

Court File No. CV-24-00713287-00CL

**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

BETWEEN:

AFC MORTGAGE ADMINISTRATION INC.

Applicant

- and -

SUNRISE ACQUISITIONS (ELMVALE) INC., SAJJAD HUSSAIN, MAHVESH HUSSAIN,
MUZAMMIL KODWAVI and SAFANA KODWAVI

Respondents

MOTION RECORD OF THE APPLICANT

(Motion Returnable on February 29th, 2024 at 10:00 am by Zoom Videoconference)

DATED: Thursday, February 22, 2024

MAND | RAILLP

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Toronto, Ontario M9W 5Z8

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Lawyers for the Applicant,
AFC MORTGAGE ADMINISTRATION
INC.

TO: THE ATTACHED SERVICE LIST

SERVICE LIST

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Richmond Hill, ON L4B 1M5

Email shussain@sunrisehomes.ca

Respondent
AND TO: **SAJJAD HUSSAIN**
9 Cicada Court
Toronto, ON M3B 1G4

Email shussain@sunrisehomes.ca

Respondent
AND TO: **MAHVESH HUSSAIN**
9 Cicada Court
Toronto, ON M3B 1G4

Email mahveshh@yahoo.com

Respondent
AND TO: **MUZAMMIL KODWAVI**
72 Grand Vellore Crescent
Vaughan, ON L4H 0N8

Email mkodwavi@sunrisehomes.ca

Respondent
AND TO: **SAFANA KODWAVI (SAFANA KODWAVI)**
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Vaughan, ON, L4H 0N8

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Respondent

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Shimon Sherrington (LSO# 83607B)
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Courtesy Copy Potential Lawyers for the Respondents
 AND TO: **ALL OCCUPANTS**

9 Cicada Court
 Toronto, ON M3B 1G4

AND TO: **ALL OCCUPANTS**
 72 Grand Vellore Crescent
 Vaughan, ON, L4H 0N8

AND TO: **ALL OCCUPANTS**
 72 Longshore Way
 Whitby, ON, L1N 0M1

AND TO: **ALL OCCUPANTS**
 88 Abbruzze Court
 Woodbridge, ON, L4L 8Z1

AND TO: **ROSEN GOLDBERG INC.**
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Proposed Receiver
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Lawyers for the Receiver

AND TO: **BENNETT JONES LLP**
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Tel: 416.777.6254
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Lawyers for KSV Restructuring Inc. the Court Appointed Receiver in
Court File CV-21-00663051-00CL and the 2nd Mortgagee on 74 Yonge Street

AND TO: **NEAL H ROTH LAW OFFICE**
39 Nina Street
Toronto, ON M5R 1Z5

Neal Howard Roth
Tel: 416.351.7706
Email: nealroth@on.aibn.com

Lawyers for Mason's Masonry Supply Ltd., Construction Lien claimant on 9 Cicada Court

AND TO: **DEPARTMENT OF JUSTICE**
The Exchange Tower
130 King Street West, Suite 3400
Toronto, ON M5X 1K6

Attention: Diane Winters

Tel: 416.973.3172
Email: diane.winters@justice.gc.ca

AND TO: **HIS MAJESTY THE KING IN RIGHT OF THE
PROVINCE OF ONTARIO AS REPRESENTED BY
THE MINISTER OF FINANCE**
Insolvency Unit
33 King Street West, 6th Floor
Oshawa, ON L1H 8H5

Attention: Leslie Crawford
Tel 416.433.5657
Email: leslie.crawford@ontario.ca; insolvency.unit@ontario.ca

Lawyers for the Minister of Finance

INDEX PAGE

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

AFC MORTGAGE ADMINISTRATION INC.

Applicant

- and -

SUNRISE ACQUISITIONS (ELMVALE) INC., SAJJAD HUSSAIN, MAHVESH HUSSAIN,
MUZAMMIL KODWAVI and SAFANA KODWAVI

Respondents

INDEX RECORD

APPLICATION UNDER SUBSECTION 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

TAB NO.	TAB DESCRIPTION	PAGE NO
A.	Notice of Application, Returnable February 28 th , 2024 or soon thereafter.	8
B.	Affidavit of Adit Kumar sworn February 22 nd , 2024	38
	Exhibits	
1.	Corporate Profile	5
2.	Parcel Pages for 74 Yonge Street South and 5 and 6 Train Ave	60
3.	Parcel Page for 9 Cicada Court	68
4.	Parcel Page for 88 Abbruzze Court	3
5.	Parcel Page for 72 Grand Vellore Crescent	8
6.	Parcel Page for 91 Longshore Way	8
7.	1 st Elmvale Mortgage	86
8.	Corrected 1 st Elmvale Mortgage	0
9.	Transfer of Charge	34
10.	2 nd Elmvale Mortgage	3
11.	Cicada Collateral Mortgage	84
12.	Grand Vellore and Abbruzze Collateral Mortgage	08
13.	Longshore Collateral Mortgage	3
14.	3 rd Elmvale Mortgage	56
15.	Notice of Sale 1 st Elmvale Mortgage and Registered Mail Receipts	6

16.	Transfer of Charge	4
17.	BIA Notice and Registered Mail Receipts	
18.	Cicada Lien	9
19.	Writ of Execution	94
20.	Judgment of Justice Osborne in the Kingsett Receivership Matter	98
C.	Consent of Rosen Goldberg Inc. (dated February 12 th , 2024)	307
D.	Blackline of Proposed Order to Model Order	310

TAB No. A



**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

BETWEEN:

AFC MORTGAGE ADMINISTRATION INC.

Applicant

- and -

SUNRISE ACQUISITIONS (ELMVALE) INC., SAJJAD HUSSAIN, MAHVESH HUSSAIN,
MUZAMMIL KODWAVI and SAFINA KODWAVI

Respondents

NOTICE OF APPLICATION

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing

- In person
- By telephone conference
- By video conference before a Judge presiding over the Commercial List on a date to be set at a scheduling appointment to take place on January.....2024 via Zoom coordinates to be provided.

At the following location;

Commercial List Court - 330 University Avenue, Toronto, Ontario M5G 1R8

(Courthouse address or telephone conference or video conference details, such as dial-in number, access code, video link etc. if applicable)

on a date to be set by a judge presiding over the Commercial List (*or on a day to be set by the registrar*)

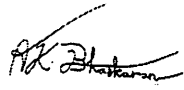
IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: 22 January, 2024

Issued by



Digitally signed by
Amaresh Bhaskaran
Date: 2024.01.22
15:43:37 -05'00'

Local registrar

Address of Court office Superior Court of Justice
330 University Ave, 9th Floor
Toronto, Ontario
M5G 1R8

TO: SUNRISE ACQUISITIONS (ELMVALE) INC.
50 Wilmot Street, Suite 100
Richmond Hill
Ontario
L4B 1M5

Respondent

AND TO: SAJJAD HUSSAIN
9 Cicada Court
Toronto, Ontario
M3B 1G4

Respondent

AND TO: MAHVESH HUSSAIN
9 Cicada Court
Toronto, Ontario
M3B 1G4

Respondent

AND TO MUZAMMIL KODWAVI
72 Grand Vellore Crescent
Vaughan, Ontario
L4H 0N8

Respondent

AND TO: SAFINA KODWAVI
72 Grand Vellore Crescent
Vaughan, Ontario
L4H 0N8

Respondent

APPLICATION

1. **THE APPLICANT**, AFC Mortgage Administration Inc., makes an application for amongst other things:
 - a. An Order, if necessary, abridging and validating the time for service and filing of this Notice of Application and the Application Record, and an order dispensing with service thereof on any party other than the persons served to permit this Application to be heard on an urgent basis;
 - b. an order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (hereinafter the “**BIA**”) and section 101 *Courts of Justice Act* R.S.O. 1990, c. C.43, as amended (hereinafter the “**CJA**”) in the form attached hereto as **Schedule ‘A’** appointing Rosen Goldberg Inc., as receiver and manager (in such capacities, hereinafter the “**Receiver**”), without security, of all the assets acquired for, or used in relation to a business carried on by the Respondents, Sunrise Acquisitions (Elmvale) Inc., Sajjad Hussain and Mahvesh Hussain, Muzammil Kodwavi and Safina Kodwavi (Collectively the “**Debtors**”) including and without in any way limiting the generality of the foregoing, the lands and premises municipally known:
 - i. 74 Yonge Street South, Elmvale Ontario and 5 and 6 Train Avenue, Elmvale, Ontario, PINS - 58379-0238, 58379, 0406, 58379-0407, 58379-0237 and 58379-0163 (hereinafter the “**Elmvale Property**”) and all proceeds thereof;
 - ii. 9 Cicada Court, Toronto, Ontario M3B 1G4 - PIN 10120-0064 (hereinafter the “**Cicada Property**”) and all proceeds thereof;
 - iii. 72 Grand Vellore Crescent Vaughan, Ontario L4H 0N8 - PIN 70007-0730 (hereinafter the “**Grand Vellore Property**”) and all proceeds thereof;

iv. 88 Abbruzze Court, Woodbridge, Ontario L4L 8Z1, PIN 03345-0011
(hereinafter the “**Abbruzze Property**”); and

v. 91 Longshore Way Whitby, Ontario L1N 0M1– PIN 26483-2031
(hereinafter the “**Longshore Property**”)

(Collectively the “**Properties**”)

- c. Costs of this proceeding plus all applicable taxes; and
- d. Such further and other relief as this Honourable Court may deem just.

2. THE GROUNDS FOR THE APPLICATION ARE:

- a. The Respondent, Sunrise Acquisitions (Elmvale) Inc. (hereinafter “**Sunrise**”) is a privately held corporation incorporated pursuant to the laws of the Province of Ontario operating as a real estate developer and is the registered owner of the Elmvale Property.
- b. The Elmvale Property is comprised of 5 parcels of vacant land covering approximately 10 acres and is draft plan approved for 65 freehold townhomes.
- c. The Respondents, Sajjad Hussain and Muzammil Kodwavi are the only officers, directors, and shareholders of Sunrise.
- d. The Respondents, Sajjad Hussain and Mahvesh Hussain are spouses of each other and the registered owners of the Cicada Property.
- e. The Cicada Property is currently under construction and requires completion before it can be sold.
- f. The Respondent, Sajjad Hussain is the registered owner of the Longshore Property.

- g. The Respondents, Muzammil Kodwavi and Safina Kodwavi are spouses of each other and the registered owners of the Abbruzze Property and the Grand Vellore Property.
- h. The Applicant, AFC Mortgage Administration Inc. (hereinafter the “Mortgagee”) is a privately held corporation incorporated pursuant to the laws of Province of Ontario operating as a mortgage administrator throughout the Greater Toronto area.
- i. The Debtors are directly indebted to the Mortgagee in connection with a secured loan (hereinafter the “Loan”) totalling approximately \$4,509,235.20 (the “Indebtedness”) inclusive of principal, outstanding interest and all costs and expenses (including, without limitation, legal and other professional fees) as at December 7th, 2023.
- j. Interest on the Indebtedness continues to accrue at a variable rate of the higher of 18.00% and TD Prime Rate + 14.80% per annum.

THE SECURITY

- k. The Mortgagee’s security for the Loan consists of among other things:
 - i. a second ranking mortgage over the Elmvale Property, registered as SC1940187 and SC1940185;
 - ii. a general assignment of rents over the Elmvale Property, registered as SC1940186;
 - iii. a second ranking mortgage over the Cicada Property, registered as AT6210829;
 - iv. a second ranking mortgage over the Abbruzze Property registered as YR3491120;
 - v. a third ranking mortgage over the Grand Vellore Crescent Property registered as YR3491120;

- vi. a second ranking mortgage over the Longshore Property registered as DR2184390; and
- vii. a general security interest over all of the Debtors personal property.

(Collectively the “**Mortgage**”)

- l. The Mortgage and the underlying security documents granted by the Debtors to the Mortgagee contain express contractual entitlements permitting the Mortgagee to appoint a receiver upon default.

OTHER CREDITORS

- m. The Elmvale Property is encumbered by a first ranking mortgage, registered as SC1797693, in favour of the Applicant which has been redeemed by the Mortgagee as it was previously in arrears.
- n. The Elmvale Property is also encumbered by a subordinate mortgage, registered as SC1978659 in favour of KSV Restructuring Inc. (the “**KSV Mortgage**”) in the principal amount of \$10,500,000.00.
- o. The Applicant understands that the KSV Mortgage is security for a settlement between KSV Restructuring Inc. as a court appointed receiver and Sajjad Hussain and Muzammil Kodwavi in an unrelated court action initiated under court file number CV-21-006630051-00CL (the “**KSV Receivership Action**”).
- p. The Cicada Property is encumbered by a first ranking mortgage, registered as AT5035272 in favour of Home Trust Company in the principal amount of \$995,000.00.
- q. The Cicada Property is also encumbered by a construction lien, registered as AT6465836 in favour of Mason’s Masonry Supply Ltd. in the amount of AT6465836 (the “**Cicada Lien**”).

- r. The Abbruzze Property is encumbered by a first ranking mortgage, registered as YR3261530 in favour of the Computershare Trust Company of Canada in the principal amount of \$1,980,000.00.
- s. The Grand Vellore Property is encumbered by a first ranking mortgage, registered as YR2914399 in favour of the Computershare Trust Company of Canada in the principal amount of \$779,000.00.
- t. The Grand Vellore Property is also encumbered by a second ranking mortgage, registered as YR32662835 in favour of Scugog Developments Inc. in the principal amount of \$1,280,750.00.
- u. The Longshore Property is encumbered by a first ranking mortgage, registered as DR1894254 in favour of The Bank of Nova Scotia in the principal amount of \$422,500.00.

THE DEFAULT AND DEMAND

- v. On November 12th, 2023 (hereinafter the “**Default Date**”) the Debtors defaulted under the Mortgage, as the Mortgage matured but the Debtors failed and or refused to repay the Indebtedness owing under the Loan.
- w. On December 7th, 2023 the Mortgagee made a formal written demand of the Debtors to repay the Loan (the “**Demand**”).
- x. On December 7th, 2023 the Mortgagee issued a Notice of Intention to Enforce Security pursuant to section 244(1) of the BIA (the “**BIA Notice**”).
- y. The ten-day statutory period under subsection 244(1) of the BIA has now expired.
- z. Since issuance of the Demand and the BIA Notice, the Debtors have failed to repay the Indebtedness, initiate any filings under the *Bankruptcy and Insolvency Act* (Canada); or enter into alternative arrangements acceptable to the Mortgagee.

- aa. The Mortgagee has lost all faith in the Debtor's ability to repay the Indebtedness and is concerned with the continued erosion of its Security due to among other things:
- i. The continued non-payment of interest under the Mortgage;
 - ii. The accumulating interest;
 - iii. The registration of the KSV Mortgage; and
 - iv. The registration of the Cicada Lien

(Collectively the "Mortgagee's concerns")

- bb. Given Mortgagee's concerns and the other creditors it is just and convenient that:
- i. this Application be added to the Commercial List in Toronto; and
 - ii. a Receiver be appointed by this Honourable Court without delay to determine how best to realize on the Debtor's assets for the benefit of all stakeholders;
- cc. Section 243(1) of the BIA, section 101 of the CJA, and Rules 3.02(1), 14.05(3)(d), (e), (f), (g) and (h), 16.08 and 60.10 of the *Rules of Civil Procedure*; and
- dd. Such further and other grounds as the Applicant's lawyers may advise.

3. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THIS MOTION:

1. The Affidavit of Adit Kumar and exhibits attached thereto as found in the Application Record.
2. The Consent of Rosen Goldberg Inc. to act as the Receiver; and

3. Such further and other materials as counsel may advise and this Honourable court may permit

DATE: January 9, 2024

MAND | RAI LLP

Lawyers

155 Rexdale Blvd., Suite 400

Toronto, Ontario

M9W 5Z8

Paul Mand (LSO No. 46022F)

Tel: 416-740-5653

Email: pmand@mandlaw.com

Lawyers for the Applicant, AFC
MORTGAGE ADMINISTRATION INC.

Schedule "A"

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

THE HONOURABLE) WEEKDAY, THE #
)
JUSTICE) DAY OF MONTH, 20YR
)

BETWEEN:

AFC MORTGAGE ADMINISTRATION INC.

Applicant

- and -

SUNRISE ACQUISITIONS (ELMVALE) INC., SAJJAD HUSSAIN, MAHVESH HUSSAIN,
MUZAMMIL KODWAVI and SAFINA KODWAVI

Respondents

**ORDER
(appointing Receiver)**

THIS APPLICATION made by 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 Rosen Goldberg Inc. as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Respondents, Sunrise Acquisitions (Elmvale) Inc.,

Sajjad Hussain and Mahvesh Hussain, Muzammil Kodwavi and Safina Kodwavi (hereinafter collectively referred to as the “Debtors”) acquired for, or used in relation to a business carried on by the Debtors, was heard this day by Zoom judicial videoconference.

ON READING the affidavit of Adit Kumar sworn January • 2024 and the Exhibits thereto and on hearing the submissions of counsel for Applicant, and counsel for the Debtors, no one else on the service list appearing although duly served as appears from the affidavit of service of Ana Lapcevic sworn January • 2024 and on reading the consent of Rosen Goldberg Inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this motion 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, Rosen Goldberg Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Respondents, Sunrise Acquisitions (Elmvale) Inc., Sajjad Hussain and Mahvesh Hussain, Muzammil Kodwavi and Safina Kodwavi, including the lands and premises described in Schedule “A” attached 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 Debtor, 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, 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 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;

- i) 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;
- j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - i. without the approval of this Court in respect of any Transaction not exceeding \$100,000.00, provided that the aggregate consideration for all such transactions does not exceed \$500,000.00; and
 - ii. with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the proceeding clause;and in each such case notice under subsection 63(4) of the *Ontario Personal Property Security Act*, or section 31 of the *Ontario Mortgages Act*, as the case may be, shall not be required.
- l) to apply for any vesting order or other orders necessary to convey the Property or any parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- m) 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;

- n) to register a copy of this Order any other Orders in respect of the Property against title to any of the Property;
- o) to apply for any permits, licenses, 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, Sunrise Acquisitions (Elmvale) Inc., Sajjad Hussain and Mahvesh Hussain, Muzammil Kodwavi and Safina Kodwavi;
- p) 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;
- q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- r) 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.

WRIT OF POSSESSION

4. THIS COURT ORDERS that leave be and is hereby granted to issue a writ of possession in respect of the lands and premises described in Schedules 'A' and 'B' hereto in order that the Sheriff of the City of Toronto, the City of Vaughan and the City of Whitby give possession of the lands and premises described in Schedules 'A' and 'B' hereto to the Receiver without delay.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. THIS COURT ORDERS that (i) the Debtors, all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its 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.

6. 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.

7. 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.

8. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

9. 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 DEBTOR OR THE PROPERTY

10. 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

11. 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 is 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, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

12. 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

13. 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.

RECEIVER TO HOLD FUNDS

14. 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

15. 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's 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

16. 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

17. 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

18. 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

19. 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, and that 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.

20. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its 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.

21. 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

22. 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 \$_____ (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 (the "Receiver's Borrowings 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.

23. 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.

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

25. 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

26. 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 ‘’.

27. 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 Debtor's 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

28. 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.

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

30. 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.

31. 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.

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

33. 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.

SCHEDULE "A"

**LANDS AND PREMISES OWNED BY THE
RESPONDENT SUNRISE ACQUISITIONS (ELMVALE) INC.**

PIN 58379-0238, 58379-0406, 58379-0407, 58379-0237, and 58379-0163 (LT)

DESCRIPTION PCL 6-5 SEC 51-FLOS-8; PT LT 6 CON 8 ELMVALE PT 2, 51R8051; SPRINGWATER; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8FLOS, PART 4, 51R43255 AS IN SC1851791

PART S1/2 LOT 6 CON 8 FLOS BEING PART 3, PLAN 51R43255; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; TOWNSHIP OF SPRINGWATER

PART S1/2 LOT 6 CON 8 FLOS BEING PART 1, 51R14434 EXCEPT PART 2, 51R41145 AND PARTS 1, 2 AND 3, 51R43255; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; TOWNSHIP OF SPRINGWATER

PCL 6-3 SEC 51-FLOS-8; PT OF N 1/2 LT 6 CON 8 ELMVALE PT 1 & 2 51R8040, S/TEASEMENT IN GROSS OVER PT 1 51R26366 AS IN SC600497; SPRINGWATER; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8FLOS, PART 4, 51R43255 AS IN SC1851791

PT N1/2 LT 6 CON 8 FLOS AKA TRAIN AV DESIGNATED PART 1, PLAN 51R43404; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8FLOS, PART 4, 51R43255 AS IN SC1851791; SUBJECT TO AN EASEMENT IN GROSS AS IN SC1895256; TOWNSHIP OF SPRINGWATER

ADDRESS 74 Yonge Street South Elmvale Ontario and 5 and 6 Train Avenue, Elmvale, Ontario

SCHEDULE "B"

**LANDS AND PREMISES OWNED BY THE RESPONDENTS SAJJAD HUSSAIN and
MAHVESH HUSSAIN and MUZAMMIL KODWAVI and SAFINA KODWAVI**

PIN 10120-0064 (LT)

DESCRIPTION LT 63 PL 4758 NORTH YORK; S/T NY200193; TORONTO (N YORK),
CITY OF TORONTO

ADDRESS 9 Cicada Court Toronto, Ontario M3B 1G4

PIN 03345-0011 (LT)

DESCRIPTION PCL 8-1 SEC 65M3001; LT 8 PL 65M3001; T/W BLK 36 PL 65M3001 AS
IN LT1037812 (S/T LT1006180); CITY OF VAUGHAN

ADDRESS 88 Abbruzze Court, Woodbridge, Ontario

PIN 70007-0730 (LT)

DESCRIPTION LOT 79, PLAN 65M3921; S/T EASEMENT FOR ENTRY AS IN
YR916426; TOGETHER WITH AN EASEMENT OVER PT LT 78 PL
65M3921, PT 13 65R30835 AS IN YR1259568; CITY OF VAUGHAN

ADDRESS 72 Grand Vellore Crescent, Woodbridge, Ontario

PIN 26483-2031 (LT)

DESCRIPTION PART OF BLOCK 1 ON PLAN 40M2587 DESIGNATED AS PART 46
ON PLAN 40R29873 TOGETHER WITH AN UNDIVIDED COMMON
INTEREST IN DURHAM COMMON ELEMENTS CONDOMINIUM
CORPORATION NO. 294; SUBJECT TO AN EASEMENT AS IN
DR1646317; SUBJECT TO AN EASEMENT FOR ENTRY AS IN
DR1669692; TOGETHER WITH AN EASEMENT OVER PART OF LOT
29 B.F. CON. PART 1 ON PLAN 40R29633 AS IN DR1668901; SUBJECT
TO AN EASEMENT IN GROSS OVER PART 46 ON PLAN 40R29873
AS IN DR1686646; SUBJECT TO AN EASEMENT AS IN DR1681446;
SUBJECT TO AN EASEMENT AS IN DR1696373; TOWN OF WHITBY

ADDRESS 91 Longshore Way Whitby, Ontario

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Rosen Goldberg Inc., the receiver (the "Receiver") of the assets, undertakings and properties of SUNRISE ACQUISITIONS (ELMVALE) INC., and certain real property owned by Sajjad Hussain and Mahvesh Hussain, Muzammil Kodwavi and Safina Kodwavi (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 ___ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, 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 _____, 2024.

ROSEN GOLDBERG INC., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____

Name:

Title:

AFC MORTGAGE ADMINISTRATION INC.
APPLICANT

AND

SUNRISE ACQUISITIONS (ELMVALE) INC., et al
RESPONDENTS

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

NOTICE OF APPLICATION

MAND | RAI LLP

Lawyers

155 Rexdale Blvd., Suite 400
Toronto, Ontario M9W 5Z8

Paul Mand (LSO No. 46022F)

Tel: 416-740-2000

Email: pmand@mandlaw.com

Lawyers for the Applicant, AFC MORTGAGE
ADMINISTRATION INC.

TAB No. B

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

AFC MORTGAGE ADMINISTRATION INC.

Applicant

- and -

SUNRISE ACQUISITIONS (ELMVALE) INC., SAJJAD HUSSAIN, MAHVESH HUSSAIN,
MUZAMMIL KODWAVI and SAFANA KODWAVI

Respondents

AFFIDAVIT OF ADIT KUMAR
(Sworn February 22nd, 2024)

I, Adit Kumar, of the Town of Oakville in the Province of Ontario, **MAKE OATH AND SAY**
AS FOLLOWS:

1. I am an officer of the Applicant, AFC Mortgage Administration Inc. (“**AFC**”) and have responsibility for all matters pertaining to the borrowings of Sunrise Acquisitions (Elmvale) Inc. (“**Sunrise**”), Sajjad Hussain and Mahvesh Hussain, Muzammil Kodwavi and Safana Kodwavi (Collectively the “**Debtors**”) and as such have personal knowledge of the matters to which I depose herein. Where this affidavit is based upon information received from others, I have stated the source of that information and verily believe that information to be true.

2. I am making this affidavit in support of an application by AFC for the appointment of Rosen Goldberg Inc. (“**Rosen**”) as Receiver/Manager of all the assets, undertakings and properties of the Debtors.

A. OVERVIEW

3. As described in greater detail below, AFC advanced a loan to the Debtors pursuant to loan agreements and in consideration of which the Debtors granted Mortgages, *infra* as security over several properties, in favour of AFC.
4. The Debtors repayment obligations under the loan agreements and mortgages have matured; however the Debtors have failed to repay the amounts due and owing, and accordingly the Debtors are in default.
5. The total amount due and owing under the loan agreements and the Mortgages as of February 12th, 2024 was \$4,665,083.81 (the “**Indebtedness**”) with per diem of \$2,280.31 thereafter.
6. AFC issued a Notice of Intention to Enforce Security; but the Debtors have not responded and the time to respond has expired.
7. The loan agreements expressly contemplate the appointment of a Receiver in the event of a default.

B. THE PARTIES

8. AFC is a privately held corporation incorporated pursuant to the laws of Province of Ontario operating as a private lender throughout the Greater Toronto area and was at all material times a lender to the Debtors pursuant to loans secured by real property more particularly described herein below.

9. Sunrise is a privately held corporation incorporated pursuant to the laws of the Province of Ontario and is the registered beneficial owner of the Elmvale Property, *infra*. The corporate profile report for Sunrise lists Sajjad Hussain and Muzammil Kodwavi as the sole officers and directors of Sunrise. **Attached hereto and marked as Exhibit No. 1. is a true copy of the corporate profile for Sunrise.**

10. Sajjad Hussain and Mahvesh Hussain are spouses of each other and the registered owners of the Cicada Property, *infra* and the Longshore Property, *infra*..

11. Muzammil Kodwavi and Safana Kodwavi are spouses of each other and the registered owners of the Abbruzze Property, *infra* and the Grand Vellore Property, *infra*.

C. THE PROPERTIES

12. Sunrise is the registered beneficial owner of 74 Yonge Street South, Elmvale Ontario and 5 and 6 Train Avenue, Elmvale, Ontario which is comprised of 5 PINS 58379-0238, 58379-0406, 58379-0407, 58379-0237 and 58379-0163 (hereinafter the “**Elmvale Property**”). **Attached hereto and marked as Exhibit No. 2. are a true copies of the of the Parcel Pages for the Elmvale Property.**

13. The Elmvale Property is a 10-acre parcel of vacant land approved for a 65 freehold townhome development in the midst of a site plan application.
14. Sajjad Hussain and Mahvesh Hussain are the registered beneficial owners of 9 Cicada Court, Toronto, Ontario M3B 1G4 bearing PIN 10120-0064 (hereinafter the “**Cicada Property**”). **Attached hereto and marked as Exhibit No. 3. is a true copy of the of the Parcel Page for the Cicada Property.**
15. The Cicada Property is currently unoccupied and is in the midst of a major construction renovation.
16. Muzammil Kodwavi and Safana Kodwavi are the registered beneficial owners of 72 Grand Vellore Crescent Vaughan, Ontario L4H 0N8 bearing PIN 70007-0730 (hereinafter the “**Grand Vellore Property**”). **Attached hereto and marked as Exhibit No. 4. is a true copy of the Parcel Page for the Grand Vellore Property.**
17. The Grand Vellore Property is a residential property and I believe it to be occupied.
18. Muzammil Kodwavi and Safana Kodwavi are the registered beneficial owners of 88 Abbruzze Court, Woodbridge, Ontario L4L 8Z1, PIN 03345-0011 (hereinafter the “**Abbruzze Property**”). **Attached hereto and marked as Exhibit No. 5. is a true copy of the of the Parcel Page for the Abbruzze Property.**
19. 88 Abbruzze was the subject of a catastrophic fire and the proceeds of the insurance coverage are currently in dispute and subject to litigation.

