the Borrowers and individually a Borrower) pursuant to a joint and several promissory notedated the date hereof in the principal sum of $30,000,000 issued by the Borrowers to the Chargee and a Commitment Letter DatedOctober 18, 2021, as amended by an amendment dated December 14th and accepted December 20th, 2021 and as further amended byan amendment dated January 7th, 2022 (collectively, the Commitment), issued by the Chargee to and accepted by the Chargor and TungKee Investment Limited Partnership.

Signed By

Xuqin Wang	150 Ferrand Drive #800 Toronto M3C 3E5	acting for Chargor(s)	Signed	2022 08 29

Tel 416-496-3340

Fax 416-497-3809

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

WILLIAM FRIEDMAN BARRISTER & SOLICITOR	150 Ferrand Drive #800 Toronto M3C 3E5	2022 08 30

Tel 416-496-3340

Fax 416-497-3809

Fees/Taxes/Payment

Statutory Registration Fee	$66.30
Total Paid	$66.30

File Number

Chargee Client File Number : 210962

SCHEDULE "B"

CHARGE TERMS AND CONDITIONS

1. DEFINED TERMS

Unless otherwise expressly defined or otherwise required by the context, the following words and phrases shall have the following meanings when used in the Charge:

1.1 "**Borrower**" means all Persons who have given the Charge and who have executed the same as Borrower;

1.2 "**Charge**" means the Charge/Mortgage of Land and all schedules attached to the Charge and all amendments thereto and replacements thereof from time to time;

1.3 "**Costs**" includes all costs, fees, charges and expenses of every nature and kind whatsoever incurred by the Lender or paid by the Lender to any other party in connection with the protection and preservation of the Property or any other security held by the Lender, or for the purpose of preserving and maintaining the enforceability and priority of the Charge and any such other security, or in connection with any and all demands and enforcement proceedings of every nature and kind made or carried out by or on behalf of the Lender under or pursuant to the Charge, and includes, without limitation, legal costs incurred by the Lender on a full indemnity basis;

1.4 "**Commitment**" means each and every letter of commitment, loan approval, term sheet or other similar agreement establishing or pertaining to the loan secured by the Charge or pursuant to which the Charge has been given, and all amendments thereto and renewals or replacements thereof from time to time;

1.5 "**Condominium Corporation**" means each corporation created or continued pursuant to the *Condominium Act, 1998* (Ontario) and pertaining to all or any part of the Property which are governed by the said Act;

1.6 "**Covenantor**" means any party to the Charge expressly defined as such and any and all Persons who have directly, indirectly, as principal debtor or as surety covenanted to pay or guaranteed payment of the whole or any part of the amount or amounts secured by the Charge or which are owing under the loan facilities referred to in this Commitment or who have covenanted to perform or guaranteed performance by the Borrower of its obligations under the Charge or under this Commitment or under any security given in connection therewith;

1.7 "**Environmental Laws**" means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations, and all applicable directives, orders, codes, judgments and decrees of Governmental Bodies, whether now in existence or hereafter arising, intended to regulate and/or protect the environment and/or any living thing and/or relating to Hazardous Substances;

1.8 "**Governmental Body**" means any government, parliament, legislature, or any regulatory authority, bureau, tribunal, department, instrumentality, agency, commission or board of any government, parliament or legislature, or any court, and without limiting the foregoing, any other law, regulation or rule-making entity having or purporting to act under the authority of any of the foregoing (including, without limitation, any arbitrator) and "Governmental Bodies" means any one or more of the foregoing collectively;

1.9 "**Hazardous Substance**" means any hazardous or dangerous waste or substance, pollutant, contaminant, waste or other substance without limitation, whether solid, liquid or gaseous in form, which when released into the natural environment may, based upon reasonably authoritative information then available concerning such substance, immediately or in the future directly or indirectly cause material harm or degradation to the natural environment or to the health or welfare of any living thing and includes, without limiting the generality of the foregoing,

1.9.1 any such substance as defined or designated under any Environmental Laws;

1.9.2 asbestos, urea formaldehyde, poly-chlorinated byphenyl (PCB) and materials manufactured with or containing the same; and,

1.9.3 radioactive and toxic substances;

and "Hazardous Substances" means any one or more of the foregoing collectively;

1.10 "**Lender**" means all Persons in whose favour the Charge is given and who is or are named in the Charge as Lender;

1.11 "**Person**" means an individual, sole proprietorship, partnership, joint venture, syndicate, association, trust, body corporate, a natural person in its capacity as trustee, personal representative or other legal representative, the Crown or any agency or instrumentality thereof, and/or any other entity recognized by law;

1.12 "**Property**" means the Property, tenements, hereditaments and appurtenances and any estate or interest therein described in the Charge, and all buildings and improvements now or hereafter situate or constructed thereon, and all easements, rights-of-way and other appurtenances thereto, and all structures, additions, improvements, machinery, equipment, decorations and other fixtures of every nature and kind (whether or not affixed in law) attached thereto or placed, installed or erected thereon or used in connection therewith;

1.13 "**Receiver**" means any receiver, receiver and manager, receiver-manager or trustee of the Property as may be appointed from time to time by the Lender pursuant to the provisions of the Charge or by any court of competent jurisdiction;

1.14 "**Taxes**" means all taxes, rates, assessments, local improvement charges, levies, penalties and other charges imposed upon or in respect of the Property by any Governmental Body having jurisdiction.

2. STATUTORY REFERENCES

Unless expressly stipulated or otherwise required by the context, all references in the Charge to any federal, provincial or municipal statute, regulation, by-law, order, directive or other governmental enactment shall be deemed to be and construed as a reference to the same as amended or re-enacted from time to time.

3. EXCLUSION OF STATUTORY COVENANTS

The implied covenants deemed to be included in a charge under sub-section 7(1) of the *Land Registration Reform Act* (Ontario) shall be and are hereby expressly excluded and replaced by the terms hereof which are covenants by the Borrower, for and on behalf of the Borrower, with the Lender.

4. SHORT FORMS OF MORTGAGES ACT

If any of the forms of words contained herein are substantially in the form of words contained in Column One of Schedule B of the *Short Forms of Mortgages Act,* R.S.O. 1980, c. 474, and distinguished by a number therein, the Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column Two of Schedule B of the said Act, distinguished by the same number, and the Charge shall be interpreted as if the said Act was still in full force and effect.

5. PROVISO FOR REDEMPTION

Provided the Charge to be void upon payment of the principal sum hereby secured, in lawful money of Canada, with interest as herein provided and taxes and performance of statute labour and performance of all covenants and agreements contained in the Charge.

6. RELEASE

And the Borrower releases to the Lender all its claims upon the Property subject to the proviso for redemption herein.

7. ADVANCE OF FUNDS

The Borrower agrees that neither the preparation, execution nor registration of the Charge shall bind the Lender to advance the monies hereby secured, nor shall the advance of a part of the principal sum herein bind the Lender to advance any unadvanced portion thereof, but nevertheless the estate hereby charged shall take effect forthwith upon the execution of the Charge by the Borrower, and the expenses of the examination of the title and of the Charge and valuation are to be secured hereby in the event of the whole or any balance of the principal sum herein not being advanced, the same to be charged hereby upon the Property, and shall be without demand thereof, payable forthwith with interest at the rate provided for in the Charge, and in default the remedies herein shall be exercisable.

8. BORROWER'S COVENANTS

The Borrower covenants with the Lender that the Borrower will pay the principal sum herein and interest and observe the proviso for redemption herein, and will pay as they fall due all Taxes and when required by the Lender, shall transmit the receipts therefore to the Lender;

The Borrower further covenants with the Lender that the Borrower will pay all amounts which are payable hereunder or which are capable of being added to the principal sum herein pursuant to the provisions of the Charge including, without limiting the generality of the foregoing, all servicing or other fees, costs or charges provided for herein; all insurance premiums; the amount paid for the supply of any fuel or utilities to the Property; all costs, commissions, fees and disbursements incurred by the Lender in constructing, inspecting, appraising, selling, managing, repairing or maintaining the Property; all Costs incurred by the Lender with respect to the Charge or incurred by the Lender arising out, of or in any way related to the Charge; any amounts paid by the Lender on account of any encumbrance, lien or charge against the Property and any and all Costs incurred by the Lender arising out of, or in any way related to, the Lender realizing on its security by sale or lease or otherwise;

And that the Borrower has a good title in fee simple to the Property and has good right, full power and lawful and absolute authority to charge the Property and to give the Charge to the Lender upon the covenants contained in the Charge;

And that the Borrower has not done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the Property, or any part or parcel thereof, is or shall or may be in any way impeached, charged, affected or encumbered in title, estate or otherwise, except as the records of the land registry office disclose; and free from all encumbrances except as may be permitted by the Lender;

And that the Borrower will execute such further assurances of the Property as may be requisite;

And that the Borrower will produce the title deeds and allow copies to be made at the expense of the Borrower.

9. COMPLIANCE WITH LAWS AND REGULATIONS

The Borrower shall, in its ownership, operation and use of the Property, promptly and at all times observe, perform, execute and comply with all laws, rules, requirements, orders, directions, ordinances and regulations of every Governmental Body having jurisdiction with respect to the same, and further agrees at its cost and expense to take any and all steps or make any improvements or alterations thereto, structural or otherwise, ordinary or extraordinary, which may be required at any time hereafter by any such present or future laws, rules, requirements, orders, directions, ordinances or regulations.

10. CHANGE OF USE

The Borrower will not change or permit to be changed the existing use or uses of the Property without the prior written consent of the Lender.

11. REPAIR

The Borrower will keep the Property including the buildings, erections and improvements thereon in good condition and repair according to the nature and description thereof, and the Lender may, whenever it deems necessary, enter upon and inspect the Property, and the cost of such inspection shall be added to the indebtedness secured hereunder, and if the Borrower neglects to keep the Property in good condition and repair, or commits or permits any act of waste on the Property (as to which the Lender shall be sole judge) or makes default as to any of the covenants or provisos herein contained, the principal sum herein shall, at the option of the Lender, forthwith become due and payable, and in default of payment thereof with interest as in the case of payment before maturity, the powers of entering upon and leasing or selling hereby given may be exercised forthwith and the Lender, upon five days notice to the Borrower and in the event that the Borrower does not in such period cause and diligently proceed with such repairs, may make such repairs as it deems necessary, and the cost thereof with interest at the rate aforesaid shall be added to the monies hereby secured and shall be payable forthwith and be a charge upon the Property prior to all claims thereon subsequent to the Charge.

12. ALTERATIONS OR ADDITIONS

The Borrower will not make or permit to be made any alterations or additions to the Property without the prior written consent of the Lender, which consent may be withheld in the Lender's sole discretion or may be given only subject to compliance with such terms and conditions at the cost of the Borrower as the Lender may impose. Notwithstanding the foregoing, the Borrower shall be permitted to make those alternations and additions to the Property as contemplated by and in accordance with the Commitment and, otherwise, subject to the reasonable approval of the Lender.

13. PROPERTY INCLUDE ALL ADDITIONS

The Property shall include all structures and installations brought or placed on the Property for the particular use and enjoyment thereof or as an integral part of or especially adapted for the buildings thereon whether or not affixed in law to the Property including, without limiting the generality of the foregoing, piping, plumbing, electrical equipment or systems, aerials, refrigerators, stoves, clothes washers and dryers, dishwashers, incinerators, radiators and covers, fixed mirrors, fitted blinds, window screens and screen doors, storm windows and storm doors, shutters and awnings, floor coverings, fences, air conditioning, ventilating, heating, lighting, and water heating equipment, cooking and refrigeration equipment and all component parts of any of the foregoing and that the same shall become fixtures and an accession to the freehold and a part of the realty.

14. ENVIRONMENTAL WARRANTY AND INDEMNITY

The Borrower and each Covenantor jointly and severally represent, warrant, covenant and agree that:

14.1. They have not, and to the best of their knowledge, information and belief after making due inquiry, no other Person has caused or permitted any Hazardous Substance to be placed, discharged, stored, located or disposed of, on, under, at or near the Property nor to be released from the Property;

14.2. The Property have never been used as a land fill site, waste disposal site or coal gasification site, or to store Hazardous Substances either above or below ground in storage tanks, pipes, conduits or otherwise;

14.3. They and, to the best of their knowledge, information and belief after making due inquiry, the tenants, invitees and all other occupiers of the Property have at all times carried out all business and other activities upon the Property in strict compliance with all Environmental Laws;

14.4. They will at all times carry out all business and other activities upon the Property in strict compliance with all Environmental Laws, and they will at all times take all necessary measures to ensure that those for whom they are liable in law will also at all times carry out all business and other activities upon the Property in strict compliance with all Environmental Laws.

14.5. To the best of their knowledge, information and belief after making due inquiry, the use and occupation of the Property have at all times been in strict compliance with all Environmental Laws;

14.6. No notice, order, stop work order, inspection file, investigation, directive, enforcement action, regulatory action, suit, claim, action, proceeding or charge relating to any Hazardous Substance or to a breach or non-compliance with any Environmental Laws has been issued by any Governmental Body with respect to the Borrower or the Property, or is otherwise threatened to be issued;

14.7. They will provide the Lender with full and complete copies of all communications received from time to time from all Governmental Bodies with respect to the Property;

14.8. They will provide to the Lender on request and from time to time, information with respect to the status of the environmental matters referred to herein and will complete and deliver, on request, the Lender's standard form of report, if any, on environmental matters;

14.9. The representations and warranties contained in this Warranty and Indemnity are true and accurate in all respects as of the date of the first advance made pursuant to the Charge, and such representations and warranties shall remain true and accurate in all respects and shall survive the release and discharge of the Charge and the repayment and satisfaction of the indebtedness secured by the Charge; and,

14.10. The Lender may delay or refuse to make any advance to the Borrower if the Lender believes that any of the representations and warranties set out in this Warranty and Indemnity are not presently true and accurate or if such representations and warranties have become untrue or inaccurate at any time hereafter.

The Borrower hereby agrees to permit the Lender to conduct, at the Borrower's sole expense, from time to time as required, any and all tests, inspections, appraisals and environmental audits of the Property so as to determine and ensure continuing compliance with the provisions of this Warranty and Indemnity including, without limitation, the right to conduct soil tests and to review and copy any records relating to the Property and/or to the businesses and other activities conducted thereon.

The Borrower and each Covenantor jointly and severally agrees to indemnify and save fully and completely harmless the Lender and its officers, directors, employees, agents and shareholders from and against any and all losses, damages, demands, claims, actions, charges, orders, directives, undertakings, costs, legal fees and expenses, of every nature and kind, whatsoever and howsoever, which at any time or from time to time may be paid by, or incurred by, or suffered by, or asserted against, any of them as a direct or indirect result of:

a) a breach of any of the representations, warranties or covenants hereinbefore set out;

b) the presence of any Hazardous Substance in, on, under or about the Property;

c) the breach of any Environmental Laws; and/or,

d) the discharge, emission, release, spill or disposal of any Hazardous Substance from the Property into or upon any land, the atmosphere, any watercourse, body of water or wetland or any other property.

The representations, warranties, covenants, acknowledgments and indemnifications set out in this Warranty and Indemnity shall survive the release and discharge of the Charge and of any other security held by the Lender and the repayment and satisfaction of the indebtedness secured by the Charge.

15. INSPECTION

The Lender shall have access to and the right to inspect the Property at all reasonable times.

16. TAXES

WITH respect to Taxes, the Borrower covenants and agrees with the Lender that:

16.1. The Lender may deduct from any advance of the monies secured by the Charge an amount sufficient to pay all Taxes which have become due and payable during any calendar year.

16.2. The Lender may at its sole option estimate the amount of the Taxes payable in each year and the Borrower shall forthwith upon demand of the Lender pay to the Lender one-twelfth (1/12) of the estimated annual amount of such Taxes on the 1st day of each and every month during the term of the Charge commencing with the 1st day of the first full month of the term of the Charge. The Lender may at its option apply such payments to the Taxes so long as the Borrower is not in default under any covenant or agreement contained in the Charge, but nothing herein contained shall obligate the Lender to apply such payments on account of Taxes more often than yearly. Provided however, that if the Borrower shall pay any sum or sums to the Lender to apply on account of Taxes, and if before such payments have been so applied by the Lender, there shall be default by the Borrower in respect of any payment of principal or interest as herein provided, the Lender may at its option apply such sum or sums in or towards payment of the principal and interest in default. If the Borrower desires to take advantage of any discounts or avoid any penalties in connection with the payment of Taxes, the Borrower may pay to the Lender such additional amounts as are required for that purpose.

16.3. In the event that the Taxes actually charged in a calendar year, together with any interest and penalties thereon, exceed the amount estimated by the Lender as aforesaid, the Borrower shall pay to the Lender, on demand, the amount required to make up the deficiency. The Lender may at its option, pay any of the Taxes when payable, either before or after they are due, without notice, or may make advances therefore in excess of the then amount of credit held by the Lender for Taxes. Any excess amount advanced by the Lender shall be secured as an additional principal sum under the Charge and shall bear interest at the rate as provided for in the Charge until repaid by the Borrower.

16.4. The Borrower shall transmit to the Lender all assessment notices, tax bills and other notices pertaining to the imposition of Taxes forthwith after receipt thereof.

16.5. The Borrower shall pay to the Lender, in addition to any other amounts required to be paid hereunder, the amount required by the Lender in its sole discretion for a reserve on account of future liability for Taxes.

16.6. In no event shall the Lender be liable for any interest on any amount paid to it on account of Taxes and the monies so received may be held with its own funds pending payment or application thereof as herein provided; provided that in the event that the Lender does not utilize the funds received on account of Taxes in any calendar year, such amount or amounts may be held by the Lender on account of any pre-estimate of Taxes required for the next succeeding calendar year, or at the Lender's option the Lender may repay such amount to the Borrower without any interest.

16.7. The Borrower shall in all instances be responsible for the payment of any and all penalties resulting from any arrears of Taxes or any late payment of current instalments thereof, and at no time shall such penalties be the responsibility of the Lender.

16.8. In the event the Lender does not collect payments on account of Taxes as aforesaid, the Borrower shall deliver to the Lender within thirty (30) days following the due date for each instalment of Taxes written evidence from all taxing authorities having jurisdiction to the effect that the then current instalment of Taxes and all other Taxes due in respect of the then current calendar year and any preceding calendar years have been paid in full, failing which, the Lender shall be entitled to charge a servicing fee for each written inquiry directed to such taxing authorities or the Borrower for the purpose of ascertaining the status of the Taxes together with any costs payable to such taxing authorities for such information.

17. UTILITIES

The Borrower covenants that it will pay all utility and fuel charges related to the Property as and when they are due and that the Borrower will not allow or cause the supply of utilities or fuel to the Property to be interrupted or discontinued and that, if the supply of fuel oil or utilities is interrupted or discontinued, the Borrower will take all steps that are necessary to ensure that the supply of utilities or fuel is restored forthwith. It is specifically agreed that the failure to pay all fuel and utility charges as and when they are due or the interruption or discontinuing of the supply of fuel or utilities to the Property shall constitute a default by the Borrower within the meaning of the Charge and in addition to all other remedies provided for herein, the principal sum of the Charge shall, at the sole option of the Lender forthwith become due and payable.

18. INSURANCE

The Borrower will insure and keep insured during the term of the Charge the buildings and other improvements on the Property (now or hereafter erected) on an all-risks basis in an amount of not less than the greater of the full replacement value of the buildings located thereon from time to time, or the principal money herein, with no co-insurance provisions and with the Lender's standard mortgage clause forming part of such insurance policy. The Borrower shall carry such liability, rental, loss of income, business interruption, boiler, plate glass and other insurance coverage as is required by the Lender to be placed with such insurance companies and in such amounts and in such form as may be acceptable to the Lender. All such policies shall provide for loss payable to the Lender and contain such additional clauses and provisions as the Lender may require. An original of all insurance policies and endorsements from the insurer to the effect that coverage has been bound and/or extended for a minimum period of at least one year and that all premiums with respect to such term of such coverage have been paid for in full, shall be produced to the Lender prior to any advance and at least thirty (30) days before expiration of any term of any such respective policy, failing which the Lender may provide therefore and charge the premium paid therefore and interest thereon at the aforesaid rate to the Borrower and any amounts so paid by the Lender shall be payable forthwith to the Lender and shall also be a charge upon the Property and secured by the Charge. It is further agreed that the Lender may at any time require any insurance on the said buildings to be cancelled and new insurance effected with a company to be named by it, and also may, of its own accord, effect or maintain any insurance herein provided for, and any amount paid by the Lender therefore shall be forthwith payable to it, together with interest at the rate aforesaid by the Borrower (together with any Costs of the Lender as herein set out), and shall be a charge upon the Property and secured by the Charge.

In the event that the evidence of continuation of such insurance as herein required has not been delivered to the Lender within the required time, the Lender shall be entitled to a servicing fee for each written inquiry which the Lender shall make to the insurer or the Borrower pertaining to such renewal (or resulting from the Borrower's non-performance of the within covenant). In the event that the Lender pursuant to the within provision arranges insurance coverage with respect to the Property, the Lender, in addition to the aforenoted servicing fee, shall be entitled to a further servicing fee for arranging the necessary insurance coverage.

In the event of any loss or damage, the Borrower shall forthwith notify the Lender in writing and notwithstanding any other provision to the contrary, statutory or otherwise, in the event of any monies becoming payable pursuant to any insurance policy herein required, the Lender may, at its option, require the said monies to be applied by the Borrower in making good the loss or damage in respect of which the money is received, or in the alternative, may require that any or all of the monies so received be applied in or towards satisfaction of any or all of the indebtedness hereby secured whether or not such indebtedness has become due. No damage may be repaired nor any reconstruction effected without the approval in writing of the Lender in any event.

The Borrower, upon demand, will transfer all policies of insurance provided for herein and the indemnity which may become due therefrom to the Lender. The Lender shall have a lien for the indebtedness hereby secured on all the said insurance proceeds and policies, and may elect to have these insurance monies applied as it may deem appropriate, including payment of monies secured hereby, whether due or not, but the Lender shall not be bound to accept the said monies in payment of any principal not yet due.

19. REMITTANCE AND APPLICATION OF PAYMENTS

All payments of principal, interest and other monies payable hereunder to the Lender shall be payable at par in lawful money of Canada at the Lender's address for service as set out in the Charge or at such other place as the Lender shall designate in writing from time to time. In the event that any of the monies secured by the Charge are forwarded to the Lender by mail, payment will not be deemed to have been made until the Lender has actually received such monies and the Borrower shall assume and be responsible for all risk of loss or delay.

Notwithstanding anything herein to the contrary, in the event of any default under the Charge, the Lender may apply any payments received in whatever order the Lender may elect as between principal, interest, realty taxes, insurance premiums, repairs, Costs and any other advances or payments made by the Lender hereunder.

20. RECEIPT OF PAYMENT

Any payment received after 1:00 p.m. on any date shall be deemed, for the purpose of calculation of interest to have been made and received on the next bank business day and the Lender shall be entitled to interest on the amount due it, to and including the date on which the payment is deemed by this provision to have been received.

21. NO DEEMED RE-INVESTMENT

Except in the case where the Charge provides for blended payments of principal and interest whether paid monthly or otherwise, the parties hereto agree that the Lender shall not be deemed to reinvest any monthly or other payments received by it hereunder.

22. PRE-AUTHORIZED CHEQUING PLAN

If and when required by the Lender, all payments made under the Charge by the Borrower shall be made by a pre-authorized cheque payment plan as approved by the Lender. The Lender shall not be obligated to accept any payment other than payment made by pre-authorized cheque. Failure to make all payments by pre-authorized cheque shall be an act of default within the meaning of the Charge and the Lender shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option.

23. POSTDATED CHEQUES

The Borrower shall, if and when required by the Lender, deliver to the Lender upon the first advance of moneys hereunder or upon request and thereafter on each anniversary date thereof in each year for the duration of the term of the Charge, postdated cheques for the payments of principal, interest and estimated realty taxes required to be made herein during the twelve month period commencing on each such anniversary date. In the event of default by the Borrower in delivery to the Lender of the postdated cheques as herein provided, the Charge shall be deemed in default and the Lender shall be entitled to pursue any and all of its remedies herein and/or at law as it may deem necessary at its option. In addition, the Lender upon the Borrower's failure to deliver such postdated cheques as required hereunder shall be entitled to a servicing fee for each written request that it makes to the Borrower for the purpose of obtaining such postdated cheques. Any step taken by the Lender hereunder by way of a request for further postdated cheques shall be without prejudice to the Lender's rights hereunder to declare the Charge to be in default in the event that such postdated cheques are not delivered within the required time.

24. DISHONOURED CHEQUES

In the event that any of the Borrower's cheques are not honoured when presented for payment to the drawee, the Borrower shall pay to the Lender for each such returned cheque a servicing fee to cover the Lender's administration costs with respect to same. In the event that the said cheque which has not been honoured by the drawee is not forthwith replaced by the Borrower, the Lender shall be entitled to a further servicing fee for each written request therefore which may be necessitated by the Borrower not forthwith replacing such dishonoured cheque.

25. FINANCIAL AND OPERATING STATEMENTS

The Borrower covenants that, within the periods of time hereinafter specified, or within such other period(s) of time as may be specified by this Commitment, the Borrower shall deliver or cause to be delivered to the Lender the following:

25.1. within one hundred and twenty (120) days after the end of each fiscal year of operation of the Property, an annual operating statement in respect of the Property for the immediately preceding fiscal year setting forth the gross rents and other income derived from the Property, the cost and expenses of operation and maintenance of the Property and such other information and explanations in respect of the same as may be required by the Lender;

25.2. within one hundred and twenty (120) days after the end of each fiscal year of each Borrower and Covenantor which is a corporation or partnership, the annual financial statements of each such corporation or partnership for its immediately preceding fiscal year including, without limitation, the balance sheet of the corporation or partnership as at its fiscal year end with comparative figures for prior years, statements of earnings, retained earnings and changes in financial position as at the fiscal year end with comparative figures for prior fiscal years, any supporting schedules and notes thereto and such other information and explanations as may be required by the Lender; and

25.3. with respect to each Borrower and Covenantor who is an individual and within thirty (30) days after each anniversary of the date of this Commitment, an annual updated net worth statement of each such individual in such form and including such content and other information and explanations as may be required by the Lender.

All such operating and financial statements shall be prepared at the expense of the Borrower and in accordance with generally accepted accounting principles applied on a consistent basis and by a duly qualified chartered accountant or certified public accountant which is acceptable to the Lender, and shall be submitted in audited form if so required by the Lender in the event of a default occurring pursuant to the Charge, and the completeness and correctness of such statements shall be supported by an affidavit of an authorized officer of the Borrower or Covenantor, as the case may be.

The Lender reserves the right to disclose to third parties, any of the foregoing financial information or otherwise acquired in respect to the Loan as may be required in connection with the fulfillment of its rights and/or obligations under this Commitment or the Charge or to carry out its terms of to enforce its security for mortgage securitization purposes.

26. <u>ESTOPPEL ACKNOWLEDGEMENTS</u>

If and whenever the Lender requests an acknowledgement from the Borrower as to the statement of account with respect to the Charge or the status of the terms and conditions of the Charge, the Borrower shall execute such an acknowledgement in such form as may be required by the Lender provided that the contents of such form are correct, and the Borrower shall do so forthwith upon request and without cost to the Lender and shall return such acknowledgement duly executed within two (2) business days of such request.

27. <u>STATEMENTS OF ACCOUNT</u>

The Borrower shall be entitled to receive upon written request, a statement of account with respect to the Charge as of any payment date under the Charge and the Lender shall be entitled to a servicing fee for each such statement.

28. <u>RENEWAL OR EXTENSION OF TIME; ATTENTION SUBSEQUENT INTERESTS</u>

No renewal or extension of the term of the Charge given by the Lender to the Borrower, or anyone claiming under it, or any other dealing by the Lender with the owner of the equity of redemption of the Property, shall in any way affect or prejudice the rights of the Lender against the Borrower or any other Person liable for the payment of the monies hereby secured. The Charge may be amended, extended and/or renewed by an agreement in writing at maturity for any term with or without an increased rate of interest, or amended from time to time as to any of its terms, including, without limitation, an increase of interest rate or principal amount and notwithstanding that there may be subsequent encumbrancers, and it shall not be necessary to register any such agreement in order to retain priority for the Charge so altered over any instrument registered subsequent to the Charge. PROVIDED that nothing contained in this paragraph shall confer any right of amendment, extension or renewal upon the Borrower.

The terms of the Charge may be amended, extended and the Charge may be renewed from time to time by mutual agreement between the then current owner of the Property and the Lender and the Borrower hereby further covenants and agrees that, notwithstanding that the Borrower may have disposed of its interest in the Property, the Borrower will remain liable as a principal debtor and not as a surety for the observance of all of the terms and provisions herein and will in all matters pertaining to the Charge well and truly do, observe, fulfill and keep all of the covenants, provisos, conditions and agreements in the Charge and all amendment(s), extension(s) and renewal(s) thereof, and without limiting the foregoing, notwithstanding the amendment, extension and/or renewal of the Charge, and notwithstanding the giving of time for the payment of the Charge or the varying of the terms of the payment thereof or of the rate of interest thereon, and notwithstanding any other indulgence by the Lender to the Borrower.

The Borrower covenants and agrees with the Lender that no agreement for amendment, extension and/or renewal hereof, or for extension of the time for payment of any monies payable hereunder shall result from, or be implied from, any payment or payments of any kind whatsoever made by the Borrower to the Lender after the expiration of the original term of the Charge or of any subsequent term agreed to in writing between the Borrower and the Lender, and that no amendment, extension and/or renewal hereof or any extension of the time for payment of any monies hereunder shall result from, or be implied from, any other act, matter or thing, save only express agreement in writing between the Borrower and the then current owner of the Property.

29. <u>EXPROPRIATION</u>

If the Property or any part thereof which, in the reasonable opinion of the Lender is material to the viability and operations thereon shall be expropriated by any Governmental Body clothed with the powers of expropriation, the principal sum herein remaining unpaid shall at the option of the Lender forthwith become due and payable together with interest thereon at the rate provided for herein to the date of payment together with a bonus equal to the aggregate of (a) three months' interest at the said rate calculated on the amount of the principal remaining unpaid, and (b) one month's interest at the rate provided for herein calculated on the principal remaining unpaid, for each full year of the term of the Charge or any part of such year from the said date of payment to the date the said principal sum or balance thereof remaining unpaid would otherwise under the provisions of the Charge become due and payable and in any event all the proceeds of any expropriation shall be paid to the Lender at its option in priority to the claims of any other party.

30. LETTERS OF CREDIT

The parties to the Charge hereby acknowledge and agree that, in addition to all other amounts advanced and/or secured hereby, the Charge shall stand as good and valid security with respect to any and all letters of credit, letters of guarantee or similar instruments (collectively the "Letters of Credit") issued by or on behalf of the Lender for the benefit of or on account of the Borrower and in favour of any other party as may be requested or directed by the Borrower from time to time, and that the total amount of the financial obligations under each Letter of Credit shall be deemed to have been advanced and fully secured under the Charge as of and from the date of issuance of each such Letter of Credit regardless of when the same may be called upon by the holder thereof. In the event that at any time the Lender is of the opinion, in its sole and unfettered discretion, that the Property or such part(s) thereof as remain undischarged are insufficient to secure the aggregate amount of all of the Lender's outstanding obligations under, pursuant to or in connection with such Letters of Credit from time to time outstanding, the Lender shall be entitled to retain out of any payment received under the Charge or out of the proceeds of any sale or revenue received in respect of the Property or any part(s) thereof or out of the proceeds of any amounts received by the Lender upon the enforcement of the Charge, an amount equal to the aggregate amount of all of the Lender's outstanding obligations under, pursuant to or in connection with Letters of Credit as remain from time to time outstanding without being obliged to apply any portion of such amount on account of any principal, interest or other monies otherwise outstanding and secured by the Charge; and the Lender shall be entitled to retain such amount for such period of time as any of the Letters of Credit remain outstanding and the Lender is hereby irrevocably authorized and directed to utilize the same in order to satisfy payment of any amounts called upon for payment pursuant to the Letters of Credit.

31. SALE OR CHANGE OF CONTROL

In the event of any sale, conveyance or transfer of the Property or any portion thereof, or a change in control or beneficial ownership of the Borrower or a change in the beneficial ownership of the Property or any portion thereof or a lease of the whole of the Property, all sums secured hereunder shall, at the Lender's option, become due and payable forthwith unless the prior written consent of the Lender has been obtained, which consent may be arbitrarily or unreasonably withheld. The rights of the Lender pursuant to this provision shall not be affected or limited in any way by the acceptance of payments due under the Charge from the Borrower or any Person claiming through or under it and the rights of the Lender hereunder shall continue without diminution for any reason whatsoever until such time as the Lender has consented in writing as required by this provision.

Provided further that no permitted sale or other dealing by the Borrower with the Property or any part thereof shall in any way change the liability of the Borrower or in any way alter the rights of the Lender as against the Borrower or any other Person liable for payment of the monies hereby secured.

32. NO FURTHER ENCUMBRANCES

In the event of that the Borrower enters into, creates, incurs, assumes, suffers or permits to exist any additional charge, encumbrance, pledge or other financing of the Property, or of the chattels, equipment or personal property related to the Property, all sums secured hereunder shall, at the Lender's option, become due and payable forthwith unless the prior written consent of the Lender has been obtained, which consent may be arbitrarily or unreasonably withheld.

33. EVENTS OF DEFAULT

Without limiting any of the provisions of the Charge, each of the following events shall be considered events of default hereunder upon the happening of which the whole of the principal sum outstanding and all interest accruing thereon shall immediately become due and payable at the option of the Lender exercised by notice in writing to the Borrower:

33.1 Failure by the Borrower to pay any instalment of principal, interest and/or Taxes under the Charge or under any charge or other encumbrance of the Property, on the date upon which any of the payments for same become due;

33.2 Failure by the Borrower or any Covenantor to strictly and fully observe or perform any condition, agreement, covenant or term set out in the application or Commitment for the loan secured by the Charge, the provisions of the Charge, or any other document creating a contractual relationship as between them or any of them or if it is found at any time that any representation to the Lender with respect to the loan secured by the Charge or in any way related thereto is incorrect or misleading;

33.3 Default by the Borrower in the observance or performance of any of the covenants, provisos, agreements or conditions contained in any charge or other encumbrance affecting the Property, whether or not it has priority over the Charge;

33.4 Upon the registration of any construction lien against the Property which is not discharged or vacated within a period of ten (10) days after the date of registration thereof;

33.5 In the event that any Hazardous Substance is discovered in, on or under the Property or any part thereof and the same is not completely removed therefrom to the entire satisfaction of the Lender within ten (10) days after demand therefore by the Lender;

33.6 In the event that the Property are abandoned or there is any cessation of the business activities or any material part thereof now being conducted upon the Property by the Borrower or the beneficial owner of the Property or any of their respective officers, agents, employees, tenants or invitees;

33.7 If the Borrower or any Covenantor commits an act of bankruptcy or becomes insolvent or has a receiver or receiver and manager appointed for it or over any of its assets or if any creditor takes possession of any of its assets or if any execution, distress or other like process is levied or enforced upon the Property or any part thereof or if any compromise or arrangement with creditors is made by any of them; or,

33.8 Default by the Borrower, its successors or assigns, or any of the Covenantor(s) in the observance or performance of any representation, warranty, covenant, proviso, agreement or condition contained in any charge or encumbrance or document securing, evidencing or relating to any indebtedness owing by the Borrower, its successors or assigns, to the Lender from time to time whether or not related to or affecting the within Loan and the Property or any other loan and property given as security thereforer.

34. DEFAULT

The Lender may, on default of payment or in the performance of any covenant in the Charge contained or implied by law or statute, enter on and lease the Property, or in default of payment or in default in performance of any covenant in the Charge contained or implied by law or statute for at least fifteen (15) days may, on at least thirty-five (35) days' notice sell the Property. Such notice shall be given to such Persons and in such manner and form and within such time as provided under the *Mortgages* Act (Ontario). In the event that the giving of such notice shall not be required by law or to the extent that such requirements shall not be applicable it is agreed that notice may be effectually given by leaving it with a grown-up person on the Property, if occupied, or by placing it on the Property if unoccupied, or at the option of the Lender, by mailing it in a registered letter addressed to the Borrower at the Borrower's last known address, or by publishing it once in a newspaper published in the city, county or district in which the Property are situate; and such notice shall be sufficient although not addressed to any Person or Persons by name or designation; and notwithstanding that any Person to be affected thereby may be unknown, unascertained, or under disability. If there be legal personal representatives of the Borrower on the death of the Borrower, such notice may, at the option of the Lender, be given in any of the above modes or by personal service upon such representatives.

Without prejudice to the statutory powers of the Lender under the preceding proviso, that in case default be made in the payment of the said principal or interest or any part thereof and such default continues for two months after any payment of either principal or interest falls due, the Lender may exercise the powers given under the preceding proviso with or without entry on the Property without any notice, it being understood and agreed, however, that if the giving of notice by the Lender shall be required by law then notice shall be given to such Persons and in such manner and form and within such time as so required by law. The Lender may sell the whole or any part or parts of the Property by public auction or private contract, or partly one or partly the other; and the proceeds of any sale hereunder may be applied in payment of any Costs incurred in taking, recovering or keeping possession of the Property or by reason of non-payment or procuring payments of monies secured hereby or otherwise. The Lender may sell any of the Property on such terms as to credit and otherwise as shall appear to it most advantageous and for such prices as can reasonably be obtained therefore and may make any stipulations as to title or evidence or commencement of title or otherwise which it shall deem proper; and may buy in or rescind or vary any contract for the sale of the whole or any part of the Property and resell without being answerable for loss occasioned thereby, and in the case of a sale on credit the Lender shall be bound to pay the Borrower only such monies as have been actually received from purchasers after the satisfaction of the claims of the Lender and for any of said purposes may make and execute all agreements and assurances as it shall think fit. Any purchaser or lessee shall not be bound to see to the propriety or regularity of any sale or lease or be affected by express notice that any sale or lease is improper and no want of notice or publication when required hereby shall invalidate any sale or lease hereunder and the title of a purchaser or lessee upon a sale or lease made in professed exercise of the above power shall not be liable to be impeached on the ground that no cause had arisen to authorize the exercise of such power or that such power had been improperly or irregularly exercised, or that such notice had not been given, but any Person damnified by an unauthorized, improper or irregular exercise of the power shall have its remedy against the Person exercising the power in damages only.

