

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED, SECTION 13(2) OF THE *JUDICATURE ACT*,
R.S.A. 2000, C. J-2, AS AMENDED AND SECTION 99(a) OF THE *BUSINESS*
CORPORATIONS ACT, R.S.A. 2000, c. B-9, AS AMENDED

AND IN THE MATTER OF CONCRETE EQUITIES INC., WEALTHCRETE
INVESTMENT CORPORATION, CONCRETE ASSOCIATES INVESTMENT
CORPORATION, CONCRETE ASSOCIATES INVESTMENT II CORPORATION,
CONCRETE ASSOCIATES INVESTMENT III CORPORATION, CONCRETE
ASSOCIATES INVESTMENT IV CORPORATION, CONCRETE ASSOCIATES
INVESTMENT V CORPORATION, EL GOLFO INVESTMENT CORPORATION,
COSTA KORAAL INVESTMENT CORPORATION, LUNA MORADA INVESTMENT
CORPORATION, CONCRETE EQUITIES EXECUTIVE CLUB INC., 1456775
ALBERTA LTD. and CONCRETE PLACE PROPERTIES LTD.

BEFORE THE HONOURABLE
JUSTICE K.M. HORNER
IN CHAMBERS

) At the Court House, in the City of Calgary, in
) the Province of Alberta, on Monday, the 12th
) day of April, A.D. 2010

I hereby certify this to be a true copy of
the original Order
Dated this 12 day of April, 2010
Dampier
for Clerk of the Court

ORDER

UPON THE APPLICATION of Ernst & Young Inc. in its capacity as Receiver and Manager and Monitor (collectively, the "Monitor") of Concrete Associates Investment Corporation as General Partner of Safeguard Real Estate Fund II Limited Partnership (the "Applicant"); AND UPON reading the Affidavit of Brian Newman, filed; AND UPON reading the Fifth Report of the Monitor, filed; AND UPON hearing counsel for the Monitor and counsel present for other parties; AND UPON it appearing that the Applicant is in critical need of financing in order to replace the Chiller unit on the SNC Lavalin building; AND UPON it appearing that The Standard Life Assurance Company of Canada has agreed to provide a loan to the Applicant to assist it in purchasing and installing a Chiller unit;

IT IS HEREBY ORDERED AS FOLLOWS:

1. Service of the Notice of Motion and materials in support thereof is hereby abridged to the date of actual service and service, including the manner of service of the application materials, is

hereby approved and validated, the application is properly returnable today and further service of the Notice of Motion, other than to those listed on the Service List attached to the Notice of Motion, is hereby dispensed with.

2. Unless otherwise defined herein all capitalized terms shall have the same meaning as in the Initial Order granted in these proceedings on July 29, 2009.

DIP FINANCING

3. The Applicant is hereby authorized and empowered to borrow from The Standard Life Assurance Company of Canada (the "DIP Lender"), up to a maximum of \$315,000 CDN (the "DIP Loan"), to fund the purchase and installation of a new Chiller unit (the "Chiller") on the SNC Lavalin building, municipally described as 909 – 5th Avenue S.W., Calgary, Alberta (the "SNC Building"), on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the DIP Lender dated as of April 8, 2010 (the "Commitment Letter") attached as Schedule "A" to this Order.

4. All of the Applicant's present and future movable and immovable property, corporeal and incorporeal assets, undertaking and all proceeds derived directly or indirectly therefrom are hereby charged in favour of the DIP Lender (the "DIP Charge") as security for the repayment of the DIP Loan, together with interest, fees, charges and other amounts payable in respect thereof and this Court orders that the Applicant is hereby authorized and directed to execute and deliver in favour of the DIP Lender all such security as may be contemplated or required by the DIP Lender, charging all of the present and future property, assets and undertaking of the Applicant (such security documents collectively referred to herein as the "DIP Security") and the DIP Lender is hereby authorized to take such steps as it deems necessary or appropriate to register, record or perfect the DIP Security.