20. Sajjad Hussain is the registered beneficial owner of 91 Longshore Way Whitby, Ontario L1N 0M1 bearing PIN 26483-2031 (hereinafter the “**Longshore Property**”). **Attached hereto and marked as Exhibit No. 6. is a true copy of the of the Parcel Page for the Longshore Property.**

21. The Longshore Property is a residential property and I believe it to be occupied.

D. THE AFC MORTGAGES

22. A review of the Elmvale Property Parcel confirms that Sunrise granted 3 separate charges, as set out in greater detail below:

23. On or about June 28th, 2021, Sunrise granted a first mortgage, registered as SC1797693 to 5023018 Ontario Inc., in the amount of \$1,960,000.00 (the “**1st Elmvale Mortgage**”). **Attached hereto and marked as Exhibit No. 7. is a true copy of the of the 1st Elmvale Mortgage.**

24. The 1st Elmvale Mortgage was inadvertently registered against only 3 of the 5 PINS associated with the Elmvale Property (58379-0397, 58379-0237 and 58379-0238) but this mistake was corrected on November 22nd, 2023 when Sunrise granted a correcting charge, registered as SC2023765 in the amount of \$1,960,000.00 over the remaining 2 PINS: 58379-0163 and 58379-0406 (“**Corrected 1st Elmvale Mortgage**”). For the purposes of this affidavit, both charges registered as SC1797693 and SC2023765 shall be referred to as the 1st Elmvale Mortgage. **Attached hereto and marked as Exhibit No. 8. is a true copy of Corrected 1st Elmvale Mortgage.**

25. The 1st Elmvale Mortgage was transferred to AFC on June 30th, 2022 by way of a Transfer of Charge, registered as SC1910220. **Attached hereto and marked as Exhibit No. 9. is a true copy of the of the Transfer of Charge.**

26. A review of the 1st Elmvale Mortgage confirm the following key terms:

Principal	\$1,960,000.00
Calculation Period	Monthly, interest only payments
Balance Due Date	2022/07/01
Interest Rate	Higher of 9.00% of TD Prime Rate plus 6.55%
Payments	
Last Payment Date	2022/07/01
Guarantor	Sajjad Hussain and Muzammil Kodwavi

27. A review of Article 19.1 (m) on page 15 of the schedule attached to the 1st Elmvale Mortgage confirms that AFC has the right to appoint a receiver in the event of default.

28. On or about October 27th, 2022 Sunrise granted a second mortgage, registered as SC1940185 and SC1940187 to AFC, in the amount of \$2,010,000.00 (the “**2nd Elmvale Mortgage**”). **Attached hereto and marked as Exhibit No. 10. is a true copy of the 2nd Elmvale Mortgage.**

29. A review of the 2nd Elmvale Mortgage confirm the following key terms

Principal	\$2,010,000.00
Calculation Period	
Balance Due Date	
Interest Rate	Higher of 11.99% of TD Prime Rate plus 9.54%
Payments	
Payment Date	On Demand

Last Payment Date	
Guarantor	

30. A review of Article 19.1 (m) on page 15 of the schedule attached to the 1st Elmvale Mortgage confirms that AFC has the right to appoint a receiver in the event of default
31. The 2nd Elmvale Mortgage is collateralized over the Cicada Property, registered as AT6210829 (the “**Cicada Collateral Mortgage**”). The Cicada Collateral Mortgage is in second position. **Attached hereto and marked as Exhibit No. 11. is a true copy of the Cicada Collateral Mortgage.**
32. The 2nd Elmvale Mortgage is also collateralized over the Grand Vellore Property and the Abbruzze Property, registered as YR3491120 (the “**Grand Vellore and Abbruzze Collateral Mortgage**”). The Grand Vellore Collateral Mortgage is in 3rd position, and 2nd position on the Abbruzze Property. **Attached hereto and marked as Exhibit No. 12. is a true copy of the Grand Vellore and Abbruzze Collateral Mortgage.**
33. The 2nd Elmvale Mortgage is also collateralized over the Longshore Property, registered as DR2184390 (the “**Longshore Collateral Mortgage**”). The Longshore Collateral Mortgage is registered in 2nd position. **Attached hereto and marked as Exhibit No. 13. is a true copy of the Longshore Collateral Mortgage.**
34. On or about May 10th, 2023, Sunrise granted a third mortgage, registered as SC1978659 to KSV Restructuring Inc.(“**KSV**”), in the amount of \$10,000,000.00 (the “**3rd Elmvale Mortgage**”). **Attached hereto and marked as Exhibit No. 14. is a true copy of the of the 3rd Elmvale Mortgage.**

35. It is my understanding that the 3rd Elmvale Mortgage is the result of a settlement between KSV as a Receiver in a court proceeding (CV-21-00663051-00CL) wherein Kingsett Mortgage Corporation as applicant appointed KSV as a Receiver over Sunrise Acquisitions (Hwy 7) Inc (the “**Kingsett Receivership**”).

E. THE DEFAULT

36. On or about November 22nd, 2023 Sunrise defaulted under its obligations under the 1st Elmvale Mortgage and AFC issued a Notice of Sale. **Attached hereto and marked as Exhibit No. 15. is a true copy of the Notice of Sale.**

37. On or about November 30th, 2023 AFC, as the 2nd mortgagee cured the default under the 1st Elmvale Mortgage by way of a protected advance under the 2nd Elmvale Mortgage and as a result the 1st Elmvale Mortgage was transferred to AFC as the 2nd mortgagee. **Attached hereto and marked as Exhibit No. 16. is a true copy of the Transfer of Charge.**

38. On December 7th, 2023, AFC served a Notice of Intent to Enforce Security under section 244(1) of the *Bankruptcy and Insolvency Act* (“**BIA Notice**”). **Attached hereto and marked as Exhibit No. 17. is a true copy BIA Notice.**

39. Notwithstanding the expiry of the statutory 10-day notice period the Debtors have failed to repay the Indebtedness.

F. THE DEBTOR'S OTHER CREDITORS

40. A review of the Parcel Page for the Cicada Property, confirms that Sajjad Hussain and Mahvesh Hussain have granted a first charge to Home Trust Company, registered as AT503572 in the amount of \$995,000.00.
41. A further review of the Parcel Page for the Cicada Property, confirms that Mason's Masonry Supply Ltd. has registered a construction lien in the amount of \$140,634.00 as instrument number AT6465836 (the "Cicada Lien"). **Attached hereto and marked as [Exhibit No. 18](#) is a true copy of the Cicada Lien.**
42. A review of the Parcel Page for the Grand Vellore Property, confirms that Muzammil Kodwavi and Safana Kodwavi have granted a first charge to Italian Canadian Savings & Credit Union Limited, registered as YR2914399 in the amount of \$779,800.00.
43. A further review of the Parcel Page for the Grand Vellore Property, confirms that Muzammil Kodwavi and Safana Kodwavi have also granted a second charge to Scugog Developments Inc., registered as YT3262835 in the amount of \$1,280,750.00.
44. A review of the Parcel Page for the Abbruzze Property, confirms that Muzammil Kodwavi and Safana Kodwavi have granted a first charge to Computershare Trust Company of Canada, registered as YR3261530 in the amount of \$1,980,000.00.

45. A review of the Parcel Page for the Longshore Property, confirms that Sajjad Hussain has granted a first mortgage to The Bank of Nova Scotia, registered as DR1894254 in the amount of \$422,500.00.

46. Execution searches reveal at least one writ of execution filed against the Debtors in the amount of \$14,510,545.24 (“**Writ of Execution**”). **Attached hereto and marked as Exhibit No. 19. is a true copy of Writ of Execution.**

47. I verily believe that the Writ of Execution is related to the 3rd Elmvale Mortgage and the Kingsett Receivership.

G. APPOINTMENT OF THE RECEIVER IS JUST AND CONVENIENT

48. The appointment of the proposed Receiver over the assets, undertakings and the Properties of the Debtors is just and convenient in the circumstances of this case for the following reasons:

- a. The Debtors have failed to cure their financial defaults;
- b. Notwithstanding the issuance of the Section 244 BIA Notice, the Debtors have failed to repay the Loan;
- c. The statutory notice periods under the BIA have long expired;
- d. The Mortgages and the related loan documents contain contractual entitlements permitting the appointment of a Receiver upon default;

- e. AFC has lost all faith in the Debtors ability to manage and develop the Properties;
- f. The Debtors have failed to provide any meaningful proposal for repayment of the Loan that would be acceptable to AFC;
- g. There are a number of other bankruptcies and receiverships involving other Sunrise entities. In particular, a judgment of Justice Osborne was granted against Sunrise Acquisitions (HWY 7) and Sajjad Hussain and Muzammil Kodwavi with a finding of misappropriation. **Attached hereto and marked as Exhibit No. 20. is a true copy of Justice Osborne's Judgment;**
- h. The court appointed Receiver will ensure that interests of all stakeholders are considered and facilitate a fair and transparent marketing sales process maximising recovery from the disposition of the Debtors assets; and
- i. A court appointed receiver can investigate whether there has been a misappropriation of any funds as was determined by Justice Osborne in the Kingsett Receivership.

49. AFC proposes that Rosen be appointed as receiver / manager over the Debtors. Rosen is a licensed trustee in bankruptcy and is familiar with the Debtor's arrangements with AFC.

50. Rosen has consented to act as court-appointed receiver with respect to the Debtors. A copy of the executed consent to act as receiver/manager is attached to this application record at Tab C.

H. NOTICE

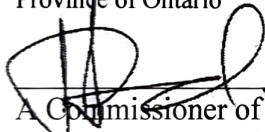
51. This application has been brought on notice to the service list included within the application record and further notice shall be given to other stakeholders, if any, through the Receiver once appointed.

52. I swear this affidavit in support of the AFC’s application to appoint Rosen as Receiver and for no other or improper purpose.

SWORN BEFORE ME remotely before me by the)
deponent by video conference this 22 day of February)
2024 in accordance with O. Reg. 431/20 administering)
Oath or declaration Remotely. The affiant was located in)
the Town of Oakville, in the Province of Ontario and the)
Commissioner was located in the City of Toronto, in the)
Province of Ontario)
)



Adit Kumar



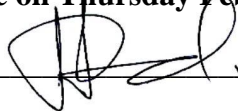
A Commissioner of Oaths, etc.
Paul Mand LSO 46022F

Exhibit “1”

This is Exhibit “1” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read 'Paul Mand', is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Ministry of Public and
Business Service Delivery

Profile Report

SUNRISE ACQUISITIONS (ELMVALE) INC. as of October 25, 2023

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	SUNRISE ACQUISITIONS (ELMVALE) INC.
Ontario Corporation Number (OCN)	1000382388
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Amalgamation	December 06, 2022
Registered or Head Office Address	50 West Wilmot Street, 100, Richmond Hill,, Ontario, Canada, L4B 1M5

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

A handwritten signature in black ink, appearing to read "V. Quintanilla W.".

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Director(s)

Minimum Number of Directors 1
Maximum Number of Directors 10

Name SAJJAD HUSSAIN
Address for Service 50 West Wilmot Street, 100, Richmond Hill, Ontario, Canada,
L4B 1M5
Resident Canadian Yes
Date Began December 06, 2022

Name MUZAMMIL KODWAVI
Address for Service 50 West Wilmot Street, 100, Richmond Hill, Ontario, Canada,
L4B 1M5
Resident Canadian Yes
Date Began December 06, 2022

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

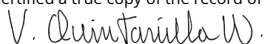
Active Officer(s)

Name SAJJAD HUSSAIN
Position President
Address for Service 50 West Wilmot Street, 100, Richmond Hill,, Ontario,
Canada, L4B 1M5
Date Began December 06, 2022

Name MUZAMMIL MODWAVI
Position Secretary
Address for Service 50 West Wilmot Street, 100, Richmond Hill,, Ontario,
Canada, L4B 1M5
Date Began December 06, 2022

Name MUZAMMIL MODWAVI
Position Vice-President
Address for Service 50 West Wilmot Street, 100, Richmond Hill,, Ontario,
Canada, L4B 1M5
Date Began December 06, 2022

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.



Director/Registrar

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Corporate Name History**Name****Effective Date**SUNRISE ACQUISITIONS (ELMVALE) INC.
December 06, 2022

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

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Amalgamating Corporations**Corporation Name**
Ontario Corporation NumberSUNRISE ACQUISITIONS (ELMVALE) INC.
2836470**Corporation Name**
Ontario Corporation NumberSUNRISE ACQUISITIONS (ELMVALE II) INC.
2848185

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Document List

Filing Name	Effective Date
CIA - Initial Return PAF: MUZAMMIL KODWAVI	February 09, 2023
BCA - Articles of Amalgamation	December 06, 2022

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.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

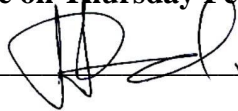
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Exhibit “2”

This is Exhibit “2” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read "Paul Mand", is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
SC1797694	2021/06/28	NO ASSGN RENT GEN		SUNRISE ACQUISITIONS (ELMVALE) INC. SUNRISE ACQUISITIONS (ELMVALE II) INC.	5023018 ONTARIO INC. FRANCESCONI, ROBERT THE ESTATE OF GIACOMO FRANCESCONI	C
	REMARKS: SC1797693					
SC1886944	2022/04/13	CHARGE		*** DELETED AGAINST THIS PROPERTY *** SUNRISE ACQUISITIONS (ELMVALE II) INC. SUNRISE ACQUISITIONS (ELMVALE) INC. SUNRISE ACQUISITIONS (PATTERSON) INC.	AFC MORTGAGE ADMINISTRATION INC.	
SC1910220	2022/06/30	TRANSFER OF CHARGE		5023018 ONTARIO INC. FRANCESCONI, ROBERT THE ESTATE OF GIACOMO FRANCESCONI	AFC MORTGAGE ADMINISTRATION INC.	C
	REMARKS: SC1797693.					
SC1910221	2022/06/30	NO ASSGN RENT GEN		5023018 ONTARIO INC. FRANCESCONI, ROBERT THE ESTATE OF GIACOMO FRANCESCONI	AFC MORTGAGE ADMINISTRATION INC.	C
	REMARKS: SC1797693, SC1797694					
SC1940185	2022/10/27	CHARGE	\$2,010,000	SUNRISE ACQUISITIONS (ELMVALE) INC.	AFC MORTGAGE ADMINISTRATION INC.	C
SC1940186	2022/10/27	NO ASSGN RENT GEN		SUNRISE ACQUISITIONS (ELMVALE) INC.	AFC MORTGAGE ADMINISTRATION INC.	C
	REMARKS: SC1940185					
SC1941160	2022/10/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** AFC MORTGAGE ADMINISTRATION INC.		
	REMARKS: SC1886944.					
SC1978659	2023/05/10	CHARGE	\$10,500,000	SUNRISE ACQUISITIONS (ELMVALE) INC.	KSV RESTRUCTURING INC.	C

PROPERTY DESCRIPTION: PCL 6-5 SEC 51-FLOS-8; PT LT 6 CON 8 ELMVALE PT 2, 51R8051; SPRINGWATER; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
ABSOLUTE

RECENTLY:

FIRST CONVERSION FROM BOOK

PIN CREATION DATE:

2001/03/26

OWNERS' NAMES

SUNRISE ACQUISITIONS (ELMVALE) INC.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2001/03/23 **						
51R8051	1978/08/29	PLAN REFERENCE				C
LT442123	2000/07/20	TRANSFER		*** COMPLETELY DELETED ***	SECNIK-LIM, CLARA	
REMARKS: PLANNING ACT STATEMENTS						
SC1411185	2017/05/18	TRANSFER		*** COMPLETELY DELETED *** SECNIK-LIM, CLARA	ELMVALE DEVELOPMENT INC. ELMBROOK DEVELOPMENT INC.	
REMARKS: PLANNING ACT STATEMENTS.						
SC1411188	2017/05/18	CHARGE		*** DELETED AGAINST THIS PROPERTY *** ELMVALE DEVELOPMENT INC. MEADOWLAND DEVELOPMENT INC. ELMBROOK DEVELOPMENT INC.	SECNIK, EDWARD SECNIK-LIM, CLARA SECNIK, WILLIAM	
SC1641245	2019/11/18	DISCH OF CHARGE		*** COMPLETELY DELETED *** SECNIK, EDWARD SECNIK-LIM, CLARA SECNIK, WILLIAM		
REMARKS: SC1411188.						
SC1797692	2021/06/28	TRANSFER	\$610,000	ELMVALE DEVELOPMENT INC. ELMBROOK DEVELOPMENT INC.	SUNRISE ACQUISITIONS (ELMVALE II) INC.	C
REMARKS: PLANNING ACT STATEMENTS.						
SC1797693	2021/06/28	CHARGE	\$1,960,000	SUNRISE ACQUISITIONS (ELMVALE) INC. SUNRISE ACQUISITIONS (ELMVALE II) INC.	5023018 ONTARIO INC. FRANCESCONI, ROBERT THE ESTATE OF GIACOMO FRANCESCONI	C
SC1797694	2021/06/28	NO ASSGN RENT GEN		SUNRISE ACQUISITIONS (ELMVALE) INC. SUNRISE ACQUISITIONS (ELMVALE II) INC.	5023018 ONTARIO INC. FRANCESCONI, ROBERT	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
					THE ESTATE OF GIACOMO FRANCESCONI	
	REMARKS: SC1797693					
SC1846599	2021/11/24	APL DEPOSIT PLAN		*** COMPLETELY DELETED ***		
51R43255	2021/11/25	PLAN REFERENCE				C
	REMARKS: SC1846599.					
SC1886944	2022/04/13	CHARGE		*** DELETED AGAINST THIS PROPERTY *** SUNRISE ACQUISITIONS (ELMVALE II) INC. SUNRISE ACQUISITIONS (ELMVALE) INC. SUNRISE ACQUISITIONS (PATTERSON) INC.	AFC MORTGAGE ADMINISTRATION INC.	
SC1910220	2022/06/30	TRANSFER OF CHARGE		5023018, ONTARIO INC. FRANCESCONI, ROBERT THE ESTATE OF GIACOMO FRANCESCONI	AFC MORTGAGE ADMINISTRATION INC.	C
	REMARKS: SC1797693.					
SC1910221	2022/06/30	NO ASSGN RENT GEN		5023018, ONTARIO INC. FRANCESCONI, ROBERT THE ESTATE OF GIACOMO FRANCESCONI	AFC MORTGAGE ADMINISTRATION INC.	C
	REMARKS: SC1797693, SC1797694					
SC1940187	2022/10/27	CHARGE	\$2,010,000	SUNRISE ACQUISITIONS (ELMVALE II) INC.	AFC MORTGAGE ADMINISTRATION INC.	C
SC1940188	2022/10/27	NO ASSGN RENT GEN		SUNRISE ACQUISITIONS (ELMVALE II) INC.	AFC MORTGAGE ADMINISTRATION INC.	C
	REMARKS: SC1940187					
SC1941160	2022/10/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** AFC MORTGAGE ADMINISTRATION INC.		
	REMARKS: SC1886944.					
SC1952031	2022/12/15	APL CH NAME OWNER		SUNRISE ACQUISITIONS (ELMVALE II) INC.	SUNRISE ACQUISITIONS (ELMVALE) INC.	C
SC1978659	2023/05/10	CHARGE	\$10,500,000	SUNRISE ACQUISITIONS (ELMVALE) INC.	KSV RESTRUCTURING INC.	C

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PCL 6-3 SEC 51-FLOS-8; PT OF N 1/2 LT 6 CON 8 ELMVALE PT 1 & 2 51R8040, S/T EASEMENT IN GROSS OVER PT 1 51R26366 AS IN SC600497; SPRINGWATER; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
ABSOLUTE

RECENTLY:

FIRST CONVERSION FROM BOOK

PIN CREATION DATE:

2001/03/26

OWNERS' NAMES

CAPACITY SHARE

SUNRISE ACQUISITIONS (ELMVALE) INC.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2001/03/23 **						
EL176	1955/10/18	BYLAW				C
RO74336	1957/09/19	BYLAW				C
51R8040	1978/08/10	PLAN REFERENCE				C
FAD341	1978/08/23	APL FIRST REGN			COUGHLIN, MARGARET STONE, FRANCIS	C
	REMARKS: D-341	AMENDED LT79174				
LT98492	1987/06/26	TRANSFER		*** COMPLETELY DELETED ***	STONE, AGNES MARY	
51R26366	1996/09/24	PLAN REFERENCE				C
SC45977	2002/08/12	TRANSMISSION-LAND		*** COMPLETELY DELETED *** STONE, AGNES MARY	STONE, DOUGLAS THOMAS MILLAN, JUDITH ANNE LOUISE BRODIE, MARGARET ELIZABETH	
	REMARKS: "DEBTS PAID"					
SC45978	2002/08/12	TRANS PERSONAL REP		*** COMPLETELY DELETED *** STONE, DOUGLAS THOMAS MILLAN, JUDITH ANNE LOUISE BRODIE, MARGARET ELIZABETH	STONE, DOUGLAS THOMAS MILLAN, JUDITH ANNE LOUISE BRODIE, MARGARET ELIZABETH	
SC297493	2005/01/11	TRANSMISSION-LAND		*** COMPLETELY DELETED *** COUGHLIN, MARGARET	COUGHLIN, JAMES ROBERT COUGHLIN, MARGARET - ESTATE	
SC297494	2005/01/11	TRANS PERSONAL REP		*** COMPLETELY DELETED *** COUGHLIN, JAMES ROBERT	COUGHLIN, JAMES ROBERT	

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
SC600497	2007/11/09	TRANSFER EASEMENT	\$2	BRODIE, MARGARET ELIZABETH COUGHLIN, JAMES ROBERT COUGHLIN, MARY ELIZABETH COUGHLIN, PETER FRANCIS MILLAN, JUDITH ANNE LOUISE STONE, DOUGLAS THOMAS	COUGHLIN, PETER FRANCIS COUGHLIN, MARY ELIZABETH THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER	C
SC1201873	2015/04/02	TRANSFER		*** COMPLETELY DELETED *** BRODIE, MARGARET ELIZABETH COUGHLIN, JAMES ROBERT COUGHLIN, MARY ELIZABETH COUGHLIN, PETER FRANCIS MILLAN, JUDITH ANNE LOUISE STONE, DOUGLAS THOMAS	WOODS, GEORGE THOMAS BEACOCK, CRAIG LAMBERT	
				REMARKS: PLANNING ACT STATEMENTS.		
SC1350034	2016/10/07	TRANSFER		*** COMPLETELY DELETED *** BEACOCK, CRAIG LAMBERT WOODS, GEORGE THOMAS	ELMVALE DEVELOPMENT INC.	
				REMARKS: PLANNING ACT STATEMENTS.		
SC1392202	2017/03/08	CHARGE		*** COMPLETELY DELETED *** ELMVALE DEVELOPMENT INC.	2381561 ONTARIO INC.	
SC1797690	2021/06/28	TRANSFER	\$610,000	ELMVALE DEVELOPMENT INC.	SUNRISE ACQUISITIONS (ELMVALE) INC.	C
				REMARKS: PLANNING ACT STATEMENTS.		
SC1797693	2021/06/28	CHARGE	\$1,960,000	SUNRISE ACQUISITIONS (ELMVALE) INC. SUNRISE ACQUISITIONS (ELMVALE II) INC.	5023018 ONTARIO INC. FRANCESCONI, ROBERT THE ESTATE OF GIACOMO FRANCESCONI	C
SC1797694	2021/06/28	NO ASSGN RENT GEN		SUNRISE ACQUISITIONS (ELMVALE) INC. SUNRISE ACQUISITIONS (ELMVALE II) INC.	5023018 ONTARIO INC. FRANCESCONI, ROBERT THE ESTATE OF GIACOMO FRANCESCONI	C
				REMARKS: SC1797693		
SC1798004	2021/06/29	DISCH OF CHARGE		*** COMPLETELY DELETED *** 2381561 ONTARIO INC.		
				REMARKS: SC1392202.		

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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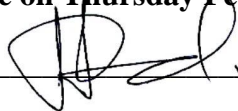
REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
SC1895257	2022/05/11	CHARGE		*** COMPLETELY DELETED *** SUNRISE ACQUISITIONS (ELMVALE) INC.	AFC MORTGAGE ADMINISTRATION INC.	
SC1910220	2022/06/30	TRANSFER OF CHARGE		5023018 ONTARIO INC. FRANCESCONI, ROBERT THE ESTATE OF GIACOMO FRANCESCONI	AFC MORTGAGE ADMINISTRATION INC.	C
		REMARKS: SC1797693.				
SC1910221	2022/06/30	NO ASSGN RENT GEN		5023018 ONTARIO INC. FRANCESCONI, ROBERT THE ESTATE OF GIACOMO FRANCESCONI	AFC MORTGAGE ADMINISTRATION INC.	C
		REMARKS: SC1797693, SC1797694				
SC1940185	2022/10/27	CHARGE	\$2,010,000	SUNRISE ACQUISITIONS (ELMVALE) INC.	AFC MORTGAGE ADMINISTRATION INC.	C
SC1940186	2022/10/27	NO ASSGN RENT GEN		SUNRISE ACQUISITIONS (ELMVALE) INC.	AFC MORTGAGE ADMINISTRATION INC.	C
		REMARKS: SC1940185				
SC1941161	2022/10/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** AFC MORTGAGE ADMINISTRATION INC.		
		REMARKS: SC1895257.				
SC1978659	2023/05/10	CHARGE	\$10,500,000	SUNRISE ACQUISITIONS (ELMVALE) INC.	KSV RESTRUCTURING INC.	C

Exhibit “3”

This is Exhibit “3” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read 'Paul Mand', is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

PROPERTY DESCRIPTION: LT 63 PL 4758 NORTH YORK; S/T NY200193; TORONTO (N YORK) , CITY OF TORONTO

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:

RE-ENTRY FROM 10120-0336

PIN CREATION DATE:

2002/04/29

OWNERS' NAMES

HUSSAIN, SAJJAD
HUSSAIN, MAHVESH

CAPACITY SHARE

JTEN
JTEN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<p>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2002/04/26 **</p> <p>**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:</p> <p>** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * AND ESCHEATS OR FORFEITURE TO THE CROWN.</p> <p>** 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.</p> <p>** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.</p> <p>**DATE OF CONVERSION TO LAND TITLES: 2002/04/29 **</p>						
NY200193	1955/06/03	TRANSFER EASEMENT	\$1		BELL TELEPHONE CO. OF CANADA HYDRO-ELECTRIC COMMISSION OF TOWNSHIP OF NORTH YORK	C
TB913880	1993/08/04	TRANSFER		*** DELETED AGAINST THIS PROPERTY *** RYAN, MICHAEL EDWARD	RYAN, VERA MARY RYAN, MICHAEL EDWARD	
TB969713	1995/06/01	NOTICE REMARKS: RE; 200193NY		BELL CANADA		C
TR53160	1999/12/06	NOTICE REMARKS: RE: PART 3 OF THE REGISTRY ACT		TORONTO-HYDRO-ELECTRIC SYSTEM LIMITED		C
E573429	2002/07/25	APL DEL EXECUTION		*** COMPLETELY DELETED *** RYAN, MICHAEL EDWARD		
E573430	2002/07/25	TRANSFER		*** COMPLETELY DELETED *** RYAN, VERA MARY	ZAIKOS, MAGDALENE	

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
E573431	2002/07/25	CHARGE		RYAN, MICHAEL EDWARD *** COMPLETELY DELETED *** ZAIKOS, MAGDALENE	THE TORONTO-DOMINION BANK	
AT699447	2005/01/04	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		
		REMARKS: RE: E573431				
AT814081	2005/05/27	TRANSFER		*** COMPLETELY DELETED *** ZAIKOS, MAGDALENE	HARAN, PRABHA MASILAMANY, RAJINI	
AT814100	2005/05/27	CHARGE		*** COMPLETELY DELETED *** HARAN, PRABHA MASILAMANY, RAJINI	ZAIKOS, MAGDALENE	
AT846122	2005/06/29	TRANSFER		*** COMPLETELY DELETED *** HARAN, PRABHA MASILAMANY, RAJINI	NIKITAKIS, MARIE NIKITAKIS, PAUL	
AT846123	2005/06/29	CHARGE		*** COMPLETELY DELETED *** NIKITAKIS, MARIE NIKITAKIS, PAUL	HOME TRUST COMPANY	
AT846623	2005/06/29	DISCH OF CHARGE		*** COMPLETELY DELETED *** ZAIKOS, MAGDALENE		
		REMARKS: RE: AT814100				
AT1438256	2007/05/03	TRANSFER		*** COMPLETELY DELETED *** NIKITAKIS, MARIE NIKITAKIS, PAUL	TAM, YUI HUNG	
AT1438257	2007/05/03	CHARGE		*** COMPLETELY DELETED *** TAM, YUI HUNG	BANK OF MONTREAL	
AT1555817	2007/08/28	DISCH OF CHARGE		*** COMPLETELY DELETED *** HOME TRUST COMPANY		
		REMARKS: RE: AT846123				
AT3390507	2013/08/28	TRANSFER		*** COMPLETELY DELETED *** TAM, YUI HUNG	1392570 ONTARIO INC.	