It is hereby agreed that the Lender may pay all premiums of insurance and all Taxes which shall from time to time fall due and be unpaid in respect of the Property, and that such payments together with all Costs which may be incurred in taking, recovering and keeping possession of the Property, and of negotiating this loan, investigating title, and registering the Charge and other necessary deeds, and generally in any other proceedings taken in connection with or to realize this security, (including legal fees, real estate commissions, appraisal costs and other Costs incurred in leasing or selling the Property or in exercising the power of entering, leasing and selling herein contained) shall be with interest at the rate aforesaid and shall be a charge upon the Property in favour of the Lender and that the Lender may pay or satisfy any lien, charge or encumbrance now existing or hereafter created or claimed upon the Property, and that any amount paid by the Lender shall be added to the monies hereby secured and shall be payable forthwith with interest at the rate herein, and in default the Charge shall immediately become due and payable at the option of the Lender and all powers in the Charge conferred shall become exercisable. In the event of the Lender paying the amount of any such encumbrance, lien or charge, taxes or rates, either out of the money advanced on the security of the Charge or otherwise, the Lender shall be entitled to all the rights, equities and securities of the Person or Persons so paid and is hereby authorized to obtain an assignment or discharge thereof, and to retain same, for whatever period the Lender shall deem it proper to do so.

Whenever a power of sale is hereby conferred upon the Lender, all provisions hereof relating to exercising such power, including, without in any way limiting the generality of the foregoing, the Persons to whom notice of exercising such power shall be given and the manner of giving such notice, shall be deemed to have been amended so as to comply with the requirements of law from time to time in force with respect to exercising such power of sale, and wherever there shall be a conflict between the provisions of the Charge relating to exercising such power of sale and the requirements of such law, the provisions of such law shall govern. Insofar as there is no such conflict, the provisions of the Charge shall remain unchanged.

The Lender may lease or sell as aforesaid without entering into possession of the Property.

The Lender may distrain for arrears of interest and the Lender may distrain for arrears of principal and arrears of Taxes in the same manner as if the same were arrears of interest.

Upon default of the payment of the interest hereby secured the principal hereby secured shall become payable at the option of the Lender, together with interest thereon.

Upon default of payment of instalments of principal promptly as the same become due, the balance of the principal and interest shall immediately become due and payable at the option of the Lender.
Upon default under the Charge, the Lender shall be entitled and shall have full power to assume control of, manage, operate and carry on the business of the Borrower being conducted at or upon the Property on the date of the Charge or at any time thereafter.

Until default hereunder the Borrower shall have quiet possession of the Property.

On default the Lender shall have quiet possession of the Property.

The Lender may in writing at any time or times after default waive such default and upon such waiver the time or times for payment of the principal secured herein shall be as set out in the proviso for redemption herein. Any such waiver shall apply only to the particular default waived and shall not operate as a waiver of any other or future default. No waiver shall be effective or binding on the Lender unless made in writing.

It is further agreed that the Lender may at its discretion at any time, release any part or parts of the Property or any other security or any surety for the money hereby secured either with or without any sufficient consideration therefore, without responsibility therefore, and without thereby releasing any other part of the Property or any Person from the Charge or from any of the covenants herein contained, it being especially agreed that every part or lot into which the Property are or may hereafter be divided does and shall stand charged with all of the monies hereby secured and no Person shall have the right to require the principal secured hereunder to be apportioned; further the Lender shall not be accountable to the Borrower for the value thereof, or for any monies except those actually received by the Lender. No sale or other dealing by the Borrower with the equity of redemption in the Property or any part thereof shall in any way change the liability of the Borrower or in any way alter the rights of the Lender as against the Borrower or any other Person liable for payment of the monies hereby secured.

It is further agreed that the Lender may exercise all remedies provided for in the Charge concurrently or in such order and at such times as it may see fit and shall not be obligated to exhaust any remedy or remedies before exercising its rights under any other provisions contained in the Charge.

Without limiting any other provision of the Charge, the Borrower acknowledges and agrees that, upon the occurrence of any default under the Charge and whether or not the monies hereby secured have been fully advanced, the Lender may, at any time and from time to time as the Lender shall determine at its sole option and discretion, advance such further sums under the Charge as are necessary to pay any arrears of Taxes, utilities or other charges capable of constituting a lien upon the Property *pari passu* with or in priority to the Charge, to pay all amounts due under any encumbrance having priority over the Charge, to pay all amounts required to discharge or vacate any construction lien registered against the Property whether or not priority is claimed over the Charge, to maintain in good standing any policies of insurance in respect of the Property, to maintain, repair, operate and/or manage the Property and any or all improvements thereon, to complete construction or renovation of any improvements on the Property, to realize upon any security held by the Lender for the loan secured by the Charge and generally to enforce all of the Lender's rights, title and interest hereunder and to protect the Property and to preserve the enforceability and priority of the Charge, and to pay any and all Costs; and all amounts advanced by the Lender for any of the purposes as aforesaid shall bear interest at the rate applicable under the Charge from the date so advanced until repaid in full and shall be secured by the Charge in the same priority as the principal amount hereof.

35. **RIGHT OF LENDER TO REPAIR, ETC.**

The Borrower covenants and agrees with the Lender that in the event of default in the payment of any instalment or other monies payable hereunder by the Borrower or on breach of any covenant, proviso or agreement herein contained after all or any of the monies hereby secured have been advanced, the Lender may, at such time or times as the Lender may deem necessary and without the concurrence of any Person, enter upon the Property and may make such arrangements for completing the construction of, repairing or putting in order any buildings or other improvements on the Property or for inspecting, taking care of, leasing, collecting the rents of and generally managing the Property, as the Lender may deem expedient; and all Costs including, but not limited to, allowances for the time and services of any employee of the Lender or other Person appointed for the above purposes and a servicing fee shall be forthwith payable to the Lender by the Borrower and shall be a charge upon the Property and shall bear interest at the rate applicable under the Charge until paid.

36. **APPOINTMENT OF A RECEIVER**

It is agreed that at any time and from time to time when there shall be default under the provisions of the Charge, the Lender may at such time and from time to time and with or without entering into possession of the Property appoint in writing a Receiver of the Property, or any part thereof and of the rents and profits thereof and with or without security, and may from time to time by similar writing remove any such Receiver and appoint another in its place and stead, and in making any such appointment or removal, the Lender shall be deemed to be acting as the agent or attorney for the Borrower. The Borrower hereby irrevocably agrees and consents to the appointment of such Receiver of the Lender's choice and without limitation whether pursuant to the Charge, the *Mortgages Act* (Ontario), the *Construction Lien Act* (Ontario), or the *Trustee Act* (Ontario), as the Lender may at its sole option require. Without limitation, the purpose of such appointment shall be the orderly management, administration and/or sale of the Property or any part thereof and the Borrower hereby consents to a court order for the appointment of such Receiver, if the Lender in its discretion chooses to obtain such order, and on such terms and for such purposes as the Lender at its sole discretion may require, including, without limitation, the power to manage, charge, pledge, lease and/or sell the Property and/or to complete or partially complete any construction thereon and to receive advances of monies pursuant to any charges, pledges and/or loans entered into by the Receiver or the Borrower, and if required by the Lender, in priority to any existing encumbrances affecting the Property, including without limitation, charges and construction lien claims.

Upon the appointment of any such Receiver from time to time the following provisions shall apply:

36.1. A Statutory Declaration made by the Lender or by any authorized representative of the Lender as to default under the provisions of the Charge shall be conclusive evidence thereof;

36.2. Every such Receiver shall be the irrevocable agent or attorney of the Borrower for the collection of all rents falling due in respect to the Property, or any part thereof, whether in respect of any tenancies created in priority to the Charge or subsequent thereto and with respect to all responsibility and liability for its acts and omissions;

36.3. The Lender may from time to time fix the remuneration of every such Receiver which shall be a charge on the Property, and may be paid out of the income therefrom or the proceeds of sale thereof;

36.4. The appointment of every such Receiver by the Lender shall not incur or create any liability on the part of the Lender to the Receiver in any respect and such appointment or anything which may be done by any such Receiver or the removal of any such Receiver or the termination of any such receivership shall not have the effect of constituting the Lender a mortgagee in possession in respect of the Property or any part thereof;

36.5. The Receiver shall have the power to lease any portion of the Property for such term and subject to such provisions as it may deem advisable or expedient and shall have the authority to execute any lease of the Property or any part thereof in the name and on behalf of the Borrower and the Borrower undertakes to ratify and confirm, and hereby ratifies and confirms, whatever acts such Receiver may do on the Property;

36.6. In all instances, the Receiver shall be acting as the attorney or agent of the Borrower;

36.7. The Receiver shall have full power to complete any unfinished construction upon the Property;

36.8. The Receiver shall have full power to manage, operate, amend, repair, alter or extend the Property or any part thereof in the name of the Borrower for the purposes of securing the payment of rental from the Property or any part thereof;

36.9. The Receiver shall have full power to assume control of, manage, operate and carry on the business of the Borrower being conducted at or upon the Property on the date of the Charge or at any time thereafter;

36.10. The Receiver shall have full power to do all acts and execute all documents which may be considered necessary or advisable in order to protect the Lender's interest in the Property including, without limiting the generality of the foregoing, increasing, extending, renewing or amending all charges, mortgages and other encumbrances which may be registered against the Property from time to time, whether or not any of the same are prior to the interest of the Lender in the Property; selling of the Property; borrowing money on the security of the Property; applying for and executing all documents in any way related to any re-zoning applications, severance of Property pursuant to the provisions of the *Planning Act* (Ontario), as amended, subdivision agreements and development agreements and agreements for the supply or maintenance of utilities or services to the Property, including grants of Property or easements or rights of way necessary or incidental to any such agreements; executing all grants, documents, instruments and agreements related to compliance with the requirements of any competent Governmental Body, whether pursuant to a written agreement or otherwise and applying for and executing all documents in any way related to registration of the Property as a condominium; completing any application for first registration pursuant to the provisions of the *Land Titles Act* (Ontario) or pursuant to the *Certification of Titles Act* (Ontario); and for all and every of the purposes aforesaid the Borrower does hereby give and grant unto the Receiver full and absolute power and authority to do and execute all acts, deeds, matters and things necessary to be done as aforesaid in and about the Property, and to commence, institute and prosecute all actions, suits and other proceedings which may be necessary or expedient in and about the Property, as fully and effectually to all intents and purposes as the Borrower itself could do if personally present and acting therein.

36.11. The Receiver shall not be liable to the Borrower to account for monies or damages other than cash received by it in respect of the Property or any part thereof and out of such cash so received every such Receiver shall pay in the following order:

i) its remuneration;

ii) all payments made or incurred by it in the exercise of its powers hereunder;

iii) any payment of interest, principal and other money which may from time to time be or become charged upon the Property in priority to the monies owing hereunder and all taxes, insurance premiums and every other proper expenditure made or incurred by it in respect of the Property or any part thereof.

The Borrower hereby irrevocably appoints the Lender as its attorney to execute such consent or consents and all such documents as may be required in the sole discretion of the Lender and/or its solicitors so as to give effect to the foregoing provisions and the signature of such attorney shall be valid and binding on the Borrower and all parties dealing with the Borrower, the Lender and/or the Receiver and/or with respect to the Property in the same manner as if such documentation was duly executed by the Borrower itself.

37. LENDER NOT TO BE DEEMED LENDER IN POSSESSION

It is agreed that the Lender in exercising any of the rights given to the Lender under the Charge shall be deemed not to be a Lender or mortgagee in possession.

38. ENFORCEMENT OF ADDITIONAL SECURITY

In the event that, in addition to the Property charged hereby, the Lender holds further security on account of the monies secured hereby, it is agreed that no single or partial exercise of any of the Lender's powers hereunder or under any of such security, shall preclude other and further exercise of any other right, power or remedy pursuant to any of such security. The Lender shall at all times have the right to proceed against all, any, or any portion of such security in such order and in such manner as it shall in its sole discretion deem fit, without waiving any rights which the Lender may have with respect to any and all of such security, and the exercise of any such powers or remedies from time to time shall in no way affect the liability of the Borrower under the remaining security, provided however, that upon payment of the full indebtedness secured hereunder the rights of the Lender with respect to any and all such security shall be at an end.

39. TAKING OF JUDGMENT NOT A MERGER

The taking of a judgment or judgments on any of the covenants herein contained shall not operate as a merger of the said covenants or affect the Lender's right to interest at the rate and times herein provided; and further that the said judgment shall provide that interest thereon shall be computed at the same rate and in the same manner as herein provided until the said judgment shall have been fully paid and satisfied.

40. BANKRUPTCY AND INSOLVENCY ACT

The Borrower hereby acknowledges and agrees that the security held by the Lender is not all or substantially all of the inventory, accounts receivable or other property of the Borrower acquired for or used in relation to any business carried on by the Borrower. The Borrower hereby further acknowledges and agrees that notwithstanding any act of the Lender by way of appointment of any Person or Persons for the purposes of taking possession of the Property as agent on behalf of the Borrower or otherwise or by taking possession of the Property itself pursuant to any rights that the Lender may have with respect thereto shall not constitute the Lender or any such Person, a receiver within the meaning of subsection 243(2) of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"), and that any and all requirements of Part XI of the BIA as it may pertain to obligations of receivers shall not be applicable to the Lender with respect to the transaction pursuant to which the Charge has been given or with respect to enforcement of the Charge or any other security held by the Lender. The Borrower hereby acknowledges and agrees that no action shall lie against the Lender as a receiver and manager or otherwise for any loss or damage arising from non-compliance with any obligations of a receiver pursuant to the provisions of the BIA whether or not the Lender had reasonable grounds to believe that the Borrower was not insolvent.

The Borrower further acknowledges and agrees that any and all Costs as may be incurred from time to time by the Lender in order to effect compliance or avoid any adverse ramifications of the BIA shall be entirely for the account of the Borrower. The Lender shall be entitled to incur any such Costs, including any costs of its personnel in administering any requirements of the BIA and to add the same to the indebtedness owing pursuant hereto and the same shall be secured hereunder and under any and all security held by the Lender for the indebtedness owing to the Lender in the same manner and in the same priority as the principal secured hereunder.

41. PERMISSIBLE INTEREST RATE

It is not the intention of the Charge to violate any provisions of the *Interest Act* (Canada), the *Criminal Code* (Canada) (the "Code") or any other statute dealing with permitted rates of interest in the Province of Ontario or in Canada. Notwithstanding any provisions set out herein, in no event shall the "interest" (as that term is defined in the Code) exceed the "criminal rate" (as defined therein) of interest on the "credit advanced" (as defined therein) lawfully permitted under the said legislation. In the event that it is determined at any time that, by virtue of this Commitment, the Charge or any other document given as security for the herein contemplated loan, the payments of interest required to be made by the Borrower exceed the "criminal rate", then the Borrower shall only be required to pay interest at the highest rate permitted by law. Nothing herein shall invalidate any requirements for payment pursuant to this Commitment, the Charge or such other security documents, and any excess interest paid to the Lender shall be refunded to the Borrower and the provisions of the Charge shall in all respects be deemed to be amended accordingly.

42. INDEMNIFICATION

The Borrower and Covenantor hereby agree to indemnify and save harmless the Lender, its officers, agents, trustees, employees, contractors, licensees or invitees from and against any and all losses, damages, injuries, expenses, suits, actions, claims and demands of every nature and kind whatsoever and howsoever arising out of the provisions of this Commitment and the Security, any letters of credit or letters of guarantee issued, sale or lease of the Property and/or the use or occupation of the Property including, without limitation, those arising from the right to enter the Property from time to time and to carry out the various tests, inspections, management and other activities permitted by the Commitment and the Security.

In addition to any liability imposed on the Borrower and Covenantor under any instrument evidencing or securing the Loan indebtedness, the Borrower and Covenantor shall be jointly and severally liable for any and all of the Lender's costs, expenses, damages or liabilities, including, without limitation, all reasonable legal fees, directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about the Property of any hazardous or noxious substances. The Borrower and the Covenantor(s) shall be further bound by the representations, warranties and indemnity set out herein.

The representations, warranties, covenants and agreements of the Borrower and Covenantor set forth in this Section:

42.1. are separate and distinct obligations from the Borrower's and Covenantor's other obligations;

42.2. survive the payment and satisfaction of their other obligations and the discharge of the Security from time to time taken as security therefore;

42.3. are not discharged or satisfied by foreclosure of the charges created by any of the Security; and

42.4. shall continue in effect after any transfer of the Property including, without limitation, transfers pursuant to foreclosure proceedings (whether judicial or non-judicial) or by any transfer in lieu of foreclosure.

43. NON-MERGER

The Borrower's obligations as contained in this Commitment shall survive the execution and registration of the mortgage and other security documentation and all advances of funds under the mortgage, and the Borrower agrees that those obligations shall not be deemed to be merged in the execution and registration of the mortgage and other security. All terms and conditions of the mortgage and other security documentation shall be deemed to be incorporated in and form part of the Commitment, except to the extent provided for herein. In the event of conflict, the terms of this Commitment shall prevail.

44. NOTICES

All notices or other communications to be given pursuant to or in connection with the Charge shall be in writing, signed by the party giving such notice or by its solicitors, and shall be personally delivered or sent by registered mail or facsimile transmission to the party or parties intended at its or their respective addresses for service as set out in the Charge. The date of receipt of such notice or demand, if served personally or by facsimile, shall be deemed to be the date of the delivery thereof, or if mailed as aforesaid, the date of mailing thereof. For the purposes hereof, personal service on the Borrower or any Covenantor shall be effectively given by delivery to any officer, director or employee of such Borrower or Covenantor. Any party may from time to time by notice given as provided herein change its address for the purpose of this provision.

45. PRIORITY OVER VENDOR'S LIEN

The Borrower hereby acknowledges that the Charge is intended to have priority over any vendor's lien, whether in favour of the Borrower or otherwise, and the Borrower covenants that it has done no act to give priority over the Charge to any vendor's lien, nor is it aware of any circumstances that could create a vendor's lien. Further, the Borrower covenants to do all acts and execute or cause to be executed all documents required to give the Charge priority over any vendor's lien and to give effect to the intent of this clause.

46. CONSENT OF LENDER

Whenever the Borrower is required by the Charge to obtain the consent or approval of the Lender, it is agreed that, subject to any other specific provision contained in the Charge to the contrary, the Lender may give or withhold its consent or approval for any reason that it may see fit in its sole and absolute discretion, and the Lender shall not be liable to the Borrower in damages or otherwise for its failure or refusal to give or withhold such consent or approval, and all costs of obtaining such approval shall be for the account of the Borrower.

47. DISCHARGE

The Lender shall have a reasonable period of time after payment in full of the monies hereby secured within which to prepare and execute a discharge of the Charge; and interest as aforesaid shall continue to run and accrue until actual payment in full has been received by the Lender; and all legal and other expenses for the preparation and execution of such discharge shall, together with the Lender's fee for providing same, be borne by the Borrower. The discharge shall be prepared and executed by such Persons as are specifically authorized by the Lender and the Lender shall not be obligated to execute any discharge other than a discharge which has been so authorized.

If the Charge, this Commitment or any other document provides for the giving of partial discharges of the Charge, it is agreed that, notwithstanding any other provision to the contrary, the Borrower shall not be entitled to request or receive any such partial discharge if and for so long as the Borrower is in default under the Charge, this Commitment or such other document.

48. FAMILY LAW ACT

The Borrower shall forthwith after any change or happening affecting any of the following, namely, (a) the spousal status of the Borrower, (b) the qualification of the Property or any part thereof as a matrimonial home within the meaning of Part II of the *Family Act* (Ontario), (c) the ownership of the equity of redemption in the Property or any part thereof, and (d) a shareholder of the Borrower obtaining rights to occupy the Property or any part thereof by virtue of shareholding within the meaning of Section 18(2) of the *Family Law Act* (Ontario), the Borrower will advise the Lender accordingly and furnish the Lender with full particulars thereof, the intention being that the Lender shall be kept fully informed of the names and addresses of the owner or owners for the time being of the said equity of redemption and of any spouse who is not an owner but who has a right of possession in the Property by virtue of Section 19 of the *Family Law Act* (Ontario). In furtherance of such intention, the Borrower covenants and agrees to furnish the Lender with such evidence in connection with any of (a), (b), (c) and (d) above as the Lender may from time to time request.

49. INDEPENDENT LEGAL ADVICE

The Borrower and each Covenantor acknowledge that they have full knowledge of the purpose and essence of this transaction, and that they have been appropriately and independently legally advised in that regard or have been advised of their right to independent legal advice and have declined same. Such parties agree to provide to the Lender a Certificate of Independent Legal Advice as and when same may be required, regarding their knowledge and understanding of this transaction.

50. SERVICING FEES

All servicing fees as herein provided are intended to and shall be in an amount sufficient in the sole opinion of the Lender to compensate the Lender for its administrative costs and shall not be deemed a penalty. The amount of such servicing fees if not paid shall be added to the principal amount secured hereunder, and shall bear interest at the rate aforesaid and the Lender shall have the same rights with respect to collection of same as it does with respect to collection of principal and interest hereunder or at law.

51. CONSENT TO REGISTRATION OF A PLAN OF CONDOMINIUM

Provided the Borrower is not in default of the provisions of this Commitment or any loan documents and provided that there are no costs or financial obligations to the Lender, the Lender hereby agrees that it will consent to the Borrower registering a plan of condominium and declaration (the "Condominium") pursuant to the *Condominium Act, 1998* (Ontario), as amended, with respect to the Property or any part thereof provided that the Lender has received and approved the draft plan of condominium and the declaration and provided further that the Borrower, if requested by the Lender, shall deliver to the Lender prior to the registration of the Condominium, a further charge of the Property (the "Replacement Charge") on the same terms and conditions save and except for the new legal description of the Property. It is agreed that the Replacement Charge shall secure the same indebtedness as the original Charge. In connection with the provision of the Replacement Charge, the Borrower shall also provide a replacement general assignment of rents (the "Replacement Assignment of Rents"), and together with and each Covenantor, where applicable, shall provide a re-confirmation of all existing security and such further and other documentation as may then be required by the Lender's solicitors.

Provided further that the original Charge and the original assignment of rents and leases relating thereto shall not be released or discharged from the Property (save and except for any partial discharge provisions provided for therein) until the expiration of ninety (90) days immediately following the later of the registration of the Condominium and the registration of the Replacement Charge and Replacement Assignment of Rents. Provided further that at the time of the request for a discharge of the Charge and the original assignment of rents and leases the Borrower shall not be in default of the provisions of the Charge, the Replacement Charge and/or this Commitment, failing which the Lender shall not be obliged to discharge same.

52. CONDOMINIUM PROVISIONS

If all or any part of the Property is or becomes a condominium unit pursuant to the provisions of the *Condominium Act, 1998* (Ontario) (the “Act”), the following covenants and provisions shall apply in addition to all other covenants and provisions set forth in the Charge:

52.1. For the purposes of all parts of the Property comprising one or more such condominium units, all references in the Charge to the Property shall include the Borrower's appurtenant undivided interest in the common elements and other assets of the Condominium Corporation;

52.2. The Borrower shall at all times comply with the Act and shall forward to the Lender proof of such compliance as the Lender may request from time to time including, without limitation, status certificates issued by the Condominium Corporation; and if the Borrower fails to so comply in any respect, the Lender may do so at its option and all Costs incurred by the Lender in connection therewith shall be secured by the Charge and payable by the Borrower to the Lender forthwith upon demand, together with interest thereon as herein provided;

52.3. The Borrower shall pay, when due, all monies payable by the Borrower or with respect to the Property in accordance with the provisions of the Act and the declaration, by-laws and rules of the Condominium Corporation, including all required contributions to common expenses and any special levies, charges and assessments, and shall provide proof of such payment to the Lender upon request; and if the Borrower fails to make any such payment, the Lender may do so at its option and all amounts so paid by the Lender shall be secured by the Charge and shall be payable by the Borrower to the Lender forthwith upon demand, together with interest thereon as herein provided;

52.4. The Borrower hereby irrevocably appoints, authorizes and empowers the Lender to exercise the rights of the Borrower to vote or to consent as an owner within the meaning of the Act with respect to all matters relating to the affairs of the Condominium Corporation, or to abstain from doing so, provided that:

51.4.1. the Lender may at any time and from time to time give notice in writing to the Borrower and to the Condominium Corporation that the Lender does not intend to exercise such right to vote or to consent, in which case the Borrower may exercise its right to vote or to consent for so long as such notice remains effective or until such notice is revoked by the Lender; and any such notice may be for an indeterminate period of time, a limited period of time or for a specific meeting or matter;

51.4.2. the Lender shall not be under any obligation to vote or to consent or to protect the interests of the Borrower; and,

51.4.3. the exercise by the Lender of its right to vote or to consent or to abstain from doing so shall not constitute the Lender as a mortgagee or Lender in possession and shall not give rise to any liability on the part of the Lender;

52.5. The Borrower shall forward to the Lender by delivery or by prepaid registered mail copies of every notice, assessment, claim, demand, by-law, rule, request for consent and other communication relating to all or any part of the Property or the common elements or affairs of the Condominium Corporation on or before the date which is the earlier of:

51.5.1. fourteen (14) days after receipt of the same by the Borrower;

51.5.2. seven (7) days prior to the date set for any meeting of the Condominium Corporation or any committee thereof;

51.5.3. seven (7) days prior to the due date of any claim or demand for payment; and,

51.5.4. within twenty-four (24) hours after becoming aware of any information concerning termination of any insurance policy, insurance trust agreement or management agreement relating to the Condominium Corporation or any of its assets;

52.6. The Borrower hereby authorizes and directs the Condominium Corporation to permit the Lender to inspect the records of the Condominium Corporation at any reasonable time;

52.7. In addition to and notwithstanding any other provisions of the Charge, the outstanding principal amount and all accrued interest and other charges secured by the Charge shall, at the Lender's option, become immediately due and payable without notice or demand if any of the following events or circumstances shall occur and be continuing:

51.7.1. the government of the Condominium Corporation or the government of the Property by the Condominium Corporation is terminated;

51.7.2. a vote of the Condominium Corporation authorizes the sale of all or substantially all of its property or assets or all or any part of its common elements or all or any part of the Property, or any part of the same is expropriated;

51.7.3. the Condominium Corporation fails to comply with any provision of the Act or its declaration or any of its by-laws and rules;

51.7.4. the Condominium Corporation fails to insure its assets, including the Property, in accordance with the Act and the declaration and by-laws of the Condominium Corporation, or any insurer thereof cancels or threatens cancellation of any existing obligation to insure the same.

53. <u>ASSIGNMENT OF RENTS</u>

As additional primary security for the monies secured by the Charge, the Borrower transfers and assigns to the Lender all rents, income, profits, rights and other benefits (collectively the "Rents") now or hereafter due or arising pursuant to all present and future oral or written leases, agreements to lease, tenancies or other agreements for the use or occupancy of the whole or any part of the Property and all extensions and renewals thereof (collectively the "Leases" and individually a "Lease") granted to any and all tenants, licensees and other occupiers thereof (collectively the

"Tenants" and individually a "Tenant"); and in furtherance thereof, the Borrower covenants and agrees as follows:

53.1. the Leases and details thereof heretofore provided by the Borrower to the Lender are in full force and effect and have not been assigned or pledged to any other party except as disclosed by registered title to the Property;

53.2. except with the prior written consent of the Lender, the Borrower shall not amend, terminate, release or accept a surrender of any Lease or any guarantee thereof or waive, release, reduce, discount, discharge or otherwise compromise any Rents payable thereunder, and any attempt to do any of the foregoing without such prior written consent shall be null and void as against the Lender;

53.3. except for the last month's rent and any security deposit, the Borrower has not received and shall not accept payment of any Rents more than thirty (30) days in advance;

53.4. except with the prior written consent of the Lender, the Borrower shall not further assign the Rents, the Leases or any interest therein or consent or agree to any postponement or subordination of the same in favour of any mortgage or other encumbrance now or hereafter affecting the Property;

53.5. except with the prior written consent of the Lender, the Borrower shall not consent to or permit any assignment or subletting of the interest of any Tenant under any Lease or exercise any right of election thereunder which would in any way lessen the liability of any Tenant or shorten the stated term of any Lease;

53.6. the Borrower shall diligently and in good faith observe and perform all of the landlord's covenants contained in the Leases and shall likewise require that the Tenants and other parties to the Leases fully observe and perform the covenants and agreements imposed upon them by the Leases, failing which, the Lender may, at its option, require the same at the expense and in the name of the Borrower, and all such expenses incurred by the Lender shall be a charge upon the Property and be paid by the Borrower to the Lender forthwith upon demand;

53.7. the Borrower shall give prompt written notice to the Lender of default by any Tenant and any notice of default received from any Tenant, including a copy of such notice;

53.8. all of the Leases are and shall be bona fide and at rental rates and upon terms which are commercially reasonable and consistent with comparable space in the municipality within which the Property are situate;

53.9. the Borrower shall, at its own expense, execute and deliver to the Lender all such further assurance and assignments with respect to the Rents and the Leases and enforce and do all other acts with respect to the Leases as may be required from time to time by the Lender.

Upon default hereunder by the Borrower, the Lender shall be entitled, as agent and attorney of the Borrower, to collect, sue for, waive or compromise the Rents and to enforce performance of the Leases or amend, terminate, release or accept a surrender of the same as the Lender may determine in its sole discretion;

The Lender shall not be obligated to perform or discharge any obligation or liability under the Leases, or under or by reason of the assignment herein contained, and the Borrower agrees to save and hold harmless the Lender of and from any and all actions, proceedings, claims, demands, liability, damages, Costs or expenses which the Lender may incur under or by reason of the Leases or the assignment herein contained; and all Costs incurred by the Lender in connection therewith shall be a charge upon the Property and be paid by the Borrower to the Lender forthwith upon demand.

In the event that the Lender collects any Rents by reason of the Borrower's default, the Lender shall be entitled to payment from the same of an administration fee equal to 5.0% of the gross amount of Rents collected, and the Borrower acknowledges and agrees that such administration fee is just and equitable having regard to the circumstances.

54. MATERIAL ADVERSE CHANGES

In the event that at any time while any indebtedness remains outstanding pursuant to the provisions of the Charge, the Lender discovers a discrepancy or inaccuracy in any written information, statements or representations made or furnished to the Lender by or on behalf of the Borrower or any Covenantor concerning the Property or the financial condition and responsibility of the Borrower or any Covenantor in the event of any material adverse change in the value of the Property or the financial status of the Borrower or any Covenantor or any lessee on which the Lender relied upon in making any advances hereunder, which material change, discrepancy or inaccuracy cannot be rectified by the Borrower or such Covenantor (if applicable) within thirty (30) days after written notification thereof by the Lender to the Borrower or such Covenantor, the Lender shall be entitled to decline to advance any further funds pursuant hereto and/or to declare any and all amounts advanced pursuant hereto together with interest thereon to be forthwith due and payable.

55. PROFESSIONAL MANAGEMENT

The Property must at all times be professionally managed by property managers acceptable to the Lender, failing which the Lender reserves the right, in its sole discretion, to appoint new or other property managers at the sole expense of the Borrower. A change in the property managers for Property shall require the prior written consent of the Lender. No management fee shall be payable to the manager of the Property, other than to a professional arm's-length manager approved by the Lender, without the prior written consent of the Lender. No management fees in excess of market fees for similar properties in the general location of the Property shall be payable without the prior written consent of the Lender.

56. NO PREPAYMENTS

Save and except as otherwise provided for in the Commitment or any schedule to a specific charge, the Borrower shall have no right to prepay all or any part of the amount outstanding under the Charge prior to the maturity date thereof.

57. NO PARTIAL DISCHARGES

Save and except as otherwise provided for in the Commitment or any schedule to a specific charge, the Borrower shall have no right to obtain a partial discharge(s) of the Charge

58. ADDITIONAL FEES

All advances, in addition to legal fees and disbursements of the Lender's solicitors, shall be subject to an administrative processing fee of One Thousand Dollars ($1,000.00) for each advance made under the Loan in favour of the Lender. The Borrower shall be permitted one advance per month. If the Lender, in its sole discretion, agrees to make an advance in an amount not less than the minimum amount per advance as specified in this Commitment, an additional processing fee of One Thousand Dollars ($1,000.00) for any such advance so made shall be payable by the Borrower.

59. ABANDONMENT

In the event of abandonment of the Project for a period in excess of fifteen (15) consecutive days, the Lender shall be entitled, after giving the Borrower written notice of any abandonment and provided the Borrower fails to rectify same within ten (10) days after such notice, has been given, to forthwith withdraw and cancel its obligations hereunder and/or decline to advance further funds as the case may be and in addition to declare any funds advanced to forthwith become due and payable plus interest all at the Lender's option.

60. INTERPRETATION

It is hereby agreed that, in construing the Charge, everything herein contained shall extend to and bind and may be enforced or applied by the respective heirs, personal representatives, successors and assigns, as the case may be, of each and every of the parties hereto, and where any of the Borrower, the Lender and any Covenantor is more than one Person, their respective covenants shall be deemed to be joint and several, and the provisions of the Charge shall be read and construed with all changes of gender and number as required by the context.

61. HEADINGS

The headings with respect to the various paragraphs of the Charge are intended to be for identification of the various provisions of the Charge only and the wording of such headings is not intended to have any legal effect.

62. INVALIDITY

If any of the covenants or conditions in the Charge inclusive of all schedules forming a part hereof shall be void for any reason it shall be severed from the remainder of the provisions hereof and the remaining provisions shall remain in full force and effect notwithstanding such severance.

63. COUNTERPARTS

The Charge may be executed and/or registered in counterparts, each of which, so executed, and/or registered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, and notwithstanding their date of execution shall be deemed to bear date as of the date above written.

This is Exhibit “9” referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

PROPERTY DESCRIPTION: PART LOT 30 CONCESSION 4 DESIGNATED AS PARTS 8 AND 9 PLAN 65R39839; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 1 TO 3 INCLUSIVE PLAN 65R39880 AS IN YR3454770; CITY OF MARKHAM

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
DIVISION FROM 03055-0002

PIN CREATION DATE:
2022/06/13

OWNERS' NAMES
TUNG KEE INVESTMENT CANADA LTD.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
*** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2022/06/13 ***						
***SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:*						
****	*SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES **					
****	*AND ESCHEATS OR FORFEITURE TO THE CROWN.*					
****	*THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF*					
****	*IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY*					
****	*CONVENTION.*					
****	*ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.*					
***DATE OF CONVERSION TO LAND TITLES: 1999/09/27 ***						
YR688928	2005/08/24	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
REMARKS: AERONAUTICS ACT AND PICKERING AIRPORT SITE ZONING REGULATIONS						
YR1618190	2011/03/07	TRANS PARTNERSHIP		TUNG KEE INVESTMENT LIMITED PARTNERSHIP	TUNG KEE INVESTMENT CANADA LTD.	C
YR3083072	2020/03/26	CHARGE	$5,000,000	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED JIAYI INTERNATIONAL INVESTMENTS LTD.	C
YR3083073	2020/03/26	NO ASSGN RENT GEN		TUNG KEE INVESTMENTS CANADA LTD.	SOW CAPITAL ONTARIO LIMITED JIAYI INTERNATIONAL INVESTMENTS LTD.	C
REMARKS: YR3083072						
YR3247257	2021/05/07	TRANSFER OF CHARGE		JIAYI INTERNATIONAL INVESTMENTS LTD.	SOW CAPITAL ONTARIO LIMITED	C
REMARKS: YR3083072.						
YR3247258	2021/05/07	NO ASSGN RENT GEN		JIAYI INTERNATIONAL INVESTMENTS LTD.	SOW CAPITAL ONTARIO LIMITED	C
REMARKS: ASSIGNS YR3083073						

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR3300382	2021/08/18	TRANSFER OF CHARGE		SOW CAPITAL ONTARIO LIMITED	F A CREDIT SOLUTIONS CANADA INC. SOW CAPITAL ONTARIO LIMITED	C
REMARKS: YR3083072.						
YR3373212	2022/01/27	CHARGE	$30,000,000	TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION	C
YR3373213	2022/01/27	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION	C
REMARKS: YR3373212						
YR3373214	2022/01/27	CHARGE	$8,500,000	TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.	C
YR3373215	2022/01/27	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.	C
REMARKS: YR3373214						
YR3373216	2022/01/27	CHARGE	$8,000,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
YR3373217	2022/01/27	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
REMARKS: YR3373216						
YR3373218	2022/01/27	TRANSFER OF CHARGE		F A CREDIT SOLUTIONS CANADA INC.	SOW CAPITAL ONTARIO LIMITED	C
REMARKS: YR3083072.						
YR3373219	2022/01/27	CHARGE	$3,540,000	TUNG KEE INVESTMENT CANADA LTD.	PA, FRANK TUNG, STEPHEN	C
YR3373403	2022/01/28	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	ROMSPEN INVESTMENT CORPORATION	C
REMARKS: R3083072, YR3083073, YR3247257, YR3247258, YR3300382,YR3373212, YR3373213 TO YR3373218						
YR3373404	2022/01/28	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	AMBER MORTGAGE INVESTMENT CORP.	C
REMARKS: YR3083072, YR3083073, YR3247257, YR3247258, YR3300382,YR3373214,YR3373215 TO YR3373218						
YR3373405	2022/01/28	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	2149602 ONTARIO INC.	C
REMARKS: YR3083072, YR3083073, YR3247257, YR3247258, YR3300382, TO YR3373218						
YR3385745	2022/02/24	NOTICE	$8,000,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
REMARKS: YR3373216						
YR3397626	2022/03/22	NOTICE		THE CORPORATION OF THE CITY OF MARKHAM	TUNG KEE INVESTMENT CANADA LTD.	C
YR3397627	2022/03/22	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	THE CORPORATION OF THE CITY OF MARKHAM	C
REMARKS: YR3083073, YR3247257, YR3247258, YR3300382, YR3373218 TO YR3397626						

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR3397628	2022/03/22	POSTPONEMENT		ROMSPEN INVESTMENT CORPORATION	THE CORPORATION OF THE CITY OF MARKHAM	C
REMARKS: YR3373212 TO YR3397626						
YR3397629	2022/03/22	POSTPONEMENT		AMBER MORTGAGE INVESTMENT CORP.	THE CORPORATION OF THE CITY OF MARKHAM	C
REMARKS: YR3373214, YR3373215 TO YR3397626						
YR3397630	2022/03/22	POSTPONEMENT		2149602 ONTARIO INC.	THE CORPORATION OF THE CITY OF MARKHAM	C
REMARKS: YR3373216, YR3373217 TO YR3397626						
YR3397631	2022/03/22	POSTPONEMENT		PA, FRANK TUNG, STEPHEN	THE CORPORATION OF THE CITY OF MARKHAM	C
REMARKS: YR3373219 TO YR3397626						
65R39839	2022/04/07	PLAN REFERENCE				C
65R39880	2022/05/16	PLAN REFERENCE				C
YR3440956	2022/06/17	NOTICE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
REMARKS: YR3373216, YR3373217, YR3373405, YR3385745, YR3397630						
YR3440959	2022/06/17	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	PA, FRANK TUNG, STEPHEN	C
REMARKS: YR3083072 & YR3373218 TO YR3373219						
YR3441040	2022/06/17	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	2149602 ONTARIO INC.	C
REMARKS: YR3083072 & YR3373218 TO YR3440956						
YR3447697	2022/07/04	NOTICE	$8,500,000	TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.	C
REMARKS:)YR3373214 AND YR3373215						
YR3454770	2022/07/20	TRANSFER EASEMENT	$2	TUNG KEE INVESTMENT CANADA LTD.	ALECTRA UTILITIES CORPORATION	C
YR3454771	2022/07/20	POSTPONEMENT		2149602 ONTARIO INC.	ALECTRA UTILITIES CORPORATION	C
REMARKS: YR3373216. YR3373217 TO YR3454770						
YR3454772	2022/07/20	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	ALECTRA UTILITIES CORPORATION	C
REMARKS: YR3083072, YR3083073, YR3247257, YR3247258, YR3300382, YR3373218, YR3441040, YR3440959 TO YR3454770						
YR3454773	2022/07/20	POSTPONEMENT		ROMSPEN INVESTMENT CORPORATION	ALECTRA UTILITIES CORPORATION	C
REMARKS: YR3373212, YR3373213 TO YR3454770						
YR3454774	2022/07/20	POSTPONEMENT		AMBER MORTGAGE INVESTMENT CORP.	ALECTRA UTILITIES CORPORATION	C
REMARKS: YR3373214, YR3373215 TO YR3454770						

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR3454775	2022/07/20	POSTPONEMENT		PA, FRANK TUNG, STEPHEN	ALECTRA UTILITIES CORPORATION	C
REMARKS: YR3373219 TO YR3454770						
YR3470726	2022/08/30	CHARGE	$8,500,000	TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.	C
YR3470727	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.	C
REMARKS: YR3470726.						
YR3505530	2022/12/06	NOTICE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
REMARKS: NOTICE TO BE DELETED UPON DELETION OF YR3373216						
YR3505547	2022/12/06	POSTPONEMENT		PA, FRANK TUNG, STEPHEN	2149602 ONTARIO INC.	C
REMARKS: YR3373219 TO YR3505530						
YR3505567	2022/12/06	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	2149602 ONTARIO INC.	C
REMARKS: YR3083072 TO YR3505530						
YR3513700	2023/01/09	TRANSFER OF CHARGE		SOW CAPITAL ONTARIO LIMITED	MILTOM SERVICES LIMITED SOW CAPITAL ONTARIO LIMITED	C
YR3538686	2023/04/05	NOTICE	$2	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED	C
REMARKS: YR3083072						
YR3541410	2023/04/14	CONSTRUCTION LIEN	$4,653,028	DX STRATEGIES INC.		C
YR3541425	2023/04/17	NO CHNG ADDR INST		SOW CAPITAL ONTARIO LIMITED		C
REMARKS: YR3538686						
YR3563830	2023/06/16	CERTIFICATE		ONTARIO SUPERIOR COURT OF JUSTICE	DX STRATEGIES INC.	C
REMARKS: YR3541410						

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PART LOT 30, CONCESSION 4, PARTS 1, 4 & 5 PLAN 65R39839; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 7 & 8 PLAN 65R39880 & PART 2 PLAN 65R39948 AS IN YR3455770; CITY OF MARKHAM

PROPERTY REMARKS: PLANNING ACT CONSENT IN DOCUMENT YR3412266.