5. Notwithstanding the Initial Order granted herein on July 29, 2009 and the Amended and Restated Receivership Order granted herein on December 14, 2009, the DIP Charge and DIP Security shall, with respect to the present and future movable and immovable property, corporeal and incorporeal assets, undertaking and all proceeds derived directly or indirectly therefrom of the Applicant, rank in priority to all interests, charges and encumbrances in favour of any other creditors of the Applicant, including but not limited to:

- (a) the Receiver's Charge;
- (b) the Receiver's Borrowing Charge;
- (c) the Administration Charge;
- (d) the New Inter-company Advances Charge; and
- (e) the Directors' Charge.

6. Notwithstanding the pendency of these proceedings and the declarations of insolvency made herein, the pendency of any petitions for receiving orders hereafter issued pursuant to the *Bankruptcy and Insolvency Act* in respect of the Applicant, any receiving orders pursuant to any petitions and the provisions of any federal or provincial statute:

- (a) the obligations of the Applicant pursuant to the DIP Loan, DIP Charge and DIP Security and all documents delivered pursuant thereto constitute legal, valid and binding obligations of the Applicant enforceable against it in accordance with the terms thereof; and
- (b) the payments made by the Applicant pursuant to such documents, whether made before, on or after the date of this Order and the granting or assignment of the security constituted by the DIP Charge and DIP Security, to not constitute fraudulent preferences or other challengeable or reviewable transactions under any applicable law.

7. The DIP Loan, DIP Charge and DIP Security shall be deemed to be valid and effective notwithstanding any negative covenants, prohibitions or other similar provisions with respect to incurring debt or the creation of liens or security contained in any existing agreement between the Applicant and any party and that, notwithstanding any provision to the contrary in such agreements:

- (a) neither the creation of the DIP Charge nor the execution, delivery, assignment, perfection or registration of the DIP Security, shall create or be deemed to constitute a breach by the Applicant of any agreement to which they are parties;
- (b) the DIP Lender and the directors of the Applicant shall have no liability to any person whatsoever as a result of any breach of any agreement caused by or resulting from the Applicant entering into the DIP Loan, the creation of the DIP Charge or the execution, assignment and delivery of the DIP Security;

- (c) the DIP Lender shall be treated as an unaffected creditor in these proceedings with regard to the DIP Loan, DIP Charge and DIP Security, but the exercise of any remedies by the DIP Lender arising under the DIP Charge and the DIP Security upon default of the Applicant under the DIP Loan or DIP Security and documents delivered pursuant thereto shall be stayed pursuant to the Initial Order, except as provided in the Commitment Letter.

71 For greater clarity, in the event the property is sold or refinanced, the DIP Loan shall be paid in priority to the loan of Standard Life. KX

8. The filing, registration or perfection of the DIP Charge or the DIP Security shall not be required, and the DIP Charge shall be valid and enforceable for all purposes as of the date of this Order, including, but not limited to as against any right, title or interest filed, registered, recorded or perfected subsequent to the DIP Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

Haven Hermer

J.C.Q.B.A.

ENTERED THIS 12 DAY OF
APRIL, A.D. 2010.

M. Ausland

CLERK OF THE COURT





SCHEDULE "A"

COMMITMENT LETTER

This Commitment Letter dated as of April 8, 2010.

WHEREAS The Standard Life Assurance Company of Canada ("Lender") has agreed to provide to Concrete Associates Investment Corporation, for itself and in its capacity as General Partner of Safeguard Real Estate Investment Fund II Limited Partnership (collectively, the "Debtor") funding in order to assist with certain anticipated capital and operating expenditures of the Debtor in the context of Debtor's proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA") and in accordance with the terms set out herein.

NOW THEREFORE the parties, in consideration of the foregoing and the mutual covenants herein contained, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

1. DIP Facility

Lender shall make available to the Debtor a credit facility to a maximum amount of \$315,000, to provide funds for the capital and operating expenditures necessary to purchase and install the new Chiller Unit required at the property municipally described as 909 – 5th Avenue S.W., Calgary, Alberta (the "Chiller Program" and the "Lands", respectively) while the Debtor is under CCAA protection (the "DIP Facility"). The Debtor agrees that at no time shall the principal amount owing under the DIP Facility exceed \$315,000 and that Lender shall have no obligation to honour any request for funds which would have the effect of making the principal amount owing exceed such limit.