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
AT3403495	2013/09/11	DISCH OF CHARGE		*** COMPLETELY DELETED *** BANK OF MONTREAL		
	<i>REMARKS: AT1438257.</i>					
AT4226152	2016/05/25	TRANSFER		*** COMPLETELY DELETED *** 1392570 ONTARIO INC.	WANG, LIPING ZHAO, ZHIBIN	
AT4429772	2016/12/09	TRANSFER		*** COMPLETELY DELETED *** WANG, LIPING ZHAO, ZHIBIN	GHAHRAMAN, MITRA	
AT4429773	2016/12/09	CHARGE		*** COMPLETELY DELETED *** GHAHRAMAN, MITRA	ROYAL BANK OF CANADA	
AT5035271	2018/12/17	TRANSFER	\$1,818,000	GHAHRAMAN, MITRA	HUSSAIN, SAJJAD HUSSAIN, MAHVESH	C
	<i>REMARKS: PLANNING ACT STATEMENTS.</i>					
AT5035272	2018/12/17	CHARGE	\$995,000	HUSSAIN, SAJJAD HUSSAIN, MAHVESH	HOME TRUST COMPANY	C
AT5053352	2019/01/14	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
	<i>REMARKS: AT4429773.</i>					
AT5086804	2019/02/28	CHARGE		*** COMPLETELY DELETED *** HUSSAIN, SAJJAD HUSSAIN, MAHVESH	HANS HOLDINGS INC.	
AT5086805	2019/02/28	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** HUSSAIN, SAJJAD HUSSAIN, MAHVESH	HANS HOLDINGS INC.	
	<i>REMARKS: AT5086804.</i>					
AT5161488	2019/06/17	TRANSFER OF CHARGE		HOME TRUST COMPANY	COMPUTERSHARE TRUST COMPANY OF CANADA	C
	<i>REMARKS: AT5035272</i>					
AT5426964	2020/05/12	CHARGE		*** COMPLETELY DELETED *** HUSSAIN, SAJJAD HUSSAIN, MAHVESH	SCUGOG DEVELOPMENTS INC.	
AT5427010	2020/05/12	DISCH OF CHARGE		*** COMPLETELY DELETED ***		

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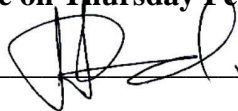
REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
				HANS HOLDINGS INC.		
	<i>REMARKS: AT5086804.</i>					
AT5988810	2022/02/11	CHARGE		*** COMPLETELY DELETED *** HUSSAIN, SAJJAD HUSSAIN, MAHVESH	ADITCORP HOLDINGS INC.	
AT5988811	2022/02/11	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** HUSSAIN, SAJJAD HUSSAIN, MAHVESH	ADITCORP HOLDINGS INC.	
	<i>REMARKS: AT5988810.</i>					
AT5990100	2022/02/14	DISCH OF CHARGE		*** COMPLETELY DELETED *** SCUGOG DEVELOPMENTS INC.		
	<i>REMARKS: AT5426964.</i>					
AT6210829	2022/10/27	CHARGE	\$2,010,000	HUSSAIN, SAJJAD HUSSAIN, MAHVESH	AFC MORTGAGE ADMINISTRATION INC.	C
AT6210830	2022/10/27	NO ASSGN RENT GEN		HUSSAIN, SAJJAD HUSSAIN, MAHVESH	AFC MORTGAGE ADMINISTRATION INC.	C
	<i>REMARKS: AT6210829</i>					
AT6213680	2022/10/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** ADITCORP HOLDINGS INC.		
	<i>REMARKS: AT5988810.</i>					
AT6465836	2023/11/24	CONSTRUCTION LIEN	\$140,634	MASON'S MASONRY SUPPLY LTD.		C

Exhibit “4”

This is Exhibit “4” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read 'Paul Mand', is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

PROPERTY DESCRIPTION: PCL 8-1 SEC 65M3001; LT 8 PL 65M3001; T/W BLK 36 PL 65M3001 AS IN LT1037812 (S/T LT1006180);; CITY OF VAUGHAN

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE
ABSOLUTE

RECENTLY:
FIRST CONVERSION FROM BOOK

PIN CREATION DATE:
1997/04/07

OWNERS' NAMES
KODWAVI, MUZAMMIL
KODWAVI, SAFANA

CAPACITY SHARE
JTEN
JTEN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<p>**EFFECTIVE 2000/07/29 THE NOTATION OF THE "BLOCK IMPLEMENTATION DATE" OF 1997/04/07 ON THIS PIN**</p> <p>**WAS REPLACED WITH THE "PIN CREATION DATE" OF 1997/04/07**</p> <p>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1997/04/04 **</p>						
LT1006180	1994/10/14	NO SUB AGREEMENT			THE CORPORATION OF THE CITY OF VAUGHAN	C
LT1023341	1995/01/26	RESTRICTION-LAND		*** DELETED AGAINST THIS PROPERTY ***		
REMARKS: NO TRANSFER WITHOUT THE CONSENT OF THE CITY OF VAUGHAN.						
LT1039181Z	1995/05/26	APL ANNEX REST COV				C
LT1127829	1996/10/01	TRANSFER		*** COMPLETELY DELETED ***	SCARCELLA, MARIA SCARCELLA, CATHY	
REMARKS: THE CONSENT OF THE CORPORATION OF THE CITY OF VAUGHAN IS ATTACHED						
LT1127830	1996/10/01	CHARGE		*** COMPLETELY DELETED ***	CIBC MORTGAGE CORPORATION	
LT1131275	1996/10/21	CHARGE		*** COMPLETELY DELETED ***	BARBIERI, NICK	
YR34435	2001/08/14	CHARGE		*** COMPLETELY DELETED *** SCARCELLA, MARIA SCARCELLA, CATHY	CANADIAN IMPERIAL BANK OF COMMERCE	
YR34436	2001/08/14	POSTPONEMENT		*** COMPLETELY DELETED *** BARBIERI, NICK	CANADIAN IMPERIAL BANK OF COMMERCE	
REMARKS: LT1131275 TO YR34435						
YR154491	2002/06/05	DISCH OF CHARGE		*** COMPLETELY DELETED ***		

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
				CANADIAN IMPERIAL BANK OF COMMERCE		
	<i>REMARKS: RE: YR34435</i>					
YR157064	2002/06/11	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
	<i>REMARKS: RE: YR34435</i>					
YR157065	2002/06/11	CHARGE		*** COMPLETELY DELETED *** SCARCELLA, CATHY SCARCELLA, MARIA	CIBC MORTGAGES INC.	
	<i>REMARKS: CONSENT ATTACHED</i>					
YR166958	2002/06/28	POSTPONEMENT		*** COMPLETELY DELETED *** BARBIERI, NICK	CIBC MORTGAGES INC.	
	<i>REMARKS: LT1131275 POSTPONED TO YR157065, CONSENT CITY OF VAUGHAN</i>					
YR217096	2002/10/11	DISCH OF CHARGE		*** COMPLETELY DELETED *** CIBC MORTGAGE CORPORATION		
	<i>REMARKS: RE: LT1127830</i>					
YR603406	2005/02/23	TRANSFER		*** COMPLETELY DELETED *** SCARCELLA, CATHY SCARCELLA, MARIA	PRINCIPE, LISA JENNIFER	
YR603407	2005/02/23	CHARGE		*** COMPLETELY DELETED *** PRINCIPE, LISA JENNIFER	CIBC MORTGAGES INC.	
YR603408	2005/02/23	CHARGE		*** COMPLETELY DELETED *** PRINCIPE, LISA JENNIFER	CANADIAN IMPERIAL BANK OF COMMERCE	
YR603599	2005/02/24	DISCH OF CHARGE		*** COMPLETELY DELETED *** BARBIERI, NICK		
	<i>REMARKS: RE: LT1131275</i>					
YR612109	2005/03/16	DISCH OF CHARGE		*** COMPLETELY DELETED *** CIBC MORTGAGES INC.		
	<i>REMARKS: RE: YR157065</i>					
YR838223	2006/06/26	DISCH OF CHARGE		*** COMPLETELY DELETED *** CIBC MORTGAGES INC.		
	<i>REMARKS: RE: YR603407</i>					
YR1121873	2008/02/06	CHARGE		*** COMPLETELY DELETED ***		

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR1124898	2008/02/14	POSTPONEMENT		PRINCIPE, LISA JENNIFER *** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE	CIBC MORTGAGES INC. CIBC MORTGAGES INC.	
	REMARKS: YR603408 TO YR1121873					
YR1460531	2010/04/01	DISCH OF CHARGE		*** COMPLETELY DELETED *** CIBC MORTGAGES INC.		
	REMARKS: YR1121873.					
YR1473580	2010/04/30	CHARGE		*** COMPLETELY DELETED *** PRINCIPE, LISA JENNIFER	CANADIAN IMPERIAL BANK OF COMMERCE	
YR1796270	2012/03/16	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
	REMARKS: YR603408.					
YR1897194	2012/10/11	LR'S ORDER		*** COMPLETELY DELETED *** LAND REGISTRAR #65		
	REMARKS: DELETE EXPIRED RIGHT FROM T/N AS IN LT1041008					
YR1899950	2012/10/18	DISCH OF CHARGE		*** COMPLETELY DELETED *** CANADIAN IMPERIAL BANK OF COMMERCE		
	REMARKS: YR1473580.					
YR1900166	2012/10/18	TRANSFER		*** COMPLETELY DELETED *** PRINCIPE, LISA JENNIFER	WANG, MIN CAI, YAN HUA	
	REMARKS: PLANNING ACT STATEMENTS					
YR1900167	2012/10/18	CHARGE		*** COMPLETELY DELETED *** WANG, MIN CAI, YAN HUA	ROYAL BANK OF CANADA	
YR2545995	2016/09/20	DISCH OF CHARGE		*** COMPLETELY DELETED *** ROYAL BANK OF CANADA		
	REMARKS: YR1900167.					
YR3261529	2021/06/04	TRANSFER	\$2,980,000	WANG, MIN CAI, YAN HUA	KODWAVI, MUZAMMIL KODWAVI, SAFANA	C
YR3261530	2021/06/04	CHARGE	\$1,980,000	KODWAVI, MUZAMMIL KODWAVI, SAFANA	COMPUTERSHARE TRUST COMPANY OF CANADA	C

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* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

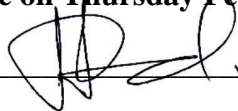
REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR3266206	2021/06/15	CHARGE		*** COMPLETELY DELETED *** KODWAVI, MUZAMMIL KODWAVI, SAFANA	AFC MORTGAGE ADMINISTRATION INC.	
YR3491120	2022/10/27	CHARGE	\$2,010,000	KODWAVI, MUZAMMIL KODWAVI, SAFANA	AFC MORTGAGE ADMINISTRATION INC.	C
YR3491121	2022/10/27	NO ASSGN RENT GEN		KODWAVI, MUZAMMIL KODWAVI, SAFANA	AFC MORTGAGE ADMINISTRATION INC.	C
		<i>REMARKS: YR3491120 RENTS</i>				
YR3492258	2022/10/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** AFC MORTGAGE ADMINISTRATION INC.		
		<i>REMARKS: YR3266206.</i>				

Exhibit “5”

This is Exhibit “5” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read "Paul Mand", is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

LAND
REGISTRY
OFFICE #65

79

70007-0730 (LT)

PAGE 1 OF 3
PREPARED FOR Dragana01
ON 2024/01/03 AT 14:07:59

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: LOT 79, PLAN 65M3921; S/T EASEMENT FOR ENTRY AS IN YR916426; TOGETHER WITH AN EASEMENT OVER PT LT 78 PL 65M3921, PT 13 65R30835 AS IN YR1259568; CITY OF VAUGHAN

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE
ABSOLUTE

RECENTLY:
RE-ENTRY FROM 03328-5049

PIN CREATION DATE:
2013/02/22

OWNERS' NAMES
KODWAVI, MUZAMMIL
KODWAVI, SAFANA

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2013/02/22 **						
YR846284	2006/07/07	NO SUB AGREEMENT		THE CORPORATION OF THE CITY OF VAUGHAN	589915 ONTARIO LIMITED	C
65M3921	2006/08/31	PLAN SUBDIVISION				C
YR892143	2006/10/05	APL ANNEX REST COV		589915 ONTARIO LIMITED		C
		REMARKS: FOR 20 YRS FROM 2006/08/31				
YR1165234	2008/05/22	BYLAW		THE CORPORATION OF THE CITY OF VAUGHAN		C
		REMARKS: BY-LAW NO. 110-2008 - A BY-LAW TO EXEMPT PARTS OF PLAN 65M3921 FROM THE PROVISIONS OF PART LOT CONTROL.				
YR1425717	2010/01/05	TRANSFER		*** DELETED AGAINST THIS PROPERTY *** JENRETTE CONSTRUCTION LTD.	GALLO, ELVIRA	
YR1425718	2010/01/05	CHARGE		*** DELETED AGAINST THIS PROPERTY *** GALLO, ELVIRA	THE TORONTO-DOMINION BANK	
YR1425719	2010/01/05	CHARGE		*** DELETED AGAINST THIS PROPERTY *** GALLO, ELVIRA	THE TORONTO-DOMINION BANK	
YR1975983	2013/05/13	CHARGE		*** COMPLETELY DELETED *** GALLO, ELVIRA	THE TORONTO-DOMINION BANK	
YR1978660	2013/05/16	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK		
		REMARKS: YR1425718.				
YR1988923	2013/06/12	POSTPONEMENT		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK	THE TORONTO-DOMINION BANK	
		REMARKS: YR1425719 TO YR1975983				
YR2593088	2016/12/08	TRANSFER	\$2,130,000	GALLO, ELVIRA	KODWAVI, MUZAMMIL	C

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD	
		<i>REMARKS: PLANNING ACT STATEMENTS.</i>					
YR2593089	2016/12/08	CHARGE		*** COMPLETELY DELETED *** KODWAVI, MUZAMMIL KODWAVI, SAFANA	KODWAVI, SAFANA HOME TRUST COMPANY		
YR2607595	2017/01/11	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK			
		<i>REMARKS: YR1975983.</i>					
YR2607599	2017/01/11	DISCH OF CHARGE		*** COMPLETELY DELETED *** THE TORONTO-DOMINION BANK			
		<i>REMARKS: YR1425719.</i>					
YR2914399	2018/12/27	CHARGE	\$779,800	KODWAVI, MUZAMMIL KODWAVI, SAFANA	ITALIAN CANADIAN SAVINGS & CREDIT UNION LIMITED	C	
YR2919757	2019/01/16	DISCH OF CHARGE		*** COMPLETELY DELETED *** HOME TRUST COMPANY			
		<i>REMARKS: YR2593089.</i>					
YR2934610	2019/02/28	CHARGE		*** COMPLETELY DELETED *** KODWAVI, MUZAMMIL KODWAVI, SAFANA	HANS HOLDINGS INC.		
YR2934611	2019/02/28	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** KODWAVI, MUZAMMIL KODWAVI, SAFANA	HANS HOLDINGS INC.		
		<i>REMARKS: YR2934610.</i>					
YR3008877	2019/09/16	CHARGE		*** COMPLETELY DELETED *** KODWAVI, MUZAMMIL KODWAVI, SAFANA	PETRO GROUP INTERNATIONAL INC.		
YR3019326	2019/10/11	DISCH OF CHARGE		*** COMPLETELY DELETED *** PETRO GROUP INTERNATIONAL INC.			
		<i>REMARKS: YR3008877.</i>					
YR3097830	2020/05/12	CHARGE		*** COMPLETELY DELETED *** KODWAVI, MUZAMMIL KODWAVI, SAFANA	SCUGOG DEVELOPMENTS INC.		

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
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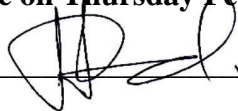
REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
YR3097835	2020/05/12	DISCH OF CHARGE		*** COMPLETELY DELETED *** HANS HOLDINGS INC.		
	REMARKS: YR2934610.					
YR3261009	2021/06/03	DISCH OF CHARGE		*** COMPLETELY DELETED *** SCUGOG DEVELOPMENTS INC.		
	REMARKS: YR3097830.					
YR3262835	2021/06/08	CHARGE	\$1,280,750	KODWAVI, MUZAMMIL KODWAVI, SAFANA	SCUGOG DEVELOPMENTS INC.	C
YR3380760	2022/02/11	CHARGE		*** COMPLETELY DELETED *** KODWAVI, MUZAMMIL KODWAVI, SAFANA	ADITCORP HOLDINGS INC.	
YR3380761	2022/02/11	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** KODWAVI, MUZAMMIL KODWAVI, SAFANA	ADITCORP HOLDINGS INC.	
	REMARKS: YR3380760.					
YR3381434	2022/02/14	DISCH OF CHARGE		SCUGOG DEVELOPMENTS INC.		C
	REMARKS: YR3262835.					
YR3491120	2022/10/27	CHARGE	\$2,010,000	KODWAVI, MUZAMMIL KODWAVI, SAFANA	AFC MORTGAGE ADMINISTRATION INC.	C
YR3491121	2022/10/27	NO ASSGN RENT GEN		KODWAVI, MUZAMMIL KODWAVI, SAFANA	AFC MORTGAGE ADMINISTRATION INC.	C
	REMARKS: YR3491120 RENTS					
YR3492259	2022/10/31	DISCH OF CHARGE		*** COMPLETELY DELETED *** ADITCORP HOLDINGS INC.		
	REMARKS: YR3380760.					

Exhibit “6”

This is Exhibit “6” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read 'Paul Mand', is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

LAND
REGISTRY
OFFICE #40

83

26483-2031 (LT)

PAGE 1 OF 3
PREPARED FOR Dragana01
ON 2024/01/03 AT 14:09:13

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: PART OF BLOCK 1 ON PLAN 40M2587 DESIGNATED AS PART 46 ON PLAN 40R29873 TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN DURHAM COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 294; SUBJECT TO AN EASEMENT AS IN DR1646317; SUBJECT TO AN EASEMENT FOR ENTRY AS IN DR1669692; TOGETHER WITH AN EASEMENT OVER PART OF LOT 29 B.F. CON. PART 1 ON PLAN 40R29633 AS IN DR1668901; SUBJECT TO AN EASEMENT IN GROSS OVER PART 46 ON PLAN 40R29873 AS IN DR1686646; SUBJECT TO AN EASEMENT AS IN DR1681446; SUBJECT TO AN EASEMENT AS IN DR1696373; TOWN OF WHITBY

PROPERTY REMARKS: FOR ADDITIONAL ENCUMBRANCES THE PIN FOR DURHAM COMMON ELEMENTS CONDOMINIUM NO. 294 IN BLOCK 27294 MUST BE EXAMINED.

ESTATE/QUALIFIER:
FEE SIMPLE
ABSOLUTE

RECENTLY:
DIVISION FROM 26483-1985

PIN CREATION DATE:
2017/12/29

OWNERS' NAMES
HUSSAIN, SAJJAD

CAPACITY SHARE
ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
<i>** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2017/12/29 **</i>						
DR1430831	2015/12/10	CHARGE		*** DELETED AGAINST THIS PROPERTY *** COURTICE NORTH INC.	CAMERON STEPHENS FINANCIAL CORPORATION	
DR1532581	2016/10/31	NOTICE		*** DELETED AGAINST THIS PROPERTY *** COURTICE NORTH INC.	CAMERON STEPHENS FINANCIAL CORPORATION	
		<i>REMARKS: DR1430831</i>				
DR1538116	2016/11/15	NOTICE	\$2	THE CORPORATION OF THE TOWN OF WHITBY	COURTICE NORTH INC.	C
		<i>REMARKS: SITE PLAN</i>				
40M2587	2017/03/09	PLAN SUBDIVISION				C
DR1574828	2017/03/10	NO SUB AGREEMENT		THE REGIONAL MUNICIPALITY OF DURHAM	COURTICE NORTH INC.	C
DR1575618	2017/03/14	NO SUB AGREEMENT		THE CORPORATION OF THE TOWN OF WHITBY	COURTICE NORTH INC.	C
DR1575619	2017/03/14	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** CAMERON STEPHENS FINANCIAL CORPORATION	THE CORPORATION OF THE TOWN OF WHITBY	
		<i>REMARKS: DR1430831 TO DR1575618</i>				
40R29633	2017/05/11	PLAN REFERENCE				C
DR1605428	2017/06/15	BYLAW		THE CORPORATION OF THE TOWN OF WHITBY		C
		<i>REMARKS: BY-LAW NO.7291-17 BEING A BY-LAW TO DESIGNATE CERTAIN PORTIONS OF A REGISTERED PLAN OF SUBDIVISION (SW-2014-05) AS NOT BEING SUBJECT TO PART LOT CONTROL</i>				
DR1633869	2017/09/05	NOTICE	\$2	THE CORPORATION OF THE TOWN OF WHITBY	COURTICE NORTH INC.	C
DR1646317	2017/10/13	TRANSFER EASEMENT	\$2	COURTICE NORTH INC.	ENBRIDGE GAS DISTRIBUTION INC.	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
DR1646318	2017/10/13	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** CAMERON STEPHENS FINANCIAL CORPORATION	ENBRIDGE GAS DISTRIBUTION INC.	
	<i>REMARKS: DR1430831 TO DR1646317</i>					
40R29873	2017/11/15	PLAN REFERENCE				C
DR1663441	2017/12/04	NOTICE		*** DELETED AGAINST THIS PROPERTY *** COURTICE NORTH INC.	CAMERON STEPHENS FINANCIAL CORPORATION	
	<i>REMARKS: DR1430831</i>					
DR1669692	2017/12/22	TRANSFER		*** DELETED AGAINST THIS PROPERTY *** COURTICE NORTH INC.	COURTICE NORTH INC.	
DR1678304	2018/01/31	NOTICE		*** DELETED AGAINST THIS PROPERTY *** COURTICE NORTH INC.	CAMERON STEPHENS FINANCIAL CORPORATION	
	<i>REMARKS: DR1430831</i>					
DR1681446	2018/02/13	TRANSFER EASEMENT	\$2	COURTICE NORTH INC.	ROGERS COMMUNICATIONS INC.	C
DR1686646	2018/03/06	TRANSFER EASEMENT	\$2	COURTICE NORTH INC.	WHITBY HYDRO ELECTRIC CORPORATION	C
DR1686647	2018/03/06	POSTPONEMENT		*** DELETED AGAINST THIS PROPERTY *** CAMERON STEPHENS FINANCIAL CORPORATION	WHITBY HYDRO ELECTRIC CORPORATION	
	<i>REMARKS: DR1430831 TO DR1686646</i>					
DR1693410	2018/04/05	LR'S ORDER		LAND REGISTRAR, DURHAM LAND REGISTRY OFFICE		C
	<i>REMARKS: "SUBJECT TO AN EASEMENT AS IN DR1681446" ADDED TO DESCRIPTION</i>					
DCP294	2018/04/18	CE CONDO PLN				C
DR1696373	2018/04/18	CONDO DECLARATION		COURTICE NORTH INC.		C
DR1700074	2018/05/02	NOTICE	\$2	WHITBY HYDRO ELECTRIC CORPORATION		C
DR1748020	2018/10/30	TRANSFER	\$419,548	COURTICE NORTH INC.	HUSSAIN, SAJJAD	C
DR1762589	2018/12/21	DISCH OF CHARGE		*** COMPLETELY DELETED *** CAMERON STEPHENS FINANCIAL CORPORATION		
	<i>REMARKS: DR1430831.</i>					
DR1894254	2020/05/13	CHARGE	\$422,500	HUSSAIN, SAJJAD	THE BANK OF NOVA SCOTIA	C
DR2015115	2021/06/15	CHARGE		*** COMPLETELY DELETED ***		

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 *

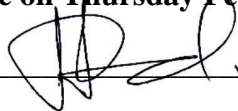
REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
DR2184390	2022/10/27	CHARGE	\$2,010,000	HUSSAIN, SAJJAD	AFC MORTGAGE ADMINISTRATION INC.	
DR2184391	2022/10/27	NO ASSGN RENT GEN <i>REMARKS: NOTICE TO BE DELETED UPON</i>		HUSSAIN, SAJJAD <i>DELETION OF DR2184390</i>	AFC MORTGAGE ADMINISTRATION INC.	C
DR2185323	2022/10/31	DISCH OF CHARGE <i>REMARKS: DR2015115.</i>		*** COMPLETELY DELETED *** AFC MORTGAGE ADMINISTRATION INC.	AFC MORTGAGE ADMINISTRATION INC.	C

Exhibit “7”

This is Exhibit “7” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read "Paul Mand", is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Properties

<i>PIN</i>	58379 - 0397 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT S1/2 LOT 6 CON 8 FLOS BEING PT 1 51R14434 EXCEPT PT 2 51R41145; TOWNSHIP OF SPRINGWATER		
<i>Address</i>	ELMVALE		
<i>PIN</i>	58379 - 0237 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PCL 6-3 SEC 51-FLOS-8; PT OF N 1/2 LT 6 CON 8 ELMVALE PT 1 & 2 51R8040, S/T EASEMENT IN GROSS OVER PT 1 51R26366 AS IN SC600497; SPRINGWATER		
<i>Address</i>	6 TRAIN AVENUE ELMVALE		
<i>PIN</i>	58379 - 0238 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PCL 6-5 SEC 51-FLOS-8; PT LT 6 CON 8 ELMVALE PT 2, 51R8051; SPRINGWATER		
<i>Address</i>	ELMVALE		

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 SUNRISE ACQUISITIONS (ELMVALE) INC.
Address for Service 50 Wilmot Street, Suite 100
Richmond Hill, ON
L4B 1M5

I, Sajjad Hussain A.S.O., have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Name SUNRISE ACQUISITIONS (ELMVALE II) INC.
Address for Service 50 Wilmot Street, Suite 100
Richmond Hill, ON
L4B 1M5

I, Sajjad Hussain A.S.O., have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Chargee(s)

	<i>Capacity</i>	<i>Share</i>
<i>Name</i> 5023018 ONTARIO INC.	Tenants In Common	\$1,152,303.60
<i>Address for Service</i> 1000- 120 Adelaide St W. Toronto, Ontario M5H 3V1		
<i>Name</i> FRANCESCONI, ROBERT	Tenants In Common	\$430,768.80
<i>Address for Service</i> 1000- 120 Adelaide St W. Toronto, Ontario M5H 3V1		
<i>Name</i> THE ESTATE OF GIACOMO FRANCESCONI	Tenants In Common	\$376,927.60
<i>Address for Service</i> 1000- 120 Adelaide St W. Toronto, Ontario M5H 3V1		

Statements

Schedule: See Schedules

I Davide Joseph Di Iulio solicitor make the following law statement Sunrise Acquisitions (Elmvale) Inc. is the registered owner of PINs 58379-0397 and 58379-0237. Sunrise Acquisitions (Elmvale II) Inc. is the registered owner of PIN 58379-0238.

Provisions

<i>Principal</i>	\$1,960,000.00	<i>Currency</i>	CDN
<i>Calculation Period</i>	Monthly, interest only payments		
<i>Balance Due Date</i>	2022/07/01		
<i>Interest Rate</i>	higher of 9.00% or TD Prime Rate plus 6.55%		
<i>Payments</i>			
<i>Interest Adjustment Date</i>	2021 07 01		
<i>Payment Date</i>	see Additional Provisions		
<i>First Payment Date</i>	2021 08 01		

Provisions

Last Payment Date 2022 07 01
 Standard Charge Terms
 Insurance Amount Full insurable value
 Guarantor SAJJAD HUSSAIN and MUZAMMIL KODWAVI

Additional Provisions

The Chargees shall hold back the sum of \$220,000.00 representing an interest reserve to term.

Signed By

Davide Joseph Di Iulio 1000-120 Adelaide St. W. acting for Signed 2021 06 28
 Toronto
 M5H 3V1 Chargor(s)

Tel 416-363-2211

Fax 416-363-0645

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

Schneider Ruggiero Spencer Milburn LLP 1000-120 Adelaide St. W. 2021 06 28
 Toronto
 M5H 3V1

Tel 416-363-2211

Fax 416-363-0645

Fees/Taxes/Payment

Statutory Registration Fee \$65.30
 Total Paid \$65.30

File Number

Chargor Client File Number : 42505

Chargee Client File Number : 42751

SCHEDULE TO THE ATTACHED CHARGE/MORTGAGE

RECITALS

The Lender has agreed to make a loan in favour of the Borrower upon the terms and conditions more particularly contained herein

The Borrower is the registered owner of the lands and premises described in the electronic Charge to which this schedule is attached

This Charge is given by the Borrower to the Lender as continuing security for the repayment by the Borrower to the Lender of such loan and the performance by the Borrower of its obligations as more particularly described herein.