ESTATE/QUALIFIER: FEE SIMPLE LT CONVERSION QUALIFIED

RECENTLY: DIVISION FROM 03055-0376

PIN CREATION DATE: 2022/09/08

OWNERS' NAMES: TUNG KEE INVESTMENT CANADA LTD.

CAPACITY | SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
*** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2022/09/08 ***						
***SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:*						
*** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES **						
*** AND ESCHEATS OR FORFEITURE TO THE CROWN.*						
*** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF*						
*** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY*						
*** CONVENTION.*						
*** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.*						
***DATE OF CONVERSION TO LAND TITLES: 1999/09/27 ***						
YR688928	2005/08/24	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
REMARKS: AERONAUTICS ACT AND PICKERING AIRPORT SITE ZONING REGULATIONS						
YR3397626	2022/03/22	NOTICE		THE CORPORATION OF THE CITY OF MARKHAM	TUNG KEE INVESTMENT CANADA LTD.	C
65R39839	2022/04/07	PLAN REFERENCE				C
YR3412266	2022/04/21	TRANSFER		TUNG KEE INVESTMENT CANADA LTD.	TUNG KEE INVESTMENT CANADA LTD.	C
65R39880	2022/05/16	PLAN REFERENCE				C
65R39948	2022/07/12	PLAN REFERENCE				C
YR3454770	2022/07/20	TRANSFER EASEMENT	$2	TUNG KEE INVESTMENT CANADA LTD.	ALECTRA UTILITIES CORPORATION	C
YR3470724	2022/08/30	CHARGE	$30,000,000	TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR3470725	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION	C
REMARKS: YR3470724.						
YR3470726	2022/08/30	CHARGE	$8,500,000	TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.	C
YR3470727	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.	C
REMARKS: YR3470726.						
YR3470728	2022/08/30	CHARGE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
YR3470729	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
REMARKS: YR3470728.						
YR3470730	2022/08/30	CHARGE	$3,540,000	TUNG KEE INVESTMENT CANADA LTD.	PA, FRANK TUNG, STEPHEN	C
YR3470731	2022/08/30	CHARGE	$5,000,000	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED	C
YR3470732	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENTS CANADA LTD.	SOW CAPITAL ONTARIO LIMITED	C
REMARKS: YR3470731.						
YR3505533	2022/12/06	NOTICE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
REMARKS: YR3470728						
YR3505555	2022/12/06	POSTPONEMENT		PA, FRANK TUNG, STEPHEN	2149602 ONTARIO INC.	C
REMARKS: YR3470730 TO YR3505533						
YR3505559	2022/12/06	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	2149602 ONTARIO INC.	C
REMARKS: YR3470731 TO YR3505533						
YR3513701	2023/01/09	TRANSFER OF CHARGE		SOW CAPITAL ONTARIO LIMITED	MILTOM SERVICES LIMITED SOW CAPITAL ONTARIO LIMITED	C
REMARKS: YR3470731.						
YR3538687	2023/04/05	NOTICE	$2	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED	C
REMARKS: YR3470731						
YR3541410	2023/04/14	CONSTRUCTION LIEN	$4,653,028	DX STRATEGIES INC.		C
YR3541426	2023/04/17	NO CHNG ADDR INST		SOW CAPITAL ONTARIO LIMITED		C
REMARKS: YR3538687						

Ontario ServiceOntario

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR3563830	2023/06/16	CERTIFICATE		ONTARIO SUPERIOR COURT OF JUSTICE	DX STRATEGIES INC.	C
REMARKS: YR3541410						

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

Ontario ServiceOntario

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PART LOT 30, CONCESSION 4, PARTS 2, 6 & 7 PLAN 65R39839; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 4 & 5 PLAN 65R39880 AS IN YR3455770; CITY OF MARKHAM

PROPERTY REMARKS: PLANNING ACT CONSENT IN DOCUMENT YR3412266.

ESTATE/QUALIFIER: FEE SIMPLE LT CONVERSION QUALIFIED

RECENTLY: DIVISION FROM 03055-0376

PIN CREATION DATE: 2022/09/08

OWNERS' NAMES: TUNG KEE INVESTMENT CANADA LTD.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2022/09/08 **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 1999/09/27 **						
YR688928	2005/08/24	NOTICE		HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY THE MINISTER OF TRANSPORT		C
REMARKS: AERONAUTICS ACT AND PICKERING AIRPORT SITE ZONING REGULATIONS						
YR3397626	2022/03/22	NOTICE		THE CORPORATION OF THE CITY OF MARKHAM	TUNG KEE INVESTMENT CANADA LTD.	C
65R39839	2022/04/07	PLAN REFERENCE				C
YR3412266	2022/04/21	TRANSFER		TUNG KEE INVESTMENT CANADA LTD.	TUNG KEE INVESTMENT CANADA LTD.	C
65R39880	2022/05/16	PLAN REFERENCE				C
YR3454770	2022/07/20	TRANSFER EASEMENT	$2	TUNG KEE INVESTMENT CANADA LTD.	ALECTRA UTILITIES CORPORATION	C
YR3470724	2022/08/30	CHARGE	$30,000,000	TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION	C
YR3470725	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	ROMSPEN INVESTMENT CORPORATION	C
REMARKS: YR3470724.						

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR3470726	2022/08/30	CHARGE	$8,500,000	TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.	C
YR3470727	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	AMBER MORTGAGE INVESTMENT CORP.	C
REMARKS: YR3470726.						
YR3470728	2022/08/30	CHARGE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
YR3470729	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
REMARKS: YR3470728.						
YR3470730	2022/08/30	CHARGE	$3,540,000	TUNG KEE INVESTMENT CANADA LTD.	PA, FRANK TUNG, STEPHEN	C
YR3470731	2022/08/30	CHARGE	$5,000,000	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED	C
YR3470732	2022/08/30	NO ASSGN RENT GEN		TUNG KEE INVESTMENTS CANADA LTD.	SOW CAPITAL ONTARIO LIMITED	C
REMARKS: YR3470731.						
YR3505533	2022/12/06	NOTICE	$9,500,000	TUNG KEE INVESTMENT CANADA LTD.	2149602 ONTARIO INC.	C
REMARKS: YR3470728						
YR3505555	2022/12/06	POSTPONEMENT		PA, FRANK TUNG, STEPHEN	2149602 ONTARIO INC.	C
REMARKS: YR3470730 TO YR3505533						
YR3505559	2022/12/06	POSTPONEMENT		SOW CAPITAL ONTARIO LIMITED	2149602 ONTARIO INC.	C
REMARKS: YR3470731 TO YR3505533						
YR3513701	2023/01/09	TRANSFER OF CHARGE		SOW CAPITAL ONTARIO LIMITED	MILTOM SERVICES LIMITED SOW CAPITAL ONTARIO LIMITED	C
REMARKS: YR3470731.						
YR3538687	2023/04/05	NOTICE	$2	TUNG KEE INVESTMENT CANADA LTD.	SOW CAPITAL ONTARIO LIMITED	C
REMARKS: YR3470731						
YR3541410	2023/04/14	CONSTRUCTION LIEN	$4,653,028	DX STRATEGIES INC.		C
YR3541426	2023/04/17	NO CHNG ADDR INST		SOW CAPITAL ONTARIO LIMITED		C
REMARKS: YR3538687						
YR3563830	2023/06/16	CERTIFICATE		ONTARIO SUPERIOR COURT OF JUSTICE	DX STRATEGIES INC.	C
REMARKS: YR3541410						

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

This is Exhibit “10” referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

Properties

PIN	03055 - 0002 LT	*Interest/Estate*	Fee Simple
Description	PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271 ; MARKHAM		
Address	3143 19TH AVE MARKHAM		

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name TUNG KEE INVESTMENT CANADA LTD.
Address for Service 75 Queens College Drive
Richmond Hill, Ontario
L4B 1X4

I, Yvonne Pui Ling LAI - Director, have the authority to bind the corporation.
This document is not authorized under Power of Attorney by this party.

Chargee(s) *Capacity* *Share*

Name SOW CAPITAL ONTARIO LIMITED
Address for Service 650 - 999 West Broadway
Vancouver, BC V5Z 1K3

Name JIAYI INTERNATIONAL INVESTMENTS LTD.
Address for Service 650 - 999 West Broadway
Vancouver, BC V5Z 1K3

Statements

Schedule: See Schedules

Provisions

Principal	$5,000,000.00	*Currency*	USD
Calculation Period			
Balance Due Date	2021/01/15		
Interest Rate	12.0%		
Payments			
Interest Adjustment Date	2020 01 15		
Payment Date			
First Payment Date			
Last Payment Date	2021 01 15		
Standard Charge Terms	200033		
Insurance Amount	Full insurable value		
Guarantor			

Signed By

Mark Edward Uster — 181 University Ave., Suite 2100, Toronto, M5H 3M7 — acting for Chargor(s) — Signed 2020 03 26

Tel 416-863-1010
Fax 416-863-1009

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

DALE & LESSMANN LLP — 181 University Ave., Suite 2100, Toronto, M5H 3M7 — 2020 03 26

Tel 416-863-1010
Fax 416-863-1009

Fees/Taxes/Payment

Statutory Registration Fee	$65.05
Total Paid	$65.05

File Number

Chargee Client File Number :	142273-001

Additional Provisions

1. The registration of this Charge/Mortgage (the "Charge") is pursuant to the terms of a promissory note dated January 21, 2020 and any amendments thereto (the "Promissory Note") and the advance of any monies under this Charge contemplated by such Promissory Note shall not cause the Promissory Note to merge but rather the Promissory Note shall survive and all of the terms and conditions contained therein shall be binding upon the Chargor as if fully incorporated herein both before and after all advances have been made and all of the requirements of the Promissory Note shall continue in full force and effect notwithstanding the registration of this Charge or the completion of the funding of all advances contemplated hereby. It is acknowledged by the Chargor that all of the Chargee's rights under this Charge shall in no way merge or be affected by any proceedings that the Chargee may commence under any other security document or agreement granted to the Chargee (the "Security Documents") and no proceedings commenced by the Chargee under this Charge shall in any way affect the rights of the Chargee under the Security Documents. A default under any of the Promissory Note or the Security Documents shall constitute a default under this Charge, and shall permit the Chargee to immediately enforce all of its remedies. In the event and to the extent of any inconsistency or conflict between terms of the Promissory Note and any of the provisions contained in this Charge or the Security Documents, the Chargee shall determine in its sole discretion which provisions shall prevail.

2. The Chargor covenants and agrees with the Chargee that in the event of the Chargor selling, conveying, transferring or entering into an agreement for sale or transfer of title of the property hereby mortgaged (hereinafter referred to as the "Property"), or the sale, conveyance or transfer of the beneficial ownership of the Property, to a purchaser or transferee not approved of in writing by the Chargee, which approval shall not be unreasonably withheld, all monies hereby secured with accrued interest thereon shall be forthwith due and payable at the option of the Chargee. For the purposes of this paragraph a merger or amalgamation involving the Chargor (beneficial or otherwise) or a change in effective voting control or ownership of shares of the Chargor shall be deemed a transfer of title of the Property.

3. The Chargor shall have no privilege of prepaying the whole or any part of the principal hereby secured prior to maturity.

4. This Charge shall be repayable in consecutive monthly instalments of interest only on the 1st day of each month with the balance of the principal sum hereby secured and any accrued but unpaid interest to become due and payable at maturity.

5. The Chargor acknowledges that the Chargee shall holdback from any loan advance secured by the Charge an amount to be held as an interest reserve (the "Reserve"). The Chargor covenants to replenish the Reserve as required. The Reserve shall be the interest amount required to be paid by the Chargor to the Chargee under this Charge. In the event of a default of the Chargor's obligations under the Charge, the Chargee shall be permitted to apply the Reserve to the indebtedness owed to the Chargee under the Charge and the Promissory Note.

6. The Chargor covenants that it shall fully comply with the applicable laws, regulations, directives, orders and guidelines relating to environmental, health, fire and safety matters and that the Chargor shall not bring onto the Property any Hazardous Materials, as hereinafter defined, nor knowingly allow any other person to do so and if the Chargor becomes aware of any Hazardous Materials that are brought onto the Property by any tenant, it shall forthwith require such tenant to remove same in accordance with all governmental requirements.

7. The Chargor hereby represents and warrants to the best of its knowledge and belief that, except as disclosed in the environmental reports delivered to the Lender in conjunction with the loan application, neither the Chargor, nor, to its knowledge, any other person, has ever caused or permitted any Hazardous Material (as hereinafter defined) to be placed, held, located or disposed of on, under or at the Property and that its business and assets are operated in compliance with applicable laws intended to protect the environment (including, without limitation laws respecting the discharge, emission, spill or disposal of any Hazardous Materials) and that no enforcement actions in respect thereof are threatened or pending and covenants to cause any person permitted by the Chargor to use or occupy the Property or any part thereof to continue to so operate.

The Chargor hereby indemnifies the Chargee, its officers, directors, employees, agents and its shareholders and all unit holders of any pooled funds under their management, and agrees to hold each of them harmless from and against any and all losses, liabilities, damages, costs, expenses and claims of any and every kind whatsoever which at any time or from time to time may be paid, incurred or asserted against any of them for, with respect to, or as direct result of, the presence on or under, or the discharge, emission, spill or disposal from, the Property or into any land, the atmosphere, or any watercourse, body of water or wetland, of any Hazardous Material where it has been proven that the source of the Hazardous Material is the Property (including, without limitation):

(a) the costs of defending and/or counter-claiming or claiming over against third parties in respect of any action or matter; and

(b) any cost, liability or damage arising out of a settlement of any action entered into by the Chargee with the consent of the Chargor (which consent shall not be unreasonably withheld);

and the provisions of any undertakings and indemnification set out in the Section shall survive the satisfaction and release of the Security Documents and payment and satisfaction of the Charge and liability of the Chargor to the Chargee pursuant to this Charge. The indemnity contained herein in favour of the Chargee shall enure to the benefit of the Chargee's successors and assignees of the Security Documents. For the purposes of this Section "Hazardous Material" means any contaminant or pollutant or any substance that when released into the natural environment is likely to cause at some immediate or future time, material harm or degradation to the natural environment or material risk to human health and without restricting the generality of the foregoing, includes hazardous waste or dangerous goods as defined by applicable federal, provincial or municipal laws for the protection of the natural environment or human health.

The indemnity contained herein shall survive the repayment of the Charge and shall continue in full force and effect so long as the possibility of any such liability, claim or loss exists and such liability, claim or loss has not been caused by the actions or inactions of the Chargee in the event that the Chargee or its nominee becomes owner of the Property.

8. The Chargee may throughout the term of the Charge and any renewal or extension thereof, at its sole option and without obligation to do so, inspect the Property upon prior reasonable notice to the Chargor, accompanied by a representative of the Chargor and subject to the rights of tenants as set out in their respective leases. If there shall be an uncured event of default hereunder, the Chargee’s remedies shall include, upon notice to the Chargor, the right to perform such maintenance and repairs as it deems necessary; pay such costs as it deems necessary including, without limitation, any unpaid insurance premiums, taxes, rates, levies, charges, assessments and utility charges; and pay or satisfy any lien, charge or other encumbrance on the Property and all costs associated with such inspections, maintenance and repairs and all such payments made by the Chargee together with all costs, charges, fees and expenses incurred in relation thereto shall be, with interest at the rate set out in this Charge, a charge upon the Property in favour of the Chargee pursuant to the terms of this Charge and all such amounts shall be added to the principal amount secured by this Charge and shall be payable forthwith with interest as aforesaid.

9. The Chargor covenants and agrees to maintain books and records relating to the operation and management of the Property separate and apart from any other properties owned by the Chargor.

10. In the event that the whole or any material part of the Property is expropriated the Chargor agrees that all proceeds received from any such expropriation shall be paid directly to the Chargee, subject to such prepayment terms determined by the Chargee at its option, provided that upon repayment of all amounts secured by this Charge, the Chargee shall have no further claim to any such proceeds.

11. Provided also that if the Chargor files in any court a petition in bankruptcy or insolvency or for any reorganization resulting from insolvency or for the appointment of a receiver or trustee of all or a portion of its property or where any proposal is made to creditors of the Chargor pursuant to the Bankruptcy and Insolvency Act or if there is filed against it a petition in bankruptcy or insolvency or for reorganization resulting from insolvency or for the appointment of a receiver or trustee of all or a portion of its property and it is not proceeding in good faith to

contest any such petition until such petition has been finally dismissed, or if it makes an assignment or proposal for the benefit of creditors, or of the Chargor or any other party makes an application under the Companies' Creditors Arrangement Act with respect to the Chargor or any beneficial owner of the Property, then and in any such event the moneys hereby secured shall forthwith become due and payable, at the option of the Chargee, and all powers in and by this Charge conferred shall become exercisable, and the powers of sale herein contained may be exercised forthwith without any notice except as may be required by the Bankruptcy and Insolvency Act.

12. The Chargor covenants and agrees that all monthly payments for instalments of interest and realty taxes, if required by the Chargee, shall be made by way of automatic debit and agrees to execute any authorization reasonably required by the Chargee to effect such means of payment.

All payments due under this Charge shall be paid to the Chargee at its principal offices in Vancouver, B.C., or as it may otherwise direct, before 10:00 a.m., Pacific Standard Time on any payment date. The parties agree that any payment received after 10:00 a.m., Pacific Standard Time shall be deemed to have been made on the business day next following.

13. The Chargor covenants and agrees not to further encumber the Property without the prior written consent of the Chargee. If the Chargor defaults in the payment of any instalment of principal or interest payable under any subsequent charge or other encumbrance affecting the Property, whether the Chargee has consented thereto or not, or in the observance or performance of any of the agreements, terms or provisos of any such charge or other encumbrance, then, at the option of the Chargee the entire principal secured hereby together with all accrued and unpaid interest shall become due and payable immediately and all the powers of the Chargee under this Charge in the event of default may be exercised by it.

The Chargee acknowledges the registration of the following mortgages on title to the Property:

(a) Firm Capital Mortgae Fund Inc. in the amount of $16,000,000.00;

(b) 2149602 Ontario Inc., 1825793 Ontario Inc. and Ying Lung Chung in the amount of $6,000,000.00;

(c) 2394049 Ontario Inc. in the amount of $2,000,000.00;

(d) Ying Lung Chung in the amount of $2,000,000.00; and

(e) 2647390 Ontario Inc. and 2149602 Ontario Inc. in the amount of $1,200,000.00.

The Chargor hereby covenants to keep the Property free and clear of all construction liens or other liens, rates, encumbrances or charges, save and except any encumbrance or charge to which the Chargee consents in accordance with the terms hereof.

The Chargee may also pay the amount of any arrears on any subsequent encumbrance or the amount outstanding on any subsequent lien, rate or other charge against the Property and the Chargor will immediately after demand for same, forward the amount of any such payments to the Chargee provided that the Chargor's failure to do so shall be an event of default under this Charge and entitle the Chargee to all of its remedies herein including the right to accelerate, at its option, the principal secured hereby.

14. Notwithstanding anything herein contained, it is hereby agreed and declared that at any time and from time to time when there shall be default by the Chargor under the provisions of this Charge, the Chargee may, at such time and from time to time and with or without entry into possession of the Property or any part thereof by writing under its hand appoint a receiver of the Property or any part thereof and of the rents and profits thereof or only of the rents and profits thereof and with or without security and may from time to time by similar writing remove any receiver and appoint another in his stead and that, in making any such appointment or removal, the Chargee shall be deemed to be acting as the agent or attorney for the Chargor. Upon the appointment of any such receiver or receivers from time to time, the following provisions shall apply:

(a) The statutory declaration of an officer of the Chargee as to default by the Chargor under the provisions of this Charge shall be conclusive evidence thereof;

(b) Every such receiver shall be the irrevocable agent or attorney of the Chargor for the collection of all rents and other monies receivable in respect of the Property or any part thereof;

(c) Every such receiver may, in the discretion of the Chargee and by writing under its hand, be vested with all or any of the powers and discretions of the Chargee;

(d) The Chargee may from time to time by such writing fix the remuneration of every such receiver;

(e) Every such receiver shall, so far as concerns responsibility for his acts or omissions, be deemed the agent or attorney of the Chargor and in no event the agent or attorney of the Chargee;

(f) The appointment of every such receiver by the Chargee shall not incur or create any liability on the part of the Chargee to the receiver in any respect and such appointment or anything which may be done by any such receiver or the removal of any such receiver or the termination of any such receivership shall not have the effect of constituting the Chargee a mortgagee in possession in respect of the Property or any part thereof;

(g) Every such receiver shall from time to time have the power to rent any portion of the Property which may become vacant for such term and subject to such provisions as he may deem advisable or expedient and in so doing every such receiver shall act as the attorney or agent of the Chargor and he shall have authority to execute under seal any lease of any portion of the Property in the name of and on behalf of the Chargor and the Chargor undertakes to ratify and confirm whatever any such receiver may do in the premises;

(h) Every such receiver shall have full power to complete any unfinished building or buildings or other improvements upon the Property or any part thereof with the intent that any building or improvement thereof when so completed shall be a complete structure;

(i) Every such receiver shall have full power to manage, operate, amend, repair, alter or extend the Property or any part thereof in the name of the Chargor for the purpose of securing the payment of rental from the Property or any part thereof;

(j) No such receiver shall be liable to the Chargor to account for monies or damages other than cash received by him in respect of the Property or any part thereof and out of such cash so received every such receiver shall, in the following order or in such other order as the Chargee may from time to time direct, pay:

  (i) his remuneration aforesaid;

  (ii) all payments, costs, charges and expenses including, without limitation, costs as between solicitor and client made or incurred by him in connection with the completion of any unfinished building or buildings or other improvements upon, or the management, operation, amendment, repair, alteration or extension of, the Property or any part thereof;

  (iii) all interest, principal and other money which may, from time to time, be or become charged upon the Property in priority to this Charge, and all taxes, insurance premiums and every other proper expenditure made or incurred by him in respect to the Property or any part thereof;

  (iv) to the Chargee all monies due or falling due under this Charge and to the extent elected by the Chargee, all monies owing but not yet due under this Charge;

  (v) and thereafter every such receiver shall be accountable to the Chargor for any surplus remaining in the hands of such receiver;

(k) The Chargee may at any time and from time to time terminate any such receivership by notice in writing under its hand to the Chargor and to any such receiver;

(l) Save as to claims for accounting under clause (j) of this paragraph, the Chargor hereby releases and discharges the Chargee and every such receiver from every claim of every nature, whether sounding in damages or not, which may arise or be caused to the Chargor or any person claiming through or under him by reason of anything done by the Chargee or any such receiver under the provisions of this paragraph unless such claim be the direct and proximate result of dishonesty or gross neglect.

15. Any notice or communication to be given hereunder shall be in writing and may be effectively given by personal delivery or by facsimile transmission or by sending the same by prepaid ordinary mail to the parties at the addresses set out in the Teraview document to which these provisions are attached. Any notice so mailed shall be deemed to have been received on the second (2nd) business day next following the mailing thereof, provided if postal service is not in normal operation, notice shall be by personal delivery or facsimile transmission as herein provided. Notices delivered shall be deemed to have been received on the date of actual delivery and notices sent by facsimile transmission shall be deemed to have been received on the date of transmission if transmitted during the normal business hours of the recipient and on the next business day if transmitted after normal business hours.

Any party may from time to time notify the other of an address in Canada which thereafter, until changed by like notice, shall be the address of such party for all purposes of this Charge.

1932735.1

This is Exhibit "11" referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

Properties

PIN	03055 - 0002 LT
Description	PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271 ; MARKHAM
Address	3143 19TH AVE MARKHAM

Source Instruments

Registration No.	*Date*	*Type of Instrument*
YR3083072	2020 03 26	Charge/Mortgage

Transferor(s)

This transfer of charge affects all lands that the charge is against which are outstanding.

Name JIAYI INTERNATIONAL INVESTMENTS LTD.
Address for Service 650 - 999 West Broadway Vancouver, BC V5Z 1K3

I, Hongbin Su - Director, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Transferee(s) *Capacity* *Share*

Name SOW CAPITAL ONTARIO LIMITED
Address for Service 650 - 999 West Broadway Vancouver, BC V5Z 1K3

Statements

The chargee transfers the selected charge for $2.00

This document relates to registration number(s)YR3083072

Signed By

Mark Edward Uster	181 University Ave., Suite 2100 Toronto M5H 3M7	acting for Transferor(s)	Signed	2021 05 07

Tel 416-863-1010
Fax 416-863-1009

I have the authority to sign and register the document on behalf of all parties to the document.

Mark Edward Uster	181 University Ave., Suite 2100 Toronto M5H 3M7	acting for Transferee(s)	Signed	2021 05 07

Tel 416-863-1010
Fax 416-863-1009

I have the authority to sign and register the document on behalf of all parties to the document.

Submitted By

DALE & LESSMANN LLP	181 University Ave., Suite 2100 Toronto M5H 3M7	2021 05 07

Tel 416-863-1010
Fax 416-863-1009

Fees/Taxes/Payment

Statutory Registration Fee	$65.30
Total Paid	$65.30

File Number

Transferee Client File Number : 142273-001

This is Exhibit "12" referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

Properties

PIN	03055 - 0002 LT
Description	PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271 ; MARKHAM
Address	3143 19TH AVE MARKHAM

Source Instruments

Registration No.	*Date*	*Type of Instrument*
YR3083072	2020 03 26	Charge/Mortgage

Transferor(s)

This transfer of charge affects all lands that the charge is against which are outstanding.

Name SOW CAPITAL ONTARIO LIMITED
Address for Service 650-999 West Broadway, Vancouver, BC V5Z 1K3

I, Philip Wong, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Transferee(s)

		Capacity	*Share*
Name	F A CREDIT SOLUTIONS CANADA INC.	Tenants In Common	40%
Address for Service	3220 Dufferin Street, Unit 3, Toronto, ON M6A 2T3		
Name	SOW CAPITAL ONTARIO LIMITED	Tenants In Common	60%
Address for Service	650-999 West Broadway, Vancouver, BC V5Z 1K3		

Statements

The chargee transfers the selected charge for $2.00 as per the Agreement dated August , 2021.

The chargee transfers approximately EQUITY OF 2 MILLION of the selected charge.

Schedule: See Schedules

This document relates to registration number(s)YR3083072 and YR3083073

Signed By

Brenda Lee	4168 Finch Avenue East PH06 Toronto M1S 5H6	acting for Transferor(s)	Signed	2021 08 18

Tel 416-292-8863

Fax 416-292-8823

I have the authority to sign and register the document on behalf of all parties to the document.

Brenda Lee	4168 Finch Avenue East PH06 Toronto M1S 5H6	acting for Transferee(s)	Signed	2021 08 18

Tel 416-292-8863

Fax 416-292-8823

I have the authority to sign and register the document on behalf of all parties to the document.

Submitted By

BRENDA LEE PROFESSIONAL CORPORATION	4168 Finch Avenue East PH06 Toronto M1S 5H6	2021 08 18

Tel 416-292-8863

Fax 416-292-8823

Fees/Taxes/Payment

Statutory Registration Fee	$65.30
Total Paid	$65.30

AGREEMENT

THIS AGREEMENT made the day of August, 2021.

BETWEEN:

SOW CAPITAL ONTARIO LIMITED
a corporation incorporated under the laws of the Province of Ontario

(hereinafter referred to as "SOW")

OF THE FIRST PART

- and -

F A CREDIT SOLUTIONS CANADA INC.
a corporation incorporated under the laws of the Province of Ontario

(hereinafter referred to as "F A")

WHEREAS a FIFTH CHARGE is registered under Instrument No. YR3083072 on March 26, 2020 in the amount of USD FIVE MILLION DOLLARS between Sow Capital Ontario Limited and Jiayi International Investments Ltd. (hereinafter referred to as the "Mortgagee" or collectively as "Mortgagees") and Tung Kee Investment Canada Ltd., as "Mortgagor") on the lands and premises legally described in Schedule "A" attached hereto and known municipally as 3143 19th Avenue, Markham, Ontario (hereinafter referred to as the "Property").

AND WHEREAS Sow Capital Ontario Limited solely owns the FIFTH CHARGE by means of Transfer of Charge registered under Instrument No. YR3247257 dated May 7, 2021.

AND WHEREAS a mortgage commitment dated August 9 , 2021(hereinafter referred to as the "Commitment"See Schedule "B") between F A Credit Solutions Canada Inc. (hereinafter referred to as the "Mortgagee" or collectively as "Mortgagees") and Tung Kee Investment Canada Ltd. and Tony Man Tung Yung, Philip Kun To Wong, Tung Kee Investment Ltd. Partnership, 2407720 Ontario Inc. & 2407721 Ontario Inc. (hereinafter sometimes and interchangeably referred to, individually and/or collectively, as "Mortgagors" and/or "Guarantors") in the principal amount of Two Million ($2,000,000.00) Canadian Dollars on the lands and premises legally described in Schedule "A" attached hereto and known municipally as 3143 19th Avenue, Markham, Ontario (hereinafter referred to as the "Property").

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the sum of Two($2.00) Dollars now paid by each of the parties hereto to each of the other parties hereto, and for other good and valuable consideration (the receipt and sufficiency whereof by each of the parties hereto is hereby acknowledged) and in consideration of the premises and of the covenants and agreements contained herein, the parties hereto, for themselves, their heirs, executors, administrators, successors and assigns, covenant and agree to and with each other as follows:

1. The Mortgagees hereby agree that under the FIFTH Charge Instrument No. YR3083072 registered on title to the Property are comprised as follows:

   (i) A mortgage in in favour of SOW CAPITAL ONTARIO LIMITED in the principal amount of Five Million ($5,000,000.00) USDollars; and

   (ii) A mortgage in favour of F A Credit Solutions Canada Inc. in the principal amount of Two Million ($2,000,000.00) Canadian Dollars.

2. Notwithstanding that the registration of Charge Instrument No. YR3083072 on March 26, 2020, the parties hereto acknowledge and agree that both SOW Mortgage and F A mortgage shall be considered as FIFTH MORTGAGE/CHARGE ranking pari-passu over the Property, in terms of the interests, rights and obligations respectively and collectively of Mortgagees as

a group under Charge Instrument No. YR3083072 and under Transfer of Charge and/or a Notice that will be registered, the Commitment and all other related promissory notes, loan, mortgage and security documents executed and registered (the "Loan and Mortgage Documents") in association therein, then

(1) A Transfer of Charge will be registered under the capacity of Tenants-in-Common with SOW having 60% interests and F A having 40% interests. This proportion is based on the outstanding balance plus interest of the existing SOW mortgage as of August 9, 2021 does not exceed CAD$2,255,000 plus US$1,080,000.00.

3. Each of the Mortgagees as a group under SOW and F A hereby covenant to act in good faith to each other as FIFTH Mortgagees and upon a full or partial payout of the Mortgage under usual discharge processes or under power of sale enforcement processes, by the Mortgagor or any party as secured by the Load and Mortgage Documents (the "Mortgage Payments"), including any interest(s), fee(s), and/or cost(s) associated therein, then

(1) two discharge statements shall be provided by the lawyer for Mortgagees under SOW and Mortgagee under F A separately and independently;

(2) the Mortgage Payments shall be applied firstly to fully satisfy the interest(s), fee(s) and/or cost(s) associated and principal payments omission from the Mortgagees under F A;

(3) the Mortgage Payments shall be applied secondly to satisfy the interest(s), fee(s) and/or cost(s) associated and principal payments omission from the Mortgagees under SOW;

(4) the balance of the Mortgage Payments shall be then distributed by paying the pari-passu based on the respective share contributions of Mortgagees as a group under SOW and under F A.

4. The Mortgages as a group under SOW and under F A have their respectivelyindependent rights as mortgage/lender under their respective Loan and Mortgage Documents, unless otherwise provided in this agreement.

5. Each of the Mortgages as a group under SOW and under F A shall have the right to sell, assign or divest its interest in the subject mortgage independent from each other, subject to other party's right of first refusal;

6. Each of the Mortgages as a group under SOW and under F A shall have the right to enforce its rights under the Loan and Mortgage Documents, subject to its obligation to disclose all relevant information, documents and progress of its enforcement.

7. The parties hereby covenant to act in good faith to each other as FIFTH Mortgagee and upon a full or partial payout of the Mortgage by the Mortgagor or any party as secured by Charge Instrument No. YR3083072 to SOW and F A including any interest(s), fee(s), and/or cost(s) associated therein, then said amount of funds shall be distributed pari-passu based on the respective share contributions of each party herein as if each party is a FIFTH Mortgagee.

NOTICES

8. All notices, requests, demands or other communications (collectively a "communication") required or permitted by the terms hereof to be given by one party to another shall be given in writing by personal delivery, by email, by facsimile transmission or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

If to: F A Credit Solutions Canada Inc.
3220 Dufferin Street, Unit 3
Toronto, Ontario M6A 2T3

If to: SOW Captial Ontario Limited
650-999 West Broadway
Vancouver, BC V5Z 1K3

or at such other address as may be designated by notice by any party to the others from time to time. Any communication given by personal delivery shall be deemed to have been received when delivered. Any communication given by email and facsimile transmission shall be deemed to have been received when transmitted. Any communication given by mail shall be deemed to have been received 48 hours after 12:01 a.m. on the day following the day of mailing thereof; provided that if any such communicationshall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities, such communication shall be deemed to have been received 48 hours after 12:01 a.m. on the day following the resumption of normal mail service.

ARBITRATION

9. If, at any time or from time to time during the continuance of the Mortgage or after the discharge or termination thereof, any dispute, difference or question shall arise between or among any of the parties hereto, their heirs, executors, administrators, successors, assigns or nominees or any of them, touching or concerning the Mortgage or assets, rights or transactions thereof, or the Property, or the construction, meaning or effect of this Agreement, or any provision hereof, or the rights or obligations of the parties hereto, or their heirs, executors, administrators, successors, assigns or nominees, under this Agreement or otherwise, with respect thereto, then every such dispute, difference or question shall be submitted to and settled by arbitration, and the decision of the arbitrator appointed as hereinafter provided to deal with such matter shall be accepted by all the parties to such dispute, difference or question, and their respective nominees, all of whom, if they are directors or shareholders, or both, agree to vote in favour of any by laws or resolutions, or to consent to any other corporate action, introduced or taken effectually to carry out such decision. The arbitration shall be conducted by a single single arbitrator agreed upon by the parties to the matter. If, within five (5) days after notice of the matter has been given by one of such parties to the other or others, such parties cannot agree upon a single arbitrator, then, in such event, the arbitration shall be conducted by a single arbitrator appointed by a Judge of the Supreme Court of Ontario, on the application of any such party, with notice to the other or others. The arbitration shall be conducted in accordance with the provisions of the Arbitration Act of Ontario and of any amendment thereto, or of any successor statute thereof, in force at the time of such dispute, difference or question. The decision of the arbitrator shall be final and binding upon allall the parties to such dispute, difference or question and their nominees, and there shall be no appeal therefrom. Each party shall pay its own legal and other costs of such arbitration and, which costs mayinclude a pro-rata share of any and all costs of, or awarded against, the party or parties hereto.

NON-DISCLOSURE

10. Each party hereby covenant not to release, publish or disclose any documents in connection with the Mortgage and any of the said terms and conditions contained herein, including all schedule(s) that areattached or may later be attached hereto, without the consent of the parties and breach of said covenantshall constitute as a breach of this Agreement.

11. Time shall be of the essence of this Agreement and Initial Agreement and every part thereof.

12. Nothing herein contained, or otherwise arising herefrom, shall constitute the parties hereto as partners with one another, nor shall anything herein constitute or be deemed to constitute any of the parties hereto as agent for one another except as expressly provided herein.

13. This Agreement and all of the terms, covenants, conditions and other provisions of or contained herein and all of the obligations under or pursuant to this Agreement shall be binding on and shall enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns, and shall be binding upon any trustee or receiver in bankruptcy of any party or its or their respective heirs, executors, administrators, successors and permitted assigns and on any person, including a corporation, who shall receive the property of any party, or his or its respective heirs, executors, administrators, successors or permitted assigns upon any liquidation of such party (or its respective successors and assigns) or any disposition by any of the parties or their respective heirs, executors, administrators, successors and assigns, and upon any official, person or corporation upon whom or which shall devolve by operation of law or otherwise, any interest in or claim to the property of or interest in any party hereto or his or its respective heirs, executors, administrators, successors and assigns.