2. Maturity Date

The DIP Facility shall be due and payable on the earlier of:

- i. July 30, 2010;
- ii. the date of the termination of the Stay Period as that term is defined in paragraph 14 of the Initial Order granted on July 30, 2009 in Action No. 0901-11048 (the "Stay Period", the "Initial Order" and the "CCAA Proceedings", respectively); and
- iii. such date upon which there occurs an Event of Default as that term is defined below;

(the earliest such date being the "Maturity Date").

The Maturity Date may be extended at the request of the Debtor with the consent of Lender for such period and on such terms as the Debtor and Lender may agree and as the Court of Queen's Bench of Alberta (the "Court") in the Debtor's CCAA Proceedings may approve.

The commitment in respect of the DIP Facility shall expire on the Maturity Date and all amounts outstanding under the DIP Facility shall be repaid in full no later than the Maturity Date without Lender being required to make demand upon the Debtor therefor or to give notice to the Debtor that the DIP Facility has expired and that the obligations are due and payable.

3. Interest

The Debtor agrees to pay interest ("Interest") on amounts drawn under the DIP Facility, both before and after the Maturity Date, at a rate of 12.5% per annum.

Interest on amounts drawn under the DIP Facility shall be payable monthly in arrears on the last business day of each month. Such Interest shall constitute an advance under the DIP Facility, to the extent that a payment is not made. Interest shall be calculated and compounded monthly for the actual number of days elapsed in the period during which it accrues based on a year of 365 days. For the purposes of the *Interest Act*, (Canada) the yearly rate of interest to which the rate is equivalent is the rate multiplied by the number of days in the year for which the calculation is made and divided by 365.

Notwithstanding paragraph 1 hereof, if at any time amounts advanced or outstanding under the DIP Facility exceed such limit, and such excess is permitted by Lender in its sole discretion, such excess shall bear Interest at a rate of interest equal to all other funds advanced.

4. Use of Funds

The DIP Facility shall be used solely for the purpose of carrying out the Chiller Program at the Lands while the Debtor is under CCAA protection.

5. Administration Fee

The Debtor shall pay to Lender, on the Maturity Date, an administration fee in the amount of \$10,000 (the "Administration Fee"). The Administration Fee shall constitute an advance under the DIP Facility as at the date the DIP Order (as defined below) is granted, and Interest shall accrue thereon from that date.

6. Monthly Commitment Fee

The Debtor shall pay to Lender an amount equal to 12.5% per annum of the undrawn portion of the DIP Facility determined on a daily basis, payable to Lender monthly in arrears on the third business day of each month of the term of the DIP Facility, with the final such payment to be calculated and paid on the Maturity Date, calculated from the date of the DIP Order.

7. Costs

On the Maturity Date, the Debtor shall pay to Lender all reasonable fees and disbursements of Lender and its legal and financial advisors engaged by it in connection

with the preparation, negotiation, execution, delivery, administration, interpretation or enforcement of this Commitment Letter and the DIP Charge (as hereafter defined) and in the case of legal costs, such costs shall be charged by Lender to the Debtor on a solicitor and his own client basis.

8. DIP Security

All obligations of the Debtor under or in connection with the DIP Facility shall be secured by a Court-ordered charge over all of the Debtor's assets, property and undertaking (including but not limited to the Lands), and ranking in priority to all other charges and encumbrances thereon (the "DIP Charge"), in a form satisfactory to the Lender.

9. Repayments

All monies received by Lender in repayment of amounts owing under the DIP Facility, whether by way of debit as aforesaid or otherwise, may be applied and allocated by Lender to such parts of the outstanding DIP Facility, whether by principal, interest, fees or other costs, as Lender determines in its sole discretion.