ARTICLE 1 - DEFINITIONS

1.1 For the purposes of this Charge the following definitions will apply:

"Applicable Laws" means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all then current laws, rules, statutes, regulations, treaties, orders, judgments and decrees and all official directives, rules, guidelines, orders, policies, decisions and other requirements of any Governmental Authority (whether or not having the force of law) (collectively, the "Law") relating or applicable to such Person, property, transaction, event or other matter and shall also include any interpretation of the Law or any part of the Law by any Person having jurisdiction over it or charged with its administration or interpretation;

"Applicable Rate" means the interest rate set out in the electronic Charge to which this schedule is attached or, in the alternative, the interest rate set out in the Commitment;

"Bills" has the meaning ascribed thereto in Section 10.1(a);

"Borrower" means the party identified as "Chargor" set out in the electronic Charge to which this schedule is attached and its successors and assigns;

"Business Day" means a day on which the Lender is open for business but specifically excluding Saturdays, Sundays or statutory holidays pursuant to the laws of Canada or the Province of Ontario and "Business Days" means more than one Business Day;

"Charge" means this charge/mortgage of land and all instruments supplemental hereto or in amendment, renewal, extension, restatement, replacement or confirmation hereof;

"Charged Premises" means, collectively, the Lands and the Improvements;

"Commitment" means the letter of commitment dated 8 January 2021 between the Borrower and the Lender, as the same has been or may be amended, restated, supplemented, renewed, extended or superseded from time to time;

"Environmental Approvals" has the meaning ascribed to it in Section 12.1 hereof;

"Environmental Laws" or "Environmental Law" has the meaning ascribed to them in Section 12.1 hereof;

"Event of Default" has the meaning ascribed thereto in Section 18.1 hereof;

"Event of Insolvency" means the occurrence of any one of the following events:

- (a) If the Borrower, or the Guarantor(s), shall, other than as expressly permitted hereby:
- (i) be wound up, dissolved or liquidated, whether pursuant to the provisions of the laws of the Province of Ontario or the federal laws of Canada applicable therein, or any other law or otherwise, or becomes subject to the provisions of the *Winding-Up and Restructuring Act* (Canada), or has its existence terminated or has any resolution passed therefor; or
 - (ii) makes a general assignment for the benefit of its creditors or files a proposal or a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada), shall otherwise acknowledge its insolvency or shall be declared or become bankrupt or insolvent; or
 - (iii) proposes a compromise or arrangement or otherwise brings proceedings under or becomes subject to the provisions of the *Companies' Creditors Arrangement Act* (Canada) or shall file any petition or answer seeking any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution or any other relief for itself under, or in any way takes the benefit of, the *Bankruptcy and Insolvency Act* (Canada) or any other present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors; or
 - (iv) be unable, by reason of insolvency or similar circumstances, to pay its trade creditors generally, within one hundred and twenty (120) days of the rendering of trade accounts or admit its inability to pay its debts or perform its obligations as they become due; or
- (b) If a court of competent jurisdiction shall enter an order, judgment or decree against the Borrower in respect of any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution, winding-up, termination of existence, declaration of bankruptcy or insolvency, or similar relief under any present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors, or the Borrower shall acquiesce in the entry of such order, judgment or decree, unless the Borrower is also proceeding forthwith to diligently and in good faith contest the same and, provided that none of the Charged Premises, the Charge or the Security, the value of the Charged Premises or the operation thereof, are adversely affected and there is no prejudice to the Lender in the Lender's reasonable opinion, and such order, judgement or decree is vacated or permanently stayed within fifteen (15) days of its making; or
- (c) If any trustee in bankruptcy, receiver, receiver and manager, monitor or liquidator or any other officer with similar powers shall

be appointed for the Charged Premises or any portion thereof, or for the Borrower or the Guarantor(s), or for all or any substantial part of its assets or its interest in the Charged Premises with the consent or acquiescence of the Borrower; or

- (d) If, other than as expressly permitted hereby, an encumbrancer or the holder of any lien or charge or any other creditor takes possession of the Charged Premises or the Borrower's interest in the Charged Premises, or any part thereof, or if a distress, execution, garnishment or any similar process is levied or enforced upon or against the same;

"Governmental Authority" means any federal, provincial, territorial or municipal government and any executive, judicial, regulatory or administrative functions of, or pertaining to, government (including, without limitation, all boards, commissions, agencies, departments and ministries);

"Guarantor(s)" means any Person from time to time guaranteeing the Indebtedness;

"Hazardous Substance" has the meaning ascribed to it in Section 12.1 hereof;

"Improvements" means the buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements now located on the Lands and all appurtenances pertaining thereto, together with all other buildings, structures, fixtures and improvements hereafter located from time to time in, on or under the Lands and all personal property, equipment and chattels now or hereafter affixed to the Lands or to such buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements owned by the Borrower;

"Indebtedness" means, collectively, the Principal Sum, any debts, liabilities, obligations, covenants and duties owing by the Borrower to the Lender of any kind or nature, present or future and arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith, whether or not evidenced by any note, guarantee or other instrument, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guarantee, indemnification, or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and in all cases arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith. The term includes, without limitation, all interest, yield maintenance, charges, expenses, fees, including all processing and commitment fees and all legal fees and disbursements (in each case whether or not allowed), and any other sum chargeable to the Borrower under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith;

"Inspections" has the meaning ascribed to it in Section 12.1 hereof;

"Interest Adjustment Date" means the interest adjustment date set by the Lender for the purposes of setting a payment schedule;

"Lands" means the lands and premises described in the electronic Charge to which this schedule is attached, including all tenements, hereditaments and appurtenances belonging or in any way appertaining thereto, and the reversion or reversions, remainder and remainders, rents, issues and profits therefrom, and all the estate, right, title, interest, property claim and demand whatsoever of the Borrower of, in and to the same and of, in and to every part thereof;

"Lease Benefits" means the benefit of all covenants and obligations of tenants, licencees or occupants contained in any of the Leases, including, without limitation, all rights and benefits of any guarantees thereof, the right to demand, sue for, collect, recover and receive all Rents, to enforce the landlord's rights under any Lease and generally any collateral advantage or benefit to be derived from the Leases or any of them;

"Lease Rights" means, collectively, the Leases, the Rents and the Lease Benefits;

"Leases" means all present and future leases, subleases, licences, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Borrower, or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Charged Premises, including all agreements collateral thereto, but which, for the purpose of this definition does not include the Property Lease, and "Lease" means any one of them;

"Lender" means the party identified as "Chargee" in the electronic Charge to which this schedule is attached, and its successors and assigns;

"Loan" means the loan extended or to be extended by the Lender to the Borrower in the principal amount set out in the electronic Charge to which this schedule is attached and secured by this Charge and other security given to the Lender by the Borrower and the Guarantor(s), if any;

"Major Tenant Leases" means any agreements to lease, offers to lease or leases, subleases or occupancy agreements in respect of premises situate on the Charged Premises and which are determined by the Lender in its discretion to be material to the Charged Premises and the extension and maintenance of the Loan;

"Maturity Date" means, subject to early maturity by reason of the occurrence of an Event of Default and the acceleration of repayment at the option of the Lender, the balance due date set out in the electronic Charge to which this schedule is attached;

"Permitted Encumbrances" means the items more particularly set out in Schedule 'A' hereto together with such other encumbrances, liens and interests affecting the Charged Premises which are acceptable to the Lender in its sole discretion. If no Schedule 'A' is attached hereto, there are no permitted encumbrances;

"Person" means any natural person, sole proprietorship, partnership, syndicate, trust, joint venture, Governmental Authority or any incorporated or unincorporated or entity or association of any nature;

"Principal" or "Principal Sum" means the principal amount of the Loan owing from time to time by the Borrower to the Lender;

"Rents" means all rents, issues and profits now due or to become due under or derived from the Leases;

"Security" means, collectively, all other or additional security, other than this Charge, given by the Borrower or others to the Lender as security for the Loan;

"Taxes" means for each year during the term of this Charge all real property taxes, business taxes, rates, duties, charges, assessments, impositions, taxes, levies and charges for local improvements or otherwise, imposed upon or assessed against the Charged Premises or any part or parts thereof by any Governmental Authority including, without limitation, school boards, and paid or payable by the Borrower or any tenant of the Charged Premises, but shall not include franchise, capital levy or transfer tax or any income, excess profits or revenue tax or any other tax or impost of a personal nature charged or levied upon the Borrower or any tenant of the Charged Premises. If the system of real property taxation or business shall be altered or varied and any new tax shall be levied or imposed on all or any portion of the Charged Premises or the revenues therefrom in substitution for, or in addition to, taxes presently levied or imposed, then any such new tax or levy shall be deemed to be and shall be included herein; and

"Term" means the term of this Charge and being a period which expires on the Maturity Date

ARTICLE 2 - CHARGING PROVISIONS

- 2.1 Now therefore witnesseth that the Borrower, being the registered owner of a freehold estate in fee simple in possession of the Lands, in consideration of the Loan advanced or to be advanced by the Lender to the Borrower or for its benefit, and as security for the repayment of all Indebtedness and the performance of the obligations of the Borrower hereunder, does hereby grant, mortgage, charge and create a security interest in, to and in favour of the Lender all of its estate, right, title and interest in and to the Charged Premises and covenants and agrees to and with the Lender as hereinafter provided
- 2.2 The last day of any term reserved by any lease or sublease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Borrower, as lessee, and forming part of the Charged Premises is hereby excepted out of the mortgage, charge, assignment and security interest hereby created or granted or any instrument in implementations hereof, and the same shall be deemed to be a charge by way of sublease. As further security for the payment of the Indebtedness, the Borrower agrees that it will stand possessed of the reversion of such last day of the term and shall hold it in trust for the Lender for the purpose of this Charge and to assign and dispose thereof, without cost or expense to the Lender, in such manner as the Lender shall by notice in writing, for such purpose, direct. Upon any sale, assignment, sublease or other disposition of such leasehold interest or any part thereof, the Lender, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser, assignee, sublessee or other acquirer thereof, shall be entitled by deed or writing to appoint such party or parties as a new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Borrower and to vest the same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation respecting the same.

ARTICLE 3 - REPAYMENT AND INTEREST

- 3.1 The Borrower covenants to pay to or to the order of the Lender at its offices as set out in Article 23 hereof or at such other address as the Lender may from time to time designate in writing, without set-off, compensation or deduction, and without deduction for bank service or any other charges, the Principal Sum together with all other Indebtedness with interest thereon the principal amount at the Applicable Rate, as well after as before maturity and both before and after default, demand and judgment. Such interest at the Applicable Rate shall be computed from the date of advance to become due and be paid initially on the Interest Adjustment Date and thereafter to be paid in equal instalments of interest, commencing on the first payment date set out in the Commitment or in the electronic Charge to which this schedule is attached and continuing each month during the Term, to and including the last payment date set out in the Commitment or the electronic Charge to which this schedule is attached, each such instalment to be in the amount stipulated in the Commitment or in the electronic Charge to which this schedule is attached and the last instalment, in the amount of the then remaining balance of the Principal Sum, other Indebtedness and accrued interest thereon, to be paid on the Maturity Date. In this regard, an interest reserve representing interest to term shall be deducted from the advance.
- 3.2 It is hereby agreed that if default should occur in payment of any sum due at the time appointed for payment thereof as herein provided, compound interest at the Applicable Rate shall be payable on the sum in arrears from time to time, as well after as before maturity, and if interest as compounded is not paid within one (1) month from the time of default, a rest shall be made, and compound interest at the Applicable Rate shall be payable on the aggregate then due, as well after as before maturity, both before and after default, demand and judgement and so on from time to time and all such interest and compound interest shall be a charge on the Charged Premises.
- 3.3 All interest in arrears shall be treated (as to payment of interest thereon) as Principal and shall bear compound interest, as well after as before maturity, default and judgement as provided in Section 3.3 hereof.
- 3.4 The Borrower will pay interest, including interest on overdue interest, at the Applicable Rate on any arrears of instalments of interest, and any payment by the Borrower shall be applied by the Lender first on account of interest and then on account of principal.
- 3.5 All payments of principal and interest pursuant to Section 3.1 shall be made to and received by the Lender prior to 3:00 p.m. on the date due, failing which such payment shall be deemed received on the next succeeding Business Day provided that in such case, such extension of time shall be included for the purpose of computation for interest: provided further that in the event any payment is due on a day which is not a Business Day, it shall be payable prior to 3:00 p.m. on the next succeeding Business Day and provided such payment is received by such date and such time, then, save in respect of repayment of the Indebtedness at the Maturity Date where interest shall be charged for extensions to the next succeeding Business Day, interest shall not be charged for such extension.

ARTICLE 4 - CRIMINAL RATE OF INTEREST

- 4.1 Notwithstanding any other provisions of this Charge, in no event shall the aggregate "interest" (as defined in Section 347 of the Criminal Code, (Canada), as the same shall be amended, replaced or re-enacted from time to time) payable to the Lender under this Charge exceed the effective annual rate of interest on the "credit advances" (as defined in that section) under this Charge lawfully permitted under that section and, if any payment, collection or demand pursuant to this Charge 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 Lender and the Borrower and the amount of such payment or collection in excess of that lawfully permitted shall be refunded by the Lender to the Borrower.

ARTICLE 5 - INTEREST ACT (CANADA)

- 5.1 For the purposes of this Charge, whenever interest is payable or stated not on the basis of a yearly rate, such rate of interest may be determined by multiplying the Applicable Rate by a fraction the numerator of which is the actual number of days in the calendar year in which the same is to be ascertained and the denominator of which is the number of days in the period for which such rate is determined to be payable.
- 5.2 All calculations of interest or fees under this Charge are to be made on the basis of the stated rates set out herein and not on any basis which gives effect to the principle of deemed re-investment.

ARTICLE 7 - NO OBLIGATION TO ADVANCE

- 7.1 The Borrower acknowledges and agrees that the Lender is not bound to make any advance of any of the Principal Sum or any unadvanced portion thereof by reason of the registration of this Charge in any place or registry office or the advance of any part of the said Principal Sum, it being acknowledged by the Borrower that any advance hereunder is subject, inter alia, to: (i) the representations and warranties contained herein being true and correct as of the date of any advance of the Loan; (ii) no default having occurred hereunder, under any of the Security or under the Commitment; and (iii) the conditions precedent contained in the Commitment having been satisfied.
- 7.2 In the event this Charge is registered and either no advance whatsoever is made hereunder by the Lender or the Borrower's ability to draw down funds is terminated by the Lender before any funds are advanced, the Lender will, at the expense of the Borrower and upon payment of all monies, costs, fees and disbursements then due to the Lender, promptly upon request by the Borrower execute and deliver to the Borrower, or any agent thereof, registrable discharges of this Charge and of the Security, for use in every registry office where they or notices thereof have been recorded or filed; provided that the Borrower acknowledges that this Section 7.2 shall be of no effect once any advance of the funds is made hereunder by the Lender.

ARTICLE 8 - REPRESENTATIONS AND WARRANTIES

- 8.1 The Borrower represents and warrants in favour of the Lender, acknowledging that the Lender is relying on such representations and warranties in extending the Loan:
- (a) The Borrower is a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and has all necessary corporate power and authority to enter into this Charge and the Security and to perform or cause to be performed its obligations contained herein and therein, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on;
 - (b) There are no provisions in the articles or bylaws of the Borrower or any unanimous shareholders agreement of or with respect to the Borrower or to which the Borrower is a party which restrict, limit or regulate in any way the powers of the Borrower to borrow on credit or to issue, sell or pledge any of the property or assets now or hereafter owned by it to secure its debt obligations, save and except any provisions which have been complied with. No steps or proceedings have been taken or are pending to amend or supersede the articles or bylaws of the Borrower in a manner which would impair or limit the Borrower's ability to perform its obligations hereunder or under the Security;
 - (c) The Borrower has taken all necessary corporate action to authorize the execution and delivery of this Charge and the Security, and performance of the provisions of each in accordance with its terms;
 - (d) The authorization, creation, execution or delivery of this Charge or the Security or the Borrower's performance of its obligations hereunder or thereunder does not require any approval or consent of any Governmental Authority having jurisdiction nor will any such action be in conflict with or contravene any of the Borrower's articles, bylaws, unanimous shareholders agreement, if any, or resolutions of directors or shareholders, or the provisions of any indenture, instrument, agreement or undertaking to which the Borrower is a party or by which it or its properties or assets are bound, or result in the creation, imposition or crystallization of any hypothec, title retention, charge, pledge, lien, encumbrance or security interest of any kind upon any of its property or assets subject to the Charge or security interest created thereby or by the Security other than in accordance with the provisions of this Charge and the Security. This Charge and the Security when executed and delivered will constitute valid and legally binding obligations of the Borrower, enforceable against it in accordance with its terms;
 - (e) There is not now pending or, to the best of the Borrower's knowledge or belief after due inquiry, threatened against the Borrower, any litigation, action, suit, investigation or other proceeding by or before any court, tribunal or other competent Governmental Authority which would materially adversely affect the present or prospective ability of the Borrower to perform its obligations under this Charge or the Security, as the case may be, or which calls into question the validity or enforceability of this Charge or the Security;
 - (f) No Event of Insolvency has occurred or is threatened or pending;
 - (g) The Borrower is the registered owner of and has a good and marketable title in fee simple to the Lands, and, unless otherwise disclosed to the Lender in writing, is the legal and beneficial owner of the Charged Premises, free and clear of all security interests, charges, liens and other encumbrances whatsoever except for the Permitted Encumbrances, which Permitted Encumbrances are in good standing;
 - (h) The Borrower has the right to charge the Charged Premises to the Lender;
 - (i) The Borrower has not received any notice of or threat of a lien under the *Construction Lien Act* (Ontario), as amended, against the Charged Premises nor has any lien been registered against the Charged Premises in respect of labour, materials or services furnished with respect to any improvement thereon which has not been discharged;
 - (j) Unless expressly stipulated in the Commitment, the Charge is not being given with the intention to use the proceeds thereof to finance any alterations, additions or repairs to, or any construction, erection, demolition or installation on the Charged Premises.

- or any structure thereon;
- (k) Unless expressly stipulated in the Commitment, the Charge is not a building mortgage, within the meaning of the *Construction Lien Act* (Ontario), as amended, and the funds to be advanced by the Lender are not being used to repay a building mortgage;
 - (l) There has been no improvement or materials supplied on or in respect of the Charged Premises in respect of which a construction lien could arise and which has not been completed or abandoned within the forty-five (45) days immediately preceding the date hereof;
 - (m) Except as disclosed to the Lender in writing, the existing and proposed uses, the operation of the Charged Premises and the business conducted thereon comply and, to the best of the Borrower's knowledge and belief, have (including all prior uses) at all times complied with all Applicable Laws, including all Environmental Laws, and the Borrower is not in violation of, and does not violate, by virtue of the ownership, use, maintenance or operation of the Charged Premises or the conduct of any business related thereto, any Applicable Laws, including all Environmental Laws.
 - (n) The Charged Premises may be charged by the Borrower in compliance with the *Planning Act* (Ontario), and no severance of any adjoining lands owned by the Borrower is required;
 - (o) All financial statements and data delivered or presented to the Lender by the Borrower up to and including the date hereof are true and correct in all material respects as at the dates and for the periods indicated and have been prepared in accordance with Canadian generally accepted accounting principles and disclose to the Lender all financial information relevant to the Lender in respect of making the Loan and there is no information, financial or otherwise, which has not been disclosed to the Lender which would be material to the Lender in its decision to advance the Loan, and, without limiting the foregoing, neither the Guarantor(s) nor the Borrower has failed to disclose to the Lender any facts or information material to the making of the Loan;
 - (p) No Event of Default, or an event which with the giving of notice, lapse of time or otherwise, would constitute an Event of Default exists;
 - (q) Each Permitted Encumbrance is in good standing and all obligations and covenants required to be met or complied with thereunder on the part of the Borrower have been complied with and, in respect to any other party thereto to the best of the Borrower's knowledge and belief, have been met or complied with;
 - (r) All Leases entered into as of the date hereof are valid, subsisting and enforceable leases and are in good standing as of the date hereof without right of set-off or abatement;
 - (s) The Borrower is not bound by any indenture, agreement, lease or other instrument, nor is it subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction or any of the Applicable Laws, which materially adversely affects its business operations in respect of the Charged Premises or the performance of its obligations under this Charge or the Security;
 - (t) The Borrower has complied with all Applicable Laws in respect of any residential unit located on the Charged Premises, including in respect of any conversion, demolition, rentals charged or filings or applications to be made and there are no outstanding orders, decisions or directives made or pending which are or would be adverse to the Borrower or the Charged Premises in respect of any residential unit located on the Charged Premises;
 - (u) Each partner of the limited partnership of which the Borrower is the general partner is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
 - (v) With respect to each partner of the limited partnership of which the Borrower is a general partner that is a Canadian corporation, either (i) the shares of that corporation do not derive their value, directly or indirectly, primarily from foreign property, all within the meaning of the *Income Tax Act* (Canada) or (ii) the corporation is a corporation described in subsection 206(1.1) of the *Income Tax Act* (Canada), as that provision may be amended from time to time;
 - (w) The Borrower shall not, without the prior written consent of the Lender, execute or deliver any mortgage, charge, lien or other encumbrance of the Lands intended to rank subordinate to this Charge; and
 - (x) The Borrower is not and shall not be during the Term (without the prior written consent of the Lender), a farmer within the meaning of the *Farm Debt Mediation Act* (Canada)
- 8.2 The representations and warranties set out in this Article 8 shall speak as of the date made, survive the execution and delivery of this Charge and the making of any advance hereunder and continue to be true and accurate during the Term of this Charge, notwithstanding any investigations or examinations which may be made by the Lender or the Lender's solicitors and the Lender shall be deemed to have relied on such representations and warranties in making advances under the Loan
- 8.3 The Borrower shall indemnify and save harmless the Lender from and against all losses, damages, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from any omission, inaccuracy or misrepresentation of the Borrower herein relating to or concerning the Charged Premises and with respect to all losses, charges, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from or arising in connection with environmental matters relating to, arising from, in connection with or concerning the Charged Premises, whether referred to or contemplated herein or hereby.

ARTICLE 9 – COVENANTS

- 9.1 The Borrower covenants with the Lender that upon the occurrence of an Event of Default, the Lender shall have quiet possession of the Charged Premises, free from any encumbrances, save and except for the Permitted Encumbrances.
- 9.2 The Borrower shall not without the prior written consent of the Lender, such consent not to be unreasonably withheld or delayed, which may be withheld in the sole discretion of the Lender permit or suffer to exist any charges, liens, security interests or other encumbrances against the Charged Premises, save and except for the Permitted Encumbrances; and the Borrower shall maintain the Permitted Encumbrances in good standing and provide notice to the Lender forthwith of any default under any of

the Permitted Encumbrances

- 9.3 The Borrower shall not initiate, permit or suffer to exist any Event of Insolvency, in respect of itself or, to the extent that the Loan, this Charge or the Security is affected by the occurrence of any such event, of any related person or corporation, including without limitation, any parent corporation of the Borrower. The Borrower covenants and agrees (i) to provide two Business Days' notice prior to the occurrence of an Event of Insolvency (an "Insolvency Notice"), and agrees that the receipt of an Insolvency Notice by the Lender shall constitute an immediate Event of Default if the Borrower or any Guarantor(s) is an applicant or takes the benefit of such statute or proceeding or if any of these proceedings otherwise affect the rights or entitlements of the Lender under the Loan, this Charge or the Security or the Lender's ability to enforce this Charge or the Security, and (ii) prior to the commencement of any such proceedings, to deliver to the Lender copies of all relevant filing materials, including, without limitation, copies of draft court orders, plans of compromise, proposals and notices of intention, it being intended by the Borrower that the Lender be entitled during the period after receipt of an Insolvency Notice to enforce this Charge and the Security for the purpose of, among other things, taking possession and control of the Charged Premises, in the Lender's sole discretion.
- 9.4 The Borrower shall not, without the prior written consent of the Lender, initiate, join in or consent to any change to or modification in any private restrictive covenant, municipal or other governmental law, rule or regulation, by-law, or any other public or private restrictions, limiting or defining the uses which may be made of the Charged Premises, or any part thereof and which could adversely affect the Charge, the Security, the day-to-day operations of the Charged Premises, the income derived therefrom or the value of the Charged Premises.
- 9.5 The Borrower shall comply in all respects with all covenants, deed restrictions, easements and Applicable Laws which pertain to the ownership, use or operation of the Charged Premises or the performance by the Borrower of its obligations under this Charge and shall ensure that all representations and warranties contained herein continue to be true and accurate at all times during the Term.
- 9.6 The Borrower shall permit the Lender, or cause to be made available to the Lender, access to all records, both written and electronic, pertaining to the Charged Premises and upon request shall make copies of such information for the Lender. For such purposes, the Lender shall have reasonable access to the Charged Premises or such other place as such records are kept upon reasonable prior written notice to the Borrower.
- 9.7 The Borrower shall fulfil on a timely basis any undertaking provided by it to the Lender at the time of the advance of the Loan.
- 9.8 The Borrower covenants to ensure that this Charge will remain a valid and enforceable mortgage of the Charged Premises with first priority subject only to the Permitted Encumbrances and the Borrower will fully and effectively maintain and keep the Security as valid and effective security during the currency hereof.
- 9.9 The Borrower shall promptly give written notice to the Lender of any litigation, proceeding or dispute affecting the Charged Premises if the result thereof might have a material adverse effect on the Charged Premises, the financial condition or operations of the Borrower or any Guarantor(s) or its ability to perform its obligations hereunder and shall, from time to time, furnish to the Lender all reasonable information requested by the Lender concerning the status of such litigation, proceeding or dispute and shall in all such cases diligently and in good faith proceed to defend, settle or otherwise deal with any such litigation, proceeding or dispute in a commercially reasonable manner.
- 9.10 The Borrower shall promptly give notice to the Lender upon becoming aware of and provide particulars in respect of:
- (a) An Event of Default or any event which with the passage of time or giving of notice would constitute an Event of Default;
 - (b) Any default under a Lease;
 - (c) Details of material renovations to the Charged Premises when the Borrower intends to or reasonably anticipates that it will renovate the Charged Premises;
 - (d) Any default under any Permitted Encumbrance;
 - (e) Any notice of expropriation, action or proceeding materially affecting the Charged Premises or the violation of any Applicable Law which may have a material adverse effect on the Charged Premises; and
 - (f) Any matter which may have a material adverse effect upon the Borrower or the Guarantor(s) or Charged Premises or the operations conducted thereon, or the security constituted by this Charge and the Security.
- 9.11 The Borrower covenants at all times:
- (a) to perform or cause to be performed all of the covenants and obligations on the part of lessor contained in the Leases (except the extent the same have been expressly waived by the other parties to such Leases and except in circumstances where the tenant is in default and the Borrower is acting prudently and in the best interests of the Charged Premises);
 - (b) to maintain or cause to be maintained the Lease Rights in good standing and not to do, permit to be done or omit to do anything which may impair the enforceability of the Lease Rights;
 - (c) save for the deposits for the first and last month rentals, not to accept Rents more than one (1) month in advance of the dates when Rents fall due;
 - (d) not to enter into Leases which are not at arm's length unless the terms thereof are at least equal to current market terms;
 - (e) not to enter into Lease which do not constitute Major Tenant Leases (each of which must be approved by the Lender as hereafter provided) unless such leases are substantially on Lender pre-approved standard lease forms and not to enter

into Major Tenant Leases without the Lender's approval as hereafter provided:

- (f) not to or to permit termination, alteration or amendment or waiver of rights or remedies or otherwise take any action with respect to any of the Leases which in the aggregate would create a material reduction in Rents from those payable as of the date hereof, without the prior approval of the Lender;
 - (g) not to further assign, mortgage or pledge or permit the assignment, mortgaging or pledging of any Lease or the rents thereunder, save for assignments by tenants of their tenant's interest in Leases, to the extent permitted under such Leases; and
 - (h) to ensure in respect of all Leases now or hereafter entered into that (i) the tenant thereunder, at the option of the Lender, subordinates its lease to the security of this Charge and attorns to and becomes a tenant of the Lender or any purchaser from the Lender in the event of the exercise of a sale remedy by the Lender, for the unexpired residue of the term and upon the terms and conditions of said lease, provided the Lender will agree to enter into non-disturbance agreements on commercially reasonable terms with all such tenants; and (ii) at the request of the Lender, provide as further security specific assignments of Leases hereinafter entered into
- 9.12 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, enter into any agreement or document in respect of the Charged Premises (except for leases in accordance with the terms hereof and the Security) which is material to the ownership, value, operation, or use of the Charged Premises unless the same is in the ordinary course of business
- 9.13 With respect to any Major Tenant Lease, the Borrower shall not and shall not permit without the prior written consent of the Lender:
- (a) cancel or modify any Major Tenant Lease, release the obligations of any lessee thereunder, accept a surrender of a Major Tenant Lease, accept any prepayment of Rents thereunder or consent to any sublet or assignment by the lessee under any Major Tenant lease (except where the provisions of such Major Tenant Lease require the landlord to do so); or
 - (b) enter into any Major Tenant Lease unless the terms, form and substance of such Major Lease is satisfactory to the Lender, acting reasonably; or
 - (c) to further assign, mortgage, pledge, hypothecate or otherwise deal with any Major Tenant Lease.
- 9.14 The Borrower shall do or cause to be done all things necessary to keep in full force and effect all rights, franchises, licences and qualifications necessary or incidental to perform or cause to be performed its obligations contained in this Charge and the Security and to carry on its business pertaining thereto as presently carried on.
- 9.15 The Borrower shall from time to time to pay or cause to be paid all amounts related to taxes, wages, workers compensation obligations, government royalties, and any other similar amounts relating to the business conducted on the Charged Premises if non-payment thereof may result in an encumbrance (other than a Permitted Encumbrance) against the Charged Premises or any of the assets secured in favour of the Lender by the Security.
- 9.16 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, cause or permit any change in the status of the Borrower that results in the representations contained in Subparagraph 8.1(u) or Subparagraph 8.1(v) ceasing to be accurate in all material respects
- 9.17 The Borrower covenants, subject to the rights of reorganization herein contained, to continue as a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and maintain all necessary corporate power and authority to perform or cause to be performed its obligations contained herein and in the Security, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on
- 9.18 The Borrower covenants that, unless in respect of a reorganization of the Borrower permitted under Paragraph 18.1(h) or with the consent of the Lender as provided therein, no steps or proceedings will be taken to amend or supersede the articles or bylaws of the Borrower and in any event no steps or proceedings, including any reorganization of the Borrower, will be taken in a manner which would impair or limit the Borrower's or its successor's ability to perform its obligations hereunder or under the Security
- 9.19 The Borrower will not enter into any indenture, agreement, lease or other instrument, nor become subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction, which materially adversely affects the Charged Premises.