14. The headings in this Agreement form no part of this Agreement, and shall be deemed to have been inserted for convenience of reference only.

15. This Agreement shall be read and construed as the number and gender of the party or parties referred to in each case require and as may otherwise be required by the context.

16. This Agreement shall be interpreted in accordance with the laws of the Province of Ontario.

SCHEDULE "A"

LEGAL
DESCRIPTION

PIN: 03055-0002

PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271; MARKHAM

Municipally known as 3143 19th Avenue, Markham, Ontario

In the Land Titles Division of the York Region Registry Office (No. 65)

17. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision, and any invalid provision shall be severable.

18. This Agreement shall remain in full force thereafter and shall be deemed terminated by the unilateral consent in writing of all the parties hereto. In the event of termination, each of the parties hereto shall indemnify each other and such indemnity shall survive the termination of this Agreement.

19. No modification or amendment to this Agreement may be made unless agreed to by the parties hereto in writing as set out in Section 9 hereof.

20. The parties hereto each acknowledge receiving independent legal advice concerning the advisability of entering into this Agreement before executing of same and each of the parties further acknowledge that each of the parties is executing and entering into this Agreement voluntarily, without undue influence, fraud or coercion whatsoever.

21. This Agreement and all the terms hereof shall be construed in accordance with the laws of the Province of Ontario.

22. Every provision of this document is intended to be severable. If any term or provision hereof is illegal or invalid for any reason, such illegality or invalidity does not affect the validity of the remainder of this document.

23. This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

24. The execution and delivery of this Agreement by facsimile transmission or electronic mail shall be as effective as if this Assignment was executed and delivered in the original and for the purposes hereof, shall be deemed to be an original..

IN WITNESS WHEREOF the corporate parties hereto have hereunder affixed their respective corporate seals under the hands of their duly authorized officers in that behalf, and the other parties have executed this agreement.

SOW CAPITAL ONTARIO LIMITED

Per: ____________________________
Name: Philip Wong
Title: ASO
I have authority to bind the corporation

F A CREDIT SOLUTIONS CANADA INC.

Per: ____________________________
Name: Roberto Settembrini
Title: ASO
I have authority to bind the corporation

SCHEDULE "B"

August 9, 2021

Tony Man Tung Yung
No. 16 Shui Hau
Lantau Island
New Territories, Hong Kong

Dear Tony,

Re: Loan against assignment of existing 5th mortgage for US$5M on 3143 19th Avenue, Markham, Ontario, Canada (Raw Land)

We are pleased to offer you the following commitment for your consideration:

Borrowers	: Tung Kee Investment Canada Ltd.
Guarantor	: Tony Man Tung YUNG, Philip Kun To WONG, Tung Kee Investment Ltd Partnership, 2407720 Ontario Inc. & 2407721 Ontario Inc.
Loan Amount	: $2,000,000.00
Interest Rate	: 30% p.a.
Term	: 6 months
Repayment	: $50,000.00 per month
Amortization	: Interest only
Fee	: $30,000.00 – Brokerage fee $30,000.00 – Lender fee
Lawyer	: To be approved by lender.
Conditions	: 1) Open on one month interest. 2) 6 months interest payment to be prepaid. 3) If this loan is paid off earlier than 6 months, remaining prepaid interest amount minus one month interest is to be refunded. 4) Outstanding balance plus interest of the existing 5th mortgage as of August 9, 2021 does not exceed CAD$2,255,000 plus US$1,080,000 5) This loan plus any unpaid interest has the priority to what owed to Sow Capital Ontario Limited within this 5th mortgage. 6) Confirmation that Sow Capital Ontario Limited (SCOL) has bought out Jiayi International Investments Ltd and SCOL owns 100% of the existing 5th mortgage. 7) Others as per attached terms/conditions and schedule.
Prior Encumbrances	: 1st mortgage with Firm Capital does not exceed $15,850,000.00 2nd mortgage with 2149602 Ontario Inc., 1825793 Ontario Inc., Ying Lung Chung, and 2394049 Ontario Inc. does not exceed $10,500,000.00 3rd mortgage with Ying Lung Chung does not exceed $3,000,000.00 4th mortgage with 2647390 Ontario Inc. and 2149602 Ontario Inc. does not exceed $1,690,000.00
Disbursement	: One advance less the followings:

Initial(s): RS

1) Amount owed to 2149602 Ontario Inc for keeping 1st mortgage up to date: $633,463.90 as of July 15, 2021, per diem rate is 25% p.a. - $433.88 per diem
2) Prepaid 6 months interest payment: $300,000.00
3) Lender Fee: $30,000.00
4) Broker Fee: $30,000.00
5) Partial payment of fee owed to 2nd mortgagee Kenneth Chung: $100,000.00
6) July and August payments to 1st and 4th mortgagee: $350.000.00
7) Legal fees
8) Balance to be controlled by lawyer and paid directly to contractors/professionals

Closing : August ASAP, 2021

Security : Major security items for this loan include:
Registered **Assignment of FIFTH** mortgage over the subject property.

Conditions precedent to funding : Prior to advance the lender shall be satisfied that each of the following conditions has been met by the borrower:
a) All security is in place to the satisfaction of the lender and its solicitor.
b) Evidence of satisfactory title and zoning has been provided.

Other Conditions : Borrower agrees to:
a) Pay all realty taxes when due.
b) Provide such other information as may be reasonably requested by the lender.
c) All legal fees incurred by the lender and appraisal fee to be paid by the borrower.

This commitment must be signed by all parties shown on the mortgage commitment and returned to Atlantic (HS) Financial Corporation not later than August 11, 2021 along with a **non-refundable good faith deposit of $10,000.00 payable to lawyer.** Failing this, this commitment will become null and void. This commitment shall expire unless funds are advanced by August 20, 2021.

Yours truly,

F A CREDIT SOLUTIONS CANADA INC.

Acknowledged and accepted this day of , 2021.

5th Mortgagee - SOW CAPITAL ONTARIO LIMITED

Borrower – Tung Kee Investment Canada Ltd.

Guarantor – Tony Man Tung YUNG

Guarantor – Philip Kun To WONG

Guarantor - Tung Kee Investment Ltd Partnership

Guarantor - 2407720 Ontario Inc.

Guarantor - 2407721 Ontario Inc.

Standard Mortgage Terms and Conditions

PROVIDED that the Mortgagors when not in default hereunder shall have the privilege of prepaying the whole of the principal sum hereby secured on any payment due date (see conditions page).

THE PARTIES agree that in the event of a sale, conveyance, disposition or transfer of title of any kind and howsoever affected, the principal outstanding on the mortgage together with all accrued interest and other proper payment of charges under the mortgage shall, at the sole option of the Mortgagee become immediately due and payable.

The Mortgagors covenant and agree to deliver upon execution of the herein Mortgage a series of SIX (6) POST DATED CHEQUES in the monthly payment amounts called for under the Mortgage at the commencement of the said Mortgage.

PROVIDED FURTHER that in the event that any of the said post-dated cheques are not honoured when presented for payment to the bank or trust company on which they are drawn, the Mortgagors shall pay the Mortgagee for each such NSF payment the sum of ONE THOUSAND DOLLARS ($1,000.00) for first time and FVE THOUSAND DOLLARS for second time and up as a liquidated amount to cover the Mortgagee's administrative costs and not as a penalty and such sum shall be charged upon the lands and shall bear interest at the rate hereinbefore stated.

PROVIDED FURTHER that any payment (other than payment of the regular payment of interest) that is received by the Mortgagee at Toronto after 11:59 a.m. shall be deemed, for the purpose if calculation of interest, to have been made and received on the next business day.

PROVIDED FURTHER that the Mortgagors agree to pay to the Mortgagee the sum of TWO HUNDRED DOLLARS ($200.00) for each statement requested by the Mortgagors of the Mortgage.

PROVIDED FURTHER that in the event there is any kind of default under this Charge/Mortgage of Land and a collection letter is issued by the Mortgagee or its solicitor, the Mortgagee is entitled to a fee in the amount of TWO THOUSAND DOLLARS ($2,000.00) for each collection letter written, whether in connection with one default or more.

PROVIDED FURTHER that if the realty taxes are in arrears on the property during the term of this Mortgage and the Mortgagee should pay any such arrears of taxes, the Mortgagee shall be entitled to charge a fee of THREE HUNDRED DOLLARS ($300.00) for any such payment.

PROVIDED FURTHER that in the event that the Mortgagee receives notice that the insurance coverage has or is about to cancelled, the Mortgagee shall have the right to place a new policy of insurance on the property without notice to the Mortgagors and add the cost thereof, with an administrative charge of THREE HUNDRED DOLLARS ($300.00) to the principal sum outstanding hereunder.

PROVIDED FURTHER that in the event of default in payment of the Mortgage, and the Mortgagee obtained possession of the subject property, the Mortgagee shall be entitled to charge a monthly fee in the sum of THREE THOUSAND DOLLARS ($3,000.00) for administering maintenance and security of the property.

PROVIDED FURTHER that the herein Mortgage shall be renewed or paid in full within FIFTEEN (15) DAYS of the maturity date by the Mortgagors, failing which the Mortgagors shall be obligated to pay a THREE (3) MONTH penalty at the discretion of the Mortgagee.

The Mortgagors agree to pay to the Mortgagee in the event of default and the Mortgagee must institute default proceedings a fee will be charged for each action or proceeding in the sum of THREE THOUSAND ($3,000.00) DOLLARS.

The Mortgagors covenant and agree to pay a discharge fee in the sum of ONE THOUSAND ($1,000.00) DOLLARS for each discharge required for the property.

5th Mortgagee Initials ______________

Borrower's Initials ______________

Guarantor's Initials ______________

Guarantor's Initials ______________

Guarantor's Initials ______________

Guarantor's Initials ______________

Guarantor's Initials ______________

AGREEMENT

THIS AGREEMENT made the day of August, 2021.

BETWEEN:

SOW CAPITAL ONTARIO LIMITED
a corporation incorporated under the laws of the Province of Ontario

(hereinafter referred to as "SOW")

OF THE FIRST PART

- and -

F A CREDIT SOLUTIONS CANADA INC.
a corporation incorporated under the laws of the Province of Ontario

(hereinafter referred to as "F A")

WHEREAS a FIFTH CHARGE is registered under Instrument No. YR3083072 on March 26, 2020 in the amount of USD FIVE MILLION DOLLARS between Sow Capital Ontario Limited and Jiayi International Investments Ltd. (hereinafter referred to as the "Mortgagee" or collectively as "Mortgagees") and Tung Kee Investment Canada Ltd., as "Mortgagor") on the lands and premises legally described in Schedule "A" attached hereto and known municipally as 3143 19th Avenue, Markham, Ontario (hereinafter referred to as the "Property").

AND WHEREAS Sow Capital Ontario Limited solely owns the FIFTH CHARGE by means of Transfer of Charge registered under Instrument No. YR3247257 dated May 7, 2021.

AND WHEREAS a mortgage commitment dated August 9 , 2021(hereinafter referred to as the "Commitment"See Schedule "B") between F A Credit Solutions Canada Inc. (hereinafter referred to as the "Mortgagee" or collectively as "Mortgagees") and Tung Kee Investment Canada Ltd. and Tony Man Tung Yung, Philip Kun To Wong, Tung Kee Investment Ltd. Partnership, 2407720 Ontario Inc. & 2407721 Ontario Inc. (hereinafter sometimes and interchangeably referred to, individually and/or collectively, as "Mortgagors" and/or "Guarantors") in the principal amount of Two Million ($2,000,000.00) Canadian Dollars on the lands and premises legally described in Schedule "A" attached hereto and known municipally as 3143 19th Avenue, Markham, Ontario (hereinafter referred to as the "Property").

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the sum of Two ($2.00) Dollars now paid by each of the parties hereto to each of the other parties hereto, and for other good and valuable consideration (the receipt and sufficiency whereof by each of the parties hereto is hereby acknowledged) and in consideration of the premises and of the covenants and agreements contained herein, the parties hereto, for themselves, their heirs, executors, administrators, successors and assigns, covenant and agree to and with each other as follows:

1. The Mortgagees hereby agree that under the FIFTH Charge Instrument No. YR3083072 registered on title to the Property are comprised as follows:

   (i) A mortgage in in favour of SOW CAPITAL ONTARIO LIMITED in the principal amount of Five Million ($5,000,000.00) USDollars; and

   (ii) A mortgage in favour of F A Credit Solutions Canada Inc. in the principal amount of Two Million ($2,000,000.00) Canadian Dollars.

2. Notwithstanding that the registration of Charge Instrument No. YR3083072 on March 26, 2020, the parties hereto acknowledge and agree that both SOW Mortgage and F A mortgage shall be considered as FIFTH MORTGAGE/CHARGE ranking pari-passu over the Property, in terms of the interests, rights and obligations respectively and collectively of Mortgagees as

a group under Charge Instrument No. YR3083072 and under Transfer of Charge and/or a Notice that will be registered, the Commitment and all other related promissory notes, loan, mortgage and security documents executed and registered (the "Loan and Mortgage Documents") in association therein, then

(1) A Transfer of Charge will be registered under the capacity of Tenants-in-Common with SOW having 60% interests and F A having 40% interests. This proportion is based on the outstanding balance plus interest of the existing SOW mortgage as of August 9, 2021 does not exceed CAD$2,255,000 plus US$1,080,000.00.

3. Each of the Mortgagees as a group under SOW and F A hereby covenant to act in good faith to each other as FIFTH Mortgagees and upon a full or partial payout of the Mortgage under usual discharge processes or under power of sale enforcement processes, by the Mortgagor or any party as secured by the Load and Mortgage Documents (the "Mortgage Payments"), including any interest(s), fee(s), and/or cost(s) associated therein, then

(1) two discharge statements shall be provided by the lawyer for Mortgagees under SOW and Mortgagee under F A separately and independently;

(2) the Mortgage Payments shall be applied <u>firstly</u> to fully satisfy the interest(s), fee(s) and/or cost(s) associated and principal payments omission from the Mortgagees under F A;

(3) the Mortgage Payments shall be applied <u>secondly</u> to satisfy the interest(s), fee(s) and/or cost(s) associated and principal payments omission from the Mortgagees under SOW;

(4) the balance of the Mortgage Payments shall be then distributed by paying the pari-passu based on the respective share contributions of Mortgagees as a group under SOW and under F A.

4. The Mortgages as a group under SOW and under F A have their respectively independent rights as mortgage/lender under their respective Loan and Mortgage Documents, unless otherwise provided in this agreement.

5. Each of the Mortgages as a group under SOW and under F A shall have the right to sell, assign or divest its interest in the subject mortgage independent from each other, subject to other party's right of first refusal;

6. Each of the Mortgages as a group under SOW and under F A shall have the right to enforce its rights under the Loan and Mortgage Documents, subject to its obligation to disclose all relevant information, documents and progress of its enforcement.

7. The parties hereby covenant to act in good faith to each other as FIFTH Mortgagee and upon a full or partial payout of the Mortgage by the Mortgagor or any party as secured by Charge Instrument No. YR3083072 to SOW and F A including any interest(s), fee(s), and/or cost(s) associated therein, then said amount of funds shall be distributed pari-passu based on the respective share contributions of each party herein as if each party is a FIFTH Mortgagee.

NOTICES

8. All notices, requests, demands or other communications (collectively a "communication") required or permitted by the terms hereof to be given by one party to another shall be given in writing by personal delivery, by email, by facsimile transmission or by registered mail, postage prepaid, addressed to such other party or delivered to such other party as follows:

If to: F A Credit Solutions Canada Inc.
3220 Dufferin Street, Unit 3
Toronto, Ontario M6A 2T3

If to: SOW Captial Ontario Limited
650-999 West Broadway
Vancouver, BC V5Z 1K3

or at such other address as may be designated by notice by any party to the others from time to time. Any communication given by personal delivery shall be deemed to have been received when delivered. Any communication given by email and facsimile transmission shall be deemed to have been received when transmitted. Any communication given by mail shall be deemed to have been received 48 hours after 12:01 a.m. on the day following the day of mailing thereof; provided that if any such communication shall have been mailed and if regular mail service shall be interrupted by strikes or other irregularities, such communication shall be deemed to have been received 48 hours after 12:01 a.m. on the day following the resumption of normal mail service.

ARBITRATION

9. If, at any time or from time to time during the continuance of the Mortgage or after the discharge or termination thereof, any dispute, difference or question shall arise between or among any of the parties hereto, their heirs, executors, administrators, successors, assigns or nominees or any of them, touching or concerning the Mortgage or assets, rights or transactions thereof, or the Property, or the construction, meaning or effect of this Agreement, or any provision hereof, or the rights or obligations of the parties hereto, or their heirs, executors, administrators, successors, assigns or nominees, under this Agreement or otherwise, with respect thereto, then every such dispute, difference or question shall be submitted to and settled by arbitration, and the decision of the arbitrator appointed as hereinafter provided to deal with such matter shall be accepted by all the parties to such dispute, difference or question, and their respective nominees, all of whom, if they are directors or shareholders, or both, agree to vote in favour of any by laws or resolutions, or to consent to any other corporate action, introduced or taken effectually to carry out such decision. The arbitration shall be conducted by a single single arbitrator agreed upon by the parties to the matter. If, within five (5) days after notice of the matter has been given by one of such parties to the other or others, such parties cannot agree upon a single arbitrator, then, in such event, the arbitration shall be conducted by a single arbitrator appointed by a Judge of the Supreme Court of Ontario, on the application of any such party, with notice to the other or others. The arbitration shall be conducted in accordance with the provisions of the Arbitration Act of Ontario and of any amendment thereto, or of any successor statute thereof, in force at the time of such dispute, difference or question. The decision of the arbitrator shall be final and binding upon all all the parties to such dispute, difference or question and their nominees, and there shall be no appeal therefrom. Each party shall pay its own legal and other costs of such arbitration and, which costs may include a pro-rata share of any and all costs of, or awarded against, the party or parties hereto.

NON-DISCLOSURE

10. Each party hereby covenant not to release, publish or disclose any documents in connection with the Mortgage and any of the said terms and conditions contained herein, including all schedule(s) that are attached or may later be attached hereto, without the consent of the parties and breach of said covenantshall constitute as a breach of this Agreement.

11. Time shall be of the essence of this Agreement and Initial Agreement and every part thereof.

12. Nothing herein contained, or otherwise arising herefrom, shall constitute the parties hereto as partners with one another, nor shall anything herein constitute or be deemed to constitute any of the parties hereto as agent for one another except as expressly provided herein.

13. This Agreement and all of the terms, covenants, conditions and other provisions of or contained herein and all of the obligations under or pursuant to this Agreement shall be binding on and shall enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns, and shall be binding upon any trustee or receiver in bankruptcy of any party or its or their respective heirs, executors, administrators, successors and permitted assigns and on any person, including a corporation, who shall receive the property of any party, or his or its respective heirs, executors, administrators, successors or permitted assigns upon any liquidation of such party (or its respective successors and assigns) or any disposition by any of the parties or their respective heirs, executors, administrators, successors and assigns, and upon any official, person or corporation upon whom or which shall devolve by operation of law or otherwise, any interest in or claim to the property of or interest in any party hereto or his or its respective heirs, executors, administrators, successors and assigns.

14. The headings in this Agreement form no part of this Agreement, and shall be deemed to have been inserted for convenience of reference only.

15. This Agreement shall be read and construed as the number and gender of the party or parties referred to in each case require and as may otherwise be required by the context.

16. This Agreement shall be interpreted in accordance with the laws of the Province of Ontario.

17. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision, and any invalid provision shall be severable.

18. This Agreement shall remain in full force thereafter and shall be deemed terminated by the unilateral consent in writing of all the parties hereto. In the event of termination, each of the parties hereto shall indemnify each other and such indemnity shall survive the termination of this Agreement.

19. No modification or amendment to this Agreement may be made unless agreed to by the parties hereto in writing as set out in Section 9 hereof.

20. The parties hereto each acknowledge receiving independent legal advice concerning the advisability of entering into this Agreement before executing of same and each of the parties further acknowledge that each of the parties is executing and entering into this Agreement voluntarily, without undue influence, fraud or coercion whatsoever.

21. This Agreement and all the terms hereof shall be construed in accordance with the laws of the Province of Ontario.

22. Every provision of this document is intended to be severable. If any term or provision hereof is illegal or invalid for any reason, such illegality or invalidity does not affect the validity of the remainder of this document.

23. This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

24. The execution and delivery of this Agreement by facsimile transmission or electronic mail shall be as effective as if this Assignment was executed and delivered in the original and for the purposes hereof, shall be deemed to be an original..

IN WITNESS WHEREOF the corporate parties hereto have hereunder affixed their respective corporate seals under the hands of their duly authorized officers in that behalf, and the other parties have executed this agreement.

SOW CAPITAL ONTARIO LIMITED

Per: ______________________
Name: Philip Wong
Title: ASO
I have authority to bind the corporation

F A CREDIT SOLUTIONS CANADA INC.

Per: ______________________
Name: Roberto Settembrini
Title: ASO
I have authority to bind the corporation

SCHEDULE "A"

LEGAL
DESCRIPTION

PIN: 03055-0002

PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271; MARKHAM

Municipally known as 3143 19th Avenue, Markham, Ontario

In the Land Titles Division of the York Region Registry Office (No. 65)

SCHEDULE "B"

August 9, 2021

Tony Man Tung Yung
No. 16 Shui Hau
Lantau Island
New Territories, Hong Kong

Dear Tony,

Re: Loan against assignment of existing 5th mortgage for US$5M on 3143 19th Avenue, Markham, Ontario, Canada (Raw Land)

We are pleased to offer you the following commitment for your consideration:

Borrowers	: Tung Kee Investment Canada Ltd.
Guarantor	: Tony Man Tung YUNG, Philip Kun To WONG, Tung Kee Investment Ltd Partnership, 2407720 Ontario Inc. & 2407721 Ontario Inc.
Loan Amount	: $2,000,000.00
Interest Rate	: 30% p.a.
Term	: 6 months
Repayment	: $50,000.00 per month
Amortization	: Interest only
Fee	: $30,000.00 – Brokerage fee $30,000.00 – Lender fee
Lawyer	: To be approved by lender.
Conditions	: 1) Open on one month interest. 2) 6 months interest payment to be prepaid. 3) If this loan is paid off earlier than 6 months, remaining prepaid interest amount minus one month interest is to be refunded. 4) Outstanding balance plus interest of the existing 5th mortgage as of August 9, 2021 does not exceed CAD$2,255,000 plus US$1,080,000 5) This loan plus any unpaid interest has the priority to what owed to Sow Capital Ontario Limited within this 5th mortgage. 6) Confirmation that Sow Capital Ontario Limited (SCOL) has bought out Jiayi International Investments Ltd and SCOL owns 100% of the existing 5th mortgage. 7) Others as per attached terms/conditions and schedule.
Prior Encumbrances	: 1st mortgage with Firm Capital does not exceed $15,850,000.00 2nd mortgage with 2149602 Ontario Inc., 1825793 Ontario Inc., Ying Lung Chung, and 2394049 Ontario Inc. does not exceed $10,500,000.00 3rd mortgage with Ying Lung Chung does not exceed $3,000,000.00 4th mortgage with 2647390 Ontario Inc. and 2149602 Ontario Inc. does not exceed $1,690,000.00
Disbursement	: One advance less the followings:

Initial(s): RS

1) Amount owed to 2149602 Ontario Inc for keeping 1st mortgage up to date: $633,463.90 as of July 15, 2021, per diem rate is 25% p.a. - $433.88 per diem
2) Prepaid 6 months interest payment: $300,000.00
3) Lender Fee: $30,000.00
4) Broker Fee: $30,000.00
5) Partial payment of fee owed to 2nd mortgagee Kenneth Chung: $100,000.00
6) July and August payments to 1st and 4th mortgagee: $350,000.00
7) Legal fees
8) Balance to be controlled by lawyer and paid directly to contractors/professionals

Closing : August ASAP, 2021

Security : Major security items for this loan include:
Registered **Assignment of FIFTH** mortgage over the subject property.

Conditions precedent to funding : Prior to advance the lender shall be satisfied that each of the following conditions has been met by the borrower:
a) All security is in place to the satisfaction of the lender and its solicitor.
b) Evidence of satisfactory title and zoning has been provided.

Other Conditions : Borrower agrees to:
a) Pay all realty taxes when due.
b) Provide such other information as may be reasonably requested by the lender.
c) All legal fees incurred by the lender and appraisal fee to be paid by the borrower.

This commitment must be signed by all parties shown on the mortgage commitment and returned to Atlantic (HS) Financial Corporation not later than August 11, 2021 along with a **non-refundable good faith deposit of $10,000.00 payable to lawyer.** Failing this, this commitment will become null and void. This commitment shall expire unless funds are advanced by August 20, 2021.

Yours truly,

F A CREDIT SOLUTIONS CANADA INC.

Acknowledged and accepted this day of , 2021.

5th Mortgagee - SOW CAPITAL ONTARIO LIMITED

Borrower – Tung Kee Investment Canada Ltd.

Guarantor – Tony Man Tung YUNG

Guarantor – Philip Kun To WONG

Guarantor - Tung Kee Investment Ltd Partnership

Guarantor - 2407720 Ontario Inc.

Guarantor - 2407721 Ontario Inc.

Standard Mortgage Terms and Conditions

PROVIDED that the Mortgagors when not in default hereunder shall have the privilege of prepaying the whole of the principal sum hereby secured on any payment due date (see conditions page).

THE PARTIES agree that in the event of a sale, conveyance, disposition or transfer of title of any kind and howsoever affected, the principal outstanding on the mortgage together with all accrued interest and other proper payment of charges under the mortgage shall, at the sole option of the Mortgagee become immediately due and payable.

The Mortgagors covenant and agree to deliver upon execution of the herein Mortgage a series of SIX (6) POST DATED CHEQUES in the monthly payment amounts called for under the Mortgage at the commencement of the said Mortgage.

PROVIDED FURTHER that in the event that any of the said post-dated cheques are not honoured when presented for payment to the bank or trust company on which they are drawn, the Mortgagors shall pay the Mortgagee for each such NSF payment the sum of ONE THOUSAND DOLLARS ($1,000.00) for first time and FVE THOUSAND DOLLARS for second time and up as a liquidated amount to cover the Mortgagee's administrative costs and not as a penalty and such sum shall be charged upon the lands and shall bear interest at the rate hereinbefore stated.

PROVIDED FURTHER that any payment (other than payment of the regular payment of interest) that is received by the Mortgagee at Toronto after 11:59 a.m. shall be deemed, for the purpose if calculation of interest, to have been made and received on the next business day.

PROVIDED FURTHER that the Mortgagors agree to pay to the Mortgagee the sum of TWO HUNDRED DOLLARS ($200.00) for each statement requested by the Mortgagors of the Mortgage.

PROVIDED FURTHER that in the event there is any kind of default under this Charge/Mortgage of Land and a collection letter is issued by the Mortgagee or its solicitor, the Mortgagee is entitled to a fee in the amount of TWO THOUSAND DOLLARS ($2,000.00) for each collection letter written, whether in connection with one default or more.

PROVIDED FURTHER that if the realty taxes are in arrears on the property during the term of this Mortgage and the Mortgagee should pay any such arrears of taxes, the Mortgagee shall be entitled to charge a fee of THREE HUNDRED DOLLARS ($300.00) for any such payment.

PROVIDED FURTHER that in the event that the Mortgagee receives notice that the insurance coverage has or is about to cancelled, the Mortgagee shall have the right to place a new policy of insurance on the property without notice to the Mortgagors and add the cost thereof, with an administrative charge of THREE HUNDRED DOLLARS ($300.00) to the principal sum outstanding hereunder.

PROVIDED FURTHER that in the event of default in payment of the Mortgage, and the Mortgagee obtained possession of the subject property, the Mortgagee shall be entitled to charge a monthly fee in the sum of THREE THOUSAND DOLLARS ($3,000.00) for administering maintenance and security of the property.

PROVIDED FURTHER that the herein Mortgage shall be renewed or paid in full within FIFTEEN (15) DAYS of the maturity date by the Mortgagors, failing which the Mortgagors shall be obligated to pay a THREE (3) MONTH penalty at the discretion of the Mortgagee.

The Mortgagors agree to pay to the Mortgagee in the event of default and the Mortgagee must institute default proceedings a fee will be charged for each action or proceeding in the sum of THREE THOUSAND ($3,000.00) DOLLARS.

The Mortgagors covenant and agree to pay a discharge fee in the sum of ONE THOUSAND ($1,000.00) DOLLARS for each discharge required for the property.

5th Mortgagee Initials ____________________

Borrower's Initials ____________________

Guarantor's Initials ____________________

Guarantor's Initials ____________________

Guarantor's Initials ____________________

Guarantor's Initials ____________________

Guarantor's Initials ____________________

File Number

Transferee Client File Number : 13109-MK

This is Exhibit “13” referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

Properties

PIN	03055 - 0002 LT	*Interest/Estate*	Fee Simple
Description	PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271 ; MARKHAM		
Address	3143 19TH AVE MARKHAM		

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name TUNG KEE INVESTMENT CANADA LTD.
Address for Service 118 Grey Alder Avenue
Richmond Hill, ON
L4B 3P9

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

This document is not authorized under Power of Attorney by this party.

Chargee(s) *Capacity* *Share*

Name AMBER MORTGAGE INVESTMENT CORP.
Address for Service 415 - 5900 No. 3 Richmond
Richmond, BC
V6X 3P7

Statements

Schedule: See Schedules

Provisions

Principal	$8,500,000.00	*Currency*	CDN
Calculation Period	monthly, not in advance		
Balance Due Date	2022/05/01		
Interest Rate	12% per annum		
Payments			
Interest Adjustment Date	2021 11 01		
Payment Date	1st day of each month		
First Payment Date	2021 12 01		
Last Payment Date	2022 05 01		
Standard Charge Terms	200033		
Insurance Amount	Full insurable value		
Guarantor			

Additional Provisions

This Charge is repayable on account of interest only.

Signed By

Glynis Selina Huff — 22 Adelaide Street West, Toronto, M5H 4E3 — acting for Chargor(s) — Signed 2022 01 27

Tel 416-367-6000

Fax 416-367-6749

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

Borden Ladner Gervais LLP — 22 Adelaide Street West, Toronto, M5H 4E3 — 2022 01 27

Tel 416-367-6000

Submitted By

Fax 416-367-6749

Fees/Taxes/Payment

Statutory Registration Fee	$66.30
Total Paid	$66.30

File Number

Chargee Client File Number : 040335-001

MORTGAGE ADDITIONAL PROVISIONS

1.00 DEFINITIONS

1.01 In these mortgage terms:

(a) "**Balance Due Date**" means the date specified as the "Balance Due Date" in the Mortgage Form.

(b) "**Borrower**" means the Mortgagor to whom the Credit Facility has been made available.

(c) "**Business Day**" means any day of the week that the Mortgagee's mortgage administration office located in British Columbia and/or Ontario is open for business.

(d) "**Court**" means a court having jurisdiction in any matter arising out of This Mortgage.

(e) "**Credit Facility**" means the financing arrangements set forth in the Loan Agreement.

(f) "**Date of Advance**" means the earliest of:

(i) the date of any advance or readvance of money under this Mortgage,

(ii) the date on which the Mortgagee has at the Mortgagor's or any Borrower's request, made funds available to the Mortgagee's solicitors to make an advance or re-advance to the Mortgagor or any Borrower,

(iii) the date on which the Mortgagor or any Borrower incurs any contingent liability to the Mortgagee,

(iv) the date on which the Mortgagee advances or causes its solicitors to advance money under This Mortgage into escrow,

(v) the date of issuance of any letter of credit by the Mortgagee, and

(vi) the date on which any interest reserve is established by the Mortgagee.

(g) "**Default**" includes each of the events of default specified in article 13.00 and all other events of default specified in This Mortgage.

(h) "**Development**" means all buildings and all other improvements (including without limitation the Premises) to be constructed upon the Land, substantially as contemplated in the Loan Agreement and the Plans.

(i) "**Financial Statements**" means the annual financial statements of the Person who pursuant to the terms of the Loan Agreement must provide such financial statements to the Mortgagee including the annual balance sheet of such Person, and if such Person is an individual including the personal net worth statements of such Person, all prepared using Canadian "generally accepted accounting principles" consistently applied by an independent firm of chartered accountants or certified general accountants satisfactory to the Mortgagee, prepared on a Notice to Reader, Review Engagement or Audited basis as required by the Mortgagee.

(j) "**Interest**" means any and all interest accruing under this Mortgage at the Interest Rate.

(k) "**Interest Act**" means the Interest Act, R.S.C., 1985, C.1-15.

(l) "**Interest Adjustment Date**" means the date specified as the "Interest Adjustment Date" in the Mortgage Form.

(m) "**Interest Calculation Period**" means the period or periods for the calculation of Interest specified as the "Calculation Period" in the Mortgage Form.

(n) "**Interest Rate**" means the rate of interest specified as the "Interest Rate" in the Mortgage Form or such other rate as may be agreed in writing by the Mortgagor and Mortgagee from time to time.

(o) "**Land**" means the property described in the Mortgage Form, including but not limited to all buildings, improvements, fixtures and equipment that are now or later become attached to, used or enjoyed in connection with the Land including without limitation, the Premises, and every present and future right, title, interest, estate, benefit and/or privilege of the Land and of the Mortgagor in and to the Land including without limitation, any benefiting easement now or in the future registered in the Land Title Office as a legal notation appurtenant to the Land and the leasehold estate (if any) of the Mortgagor in and to the Land pursuant to the Mortgagor Lease.

(p) "**Land Title Office**" means the Land Registry Office for the Land Titles Division of York Region (LRO #65).

(q) "**Laws**" means all federal and provincial statutes, regulations, orders, directions and requirements; all civic and municipal by-laws, orders and regulations; all orders, directions, regulations and requirements of any body, board, authority or Person (including but not limited to a fire marshal, a manager appointed under any environmental legislation, an inspector and any official, Person, delegate or body appointed under any by-law, order, statute or regulation having authority with respect to the Land), concerning any matter occurring on or affecting the Land or its use or any act or activity occurring on or about the Land, including without limitation all such statutes and regulations which prohibit or restrict the use and cultivation of illegal drugs and substances and the conduct of illegal activities whether or not the breach of which could result in a forfeiture of the Land or Premises and/or a security interest therein to the federal or provincial Crown or applicable law enforcement branch.

(r) "**Lease**" or "**Leases**" means each and every present and future, written or unwritten agreement to lease, lease, lease renewal, tenancy agreement, licence and right of occupancy made or to be made with respect to the Land or any part thereof and in the case where This Mortgage is a mortgage by way of sublease of a Mortgagor Lease, "Lease" or "Leases" shall include any and all subleases of the Mortgagor Lease.

(s) "**Loan Agreement**" means the commitment letter and any amendments thereto and renewals and replacements thereof, issued by the Mortgagee to the Mortgagor and/or any Borrower in connection with the Credit Facility which is secured by among other things, This Mortgage.

(t) "**Loan Document**" means any and all agreements and/or documents required by the Mortgagee in the Loan Agreement as a condition of the Mortgagee agreeing to provide the Credit Facility to the Mortgagor, including but not limited to the Loan Agreement itself, any mortgage, assignment of rents or leases, promissory note, beneficial owner agreement, tripartite-attornment and non-disturbance agreement, personal property security agreement, environmental indemnity agreement, letter of credit indemnity agreement, indemnity of any other kind, letter of credit agreement, assignment of construction contracts, assignment of management agreements, assignment of plans, permits and licences, assignment of deposits and contracts of purchase and sale, assignment of securities or deposits, assignment of any other kind, right of first refusal to mortgage, pledge agreement, priority agreement, standstill agreement, subrogation and postponement agreement, including without limitation each of the above howsoever named or titled or any documentation similar in form, content or intent to any of the above irrespective of the name or title of such documentation and any other form of collateral security, or other documentation required by the Mortgagee, including without limitation any renewal documentation respecting a renewal of any of the above.

(u) "**Mortgage Form**" means electronic registration charge as referred to under the *Land Registration Reform Act*, R. R. O. 1990, Regulation 688 (Form of Documents), which form is attached to this Mortgage.

(v) “**Mortgagee**” means the person or persons named in the Mortgage Form as a Chargee, and their permitted affiliates, successors and assigns.

(w) "**Mortgagee Address**" means the postal address of the Chargee specified in the Mortgage Form or the most recent address stipulated in a written notice given by the Mortgagee to the Mortgagor.

(x) "**Mortgagor**" means the Person or Persons named in the Mortgage Form as a Chargor and their permitted successors and assigns and includes save and except to the extent specifically stated to be otherwise, any owners of the beneficial estate of the Land who are not the Person or Persons named in the Mortgage Form as a Chargor and their permitted successors and assigns.

(y) "**Mortgagor Address**" means the postal address of the Chargor specified in the Mortgage Form or the most recent address stipulated by a written notice given by the Mortgagor to the Mortgagee.

(z) "**Mortgagor Lease**" means the lease or sub-lease of the Land under which the Mortgagor is the lessee or sub-lessee and all of the Mortgagor's present and future leasehold interest in and to the Land pursuant to such lease or sub-lease.

(aa) "**Operating Statements**" means financial statements prepared using Canadian "generally accepted accounting principles" consistently applied, by an independent firm of chartered accountants or certified general accountants satisfactory to the Mortgagee, relating to any business being conducted on or about the Land by the Mortgagor or Borrower including without limitation, annually updated comprehensive records of all revenues and expenses and an annually updated comprehensive rent roll.

(bb) "**Other Money**" means all money other than the Principal Amount and Interest, which is owed to the Mortgagee under This Mortgage, including without limitation, all present and future debts and liabilities, matured or not, direct or indirect, absolute or contingent, now or at any time and from time to time hereafter due or owing to the Mortgagee pursuant to the Loan Agreement, from or by the Mortgagor whether as principal or surety, and whether incurred by the Mortgagor alone or jointly with any other Person or otherwise, including, without limitation all amounts required to be paid by the Mortgagor under This Mortgage including all amounts comprising any prepayment indemnity required to be paid to the Mortgagee in the event the Mortgagee allows a prepayment to occur under This Mortgage and/or the Loan Document including without duplication, all amounts for which the Mortgagor has agreed to indemnify and hold the Mortgagee harmless under This Mortgage and/or the Loan Document.

(cc) "**Person**" includes any individual, a partnership, a limited partnership, a real estate investment trust, an income trust, a mutual fund, a corporation, a joint stock company, a co-operative, a trust, an unincorporated association, a society, a joint venture, or other entity.

(dd) "**Plans**" means the final plans, architectural drawings and specifications for the construction of the Development (as prepared by the applicable architect and approved by the Mortgagee) and all amendments and modifications thereof made by change orders approved in writing by the Mortgagee.