10. Conditions Precedent

The DIP Facility shall be made available by Lender to the Debtor upon:

- i. the Court granting an Order in a form acceptable to Lender and substantially on the terms attached hereto and marked as Schedule "A" (the "DIP Order").

Notwithstanding the foregoing, the DIP Facility shall not be made available to the Debtor or may be cancelled by Lender if previously made available to the Debtor, if:

- i. the Initial Order or the DIP Order is vacated, stayed or otherwise caused to become ineffective or is amended in a manner not acceptable to Lender, or
- ii. an Event of Default has occurred and is continuing.

11. Additional Conditions Precedent

Prior to the making of any advance under the DIP Facility:

- a. Lender shall be satisfied that the Debtor has complied with and is continuing to comply in all material respects with all applicable laws, regulations and policies in relation to its business; and
- b. Lender shall be satisfied that there are no liens, charges or encumbrances ranking in priority to the DIP Charge, unless expressly agreed to by Lender.

12. Representations and Warranties

The Debtor represents and warrants to Lender that the transactions contemplated by this Commitment Letter and the DIP Facility, including the DIP Charge:

- a. are within the powers of the Debtor;
- b. have been duly authorized by all necessary corporate approval;
- c. have been duly executed and delivered by or on behalf of the Debtor;
- d. upon the granting of the DIP Order, constitute legal, valid and binding obligations of the Debtor, enforceable in accordance with their terms; and
- e. upon the granting of the DIP Order, do not require the consent or approval of, or registration or filing with, or any other action by, any governmental authority.

13. Affirmative Covenants

The Debtor covenants and agrees to do the following:

- a. allow Lender full access to the books and records of the Debtor and cause management thereof to fully cooperate with Lender;
- b. use reasonable efforts to keep Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Debtor, including but not limited to the Chiller Program;
- c. deliver to Lender the reporting and other information from time to time reasonably requested by Lender, including cash flow projections, pertaining to the business and affairs of the Debtor reasonably requested by Lender;
- d. use the proceeds of the DIP Facility solely for the purpose of implementing the Chiller Program;
- e. Comply with the provisions of the Initial Order and the DIP Order, including any subsequent amendments thereof, provided that if any such order contravenes this Commitment Letter in a manner detrimental to Lender, the same shall be an Event of Default hereunder;
- f. preserve, renew and keep in full force its corporate existence with all material licenses;
- g. maintain at all times adequate insurance coverage of such type, in such amounts and against such risks as is prudent for a business of an established reputation with financially sound and reputable insurers in coverage and scope acceptable to Lender, including but not limited to insurance respecting the Lands;

- h. duly and punctually pay or cause to be paid to Lender all principal, interest, fees and other amounts payable by it under this Commitment Letter on the dates, at the places and in the amounts set forth herein;
- i. forthwith notify Lender of the occurrence of any Event of Default or of any event or circumstance which may constitute a material adverse change to Debtor's business, property, assets or undertaking (including the Lands);
- j. comply in all material respects with all applicable laws, rules and regulations applicable to its business, including environmental laws; and
- k. authorize and direct Ernst & Young Inc., the Court-appointed Monitor of the Debtor (the "Monitor") to provide regular reports to Lender with respect to the Debtor's compliance with the foregoing affirmative covenants and the following negative covenants.

14. Negative Covenants

The Debtor covenants and agrees not to do the following:

- a. transfer, lease or otherwise dispose of all or any of its property, assets or undertakings except in compliance with the Initial Order as may be subsequently amended;
- b. use the proceeds of the DIP Facility for any purposes other than the implementation of the Chiller Program; and
- c. create or permit to exist indebtedness for borrowed money secured by a charge upon any of its assets ranking or potentially ranking in priority to the DIP Charge, without the prior approval of Lender.