ARTICLE 10 - TAXES/LIENS

10.1

- (a) The Borrower shall pay or cause to be paid, all Taxes together with such other amounts, the failure to pay which would give rise to a lien against the Charged Premises, as and when the same shall fall due and payable (collectively, the "Bills").
- (b) With respect to Taxes at the option of the Lender, the Borrower shall pay to the Lender in equal monthly instalments on the first day of each month in each calendar year during the Term, commencing on the first day of the month next following the Interest Adjustment Date, one-twelfth (1/12) of the annual Taxes (or such amount as may be required in order to pay the Taxes as they become due) as reasonably estimated by the Lender; said payments of Taxes shall be paid to the Lender in addition to the instalments of interest due and payable under this Charge, to be deposited upon

receipt and held by the Lender in an interest-bearing account for the payment of Taxes, with interest to accrue thereon to the benefit of the Borrower and to be credited in reduction of the amount required to be paid to the Lender for Taxes. The Lender agrees that upon and subject to receipt of monies for Taxes it will remit such monies to the proper municipal offices in payment of Taxes as required from time to time; provided that if any Event of Default shall occur and be continuing, then the Lender, at its sole option, may apply all or any part of any funds held in such account to any amount due hereunder, whether principal, interest or otherwise. The Borrower shall also pay, or cause to be paid, to the Lender before the due date for the payment of Taxes (or next periodic instalment date therefor, as the case may be) any sums in addition to the aforesaid monthly instalments which may be required in order that out of such sums held in trust or escrow by the Lender and such additional sums, the Lender may pay the whole amount of Taxes assessed thereto, on the due date for payment thereof. Notwithstanding the foregoing provisions of this Paragraph 10 I(b), the Borrower acknowledges that the Lender is under no obligation to collect from the Borrower monthly instalments on account of Taxes. In addition, the Borrower acknowledges its obligation to pay all Taxes when due, whether or not the payment of all Taxes are the responsibilities of tenants and whether or not such tenants have remitted the same to the Borrower.

- (c) The Lender may, after written notice being given to the Borrower, pay all unpaid and due Taxes, and any amounts, the failure to pay which would give rise to a lien and any amounts so paid by the Lender shall become part of the Principal hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender with interest at the Applicable Rate until paid.
- (d) If the Charged Premises or any part thereof are sold or forfeited for nonpayment of Taxes while any sum remains unpaid hereunder, the Lender may acquire the title and rights of the purchaser at any sale, or the rights of any other person or corporation becoming entitled on or under any such forfeiture, or the Lender may pay, either in its own name or in the name of the Borrower and on the Borrower's behalf, any and all sums necessary to be paid to redeem such land so sold or forfeited, and to revest such lands in the Borrower, and the Borrower hereby nominates and appoints the Lender as agent to pay such monies on the Borrower's behalf and in the Borrower's name, and any monies so expended by the Lender shall become part of the Principal Sum hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender and until so paid shall bear interest at the Applicable Rate or in the alternative, the Lender may purchase the Charged Premises at any tax sale of the same.
- (e) Notwithstanding anything to the contrary herein contained, the Borrower shall have the right to contest or defend any actions brought to recover, or appeal any judgments recovered against it in respect of any Bills, or other like charges, or any construction or other liens levied or registered against the Charged Premises, by appropriate proceedings diligently conducted in good faith, provided that the Borrower shall have first deposited with the Lender, or otherwise provided to the reasonable satisfaction of the Lender, such security as the Lender acting reasonably may require including, without limitation, security for the payment of such Bills, charges or liens and any costs payable in connection therewith, and further provided that the Lender shall have determined, to its reasonable satisfaction, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall not materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises. Should the Lender at any time thereafter determine, in its reasonable discretion, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises, the Lender may realize upon such security for payment as aforesaid and pay such Bills, charges or liens. Upon termination of such proceedings, the Borrower shall promptly pay or cause to be paid the amount of the Bills, charges or liens and any other costs, fees, interest and penalties as are properly payable upon determination of such proceedings and promptly cause any tax notifications, caveats, liens, certificates of or pertaining litigation or any other form of notice or encumbrance in respect thereof to be promptly discharged from the title to the Charged Premises at the sole expense of the Borrower whereupon all such security deposited or otherwise provided to the Lender and any proceeds from the realization thereof not paid on account of Bills as aforesaid, shall be returned and paid to the Borrower.
- (f) The Borrower agrees to and does hereby indemnify the Lender against all claims, demands, costs, damages and expenses which arise in respect of any default, late payment, omission, act or proceeding by the Borrower, under or in respect of this Section 10 I.
- (g) If the Lender comes into and for as long as it is in possession of the Charged Premises, the Lender, in its sole discretion, shall be entitled to and shall enjoy all the rights of the Borrower set out in Paragraph 10 I(d) hereof, to the exclusion of the Borrower.

ARTICLE 11 – INSURANCE

- 11.1 The Borrower will immediately insure, unless already insured, and during the continuance of the Charge keep insured against loss or damage by fire, in such proportions upon each building as may be required by the Lender, the buildings on the land to the amount of not less than their full insurable value on a replacement cost basis in dollars of lawful money of Canada. Such insurance shall be placed with a company approved by the Lender. Buildings shall include all buildings whether now or hereafter erected on the land, and such insurance shall include not only insurance against loss or damage by fire but also insurance against loss or damage by explosion, tempest, tornado, cyclone, lightning and all other extended perils customarily provided in insurance policies including "all risks" insurance. The covenant to insure shall also include where appropriate or if required by the Lender, boiler, plate glass, rental and public liability insurance in amounts and on terms satisfactory to the Lender. Evidence of continuation of all such insurance having been effected shall be produced to the Lender at least fifteen (15) days before the expiration thereof, otherwise the Lender may provide therefore and charge the premium paid and interest thereon at the rate provided for in the Charge to the Borrower and the same shall be payable forthwith and shall also be a charge upon the land. It is further agreed that the Lender may at any time require any insurance of the buildings to be cancelled and new insurance effected in a company to be named by the Lender and also of his own accord may effect or maintain any insurance herein provided for, and any amount paid by the Lender therefore shall be payable forthwith by the Borrower with interest at the rate provided for in the Charge and shall also be a charge upon the land. Policies of insurance herein required shall provide that loss, if any, shall be payable to the Lender as his interest may appear, subject to the standard form of mortgage clause approved by the Insurance Bureau of Canada which shall be attached to the policy of insurance.

- 11.2 During any construction on the Charged Property, the Borrower shall maintain:

- (i) Builders' all-risk coverage for 100% of the construction cost with loss payable to the Lender by way of an Insurance Bureau of Canada ("IBC") approved mortgage clause. The policy must cover flood, earthquake, building by-laws, delayed opening, must allow for partial occupancy of the premises and provide for interim loss payments during reconstruction;
- (ii) Wrap-Up Liability coverage in an amount not less than \$10,000,000 per occurrence;
- (iii) Project performance and completion bonds and insurance, including coverage for labour and material bonds; and
- (iv) Professional Liability coverage in an amount not less than \$10,000,000

ARTICLE 12 - ENVIRONMENTAL

12.1 The following capitalized terms shall have the following respective meanings:

"Environmental Approvals" means all applicable permits, licences, authorizations, consents, directions or approvals required by Governmental Authorities pursuant to the Environmental Laws with respect to the use, occupation, ownership or operation of the Charged Premises;

"Environmental Laws" means all applicable federal, provincial and municipal laws, by-laws, regulations, executory orders, judgments and protocols, relating in whole or in part, to the environment or its protection, and without restricting the generality of the foregoing, includes without limitation, those laws relating to the manufacturing, processing, use, handling, packaging, labelling, sale, storage, recycling, transportation, treatment, destruction, burial or disposal of Hazardous Substances, employee safety, and the emission, discharge, release, deposit, issuance, spraying, dumping, throwing, pouring, spilling, emptying, placing, leaking, seeping, exhausting or abandonment of Hazardous Substances into the atmosphere, air, surface water, ground water, land surface or subsurface strata and, in each such case, as such Environmental Laws may be amended or supplemented from time to time, and "Environmental Law" means any of them;

"Hazardous Substance" means any pollutant, contaminant, waste, hazardous waste, toxic substance or dangerous good which is defined or identified in or the object of any Environmental Law, the presence of which in the environment is in contravention of any Environmental Law; and

"Inspections" means all inspections, evaluations or tests conducted by the Lender or any agent or consultant thereof for the purpose of determining the environmental condition of the Charged Premises, as the Lender may deem appropriate, acting reasonably

12.2 The Borrower represents and warrants (which representations and warranties shall continue throughout the Term of the Loan) that, subject to the best of its knowledge and belief, and subject to the Phase 1 Environmental Report and Geotechnical Report submitted to the Lender that:

- (a) The condition and use of the Charged Premises is and, to the best of the Borrower's knowledge, any prior use of the same was, in compliance in all material respects with all applicable Environmental Laws;
- (b) The Charged Premises is not subject to any judicial or administrative proceedings alleging violation of any Environmental Laws and there are no outstanding orders or proceedings against the Charged Premises from a Governmental Authority responsible for protecting the environment alleging the violation of any Environmental Laws;
- (c) To the knowledge of the Borrower, the Charged Premises is not the subject of any investigation by Governmental Authorities having jurisdiction evaluating whether any remedial action is needed to respond to a contravention of any Environmental Laws; and
- (d) There is no contingent liability of which the Borrower has knowledge or reasonably should have knowledge in connection with the contravention of any Environmental Laws

12.3 The Borrower covenants with the Lender:

- (a) To defend, indemnify and hold harmless the Lender, its directors, officers, employees, agents and their respective successors and assigns, against any and all loss, cost, expense, claim, liability or alleged liability arising out of any environmental damage occasioned to the Charged Premises contravention of any Environmental Laws;
- (b) To, at all times and at its own expense, conduct its business and maintain the Charged Premises in compliance with all Environmental Laws and Environmental Approvals including causing all tenants of the Charged Premises to comply with the same;
- (c) If the Borrower:
 - (i) receives notice from any Governmental Authority having jurisdiction that violation of any Environmental Law or Environmental Approval has been committed by the Borrower or any tenant with respect to the Charged Premises;
 - (ii) receives notice that any remedial order or other proceeding has been filed against the Borrower or any tenant alleging in respect of the Charged Premises violations of any Environmental Law or requiring the Borrower to take any action in connection with the release of a Hazardous Substance into the environment; or
 - (iii) receives any notice from a Governmental Authority having jurisdiction in respect of the Charged Premises that the Borrower or any tenant may be liable or responsible for costs associated with a nuisance or a response to, or clean up of, a release of a Hazardous Substance into the environment or any damages caused thereby;

to provide to the Lender a copy of such notice within ten (10) days of the Borrower's receipt thereof, and thereafter shall keep the Lender informed in a timely manner of any developments in such matters, and shall provide to the Lender such other information in respect thereto as may be reasonably requested by the Lender from time to time and shall proceed to deal with the same diligently and in good faith in order to bring the Charged Premises into compliance to the extent necessary to comply with Environmental Laws.

- (d) Unless in existence on the Charged Premises on the date of this Charge, not to use, discharge, transport or install in or upon the Charged Premises any material or equipment containing PCBs or permit any tenant of the Charged Premises to do so and, to the extent in existence on the Charged Premises as of the date of this Charge, to maintain the same in compliance with all Environmental Laws;
 - (e) To maintain, and to require all occupants of the Charged Premises to maintain in good leak-proof condition all above-ground and underground storage tanks and drums on the Charged Premises;
 - (f) Not to install asbestos or permit asbestos to be installed in the Charged Premises. With respect to any asbestos present in the Charged Premises on the date of this Charge, the Borrower shall, at its expense, promptly comply with the requirements of Environmental Laws and Governmental Authorities respecting the use, removal and disposal of asbestos; and
 - (g) To obtain or cause its solicitors to obtain copies of all relevant environmental studies or assessments of the Charged Premises which the Borrower or its solicitors or agents have commissioned or which are in the possession or control of the Borrower, as of the date of this Charge and, to the extent any such assessments or studies are required by the Lender from time to time, to promptly provide same to the Lender upon request and hereby authorizes and directs its solicitors, agents and consultants to promptly release same to the Lender
- 12.4 Having due regard to the rights of any tenant of the Borrower, the Lender and its employees and agents shall have the right, and are hereby granted permission by the Borrower, to enter the Charged Premises from time to time, and to have access to the Borrowers' relevant documents and records, in order to conduct Inspections, to determine compliance with Environmental Laws as the Lender, acting reasonably, may deem appropriate. Inspections shall be:

- (a) at such times and to such extent as may be reasonable in the circumstances on prior notice to the Borrower if the Lender has reasonable grounds for believing that:
 - (i) there are, contrary to Environmental Laws or Environmental Approvals, Hazardous Substances in or upon the Charged Premises which have not been disclosed to and approved by the Lender and appropriate Government Authorities; or
 - (ii) the Borrower is in breach of any environmental representations in this Charge or its covenants in this Article; or
 - (iii) the Borrower is not in compliance with any Environmental Laws or material Environmental Approvals; and
- (b) at any time without prior notice upon the occurrence of an Event of Default which is continuing

If the Borrower is found not to be in compliance with the Environmental Laws or Environmental Approvals and such failure to comply becomes an Event of Default that is continuing, the Lender may, at its option (but without any obligation to do so) take such actions as are required, acting reasonably, to bring the Charged Premises into compliance, and the costs thereof shall immediately become due and payable to the Lender by the Borrower and shall be secured by the Security

- 12.5 The Lender shall not, by virtue of being the chargee under this Charge or the enforcement of its rights contained herein for purposes of the Environmental Laws, be or be deemed to be the owner of, any of the Charged Premises, or to have management, charge, control, occupation or possession of any of the Charged Premises or the businesses of the Borrower, or of any Hazardous Substances located on, upon or within any of the Charged Premises

- 12.6 The Borrower hereby covenants and agrees to be responsible for, and to indemnify and hold harmless the Lender and each of its officers, directors, employees, shareholders, all unitholders of any pooled funds under its management and agents and their respective successors and assigns (in this Section, collectively referred to as the "Indemnified Parties") from and against all claims, demands, liabilities, losses, costs, damages and expenses (including, without limitation, reasonable legal fees and all costs incurred in the investigation, pursuing of any claim, or in any proceeding with respect to, defense and settlement of any item or matter hereinafter set out) that the Indemnified Parties may incur or suffer, directly or indirectly as a result of or in connection with:

- (a) Any inaccuracy in or breach of the Borrower's representations and warranties relating to the environmental matters contained herein;
- (b) The presence of any Hazardous Substance on, upon or within the Charged Premises, or the escape, seepage, leakage, spillage, discharge, emission, release, disposal or transportation away from the Charged Premises of any Hazardous Substance, whether or not there is compliance with all applicable Environmental Laws and Environmental Approvals;
- (c) The imposition of any remedial order affecting the Lands, or any non-compliance with Environmental Laws or Environmental Approvals pertaining to the Charged Premises by any person, including the Borrower, the Lender or any person acting on behalf of the Lender; and
- (d) Any diminution in the value or any loss on the disposition of the Charged Premises arising directly or indirectly as a result of the presence on the Lands of any Hazardous Substance, or as a result of the imposition of any remedial order or the breach by any person of any Environmental Law or Environmental Approval

This indemnity shall survive the satisfaction and release of this Charge and the Security and the payment and satisfaction of all

indebtedness hereunder. The benefit of this indemnity may be assigned by the Lender to any successor or assign of the Lender and the Borrower hereby consents to any such assignment.

ARTICLE 13 - ASSIGNMENT OF RENTS AND LEASES

- 13.1 As further security for the payment of all monies owing and the performance of all obligations to be performed hereunder, the Borrower does, as and by way of security, hereby sell, assign, transfer and set over unto to the Lender all of the Borrower's right, title and interest, both at law and equity, in and to the Lease Rights, to hold and receive the same unto the Borrower with full power and authority to demand, collect, sue for, recover and receive and give receipts for Rents and enforce payments of the same and enforce performance of the obligations of tenants under the Leases, provided, however, that, subject to the terms of this Charge, the Borrower shall have the full right, so long as no Event of Default has occurred and is continuing, to continue to collect Rents, to take or cause to take all actions as it deems necessary with respect to the Lease Rights, acting as a reasonable lessor.
- 13.2 It is expressly acknowledged and agreed by the Borrower that nothing contained in this Charge shall oblige the Lender to assume or perform any obligation of the Borrower to any third party in respect of or arising out of the assigned Lease Rights. The Lender may, however, after the occurrence of an Event of Default and while such Event of Default continues, at its option, assume or perform any such obligation as the Lender considers necessary or desirable to obtain the benefit of the Lease Rights, free of any set-off, reduction or abatement, and any money expended by the Lender in this regard shall form part of or be deemed to form part of the indebtedness secured by this Charge and shall bear interest at the Applicable Rate.

ARTICLE 14 - MANAGEMENT AND REPAIR

- 14.1 The Borrower shall cause the Charged Premises at all times to be professionally maintained, managed and operated and fully and continuously operational during customary business hours, including all uses ancillary or incidental to its operations, at all times, by competent managers and staff of proper background and training, in a first class manner consistent with the management and operation of other properties which are of size, location, use, class, age and type comparable to the Charged Premises, and the Borrower shall obtain the Lender's prior written approval of any manager and any management contract with any manager which may be entered into by the Borrower for the management of the Charged Premises. In addition to any other rights hereunder of the Lender, the Lender shall have the right, acting reasonably, to replace the manager at the expense of the Borrower in the event the management standards are not maintained as required hereunder and the situation is not remedied within thirty (30) days after written notice from the Lender. The Lender acknowledges and approves, as of the date hereof, of the Borrower or a company controlled by the Borrower acting as manager of the Charged Premises provided that the Charged Premises are managed and maintained in accordance with the provisions hereof.
- 14.2 The Borrower shall promptly repair, maintain, restore, replace, rebuild, keep, make good, finish, add to and put in order, or cause to be so done, the Charged Premises, so that the same shall, at all times, be in good condition and repair and to pay or cause to be paid when due all claims for labour performed and materials furnished therefor. The Borrower shall not commit or suffer any waste of the Charged Premises nor take any action that might invalidate or give cause for cancellation of any insurance maintained in respect of the Charged Premises. No building or other property now or hereafter charged by this Charge shall be removed, or demolished or nor shall the structure of any building be materially altered, redeveloped, retrofitted or renovated, without the prior written consent of the Lender, except that the Borrower shall have the right, without such consent, to remove and dispose of, free from the lien or charge of this Charge, such fixed equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal, and if necessary for the operation of the Charged Premises such equipment shall be replaced with other equipment of a quality comparable to that of the replaced equipment and free from any lien, title retention agreement, conditional sale contract, security agreement or other encumbrance, and by such removal and replacement the Borrower shall be deemed to have subjected such fixed equipment to the lien or charge of this Charge, or, (b) any net cash proceeds received from such disposition shall, at the option of the Lender, be paid over promptly to the Lender to be applied in a manner determined by Lender in its sole discretion toward the payment of any amounts owing hereunder or secured hereby. The Borrower shall notify the Lender promptly of any material damage to or defects in any of the Improvements, and thereafter forthwith shall make or cause to be made such repairs thereto as are required to correct any such damage or defects and return the Charged Premises to a state of condition and repair equivalent to the state of condition and repair required by the provisions of this Charge.
- 14.3 The Borrower shall comply with, or cause to be complied with, all statutes including without limitation the provisions of the *Construction Lien Act* (Ontario), ordinances and requirements of any Governmental Authority having jurisdiction with respect to the Charged Premises; the Borrower shall complete and pay for, within a reasonable time, any structure at any time in the process of construction on the Charged Premises.
- 14.4 The Borrower shall permit the Lender or its authorized agents at all reasonable times to enter upon the Charged Premises and inspect same, and if such inspection reveals that any repairs or like actions are necessary, the Lender may give notice to the Borrower requiring the Borrower to repair, rebuild or reinstate the same, or take such other like action within a reasonable time. Any failure by the Borrower to comply with such notice shall constitute an Event of Default hereunder and the Lender may repair, rebuild or reinstate the Charged Premises at the cost of the Borrower and charge all sums of money determined by the Lender to be properly paid therefor and interest thereon at the Applicable Rate until paid.

ARTICLE 15 - INCREASED COSTS

- 15.1 In the event that as a result of any application of or any change in or enactment of any applicable law, regulation, treaty or official directive after the date hereof (whether or not having the force of law), or in the interpretation of application thereof by any court or by any governmental or other authority or entity charged with the administration thereof which now or hereafter:
- (a) Subjects the Lender to any tax or changes the basis of taxation, or increases any existing tax, on payments of principal, interest or other amounts payable by the Borrower to the Lender under this Charge (except for taxes on the overall net income of the Lender or capital of the Lender imposed by the Government of Canada or any political subdivision thereof or by the jurisdiction in which the principal or lending office of the Lender is located); or
 - (b) Imposes, modifies or deems applicable any special requirements against assets held by, or deposits in or for the account of or any other acquisition of funds by the Lender or imposes on the Lender a requirement to maintain or allocate

capital or additional capital in relation to the Loan; or

- (c) Imposes on the Lender any other condition with respect to this Charge; or
- (d) Renders any portion of this Charge illegal or unenforceable;

and the result of any of the foregoing is to increase the cost to the Lender, or reduce the amount of principal, interest or other amount received or receivable by the Lender hereunder or its effective return hereunder in respect of making or maintaining the Loan hereunder or to reduce the payments receivable by the Lender in respect of the Loan by an amount which the Lender deems to be material, the Lender shall promptly give written notice thereof to the Borrower setting out in reasonable detail the facts giving rise to and a summary calculation of such increased costs or reduced payments, and the Borrower shall forthwith pay to the Lender upon receipt of such notice that amount which will compensate the Lender for such additional cost or reduction in income (herein referred to as "Additional Compensation"). Upon the Lender having determined that it is entitled to Additional Compensation in accordance with the provisions of this Section, the Lender shall promptly so notify the Borrower. The Borrower shall forthwith pay to the Lender upon receipt of such notice such Additional Compensation calculated on the date of demand. The Lender shall be entitled to be paid such Additional Compensation from time to time to the extent that the provisions of this Section are then applicable notwithstanding that the Lender has previously been paid any Additional Compensation. The Lender shall endeavour to limit the incidence of any such Additional Compensation, including seeking recovery for the account of the Borrower, by appealing any assessment at the expense of the Borrower upon the Borrower's request.

- 15.2 All payments made by the Borrower to the Lender will be made free and clear of all present and future taxes, withholdings or deductions of whatever nature. If these taxes, withholdings or deductions are required by Applicable Law and are made, the Borrower shall, as a separate and independent obligation, pay to the Lender all additional amounts as shall fully indemnify the Lender from any such taxes, withholding or deduction. Provided, however, that the Borrower shall have no obligation to pay any withholding or like tax which may be exigible, incurred or required as a result of the Lender being a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).
- 15.3 If the result of any law, regulation, treaty or official directive or request or any change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) is such that it is or will become (other than as a result of some positive action of the Lender, including any participation or syndication hereof by the Lender) unlawful for the Lender to make, fund or allow to remain outstanding all or part of the Loan, or to carry out all or any of its other obligations under this Charge and/or the Security or receive interest or any fee at the Applicable Rate, then in such case:
 - (a) The Lender may give written notice to the Borrower of such law, regulation, treaty or official directive or request (whether or not having the force of law) or such change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) which such notice shall certify that such law, regulation, treaty, official directive or request is generally applicable to all other borrowers from the Lender with any accommodation similar to that herein provided; and
 - (b) The Borrower shall prepay the Indebtedness on such date and to such extent as the Lender shall certify to be necessary to comply with the relevant law or change described above;

provided, however, that should the Loan become unlawful, the Lender, without prejudice to its rights to require repayment and without any obligation on its part, will consider other means of funding the Loan which would not be unlawful, would allow the Lender to carry out its obligations in respect of the Loan and would enable the Lender to receive interest at the Applicable Rate, provided always, notwithstanding the foregoing, the Lender is not obligated to provide alternate funding.