(ee) "**Premises**" means all buildings and improvements located from time to time upon the Land including without limitation all erections, fixtures, chattels, installations and equipment brought or placed upon the Land for the particular use and enjoyment thereof or as an integral part of or especially adapted for the Premises, including without limitation, all piping, plumbing, aerials, refrigerators, stoves, incinerators, radiators and covers, fixed mirrors, fitted blinds, windrow screens and screen doors, storm windows and storm doors, shutters and awnings, floor coverings, fences, air conditioning, ventilating, heating, and water heating equipment, cooking and refrigerating equipment, electrical equipment, lighting, wiring, distribution panels, breaker boxes/panels, transformers and switches, elevators and all component parts of any of the foregoing and the same shall become or be deemed to be fixtures and an accession to the freehold and a part of the Land.

(ff) "**Prime**" means the floating annual rate of interest designated as such by the Mortgagee, from time to time, as a reference rate for purposes of determining rates of interest it shall charge on loans, and in the event the Interest Rate under This Mortgage is stated to be related to Prime the Interest rate shall increase or decrease concurrently with an increase or decrease in Prime.

(gg) "**Principal Amount**" means all obligations, debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, at any time owing by the Mortgagor to the Mortgagee or remaining unpaid by the

Mortgagor to the Mortgagee heretofore or hereafter incurred or arising and whether incurred or arising from agreement or dealings between the Mortgagor and the Mortgagee or from any agreement or dealings with a third party by which the Mortgagee may be or become in any manner whatsoever a creditor of the Mortgagor or however otherwise incurred or arising and whether the Mortgagor be bound alone or with another or others and whether as principal or surety and any ultimate unpaid balance thereof and whether same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again, including, without limitation, that arising pursuant to the Loan Agreement.

(hh) "**Prior Charge**" includes any charge or lien asserted by the federal or provincial Crown or any other Person, mortgage or claim against the Mortgagor or the Land which at any time has priority over or ranks pari-passu with This Mortgage, or in respect of which priority or equal ranking is claimed.

(ii) "**Prohibited Act**" means any act, activity or conduct occurring on or affecting the Land which has resulted or might result in a breach of the Laws.

(jj) "**Receiver**" means a receiver or receiver manager appointed under This Mortgage or any of the Loan Document or by a Court with respect to the Mortgagor, any Borrower or any material part of their respective assets including without limitation the Land and/or any income generated by the Land.

(kk) "**Rent**" means all rents and other payments due or accruing due or at any time hereafter to become due pursuant to the Leases, the benefit of all guarantees of payment and all covenants to pay therein contained and the proceeds of all policies of insurance engaged in connection with the Leases resulting from the occurrence of any insured casualty.

(ll) "**Revolving Loan Agreement**" means all business and/or commercial operating loan applications and/or agreements and agreements of similar effect howsoever named or titled or any documentation similar in form, content or intent to any of the above irrespective of the name or title of such documentation or form of instrument signed by the Mortgagor in favour of the Mortgagee and any renewals, amendments, or substitutions therefor.

(mm) "**Part Lot**" or "**Part Lots**" means one or more of the Part Lots to be created from the Land upon completion of the Development substantially as contemplated in the Loan Agreement and the deposit of the Reference Plan in the Land Title Office.

(nn) "**Taxes**" means all taxes, rates or assessments of every kind which are lawfully payable by the Mortgagor in connection with This Mortgage or the Land or its use and occupation, including without limitation, all taxes, rates or assessments which are levied, charged or assessed upon or in respect of:

(i) the Land and/or any machinery and equipment on the Land,

(ii) local improvements, water, garbage, natural gas, hydro and sewers in relation to the Land,

(iii) the lending of the Principal Amount,

(iv) any transaction between the Mortgagor and the Mortgagee,

(v) the provision of materials and services including legal services rendered in connection with This Mortgage or the Land,

(vi) workers' compensation assessments, and

(vii) goods and services taxes, harmonized taxes and Canada Revenue Agency ("CRA") deductions, assessments and taxes.

(oo) "**This Mortgage**" means the combination of the Mortgage Form and these Part 2 express mortgage terms.

2.00 GRANT OF MORTGAGE

2.01 In consideration of the Mortgagee agreeing to lend the Principal Amount to the Mortgagor on the terms of the Loan Agreement, the Mortgagor grants, and mortgages the Land to the Mortgagee as security for the payment of the Principal Amount, Interest and Other Money and for the performance of all of the Mortgagor's covenants and agreements under This Mortgage and the Mortgagor releases to the Mortgagee all its claims on the Land subject to the proviso in paragraph 2.02 of these mortgage terms.

2.02 Provided that the Principal Amount, Interest and Other Money under This Mortgage is nil, the Mortgagor has performed all of the Mortgagor's covenants and agreements, there are no further liabilities and obligations secured under This Mortgage, all the terms of This Mortgage have been met, This Mortgage is not in Default and the Mortgagee has no obligation to make any further advance or readvance of money, the Mortgagor will be entitled, within a reasonable time and at the Mortgagor's cost, to receive a discharge of This Mortgage.

3.00 INTEREST

3.01 The Principal Amount and Other Money shall bear Interest both before and after Default, judgment or maturity.

3.02 Interest on all or any part of the Principal Amount accrues from the Date of Advance provided, however, that Interest in respect of any letter of credit issued by the Mortgagee on behalf of or to the benefit of the Mortgagor shall only accrue on the amount represented by such letter of credit as of the date such letter of credit is drawn upon pursuant to its terms. For greater certainty however, any such letter of credit issued by the Mortgagee will be considered an advance under and to be secured by This Mortgage for all purposes, as of the date of its issuance regardless of when or whether or not it is drawn upon. Interest payable on any part of the Principal Amount advanced before the Interest Adjustment Date is due and payable to the Mortgagee on the Interest Adjustment Date.

3.03 Interest on Other Money accrues from the date that the Other Money was paid by the Mortgagee or which otherwise became due to the Mortgagee under the terms of This Mortgage.

3.04 If the Interest Rate is for any reason found by a Court to exceed the rate allowable under the Criminal Code of Canada or to be prohibited under the Interest Act (Canada) then the Interest Rate shall be the highest rate of interest which does not exceed the rate of interest allowable under the Criminal Code or the rate which is not prohibited under the Interest Act (Canada).

3.05 If This Mortgage provides for an increase in the Interest Rate at any time and the increased Interest Rate is not allowed by a Court for any reason then the lower Interest Rate provided for in This Mortgage will prevail.

4.00 INTEREST ON INTEREST

4.01 If the Mortgagor does not make any payment when it becomes due, Interest shall accrue on the Interest payable on such unpaid amount and be payable both before and after maturity and judgment. At the end of each Interest Calculation Period unpaid accrued Interest and unpaid Interest on Interest may in the Mortgagee's discretion be added to the Principal Amount and bear Interest.

5.00 COVENANT TO PAY

5.01 The Mortgagor covenants to pay the Mortgagee, all payments required to be paid by it under This Mortgage without set off, abatement or deduction in the manner and at the times stipulated under This Mortgage.

6.00 PAYMENT

6.01 The outstanding balance of the Principal Amount plus all accrued Interest and Other Money shall be paid in accordance with the payment provisions set out in the Mortgage Form.

Save and except as otherwise agreed herein, all payments made by the Mortgagor to the Mortgagee shall be applied towards the outstanding Principal Amount, Interest and Other Money in any manner or order that the Mortgagee chooses.

It is further understood and agreed that in the case where the Land has been subdivided or stratified with the approval of the Mortgagee and the Mortgagee receives the sales proceeds resulting from the sale of such subdivided or stratified lots, that the Mortgagee shall be entitled to apply the sales proceeds towards the outstanding Principal Amount, Interest and Other Money in any manner or order that the Mortgagee chooses.

6.02 Intentionally deleted.

6.03 Any amount payable to the Mortgagee by the Mortgagor shall be paid before 1:00 PM (Ontario time) on the date on which the amount is due. If a payment is made on a day after 1:00 PM (Ontario time) it is treated for calculating Interest as made on the next Business Day. Any amount to be paid to the Mortgagee by the Mortgagor shall on request by the Mortgagee be made by certified cheque or bank draft.

7.00 PREPAYMENT

7.01 Except as may be provided elsewhere in This Mortgage or in the Loan Agreement or later agreed to in writing by the Mortgagee, the Mortgagor has no right to prepay all or any part of the Principal Amount.

8.00 MORTGAGOR'S COVENANTS

8.01 The Mortgagor covenants with the Mortgagee that:

(a) the Mortgagor will pay or cause to be paid all Taxes when due,

(b) the Mortgagor, on demand, will pay to the Mortgagee:

(i) an amount estimated by the Mortgagee to be sufficient to permit the Mortgagee to pay the annual property taxes including local improvements levies and utilities (collectively the "Annual Property Taxes"), in respect of the Land when they are due and,

(ii) the amount by which the Annual Property Taxes in respect of the Land exceeded the money paid to the Mortgagee on account of Annual Property Taxes in respect of the Land,

(c) the Mortgagor, will arrange for the payments in respect of the Principal Amount and if requested in accordance with section 8.01(b) above, the estimated Annual Property Taxes in respect of the Land to be made by pre-authorized payment or in such other manner as may be required by the Mortgagee from time to time,

(d) the Mortgagor will deliver annually to the Mortgagee within 30 calendar days after the property tax due date, receipted property tax bills for the Land (if the Mortgagee allows the Mortgagor to pay such Annual Property Taxes directly) and from time to time on request of the Mortgagee will deliver to the Mortgagee receipts and confirmation for payment of all of the Taxes and all notices or statements with respect to the Taxes,

(e) the Mortgagee shall have the right, in its sole discretion, to request and receive information from the relevant property taxation office or property taxing authority indicating the status of the property tax account pertaining to the Land and the Mortgagee shall be entitled to charge a servicing fee for each such written enquiry, together with any costs payable to such office or authority in procuring such information and the costs and expenses so incurred by the Mortgagee will be Other Money under This Mortgage and bear Interest,

(f) the Mortgagor has or at time of registration of This Mortgage in the Land Title Office will have good title in fee simple to the Land free from all encumbrances except for prior encumbrances permitted by the Mortgagor as described in the Loan Agreement and except those encumbrances which are to be discharged when money is advanced by the Mortgagee under This Mortgage,

(g) the Mortgagor has the right to convey and mortgage the Land to the Mortgagee,

(h) on Default, the Mortgagee shall at its sole option, have possession of the Land free from all encumbrances other than any prior encumbrances permitted by the Mortgagor as described in the Loan Agreement,

(i) the Mortgagor will comply with all the covenants, terms and conditions of This Mortgage, any Loan Document, any Prior Charge and all other present and future mortgages or agreements granted, entered into or assumed by the Mortgagor in favour of any Person in respect of the Land and/or in favour of the Mortgagee whether or not made in respect of the Land,

(j) the Mortgagor will keep the Land in good condition and repair,

(k) the Mortgagor will make all repairs to the Land with reasonable dispatch and in a good and workmanlike manner as reasonably required by the Mortgagee,

(l) the Mortgagor will sign any other document that the Mortgagee reasonably requires to ensure that payment of the Principal Amount, Interest and Other Money are secured in favour of the Mortgagee,

(m) the Mortgagor will not allow title to the Land to become further encumbered or charged in any manner whatsoever, directly or indirectly, other than with the Mortgagee, without the Mortgagee's prior written consent (which consent shall no be unreasonably withheld),

(n) the Mortgagor will not grant security over any of its assets without the Mortgagee's prior written consent (which consent shall no be unreasonably withheld),

(o) the Mortgagor will not make any loans to, investments in, mergers with, or guarantees on behalf of others without the Mortgagee’s prior written consent (which consent shall no be unreasonably withheld),

(p) the Mortgagor will not permit any change of ownership in any capital stock, sell or dispose or any assets other than in the normal course of business, permit repayment of shareholder or equity loans (which consent shall no be unreasonably withheld),

(q) the Mortgagor will not permit any claims against the Lands, including without limitation, liens or other court actions, to be outstanding for more than 30 days, where if the Mortgagor allows such claims to persist, will constitute a Default under This Mortgage,

(r) upon written request of the Mortgagee and in any event within 90 calendar days from the Mortgagor's fiscal year end if the Mortgagor has a year end or if the Mortgagor is an individual then on April 30th in each year during the term and any renewal terms of This Mortgage, the Mortgagor will deliver to the Mortgagee current Operating Statements and the Mortgagor's current Financial Statements, prepared by a qualified independent accountant on a notice-to-reader basis, supported by a corporate income tax return. For clarity, Financial Statements include an updated personal net worth statement supported by a personal income tax return and a notice of assessment and such other information as the Mortgagee may require. The Mortgagee may attend at the Land and/or the Mortgagor's place of business for the purposes of examining such statements and all information pertinent to such statements,

(s) upon written request of the Mortgagee and in any event if the Land is owned beneficially by a Person other than the Mortgagor, then within 90 calendar days from such Person's fiscal year end if such Person has a year end or if such Person is an individual then on April 30th in each year during the term and any renewal terms of This Mortgage, the Mortgagor will deliver to the Mortgagee such Person's current Financial Statements,

(t) *intentionally deleted,*

(u) *intentionally deleted,*

(v) the Mortgagor will insure the Land and any related personal property, and keep it insured, in compliance with the Mortgagee’s and the Mortgagee's insurance consultant's requirements as set out in the Loan Agreement or any other Loan Document, including any scheduled insurance requirements attached thereto, with such variations, additions and changes in the amounts and types of coverage as the Mortgagee may from time to time notify the Mortgagor in writing. If the Mortgagor fails to insure the Land as stipulated above, the Mortgagee may, but shall not be obliged to obtain such insurance, and any costs incurred, including the premium will be Other Money under This Mortgage and bear Interest,

(w) the Mortgagor hereby grants and assigns to the Mortgagee the benefits and a security interest in the benefits under all policies of insurance which it is required by the Mortgagee to provide in respect of the Land and hereby irrevocably appoints the Mortgagee its attorney to exercise the rights under such policies of insurance. Notwithstanding such appointment the Mortgagee shall not be obliged or bound to enforce any right under such policies of insurance or comply in respect of any obligations under such policies of insurance,

(x) the Mortgagor will send or cause to be sent a copy of each certificate of insurance and annual renewal certificate to the Mortgagee at the Mortgagee Address,

(y) the Mortgagor hereby waives the rights and benefits available to it under the Insurance Act, R.S.O. 1990, c. I.8 and amendments thereto, and the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4. The Mortgagor further agrees that in the event of the occurrence of an insured casualty in respect of the Land, the Mortgagor shall notify the Mortgagee in writing of same, make a claim in accordance with the insurance policy, and ensure that the proceeds are paid to the Mortgagee. Despite any Law to the contrary, the Mortgagee may require that the proceeds of all such insurance policies be used either to:

   (i) reduce the Principal Amount, Interest or Other Money, even though any of such amounts may not then be due, or

   (ii) restore the Land to the condition it was in prior to the occurrence of the insured casualty,

(z) the Mortgagor will pay to the Mortgagee, when requested to do so, and hereby agrees to indemnify and save the Mortgagee harmless in respect of all costs and expenses of any kind incurred by the Mortgagee in connection with This Mortgage including without limitation, those costs and expenses incurred to protect the Mortgagee's security interest in the Land and incurred in respect of any claims made by third parties against the Land or Premises including without limitation, any claim made by the federal or provincial Crown or applicable law enforcement branch in respect of a breach of the Laws occurring on the Land or Premises or incurred to preserve the Land in any other respect. If the Mortgagor fails to pay to the Mortgagee such costs and expenses, they will be Other Money under This Mortgage and bear Interest. Such costs and expenses include but are not limited to the payment of the Mortgagee’s application fees, processing fees, commitment fees, renewal fees, draw processing fees, document execution fees, letter of credit fees and discharge fees levied in connection with This Mortgage, any insurance consultant’s fee, any quantity surveyor’s fees, the cost of any environmental audit, including any remedial work or clean-up measures, the cost of any building condition assessment, the cost of all appraisals, protective disbursements incurred by the Mortgagee to protect the Mortgagee's interest under This Mortgage and to preserve the Land generally including without limitation as contemplated in paragraph 10.05 of these mortgage terms.

The above indemnity shall include any legal fees and disbursements incurred by the Mortgagee on an indemnity basis and the cost of the time and services of the Mortgagee and the Mortgagee's agents and employees plus any service charges of the Mortgagee in respect of any of the above including without limitation, for:

(i) preparing, executing and registering This Mortgage, any Loan Document and any offer of financing made by the Mortgagee including all necessary steps to advance the Principal Amount and secure the Principal Amount, Interest and Other Money,

(ii) collecting and attempting to collect any money due under This Mortgage or pursuant to any Loan Document,

(iii) enforcing the terms of This Mortgage including efforts to cause the Mortgagor to perform all of the Mortgagor's obligations under This Mortgage,

(iv) doing anything which the Mortgagor has agreed to do but has not done,

(v) preserving the Land and the Mortgagee's security interest in the Land in any respect including without limitation, from and against third party claims including without limitation, any claim made by the federal or provincial Crown or applicable law enforcement branch in respect of a breach of the Laws occurring on the Land or Premises, and

(vi) doing anything at the request of the Mortgagor which the Mortgagee is not required to do, including without limitation providing any statement, entering into any agreement and giving any consent or approval,

(aa) the Mortgagor will pay to the Mortgagee, when requested to do so, and hereby agrees to indemnify and save the Mortgagee harmless in respect of any and all costs and expenses of any kind, including disbursements and legal fees on an indemnity basis incurred by the Mortgagee as a result of a breach of the Mortgagor's covenants and agreements contained in This Mortgage and any Loan Document. If the Mortgagor fails to pay to the Mortgagee such costs and expenses, they will be Other Money under This Mortgage and bear Interest,

(bb) the Land and its use complies, and the Mortgagor will at all times cause the Land and its use to comply with all Laws,

(cc) the Mortgagor will and will cause any occupant of the Land or Premises to, at all times comply with all Laws,

(dd) every building and improvement on the Land including without limitation, the Premises and their use complies, and the Mortgagor will at all times cause every building and improvement on the Land including without limitation, the Premises and their use to comply with all Laws, (ee) if the Mortgagor, as landlord, leases or subleases all or any part of the Premises, the Mortgagor will comply with the terms of such Leases and will not in respect of any such Leases:

(i) accept Rent more than one month in advance, with the exception of the last month's Rent, and

unless the Mortgagor has received the Mortgagee's prior written consent which consent shall not be unreasonably withheld,

(ii) agree to their subletting or assignment,

(iii) alter or modify their terms, or

(iv) accept their surrender,

(ff) the Mortgagor must obtain the prior written consent of the Mortgagee before entering into a Lease:

(i) with a tenant for 20% or more of the net rentable area of the Premises or in respect of which the Rent will be 20% or more of the gross income being generated from the Premises, or

(ii) with a non-arms length tenant, or

(iii) for a Rent and upon terms which are not commercially reasonable for similar premises, taking into account all of the Mortgagee's usual lease underwriting considerations including without limitation, the inducements being offered, the credit worthiness of the financial covenant of the tenant, the square footage of the area to be leased, the term of the Lease and for such purposes the Mortgagee may require that the Rent and terms be made without taking into consideration the fact that the tenant in question and the Mortgagor have entered into or are in the course of entering into one or more leases with each other in respect of premises not located on the Land, or

(iv) which contains a right of set off in respect of the Rent, or

(v) which contains a right of early cancellation or the right to cancel on the occurrence of a particular event,

(gg) during the term and any renewal terms of This Mortgage, the Mortgagor will obtain and deliver to the Mortgagee, within 30 calendar days of execution and at the time of any renewal of the term of This Mortgage:

(i) copies of all renewals for current Leases of the Premises,

(ii) copies of all new Leases for ongoing, new or replacement tenants of the Premises,

(iii) tenant executed estoppel certificates in the Mortgagee's usual form, and for Leases or Lease renewals pursuant to which the tenant occupies 20% or more of the net rentable area of the Premises or pays 20% or more of the gross income being generated from the Premises:

(iv) specific assignments of such Leases or Lease renewals, and

(v) tenant executed tripartite-attornment and non-disturbance agreements in the Mortgagee's usual form,

(hh) the Mortgagor will not at any time during the term and any renewal terms of This Mortgage, pledge, or otherwise encumber any Lease and will not knowingly do or omit to be done or permit to be done any act which either directly or indirectly has the effect of waiving, releasing, reducing or abating any of the Mortgagor's rights or remedies or the obligations of any other party under or in connection with any Lease without the prior written consent of the Mortgagee,

(ii) the Mortgagor, will not agree to amending or discharging any easement agreements registered in relation to the Land without having first received the prior written consent of the Mortgagee, which consent the Mortgagee shall not unreasonably withhold or delay.

9.00 MORTGAGEE'S COVENANTS

9.01 The Mortgagee covenants with the Mortgagor to:

(a) apply any payments made to it on account of Taxes in payment of Taxes when due so long as the Mortgagor is not in Default. If the Mortgagor is in Default the Mortgagee may apply any payments made to it on account of Taxes against the Principal Amount, Interest and Other Money in any manner or order that the Mortgagee chooses,

(b) provide within a reasonable time, at the Mortgagor's cost, a discharge of This Mortgage and any Loan Document (save and except an environmental indemnity agreement, the terms of which are stated to survive the discharge of This Mortgage) when the Principal Amount, Interest and Other Money under This Mortgage is nil, the Mortgagor has performed all of the Mortgagor's covenants and agreements, there are no further liabilities and obligations secured under This Mortgage, all the terms of This Mortgage have been met, This Mortgage is not in Default and the Mortgagee has no obligation to make any further advance or readvance of money.

10.00 GENERAL AGREEMENTS

10.01 If the Mortgagor acquires any additional interest in the Land including without limitation if the Mortgagor's interest in the Land consists of a leasehold interest under a Mortgagor Lease which interest is subsequently increased or converted to an interest in the fee simple of the Land or if the Mortgagor has or acquires an interest in other land which is subsequently consolidated with the Land, This Mortgage shall at the Mortgagee's sole option extend to and charge such additional interest and land and should the Mortgagee or its solicitors deem same to be necessary, the Mortgagor will at the Mortgagor's cost grant to the Mortgagee an extension or modification agreement and such other agreements as are reasonably necessary to better secure to the Mortgagee such additional interest.

10.02 The Mortgagor hereby grants and assigns to the Mortgagee the benefits in respect of and a security interest in the benefits of any and all rights in respect of the Land including without limitation any rights under an encumbrance of the Land, a right to any repayment of Annual Property Taxes, a right to occupy, use or enjoy a benefit over adjacent or other land in connection with the Land, a license, an encroachment agreement, a right to park, a right to require any Person to make good a defect in the Land or pay any loss which the Mortgagee may suffer because of such defect, a warranty, a right to require anyone to provide a service for maintaining or repairing the Land, and the full benefit of the Mortgagor's rights in connection with these rights, including a guarantee, indemnity, letter of credit, bond or security and a right to insurance and the Mortgagor hereby appoints the Mortgagee its attorney to exercise such rights. Notwithstanding such appointment the Mortgagee shall not be obliged or bound to enforce any such benefits or rights or comply with any obligations associated with such benefits or rights.

10.03 The Mortgagee may but shall not be obliged to repair or finish the construction of any building or improvement forming part of the Land which the Mortgagor has failed to repair or finish and the costs and expenses so incurred by the Mortgagee will be Other Money under This Mortgage and bear Interest.

10.04 The Mortgagee shall not be responsible to maintain or preserve the Land or to account for any money not actually received by the Mortgagee.

10.05 The Mortgagee may cure in whole or in part any Default under This Mortgage, any Loan Document and any default under a Prior Charge or pay any money expressed to be due under a claim of lien, pay protective disbursements including without limitation, Taxes when due, and the costs and expenses associated with any remediation of the Land to meet the regulatory guidelines and requirements as stipulated in any environmental audit of the Land and in the applicable environmental Laws as amended from time to time and as the Mortgagee may reasonably require from time to time, when considered by the Mortgagee in its discretion to be appropriate and any money so paid by the Mortgagee shall be paid by the Mortgagor to the Mortgagee on demand. Any money paid by the Mortgagee pursuant to this paragraph will be Other Money under This Mortgage and bear Interest.

In the event that the Mortgagor abandons or neglects the Land and the Mortgagee considers its security to be thereby impaired or at peril or the insurance of the Land to be at risk, the Mortgagee may (directly or by the actions of a receiver), but is not obliged to, take all reasonable and necessary steps to physically secure the Land, including but not limited to changing the locks, barring any access to and from the Land, installing a security alarm system and/or employing the services of a security firm and the Mortgagee may take any other actions it deems necessarily incidental to such matters. All costs of the Mortgagee incurred in inspecting and physically securing the Land shall be paid by the Mortgagor. Any money paid by the Mortgagee pursuant to this paragraph will be Other Money under This Mortgage and bear Interest.

10.06 Any notice required or desired to be given by one party to the other may be given by actual delivery or by registered or certified mail to the Mortgagor Address or the Mortgagee Address as the case may be and such notice, if given by actual delivery shall be deemed received on the day it is delivered and if given by registered or certified mail, shall be deemed to have been received on the date receipt is so acknowledged by signature of the recipient. In the event of a threatened or actual postal disruption, any notice shall be given by actual delivery to the party to whom it is to be given and the notice shall be deemed received on the day it is delivered.

10.07 The Mortgagee may deduct from any advance of money secured by This Mortgage any amounts which the Mortgagor is required to pay directly to any Person in connection with This Mortgage and the Loan Agreement and any amounts which the Mortgagee requires the Mortgagor to pay to or on behalf of the Mortgagee in connection with This Mortgage and the Loan Agreement including but not limited to:

(a) any unpaid Taxes,

(b) any Taxes to become due in the year in which such advance is made,

(c) Interest to any Date of Advance and the Mortgagee may, at any time, make an advance of money under This Mortgage to pay Interest,

(d) the face amount of any letters of credit and any interest reserves and holdbacks established by the Mortgagee in connection with This Mortgage, and

(e) all costs and expenses mentioned in This Mortgage.

10.08 The Mortgagor agrees that neither the execution nor the registration of This Mortgage nor the advance or readvance of any portion of the money secured by This Mortgage shall oblige the Mortgagee to advance or readvance money or further money or accept any other obligations. The Mortgagee will decide, in the Mortgagee's sole discretion whether or not any advance or readvance will be made and the amount and date of any advance or readvance.

10.09 If the Land or any part of it is expropriated, all compensation or payment made for such expropriation together with the Mortgagee's entitlement to prepayment indemnity in respect of the early prepayment of such money shall at the sole option of and on terms required by the Mortgagee be paid to the Mortgagee towards payment of the Principal Amount, Interest and Other Money and the Mortgagor hereby assigns the right to receive such compensation or payment to the Mortgagee.

10.10 If any provision, covenant or agreement contained in This Mortgage is invalid or unenforceable in whole or in part then such invalid or unenforceable provision, covenant or agreement or part thereof shall be severed from and not affect the validity or enforceability of the remainder of This Mortgage.

10.11 Nothing done by the Mortgagee or any Receiver pursuant to its rights hereunder including the exercise of any powers of the Receiver as set out herein or in a Court order nor any provision of This Mortgage shall make the Mortgagee a mortgagee in possession.

10.12 If the Mortgagee holds any other security for payment of the Principal Amount, Interest and Other Money, This Mortgage shall be held as additional security and the Mortgagee may take any or all lawful steps and proceedings to realize on any or all securities held in such order as the Mortgagee chooses.

10.13 The granting of This Mortgage is not in substitution for or satisfaction of any of the terms and agreements provided in the Loan Document and will not in any way derogate from or delay or prejudice any rights or remedies to which the Mortgagee may be entitled under any of the Loan Document and will not in any way prejudice or limit the obligations of the Mortgagor under any security of the Loan Document and the Mortgagee may take any or all lawful steps and proceedings to realize on any or all of the Loan Document in such order as the Mortgagee chooses.

10.14 The terms of any Loan Document shall not merge into This Mortgage and shall survive the execution, delivery and registration of This Mortgage. Where there is an inconsistency between the terms of This Mortgage and any Loan Document , the terms of the Loan Document will prevail.

10.15 The Mortgagor will not change its name without first advising the Mortgagee in sufficient time to allow the Mortgagee to make or give such necessary filings or notices to protect or preserve any security for repayment of the Principal Amount, Interest and Other Money or the priority of such security and the Mortgagor agrees to pay the cost of so doing including the fees and disbursements of the Mortgagee's solicitors on an indemnity basis.

10.16 The Mortgagor hereby consents to the Mortgagee entering into servicing or administration, participation, co-lending, syndication or securitization agreements with other mortgagees or Persons in connection with This Mortgage and any Loan Document.

Any information received by the Mortgagee including without limitation any information in respect of This Mortgage, any Loan Document, the Land, the Mortgagor, any Borrower may be disclosed by the Mortgagee to any parties associated with the transfer, assignment or other dealing of This Mortgage and any Loan Document. Everything to facilitate a transfer or dealing that may be requested in writing will be done at the expense of the Person requesting it.

10.17 The Mortgagor is not currently and at all times during the term and any renewal terms of This Mortgage will not become a "non-resident of Canada" ("Non-Resident") as that term is used in Section 116 of the Income Tax Act, R.S.C. 1985 c. 1 (5th supplement). If the Mortgagor becomes a Non-Resident during the term and any renewal terms of This Mortgage, the Principal Amount, Interest and Other Money shall, at the Mortgagee's sole option, immediately be paid.

Without in any way limiting the rights of the Mortgagee set forth above, if at any time during the term or any renewal terms of This Mortgage the Mortgagor becomes a Non-Resident then:

(a) Any and all payments by or on account of any obligation of the Mortgagor hereunder shall be made free and clear of and without deduction for any taxes arising in respect of the Mortgagor under or in connection with the Income Tax Act ("Withholding Taxes") provided that if the Mortgagor shall be required to deduct any Withholding Taxes from such payments, then:

    (i) the sum payable shall be increased as necessary so that after making all required deductions the Mortgagee receives an amount equal to the sum it would have received had no such deductions been made,

    (ii) the Mortgagor shall make such deductions, and

    (iii) the Mortgagor shall pay the full amount deducted to CRA in accordance with the Income Tax Act.

(b) The Mortgagee may but will not be obliged under any circumstances to pay any Withholding Taxes to CRA which are payable to CRA by the Mortgagor but which the Mortgagor fails or refuses to pay. The Mortgagor shall, without limitation, indemnify and reimburse the Mortgagee within 10 calendar days after written demand therefor, for the full amount of any Withholding Taxes paid by the Mortgagee (and any penalties, interest and reasonable expenses arising therefrom or with respect thereto), to the extent such Withholding Taxes were paid by the Mortgagee acting reasonably and in good faith. Any money paid by the Mortgagee pursuant to this paragraph will be Other Money under This Mortgage and bear Interest.

(c) Within 90 calendar days from the Mortgagor's fiscal year end, in each year during the term and any renewal terms of This Mortgage, the Mortgagor covenants and agrees to deliver to the Mortgagee:

(i) evidence satisfactory to the Mortgagee that:

(A) the property manager of the Land (the "Property Manager") is a resident of Canada,

(B) the Property Manager has filed documentation with CRA to withhold tax on the net income of the Mortgagor from the Land after specified expenses, which specified expenses include Interest accrued under This Mortgage, and

(C) the Property Manager has prepared or caused to be prepared and filed with CRA each year during the term and any renewal terms of This Mortgage an income tax return in respect of all income of the Mortgagor earned from the Land, if any, and paid or caused to be paid any income taxes owing with respect thereto, and

(ii) on a confidential basis copies of all applications, returns and other documentation in connection the above.

10.18 The Mortgagor will manage the Land in a manner which is commensurate with a prudent, commercial property owner to the satisfaction of the Mortgagee acting reasonably. In the event that the Property Manager is unacceptable to the Mortgagee acting reasonably or the management of the Land becomes unsatisfactory to the Mortgagee, acting reasonably, then after giving the Mortgagor 30 calendar days notice to change the Property Manager or to correct any deficiency or failure to manage as required by the Mortgagee, the Mortgagee may (but shall not be obliged to) appoint alternate property management with all ongoing costs and the costs associated with such appointment to be borne by the Mortgagor.

10.19 The Mortgagee or its agent or consultants may enter upon the Land from time to time to examine its condition, to conduct appraisals or update existing appraisals, to conduct tests, to take samples and to monitor activities but in doing so the Mortgagee shall cause as little disruption to the Mortgagor and its tenants as practical. The Mortgagor will allow the Mortgagee or its agents or consultants reasonable access to the Land and shall provide information in respect of the Land and the business operated thereon by the Mortgagor reasonably required by the Mortgagee including but not limited to, sale agreements, rent rolls, leases and revenue and expense statements for such purposes. Nothing done by the Mortgagee or its agent or consultants pursuant to its rights under this paragraph shall make the Mortgagee a mortgagee in possession.

10.20 Nothing done or required by the Mortgagee in relation to This Mortgage shall place the Mortgagee under a duty of care to the Mortgagor. Any appraisals, insurance policies, building condition reports, surveys, environmental assessments, and similar studies or documentation required by the Mortgagee in respect of the Land shall not be relied upon by the

Mortgagor and the Mortgagee makes no representation or warranty in respect of their content, accuracy or adequacy.

10.21 The Mortgagor will deliver to the Mortgagee copies of all documents relating to the Land which are currently or at any time during the term and any renewal terms of This Mortgage in its possession and control including without limitation, documents affecting title to the Land (excepting those registered in the Land Title Office), appraisals, insurance policies, building condition reports, surveys, and environmental assessments.

10.22 No waiver or failure to enforce any of the Mortgagee's rights under This Mortgage shall prejudice the rights of the Mortgagee on any future occasion.

10.23 If the Mortgagor is more than one Person all covenants under This Mortgage shall be joint and several.

10.24 This Mortgage is neither assignable nor transferrable by the Mortgagor without the Mortgagee's prior written consent, which may be withheld in the Mortgagee's sole discretion. This Mortgage shall be binding on the Mortgagor and the Mortgagor's executors, administrators, permitted assigns and successors in title.

10.25 The use of the singular or either gender in This Mortgage shall include the plural, other gender, body corporate or politic where appropriate.

10.26 Any reference in This Mortgage to a statute or a regulation shall include any successor statute or regulation and its and their amendments and associated regulations in force from time to time.

10.27 Except where This Mortgage specifically provides otherwise, all amounts of money referred to in This Mortgage are expressed in Canadian money and are payable in Canadian money.

10.28 This Mortgage may be executed in any number of counterparts, each of which, when delivered will be deemed to be an original for all purposes and will constitute one and the same instrument, binding all the parties, notwithstanding that all the parties are not signatories of the same counterpart.

11.00 DISPOSITION OF LAND

11.01 If the Mortgagor:

(a) amalgamates or merges with another Person, or

(b) issues or transfers any of its shares such that in the reasonable opinion of the Mortgagee, the effective control of the Mortgagor changes, or

(c) directly or indirectly sells, conveys, transfers or disposes or agrees to sell, convey, transfer or dispose of all or part of the Land or any interest in the Land,

(any such incident is a "Transfer")

the Mortgagor will 30 calendar days prior to completion of the Transfer, provide the Mortgagee with the following:

(i) the date and particulars of the consideration for the Transfer,

(ii) an executed copy of any applicable contract,

(iii) the full name and address of each Person who is a transferee (the "Transferee")

(the term Transferee shall include all amalgamating companies as well as the amalgamated company if the Transfer involves an amalgamation, all trustees, nominees, agents and beneficiaries if the Transfer involves a trust or nominee/agency agreement, all new shareholders if the Transfer involves a share purchase or issuance, the purchaser of the Land if the Transfer involves a purchase of the Land),

(iv) for each Transferee, a copy of the most recent Financial Statements and in the case of an amalgamation including the pro forma Financial Statements for the amalgamated company,

and unless the Mortgagee provides its written consent to the Transfer prior to its completion, which consent may be withheld or granted in the Mortgagee's sole discretion, the Principal Amount, Interest and Other Money shall, at the Mortgagee's sole option, immediately become due and payable without notice and all rights, powers and remedies of the Mortgagee under This Mortgage shall be exercisable at the Mortgagee's Option.

The Mortgagee may require compliance with whatever conditions it deems appropriate before providing its consent to a Transfer including without limitation, a requirement that the Mortgagor, any Borrower and the Transferee enter into an assumption agreement in the Mortgagee's usual form.

The Mortgagor and any Borrower unless the Mortgagee agrees otherwise in writing, shall continue to be liable for their obligations under each of the Loan Document despite the occurrence of a Transfer and the Mortgagee's consent thereto.

11.02 If the Mortgagor further encumbers the Land to secure additional debt, without the Mortgagee's prior written consent, which consent may be withheld or granted in the Mortgagee's sole discretion, the Principal Amount, Interest and Other Money shall, at the Mortgagee's sole option, immediately become due and payable. As a term of providing its consent the Mortgagee may require the encumbrancer to grant to it a registrable priority or priority/standstill agreement on terms satisfactory to the Mortgagee at the Mortgagor's expense.

11.03 All costs and fees arising in connection with the Mortgagee providing or refusing to provide the written consent required by paragraph 11.01 and 11.02 of these mortgage terms and all costs and fees arising in connection with the preparation and execution of any assumption agreement and/or other documentation required by the Mortgagee as a condition of providing its consent shall be paid by the Mortgagor to the Mortgagee. Any costs and fees incurred by the Mortgagee pursuant to this paragraph which have not been paid by the Mortgagor will be Other Money under This Mortgage and bear Interest.

12.00 MONEY OWING AS A RESULT OF BREACH, DEFAULT OR ACCELERATION

12.01 Upon the occurrence of a breach, Default or acceleration for any reason whatsoever under This Mortgage, the Mortgagor shall at the Mortgagee's sole option, upon demand of the Mortgagee forthwith pay to the Mortgagee the following:

(a) the Principal Amount outstanding under This Mortgage as of the date of the breach, Default or acceleration;

(b) accrued Interest under This Mortgage to and including the date of payment;

(c) all Other Money payable or secured under This Mortgage.