15. Indemnity and Release

The Debtor agrees to indemnify and hold harmless Lender and each of its directors, officers, employees, agents, attorneys, advisors and affiliates (all of such persons and entities being referred to hereafter as "Indemnified Persons") from and against any and all actions, suits, proceedings (including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever which may be incurred by or asserted against or involve any Indemnified Person as a result of or arising out of or in any way related to or resulting from any bankruptcy or insolvency proceedings or the CCAA Proceedings or this Commitment Letter, and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal costs on a solicitor and his own client basis or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim whether or not any Indemnified Person is a party to any action or proceeding out of which any such expenses arise; provided, however, the Debtor shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability to the extent it resulted from the gross negligence or willful

misconduct of such Indemnified Person as finally determined by a court of competent jurisdiction.

The indemnities granted under this Commitment Letter shall survive any termination of the DIP Facility.

16. Events of Default

The occurrence of any one or more of the following events shall constitute an event of default ("Event of Default") under this Commitment Letter:

- a. the entry of an order dismissing the CCAA Proceedings or lifting the stay in the CCAA Proceedings to permit the enforcement of any security against the Debtor or its property, assets or undertaking;
- b. the entry of an order granting any other claim super priority status or a lien or charge ranking equally or superior to the DIP Charge, without Lender's prior consent;
- c. the entry of an order staying, reversing, vacating or otherwise modifying the DIP Facility or the Initial Order or the DIP Order or the entry of an order by the Court having the equivalent effect, without the prior written consent of Lender;
- d. failure of the Debtor to pay (A) interest or fees when due under the Commitment Letter, (B) principal when due under the DIP Facility, or (C) legal and advisor fees of Lender when due under the Commitment Letter;
- e. failure of the Debtor to comply with any positive or negative covenants in this Commitment Letter; provided that where such failure is capable of being cured, such failure has continued for more than five (5) business days after written notice thereof from Lender to the Debtor;
- f. failure of the Debtor to perform or comply with any term or covenant under this Commitment Letter (other than as set out in subparagraph (d) and (e) above) and such default shall continue unremedied for a period of five (5) days;
- g. the Debtor ceases or threatens to cease to carry on business in the ordinary course, except where such cessation occurs in connection with a sale of all or substantially all of the assets of the Debtor consented to by Lender;
- h. any representation or warranty by the Debtor is incorrect or misleading in any material respect when made; and
- i. the filing of any pleading by the Debtor seeking any of the matters set forth in paragraphs (a) through (c).

17. Remedies

Upon the occurrence of an Event of Default, Lender may:

- i. declare the obligations in respect of the DIP Facility to be immediately due and payable,
- ii. apply to the Court for the appointment of an Interim Receiver or a Receiver and Manager of the undertaking, property and assets of the Debtor or for the appointment of a Trustee in Bankruptcy of the Debtor,
- iii. exercise the powers and rights of a secured creditor under the *Personal Property Security Act* (Alta), the *Land Titles Act* (Alta) or any legislation of similar effect applicable to the DIP Security, without the requirement to obtain any order of the Court, and
- iv. exercise all such other rights and remedies under the DIP Facility and the CCAA court orders.

IN WITNESS HEREOF, the parties hereby execute this Commitment Letter as of the date first above mentioned.

THE STANDARD LIFE ASSURANCE
COMPANY OF CANADA

Per: B. Graham

Apr 09/2010

Bruce Graham
Vice-President
Mortgage Development & Operations

ERNST & YOUNG INC. in its capacity as
Court-appointed Receiver of CONCRETE
ASSOCIATES INVESTMENT
CORPORATION, FOR ITSELF AND IN ITS
CAPACITY AS GENERAL PARTNER OF
SAFEGUARD REAL ESTATE INVESTMENT
FUND II LIMITED PARTNERSHIP, and not
in its personal capacity

Per: Ken Maylor

Apr 09/2010

Ken Maylor
Vice President

IN THE COURT OF QUEEN'S BENCH OF
ALBERTA
JUDICIAL DISTRICT OF CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED, SECTION 13(2)
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AND IN THE MATTER OF CONCRETE EQUITIES
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1456775 ALBERTA LTD. and CONCRETE PLACE
PROPERTIES LTD.

ORDER

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