ARTICLE 16 - OBTAINING AND MAINTAINING SECURITY

- 16.1 Regardless of whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Borrower or otherwise and in addition to any other amounts provided for herein or otherwise permitted by Applicable Law to be secured hereby, except as herein otherwise provided, the following are to be secured hereby and shall be a charge on the Charged Premises, together with the interest thereon at the Applicable Rate, and all such monies shall be repayable to the Lender, on demand, except as herein otherwise provided:
 - (a) All reasonable and properly chargeable solicitor's, inspector's, valuator's, consultant's, architect's, engineer's, surveyor's and appraiser's fees and out-of-pocket expenses:
 - (i) for drawing and registering this Charge and the Security and financing statements in connection therewith, and attending to advances hereunder;
 - (ii) for examining the Charged Premises and the title thereto up the date hereof;
 - (iii) for making and maintaining this Charge as a registered charge on the Charged Premises and maintaining the Security (including the registration and filing of renewals);
 - (iv) for the preparation of this Charge, the Security and any related documents and in exercising or enforcing or attempting to enforce or advising the Lender in respect of defaults hereunder or in pursuit of any right, power, remedy or purpose hereunder or subsisting at law;
 - (v) reasonable allowance for the time, work and expenses of the Lender or of any agent of the Lender in connection therewith; and
 - (b) All reasonable sums which the Lender may from time to time advance, expend, incur or suffer hereunder:
 - (i) for insurance premiums, Bills, Taxes, rates, or in or toward payment of prior liens, charges, encumbrances or

claims charged or to be charged against the Charged Premises:

- (ii) in maintaining, repairing, restoring or completing construction of the Charged Premise;
 - (iii) in inspecting, leasing, managing or improving the Charged Premises as permitted hereunder, including the price or value of any goods of any sort or description supplied to be used on the Charged Premises as permitted hereunder; and
- (c) Without limiting the generality of any of the foregoing, the then current reasonable fee of the Lender and/or its solicitor for the following matters:
- (i) executing any cessation or discharge of this Charge, notwithstanding that said cessation or discharge may have been prepared by the Borrower;
 - (ii) entering into an agreement to amend the interest rate or any other provision in the Charge;
 - (iii) handling any dishonored cheque;
 - (iv) preparing an amortization schedule showing the principal and interest components of payments due under this Charge;
 - (v) such other administrative matters as the Lender may perform with regards to the Charge or with regards to any collateral security, as permitted by the Commitment;
 - (vi) the fee charged by the Lender's insurance consultant to review the Borrower's policy of insurance for the subject lands including business interruption insurance if required by the Lender; and
 - (vii) the execution and delivery of any consents, postponements, acknowledgments or any other documents that may be required from the Lender, whether from the Borrower and/or any governmental authorities and/or public/private utilities

- 16.2 If any action or proceeding be commenced (except an action to foreclose this Charge or to collect the money that is secured hereby) in which the Lender becomes a party or participant by reason of being the holder of this Charge or the indebtedness secured hereby, all sums paid by the Lender for the expense of so becoming a party or participating (including all reasonable and properly chargeable legal costs) shall, on written notice, be paid by the Borrower, together with interest thereon at the Applicable Rate from the dates of payment of such sums by the Lender, and shall be a lien and charge on the Charged Premises, prior to any right or title to, interest in, or claim upon the Charged Premises subordinate to the lien and charge of this Charge, and shall be deemed to be secured by this Charge, and that in any action or proceeding to foreclose this Charge, or to recover or collect the indebtedness secured hereby, provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant

ARTICLE 17 - CONDEMNATION AWARDS

- 17.1 The Borrower shall notify the Lender promptly upon it being aware of any and all awards or payments ("Condemnation Award(s)") including interest thereon, and the right to receive the same (save for any portion of any such Condemnation Award paid for remedial purposes and which is actually used for such purpose) which may be made with respect to the Charged Premises, or any part thereof, as a result of:
- (a) Any condemnation, eminent domain, compulsory acquisition, expropriation or like procedures ("Condemnation"), partial or complete, including any sidewalk or lane; or
 - (b) The imposition, and enforcement, of any restriction, regulation or condition to meet any building or development guideline for development or restriction of or by any municipality or other competent authority, other than those already disclosed to the Lender; or
 - (c) Any other material injury to or decrease in the value of the Charged Premises by any lawful regulation or any governmental authority having jurisdiction:

(any matter referred to in (a), (b) or (c) above being hereinafter called an "Incident of Expropriation") to the extent of all amounts which may be secured by this Charge at the date of receipt of any such Condemnation Award by the Borrower. Notwithstanding the occurrence of any Incident of Expropriation, the Borrower shall continue to pay interest at the Applicable Rate on the Principal Sum. The Borrower does hereby charge, assign, set over as transfer to the Lender, as security for the repayment of all Indebtedness

- 17.2 Any Condemnation Award received by the Lender shall be held by the Lender as part of the security for the Loan subject to application as provided in this Article 17. Pending such application, such amounts received shall be held and invested by the Lender, acting reasonably. If at any time an Event of Default has occurred and is continuing, the Lender may, at its option, apply such amounts in reduction of the amounts owing hereunder

- 17.3 Notwithstanding the provisions of Sections 17.1 and 17.2, in the event that any Incident of Expropriation shall occur which, in the reasonable opinion of the Lender, would materially and adversely affect the security of the Charge or any other Security after the application of any Condemnation Award pursuant to Section 17.1 hereof, the Lender may, at its option, declare such Incident of Expropriation to be an Event of Default and be entitled to exercise any and all rights and remedies available to it hereunder at law or in equity

ARTICLE 18 - EVENTS OF DEFAULT

- 18.1 The whole of the Principal Sum together with interest thereon at the Applicable Rate, interest on overdue interest and any amounts payable pursuant to Article 6, and all other amounts secured hereby shall, at the option of the Lender, subject to Section

18.2 hereof, become due and payable and all powers conferred on the Lender herein and hereby shall become exercisable, in like manner to all intents and purposes as if the time herein mentioned for payment of such Principal monies had fully come and expired, if specifically provided for in this Charge, or if any of the following events shall occur (the occurrence of any such event together with the expiry of the applicable cure period, if any, and any other occurrence specifically provided for herein as an Event of Default being collectively referred to as an "Event of Default"):

- (a) Upon default in payment of any regularly schedule instalment of interest beyond the date such payment is due and payable; or
- (b) Upon default in payment of the Indebtedness due and owing on the Maturity Date; or
- (c) Upon default in payment of any Indebtedness (other than an instalment of interest and upon maturity) due hereunder within five (5) Business Days after written notice thereof is provided by the Lender; or
- (d) Save as otherwise provided for in subparagraphs (a), (b) and (c) hereof or otherwise specifically provided herein, upon any default in the performance of any covenant or obligation of the Borrower hereunder within fifteen (15) days after written notice thereof is provided by the Lender, provided that if such default is curable and the nature of such default is such that the exercise of reasonable diligence of more than fifteen (15) days is required to cure such default, and if such default in the Lender's reasonable discretion does not jeopardize or adversely effect the security interest of the Lender hereunder or adversely affect the Borrower or its ability to perform its obligations hereunder or under the Security or adversely affect the Charged Premises, the Lender will not, for a further sixty (60) days so long as no other Event of Default has occurred, enforce its remedies in respect of such default while and so long as during such time the Borrower is actively continuing to diligently and in good faith cure such default; or
- (e) If at any time during the Term there is a material breach of any representation or warranty contained herein or at any time during the Term if any representation or warranty contained herein is no longer true or accurate or becomes untrue or inaccurate for any reason and provided the same can be rectified, and the same is not rectified within thirty (30) days after written notice thereof is provided by the Lender; or
- (f) Upon the assignment by the Borrower to any other party of the whole or a part of the rents, income or profits arising from the Charged Premises, without the written consent of the Lender; or
- (g) The occurrence of an Event of Insolvency; or
- (h) If without the prior written consent of the Lender, in its sole and absolute discretion:
 - (i) the Borrower transfers, sells, conveys, or otherwise disposes of all or any part of the Charged Premises, or any interest therein (other than by way of Leases), whether legal or beneficial or enters into any transaction or series of transactions where all or any part of the Charged Premises becomes the property of another person, whether through reorganization, amalgamation, merger, consolidation or otherwise, or if there is any change in the legal or beneficial interest, in whole or in part, of the Charged Premises; or
- (i) If, without the prior written consent of the Lender, in its sole and absolute discretion:
 - (i) there is any change in the Borrower's corporate control or change in the Borrower's effective control existing as of the date of this Charge; or
 - (ii) the Borrower creates, permits or suffers to exist any mortgage, pledge, charge, loan, assignment, hypothecation, security interest or other encumbrance attaching the Charged Premises other than this Charge, the Security and the Permitted Encumbrances; or
- (j) Upon default by or non-compliance of the Borrower or any Guarantor(s), or any others bound by or acknowledging to be bound by the terms of this Charge, with respect to any of the provisions of the Security or the Permitted Encumbrances; or
- (k) If the Charged Premises are abandoned; or
- (l) Failure by the Borrower to fulfil, complete or comply with any undertakings delivered by the Borrower to Lender in connection with the Loan in accordance with the terms of such undertakings; or
- (m) Upon any breach, default, non-observance occurring or being alleged, charged or claimed against the Borrower as lessor under any lease or as sublessor under any sublease of the Charged Premises and the Borrower is not diligently proceeding to rectify any such breach, default, non-observance or non-performance or defend any allegations, charges or claims of the same; or
- (n) If this Charge, or any of the Security, shall fail to constitute a legal, valid, binding and enforceable first charge, first assignment or first security interest, each enforceable in accordance with its terms, subject only to Permitted Encumbrances; or
- (o) If in the reasonable opinion of the Lender there occurs an event which has a material adverse effect on the financial condition or operation of the Borrower, the Charged Premises, this Charge, the Security or the ability of the Borrower to pay the Indebtedness or to perform its obligations hereunder or under the Security and which cannot be rectified by the Borrower within a reasonable period of time.

18.2 Save as otherwise specifically provided, an Event of Default hereunder or under any Security shall not have occurred or be deemed to have occurred until the expiration of any applicable notice period, if any, called for in this Charge or in such Security within which the Borrower may remedy such default. In any event, if in the opinion of the Lender, an event has occurred which with the passing of time, the giving of notice or otherwise would constitute an Event of Default and as a result of which the Charged Premises or the property assets and undertaking subject to the Security is materially at risk, the Lender may take such

action or exercise such remedies as may be appropriate without notice to the Borrower or the expiry of any cure period

ARTICLE 19 - REMEDIES

- 19.1 If an Event of Default has occurred hereunder and is continuing (or if the Lender exercises its rights pursuant to Section 18.2 hereof before the occurrence of an Event of Default), then at any time thereafter, but subject always to the waiver thereof by the Lender, the Lender may:
- (a) Declare the Indebtedness to be immediately due and payable and proceed to exercise any and all rights hereunder or under the Security or any other rights available to it under any other document or instrument or at law or in equity including without limitation, the drawdown of any letter of credit held by the Lender;
 - (b) Commence legal action to enforce payment of the Indebtedness or performance of the obligations by the Borrower to the Lender;
 - (c) At the expense of the Borrower, when and to such extent as the Lender deems advisable, observe and perform or cause to be observed and performed any covenant, agreement, proviso or stipulation contained herein or in the Security, and the reasonable cost thereof with interest thereon at the Applicable Rate until paid, shall immediately become due from the Borrower to the Lender after demand by the Lender upon the Borrower therefor;
 - (d) Pay or discharge any mortgage, encumbrance, lien, adverse claim or charge that may exist or be threatened against the Charged Premises; in any such case, the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
 - (e) Send or employ any inspector or agent to inspect and report upon the value, state and condition of the Charged Premises and may employ a lawyer to examine and report upon the title to the same;
 - (f) Immediately take possession of all of the Charged Premises or any part or parts thereof by action or otherwise, with power, among other things, to exclude the Borrower, to enforce the Borrower's rights, to preserve and maintain the Charged Premises, to repair, alter or extend the Charged Premises, to lease the Charged Premises, to complete construction and development of the Charged Premises, to operate and manage the Charged Premises and to collect or receive rents, income and profits of all kinds (including taking proceedings in the name of the Borrower for that purpose) and pay therefrom all reasonable expenses and charges of maintaining, preserving, protecting and operating the Charged Premises (payment of which may be necessary to preserve or protect the Charged Premises), and to enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including without limitation, power to advance its own moneys and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof, and all sums advanced or expended shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
 - (g) On default of payment for at least fifteen (15) days may, on at least thirty-five (35) days' notice, sell and dispose in the Charged Premises with or without entering into possession of the same and with notice to such persons and in such manner and form and within such terms as provided under Part III of the *Mortgages Act* (Ontario), as amended; and all remedies available may be resorted to and all rights, powers and privileges granted or conferred upon the Lender under and by virtue of any statute or by this Charge may be exercised and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made in the Charged Premises; and the Lender may sell, transfer and convey any part of the Charged Premises on such terms, including on credit for all or part of the consideration, (provided the Borrower shall not be accountable for any default in respect of the credit), secured by contract or agreement for sale, or charge, or otherwise, as shall appear to the Lender most advantageous and for such prices as can reasonably be obtained therefor in the circumstances; and in the event of sale on credit or part cash and part credit, whether by way of contract for sale or by conveyance or transfer, charge, or otherwise, the Lender is not to be accountable for or charged with any monies until the same shall be actually received in cash or received by a take-back charge; and sales may be made from time to time of parts of the Charged Premises to satisfy interest and leaving the Principal or part thereof to run with interest at the Applicable Rate; and the Lender may make any stipulations as to title or evidences or commencement of title or otherwise as the Lender shall deem proper and may buy or rescind or vary any contract for sale; and on any sale or resale, the Lender shall not be answerable for loss occasioned thereby; and for any of such purposes the Lender may make and execute all arrangements and assurances that the Lender shall deem advisable or necessary;
 - (h) With respect to the Leases:
 - (i) to demand, collect and receive the Rents or any part thereof and to give acquittances therefor, and to take from time to time, in the name of the Borrower, any proceeding which may be, in the opinion of the Lender or its counsel, expedient for the purpose of collecting the Rents or for securing the payment thereof or for enforcing any of the Borrower's rights under the Leases;
 - (ii) to compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rent and any settlement arrived at shall be binding upon the Borrower;
 - (iii) to enter upon the Lands by its officers, agents or employees for the purpose of collecting the Rents; (iv) to receive, enjoy or otherwise avail itself of the Lease Rights; and
 - (v) on behalf of the Borrower to alter, modify, amend or change the terms of Leases; to terminate Leases; to enter into new Leases; to give consents, concessions or waivers of any rights or provisions of Leases; to accept surrenders of Leases; to give consents to assignment of or subletting under Leases;
 - (i) With or without taking possession of all or any part of the Charged Premises, sell, lease or otherwise dispose of the whole or any part of the Charged Premises, as agent for the Borrower and not the Lender, and in exercising the foregoing power, the Lender may, in its absolute discretion:

- (i) sell, lease or otherwise dispose of the whole or any part of the Charged Premises by public auction, public tender with notice, or by private contract (in the name of or on behalf of the Borrower) or otherwise, with such notice, advertisement or other formality as is required by law;
 - (ii) make and deliver to the purchaser good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale once effected shall be a perpetual bar, both at law and in equity, to the Borrower and all those claiming an interest in the Charged Premises by, from, through or under the Borrower making any claim against the purchaser of the Charged Premises;
 - (iii) grant, rescind, vary or complete any contract for sale, lease or options to purchase or lease, or rights of first refusal to purchase or lease the whole or any part of the Charged Premises, for cash or for credit, with or without security being given therefor, and on terms as shall appear to be most advantageous to the Lender (including a term that a commission be payable to the Lender or a related corporation in respect thereof) and if a sale is on credit, the Lender shall not be accountable for any moneys until actually received;
 - (iv) make any stipulation as to title or conveyance or commencement of title;
 - (v) re-sell or re-lease the Charged Premises or any part thereof without being answerable for any loss occasioned thereby; and
 - (vi) make any arrangements or compromises which the Lender shall think expedient in the interest of the Lender and to assent to any modification of this Charge, and to exchange any part or parts of the Charged Premises for any other property suitable for the purposes of the Lender on such terms as the Lender considers expedient, either with or without payment of money for equality or exchange or otherwise;
- (j) Take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
 - (k) To borrow or raise money on the security of the Charged Premises or any part thereof in priority to this Charge or otherwise, for the purpose of the maintenance, preservation or protection of the Charged Premises or any part thereof or for carrying on all or any part of the business of the Borrower relating to the Charged Premises;
 - (l) Take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term as used in this Charge includes a manager and a receiver and manager, and hereafter, the "Receiver") of all or any part of the Charged Premises;
 - (m) By instrument in writing appoint, with or without taking possession, any person to be a Receiver of the Charged Premises or of any part thereof and may remove any Receiver so appointed and appoint another in his stead, with all fees and costs related thereto being the Borrower's obligations; and the following shall apply in respect of any such Receiver so appointed:
 - (i) the Lender may from time to time fix the remuneration of the Receiver who shall be entitled to deduct that same out of the revenue from the Charged Premises or the proceeds thereof;
 - (ii) the Receiver shall, to the fullest extent permitted by law, be deemed the agent or attorney of the Borrower for all purposes and the Lender shall not be in any way responsible for any actions other than as caused by gross negligence, willful misconduct or fraud, of any Receiver, and the Borrower hereby agrees to indemnify and save harmless the Lender from and against any and all claims, demands, actions, costs, damages, expenses or payments which the Lender may hereafter suffer, incur or be required to pay as a result, in whole or in part, of any action taken by the Receiver or any failure of the Receiver to do any act or thing other than as are caused by gross negligence, willful misconduct or fraud;
 - (iii) the appointment of the 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 the Receiver or the removal of the 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 Lands or any part thereof;
 - (iv) the Receiver may exercise or pursue any other remedy or proceeding which the Lender is entitled as the holder of the Charge authorized or permitted hereby or by law or in equity in order to enforce the security constituted by this Charge;
 - (v) and for the purposes above, the Borrower hereby irrevocably empowers the Receiver so appointed as its attorney to execute deeds, transfers, leases, contracts, agreements or other documents on its behalf and in its place (and the same shall bind the Borrower and have the same effect as if such deeds were executed by the Borrower) and to affix the Borrower's seal, if necessary, or a duplicate thereof to any of the same. On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds as part of the Secured Property: any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt; and
 - (vi) save as to claims for accounting under paragraph (o) below, the Borrower hereby releases and discharges the Lender and the Receiver from every claim of every nature, whether resulting in damages or not, which may arise or be caused to the Borrower by reason or as a result of anything done by the Lender or any successor or assign claiming through or under the Lender or the Receiver under the provisions of this paragraph unless such claim be the direct result of dishonesty or gross neglect;

- (n) The Lender may at any time and from time to time terminate any receivership by notice in writing to the Borrower and to the Receiver;
- (o) The Receiver shall account for all monies received in respect of the Charged Premises or any part thereof, and shall pay, out of such monies received, subject to the further direction of the Lender in its discretion, the following in the order specified:
- (i) the Receiver's remuneration;
 - (ii) all payments reasonably made or incurred by the Receiver in connection with its receivership;
 - (iii) all payments of interest, Principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Charge, and all Bills, Taxes, insurance premiums and every other proper expenditure reasonably made or incurred by the Receiver in respect to the Charged Premises or any part thereof; and
 - (iv) all payments to the Lender of all interest due or falling due hereunder and the balance to be applied upon Principal due and payable and secured hereby;
- and thereafter any surplus remaining in the hands of the Receiver after payments made as aforesaid shall be accountable to the Borrower or other persons entitled thereto; and
- (p) On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds thereof as security for the Indebtedness; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt

ARTICLE 20 - DEFAULT UNDER SECURITY, PARAMOUNTCY DISCHARGE AND RENEWAL

- 20.1 Payments of principal and interest made under and pursuant to the terms of the Security shall constitute payment hereunder and vice versa and default in the payment of principal and interest under the Security shall constitute default hereunder and vice versa. Default in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained in the Security shall entitle the Lender to exercise all or any of the rights or remedies provided herein and the occurrence of an Event of Default hereunder or in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained herein shall entitle the Lender to exercise all or any of the rights or remedies provided in the Security. The occurrence of an Event of Default hereunder shall constitute an Event of Default under the Security and vice versa.
- 20.2 The cancellation of or any other dealing with any Security (other than foreclosure thereof) shall not release or affect this Charge, and the taking of this Charge, or the cancellation of or any other dealing with, or proceeding under (other than foreclosure hereunder), this Charge, shall not release or affect any Security:
- (a) The Lender may at any time and from time to time release any part or parts of the Charged Premises or any other Security or any surety for payment of all or any part of the monies hereby secured or may release the Borrower or any other person from any covenant or other liability to pay the Principal Sum and interest and all other monies secured hereby, or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any monies except those actually received by the Lender, and without thereby releasing any other part of the Charged Premises, or any other Security or covenants herein contained, it being especially agreed that notwithstanding any such release, the Charged Premises, the Security and the covenants remaining unreleased shall stand charged with the whole of the monies hereby secured;
 - (b) In the event that the monies advanced hereunder are applied to payment of any charge or encumbrance, the Lender shall be subrogated to all the rights of and stand in the position of and be entitled to all the equities of the party or parties so paid whether such charge or encumbrance has or has not been discharged; and the decision of the Lender as to the validity or amount of any advance or disbursement made under this Charge or of any claims so paid, shall be final and binding on the Borrower; and
 - (c) The Lender shall not be charged with any monies receivable or collectible out of the Charged Premises or otherwise, except those actually received by or on behalf of the Lender and all revenue of the Charged Premises received or collected by the Lender from any source other than payment by the Borrower may, at the option of the Lender, be retained in a separate account to be used in, maintaining, insuring or improving the Charged Premises to the extent required for such purpose, in the opinion of the Lender, acting reasonably, or in payment of Taxes or other liens, charges or encumbrances against the Charged Premises, or applied in reduction of the amounts owing hereunder.
- 20.3 Subject to Section 6.1 hereof, upon payment of all amounts secured by this Charge, the Borrower shall be entitled to receive and the Lender shall provide a discharge of this Charge and the Security within a reasonable period of time after the request therefor. The Lender shall have a reasonable time after such payment within which to prepare and execute such discharge and all reasonable legal and other expenses for the preparation, execution and registration of such discharge and/or documents, as the case may be, shall be borne by the Borrower.
- 20.4 All payments made pursuant to Section 20.3 shall be made to and received by the Lender prior to 1:00 p.m. on the date due or the next succeeding Business Day in the event the date due is not a Business Day; provided such extension of time shall be included for the purposes of computation of interest.

ARTICLE 21 - NO MERGER OR WAIVER OF LENDER'S RIGHTS

- 21.1 It is further understood and agreed that this Charge and the Security shall stand as a continuing security for repayment of the Loan, including, all advances made thereunder together with all interest, damages, costs, charges and expenses which may become due and payable to the Lender in respect of or in connection with the Loan or any portion thereof, notwithstanding any fluctuation or change in the amount, nature or form of the Loan or in the obligations now or hereafter representing the Loan or any portion thereof or in the names of the obligors or any of them
- 21.2 The rights of the Lender arising under this Charge shall be separate, distinct and cumulative and, except as expressly provided herein, none of them shall be in exclusion of the other and no act of the Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding
- 21.3 The giving and taking of this Charge shall in no way merge, waive, prejudice, suspend or affect any of the rights or remedies of the Lender under any Security which may be given or which may have been or may hereafter be given in respect of the Principal Sum hereof, interest and other monies secured by this Charge, or any part thereof, or under the Security and all rights and remedies which the Lender now has or may hereafter have against any one or more persons, are hereby preserved.
- 21.4 The taking of a judgment or judgments under any of the covenants or obligations herein or under any Security shall not operate as a merger of the covenants of the Borrower or affect the Lender's right to interest at the Applicable Rate on any monies due or owing to the Lender during the continuance of this Charge, under any of the covenants herein contained or on any judgment to be recovered thereon
- 21.5 The covenant of the Borrower to pay interest shall not merge in any judgment in respect of any covenant or obligation of the Borrower under this Charge or any Security and such judgment shall bear interest at the Applicable Rate until such judgment and all interest thereon have been paid in full
- 21.6 Any waiver by the Lender of any default by the Borrower or any omission on the Lender's part in respect of any default by the Borrower shall not extend to or be taken in any manner whatsoever to affect any subsequent default by the Borrower or the rights resulting therefrom.
- 21.7 No extension of time given by the Lender to the Borrower or anyone claiming under the Borrower, shall in any way affect or prejudice the rights of the Lender against the Borrower or any person liable for payment of the monies hereby secured

ARTICLE 22 - FINANCIAL DATA

- 22.1 The Borrower shall provide or cause to be provided promptly to the Lender full and complete information about the financial condition and operations of the Charged Premises, including a comprehensive rent roll of all space in the Charged Premises, about the financial condition of the Borrower and any Guarantor(s) and such other information which the Lender may reasonably require from time to time, and the Lender shall have the right to examine the books and records of the Borrower relating to the Charged Premises at reasonable times and upon reasonable prior notice.
- 22.2 Without limiting the foregoing, the Borrower covenants and agrees to provide or cause to be provided to the Lender unaudited financial statements together with operating statements pertaining to the Charged Premises and such other financial information the Lender may reasonably require, (a) in the case of audited financial statements, within ninety (90) days of the end of each fiscal year of the Borrower (or such other time as may reasonably be required by the Lender), and (b) with respect to operating statements for the Charged Premises, within thirty (30) days of the end of each quarter of each calendar year. The audited financial statements are to be prepared by a nationally recognized firm of chartered accountants and shall include a balance sheet, and a detailed statement of income and expenditures and supporting notes and schedules. The operating statements shall contain a certificate by a senior officer of the Borrower as to the contents and preparation thereof, and shall include detailed statements of income, expenditures results of operation and such other matters relating to the operation of the Charged Premises as the Lender may reasonably require. In the event applicable, the Borrower shall provide the Lender with copies of all proxy statements, reports and information circulars that the Borrower makes available to its shareholders and copies of all regular and periodic reports which the Borrower may file with any securities commission or any other Governmental Authority.
- 22.3 The Borrower shall provide or cause to be provided to the Lender, or as the Lender may direct, a comprehensive list of all current tenants and rentals of space in the Charged Premises during the Term, which list shall disclose, without limitation, the name of each tenant, the duration of its term, renewal options, if any, and the term thereof, the rental being paid, the last date on which rental was paid and whether such tenancy is in good standing. Such list shall contain an endorsement by an officer of the Borrower as to being complete and accurate
- 22.4 All statements, reports and other documents required to be provided hereunder shall be prepared in a manner acceptable to the Lender, in its reasonable discretion.

ARTICLE 23 - NOTICE

- 23.1 Unless otherwise provided herein, any demand, notice or communication given or required to be given to a party hereunder shall be in writing and shall be personally delivered or given by transmittal by telecopy or facsimile transmission addressed to the respective parties at its address or telecopy or facsimile number set forth below or to such other address or telecopy or facsimile number as such party may designate by notice in writing to the other party hereto:
- (a) If to the Borrower, at the address for service set out in the electronic Charge to which this schedule is attached; and
- (b) If to the Lender, at the address for service set out in the electronic Charge to which this schedule is attached

Any demand, notice or communication made by or given by personal delivery shall be conclusively deemed to have been made or given on the day of actual delivery thereof; and, if made or given by telecopy or by facsimile, on the first day other than a Saturday, Sunday or a statutory holiday in Ontario, on which Schedule I banks are open for commercial business in Toronto, Ontario, following the transmittal thereof.

ARTICLE 24 - GENERAL

- 24.1 If any provision of this Charge or the application thereof to any circumstances shall be held to be invalid or unenforceable, it shall be deemed severed herefrom and the remaining provisions of this Charge, or the application thereof to other circumstances, shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law. In particular, and without limiting the generality of the foregoing, to the extent any and all amounts due pursuant to Article 6 hereof may be deemed to be in excess of what is permissible by law, any such excess shall be deemed not to be due under this Charge.
- 24.2 Wherever used in this Charge, unless the context clearly indicates a contrary intent as unless or otherwise specifically provided herein, the word "Borrower" shall mean "Borrower and/or subsequent owner or owners of the Charged Premises", the word "Lender" shall mean "Lender or any subsequent holder or holders of this Charge".
- 24.3 The descriptive headings of the several subparagraphs or paragraphs or sections or articles of this Charge are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.
- 24.4 Wherever the singular number or masculine gender is used in this Charge, the same shall be construed as including the plural and feminine or a body corporate, respectively, and vice versa, where the fact or context so requires; and the successors and assigns of any party executing this Charge are bound by the covenants, agreements stipulations and provisos herein contained. The covenants, agreements stipulations and provisos herein stated shall, except as otherwise limited hereby, be in addition to those granted or implied by statutory law.
- 24.5 This Charge shall be construed and enforceable under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, and the Borrower hereby irrevocably attorns to the non-exclusive jurisdiction of the courts sitting at Toronto, Ontario.
- 24.6 The Borrower shall at all times, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, transfers, assignments, security agreements and assurances as the Lender may reasonably require in order to give effect to the provisions hereof and for the better granting, transferring, assigning, charging, setting over, assuring, confirming or perfecting the Charge and the priority accorded to them by law or under this Charge.
- 24.7 If any of the forms of words contained herein are also contained in Column 1 of Schedule "B" of the Short Forms of Mortgages Act (Ontario) and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column 2 of Schedule "B" of the said Act distinguished by the same number, and this Charge shall be interpreted as if the *Short Forms of Mortgages Act* (Ontario) were still in full force and effect. The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) shall be and are hereby expressly excluded from the terms of this Charge.
- 24.8 This Charge shall, whether or not it secures a current or running account, be a general and continuing security to the Lender for payment of the indebtedness in an amount not exceeding the amount secured by this Charge and performance of the Borrower's other obligations under the Charge notwithstanding any fluctuation or change in the amount, nature or form of the indebtedness or in the accounts relating thereto or in the bills of exchange, promissory notes and/or other obligations now or later held by the Lender representing all or any part of the indebtedness outstanding at any particular time; and the Charge will not be deemed to have been redeemed or become void as a result of any such event or circumstance.
- 24.9 This Charge is given as collateral security to the Commitment.
- 24.10 In the event of conflict between the Commitment and the terms of this Charge, the provisions of the Commitment shall prevail; provided that any provision herein contained that is not contained in the Commitment and vice versa shall not in and of itself be considered to be inconsistent or in conflict.

ARTICLE 25 – CONDOMINIUM PROVISIONS

- 25.1 The Borrower covenants and agrees that in the event that the security for the within Charge shall be or shall become a condominium unit(s) the following provisions shall apply.
- (i) the Borrower does hereby assign to the Lender all of its rights to vote or consent in the affairs of the Condominium Corporation having jurisdiction over the subject lands and the Lender, may at its option, exercise the right of an owner of a condominium unit to vote or consent in the affairs of the Condominium Corporation in the place and stead of such owner, without in any way consulting the owner as to the manner in which the vote shall be exercised or not exercised, and without incurring any liability to the owner or anyone else because of the manner in which such vote or right to consent in the affairs of the Condominium Corporation was exercised.
 - (ii) the Borrower shall pay promptly, when due, any common expenses, assessments, instalments or payments due to the Condominium Corporation.
 - (iii) the Borrower shall observe and perform the covenants and provisions required to be observed and performed under or pursuant to the provisions of the *Condominium Act* (Ontario), all amendments thereto, and any legislation passed in substitution thereof, and the declaration and by-laws of the Condominium Corporation and any amendments thereto.
 - (iv) Where the Borrower defaults in the Borrower's obligation to contribute to the common expenses assessed or levied by the Condominium Corporation, or any authorized agent on its behalf, or any assessment, instalment of payment due to the Condominium Corporation, upon breach of any of the foregoing covenants or provisions in this paragraph contained, regardless of any other action or proceeding taken, or to be taken by the Condominium Corporation, the Lender, at its option and without notice to the Borrower, may deem such default to be a default under the terms of this Charge and proceed to exercise its rights therein and the Lender shall be entitled at its option to pay all common expense amounts as they come due and these amounts so paid together with legal fees shall form part of the Indebtedness.