13.00 DEFAULTS

13.01 A Default occurs under This Mortgage if:

(a) the Mortgagor breaches any term, covenant or agreement contained in This Mortgage or in any Loan Document,

(b) the Mortgagor breaches any covenant or agreement contained in any other mortgage or agreement made or assumed by the Mortgagor in favour of any Person in connection with the Land and/or any other mortgage or agreement made or assumed by the Mortgagor in favour of the Mortgagee whether or not such mortgage or agreement was made in connection with This Mortgage or the Land,

(c) a resolution is passed or an order is made for the liquidation or winding up of the Mortgagor or the Mortgagor makes a proposal or general assignment for the benefit of its creditors or otherwise acknowledges its insolvency, or a bankruptcy petition is filed or presented against the Mortgagor or the Mortgagor shall be subject to any proceeding under any other provision of the Bankruptcy and Insolvency Act or any other Act for the benefit of creditors which is not being disputed in good faith by the Mortgagor,

(d) the Land is abandoned or left unoccupied,

(e) the construction of improvements upon the Land is delayed beyond the original projections agreed upon by the Mortgagee and the Mortgagor,

(f) the Land or any part of it is expropriated,

(g) the Mortgagor sells or leases or agrees to sell or lease all or any part of the Land without the prior written consent of the Mortgagee,

(h) the Land or the Premises are being used in any manner which constitutes a breach of the Laws,

(i) the Mortgagor does not within 30 calendar days of learning of the existence of any unregistered Prior Charge not specifically approved of by the Mortgagee cause such Prior Charge to be discharged,

(j) the Mortgagor does not within 30 calendar days of the date of application for registration in the Land Title Office of any claim of lien made by the federal or provincial Crown or any Person, judgment, caveat or certificate of pending litigation cause to be discharged such claim of lien, judgment, caveat or certificate of pending litigation from title to the Land,

(k) a Receiver is appointed in respect of the Mortgagor or any one of them and/or the Land,

(l) in the Mortgagee's reasonable opinion there has been;

(i) a material adverse change in the risk to the Mortgagee in lending to the Mortgagor or any Borrower,

(ii) a decreased ability of the Mortgagor or of any beneficial owner of the Land or of any interest therein or of any Borrower to perform the covenants contained in any Loan Document, or

(iii) a material misrepresentation made to the Mortgagee in connection with This Mortgage or the application therefor,

(m) any Borrower breaches any term, covenant or agreement or commits a default under any Loan Document.

13.02 If a Default occurs under This Mortgage, it will constitute a default under any other mortgage or agreement between the Mortgagor and the Mortgagee and after Default, the Mortgagee shall be entitled to consolidate This Mortgage with all of the other mortgages granted or assumed by the Mortgagor in favour of the Mortgagee so that the Mortgagor must redeem all or none of the mortgages.

14.00 CROSS-DEFAULTS

14.01 Default under any prior or subsequent, documents, mortgages, chattel mortgages, security agreements, assignments of rentals, assignments of leases or any other securities (herein referred to collectively as "**Such Other Securities**") that encumber the land will constitute an event of default under this Mortgage.

14.02 Any default under Such Other Securities, Loan Document, or undertaking, pursuant to the commitment letter between the Mortgagor and Mortgagee, dated September 27, 2021, as amended on December 28, 2021 (the "**Commitment Letter**") will constitute a default hereunder.

15.00 MORTGAGEE'S REMEDIES

15.01 If a Default occurs the Mortgagee may at the Mortgagee's sole option and in any order that the Mortgagee chooses, do any one or more of the following:

(a) demand immediate payment of the Principal Amount, Interest and Other Money,

(b) sue the Mortgagor, Borrower for payment of any Loan Payment, the Principal Amount, Interest and/or Other Money,

(c) take all legal steps and proceedings to cause the Mortgagor, Borrower to keep all their respective covenants and agreements,

(d) apply to the Court to foreclose the interest in the Land of the Mortgagor and any successor in title to the Land and in any other property mortgaged or pledged to the Mortgagee,

(e) apply to the Court for an order that the Land be sold on terms approved by the Court, and

(f) appoint a Receiver.

15.02 If the Mortgagee obtains a Court order or judgment against the Mortgagor or the Land as a result of a Default, the remedies described in paragraph 14.01 of these mortgage terms may continue to be used by the Mortgagee and the Mortgagee will continue to be entitled to receive Interest on each of the Principal Amount, Interest and Other Money until the judgment is paid in full and the Court order is complied with.

15.03 If the Mortgagee holds any other security for payment of the Principal Amount, Interest and Other Money, the Mortgagee may take any or all lawful steps and proceedings, in such order as the Mortgagee chooses, to realize on all securities held.

16.00 RECEIVER

16.01 The Mortgagor appoints both the Mortgagee and any agent of the Mortgagee as the Mortgagor's attorney to appoint a Receiver of the Mortgagor and or the Land and the Mortgagee or the Mortgagee's agent may after any Default, appoint a Receiver of the Mortgagor and or the Land and the Receiver shall have power either in the name of the Mortgagor or in the name of the Mortgagee to:

(a) demand, recover and receive income from the Land and take and carry out any step or Court proceeding to collect that income,

(b) give receipts for any income that the Receiver receives,

(c) carry on the Mortgagor's business on the Land,

(d) market, or advertise for sale or lease or sublease, sell, lease or sub-lease, amend or terminate any lease of or sub-lease of, all or part of the Land on such terms and conditions as the Receiver chooses,

(e) take possession of all or part of the Land and the Mortgagor's business on the Land,

(f) take possession of all records and documents respecting the Land and any business and income associated with the Land,

(g) manage the Land and maintain it in good condition,

(h) make improvements to the Land including without limitation taking any and all action as the Receiver in its sole discretion deems requisite to complete the construction of the Development substantially as contemplated in the Loan Agreement, and

(i) repair, maintain and improve or complete the construction of any building or improvement forming part of the Land,

and to achieve the above the Receiver may from time to time take such action and employ the services of such Persons as it deems appropriate including but not limited to employing the services of agents (including but not limited to real estate agents, lawyers and property managers), and may enter into, amend and terminate contracts, leases and other commercial agreements, and commence, defend and settle legal actions as and when appropriate.

16.02 The Receiver shall be the agent of the Mortgagor who shall be solely responsible for the Receiver's acts or omissions. In the event that a Court decides that the Receiver is liable for any acts or omissions, the Mortgagor hereby agrees that the Receiver will only be liable for acts or omissions of gross negligence.

16.03 From income received, the Receiver may, in any order that the Receiver chooses:

(a) retain sufficient funds to meet all legitimate expenses and obligations which have been incurred or may in the future be incurred, in connection with the Land and/or the receivership,

(b) pay the Receiver's reasonable fees and disbursements,

(c) pay the costs and expenses of collecting income and to pay or recover other costs and expenses,

(d) pay the cost and expense of maintaining the Land in good condition and of repairing, maintaining, improving and completing the construction of any building or improvement forming part of the Land,

(e) pay for any and all goods, services and utilities furnished or supplied to the Land or the Receiver,

(f) pay for any and all steps taken to preserve the Land from damage by any cause,

(g) pay the costs and expenses, including any legal fees and disbursements, of protecting the Land or Premises and the Mortgagee's security, including This Mortgage, from claims made by third parties including without limitation any claim made by the federal or provincial Crown or applicable law enforcement branch in respect of a breach of the Laws occurring on the Land or Premises, whether or not made in insolvency proceedings,

(h) pay any money which if not paid might result in a default under any Prior Charge,

(i) pay Taxes,

(j) pay all professional and related fees, commissions and charges related to the management, leasing, improvement, repair and sale of the Land or to protecting the Land and enforcing contracts and Leases associated with the Land,

(k) pay the Principal Amount, Interest and Other Money,

(l) pay any money owed by the Mortgagor under a Prior Charge,

(m) file Goods and Services Tax and/or Harmonized Tax rebate applications and related documentation in connection with the Land on behalf of the Mortgagor and the Mortgagor hereby appoints the Receiver its attorney and agent for that express purpose.

16.04 The Receiver may borrow money and grant security therefore and repay such borrowed money to do anything which the Receiver is entitled to do under This Mortgage.

16.05 The Receiver may borrow money from and repay such borrowed money to the Mortgagee on the terms required by the Mortgagee, if the Mortgagee is willing to lend such money to the Receiver.

16.06 Any money borrowed by the Receiver from the Mortgagee (unless new security was granted therefor) and any interest thereon and all the costs and expenses of borrowing will be Other Money under This Mortgage and bear Interest.

16.07 A Receiver appointed by the Mortgagee may be discharged by the Mortgagee or the Mortgagee's agent and the Mortgagee or the Mortgagee's agent may appoint another Receiver on one or more occasions.

16.08 Any money paid by the Mortgagee to the Receiver for the Receiver's fees and disbursements shall be Other Money and bear Interest.

17.00 CONDOMINIUM ACT PROVISIONS

17.01 If the Land, or any part thereof, is or becomes condominiumized under the Condominium Act, 1998, S.O. 1998, c. 19 the following provisions shall apply:

(a) the Mortgagor shall pay when due all money owing to the condominium corporation in respect of the Land (the "Condominium Corporation"),

(b) the Mortgagor shall comply with, observe and perform all of the provisions of the Condominium Act, 1998, S.O. 1998, c. 19 and the by-laws, rules and regulations of the Condominium Corporation,

(c) the Mortgagor grants to the Mortgagee the Mortgagor's power to vote and hereby irrevocably appoints the Mortgagee its attorney at all meetings of the Condominium Corporation so far as the Condominium Act, 1998, S.O. 1998, c. 19 permits but if the Mortgagee does not exercise such power the Mortgagor may do so. Notwithstanding such appointment the Mortgagee shall not be obliged or bound to exercise such power or comply in respect of any obligations under such power,

(d) the Mortgagee may give the Mortgagor instructions on how to vote at meetings of the Condominium Corporation and the Mortgagor agrees to attend such meetings and comply with the Mortgagee's instructions,

(e) the Mortgagee is not required to attend any meeting of the Condominium Corporation, to vote at any meeting or to protect the Mortgagor's interest,

(f) at the request of the Mortgagee the Mortgagor shall deliver promptly to the Mortgagee copies of every notice of meeting, every notice in respect of a matter involving a vote of the owners, any and all assessments, rules, financial statements, and a copy of every other document to which the Mortgagor is entitled under the Condominium Act, 1998, S.O. 1998, c. 19 including but not limited to the by-laws of the Condominium Corporation,

(g) the Mortgagor appoints the Mortgagee to be the Mortgagor's agent to inspect or obtain copies of all records or other documents of the Condominium Corporation that the Mortgagor is entitled to inspect or obtain,

(h) if the Condominium Corporation transfers, charges or adds to its common property or amends its by-laws without the consent of the Mortgagee and if, in the opinion of the Mortgagee, the value of the Land is thereby reduced, the Principal Amount, Interest and Other Money shall at the Mortgagee's sole option, become due on demand,

(i) the Mortgagee shall have the right but not the obligation to pay the Mortgagor's share of common expenses, in which case the amount so paid will be Other Money under This Mortgage and bear Interest,

(j) the Mortgagor agrees with the Mortgagee that the Principal Amount, Interest and Other Money shall, at the Mortgagee's sole option, immediately become due and payable if the Condominium Corporation fails to comply with a material obligation under the Condominium Act, 1998, S.O. 1998, c. 19, a Court makes a judgment against the Condominium Corporation, the Condominium Corporation seriously fails to manage the Land in a prudent manner, a Court appoints an inspector, administrator or similar officer under the Condominium Act, 1998, S.O. 1998, c. 19, the Condominium Corporation becomes insolvent, there is substantial damage to the complex comprising the Premises, a substantial increase in the common expenses or a substantial special assessment is made by the Condominium Corporation.

18.00 SUBDIVISION

18.01 If the Land, or any part thereof, is subdivided into Part Lots or otherwise:

(a) This Mortgage shall charge each parcel, lot or Part Lot into which the Land is subdivided as security for payment of the Principal Amount, Interest and Other Money, and

(b) the Mortgagee is not required to discharge This Mortgage as a charge against title to any parcel, lot or Part Lot unless the Principal Amount, Interest and Other Money under This Mortgage is nil, the Mortgagor has performed all of the Mortgagor's covenants and agreements, there are no further liabilities and obligations secured under This Mortgage, all the terms of This Mortgage have been met, This Mortgage is not in Default and the Mortgagee has no obligation to make any further advance or readvance of money.

18.02 Even though the Mortgagee is not required to discharge This Mortgage in respect of any parcel, lot or Part Lot, the Mortgagee may agree to do so in return for payment of part of the Principal Amount, Interest, and Other Money as the Mortgagee may stipulate and upon satisfaction of such additional requirements as the Mortgagee may stipulate. If the Mortgagee discharges This Mortgage in respect of a parcel, lot or Part Lot, This Mortgage will continue to charge all parcels, lots and Part Lots which have not been specifically discharged.

19.00 READVANCES

19.01 The Mortgagor and the Mortgagee agree that:

(a) whether or not This Mortgage is made in support of a Revolving Loan Agreement, the Principal Amount or any portion thereof may, on one or more occasions, be advanced or readvanced under This Mortgage,

(b) This Mortgage will be security for payment of the Principal Amount, Interest and Other Money owed to the Mortgagee as secured, advanced and/or readvanced from time to time,

(c) This Mortgage remains as effective security even though from time to time there is no money outstanding and secured under This Mortgage, until the Mortgagor has received a discharge,

(d) This Mortgage has and will have priority over every mortgage and other charge or encumbrance of the Land created after This Mortgage was created. The priority extends to advances of a direct, indirect, contingent or absolute nature to the Mortgagor or any Borrower, the readvance of money to the Mortgagor or any Borrower by the Mortgagee from time to time, the issuance of any letters of credit, interest reserves and holdbacks established by the Mortgagee and escrow fundings of any kind in connection with This Mortgage, before and after a subsequent mortgage and other charge or encumbrance of the Land was created and or was registered in the Land Title Office.

If the circumstances are such that the Laws limit the priority of This Mortgage after the Mortgagee is given notice of an interest in the Land by another Person, a notice is not valid unless it is in writing, is handed personally to a senior officer of the Mortgagee, clearly refers to This Mortgage, and clearly states its purpose. Every Person acquiring an interest in the Land must be taken to agree to this provision, and

(e) paragraph 18.01 of these mortgage terms shall be notice of This Mortgage and the contents hereof to every Person dealing with the title to the Land.

20.00 RENEWALS

20.01 Although it is understood and agreed that the Mortgagee does not hereby agree to give the Mortgagor any right to renew, modify or extend This Mortgage in the future, if the Mortgagee does agree with the Mortgagor at any time in the future to renew, modify or extend This Mortgage and/or to change the terms in respect of the payment obligations under This Mortgage, including without limitation extending the time for repayment of the Principal Amount, Interest and Other Money and changing the Interest Rate:

(a) This Mortgage secures the payment obligations as changed or replaced,

(b) the priority of This Mortgage includes priority for any subsequent agreement made in respect of This Mortgage whether or not such agreement was registered in the Land Title Office,

If the circumstances are such that the Laws limit the priority of This Mortgage after the Mortgagee is given notice of an interest in the Land by another Person, a notice is not valid unless it is in writing, is handed personally to a senior officer of the Mortgagee, clearly refers to This Mortgage, and clearly states its purpose. Every Person acquiring an interest in the Land must be taken to agree to this provision.

(c) all disbursements, including but not limited to fees, costs and expenses associated with appraisals, building condition reports, environmental audits, quantity surveys, insurance consulting and legal services on an indemnity basis and administrative costs in connection with renewals of This Mortgage shall be paid by the Mortgagor to the Mortgagee, and

(d) paragraph 19.01 of these mortgage terms shall be notice of This Mortgage and the contents hereof to every Person dealing with the title to the Land.

21.00 ASSIGNMENT OF RENTS

In consideration of the Mortgagee agreeing to lend the Principal Amount to the Mortgagor:

21.01 The Mortgagor will, without demand, promptly deliver to the Mortgagee a true copy of each of the Leases and give to the Mortgagee full information relating to each of the Leases.

21.02 The Mortgagor hereby assigns to the Mortgagee all Rent, for the Mortgagee to have and to hold until the Principal Amount, Interest and Other Money and all obligations of the Mortgagor in respect of This Mortgage have been fully paid and satisfied.

21.03 The Mortgagor hereby grants to the Mortgagee full power and authority to enter upon the Land to collect the Rent, to serve demands on the holders of the Leases in respect of payment of the Rent and to demand, collect, sue for, distrain for, recover and give receipts for the Rent, and to enforce payment of the Rent and performance of any guarantees of payment and covenants to pay, in the Mortgagee's own name or in the name of and as agent for the Mortgagor, as the Mortgagee may elect, and hereby grants to the Mortgagee irrevocable authority to join the Mortgagor in any such proceedings or actions.

21.04 Although this assignment of rents is a present and absolute assignment, (subject to defeasance on repayment of the Principal Amount, Interest and Other Money), the Mortgagor, as agent for the Mortgagee, will be entitled to collect and retain the Rent as and when they become due and payable according to the terms of the Leases until there is a Default in the observance or performance by the Mortgagor of any term, covenant, agreement, proviso or condition of This Mortgage or of any of the Loan Document; PROVIDED that this paragraph shall not relieve the Mortgagor from the observance and performance of the Mortgagor's obligations hereunder.

21.05 In the event of Default by the Mortgagor under This Mortgage, proceedings may, at the sole option of the Mortgagee, be taken under this assignment of rents either independently or in conjunction with the other rights and remedies of the Mortgagee under This Mortgage.

21.06 Nothing herein contained shall be deemed to have the effect of making the Mortgagee responsible for the collection of the Rent or for the observance or performance of any of the provisions of the Leases either by the Mortgagor or by any holders of the Leases, or of rendering the Mortgagee a mortgagee in possession of the Land or in any way accountable or liable as such, or of imposing any obligation on the Mortgagee to take any action or exercise any remedy in the collection or recovery of the Rent.

21.07 The Mortgagee will be liable to account for only such money as it actually receives pursuant to this assignment of rents, less all costs and expenses incurred by it in the course of exercising its rights and remedies under this assignment of rents, including without limitation legal fees and disbursements on an indemnity basis.

21.08 The giving of this assignment of rents is by way of additional and collateral security for the Principal Amount, Interest and Other Money and not in substitution for or satisfaction of any of the Loan Document and will not in any way derogate from or delay or prejudice any rights or remedies to which the Mortgagee may be entitled under any of the Loan Document and will not in any way prejudice or limit the obligations of the Mortgagor under any of the Loan Document.

21.09 The Mortgagor will not at any time during the existence of This Mortgage pledge, or otherwise encumber any Lease or the Rent, and will not knowingly do or omit to be done or permit to be done any act which either directly or indirectly has the effect of waiving, releasing, reducing or abating any of the Mortgagor's rights or remedies or the obligations of any other party under or in connection with any Lease without the prior written consent of the Mortgagee.

21.10 The Mortgagor will not at any time during the existence of This Mortgage in respect of any Lease:

(a) accept Rent more than one month in advance, with the exception of the last month's Rent, and

unless the Mortgagor has received the Mortgagee's prior written consent which consent shall not be unreasonably withheld,

(b) agree to its subletting or assignment, or

(c) alter or modify its terms, or

(d) terminate, cancel or accept its surrender.

21.11 The Mortgagor will execute and deliver such further assurances, assignments, notices or other documents as the Mortgagee may reasonably require from time to time to render this assignment of rents effective.

21.12 At the request of the Mortgagee from time to time, the Mortgagor will give any other party to any of the Leases actual written notice of this assignment of rents and will use the Mortgagor's best efforts to obtain from such party an acknowledgment of any such notice but nothing in this paragraph shall oblige the Mortgagee to make any such request.

21.13 To the knowledge of the Mortgagor there are no existing or future rights of set-off, assignment, communication or prepayment with respect to the Rent.

21.14 To the knowledge of the Mortgagor, there have been no defaults under any of the existing Leases by the Mortgagor or by any of the holders of the Leases, and there are no outstanding disputes pursuant to such Leases.

21.15 The Mortgagor will at all times observe and perform all the Mortgagor's obligations under the Leases.

21.16 The Mortgagor now has good and sufficient power, authority and right to assign the Rent and other benefits referred to herein in the manner aforesaid according to the true intent and meaning of this assignment of rents.

22.00 INTENTIONALLY DELETED

23.00 LICENCED PREMISES

In the event that the Premises are licensed to the Mortgagor for the carrying on of a business or for a use of any kind the following provisions shall be applicable:

23.01 The Mortgagor does hereby covenant and agree that all existing licences, permits and authorities issued by any body or authority having licensing jurisdiction, in connection with any business or use of any kind carried on upon the Land, shall as of and from the date hereof stand as security for and shall be held by the Mortgagor for the benefit of the Mortgagee without liability on the Mortgagee's part to perform any obligation thereunder, as security for the observance, performance and carrying out of the terms and conditions of This Mortgage until the monies secured herein are fully paid and satisfied.

23.02 The Mortgagor covenants and agrees that it has not and will not do or omit to do any act having the effect of terminating, cancelling or preventing the renewal of existing licences, permits and authorities issued by any body or authority having licensing jurisdiction in connection with the aforementioned business or special use of any kind carried on upon the Land, and the Mortgagor does further covenant with the Mortgagee that the Mortgagor shall comply with, observe, perform and carry out all of the provisions of all Laws governing and controlling and affecting the carrying on of the business or the use being carried on at the Premises as well as complying, observing, performing and carrying out all the provisions of all the rules, regulations and directions required to keep the said licences, permits and authorities in full force and effect. It is acknowledged that failure to observe, perform and carry out the terms and conditions of this provision, resulting in cancellation of the licences, permits and authorities issued for the Land shall at the sole option of the Mortgagee, constitute a Default under the terms of This Mortgage and the whole of the Principal Amount, Interest and all Other Money hereby secured shall, at the sole option of the Mortgagee, forthwith become due and payable.

23.03 The Mortgagor further agrees and acknowledges that, in the event of a Default of payment of any monies secured by This Mortgage as and when such payments become due, or in the event of failure of the Mortgagor to observe, perform or carry out any of the covenants and agreements in This Mortgage contained, including the conditions contained in the within paragraph, such event shall and does hereby operate to constitute the Mortgagee as a successor and assign, subject to the approval of the body or authority or board or commission having licensing jurisdiction in connection with the aforesaid business or use carried on upon the Land such approval being for all existing licences, permits and authorities issued by the said body or authority or board or commission having such licensing jurisdiction in connection with the aforementioned business or use carried on upon the Land; provided however, this assignment is taken only as security for the due payment of the Principal Amount, Interest and Other Money hereby secured and as security for the due observance, performance and carrying out of the terms and conditions hereof, and subject to the reservation that none of the rights or remedies of the Mortgagee shall be merged or prejudiced in any way by the acceptance of this assignment as security.

23.04 In the event of any proceedings being taken by the Mortgagee by the reason of a Default being made in payment of the monies hereby secured, then in such event the Mortgagor shall be deemed to be in Default hereunder and the Mortgagee shall be entitled to exercise its rights hereunder, and to have the Mortgagee or its nominee or assignee become holder of the above mentioned licences, permits and authorities and to apply to the body or authority or board or commission having the necessary jurisdiction for the approval of the transfer to the Mortgagee or its nominee or assignee of all the licences, permits and authorities now or hereafter in existence in connection with any business or use carried on or being made of the Land.

23.05 This indenture further witnesses that the Mortgagor does hereby irrevocably constitute and appoint the Mortgagee their attorney in respect of the Land to do and perform all acts, matters and things necessary to effectively transfer the said licences, permits and authorities and to vest the same in the Mortgagee or its nominees or assignees to all intents and purposes as the Mortgagor itself could do; it being agreed that this power of attorney is only exercisable on a Default by the Mortgagor. A statutory declaration that a Default has occurred under and in respect of This Mortgage, and that such Default still continues, entitling the Mortgagee to exercise its rights hereunder, shall be conclusive evidence of the Mortgagee's rights to exercise the power of attorney hereby given.

24.00 CONSTRUCTION LOAN PROVISIONS

If the Principal Amount advanced and secured under This Mortgage is to be used in the course and for the purpose of demolishing, repairing, improving and/or constructing the Development upon the Land:

24.01 The Mortgagor shall construct all buildings and other improvements on the Land in accordance with the Plans and to the satisfaction of all governmental and regulatory authorities having jurisdiction and carry on diligently to completion the buildings and other improvements. All buildings and other improvements now or later on the Land shall form part of the security for the full amount of the money secured by This Mortgage.

24.02 All construction on the Land shall be carried out by reputable contractors having experience which is commensurate to the nature and size of the Development, and such contractors must be prior approved by the Mortgagee in writing, such approval not to be unreasonably withheld.

24.03 Provided that should construction on the Development cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Mortgagor excepted), for a period of five (5) consecutive Business Days, then, at the sole option of the Mortgagee, This Mortgage shall, immediately become due and payable. In the event that construction does cease, then the Mortgagee shall have the right, at its sole option but under no circumstances shall the Mortgagee be obliged, to assume some part or complete control of the construction of the Development in such manner and on such terms as it deems advisable. The cost and expenses of completion of the Development by the Mortgagee and all expenses incidental thereto together with a management fee of fifteen percent (15%) of the costs and expenses of the construction completed by the Mortgagee will be Other Money under This Mortgage and bear Interest.

24.04 At all times there shall be sufficient funds unadvanced under This Mortgage and retained by the Mortgagee to complete the construction.

24.05 This Mortgage will be advanced in stages as construction upon the Land proceeds or as the conditions as enumerated by the Loan Agreement are complied with.

24.06 All advances which are made from time to time hereunder shall be based on certificates of a duly qualified architect, engineer, quantity surveyor, cost consultant or other consultant(s) retained for the purpose of reviewing and advising the Mortgagee with respect to the Development and the progress thereof, whose fees and costs shall be for the account of the Mortgagor regardless of by whom such Person has been retained. All such certificates shall without limitation certify the value of the work completed and the estimated costs of any uncompleted work and such certificates shall further certify that such completed construction to the date of such certificate shall be in accordance with the Plans and further, in accordance with the building permits issued for such construction and in accordance with all municipal and other governmental requirements of all authorities having jurisdiction pertaining to such construction and that there shall be no outstanding work orders or other requirements pertaining to construction on the Land. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the buildings.

24.07 The Mortgagor shall pay to the Mortgagee on each occasion when an inspection of the Land is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Mortgagee may charge from time to time for each such inspection and the Mortgagee's solicitors shall be paid their reasonable fees and disbursements for each subsearch and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Mortgagee shall be entitled to all rights and remedies with respect to collection of same in the same manner as it would have with respect to collection of principal and Interest hereunder or at law.

24.08 The Mortgagee shall be entitled to erect at the Mortgagee's expense, a reasonable number of signs at reasonable locations and of reasonable size, and to otherwise publicize the source of the financing during the construction period.

24.09 The Mortgagee may at its sole option, withhold from any advances for which the Mortgagor may have qualified, such amounts as the Mortgagee, in its sole discretion, considers advisable to protect its position under the provisions of the Construction Act, R.S.O. 1990, c. C.30, so as to secure its priority over all liens, until the Mortgagee is fully satisfied that all lien periods have expired and that there are no liens outstanding. Nothing in this clause shall be construed to make the Mortgagee an "owner" as defined under the Construction Act, R.S.O. 1990, c. C.30, nor shall there be, or be deemed to be, any obligation by the Mortgagee to retain any holdback which may be required to be made by the owner which shall remain solely the Mortgagor's obligation. The Mortgagor hereby covenants and agrees to comply in all respects with the provisions of the Construction Act, R.S.O. 1990, c. C.30, and further agrees to provide the Mortgagee with evidence of such compliance satisfactory to the Mortgagee, including particulars of all funds held back in a holdback account in accordance with the requirements of the Construction Act, R.S.O. 1990, c. C.30.

24.10 The Mortgagor shall at the Mortgagee's request promptly deliver to the Mortgagee all home warranty provider and home warranty provider consultant reports in its possession from time to time.

24.11 The Mortgagee may at anytime during the construction of the Development appoint a monitor to monitor the construction process and advise the Mortgagee on the state of construction and construction related affairs including without limitation:

(a) the detailed costs involved in completing the Development in accordance with the Plans, including the outstanding payables owing to the various trades and consultants;

(b) the estimated time frame required to complete the Development;

(c) the estimated statement of affairs of the Mortgagor, including details of all of its assets and liabilities, including holdback accounts, and deposits held with third parties;

(d) if applicable, an assessment of the likelihood of the current pre-sales contracts of the Part Lots completing and an assessment of the current market value of the individual Part Lots;

(e) an assessment of the likely recovery to the Mortgagee based on a successful completion of the Development assuming if applicable, (1) that all the existing pre-sales contracts of the Part Lots complete at their current selling price and the remainder of the Part Lots are sold at current market value and (2) all pre-sales contracts of the Part Lots do not complete and that all of the Part Lots are not sold at current market value;

(f) an assessment of the current construction management team and recommendations for improvement, including (1) the manner in which the Mortgagee can ensure that the Development can be completed on both a timely basis and within an agreed budget, (2) the manner in which funds can be advanced and the appropriate trades paid, and holdback accounts set up;

(g) any other matters which appear to the monitor to be relevant to the satisfactory completion of the Development, including warranty inspection reports, consultants and other construction related reports.

24.12 For the purposes set forth in paragraph 23.11, the Mortgagor will:

(a) grant the monitor full access to the Land, its business operations, and books and records; and

(b) endeavour to provide and assist in the provision to the monitor of access to representatives of its general contractor or project manager, all trades and contractors, consultants and other parties involved in the Development including warranty service providers.

24.13 The Mortgagor agrees that all costs incurred by the Mortgagee arising from the appointment of the monitor including the monitor's charge for services and all expenses incurred by the monitor and charged to the Mortgagee in the course of attending to its services will for every intent and purpose be considered a protective disbursement and will be Other Money under This Mortgage and bear Interest."

25.00 INCORPORATION BY REFERENCE AND PARAMOUNTCY

25.01 All of terms contained in Commitment Letter are hereby incorporated by reference in the terms hereof and shall not merge with this Mortgage and that default will constitute default therein. Notwithstanding the foregoing, in the event there is a conflict between the Commitment Letter and the electronic registration charge form that this Mortgage is attached to with respect to the Balance Due Date, Interest Adjustment Date, Payment Date, First Payment Date and Last Payment Date, those terms in the electronic registration charge form will prevail.

25.02 The Mortgagor acknowledges and agrees that the interest contemplated herein shall begin to accrue from October 18, 2021.

25.03 Standard Charge Terms No. 200033 ("**SCT No. 200033**") shall form part of this Mortgage. In the event of any conflict or inconsistency between SCT No. 200033 and this Mortgage, this Mortgage shall prevail and have paramountcy over SCT No. 200033. Silence in SCT No. 200033 or in this Mortgage, but addressed in the other, shall not be deemed an inconsistency.

26.00 REFERENCE DATE

This Mortgage is dated for reference the ___ day of January, 2022.

END OF DOCUMENT

This is Exhibit "14" referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

Properties

PIN	03055 - 0002 LT	*Interest/Estate*	Fee Simple
Description	PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271 ; MARKHAM		
Address	3143 19TH AVE MARKHAM		

Chargor(s)

The chargor(s) hereby charges the land to the chargee(s). The chargor(s) acknowledges the receipt of the charge and the standard charge terms, if any.

Name TUNG KEE INVESTMENT CANADA LTD.
Address for Service 118 Grey Alder Avenue
Richmond Hill, Ontario
L4B 3P9.

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

This document is not authorized under Power of Attorney by this party.

Chargee(s) *Capacity* *Share*

Name 2149602 ONTARIO INC.
Address for Service 1101 Leslie Street
Suite 903
Toronto, Ontario
M3C 4G3

Statements

Schedule: See Schedules

Provisions

Principal	$8,000,000.00	*Currency*	CDN and HK
Calculation Period	monthly, not in advance		
Balance Due Date	2022/04/25		
Interest Rate	30.00% per annum		
Payments			
Interest Adjustment Date	2022 01 25		
Payment Date	25th day of each and every month		
First Payment Date	2022 02 25		
Last Payment Date	2022 04 25		
Standard Charge Terms	200033		
Insurance Amount	Full insurable value		
Guarantor	2407720 Ontario Inc., 24007721 Ontario Inc., Tony Man Tung YUNG and Philip Kun To WONG		

Additional Provisions

Payments: Interest only monthly on the principal balance outstanding from time to time.

Signed By

Deanna Elizabeth Wehby	77 King Street West Suite 3000 PO Box 95 TD Centre Toronto M5K 1G8	acting for Chargor(s)	Signed	2022 01 25

Tel 416-864-9700

Fax 416-941-8852

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

FOGLER, RUBINOFF LLP 77 King Street West Suite 3000 PO Box 95 TD Centre Toronto M5K 1G8 2022 01 27

Tel 416-864-9700

Fax 416-941-8852

Fees/Taxes/Payment

Statutory Registration Fee	$66.30
Total Paid	$66.30

File Number

Chargee Client File Number : 215697 JF/DW

THIS IS A SCHEDULE TO A CHARGE/MORTGAGE between TUNG KEE INVESTMENT CANADA LTD. as Chargor (the "Chargor") and 2149602 ONTARIO INC. as Chargee (the "Chargee")

ADDITIONAL PROVISIONS

DEFINITIONS

As used herein the following words or terms have the following respective meanings unless there is something in the context or the subject matter inconsistent therewith.

"**Applicable Laws**" means, in respect of any person, property, transaction or event, all applicable federal, provincial or municipal laws, statues, regulations, rules, by-laws, policies and guidelines, orders, permits, licenses, authorization, approvals and all applicable common laws or equitable principles whether now or hereafter in force and effect

"Borrower" means collectively, Tung Kee Investment Limited Partnership and Tung Kee Investment Canada Ltd.

"**Charge**" means, collectively, the electronic Charge/Mortgage to which the Schedule is attached, the Schedule and all other Schedules and Appendices to the Charge/Mortgage or to the Schedule. and shall include all amendments, addenda, modifications, extensions, renewals, restatements, supplements or replacements thereto or thereof from time to time.

"**Charged Property**" means all legal and beneficial right, title, estate and interest in (a) the land described in the Properties section of the electronic Charge/Mortgage to which the Schedule is attached, and any schedule to the Charge, together with any greater estate therein as hereafter may be acquired by the Chargor (collectively, the "**Lands**"), (b) all buildings, structures and other improvements, now or hereafter situated, placed or constructed upon the Lands from time to time (the "**Improvements**"), (c) all fixtures, materials, supplies, machinery, equipment, apparatus and other items or personal property now owned or hereafter acquired by the Chargor and now or hereafter attached to, installed in or used in connection with any of the Improvements or the Lands, including without limitation, water, gas, electrical, heating, cooling, ventilation, storm and sanitary sewer fixtures, equipment and facilities and all other utilities whether or not situated in easements (the "**Fixtures**"), (d) all plans, specifications, shop drawings and other technical descriptions prepared for construction, repair or alteration of the Improvements, and all amendments and modifications thereof (the "**Plans**"), (e) all leases, subleases, licenses, concessions, occupancy agreements, rental contracts, or other agreements (written or oral) now or hereafter existing relating to the use or occupancy of all or any part of the Lands and the Improvements, together with all guarantees, letters of credit and other credit support, modifications, extensions and renewals thereof and all related security and other deposits (the "**Leases**"), (f) all rents, revenues, issues, income, proceeds, profits, and all other payments of any kind under the Leases for using, leasing, licensing, possessing, operating from, residing in, selling or otherwise enjoying all or any part of the Lands and the Improvements (the "**Rents**"), (g) all other agreements, including without limitation property management agreements, construction contracts, architects' agreements, engineers' contracts, utility contracts, maintenance agreements, franchise agreements, service contracts, permits, licences, certificates and entitlements in any way relating to the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of the Charged Property (collectively, the "**Property Agreements**"), (h) all rights, privileges, tenements, rights-of-way, easements, appendages and appurtenances appertaining to the foregoing, all accessions, replacements and substitutions for any of the foregoing and all proceeds thereof, (i) all insurance policies, unearned premiums therefore and proceeds from such policies covering any of the above Charged Property now or hereafter acquired by the Chargor, (j) all of the Chargor's right, title and interest in and to any awards, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to the Lands, Improvements or Fixtures and (k) all renewals, substitutions, improvements, accessions, attachments, additions, replacements and proceeds to, of or from each of the foregoing, and all conversions of the security constituted thereby so that the foregoing shall immediately and automatically be deemed a part of the Charged Property and subject to the security of the Charge as fully and completely and with the same priority and effect as those now owned by the Chargor and specifically described herein, without any further mortgage or assignment or conveyance by the Chargor. As used in this Charge, the term "Charged Property" shall mean all or, where the context permits or requires, any portion of the above or any interest therein.

"**Chargee**" means the Person or Persons named as Chargee in the Chargee(s) section of the electronic Charge/Mortgage to which this Schedule is attached and their respective successors and assigns.

"**Chargor**" means the Person or Persons named as Chargor in the Chargor(s) section of the electronic Charge/Mortgage to which the Schedule is attached and their respective heirs, executors, administrators, legal representatives, successors and permitted assigns.

"Commitment" means the Commitment Letter dated January 5, 2022 issued by the Chargee to the Borrower, and shall include all amendments, addenda, modifications, extensions, renewals, restatements, supplements or replacements thereto or thereof from time to time.

"**Costs**" means all fees, costs, charges and expenses incurred by or on behalf of the Chargee for or incidental to (a) preparing, executing and registering the Security Documents, renewals thereof and any amendments thereto (b) collecting payments due to the Chargee hereunder, the Commitment or under the Security Documents, (c) enforcing and realizing on this Charge and the other Security Documents, including power of sale, foreclosure, execution, judicial sale, court appointed or private receivership, possession and/or management of the Charged Property and other enforcement proceedings, and including without limiting the generality of the foregoing, all fees, costs, charges and expenses incurred in connection with the sale or attempted sale of the Charged Property, including real estate commissions, auctioneer's fees, termination fees, stalking-horse fees, cancellation of listing agreement fees and all other like or incidental fees, (d) inspecting, protecting, securing, completing, insuring, repairing, equipping, taking and keeping possession of, managing, selling or leasing the Charged Property, including all protective disbursements and curing any defaults under or renewing any leasehold interests, (e) exercising any rights of a receiver appointed under this Charge or otherwise and such receiver`s fees and expenses (including all legal fees and disbursements and agent`s costs and expenses), (f) obtaining any environmental audits or other inspections, tests or reports with respect to the Charged Property, (g) complying with any notices, orders, judgments, directives, permits, licences, authorizations or approvals with respect to the Charged Property, (h) performing the obligations of the Chargor under the Security Documents, (i) all legal fees and disbursements in connection with the Indebtedness, on a substantial indemnity basis, and (j) any other fees, costs, charges or expenses including, renewal fees, forbearance fees, the Administration Fees and servicing fees payable to the Chargee hereunder, under the Commitment or under any of the Security Documents or otherwise at law or in equity. **"Costs"** will also include all other fees, costs, charges and expenses that are referred to elsewhere in this Charge or in any of the other Security Documents and interest at the interest rate chargeable herein on all such fees, costs, charges and expenses.

"Covenantor(s)" means any one of the Borrower, 2407720 ONTARIO INC., 2407721 ONTARIO INC., Tony Man Tung Yung, Philip Kun To Wong, the Chargor or any other guarantor, joint debtor, indemnifier, beneficial owner or other obligor of or in respect of the Loan, the Indebtedness or the Charged Property.