ARTICLE 26 – CONSTRUCTION LOAN PROVISIONS

In the event that any of the monies advanced or to be advanced under this Charge are intended to finance any improvement to the Charged Premises, the parties hereto covenant and agree that the following conditions shall apply:

- 26.1 All construction on the Charged Premises shall be carried out by reputable contractors having experience which is commensurate to nature and size of the project to be constructed, which contractors must be prior approved by the Lender in writing, such approval not to be unreasonably withheld.
- 26.2 The construction of the building and structures located on the Charged Premises have been commenced and shall be continued in a good and workmanlike manner, with all due diligence and in accordance with the plans and specifications delivered to the Lender and to the satisfaction of all governmental and regulatory authorities having jurisdiction.
- 26.3 Provided that should construction of the project on the Charged Premises cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Borrower excepted), for a period of ten (10) consecutive days (Saturdays, Sundays and Statutory holidays excepted), then, at the option of the Lender, this Charge shall immediately become due and payable. In the event that construction does cease, then the Lender shall have the right, at its sole option, to assume complete control of the construction of the said project in such manner and on such terms as it deems advisable. The cost of completion of the said project by the Lender and all expenses incidental thereto shall be added to the principal amount of this Charge, together with a management fee of fifteen percent (15%) of the costs of the construction completed by the Lender. All costs and expenses, as well as the management fee of fifteen percent (15%) added to the principal amount of this Charge shall bear interest at the rate as herein provided for and shall form part of the principal sum herein and the Lender shall have the same rights and remedies to collection of principal and interest hereunder or at law.
- 26.4 At all times there shall be sufficient funds unadvanced under this Charge and retained by the Lender to complete the construction and/or renovation of the project on the Charged Premises and as may be necessary to retain the Lender's priority with respect to any deficiency in the holdbacks required to be retained by the Borrower under the *Construction Lien Act* (Ontario).
- 26.5 This Charge will be advanced in stages as construction upon the Charged Premises proceeds or as the conditions as enumerated by the Commitment are complied with.
- 26.6 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 Lender with respect to the said project and the progress thereof, whose fees and costs shall be for the account of the Borrower 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 and/or renovation to the date of such certificate shall be in accordance with the approved plans and specifications for the said construction 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 Charged Premises. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the building.
- 26.7 The Borrower shall pay to the Lender on each occasion when an inspection of the Charged Premises is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Lender may charge from time to time for each such inspection and the Lender's solicitors shall be paid their reasonable fees and disbursements for each sub-search and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Lender 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.
- 26.8 The Borrower agrees to indemnify and hold the Lender harmless from any and all claims, demands, sums of money, debts, covenants, bonds, accounts, actions, causes of action, rights, obligations and liability of every kind whatsoever which arise out of claims against the property under the *Construction Lien Act* (Ontario) and that any liens for work and/or supplies that are registered against the Borrower's interest in the property will be promptly discharged within seven (7) days from the date of registration of the lien. The Lender may, but is not required to, deal with the lien claimant and pay the lien claim into court pursuant to the provision of the *Construction Lien Act* (Ontario) for the purpose of vacating the lien from title to the property. The Borrower agrees to be liable for all costs, claims, amounts and fees including, without limitation, all legal fees (on a solicitor and his client basis) incurred by the Lender arising from or in connection with the Borrower or the Lender obtaining and registering either a release of the lien or an order vacating the lien.

ARTICLE 27 - ASSIGNMENT AND SALE

- 27.1 The Loan and all other amounts secured hereby, this Charge, the Security and all documents ancillary or collateral thereto may, in the Lender's sole discretion and without the consent of the Borrower, in whole or in part, be participated, sold, securitized, syndicated or assigned by the Lender from time to time to one or more Persons.
- 27.2 The Lender may disclose to participants, transferees or assignees or to potential participants, transferees or assignees or others in connection with any sale, assignment, participation, securitization, transfer or syndication, such information concerning the Borrower or the Charged Premises as the Lender may consider to be appropriate in connection therewith.
- 27.3 No grant, assignment or transfer pursuant to this Article 27 shall constitute a repayment by the Borrower to the Lender of the Loan or any other amounts owing hereunder and included in such assignment or transfer and the Borrower acknowledges that all obligations under this Charge and the Security with respect to such assignment or transfer will continue and not constitute new obligations.
- 27.4 The Borrower agrees to be bound by and do all things necessary or appropriate to assist and give effect to any transfer, participation, securitization, sale, syndication or assignment, but shall incur no increased liabilities as a result thereof.

DATED this 25th day of June 2021

SUNRISE ACQUISITIONS (ELMVALE) INC.

Per: _____

Name: Muzammil Kodwani

I have the authority to bind the corporation

SUNRISE ACQUISITIONS (ELMVALE II) INC.

Per: _____

Name: Muzammil Kodwani

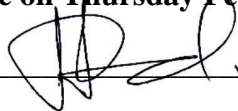
I have the authority to bind the corporation

Exhibit “8”

This is Exhibit “8” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read "Paul Mand", is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Properties

PIN 58379 - 0163 LT *Interest/Estate* Fee Simple
Description PT N1/2 LT 6 CON 8 FLOS AKA TRAIN AV DESIGNATED PART 1, PLAN 51R43404;
 TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8
 FLOS, PART 4, 51R43255 AS IN SC1851791; SUBJECT TO AN EASEMENT IN GROSS
 AS IN SC1895256; TOWNSHIP OF SPRINGWATER
Address ELMVALE

PIN 58379 - 0406 LT *Interest/Estate* Fee Simple
Description PART S1/2 LOT 6 CON 8 FLOS BEING PART 3, PLAN 51R43255; TOGETHER WITH AN
 EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255
 AS IN SC1851791; TOWNSHIP OF SPRINGWATER
Address ELMVALE

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 SUNRISE ACQUISITIONS (ELMVALE) INC.
Address for Service 50 West Wilmot Street, Suite 100
 Richmond Hill, ON L4B 1M5

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 AFC MORTGAGE ADMINISTRATION INC.
Address for Service 2010 Winston Park Dr., 2nd Fl.
 Oakville, ON L6H 6P5

Statements

Schedule: See Schedules

Provisions

Principal \$1,960,000.00 *Currency* CDN
Calculation Period Monthly, interest only payments
Balance Due Date 2022/07/01
Interest Rate higher of 9.00% or TD Prime Rate plus 6.55%
Payments
Interest Adjustment Date 2021 07 01
Payment Date see Additional Provisions
First Payment Date 2021 08 01
Last Payment Date 2022 07 01
Standard Charge Terms
Insurance Amount Full insurable value
Guarantor SAJJAD HUSSAIN and MUZAMMIL KODWAVI

Additional Provisions

The Chargee shall hold back the sum of \$220,000.00 representing an interest reserve to term.

Signed By

Perry Cheung 1000-120 Adelaide St. W. acting for Signed 2023 11 22
 Toronto Chargor(s)
 M5H 3V1

Tel 416-363-2211

Fax 416-363-0645

I have the authority to sign and register the document on behalf of the Chargor(s).

The applicant(s) hereby applies to the Land Registrar.

Submitted By

Schneider Ruggiero Spencer Milburn LLP	1000-120 Adelaide St. W. Toronto M5H 3V1	2023 11 22
Tel 416-363-2211		
Fax 416-363-0645		

Fees/Taxes/Payment

Statutory Registration Fee	\$69.95
Total Paid	\$69.95

File Number

Chargee Client File Number : 44601

SCHEDULE TO THE ATTACHED CHARGE/MORTGAGE

RECITALS

The Lender has agreed to make a loan in favour of the Borrower upon the terms and conditions more particularly contained herein

The Borrower is the registered owner of the lands and premises described in the electronic Charge to which this schedule is attached

This Charge is given by the Borrower to the Lender as continuing security for the repayment by the Borrower to the Lender of such loan and the performance by the Borrower of its obligations as more particularly described herein.

ARTICLE 1 - DEFINITIONS

1.1 For the purposes of this Charge the following definitions will apply:

"Applicable Laws" means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all then current laws, rules, statutes, regulations, treaties, orders, judgments and decrees and all official directives, rules, guidelines, orders, policies, decisions and other requirements of any Governmental Authority (whether or not having the force of law) (collectively, the "Law") relating or applicable to such Person, property, transaction, event or other matter and shall also include any interpretation of the Law or any part of the Law by any Person having jurisdiction over it or charged with its administration or interpretation;

"Applicable Rate" means the interest rate set out in the electronic Charge to which this schedule is attached or, in the alternative, the interest rate set out in the Commitment;

"Bills" has the meaning ascribed thereto in Section 10.1(a);

"Borrower" means the party identified as "Chargor" set out in the electronic Charge to which this schedule is attached and its successors and assigns;

"Business Day" means a day on which the Lender is open for business but specifically excluding Saturdays, Sundays or statutory holidays pursuant to the laws of Canada or the Province of Ontario and "Business Days" means more than one Business Day;

"Charge" means this charge/mortgage of land and all instruments supplemental hereto or in amendment, renewal, extension, restatement, replacement or confirmation hereof;

"Charged Premises" means, collectively, the Lands and the Improvements;

"Commitment" means the letter of commitment dated 8 January 2021 between the Borrower and the Lender, as the same has been or may be amended, restated, supplemented, renewed, extended or superseded from time to time;

"Environmental Approvals" has the meaning ascribed to it in Section 12.1 hereof;

"Environmental Laws" or "Environmental Law" has the meaning ascribed to them in Section 12.1 hereof;

"Event of Default" has the meaning ascribed thereto in Section 18.1 hereof;

"Event of Insolvency" means the occurrence of any one of the following events:

- (a) If the Borrower, or the Guarantor(s), shall, other than as expressly permitted hereby:
- (i) be wound up, dissolved or liquidated, whether pursuant to the provisions of the laws of the Province of Ontario or the federal laws of Canada applicable therein, or any other law or otherwise, or becomes subject to the provisions of the *Winding-Up and Restructuring Act* (Canada), or has its existence terminated or has any resolution passed therefor; or
 - (ii) makes a general assignment for the benefit of its creditors or files a proposal or a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada), shall otherwise acknowledge its insolvency or shall be declared or become bankrupt or insolvent; or
 - (iii) proposes a compromise or arrangement or otherwise brings proceedings under or becomes subject to the provisions of the *Companies' Creditors Arrangement Act* (Canada) or shall file any petition or answer seeking any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution or any other relief for itself under, or in any way takes the benefit of, the *Bankruptcy and Insolvency Act* (Canada) or any other present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors; or
 - (iv) be unable, by reason of insolvency or similar circumstances, to pay its trade creditors generally, within one hundred and twenty (120) days of the rendering of trade accounts or admit its inability to pay its debts or perform its obligations as they become due; or
- (b) If a court of competent jurisdiction shall enter an order, judgment or decree against the Borrower in respect of any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution, winding-up, termination of existence, declaration of bankruptcy or insolvency, or similar relief under any present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors, or the Borrower shall acquiesce in the entry of such order, judgment or decree, unless the Borrower is also proceeding forthwith to diligently and in good faith contest the same and, provided that none of the Charged Premises, the Charge or the Security, the value of the Charged Premises or the operation thereof, are adversely affected and there is no prejudice to the Lender in the Lender's reasonable opinion, and such order, judgement or decree is vacated or permanently stayed within fifteen (15) days of its making; or
- (c) If any trustee in bankruptcy, receiver, receiver and manager, monitor or liquidator or any other officer with similar powers shall

be appointed for the Charged Premises or any portion thereof, or for the Borrower or the Guarantor(s), or for all or any substantial part of its assets or its interest in the Charged Premises with the consent or acquiescence of the Borrower; or

- (d) If, other than as expressly permitted hereby, an encumbrancer or the holder of any lien or charge or any other creditor takes possession of the Charged Premises or the Borrower's interest in the Charged Premises, or any part thereof, or if a distress, execution, garnishment or any similar process is levied or enforced upon or against the same;

"Governmental Authority" means any federal, provincial, territorial or municipal government and any executive, judicial, regulatory or administrative functions of, or pertaining to, government (including, without limitation, all boards, commissions, agencies, departments and ministries);

"Guarantor(s)" means any Person from time to time guaranteeing the Indebtedness;

"Hazardous Substance" has the meaning ascribed to it in Section 12.1 hereof;

"Improvements" means the buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements now located on the Lands and all appurtenances pertaining thereto, together with all other buildings, structures, fixtures and improvements hereafter located from time to time in, on or under the Lands and all personal property, equipment and chattels now or hereafter affixed to the Lands or to such buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements owned by the Borrower;

"Indebtedness" means, collectively, the Principal Sum, any debts, liabilities, obligations, covenants and duties owing by the Borrower to the Lender of any kind or nature, present or future and arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith, whether or not evidenced by any note, guarantee or other instrument, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guarantee, indemnification, or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and in all cases arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith. The term includes, without limitation, all interest, yield maintenance, charges, expenses, fees, including all processing and commitment fees and all legal fees and disbursements (in each case whether or not allowed), and any other sum chargeable to the Borrower under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith;

"Inspections" has the meaning ascribed to it in Section 12.1 hereof;

"Interest Adjustment Date" means the interest adjustment date set by the Lender for the purposes of setting a payment schedule;

"Lands" means the lands and premises described in the electronic Charge to which this schedule is attached, including all tenements, hereditaments and appurtenances belonging or in any way appertaining thereto, and the reversion or reversions, remainder and remainders, rents, issues and profits therefrom, and all the estate, right, title, interest, property claim and demand whatsoever of the Borrower of, in and to the same and of, in and to every part thereof;

"Lease Benefits" means the benefit of all covenants and obligations of tenants, licencees or occupants contained in any of the Leases, including, without limitation, all rights and benefits of any guarantees thereof, the right to demand, sue for, collect, recover and receive all Rents, to enforce the landlord's rights under any Lease and generally any collateral advantage or benefit to be derived from the Leases or any of them;

"Lease Rights" means, collectively, the Leases, the Rents and the Lease Benefits;

"Leases" means all present and future leases, subleases, licences, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Borrower, or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Charged Premises, including all agreements collateral thereto, but which, for the purpose of this definition does not include the Property Lease, and "Lease" means any one of them;

"Lender" means the party identified as "Chargee" in the electronic Charge to which this schedule is attached, and its successors and assigns;

"Loan" means the loan extended or to be extended by the Lender to the Borrower in the principal amount set out in the electronic Charge to which this schedule is attached and secured by this Charge and other security given to the Lender by the Borrower and the Guarantor(s), if any;

"Major Tenant Leases" means any agreements to lease, offers to lease or leases, subleases or occupancy agreements in respect of premises situate on the Charged Premises and which are determined by the Lender in its discretion to be material to the Charged Premises and the extension and maintenance of the Loan;

"Maturity Date" means, subject to early maturity by reason of the occurrence of an Event of Default and the acceleration of repayment at the option of the Lender, the balance due date set out in the electronic Charge to which this schedule is attached;

"Permitted Encumbrances" means the items more particularly set out in Schedule 'A' hereto together with such other encumbrances, liens and interests affecting the Charged Premises which are acceptable to the Lender in its sole discretion. If no Schedule 'A' is attached hereto, there are no permitted encumbrances;

"Person" means any natural person, sole proprietorship, partnership, syndicate, trust, joint venture, Governmental Authority or any incorporated or unincorporated or entity or association of any nature;

"Principal" or "Principal Sum" means the principal amount of the Loan owing from time to time by the Borrower to the Lender;

"Rents" means all rents, issues and profits now due or to become due under or derived from the Leases;

"Security" means, collectively, all other or additional security, other than this Charge, given by the Borrower or others to the Lender as security for the Loan;

"Taxes" means for each year during the term of this Charge all real property taxes, business taxes, rates, duties, charges, assessments, impositions, taxes, levies and charges for local improvements or otherwise, imposed upon or assessed against the Charged Premises or any part or parts thereof by any Governmental Authority including, without limitation, school boards, and paid or payable by the Borrower or any tenant of the Charged Premises, but shall not include franchise, capital levy or transfer tax or any income, excess profits or revenue tax or any other tax or impost of a personal nature charged or levied upon the Borrower or any tenant of the Charged Premises. If the system of real property taxation or business shall be altered or varied and any new tax shall be levied or imposed on all or any portion of the Charged Premises or the revenues therefrom in substitution for, or in addition to, taxes presently levied or imposed, then any such new tax or levy shall be deemed to be and shall be included herein; and

"Term" means the term of this Charge and being a period which expires on the Maturity Date

ARTICLE 2 - CHARGING PROVISIONS

- 2.1 Now therefore witnesseth that the Borrower, being the registered owner of a freehold estate in fee simple in possession of the Lands, in consideration of the Loan advanced or to be advanced by the Lender to the Borrower or for its benefit, and as security for the repayment of all Indebtedness and the performance of the obligations of the Borrower hereunder, does hereby grant, mortgage, charge and create a security interest in, to and in favour of the Lender all of its estate, right, title and interest in and to the Charged Premises and covenants and agrees to and with the Lender as hereinafter provided
- 2.2 The last day of any term reserved by any lease or sublease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Borrower, as lessee, and forming part of the Charged Premises is hereby excepted out of the mortgage, charge, assignment and security interest hereby created or granted or any instrument in implementations hereof, and the same shall be deemed to be a charge by way of sublease. As further security for the payment of the Indebtedness, the Borrower agrees that it will stand possessed of the reversion of such last day of the term and shall hold it in trust for the Lender for the purpose of this Charge and to assign and dispose thereof, without cost or expense to the Lender, in such manner as the Lender shall by notice in writing, for such purpose, direct. Upon any sale, assignment, sublease or other disposition of such leasehold interest or any part thereof, the Lender, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser, assignee, sublessee or other acquirer thereof, shall be entitled by deed or writing to appoint such party or parties as a new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Borrower and to vest the same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation respecting the same.

ARTICLE 3 - REPAYMENT AND INTEREST

- 3.1 The Borrower covenants to pay to or to the order of the Lender at its offices as set out in Article 23 hereof or at such other address as the Lender may from time to time designate in writing, without set-off, compensation or deduction, and without deduction for bank service or any other charges, the Principal Sum together with all other Indebtedness with interest thereon the principal amount at the Applicable Rate, as well after as before maturity and both before and after default, demand and judgment. Such interest at the Applicable Rate shall be computed from the date of advance to become due and be paid initially on the Interest Adjustment Date and thereafter to be paid in equal instalments of interest, commencing on the first payment date set out in the Commitment or in the electronic Charge to which this schedule is attached and continuing each month during the Term, to and including the last payment date set out in the Commitment or the electronic Charge to which this schedule is attached, each such instalment to be in the amount stipulated in the Commitment or in the electronic Charge to which this schedule is attached and the last instalment, in the amount of the then remaining balance of the Principal Sum, other Indebtedness and accrued interest thereon, to be paid on the Maturity Date. In this regard, an interest reserve representing interest to term shall be deducted from the advance.
- 3.2 It is hereby agreed that if default should occur in payment of any sum due at the time appointed for payment thereof as herein provided, compound interest at the Applicable Rate shall be payable on the sum in arrears from time to time, as well after as before maturity, and if interest as compounded is not paid within one (1) month from the time of default, a rest shall be made, and compound interest at the Applicable Rate shall be payable on the aggregate then due, as well after as before maturity, both before and after default, demand and judgement and so on from time to time and all such interest and compound interest shall be a charge on the Charged Premises.
- 3.3 All interest in arrears shall be treated (as to payment of interest thereon) as Principal and shall bear compound interest, as well after as before maturity, default and judgement as provided in Section 3.3 hereof.
- 3.4 The Borrower will pay interest, including interest on overdue interest, at the Applicable Rate on any arrears of instalments of interest, and any payment by the Borrower shall be applied by the Lender first on account of interest and then on account of principal.
- 3.5 All payments of principal and interest pursuant to Section 3.1 shall be made to and received by the Lender prior to 3:00 p.m. on the date due, failing which such payment shall be deemed received on the next succeeding Business Day provided that in such case, such extension of time shall be included for the purpose of computation for interest: provided further that in the event any payment is due on a day which is not a Business Day, it shall be payable prior to 3:00 p.m. on the next succeeding Business Day and provided such payment is received by such date and such time, then, save in respect of repayment of the Indebtedness at the Maturity Date where interest shall be charged for extensions to the next succeeding Business Day, interest shall not be charged for such extension.

ARTICLE 4 - CRIMINAL RATE OF INTEREST

- 4.1 Notwithstanding any other provisions of this Charge, in no event shall the aggregate "interest" (as defined in Section 347 of the Criminal Code, (Canada), as the same shall be amended, replaced or re-enacted from time to time) payable to the Lender under this Charge exceed the effective annual rate of interest on the "credit advances" (as defined in that section) under this Charge lawfully permitted under that section and, if any payment, collection or demand pursuant to this Charge 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 Lender and the Borrower and the amount of such payment or collection in excess of that lawfully permitted shall be refunded by the Lender to the Borrower.

ARTICLE 5 - INTEREST ACT (CANADA)

- 5.1 For the purposes of this Charge, whenever interest is payable or stated not on the basis of a yearly rate, such rate of interest may be determined by multiplying the Applicable Rate by a fraction the numerator of which is the actual number of days in the calendar year in which the same is to be ascertained and the denominator of which is the number of days in the period for which such rate is determined to be payable.
- 5.2 All calculations of interest or fees under this Charge are to be made on the basis of the stated rates set out herein and not on any basis which gives effect to the principle of deemed re-investment.

ARTICLE 7 - NO OBLIGATION TO ADVANCE

- 7.1 The Borrower acknowledges and agrees that the Lender is not bound to make any advance of any of the Principal Sum or any unadvanced portion thereof by reason of the registration of this Charge in any place or registry office or the advance of any part of the said Principal Sum, it being acknowledged by the Borrower that any advance hereunder is subject, inter alia, to: (i) the representations and warranties contained herein being true and correct as of the date of any advance of the Loan; (ii) no default having occurred hereunder, under any of the Security or under the Commitment; and (iii) the conditions precedent contained in the Commitment having been satisfied.
- 7.2 In the event this Charge is registered and either no advance whatsoever is made hereunder by the Lender or the Borrower's ability to draw down funds is terminated by the Lender before any funds are advanced, the Lender will, at the expense of the Borrower and upon payment of all monies, costs, fees and disbursements then due to the Lender, promptly upon request by the Borrower execute and deliver to the Borrower, or any agent thereof, registrable discharges of this Charge and of the Security, for use in every registry office where they or notices thereof have been recorded or filed; provided that the Borrower acknowledges that this Section 7.2 shall be of no effect once any advance of the funds is made hereunder by the Lender.

ARTICLE 8 - REPRESENTATIONS AND WARRANTIES

- 8.1 The Borrower represents and warrants in favour of the Lender, acknowledging that the Lender is relying on such representations and warranties in extending the Loan:
- (a) The Borrower is a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and has all necessary corporate power and authority to enter into this Charge and the Security and to perform or cause to be performed its obligations contained herein and therein, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on;
 - (b) There are no provisions in the articles or bylaws of the Borrower or any unanimous shareholders agreement of or with respect to the Borrower or to which the Borrower is a party which restrict, limit or regulate in any way the powers of the Borrower to borrow on credit or to issue, sell or pledge any of the property or assets now or hereafter owned by it to secure its debt obligations, save and except any provisions which have been complied with. No steps or proceedings have been taken or are pending to amend or supersede the articles or bylaws of the Borrower in a manner which would impair or limit the Borrower's ability to perform its obligations hereunder or under the Security;
 - (c) The Borrower has taken all necessary corporate action to authorize the execution and delivery of this Charge and the Security, and performance of the provisions of each in accordance with its terms;
 - (d) The authorization, creation, execution or delivery of this Charge or the Security or the Borrower's performance of its obligations hereunder or thereunder does not require any approval or consent of any Governmental Authority having jurisdiction nor will any such action be in conflict with or contravene any of the Borrower's articles, bylaws, unanimous shareholders agreement, if any, or resolutions of directors or shareholders, or the provisions of any indenture, instrument, agreement or undertaking to which the Borrower is a party or by which it or its properties or assets are bound, or result in the creation, imposition or crystallization of any hypothec, title retention, charge, pledge, lien, encumbrance or security interest of any kind upon any of its property or assets subject to the Charge or security interest created thereby or by the Security other than in accordance with the provisions of this Charge and the Security. This Charge and the Security when executed and delivered will constitute valid and legally binding obligations of the Borrower, enforceable against it in accordance with its terms;
 - (e) There is not now pending or, to the best of the Borrower's knowledge or belief after due inquiry, threatened against the Borrower, any litigation, action, suit, investigation or other proceeding by or before any court, tribunal or other competent Governmental Authority which would materially adversely affect the present or prospective ability of the Borrower to perform its obligations under this Charge or the Security, as the case may be, or which calls into question the validity or enforceability of this Charge or the Security;
 - (f) No Event of Insolvency has occurred or is threatened or pending;
 - (g) The Borrower is the registered owner of and has a good and marketable title in fee simple to the Lands, and, unless otherwise disclosed to the Lender in writing, is the legal and beneficial owner of the Charged Premises, free and clear of all security interests, charges, liens and other encumbrances whatsoever except for the Permitted Encumbrances, which Permitted Encumbrances are in good standing;
 - (h) The Borrower has the right to charge the Charged Premises to the Lender;
 - (i) The Borrower has not received any notice of or threat of a lien under the *Construction Lien Act* (Ontario), as amended, against the Charged Premises nor has any lien been registered against the Charged Premises in respect of labour, materials or services furnished with respect to any improvement thereon which has not been discharged;
 - (j) Unless expressly stipulated in the Commitment, the Charge is not being given with the intention to use the proceeds thereof to finance any alterations, additions or repairs to, or any construction, erection, demolition or installation on the Charged Premises.

or any structure thereon;

- (k) Unless expressly stipulated in the Commitment, the Charge is not a building mortgage, within the meaning of the *Construction Lien Act* (Ontario), as amended, and the funds to be advanced by the Lender are not being used to repay a building mortgage;
 - (l) There has been no improvement or materials supplied on or in respect of the Charged Premises in respect of which a construction lien could arise and which has not been completed or abandoned within the forty-five (45) days immediately preceding the date hereof;
 - (m) Except as disclosed to the Lender in writing, the existing and proposed uses, the operation of the Charged Premises and the business conducted thereon comply and, to the best of the Borrower's knowledge and belief, have (including all prior uses) at all times complied with all Applicable Laws, including all Environmental Laws, and the Borrower is not in violation of, and does not violate, by virtue of the ownership, use, maintenance or operation of the Charged Premises or the conduct of any business related thereto, any Applicable Laws, including all Environmental Laws.
 - (n) The Charged Premises may be charged by the Borrower in compliance with the *Planning Act* (Ontario), and no severance of any adjoining lands owned by the Borrower is required;
 - (o) All financial statements and data delivered or presented to the Lender by the Borrower up to and including the date hereof are true and correct in all material respects as at the dates and for the periods indicated and have been prepared in accordance with Canadian generally accepted accounting principles and disclose to the Lender all financial information relevant to the Lender in respect of making the Loan and there is no information, financial or otherwise, which has not been disclosed to the Lender which would be material to the Lender in its decision to advance the Loan, and, without limiting the foregoing, neither the Guarantor(s) nor the Borrower has failed to disclose to the Lender any facts or information material to the making of the Loan;
 - (p) No Event of Default, or an event which with the giving of notice, lapse of time or otherwise, would constitute an Event of Default exists;
 - (q) Each Permitted Encumbrance is in good standing and all obligations and covenants required to be met or complied with thereunder on the part of the Borrower have been complied with and, in respect to any other party thereto to the best of the Borrower's knowledge and belief, have been met or complied with;
 - (r) All Leases entered into as of the date hereof are valid, subsisting and enforceable leases and are in good standing as of the date hereof without right of set-off or abatement;
 - (s) The Borrower is not bound by any indenture, agreement, lease or other instrument, nor is it subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction or any of the Applicable Laws, which materially adversely affects its business operations in respect of the Charged Premises or the performance of its obligations under this Charge or the Security;
 - (t) The Borrower has complied with all Applicable Laws in respect of any residential unit located on the Charged Premises, including in respect of any conversion, demolition, rentals charged or filings or applications to be made and there are no outstanding orders, decisions or directives made or pending which are or would be adverse to the Borrower or the Charged Premises in respect of any residential unit located on the Charged Premises;
 - (u) Each partner of the limited partnership of which the Borrower is the general partner is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
 - (v) With respect to each partner of the limited partnership of which the Borrower is a general partner that is a Canadian corporation, either (i) the shares of that corporation do not derive their value, directly or indirectly, primarily from foreign property, all within the meaning of the *Income Tax Act* (Canada) or (ii) the corporation is a corporation described in subsection 206(1.1) of the *Income Tax Act* (Canada), as that provision may be amended from time to time;
 - (w) The Borrower shall not, without the prior written consent of the Lender, execute or deliver any mortgage, charge, lien or other encumbrance of the Lands intended to rank subordinate to this Charge; and
 - (x) The Borrower is not and shall not be during the Term (without the prior written consent of the Lender), a farmer within the meaning of the *Farm Debt Mediation Act* (Canada)
- 8.2 The representations and warranties set out in this Article 8 shall speak as of the date made, survive the execution and delivery of this Charge and the making of any advance hereunder and continue to be true and accurate during the Term of this Charge, notwithstanding any investigations or examinations which may be made by the Lender or the Lender's solicitors and the Lender shall be deemed to have relied on such representations and warranties in making advances under the Loan
- 8.3 The Borrower shall indemnify and save harmless the Lender from and against all losses, damages, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from any omission, inaccuracy or misrepresentation of the Borrower herein relating to or concerning the Charged Premises and with respect to all losses, charges, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from or arising in connection with environmental matters relating to, arising from, in connection with or concerning the Charged Premises, whether referred to or contemplated herein or hereby.