"HK" means Hong Kong

"Indebtedness" means all existing and future indebtedness, other covenants and obligations and liabilities owing or made by the Borrower to the Chargee from time to time pursuant to the Commitment, hereunder, from time to time, or under the Security Documents, matured or not, direct or indirect, absolute or contingent, including, (a) the amounts advanced hereunder, from time to time, on account of principal, (b) all interest due hereunder including, compound interest (c) Costs, (d) any amount, cost, charge, expense or interest which has been added to the Indebtedness hereunder or pursuant to the Security Documents or which are otherwise due and payable thereunder, and (e) payment performance and discharge and satisfaction of all obligations of the Borrower to the Chargee under the Security Documents, or otherwise under and in respect of the Indebtedness.

"**Lien**" means any mortgage, charge, pledge, hypothec, assignment, lien, lease, sublease, easement, right of way, security interest, restrictions, covenants or encumbrances of any kind or nature affecting all or any part of the Charged Property.

"**Loan**" means the loan made by the Chargee to the Borrower pursuant to the Commitment in the original principal amount of $2,120,129.41 CDN Dollars and $26,279,223.54 HK Dollars and all other amounts secured by this Charge and the other Security Documents.

"Permitted Encumbrances" means, as of any particular time, (i) any registered easements, rights of way, restrictive covenants and servitudes and other similar rights in land granted to, reserved or taken by any governmental authority or public utility relating to the Charged Property, (ii) any registered subdivision, development, servicing, site plan or other similar agreement with any governmental authority or public utility relating to the Charged Property, and (iii) any other encumbrances relating to the Charged Property previously consented to by the Chargee in its sole and subjective discretion, provided in each case that:

(a) the Chargee is satisfied in its sole and subjective discretion that the same do not materially impair the value or marketability of the Charged Property;

(b) the same does not materially affect the validity, enforceability, or priority of this Charge; and

(c) the same has been complied with in full.

"Person" means and is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the estate trustees or other legal representatives of an individual in such capacity.

"Security Documents" means collectively, all documents, instruments, agreement, guarantees and opinions now or hereafter evidencing, securing, guaranteeing and or relating to the Loan and the Indebtedness or any part thereof, including, without limitation, the Commitment, the Charge, the Assignment of Rents, the General Security Agreement, the Guarantee(s), Assignment of Rights Under Agreements of Purchase and Sale, Assignment of Material Project Agreements, Postponement of Claims, Beneficial Owner Agreement, Assignment of Funds, Assignment and Direction to TARION, Assignment and Direction to Bank, Assignment and Direction to Authority and all certificates, declarations, undertakings, documents and writings provided or as required which are incidental to any of the foregoing and any other instrument or agreement provided and shall include all amendments, modifications, extensions, renewals, restatements, or replacements thereto or thereof from time to time.

COMPOUND INTEREST

If the Chargor defaults in any payment of interest, or other payment due pursuant to this Charge, compound interest at the interest rate chargeable hereunder will accrue and be payable on the sum in arrears (including all arrears of interest) from time to time, both before and after default, demand, maturity and judgment until paid and shall be paid forthwith. If the arrears and the compound interest are not paid within the interest calculation period provided for herein from the time of default, a rest will be made and compound interest at the interest rate chargeable hereunder will be payable on the aggregate amount then due, both before and after maturity, default and judgment, and so on from time to time until paid. All such compound interest shall be added to the Indebtedness and shall be secured by this Charge.

APPLICATION OF PAYMENTS

Prior to an Event of Default, all payments received by the Chargee on account of the Indebtedness shall be applied as follows, regardless of any other designation of such payments as principal, interest or other charges: first, to the repayment of sums advanced by the Chargee pursuant to this Charge or any of the other Security Documents for any reason (other than the principal amount), including sums advanced to pay realty taxes, Costs, insurance premiums or other charges against the Charged Property (together with interest thereon at the interest rate chargeable hereunder from the date of advance until paid), then to the payment of accrued but unpaid interest which is then due and payable, and finally, to reduction of the principal amount. Notwithstanding the foregoing, from and after an Event of Default, all payments received by the Chargee pursuant to the Loan shall be applied by the Chargee to principal, interest and such other charges due hereunder or under the other Security Documents in such order as the Chargee shall determine in its sole discretion.

ADVANCES AND COSTS

Neither the preparation, execution nor registration of this Charge or the other Security Documents shall bind the Chargee to advance all or any part of the Loan. The Chargor covenants to pay all Costs to the Chargee forthwith on demand whether or not all or any part of the Loan is advanced. Until paid, all Costs together with interest thereon at the interest rate chargeable hereunder shall be added to the Indebtedness and secured by this Charge.

PROOF OF OUTSTANDING AMOUNTS

The records maintained by the Chargee of the amounts of the Loan advanced to the Chargor/Borrower, as the case may be and secured by this Charge, the amount of advances of the Loan which are outstanding and the amount of interest and other fees and Costs payable or secured under this Charge shall constitute prima facie proof thereof in any legal proceedings or action in respect of the Loan or this Charge.

FEES AND COSTS

NOTWITHSTANDING anything to the contrary contained in the Standard Charge Terms (and in the event of any contradiction, the following provisions shall prevail), the Chargor covenants and agrees with the Chargee as follows:

1. To pay to the Chargee its administration and/or servicing fees, all of which are secured by the within Charge, for the following matters in the amounts set forth:

   a) Missed payment fee (payable for each missed or late instalment and for processing each "NSF" cheque or other returned payment) - $300.00 per occurrence or the amount set forth in the Commitment.

      PROVIDED that if any cheque is returned NSF, any replacement cheque must be certified. If such replacement cheque is not certified, the Chargee shall be entitled to have it certified, and to add all the costs of certification (including courier charges to and from the Chargor's Bank) to the amount owing on the Mortgage.

   b) Taxes - for tax status inquiry - $100.00 plus cost of municipal tax certificate.

   c) Default proceedings (payable for each demand, action or proceeding instituted) - $2,000.00 including without limitation $2,000.00 for each of the following: Demand letter; Notice of Intention to Enforce Security; Notice of Sale; Statement of Claim; Summary Judgement; Writ of Possession.

   d) Possession/Eviction - for attending to take possession following default - $1,000.00

   e) Mortgage Statements (for preparation of each Information Statement) - $300.00.

   f) Discharge Statement and Administration fee - $300.00

   g) The Chargor further agrees to pay to the Chargee an annual administration charge of $250.00 for collection and payment of the property taxes payable annually in advance commencing on the funding date.

   h) Purchaser approval - for processing each application for assumption, whether or not approved or completed - $300.00.

   i) Bank Wire Transfer Fee**:** $90.00 per transfer and $50.00 for incoming wire

j)	Tax Default Fee:	$250.00 for failure by the Chargor to provide satisfactory confirmation of tax payments
k)	Administration time:	$195.00 for each hour of administrative time spent by the Chargee or its agent in dealing with issues of default related to this mortgage, excluding solicitor services
l)	Written requests for dishonoured cheques:	$300.00 for each written request necessitated by the Chargor not replacing dishonoured cheques forthwith.

(collectively, the "**Administration Fees**")

The Chargor acknowledges and agrees that the service fees and/or Administration Fees and Costs provided for herein are a genuine pre-estimate of the value of the services performed for same and are not a penalty or additional interest on the Loan secured by this Charge.

The Chargee reserves the right to charge reasonable fees for other administrative services.

Any service or administration fee plus HST if applicable, owing by the Chargor to the Chargee which is not paid forthwith after having been incurred, the same shall be added to the Indebtedness and shall bear interest at the rate herein set forth.

The Chargor agrees that if it agrees to pay the Chargee any fees during the currency of the within Charge but fails to do so then such fees shall be added to the Indebtedness and shall bear interest at the rate herein set forth. Such fees shall include but shall not be limited to renewal fees, forbearance fees etc.

2. The Chargor agrees to pay all legal and other expenses incurred by the Chargee in connection with the preparation and registration of any security interests pursuant to the Personal Property Security Act and any renewals thereof forthwith upon demand and such fees and expenses, together with interest thereon at the interest rate charges hereunder, shall be added to the principal sum secured by the within charge if not paid by the Chargor.

3. The Covenantor(s) agree that should the Chargee herein be a trustee for beneficiaries, the Covenantor(s) shall have no claims against the beneficial owners of the Charge.

CROSS DEFAULT

The occurrence of an Event of Default under the provisions of this Charge, under any of the other Security Documents or under the Commitment or pursuant to any other charge or Security Documents between the Chargor and the Chargee, including any document pursuant to which the Chargor is a guarantor, or any default by the Chargor under any lease which is not cured within any applicable cure period, shall be deemed to be an Event of Default hereunder and under all the Security Documents and shall entitle the Chargee to pursue its remedies under any or all of the Security Documents.

NON-MERGER

Notwithstanding the registration of this Charge and the advance of funds hereunder, the terms and provisions of the Commitment shall remain binding and effective upon the parties. It is understood and agreed that any default under the said Commitment shall be deemed a default under this Charge. In the event of any inconsistency, discrepancy or conflict between the terms of the Charge and the terms of the Commitment, the Chargee may, in its sole discretion, determine which shall prevail. The Chargor acknowledges that the terms and provisions of the Commitment are not exhaustive. The Chargor acknowledges that any provisions contained herein or in any of the other Security Documents which are not dealt with in the Commitment or which expand and elaborate on provisions in the Commitment shall be deemed not to be an inconsistency or in conflict with the provisions of the Commitment.

PAYMENTS

ANY DISCHARGE of this charge shall be prepared by the Chargee at the Chargor's expense within a reasonable time after repayment of the principal sum secured herein together with accrued interest thereon, as well as the payment of all costs and any other amounts that are outstanding under this Charge. All payments hereunder shall be made payable to:

2149602 ONTARIO INC.
1101 Leslie Street, Suite 903
Toronto, ON

or such other place as the Chargor is notified of from time to time. All payments received after 1:00 p.m. shall be deemed to have been received on the following business day. The Loan secured herein and the amounts payable by the Chargor hereunder is due and payable on the dates set out in the within Charge and shall be made without any deduction, set-off or counterclaim by the Chargor for any reason whatsoever.

The Chargor acknowledges and agrees that any payments made to discharge the said Charge to the Chargee's Solicitors or any other authorized agents of the Chargee shall not be deemed to constitute payment received by the Chargee until the same is received by the Chargee at its offices as set out above.

The repayment of the principal amount of the Loan shall be paid in two currencies:
CDN $2,120,129.41
HK $26,273,340.00

All other amounts due hereunder or under any of the Security Documents including for interest payments, broker fees, legal fees, interest and costs shall be paid in Canadian Dollars. Interest on the Loan shall be calculated on CDN $6,500,000.00 notwithstanding that the Loan is in Canadian and Hong Kong Dollars.

ENVIRONMENTAL

The Chargee or agent of the Chargee may, at any time after default, and for any purpose deemed necessary by the Chargee, enter upon the Lands to inspect the Lands and Improvements thereon. Without in any way limiting the generality of the foregoing, the Chargee (or its respective agents) may enter upon the Lands to conduct any environmental testing, site assessment, investigation or study deemed necessary by the Chargee and the reasonable cost of such testing, assessment, investigation or study, as the case may be, with interest at the rate charged herein for the Loan, shall be payable by the Chargor forthwith and shall be a charge upon the Lands. The exercise of any of the powers enumerated in this clause shall not deem the Chargee, or its respective agents to be in possession, management or control of the Lands and Improvements.

In consideration of the advance of funds by the Chargee, the Chargor hereby agrees that, in addition to any liability imposed on the Chargor under any instrument evidencing or securing the Indebtedness, the Chargor shall be jointly and severally liable for any and all of the costs, expenses, damages, or liabilities of the Chargee, its directors and officers (including, without limitation, all reasonable legal fees) directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about the Charged Property of any hazardous or noxious substances and such liability shall survive foreclosure of the security for the Indebtedness and any other existing obligations of the Chargor to the Chargee in respect of the Indebtedness and any other exercise by the Chargee of any remedies available to them of any default under the Charge.

The Chargor hereby represents and warrants that neither the Chargor, nor, to their knowledge, any other person, has ever caused or permitted any Hazardous Material (as hereinafter defined) to be placed, held, located or disposed of on, under or at the Charged Property and that its business and assets are operated in compliance with applicable laws intended to protect the environment (including, without limitation, laws respecting the discharge, emission, spill or disposal of any Hazardous Materials) and that no enforcement actions in respect thereof are threatened or pending and covenants to cause any person permitted by the Chargor to use or occupy the Charged Property or any part thereof to continue to so operate.

The Chargor hereby indemnifies the Chargee, its officers, directors, employees, agents and its shareholders and agrees to hold each of them harmless from and against any and all losses, liabilities, damages, costs, expenses and claims of any and every kind whatsoever which at any time or from time to time may be paid, incurred or asserted against any of them for, with respect to, or as direct result of, the presence on or under, or the discharge, emission, spill or disposal from, the Lands or into any land, the atmosphere, or any watercourse, body of water or wetland, of any Hazardous Material where it has been proven that the source of the Hazardous Material is the Property, including, without limitation: (i) the costs of defending any/or counter-claiming over against third parties in respect of any action or matter; and (ii) any cost, liability or damage arising out of a settlement of any action entered into by the Chargee; and the provisions of and undertakings and indemnification set out in this Section shall survive the satisfaction and release of the Security Documents and payment and satisfaction of the Indebtedness and liability of the Chargor to the Chargee pursuant to this Charge and any of the other Security Documents. The indemnity contained herein in favour of the Chargee shall enure to the benefit of the Chargee's successors and assigns of the Loan and the Security Documents. For the purposes of this Section "Hazardous Material" means any contaminant or pollutant or any substance that when released in the natural environment is likely to cause at some immediate or future time, material harm or degradation to the natural environment or material risk to human health and without restricting the generality of the foregoing, hazardous waste or dangerous goods as defined by applicable federal, provincial or municipal laws for the protection of the natural environment or human health.

The indemnity contained herein shall survive the repayment of the Indebtedness and shall continue in full force and effect so long as the possibility of any such liability, claim or loss exists.

CONFLICT/AMBIGUITY

Where conflict or ambiguity exists or arises between any one or more of the provisions contained in this Schedule and any one or more of the provisions contained in the standard charge terms, the provisions contained in this Schedule shall, to the extent of such conflict or ambiguity, be deemed to govern and prevail.

COMPLIANCE WITH APPLICABLE LAWS

The Chargor has and is presently complying with its obligations and will continue to comply with its obligations, to make payment of all taxes, deductions, withholdings and remissions to the Province of Ontario and the Government of Canada (collectively, the "**Governmental Authorities**") under the *Income Tax Act*, Canada, the *Excise Tax Act*, Canada, the *Canada Pension Act*, Canada, the *Employment Insurance Act*, Canada, the *Retail Sales Tax Act*, Ontario, the *Fuel Tax Act*, Ontario, the *Tobacco Tax Act*, Ontario, the *Development Charges Act*, Ontario, the *Workplace Safety and Insurance Act*, Ontario and any other Applicable Laws, whether provincial or federal, as any one or more of them may be amended from time to time, the default of which would form the basis of a super priority claim by any of such governmental authorities under such Applicable Laws over the Indebtedness and the priority of the Security Documents.

MANAGEMENT FEE

In the event that the Chargee collects any payments of Rent due to the Chargor's default or takes possession of the Lands, the Chargee shall be entitled a management fee equal to ten (10%) percent of all the gross receipts from the Rents, it being understood for greater certainty that the Chargor and Chargee have agreed that in the circumstances the management fee is a just and equitable fee having regard to the circumstances. The Chargor acknowledges and agrees that the said management fee is a reasonable estimate of the fees to be incurred for the time, value and opportunity for dealing with the Charged Property, including professional advisors, appraisers, engineers, occupants, building inspectors, checking property taxes and insurance, maintenance and repairs, Liens or other matters usually dealt with by mangers of like Lands, which amount is deemed not to be a penalty.

SUBSEQUENT ENCUMBRANCES

In the event of the Chargor further encumbering the Lands, save for a charge to Sow Capital Ontario Limited, without the prior written consent of the Chargee, such further encumbering shall constitute a default under this Charge and in such event, at the sole option of the Chargee, the Indebtedness owing under the within Charge shall immediately become due and payable.

PAYMENT OF OTHER CHARGES AND PERFORMANCE OF OTHER OBLIGATIONS BY THE CHARGEE

The Chargor covenants and agrees with the Chargee to pay all property taxes, public utility rates, charges, and insurance premiums as and when they become due, to keep all Liens and agreements registered against the title to the Charged Property in good standing in accordance with their terms, comply with all Applicable Laws, including zoning by-laws, standards and work orders and not to permit the existence of any work orders, deficiency notices, letters of compliance, outstanding permits or judgements, or the registration of any Liens of any nature or kind; the failure of the Chargor to comply with this covenant shall constitute an Event of Default hereunder and entitle the Chargee at its sole option to avail itself of remedies available hereunder, the Security Documents and at law including the right to accelerate the Indebtedness. Waiver or indulgences granted by a prior encumbrancer shall not prevent non-payment from being a default under this charge.

In addition, at the Chargee's sole option, the Chargor hereby agrees that the Chargee may satisfy any charge, Lien, any matter raised in the previous paragraph or other encumbrance now or hereafter existing or to arise or be claimed upon the Charged Property and the Chargee may also expend monies in order to cure any default hereunder, under any Lien, a Permitted Encumbrance or any matter set forth in the previous paragraph respecting the Charged Property or any part thereof, and the amounts so paid together with all costs associated therewith shall be added to the Indebtedness hereby secured and bear interest at the rate of interest set forth herein and shall be payable forthwith by the Chargor to the Chargee and in default of payment, the entire Indebtedness, shall become payable at the option of the Chargee and the remedies hereby given, under the Security Documents and available at law may be exercised forthwith without notice. In the event of the Chargee satisfying any such charge or claim, or expending such monies in order to cure a Lien default, it shall be entitled to all equities and securities of the person or persons so satisfied and it may retain any discharge, cessation of charge, assignment of charge, unregistered or assignment of lease, until paid.

BANKRUPTCY AND INSOLVENCY

THE CHARGOR acknowledges and agrees that any and all Costs as may be incurred from time to time by the Chargee in order to effect compliance or avoid any adverse ramifications of the *Companies' Creditors Arrangement Act*, R.S., c.C-25, s.1 (the **"CCAA"**), the *Bankruptcy and Insolvency Act*, R.S., 1985, c.B-3, s.1, 1992, c.27, s.2 (the **"BIA"**) or any other statute shall be entirely for the account of the Chargor. The Chargee shall be entitled to incur any such Costs, including any costs of its personnel and outside professionals, including legal counsel, in administering and addressing any requirements of the said Acts and to add the same to the Indebtedness owing pursuant hereto and the same shall be secured hereunder and under any and all security held by the Chargee for the Indebtedness owing to the Chargee in the same manner and in the same priority as the principal secured hereunder.

REORGANIZATION PROCEEDINGS

The Chargor represents and warrants that the Charged Property is of such a unique nature that, in the event the Chargor sought to reorganize its affairs under any of the laws of Canada (or any province) which provides the ability of a debtor to reorganize its affairs with its creditors (including, without limitation, under the CCAA, the BIA or any other statute) or pursuant to which it sought protection from its creditors, the Chargee would not have a sufficient commonality of interests with any other creditor of the Chargor such that the Chargee would be required to vote on any reorganization, arrangement, compromise or other transaction in a class with any other creditors of the Chargor and, in that regard, covenants and agrees that the Chargee will be treated in its own exclusive class of creditors for such purpose. Without limiting the generality of the foregoing, the Chargor covenants and agrees that:

a) it will give the Chargee not less than ten (10) days written notice prior to the commencement of any proceedings under any of the CCAA, the BIA or any other similar or analogous legislation (such proceedings being referred to as **“Reorganization Proceedings”**);

b) in no circumstances will the Chargor seek, suffer or permit the right of the Chargee to be stayed or otherwise affected in any Reorganization Proceedings;

c) in the event that Reorganization Proceedings are commenced, the Chargor will consent to an order directing that all rents or other revenues generated or received in respect of the Charged Property will forthwith be deposited into a segregated trust account under the sole control of the Chargee and that same shall not constitute the Chargee to be a mortgagee in possession of or in control or management of the Charged Property or result in an acceleration of the Indebtedness hereunder unless so designated by the Chargee at its sole option; and

in the event of a Reorganization Proceeding: (i) the Chargor will not oppose any steps taken by the Chargee to seek an Order lifting any stay of proceedings that may be imposed; (ii) will not seek to prime the Chargee through any debtor in possession financing, receiver charge or any court-ordered charges; and (iii) will not seek to have the Charged Property sold as part of any process without the Chargee’s prior consent.

ABANDONMENT OF CHATTELS

In the event that the Chargor vacates the Charged Property and leaves its chattels or trade fixtures (collectively, the **“Chattels”**) at the Charged Property, or if the Chargor fails to remove the Chattels upon being evicted then:

(a) the Chattels shall be deemed to have been abandoned by the Chargor;
(b) the Chargee shall be entitled to dispose of or sell or transfer the Chattels or store them, in its sole discretion;
(c) the Chargor shall pay all costs incurred by the Chargee relating to any sale, transfer, disposition, dumping or storage of the Chattels by the Chargee;
(d) the Chargee shall have a charge and lien on any stored Chattels for all storage costs relating thereto; and
(e) the Chargor hereby releases and forever discharges the Chargee from any claims, actions, causes of action, damages, losses, costs and expenses relating to any steps taken by the Chargee in respect of the Chattels including discarding and dumping same in a junk yard or otherwise for no consideration.

NO EXPLOITATION

The Chargor acknowledges and declares that the Chargor entered into this Charge freely and of its own will. In particular, the Chargor acknowledges that this Charge was freely negotiated by the Chargor and the Chargee in good faith, that this Charge does not constitute a contract of adhesion, that there was no exploitation of the Chargor by the Chargee, and that there is no disproportion between the consideration provided by the Chargee and that provided by the Chargor.

INDEPENDENT LEGAL REPRESENTATION

The Chargor hereto acknowledges that it has full knowledge of the purpose and essence of this Charge/Mortgage transaction, and that it has been appropriately and independently legally represented in that regard. The Chargor acknowledges and agrees with the Chargee that the Chargee’s solicitors, Fogler, Rubinoff LLP, do not represent the Chargor or provide the Chargor with any legal advice whatsoever. The Chargor acknowledges that the Charge, all supporting security documents and all electronic documents including the Charge, Notice of Assignment of Rents and Acknowledgement and Direction (the “Documents”) and the effect of the Chargee’s solicitors signing any of the electronic documents have been fully explained to the Chargor by its own independent counsel. The Chargor acknowledges that it has fully understood the import of the Documents.

PREPAYMENT PROVISIONS

The Chargor, when not in default hereunder, and having never been in default, shall have the privilege of prepaying the whole or any part of the Indebtedness hereby secured on any banking day without any interest bonus and upon payment of the discharge statement administration fee as herein set out.

(a) if prepayment of any part of the principal sum secured hereunder is made by reason of payment after acceleration upon the occurrence of a default, the Chargor agrees to pay to the Chargee three (3) months' interest on the principal amount prepaid at the rate of interest chargeable hereunder at the time of prepayment as hereinbefore set out and Chargee's legal fees.

(b) If the Indebtedness and any of the other sums which may be due hereunder or under the Security Documents are not repaid on or before the Balance Due Date, then the Chargor agrees to pay to the Chargee in addition to the amounts required to obtain a discharge, three months interest at the rate of interest chargeable hereunder on the principal amount outstanding on the Balance Due Date.

NO IMPROVEMENT

The Chargor warrants that the purpose of this Charge is not to finance an improvement on the Lands. An “**improvement**” when used in this paragraph, shall have the meaning ascribed thereto in the *Construction Act, S.O. 2018*. An improvement means any alteration, addition or repair to any building on the herein described Lands or any construction, erection or installation on the Lands.

INSURANCE RENEWAL

The Chargee shall be entitled to its standard servicing fee for dealing with each cancellation, premium payment or other non-compliance with insurance requirements. In the event that the evidence of continuation of insurance as herein required has not been delivered to the Chargee, the Chargee shall be entitled to its standard servicing fee for each written inquiry which the Chargee shall make to the insurer pertaining to such renewal (or resulting from the Chargor's non-performance of the within covenant). In the event that the Chargee pursuant to the within provision arranges insurance coverage with respect to the Lands and the Improvements, the Chargee in addition to the afore-noted servicing fee shall be entitled to a further servicing fee for arranging the necessary insurance coverage.

APPOINTMENT OF RECEIVER

AT ANY TIME after the Security Documents hereby constituted become enforceable, or the monies hereby secured shall have become payable, the Chargee may from time to time appoint by writing, or apply to a court of competent jurisdiction for the appointment of, a Receiver (which term shall include a receiver and manager) of the Charged Property or any part thereof, with or without Bond, and may from time to time remove the Receiver and appoint another in his stead, and any such Receiver appointed hereunder shall have the following powers (but shall not be limited to such powers):

(a) To take possession of the Charged Property and to collect and get in the same and for such purpose to enter into and upon any lands, premises and Improvements wheresoever and whatsoever and for such purpose to do any act and take any proceedings in the name of the Chargor or otherwise as he shall deem necessary;

(b) To carry on or concur in carrying on the business of the Chargor, and to employ and discharge agents, workmen, accountants and others upon such terms and with such salaries, wages or remuneration as he shall think proper, and to repair and keep in repair the Charged Property and to do all necessary acts and things for the carrying on of the business of the Chargor and the protection of the Charged Property of the Chargor;

(c) To sell or lease or concur in selling or leasing any or all of the Charged Property, or any part thereof, and to carry any such sale or lease into effect by conveying in the name of or on behalf of the Chargor or otherwise; and any such sale may be made either at public auction or private sale as seen fit by the Receiver and any such sale may be made from time to time as to the whole or any part or parts of the Charged Property; and he may make any stipulations as to title or conveyance or commencement of title or otherwise which he shall deem proper; and he may buy or rescind or vary any contracts for the sale of any part of the Charged Property and may resell the same; and he may sell any of the same on such terms as to credit or part cash and part credit or otherwise as shall appear in his sole opinion to be most advantageous and at such prices as can reasonably be obtained therefor and in the event of a sale on credit neither he nor the Chargee shall be accountable for or charged with any monies until actually received;

(d) To make any arrangement or compromise which the Receiver may think expedient in the interest of the Chargee and to consent to any modification or change in or omission from the provisions of this Charge and to exchange any part or parts of the Charged Property for any other property suitable for the purposes of the Chargee and upon such terms as may seem expedient and either with or without payment or exchange of money or regard to the equality of the exchange or otherwise;

(e) To borrow money to carry on the business of the Chargor and to charge the whole or any part of the Charged Property in such amounts as the Receiver may from time to time deem necessary and in so doing the Receiver may issue certificates that may be payable when the Receiver thinks expedient and shall bear interest as stated therein and the amounts from time to time payable under such certificates shall charge the Charged Property in priority to this Charge;

(f) To execute and prosecute all suits, proceedings and actions which the Receiver in his opinion considers necessary for the proper protection of the Charged Property, to defend all suits, proceedings and actions against the Chargor or the Receiver, to appear in and conduct the prosecution and defense of any suit, proceeding or action then pending or thereafter instituted and to appeal any suit, proceeding or action;

(g) To fully manage, develop, operate, lease, construct, deal with agreements, complete, repair, renovate or alter the Charged Property or any part thereof on behalf of the Chargor and to take all such actions as are required in the exercise of such powers including entering into, amending and terminating such contracts and other agreements relating to the Charged Property as are necessary or advisable, in the opinion of the Receiver, and the entering into, renewal, amendment, supplement, or termination of any agreements and leases as the Receiver may deem appropriate in its sole and absolute discretion;

(h) To execute and deliver to the purchaser of any part or parts of the Charged Property, good and sufficient deeds for the same, the Receiver hereby being constituted the irrevocable attorney of the Chargor for the purpose of making such sale and executing such deed, and any such sale made as aforesaid shall be a perpetual bar both in law and equity against the Chargor, and all other persons claiming the Lands or any part or parcels thereof by, from through or under the Chargor, and the proceeds of any such sale shall be distributed in the manner hereinafter provided;

(i) To exercise any powers as may be granted by a court upon such appointment;

AND IT IS AGREED that no purchaser at any sale purporting to be made in pursuance of the aforesaid power or powers shall be bound or concerned to see or inquire whether any default has been made or continued, or whether any notice required hereunder has been given, or as to the necessity or expediency of the stipulations subject to which such sale shall have been made, or otherwise as to the propriety of such sale or regularity of its proceedings, or be affected by notice that no such default has been made or continues, or notice given as aforesaid, or that the sale is otherwise unnecessary, improper or irregular; and notwithstanding any impropriety or irregularity or notice thereof to such purchaser, the sale as regards such purchaser shall be deemed to be within the aforesaid power and be valid accordingly and the remedy (if any) of the Chargor, or of any party claiming by or under it, in respect of any impropriety or irregularity whatsoever in any such sale shall be in damages only.

The net profits of the business of the Chargor and the net proceeds of any sale of the Charged Property or part thereof shall be applied by the Receiver subject to the claims of any creditors ranking in priority to this Charge:

(a) Firstly, in payment of all Costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise by him of all or any of the powers aforesaid including the reasonable remuneration of the Receiver and all amounts properly payable by him;

(b) Secondly, in payment of all Costs, charges and expenses payable hereunder;

(c) Thirdly, in payment to the Chargee of the principal sum owing hereunder;

(d) Fourthly, in payment to the Chargee of all interest and arrears of interest and any other portion of the Indebtedness remaining unpaid hereunder; and

(e) Fifthly, any surplus shall be paid in accordance with the *Mortgages Act* (Ontario) or any order of the Court; provided that in the event that any party claims a charge against all or a portion of the surplus, the Receiver shall make such disposition of all or a portion of the surplus as the Receiver deems appropriate in the circumstances.

The Chargee shall not be liable to the Receiver for his remuneration costs, charges or expenses, and the Receiver shall not be liable for any loss howsoever arising unless the same shall be caused by his own gross negligence or willful default; and he shall, when so appointed, by notice in writing pursuant hereto, be deemed to be the agent of the Chargor for all purposes and the Chargor shall be solely responsible for his acts and defaults and for his remuneration.

The appointment of a Receiver by the Chargee shall not, to the extent permitted by law, incur or create any liability on the part of the Chargee in connection with anything which may be done by any such Receiver or the removal of any such Receiver or the termination of any such Receivership shall not have the effect of constituting the Chargee as a mortgagee in possession in respect of the Charged Property or any part thereof.

PAYMENT OF COSTS

The Chargor shall pay to the Chargee on demand all legal fees payable on a full indemnity basis, Costs and out-of-pocket expenses incurred by any of the Chargee, its agents, officers and employees as herein set forth including costs incurred with respect to:

(a) the Chargee obtaining advice at any time as to its rights and responsibilities under this Charge or any of the instruments and documents comprising the Security Documents or relating thereto or in the event of exercise of any or all of its remedies hereunder or thereunder;

(b) the exercising of any or all of the rights, remedies and powers of the Chargee under this Charge or any of the instruments and documents comprising the Security Documents or relating thereto, or in defending or taking any measures to defend any action, claim, cause of action or in proceedings directly or indirectly relating to the provisions of any such instrument or document;

(c) any or all of the taking of, recovering of possession of any assets or property of the Chargor, or any proceedings taken for the purpose of enforcing any rights or remedies provided in this Charge or in any instrument or document comprising the Security Documents or relating thereto, or any proceedings otherwise taken in relation to any assets or property of the Chargor or subject to the security given by the Chargor to the Chargee, or any proceedings taken by reason of any non-payment or non-performance of the obligations of the Chargor hereunder; and

(d) any appraisals, environmental reports, engineering reports, cost consultants reports, or any other reports obtained at any time by the Chargee relating to the Charged Property.

In the event the Chargor fails to pay any such legal fees, Costs and expenses to the Chargee forthwith upon demand by the Chargee, then the amount of such unpaid legal fees, Costs and expenses shall be secured by this Charge and added to the Indebtedness secured hereunder and shall bear interest at the rate herein set forth.

LIMIT ON RATE OF INTEREST

(a) Adjustment

If any provision of the Commitment, this Charge or any other of the Security Documents would oblige the Chargor to make any payment of interest or other amount payable to the Chargee in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Chargee of interest at a criminal rate (as such terms are construed under the Criminal Code (Canada)), then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in receipt by the Chargee of interest at a criminal rate, such adjustment to be effected, to the extent necessary, as follows:

(i) firstly, by reducing the amount or rate of interest required to be paid hereunder as applicable; and

(ii) thereafter, by reducing any fees, commissions, premiums and other amounts which would constitute interest for purposes of Section 347 of the Criminal Code (Canada), as amended.

(b) Reimbursement

If, notwithstanding the provisions subsection (a) above, and after giving effect to all adjustments contemplated thereby, the Chargee shall have received an amount in excess of the maximum permitted by such subsection, then the Chargor shall be entitled, by notice in writing to the Chargee, to obtain reimbursement from the Chargee of an amount equal to such excess, and pending such reimbursement such amount shall be deemed to be an amount payable by the Chargee to the Chargor.

(c) Calculation

Any amount or rate of interest referred to in this Section shall be determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term of any revolving loan on the assumption that any charges, fees or expenses that fall within the meaning of "interest" (as defined in the Criminal Code (Canada)) shall, if they relate to a specific period of time be prorated over that period of time and otherwise be prorated over the period from the date of this Charge to the maturity date thereof and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Chargee shall be conclusive for the purposes of such determination.

AGREEMENTS IN WRITING

No agreement for modification to the within Charge or to any other of the Security Documents provided to the Chargee, including any renewals hereof or for extension of the time for payment of the Indebtedness due hereunder shall result from, or be implied from, any payment or payments of any kind whatsoever made by the Chargor to the Chargee after the expiration of the Balance Due Date or of any subsequent term agreed to in writing between the Chargor and the Chargee, and that no modification, amendment, at any time to the within Charge or to any security agreement provided to the Chargee or any renewal hereof or extension of the time for payment of any Indebtedness due hereunder shall result from, or be implied from, any other act, matter or thing, save only an express agreement in writing between the Chargor and the Chargee.

CONTINUING SECURITY

Without limiting any other provision hereof, this Charge secures, *inter alia*, a current or running account and any portion of the principal amount may be advanced or readvanced by the Chargee in one or more sums at any future date or dates and the amount of such advances and readvances when so made will be secured by this Charge and be repayable with interest at the interest rate stipulated in this Charge. This Charge will be security for the ultimate balance owing to the Chargee arising from the current and running accounts represented by advances and readvances of the principal amount or any part thereof with interest at the interest rate stipulated in this Charge and all other amounts secured hereby and notwithstanding any change in the amount, nature and form of the loan Indebtedness from time to time. If the whole or any part of the principal amount hereby or other amount secured hereby is repaid, this Charge shall be and remain valid security for any subsequent advance or re-advance by the Chargee to the Chargor until such time as the Chargee has executed and delivered to the Chargor a complete discharge of this Charge. The provisions relating to defeasance contained in Subsection 6(2) of the *Land Registration Reform Act* (Ontario) are hereby expressly excluded from this Charge.

FARM DEBT MEDIATION ACT

The Chargor represents and warrants that it is not a “farmer” within the meaning of the *Farm Debt Mediation Act*, S.C. 1997, c.21 (the “Act”) and covenants and agrees with the Chargee that, in the event that at any time during the term of this Charge the Chargor shall, at the option of the Chargee, become a “farmer” within the meaning of the Act, it shall forthwith provide written notice of this fact to the Chargee.

PAYMENT OF AMOUNTS OWING TO GOVERNMENTAL AUTHORITIES

During the term of the Charge and any renewal or extension thereof, the Chargor and/or the Covenantors will pay when due all amounts owing to any govermental authority which, if unpaid, would give such governmental authority recourse for such amounts ranking in priority to the within Charge or any of the other Security Documents and agreements given by the Chargor to the Chargee in connection with the advance of funds hereunder and the failure to pay any such amount when due will constitute, at the option of the Chargee, a default hereunder.

INSURANCE – ADDITIONAL PROVISIONS

In addition to any other insurance provisions contemplated by this Charge, the Commitment, or the Standard Charge Terms registered as No. 200033, the Chargor will at all times during the term maintain or cause to be maintained the insurance required by the Chargee including, without limitation, the following coverages:

(a) Comprehensive on an all-risks basis, or if applicable, builder’s risk of direct physical loss or damage, including, without limitation, coverage for the foundations of all improvements and flood and earthquake coverage, all on a replacement cost basis with loss payable to the Chargee under an Insurance Bureau of Canada mortgage clause; the policy should allow for the improvements on the Lands to be completed (if applicable), for partial occupancy, and for the Lands to be vacant and unoccupied for a period of at least 30 days;

(b) Comprehensive broad form boiler and machinery insurance covering all pressure vessels (whether fired or unfired), air conditioning and miscellaneous electrical apparatus on the Lands, for an amount satisfactory to the Chargee, with loss payable to the Chargee under a Boiler and Machinery Insurance Association mortgage clause;

(c) Business interruption or rental income loss coverage on a gross profits or rentals form sufficient to cover 100% of the loss of Rents or loss of business income from the business conducted on the Lands for a period of twelve (12) months, based on the greater of actual or projected revenue, in respect of all perils described in (a) and (b) above;

(d) Comprehensive general liability insurance, inclusive of bodily injury, death or property damage or loss, for a minimum amount of $5,000,000.00 per occurrence or such other amount as the Chargee may reasonably request;

(e) Theft of chattels;

(f) Prior to any advance of the principal amount, the Chargor will provide to the Chargee or its solicitors certificates of insurance policies providing the above coverages. The Chargee may have the insurance policies reviewed by a qualified property insurance consultant to ensure the insurance requirements of the Commitment are satisfied;

(g) Evidence of policy renewal or satisfactory replacement must be provided annually at least thirty (30) days before expiry; and

(h) Coverage of such other risks and perils as the Chargee may consider advisable or desirable from time to time.

Although the Chargee reserves the right to insist that all policies be on a “no co-Insurance” basis, the Chargee may consider accepting stated amount co-insurance provided that the Chargor shall at all times maintain a sufficient amount of insurance to prevent the Chargor from becoming a co-insurer under the terms and conditions of the policy.

Each policy shall be in a form and with an insurer satisfactory to the Chargee and will provide that any loss shall be payable to the Chargee as their interest may appear, subject to the standard form of mortgage clauses approved by the Insurance Bureau of Canada. The above referenced policies shall provide that the Chargee shall receive thirty (30) days’ prior written notice of cancellation or material change to the policies. The Chargor will furnish to the Chargee or its solicitors, prior to the advance of any funds, original or certified copies of insurance policies providing the above coverages. Evidence of policy renewal or satisfactory replacement must be provided annually at least (30) days before expiry of the policy.

If the Chargor fails to comply with the insurance obligations herein, the Chargee may take out insurance which it deems adequate, and the Chargor shall pay to the Chargee, on demand, all sums paid for that purpose plus accrued interest up to the reimbursement date at the rate payable hereunder.

In the event of a loss, the Chargor shall immediately advise the Chargee and shall not undertake any repairs or renovations without the consent of the Chargee. The Chargor acknowledges and agrees that any insurance monies received may, at the option of the Chargee, be applied in rebuilding, re-instating, or repairing any building, or be paid to the Chargor, or be applied in the sole discretion of the Chargee, in full or in part against the amounts due hereunder or any part thereof, whether due or not then due, or paid partly in one way and partly in another.

UNDERTAKINGS

In the event that an Event of Default has occurred with respect to any of the terms of any undertakings delivered to the Chargee in consideration of the within Loan, or thereafter or with respect to any covenant contained in these additional provisions and in any of the other Security Documents, such default, at the option of the Chargee, will be an Event of Default under this Charge and entitle the Chargee to all of its remedies hereunder, the Security Documents and at law, including, the acceleration of the Indebtedness without further notice to the Chargor.

AMENDMENT TO STANDARD CHARGE TERMS

Section 24 of Standard Charge Terms 200033 is hereby deleted.

SECURITY FOR INDEBTEDNESS AND OBLIGATIONS

This Charge is given as continuing security for the liability and obligations of the Covenantors to the Chargee pursuant to the Commitment, hereunder, and under all other Security Documents, including without limitation all of the following: (i) all performance and payment obligations of the Covenantors to the Chargee, including payment of the Indebtedness, as provided herein, the Commitment, , or any of the Security Documents; and (ii) all other obligations of the Covenantors to the Chargee, in each case howsoever created, arising or evidenced, whether direct or indirect, joint or several, absolute or contingent, now or hereafter existing, absolute or past, contingent, extended or renewed, material or not, due or to become due, whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether the Covenantors is bound alone or with another or others, including all Indebtedness and amounts due of any kind arising hereunder, the Commitment, or the other Security Documents and all Costs, including any and all advances, costs or expenses paid or incurred by Chargee to protect any or all of the security granted herein, the Commitment, or the Security Documents, to perform any obligations of the Covenantors hereunder, under the Commitment, or under any other Security Documents, and interest at the interest rate set forth herein, on all of the foregoing.

EXPROPRIATION

If the Charged Property or any part thereof shall be expropriated under any Applicable Laws granting the power of expropriation, the Indebtedness remaining unpaid, shall, at the sole option of the Chargee, forthwith become due and payable, together with any prepayment charges provided for herein. In any event, all the proceeds of any expropriation of the Charged Property or any part thereof shall be paid to the Chargee, at its option, in priority to the claims of any other party.

WARRANTIES, REPRESENTATIONS AND COVENANTS

Each Covenantor represents, warrants to and covenants with the Chargee that:

(a) Organization, Power and Authority

Each Covenantor, as applicable, (i) if it is a corporation, is a duly organized and validly existing corporation under the laws of its jurisdiction; (ii) has full power, authority and legal right to own the Charged Property and to carry on its business thereon in compliance with all Applicable Laws and is duly licensed, registered or qualified in all jurisdictions where the character of its undertaking, property and assets or the nature of its activities makes such licensing, registration or qualification necessary or desirable; (iii) has full power, authority and legal right to enter into each of the Security Documents to which it is a party and to do all acts and execute and deliver all other documents as are required to be done, observed or performed by it in accordance with their respective terms; (iv) has taken all necessary action and proceedings to authorize the execution, delivery and performance of the Security Documents to which it is a party and to observe and perform the provisions of each in accordance with its terms; and (v) shall maintain in good standing its existence, capacity, power and authority as a corporation or partnership, as the case may be, and shall not liquidate, dissolve, wind-up, terminate, merge, amalgamate, consolidate, reorganize or restructure or enter into any transaction or take any steps in connection therewith.

The beneficial owner of the Charged Property is a duly declared and validly existing limited partnership under the laws of its jurisdiction; (ii) has full power, authority and legal right to beneficially own the Charged Property and to carry on its business thereon in compliance with all Applicable Laws and is duly licensed, registered or qualified in all jurisdictions where the character of its undertaking, property and assets or the nature of its activities makes such licensing, registration or qualification necessary or desirable; (iii) has full power, authority and legal right to enter into each of the Security Documents to which it is a party and to do all acts and execute and deliver all other documents as are required to be done, observed or performed by it in accordance with their respective terms; (iv) has taken all necessary actions and proceedings to authorize the execution, delivery and performance of the Security Documents to which it is a party and to observe and perform the provisions of each in accordance with its terms; (v) shall maintain in good standing its existence, capacity, power and authority as a partnership, and shall not liquidate, dissolve, wind-up, terminate, merge, amalgamate, consolidate, reorganize or restructure or enter into any transaction or take any steps in connection therewith and (vi) shall not change its name without providing the Chargee with 10 days prior written notice thereof.

(b) Enforceability of Security Documents

The Security Documents executed by each or any Covenantor, constitute valid and legally binding obligations of each Covenantor, enforceable against them in accordance with their terms, and are not subject to any right of recission, right of set-off, counterclaim or defence of any nature or kind. Neither execution and delivery of the Security Documents, nor compliance with the terms and conditions of any of them (i) has resulted or will result in a violation of the constating documents governing any Covenantor, include any unanimous shareholders' agreement, or any resolution passed by the board of directors, shareholders or partners, as the case may be, of any Covenantor, (ii) has resulted or will result in a breach of or constitute a default under Applicable Laws or any agreement or instrument to which any Covenantor is a party or by which any Covenantor or the Charged Property or any part thereof is bound, or (iii) requires any approval or consent of any Person except such as has already been obtained.

(c) Title

The Chargor has good and marketable title in fee simple to the Charged Property free and clear of all Liens except Permitted Encumbrances and the Lien of this Charge. The Chargor is the sole legal owner of the Charged Property. The Chargor shall defend title to the Charged Property for the benefit of the Chargee from and against all actions, proceedings and claims of all Persons. No Person has any option, right of first refusal or other right to acquire the Charged Property or any part thereof or interest therein.

(d) Priority

This Charge and the other Security Documents are and shall be a valid third Lien or Liens on the Charged Property at all times, subject only to the Permitted Encumbrances consented to by the Chargee.

(e) Litigation

No Covenantor has any judgments or orders of any court of tribunal outstanding against it. There is no litigation, administrative proceeding, investigation or other legal action or claims (including any proceeding under any applicable bankruptcy or insolvency laws) pending or, to the knowledge of each Covenantor, threatened, against the Charged Property or any Covenantor, including any dispute between any Covenantor and any governmental authority affecting any Covenantor or the Charged Property. Upon becoming aware of any such matters, the Covenantor shall promptly notify the Chargee of same and shall provide the Chargee with reasonable information in respect thereof as the Chargee may require from time to time, provided that in doing so, the Covenantor shall not be deemed to have cured the fact that its representation set out in this Subsection has become incorrect.

(f) Rights of Way, Easements, Permits, Services and Access

The Chargor has obtained and shall maintain in good standing at all times all rights of way, easements, grants, privileges, licenses, certificates, permits, approval entitlements, franchises and other similar property and rights necessary for the lawful construction, occupancy, operation and use of the Charged Property. The Charged Property has unrestricted and unconditional rights of access to public highways at all existing access points and is served by all services and utilities necessary or convenient to the full use and enjoyment of the Charged Property. All such services and utilities are located in the public highway(s) abutting the Lands, and are connected so as to serve the Charged Property without passing over other property, except to the extent such other property is subject to a perpetual easement for such utility benefiting the Charged Property. All roads necessary for the full utilization of the Charged Property for its current purpose have been completed and dedicated to public use and accepted by all governmental authorities.

(g) Operation and Maintenance

The Chargor shall diligently maintain, use, manage, operate and repair the Charged Property in a good, safe and insurable condition in accordance with all Applicable Laws, and all Property Agreements, any encumbrances on title such as easements, agreements, restrictions and the like so as to preserve and protect the Charged Property and maximize the earnings, incomes, Rents, issues and profits therefrom. The Chargor has complied and will hereafter at all times comply with all of its obligations under the Property Agreements, any encumbrances on title such as easements, agreements, restrictions and the like and all other permitted Liens and agreements relating to the Charged Property. The Chargor shall promptly make all necessary repair and replacements to the Charged Property. All repairs, replacements and work required under the Security Documents, or otherwise, shall be made in a good and workmanlike manner, shall (if applicable) be of equal or better in quality to the original work, shall be free of all Liens and shall comply with all Applicable Laws and Property Agreements. The Chargor shall preserve and keep in full force and effect its corporate status, franchises, rights and privileges under the laws of the jurisdiction of its formation, and all qualifications, licenses and permits applicable to the ownership, use and operation of the Charged Property.

(h) Compliance with Law

The Charged Property, including the construction thereof, complies with all Applicable Laws, any encumbrances on title such as easements, agreements, restrictions and the like and all Property Agreements. The present use and location of the Improvements are legal conforming uses under all Applicable Laws. No Improvements have been made or removed from the Lands since the date of the survey of the Lands and Improvements delivered by the Chargor prior to the Loan advance and such survey accurately shows the location of all Improvements. The Chargor shall not change the use of the Charged Property, abandon the Charged Property, commit or permit any waste on or of the Charged Property, apply for or consent to any public restriction (including any zoning by-law or amendment or minor variance) or private restriction, or permit the removal of any Improvements or Fixtures from the Charged Property (other than a tenant's improvements removable by a tenant in accordance with its Lease).

The Charged Property is free of structural defects, and all building systems contained therein are in good working order and repair subject to ordinary wear and tear. No proceedings have been commenced or, to the Chargor's knowledge are contemplated with respect to the expropriation of all or any portion of the Charged Property or for the relocation of roadways providing access to the Charged Property.

(i) Full and Accurate Disclosure

None of the Security Documents, Property Agreements, representations, warranties, information, and other documents and materials provided by or on behalf of any Covenantor to the Chargee now, heretofore, or hereafter until the repayment in full of the Indebtedness, contains or shall contain any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. No statement of fact now made or shall be made by or on behalf of any Covenantor in this Charge or in any of the other Security Documents contains or shall contain any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. There is no fact presently known to any Covenantor which has not been disclosed to the Chargee which adversely affects, nor as far as any Covenantor can foresee, might adversely affect, the Charged Property or the business, operations or condition (financial or otherwise) of the Chargor.

(j) Financial Statements

The financial statements and net worth statements (if any) delivered by each Covenantor to the Chargee in connection with the Loan are true, correct and accurately reflect in all material respects the financial condition of each Covenantor, and no change, event, or condition has occurred since the date of preparation to the date of the Loan advance which has had, or is reasonably likely to have, a material adverse effect on any of the Covenantors or the Charged Property. Except as disclosed in such financial statements and net worth statements, there are no liabilities (fixed or contingent) affecting the Charged Property or the Chargor. The Chargor shall furnish to the Chargee:

(i) within 15 days before each anniversary date of the Loan advance, a detailed rent roll and detailed operating statement (showing yearly activity and year-to-date) stating operating revenues, operating expenses, operating income and net cash flow for the preceding calendar year; and

(ii) within 120 days after the end of each fiscal year of the Chargor's operation of the Charged Property, the Chargor shall furnish to the Chargee a current (as of the end of such fiscal year) balance sheet, a detailed rent roll and a detailed operating statement stating operating revenues, operating expenses, operating income and net cash flow for each of the Covenantors and the Charged Property, prepared on a review engagement basis and certified by an independent public accountant reasonably satisfactory to the Chargee.

All financial statements shall be in scope and detail reasonably satisfactory to the Chargee and certified by the chief financial representative of the Chargor. All financial statements shall be prepared in accordance with generally accepted accounting principles in Canada in effect on the date so indicated and consistently applied (or such other accounting basis reasonably acceptable for the Chargee). The Chargor shall deliver to the Chargee such additional information regarding the Chargor, its subsidiaries, its business, any Covenantor and the Charged Property promptly after the Chargee's request therefor. The Chargor shall permit the Chargee to examine such records, books and papers of the Chargor which reflect upon its financial condition and the income and expenses of the Charged Property.

The Chargor has filed all federal, provincial and municipal tax returns required to be filed and have paid or made adequate provision for the payment of all federal, provincial and municipal taxes, charges and assessments payable by the Chargor. The Chargor believes that its tax returns properly reflect the income and taxes of the Chargor for the periods covered thereby, subject only to reasonable adjustments required by the Canada Revenue Agency or other applicable tax authority upon audit. As of the date of the Loan advance, the Chargor has no liability (fixed or contingent) for any taxes, surtaxes, duties, rates, and other similar charges or statutory trusts imposed by Applicable Laws or any governmental authority (including all related interest, penalties and fines), except as reflected in its financial statements delivered to the Chargee.

(k) Distributions
No distributions of any kind (including but not limited to dividends, payment of interest or principal on any shareholders loans, or management fees payable to any Borrower entity) shall be permitted to be made to any Borrower entity or any affiliate thereof or any of the respective directors, officers, and shareholders of them during the term of the Loan without the consent of the Chargee, which consent may be unreasonably withheld.

(l) Agreement of Purchase and Sale and Reports

The Chargor shall provide the Chargee with: (i) a copy of any Agreements of Purchase and Sale entered into for the Lands or any part thereof forthwith after entering into same, as well as any amendments and waivers thereto; and (ii) the reports, studies, opinions, audit and the like in respect of the Property as required by the Commitment.

EVENTS OF DEFAULT

Each of the following shall constitute an "Event of Default" under this Charge:

(a) the failure of any of the Covenantors to pay any principal, interest or other amount due under the Security Documents when due, or the Covenantors' failure to pay the Loan at the Balance Due Date, or upon acceleration or otherwise;

(b) any of the Covenantors default in performing or observing any covenant or obligation on its part to be observed and performed in this Charge or in any of the other Security Documents;

(c) any representation or warranty of any Covenantor in any of the Security Documents or in the Loan application and any document or material provided in connection therewith including any financial statement, rent roll or data at any time delivered by or on behalf of any Covenantor in connection with the Loan is or becomes incorrect or misleading in any material respect;

(d) any enforcement action (an "**Enforcement Action**") of any kind is taken by a third party or a subsequent mortgagee including: the commencement of power of sale, foreclosure or other judicial or private sale proceedings, appointing or applying for, or obtaining or consenting to the appointment of, a receiver, a manager or a receiver and manager or other person having similar powers in respect of the Chargor or all or any part of the Charged Property, taking possession or control of all or any part of the Charged Property, giving notice of default, notice of intention to enforce security, or undertaking, commencing, giving notice of or taking any action or proceeding seeking payment or recovery of all or any part of any indebtedness owed to such third party or damages in lieu thereof, or accepting a transfer of any property in lieu of foreclosure, or the exercise of any other rights or remedies available to a creditor under its security or otherwise at law or in equity, including without limitation, the acceleration of debt, or the commencement of any proceedings seeking the dissolution, liquidation, winding up or termination of any Covenantor, or any participation in or any actions in furtherance of the foregoing;

(e) or a resolution is passed or an order is made for the dissolution, liquidation, winding-up or termination of any Covenantor or other cancellation or suspension or its incorporation or termination of its existence;

(f) a decree or order of a court of competent jurisdiction is sought to adjudge any Covenantor a bankrupt or insolvent or any petition is filed seeking the winding-up, reorganization, reconstruction or arrangement of any Covenantor under the CCAA, the BIA or the Winding-Up and Restructuring Act (Canada)(the "**WURA**") or any other bankruptcy, insolvency or analogous laws or issuing sequestration or process of execution against any Covenantor or against all or any part of the assets of any Covenantor or seeking the winding up or liquidation of its affairs, or appointing a trustee, receiver, receiver and manager, interim receiver, custodian, liquidator or other person with similar powers of any Covenantor or all or any part of its assets;

(g) any Covenantor becomes insolvent, commits an act of bankruptcy, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the BIA or any other comparable law, seeks relief under the CCAA, the WURA or any other bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal in bankruptcy, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrator or other person with similar powers of itself or of all or any part of its assets, or files a petition or application or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditor's rights or consents to, or acquiesces in, the filing of such petition;

(h) any party brings an application seeking the appointment of a receiver, receiver-manager or receiver and manager of any Covenantor of any material part of its properties, assets or undertakings, or if any such party is appointed in respect of any Covenantor;

(i) any Person takes any Enforcement Action in respect of the Charged Property or any other property of any Covenantor, or any distress or analogous process is levied upon any Covenantor;

(j) all or any part of the Charged Property becomes subject to any Lien not consented to by the Chargee in writing or if consented to there is default by any Covenantor under any other encumbrances, Liens or security agreements;

(k) a judgment or order for the payment of money due shall have been obtained or entered or any writ of execution, distress, attachment or other similar process shall have been issued or levied against any Covenantor in an amount which, in the opinion of the Chargee could materially and adversely affect the ability of such Covenantor to fulfill its obligation to the Chargee to repay the Indebtedness or under any of the Security Documents;

(l) any fact, circumstance, event, change or effect occurs or arises that, individually or in aggregate with any other facts, circumstances, events, changes, effects or occurrences, has a material adverse effect on (i) the business, assets, liabilities, results of operation or financial condition of any Covenantor or (ii) the condition or value of the Charged Property;

(m) any part of the Charged Property is condemned or expropriated;

(n) if the Charged Property contains a condominium unit and any Covenantor fails to pay any common expenses or special assessments as and when due or fails to observe and comply with the *Condominium Act*, the Condominium Declaration, By-Laws or any rules and regulations of the condominium corporation;

(o) if the Tarion registration of the Chargor or of any other Person having the Tarion registration in respect of the Lands is revoked or cancelled;

(p) if the Chargor or any related entity defaults under any construction contract or any other material agreement related to the Charged Property, including any Property Agreements;

(q) if the Chargor is in breach or default under any of the Permitted Encumbrances; or

(r) any other event of default occurs under any other of the Security Documents.

REMEDIES

In addition to any other remedies contained herein or in any of the other of the Security Documents or as may be available at law or in equity the Chargee shall have the remedies hereinafter set forth.

Acceleration

Upon an Event of Default, the entire Indebtedness shall, at the option of the Chargee in its sole discretion, immediately become due and payable, with interest thereon at the Interest Rate to the date of actual payment thereof, all without notice, presentment, protest, demand, notice of dishonour or any other demand or notice whatsoever, each of which are hereby expressly waived, and all the Chargee's rights and remedies under this Charge, the other Security Documents, and otherwise at law and in equity shall immediately become enforceable.

Power of Sale

Upon the Chargee's rights and remedies hereunder becoming enforceable for at least fifteen (15) days, on at least thirty-five (35) days notice in writing given to the Chargor, the Chargee may enter on and lease or sell the Charged Property or any part thereof by public auction or private sale and on such terms as to credit and otherwise as may appear to it most advantageous, and for such price as can be reasonably obtained therefor. Such notice shall be given to such persons and in such manner and form and within such time as provided in the *Mortgages Act*. The Chargee shall be entitled to buy in or rescind or vary any contract for sale of any of the Charged Property, and resell without being answerable for any loss occasioned thereby. In the case of a sale on credit, the Chargee shall only be accountable for monies actually received in cash as and when so received. For such purposes, the Chargee may make and execute all agreements and assurances which it shall think fit. The purchaser shall in no case be bound to enquire whether notice of intention to sell has been given or default made, or otherwise as to the regularity or validity of any sale made hereunder, and any sale by the Chargee shall be valid as regards the purchaser and shall not in any way be affected thereby. The Chargee shall be entitled to apply the proceeds of any sale hereunder first in payment of all Costs, charges and expenses incurred in respect of such sale, as more particularly described below, and secondly in payment of all amounts of interest and principal owing hereunder, in such order as the Chargee may select. If any surplus remains after the Chargee has fully satisfied its claims, such surplus shall be paid to the party then entitled by law to receive such surplus, or into court. The powers conferred on the Chargee hereunder are in addition to and not in limitation of any other rights or powers of the Chargee under this Charge, or at law or in equity.

The costs of any sale proceedings or other Enforcement Action hereunder, whether such sale proves abortive or not, including all commissions and other fees payable to real estate agents and brokers in connection with any such sale, and all Costs, charges and expenses (including, without limitation, legal fees on a full indemnity basis) incurred in respect of the Charged Property, which the Chargee shall be entitled to do, or in taking, recovering or keeping possession of the Charged Property, or in enforcing the remedies of the Chargee under this Charge, or by reason of non-payment or in procuring payment of the monies hereby secured, shall be added to the Indebtedness and bear interest at the Interest Rate provided for in this Charge as well after as before maturity, and shall be a charge on the Charged Property and shall be payable immediately with interest as aforesaid, and in default of payment, may be paid from the proceeds of any sale of the Charged Property.

Possession

Upon the Chargee's rights and remedies hereunder becoming enforceable, the Chargee may enter into and take possession of the Charged Property and shall be entitled to:

(a) have, hold, use, occupy, possess and enjoy the Charged Property without let, suit, hindrance, interruption or denial of the Chargor or any other Person;

(b) maintain, repair and complete the construction of the Improvements;

(c) inspect, manage, take care of, collect Rents and lease the Charged Property or any part thereof for such terms and for such Rents (which may extend beyond the Balance Date) and on such conditions and provisions (including providing any leasehold improvements and tenant inducements) as the Chargee may determine in its sole discretion, which Leases shall have the same effect as if made by the Chargor; and

(d) pay from the Rents received all expenses of maintaining, preserving, protecting and operating the Charged Property, making any additions and replacements thereto and all charges payment of which may be necessary to preserve or protect the Charged Property and the Chargee shall have and enjoy and may exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including without limitation power to advance its own monies at the interest rate chargeable hereunder and to enter into contracts and undertake obligations for the foregoing purposes upon security hereof,

and all Costs, charges and expenses incurred by the Chargee in the exercise of such rights (including allowances for the time, service or effort of any person appointed by the Chargee for the above purposes, and all legal fees and disbursements incurred and all commissions and other fees payable to real estate agents and brokers in connection with any lease), together with interest thereon at the interest rate chargeable hereunder, shall be payable forthwith by the Chargor to the Chargee, and until paid shall be added to the Indebtedness and shall be secured by this Charge. Each lease or renewal of lease made by the Chargee while in possession of the Charged Property shall continue for its full term notwithstanding the termination of the Chargee's possession. The Chargee shall not be liable for any loss or damage sustained by the Chargor or any other person resulting from any lease entered into by the Chargee, any failure to lease the Charged Property, or any part thereof, or from any other act or omission of the Chargee or any receiver in managing the Charged Property, nor shall the Chargee be obligated to perform or discharge any obligation or liability of the Chargor under any Lease, Security Documents or otherwise at law or in equity.

Exercise Rights of Chargor; Distraint

Upon the Chargee's rights and remedies hereunder becoming enforceable, the Chargee shall have, enjoy and exercise of all the powers and rights of and enjoyed by the Chargor with respect to the Charged Property or incidental, ancillary, attaching or deriving from the ownership by the Chargor of the Charged Property, including without limitation the powers of the receiver hereinbefore set out and the power to enter into agreements, to grant or agree to mortgages and other encumbrances, and to grant or reserve easements, rights-of-way, rights in the nature of easements and licences, in each case over or pertaining to the whole or any part of the Charged Property. If the Chargor shall make default in payment of any part of the interest payable under this Charge at any of the dates or times fixed for payment thereof, it shall be lawful for the Chargee to distrain therefor upon the Charged Property or any part thereof, and by distress warrant, to recover by way of rent reserved, as in the case of a demise of the Charged Property, so much of such interest as shall from time to time be or remain in arrears and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent. The Chargee may distrain for arrears of principal or other monies owing hereunder in the same manner as if the same were arrears of interest.

Chargee’s Right to Perform Obligations

If the Chargor shall fail, refuse or neglect to make any payment or perform any act required by the Security Documents, then while any Event of Default exists, and without notice to demand upon the Chargor and without waiving or releasing any other right, remedy or recourse the Chargee may have because of such Event of Default, the Chargee may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of the Chargor, and shall have the right to enter upon the Charged Property for such purpose and to take all such action thereon and with respect to the Charged Property as it may deem necessary or appropriate. If the Chargee shall elect to pay any sum due with reference to the Charged Property, the Chargee may do so in reliance on any bill, statement or assessment procured from the appropriate governmental authority or other issuer thereof without inquiring into accuracy or validity thereof. Similarly, in making any payments to protect the security intended to be created by the Security Documents, the Chargee shall not be bound to inquire into the validity of any apparent or threatened adverse title, lien, encumbrance, action, claim or charge before making an advance for the purpose of preventing or removing the same. The Chargor shall indemnify the Chargee for all Costs, losses, expenses, damages, claims and causes of action, including legal fees (on a full indemnity basis), incurred or accruing by reason of any acts performed by the Chargee pursuant to these provisions. All sums paid by the Chargee pursuant to this section, and all other sums expended by the Chargee to which it shall be entitled to be indemnified, together with interest thereon at the interest rate charged herein from the date of such payment or expenditure until paid, shall be added to the Indebtedness, shall be secured by the Security Documents and shall be paid by the Chargor to the Chargee upon demand.

Concurrent Remedies

The Chargee may exercise all remedies provided for in this Charge or otherwise at law or in equity concurrently or in such order and at such times as it may see fit and will not be obligated to exhaust any right or remedy before exercising any of its other rights or remedies pursuant to any other provisions contained in this Charge, any other Security Documents or otherwise at law or in equity.

Remedies Cumulative

For greater certainty, it is expressly understood and agreed that the rights and remedies of the Chargee hereunder or under any other of the Security Documents or instruments executed pursuant to the Commitment are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity, and any single or partial exercise by the Chargee of any right or remedy for a default or breach of any term, covenant, condition or agreement contained herein, in the Security Documents or other documents or instruments executed pursuant to the Commitment shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Chargee may be lawfully entitled for such default or breach. Any waiver by the Chargee of the strict observance, performance or compliance with any term, covenant, condition or other matter contained herein, in the Security Documents or other documents or instruments executed pursuant to the Commitment or the Security Documents and any indulgence granted, either expressly or by course of conduct, by the Chargee shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Chargee hereunder, in the Security Documents or other documents or instruments executed pursuant to the Commitment as a result of any other default or breach hereunder or thereunder. In the event of a conflict or inconsistency between the application of any of the rights and remedies contained herein and the application of any of the rights or remedies of any of the other Security Documents, the provisions giving the Chargee the greater rights or remedies shall govern (to the maximum extent permitted by applicable law), it being understood that the purpose of this Charge and any of the other Security Documents is to add to, and not detract from, the rights granted to the Chargee under the Security Documents. The Chargee in its exercise of its rights and remedies may proceed to exercise any and all rights hereunder, under the Security Documents, and as available at law and no such remedy for the enforcement of the rights of the Chargee shall be exclusive of, or dependent on, any other remedy, but any one or more of such remedies may from time to time be exercised independently or in combination.

Judgments

The taking of a judgment or judgments against the Chargor or any of the other Covenantors for breach of its obligations contained in this Charge or any other Security Document will not merge or extinguish such obligations or affect the Chargee's rights to interest on the Indebtedness at the interest rate chargeable hereunder. Any such judgment may provide that interest thereon will be computed at the interest rate chargeable hereunder until such judgment is fully paid and satisfied.

Extension of Time and Waiver

Neither any extension of time given by the Chargee to the Chargor or any of the other Covenators or any person claiming through the Chargor, nor any amendment to this Charge or other dealing by the Chargee with a subsequent owner of the Charged Property will in any way affect or prejudice the rights of the Chargee against the Chargor or any other Covenantor or other persons liable for payment of the Indebtedness. The Chargee may waive any Event of Default in its sole discretion. No waiver will extend to a subsequent Event of Default, whether or not the same as or similar to the Event of Default waived, and no act or omission by the Chargee will extend to, or affect, any subsequent Event of Default or the rights of the Chargee arising from such Event of Default. Any such waiver must be in writing and signed by the Chargee. No failure on the part of the Chargee or the Chargor to exercise, and no delay by the Chargee or the Chargor in exercising, any right pursuant to this Charge will operate as a waiver of such right. No single or partial exercise of any such right will preclude any other or further exercise of such right.

No course of dealing on the part of the Chargee, its officers, employees, consultants or agents, nor any failure or delay by the Chargee with respect to exercising any right, power or privilege of the Chargee under any of the Security Documents, shall operate as a waiver thereof. No waiver of any provision of the Security Documents shall be effective unless in writing and signed by the party against whom enforcement is sought.

Release

The Chargee may release in its discretion and at any time any of the Covenantors or any part or parts of the Charged Property from all or any part of the Indebtedness or the security either with or without any consideration and without releasing any other part of the Charged Property or any other of the Covenantors or other person from this Charge, any of the other Security Documents or from any of the covenants contained in this Charge or any of the other Security Documents, and without being accountable to the Chargor for the value of the Charged Property released or for any money except that actually received by the Chargee. Every part or lot into which the Charged Property is or may hereafter be divided will stand charged with the entire Indebtedness. The Chargee may grant time, renewals, extensions, indulgences, releases and discharges, may take securities from and give the same up, may abstain from taking securities from or from perfecting securities, may accept compositions and proposals, and may otherwise deal with the Chargor and all of the other Covenantors and securities as the Chargee may see fit without prejudicing the rights of the Chargee under the Loan or the Security Documents.

MISCELLANEOUS

General Indemnity

The Chargor shall protect, defend, indemnify and save harmless the Chargee its shareholders, directors, officers, employees and agents from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including without limitation reasonable legal fees and expenses), imposed upon or incurred by or asserted against the Chargee by reason of (a) ownership of the Charge, the Charged Property or any interest therein or receipt of any Rents; (b) any accident, injury to or death of persons or loss of or damage to the Charged Property occurring in, on or about the Charged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent Charged Property or adjacent parking areas, streets or ways; (c) any use, non-use or condition in, on or about the Charged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent Charged Property or adjacent parking areas, streets or ways; and (d) performance of any labour or services or the furnishing of any materials or other property in respect of the Charged Property or any part thereof. Any amounts payable to the Chargee by reason of the application of this section shall become immediately due and payable and shall bear interest at the interest rate charegeable hereunder from the date loss or damage is sustained by the Chargee until paid.

Time of the Essence

Time is of the essence with respect to this Charge.

Waivers

No course of dealing on the part of the Chargee, its officers, employees, consultants or agents, nor any failure or delay by the Chargee with respect to exercising any right, power or privilege of the Chargee under the any of the Security Documents, shall operate as a waiver thereof. No waiver of any provision of the Security Documents shall be effective unless in writing and signed by the party against whom enforcement is sought.

Governing Law

This Charge and the Security Documents shall be governed by and interpreted and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein (other than the conflict of laws rules) and shall be treated in all respects as an Ontario contract, and the Covenantors hereby attorn to such jurisdiction and irrevocably agree that all actions and proceedings may be heard and determined in such courts and irrevocably waive the defence of an inconvenient forum.

Successors and Assigns

This Charge shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors and permitted assigns of the parties hereto. This Charge may be assigned by the Chargee at any time without prior notice to or consent of the Chargor.

Currency

All dollar references in this Charge, other than the amount of the Loan expressed in Hong Kong Dollars, namely, $26,279,223.54HK, are expressed in Canadian dollars.

Obligations as Covenants

Each obligation of the Covenantors expressed in this Charge or in any of the Security Documents, even though not expressed as a covenant, is deemed for all purposes to be a covenant made with the Chargee.

Land Registration Reform Act

The Parties hereby exclude from this Charge all of the covenants deemed to be included by section 7(1) of the Land Registration Reform Act (Ontario) (the “Act”), which covenants are hereby replaced by the covenants and agreements contained herein.

Electronic Imaging

The parties hereto agree that, at any time, the Chargee may convert paper records of the Security Documents and all other documentation delivered to the Chargee (each, a **“Paper Record”)** into electronic images (each, an **“Electronic Image”**) as part of the Chargee’s normal business practices. The parties agree that each such Electronic Image shall be considered as an authoritative copy of the Paper Record and shall be legally binding on the parties and admissible in any legal, administrative or other proceeding as conclusive evidence of the contents of such document in the same manner as the original Paper Record.

Severability

If any one or more of the provisions contained in this Charge shall for any reason be held by a court or competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Chargee, be severable from and shall not affect any other provision of this Charge, but this Charge shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Charge.

NO RELEASE OF COVENANTS UPON PARTIAL DISCHARGE OF MORTGAGE

In the event that one of the properties secured hereunder is partially discharged by the Chargee, such partial discharge shall not release the owner of such discharged property from his/her/its/their its covenants, including the covenant to pay the Indebtedness, contained in this Charge or in any of the other Security Documents which shall remain in full force and effect until the Indebtedness is repaid in full. This clause shall not confer any rights to the Chargor to obtain a partial discharge of this Charge except as may be otherwise set forth in this Charge.

FOREIGN SERVICE

The Chargor hereby irrevocably appoints and authorizes Miller Thomson LLP, its successors and assigns, or any other member of any firm Miller Thomson is associated with (the “Firm”) as the Chargor’s authorized representative and agent for the purposes of service of all notices, documents, proceedings and originating process. Service upon the Firm for any proceeding shall be deemed to be service upon the Chargor in compliance with Rule 16.02(1) (c) and 16.02 (1) (e) of the Rules of Civil Procedure, as amended, supplemented or replaced from time to time. In addition, the Chargor may be served at any principal place of business in Ontario or any agent for service that the Chargor has designated in any filing with the Province of Ontario.

Electronic Execution: The words “execution,” “signed,” “signature,” and words of like import in the Security Documents shall be deemed to include electronic signatures (including by DocuSign) or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Law, including Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Commerce Act, 2000* (Ontario) and other similar federal or provincial laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada or its Uniform Electronic Evidence Act, as the case may be. The parties hereto agree to close the within transaction with all Security Documents to be delivered with electronic signatures (including by DocuSign).

DEVELOPMENT CONSENT

1. The Chargee shall upon request of the Chargor execute and deliver without payment on account of principal or interest such partial discharge or discharges as may be required by governmental authorities or agencies for any lands required for municipal and/or governmental purposes, conservation authority or water resource commission, in order to obtain a building permit(s) or approval(s) for development or redevelopment of the Lands and without limiting the generality of the foregoing for such public purposes as one-foot reserves, easements and rights-of-ways etc. Provided that the Chargor shall pay the Chargee’s discharge administration fee and its solicitors’ legal fees.

2. The Chargee shall execute upon request and without payment on account of principal, plans and other material necessary to enable the Chargor to develop the Charged Property and will otherwise give such postponement as the Chargor shall require in such development, including but not limiting the generality of the foregoing:

(a) Engineering, financial and subdivision agreements required by the Governmental Authority to be executed by the Chargee, provided however that the Chargee shall not be required to undertake or assume any financial or other obligation and Chargor shall pay Chargee's legal costs in this regard; and

(b) In the event that the Chargor is required to grant easements and or real property to any municipal or regional authorities or public or private utility commission for the supply or installation of gas services, telephone or cable services, electrical services, water, sewers or similar services in order to service the real property mortgaged herein, the Chargee shall execute and deliver forthwith without delay and without payment on account of principal nor interest, any consent or postponement required for such grants, provided however that the Chargee shall not be required to undertake or assume any financial or other obligation and Chargor shall pay Chargee's legal costs in this regard;

3. The Chargor, its agents, employees or contractors may conduct servicing excavating building operations upon the Lands including without limiting the generality of the foregoing, surveying, grading, excavation, installation of services and all acts incidental to the development of the Lands at any time and from time to time and without payment and without the same being deemed acts of waste.

ADVANCES

Notwithstanding anything to the contrary contained herein, the Security Documents or in any prior or subsequent oral or written agreement between the parties, the parties hereto hereby covenant, agree and acknowledge that neither the delivery of the Commitment by the Chargee to the Chargor, nor the execution, nor the registration of this Charge nor the advancement in part of the monies hereby secured shall bind the Chargee in law or in equity thereof to make further advances, but that the advance of the monies hereby secured or any part thereof is to be made from time to time, in such manner and at such time and in such amounts as the Chargee in its sole and subjective discretion may from time to time determine and it is to be clearly understood that the Chargee is not bound to make any advance hereunder or under the Commitment and may at any time refuse to make any advances hereunder.

This is Exhibit “15” referred to in the Affidavit of Wesley Roitman sworn by Wesley Roitman at the City of Toronto, in the Province of Ontario, before me on July 19 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

DAVID P. PREGER

Properties

PIN	03055 - 0002 LT
Description	PT LT 30 CON 4 MARKHAM AS IN R614168 EXCEPT EXPROP PL MA49271 ; MARKHAM
Address	3143 19TH AVE MARKHAM

Source Instruments

Registration No.	*Date*	*Type of Instrument*
YR3083072	2020 03 26	Charge/Mortgage

Transferor(s)

This transfer of charge affects all lands that the charge is against which are outstanding.

Name	F A CREDIT SOLUTIONS CANADA INC.
Address for Service	3220 Dufferin Street, Unit 3 Toronto, Ontario M6A 2T3

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

This document is not authorized under Power of Attorney by this party.

Transferee(s) *Capacity* *Share*

Name	SOW CAPITAL ONTARIO LIMITED
Address for Service	650-999 West Broadway Vancouver, BC V5Z 1K3

Statements

The chargee transfers the selected charge for $2,120,219.41

The chargee transfers 40% for F A Credit Solutions Canada Inc. of the selected charge.

This document relates to registration number(s)YR3083073 and YR3300382

Signed By

Brenda Lee	4168 Finch Avenue East PH06 Toronto M1S 5H6	acting for Transferor(s)	Signed	2022 01 27

Tel 416-292-8863

Fax 416-292-8823

I have the authority to sign and register the document on behalf of the Transferor(s).

Wanda Alanna Menes	40 King Street West, Suite 5800 Toronto M5H 3S1	acting for Transferee(s)	Signed	2022 01 27

Tel 416-595-8500

Fax 416-595-8695

I have the authority to sign and register the document on behalf of the Transferee(s).

Submitted By

MILLER THOMSON	40 King Street West, Suite 5800 Toronto M5H 3S1	2022 01 27

Tel 416-595-8500

Fax 416-595-8695

Fees/Taxes/Payment

Statutory Registration Fee	$66.30
Total Paid	$66.30

File Number

Transferor Client File Number :	13109-MK
Transferee Client File Number :	221269.4 (LS/WM)

Court File No. CV-23-00703161-00CL
Court of Appeal File No. COA-23-CV-1129

ROMSPEN INVESTMENT CORPORATION -and- **TUNG KEE INVESTMENT CANADA LTD. et al.**
Applicant Respondents

COURT OF APPEAL FOR ONTARIO

MOTION RECORD OF THE MOVING PARTY, ERNST & YOUNG INC.
[Volume 1 of 4]

BLANEY McMURTRY LLP
Barristers & Solicitors
2 Queen Street East, Suite 1500
Toronto ON M5C 3G5

Eric Golden (LSO #38239M)
(416) 593-3927 (Tel)
Email: egolden@blaney.com

Chad Kopach (LSO #48084G)
(416) 593-2985 (Tel)
Email: ckopach@blaney.com

Lawyers for the Court-appointed Receiver,
Ernst & Young Inc.