ARTICLE 9 – COVENANTS

- 9.1 The Borrower covenants with the Lender that upon the occurrence of an Event of Default, the Lender shall have quiet possession of the Charged Premises, free from any encumbrances, save and except for the Permitted Encumbrances.
- 9.2 The Borrower shall not without the prior written consent of the Lender, such consent not to be unreasonably withheld or delayed, which may be withheld in the sole discretion of the Lender permit or suffer to exist any charges, liens, security interests or other encumbrances against the Charged Premises, save and except for the Permitted Encumbrances; and the Borrower shall maintain the Permitted Encumbrances in good standing and provide notice to the Lender forthwith of any default under any of

the Permitted Encumbrances

- 9.3 The Borrower shall not initiate, permit or suffer to exist any Event of Insolvency, in respect of itself or, to the extent that the Loan, this Charge or the Security is affected by the occurrence of any such event, of any related person or corporation, including without limitation, any parent corporation of the Borrower. The Borrower covenants and agrees (i) to provide two Business Days' notice prior to the occurrence of an Event of Insolvency (an "Insolvency Notice"), and agrees that the receipt of an Insolvency Notice by the Lender shall constitute an immediate Event of Default if the Borrower or any Guarantor(s) is an applicant or takes the benefit of such statute or proceeding or if any of these proceedings otherwise affect the rights or entitlements of the Lender under the Loan, this Charge or the Security or the Lender's ability to enforce this Charge or the Security, and (ii) prior to the commencement of any such proceedings, to deliver to the Lender copies of all relevant filing materials, including, without limitation, copies of draft court orders, plans of compromise, proposals and notices of intention, it being intended by the Borrower that the Lender be entitled during the period after receipt of an Insolvency Notice to enforce this Charge and the Security for the purpose of, among other things, taking possession and control of the Charged Premises, in the Lender's sole discretion.
- 9.4 The Borrower shall not, without the prior written consent of the Lender, initiate, join in or consent to any change to or modification in any private restrictive covenant, municipal or other governmental law, rule or regulation, by-law, or any other public or private restrictions, limiting or defining the uses which may be made of the Charged Premises, or any part thereof and which could adversely affect the Charge, the Security, the day-to-day operations of the Charged Premises, the income derived therefrom or the value of the Charged Premises.
- 9.5 The Borrower shall comply in all respects with all covenants, deed restrictions, easements and Applicable Laws which pertain to the ownership, use or operation of the Charged Premises or the performance by the Borrower of its obligations under this Charge and shall ensure that all representations and warranties contained herein continue to be true and accurate at all times during the Term.
- 9.6 The Borrower shall permit the Lender, or cause to be made available to the Lender, access to all records, both written and electronic, pertaining to the Charged Premises and upon request shall make copies of such information for the Lender. For such purposes, the Lender shall have reasonable access to the Charged Premises or such other place as such records are kept upon reasonable prior written notice to the Borrower.
- 9.7 The Borrower shall fulfil on a timely basis any undertaking provided by it to the Lender at the time of the advance of the Loan.
- 9.8 The Borrower covenants to ensure that this Charge will remain a valid and enforceable mortgage of the Charged Premises with first priority subject only to the Permitted Encumbrances and the Borrower will fully and effectively maintain and keep the Security as valid and effective security during the currency hereof.
- 9.9 The Borrower shall promptly give written notice to the Lender of any litigation, proceeding or dispute affecting the Charged Premises if the result thereof might have a material adverse effect on the Charged Premises, the financial condition or operations of the Borrower or any Guarantor(s) or its ability to perform its obligations hereunder and shall, from time to time, furnish to the Lender all reasonable information requested by the Lender concerning the status of such litigation, proceeding or dispute and shall in all such cases diligently and in good faith proceed to defend, settle or otherwise deal with any such litigation, proceeding or dispute in a commercially reasonable manner.
- 9.10 The Borrower shall promptly give notice to the Lender upon becoming aware of and provide particulars in respect of:
- (a) An Event of Default or any event which with the passage of time or giving of notice would constitute an Event of Default;
 - (b) Any default under a Lease;
 - (c) Details of material renovations to the Charged Premises when the Borrower intends to or reasonably anticipates that it will renovate the Charged Premises;
 - (d) Any default under any Permitted Encumbrance;
 - (e) Any notice of expropriation, action or proceeding materially affecting the Charged Premises or the violation of any Applicable Law which may have a material adverse effect on the Charged Premises; and
 - (f) Any matter which may have a material adverse effect upon the Borrower or the Guarantor(s) or Charged Premises or the operations conducted thereon, or the security constituted by this Charge and the Security.
- 9.11 The Borrower covenants at all times:
- (a) to perform or cause to be performed all of the covenants and obligations on the part of lessor contained in the Leases (except the extent the same have been expressly waived by the other parties to such Leases and except in circumstances where the tenant is in default and the Borrower is acting prudently and in the best interests of the Charged Premises);
 - (b) to maintain or cause to be maintained the Lease Rights in good standing and not to do, permit to be done or omit to do anything which may impair the enforceability of the Lease Rights;
 - (c) save for the deposits for the first and last month rentals, not to accept Rents more than one (1) month in advance of the dates when Rents fall due;
 - (d) not to enter into Leases which are not at arm's length unless the terms thereof are at least equal to current market terms;
 - (e) not to enter into Lease which do not constitute Major Tenant Leases (each of which must be approved by the Lender as hereafter provided) unless such leases are substantially on Lender pre-approved standard lease forms and not to enter

into Major Tenant Leases without the Lender's approval as hereafter provided:

- (f) not to or to permit termination, alteration or amendment or waiver of rights or remedies or otherwise take any action with respect to any of the Leases which in the aggregate would create a material reduction in Rents from those payable as of the date hereof, without the prior approval of the Lender;
 - (g) not to further assign, mortgage or pledge or permit the assignment, mortgaging or pledging of any Lease or the rents thereunder, save for assignments by tenants of their tenant's interest in Leases, to the extent permitted under such Leases; and
 - (h) to ensure in respect of all Leases now or hereafter entered into that (i) the tenant thereunder, at the option of the Lender, subordinates its lease to the security of this Charge and attorns to and becomes a tenant of the Lender or any purchaser from the Lender in the event of the exercise of a sale remedy by the Lender, for the unexpired residue of the term and upon the terms and conditions of said lease, provided the Lender will agree to enter into non-disturbance agreements on commercially reasonable terms with all such tenants; and (ii) at the request of the Lender, provide as further security specific assignments of Leases hereinafter entered into
- 9.12 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, enter into any agreement or document in respect of the Charged Premises (except for leases in accordance with the terms hereof and the Security) which is material to the ownership, value, operation, or use of the Charged Premises unless the same is in the ordinary course of business
- 9.13 With respect to any Major Tenant Lease, the Borrower shall not and shall not permit without the prior written consent of the Lender:
- (a) cancel or modify any Major Tenant Lease, release the obligations of any lessee thereunder, accept a surrender of a Major Tenant Lease, accept any prepayment of Rents thereunder or consent to any sublet or assignment by the lessee under any Major Tenant lease (except where the provisions of such Major Tenant Lease require the landlord to do so); or
 - (b) enter into any Major Tenant Lease unless the terms, form and substance of such Major Lease is satisfactory to the Lender, acting reasonably; or
 - (c) to further assign, mortgage, pledge, hypothecate or otherwise deal with any Major Tenant Lease.
- 9.14 The Borrower shall do or cause to be done all things necessary to keep in full force and effect all rights, franchises, licences and qualifications necessary or incidental to perform or cause to be performed its obligations contained in this Charge and the Security and to carry on its business pertaining thereto as presently carried on.
- 9.15 The Borrower shall from time to time to pay or cause to be paid all amounts related to taxes, wages, workers compensation obligations, government royalties, and any other similar amounts relating to the business conducted on the Charged Premises if non-payment thereof may result in an encumbrance (other than a Permitted Encumbrance) against the Charged Premises or any of the assets secured in favour of the Lender by the Security.
- 9.16 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, cause or permit any change in the status of the Borrower that results in the representations contained in Subparagraph 8.1(u) or Subparagraph 8.1(v) ceasing to be accurate in all material respects
- 9.17 The Borrower covenants, subject to the rights of reorganization herein contained, to continue as a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and maintain all necessary corporate power and authority to perform or cause to be performed its obligations contained herein and in the Security, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on
- 9.18 The Borrower covenants that, unless in respect of a reorganization of the Borrower permitted under Paragraph 18.1(h) or with the consent of the Lender as provided therein, no steps or proceedings will be taken to amend or supersede the articles or bylaws of the Borrower and in any event no steps or proceedings, including any reorganization of the Borrower, will be taken in a manner which would impair or limit the Borrower's or its successor's ability to perform its obligations hereunder or under the Security
- 9.19 The Borrower will not enter into any indenture, agreement, lease or other instrument, nor become subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction, which materially adversely affects the Charged Premises.

ARTICLE 10 - TAXES/LIENS

10.1

- (a) The Borrower shall pay or cause to be paid, all Taxes together with such other amounts, the failure to pay which would give rise to a lien against the Charged Premises, as and when the same shall fall due and payable (collectively, the "Bills").
- (b) With respect to Taxes at the option of the Lender, the Borrower shall pay to the Lender in equal monthly instalments on the first day of each month in each calendar year during the Term, commencing on the first day of the month next following the Interest Adjustment Date, one-twelfth (1/12) of the annual Taxes (or such amount as may be required in order to pay the Taxes as they become due) as reasonably estimated by the Lender; said payments of Taxes shall be paid to the Lender in addition to the instalments of interest due and payable under this Charge, to be deposited upon

receipt and held by the Lender in an interest-bearing account for the payment of Taxes, with interest to accrue thereon to the benefit of the Borrower and to be credited in reduction of the amount required to be paid to the Lender for Taxes. The Lender agrees that upon and subject to receipt of monies for Taxes it will remit such monies to the proper municipal offices in payment of Taxes as required from time to time; provided that if any Event of Default shall occur and be continuing, then the Lender, at its sole option, may apply all or any part of any funds held in such account to any amount due hereunder, whether principal, interest or otherwise. The Borrower shall also pay, or cause to be paid, to the Lender before the due date for the payment of Taxes (or next periodic instalment date therefor, as the case may be) any sums in addition to the aforesaid monthly instalments which may be required in order that out of such sums held in trust or escrow by the Lender and such additional sums, the Lender may pay the whole amount of Taxes assessed thereto, on the due date for payment thereof. Notwithstanding the foregoing provisions of this Paragraph 10 I(b), the Borrower acknowledges that the Lender is under no obligation to collect from the Borrower monthly instalments on account of Taxes. In addition, the Borrower acknowledges its obligation to pay all Taxes when due, whether or not the payment of all Taxes are the responsibilities of tenants and whether or not such tenants have remitted the same to the Borrower.

- (c) The Lender may, after written notice being given to the Borrower, pay all unpaid and due Taxes, and any amounts, the failure to pay which would give rise to a lien and any amounts so paid by the Lender shall become part of the Principal hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender with interest at the Applicable Rate until paid.
- (d) If the Charged Premises or any part thereof are sold or forfeited for nonpayment of Taxes while any sum remains unpaid hereunder, the Lender may acquire the title and rights of the purchaser at any sale, or the rights of any other person or corporation becoming entitled on or under any such forfeiture, or the Lender may pay, either in its own name or in the name of the Borrower and on the Borrower's behalf, any and all sums necessary to be paid to redeem such land so sold or forfeited, and to revest such lands in the Borrower, and the Borrower hereby nominates and appoints the Lender as agent to pay such monies on the Borrower's behalf and in the Borrower's name, and any monies so expended by the Lender shall become part of the Principal Sum hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender and until so paid shall bear interest at the Applicable Rate or in the alternative, the Lender may purchase the Charged Premises at any tax sale of the same.
- (e) Notwithstanding anything to the contrary herein contained, the Borrower shall have the right to contest or defend any actions brought to recover, or appeal any judgments recovered against it in respect of any Bills, or other like charges, or any construction or other liens levied or registered against the Charged Premises, by appropriate proceedings diligently conducted in good faith, provided that the Borrower shall have first deposited with the Lender, or otherwise provided to the reasonable satisfaction of the Lender, such security as the Lender acting reasonably may require including, without limitation, security for the payment of such Bills, charges or liens and any costs payable in connection therewith, and further provided that the Lender shall have determined, to its reasonable satisfaction, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall not materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises. Should the Lender at any time thereafter determine, in its reasonable discretion, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises, the Lender may realize upon such security for payment as aforesaid and pay such Bills, charges or liens. Upon termination of such proceedings, the Borrower shall promptly pay or cause to be paid the amount of the Bills, charges or liens and any other costs, fees, interest and penalties as are properly payable upon determination of such proceedings and promptly cause any tax notifications, caveats, liens, certificates of or pertaining litigation or any other form of notice or encumbrance in respect thereof to be promptly discharged from the title to the Charged Premises at the sole expense of the Borrower whereupon all such security deposited or otherwise provided to the Lender and any proceeds from the realization thereof not paid on account of Bills as aforesaid, shall be returned and paid to the Borrower.
- (f) The Borrower agrees to and does hereby indemnify the Lender against all claims, demands, costs, damages and expenses which arise in respect of any default, late payment, omission, act or proceeding by the Borrower, under or in respect of this Section 10 I.
- (g) If the Lender comes into and for as long as it is in possession of the Charged Premises, the Lender, in its sole discretion, shall be entitled to and shall enjoy all the rights of the Borrower set out in Paragraph 10 I(d) hereof, to the exclusion of the Borrower.

ARTICLE 11 – INSURANCE

11.1 The Borrower will immediately insure, unless already insured, and during the continuance of the Charge keep insured against loss or damage by fire, in such proportions upon each building as may be required by the Lender, the buildings on the land to the amount of not less than their full insurable value on a replacement cost basis in dollars of lawful money of Canada. Such insurance shall be placed with a company approved by the Lender. Buildings shall include all buildings whether now or hereafter erected on the land, and such insurance shall include not only insurance against loss or damage by fire but also insurance against loss or damage by explosion, tempest, tornado, cyclone, lightning and all other extended perils customarily provided in insurance policies including "all risks" insurance. The covenant to insure shall also include where appropriate or if required by the Lender, boiler, plate glass, rental and public liability insurance in amounts and on terms satisfactory to the Lender. Evidence of continuation of all such insurance having been effected shall be produced to the Lender at least fifteen (15) days before the expiration thereof, otherwise the Lender may provide therefore and charge the premium paid and interest thereon at the rate provided for in the Charge to the Borrower and the same shall be payable forthwith and shall also be a charge upon the land. It is further agreed that the Lender may at any time require any insurance of the buildings to be cancelled and new insurance effected in a company to be named by the Lender and also of his own accord may effect or maintain any insurance herein provided for, and any amount paid by the Lender therefore shall be payable forthwith by the Borrower with interest at the rate provided for in the Charge and shall also be a charge upon the land. Policies of insurance herein required shall provide that loss, if any, shall be payable to the Lender as his interest may appear, subject to the standard form of mortgage clause approved by the Insurance Bureau of Canada which shall be attached to the policy of insurance.

11.2 During any construction on the Charged Property, the Borrower shall maintain:

- (i) Builders' all-risk coverage for 100% of the construction cost with loss payable to the Lender by way of an Insurance Bureau of Canada ("IBC") approved mortgage clause. The policy must cover flood, earthquake, building by-laws, delayed opening, must allow for partial occupancy of the premises and provide for interim loss payments during reconstruction;
- (ii) Wrap-Up Liability coverage in an amount not less than \$10,000,000 per occurrence;
- (iii) Project performance and completion bonds and insurance, including coverage for labour and material bonds; and
- (iv) Professional Liability coverage in an amount not less than \$10,000,000

ARTICLE 12 - ENVIRONMENTAL

12.1 The following capitalized terms shall have the following respective meanings:

"Environmental Approvals" means all applicable permits, licences, authorizations, consents, directions or approvals required by Governmental Authorities pursuant to the Environmental Laws with respect to the use, occupation, ownership or operation of the Charged Premises;

"Environmental Laws" means all applicable federal, provincial and municipal laws, by-laws, regulations, executory orders, judgments and protocols, relating in whole or in part, to the environment or its protection, and without restricting the generality of the foregoing, includes without limitation, those laws relating to the manufacturing, processing, use, handling, packaging, labelling, sale, storage, recycling, transportation, treatment, destruction, burial or disposal of Hazardous Substances, employee safety, and the emission, discharge, release, deposit, issuance, spraying, dumping, throwing, pouring, spilling, emptying, placing, leaking, seeping, exhausting or abandonment of Hazardous Substances into the atmosphere, air, surface water, ground water, land surface or subsurface strata and, in each such case, as such Environmental Laws may be amended or supplemented from time to time, and "Environmental Law" means any of them;

"Hazardous Substance" means any pollutant, contaminant, waste, hazardous waste, toxic substance or dangerous good which is defined or identified in or the object of any Environmental Law, the presence of which in the environment is in contravention of any Environmental Law; and

"Inspections" means all inspections, evaluations or tests conducted by the Lender or any agent or consultant thereof for the purpose of determining the environmental condition of the Charged Premises, as the Lender may deem appropriate, acting reasonably

12.2 The Borrower represents and warrants (which representations and warranties shall continue throughout the Term of the Loan) that, subject to the best of its knowledge and belief, and subject to the Phase I Environmental Report and Geotechnical Report submitted to the Lender that:

- (a) The condition and use of the Charged Premises is and, to the best of the Borrower's knowledge, any prior use of the same was, in compliance in all material respects with all applicable Environmental Laws;
- (b) The Charged Premises is not subject to any judicial or administrative proceedings alleging violation of any Environmental Laws and there are no outstanding orders or proceedings against the Charged Premises from a Governmental Authority responsible for protecting the environment alleging the violation of any Environmental Laws;
- (c) To the knowledge of the Borrower, the Charged Premises is not the subject of any investigation by Governmental Authorities having jurisdiction evaluating whether any remedial action is needed to respond to a contravention of any Environmental Laws; and
- (d) There is no contingent liability of which the Borrower has knowledge or reasonably should have knowledge in connection with the contravention of any Environmental Laws

12.3 The Borrower covenants with the Lender:

- (a) To defend, indemnify and hold harmless the Lender, its directors, officers, employees, agents and their respective successors and assigns, against any and all loss, cost, expense, claim, liability or alleged liability arising out of any environmental damage occasioned to the Charged Premises contravention of any Environmental Laws;
- (b) To, at all times and at its own expense, conduct its business and maintain the Charged Premises in compliance with all Environmental Laws and Environmental Approvals including causing all tenants of the Charged Premises to comply with the same;
- (c) If the Borrower:
 - (i) receives notice from any Governmental Authority having jurisdiction that violation of any Environmental Law or Environmental Approval has been committed by the Borrower or any tenant with respect to the Charged Premises;
 - (ii) receives notice that any remedial order or other proceeding has been filed against the Borrower or any tenant alleging in respect of the Charged Premises violations of any Environmental Law or requiring the Borrower to take any action in connection with the release of a Hazardous Substance into the environment; or
 - (iii) receives any notice from a Governmental Authority having jurisdiction in respect of the Charged Premises that the Borrower or any tenant may be liable or responsible for costs associated with a nuisance or a response to, or clean up of, a release of a Hazardous Substance into the environment or any damages caused thereby;

to provide to the Lender a copy of such notice within ten (10) days of the Borrower's receipt thereof, and thereafter shall keep the Lender informed in a timely manner of any developments in such matters, and shall provide to the Lender such other information in respect thereto as may be reasonably requested by the Lender from time to time and shall proceed to deal with the same diligently and in good faith in order to bring the Charged Premises into compliance to the extent necessary to comply with Environmental Laws.

- (d) Unless in existence on the Charged Premises on the date of this Charge, not to use, discharge, transport or install in or upon the Charged Premises any material or equipment containing PCBs or permit any tenant of the Charged Premises to do so and, to the extent in existence on the Charged Premises as of the date of this Charge, to maintain the same in compliance with all Environmental Laws;
 - (e) To maintain, and to require all occupants of the Charged Premises to maintain in good leak-proof condition all above-ground and underground storage tanks and drums on the Charged Premises;
 - (f) Not to install asbestos or permit asbestos to be installed in the Charged Premises. With respect to any asbestos present in the Charged Premises on the date of this Charge, the Borrower shall, at its expense, promptly comply with the requirements of Environmental Laws and Governmental Authorities respecting the use, removal and disposal of asbestos; and
 - (g) To obtain or cause its solicitors to obtain copies of all relevant environmental studies or assessments of the Charged Premises which the Borrower or its solicitors or agents have commissioned or which are in the possession or control of the Borrower, as of the date of this Charge and, to the extent any such assessments or studies are required by the Lender from time to time, to promptly provide same to the Lender upon request and hereby authorizes and directs its solicitors, agents and consultants to promptly release same to the Lender
- 12.4 Having due regard to the rights of any tenant of the Borrower, the Lender and its employees and agents shall have the right, and are hereby granted permission by the Borrower, to enter the Charged Premises from time to time, and to have access to the Borrowers' relevant documents and records, in order to conduct Inspections, to determine compliance with Environmental Laws as the Lender, acting reasonably, may deem appropriate. Inspections shall be:

- (a) at such times and to such extent as may be reasonable in the circumstances on prior notice to the Borrower if the Lender has reasonable grounds for believing that:
 - (i) there are, contrary to Environmental Laws or Environmental Approvals, Hazardous Substances in or upon the Charged Premises which have not been disclosed to and approved by the Lender and appropriate Government Authorities; or
 - (ii) the Borrower is in breach of any environmental representations in this Charge or its covenants in this Article; or
 - (iii) the Borrower is not in compliance with any Environmental Laws or material Environmental Approvals; and
- (b) at any time without prior notice upon the occurrence of an Event of Default which is continuing

If the Borrower is found not to be in compliance with the Environmental Laws or Environmental Approvals and such failure to comply becomes an Event of Default that is continuing, the Lender may, at its option (but without any obligation to do so) take such actions as are required, acting reasonably, to bring the Charged Premises into compliance, and the costs thereof shall immediately become due and payable to the Lender by the Borrower and shall be secured by the Security

- 12.5 The Lender shall not, by virtue of being the chargee under this Charge or the enforcement of its rights contained herein for purposes of the Environmental Laws, be or be deemed to be the owner of, any of the Charged Premises, or to have management, charge, control, occupation or possession of any of the Charged Premises or the businesses of the Borrower, or of any Hazardous Substances located on, upon or within any of the Charged Premises

- 12.6 The Borrower hereby covenants and agrees to be responsible for, and to indemnify and hold harmless the Lender and each of its officers, directors, employees, shareholders, all unitholders of any pooled funds under its management and agents and their respective successors and assigns (in this Section, collectively referred to as the "Indemnified Parties") from and against all claims, demands, liabilities, losses, costs, damages and expenses (including, without limitation, reasonable legal fees and all costs incurred in the investigation, pursuing of any claim, or in any proceeding with respect to, defense and settlement of any item or matter hereinafter set out) that the Indemnified Parties may incur or suffer, directly or indirectly as a result of or in connection with:

- (a) Any inaccuracy in or breach of the Borrower's representations and warranties relating to the environmental matters contained herein;
- (b) The presence of any Hazardous Substance on, upon or within the Charged Premises, or the escape, seepage, leakage, spillage, discharge, emission, release, disposal or transportation away from the Charged Premises of any Hazardous Substance, whether or not there is compliance with all applicable Environmental Laws and Environmental Approvals;
- (c) The imposition of any remedial order affecting the Lands, or any non-compliance with Environmental Laws or Environmental Approvals pertaining to the Charged Premises by any person, including the Borrower, the Lender or any person acting on behalf of the Lender; and
- (d) Any diminution in the value or any loss on the disposition of the Charged Premises arising directly or indirectly as a result of the presence on the Lands of any Hazardous Substance, or as a result of the imposition of any remedial order or the breach by any person of any Environmental Law or Environmental Approval

This indemnity shall survive the satisfaction and release of this Charge and the Security and the payment and satisfaction of all

indebtedness hereunder. The benefit of this indemnity may be assigned by the Lender to any successor or assign of the Lender and the Borrower hereby consents to any such assignment.

ARTICLE 13 - ASSIGNMENT OF RENTS AND LEASES

- 13.1 As further security for the payment of all monies owing and the performance of all obligations to be performed hereunder, the Borrower does, as and by way of security, hereby sell, assign, transfer and set over unto to the Lender all of the Borrower's right, title and interest, both at law and equity, in and to the Lease Rights, to hold and receive the same unto the Borrower with full power and authority to demand, collect, sue for, recover and receive and give receipts for Rents and enforce payments of the same and enforce performance of the obligations of tenants under the Leases, provided, however, that, subject to the terms of this Charge, the Borrower shall have the full right, so long as no Event of Default has occurred and is continuing, to continue to collect Rents, to take or cause to take all actions as it deems necessary with respect to the Lease Rights, acting as a reasonable lessor.
- 13.2 It is expressly acknowledged and agreed by the Borrower that nothing contained in this Charge shall oblige the Lender to assume or perform any obligation of the Borrower to any third party in respect of or arising out of the assigned Lease Rights. The Lender may, however, after the occurrence of an Event of Default and while such Event of Default continues, at its option, assume or perform any such obligation as the Lender considers necessary or desirable to obtain the benefit of the Lease Rights, free of any set-off, reduction or abatement, and any money expended by the Lender in this regard shall form part of or be deemed to form part of the indebtedness secured by this Charge and shall bear interest at the Applicable Rate.

ARTICLE 14 - MANAGEMENT AND REPAIR

- 14.1 The Borrower shall cause the Charged Premises at all times to be professionally maintained, managed and operated and fully and continuously operational during customary business hours, including all uses ancillary or incidental to its operations, at all times, by competent managers and staff of proper background and training, in a first class manner consistent with the management and operation of other properties which are of size, location, use, class, age and type comparable to the Charged Premises, and the Borrower shall obtain the Lender's prior written approval of any manager and any management contract with any manager which may be entered into by the Borrower for the management of the Charged Premises. In addition to any other rights hereunder of the Lender, the Lender shall have the right, acting reasonably, to replace the manager at the expense of the Borrower in the event the management standards are not maintained as required hereunder and the situation is not remedied within thirty (30) days after written notice from the Lender. The Lender acknowledges and approves, as of the date hereof, of the Borrower or a company controlled by the Borrower acting as manager of the Charged Premises provided that the Charged Premises are managed and maintained in accordance with the provisions hereof.
- 14.2 The Borrower shall promptly repair, maintain, restore, replace, rebuild, keep, make good, finish, add to and put in order, or cause to be so done, the Charged Premises, so that the same shall, at all times, be in good condition and repair and to pay or cause to be paid when due all claims for labour performed and materials furnished therefor. The Borrower shall not commit or suffer any waste of the Charged Premises nor take any action that might invalidate or give cause for cancellation of any insurance maintained in respect of the Charged Premises. No building or other property now or hereafter charged by this Charge shall be removed, or demolished or nor shall the structure of any building be materially altered, redeveloped, retrofitted or renovated, without the prior written consent of the Lender, except that the Borrower shall have the right, without such consent, to remove and dispose of, free from the lien or charge of this Charge, such fixed equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal, and if necessary for the operation of the Charged Premises such equipment shall be replaced with other equipment of a quality comparable to that of the replaced equipment and free from any lien, title retention agreement, conditional sale contract, security agreement or other encumbrance, and by such removal and replacement the Borrower shall be deemed to have subjected such fixed equipment to the lien or charge of this Charge, or, (b) any net cash proceeds received from such disposition shall, at the option of the Lender, be paid over promptly to the Lender to be applied in a manner determined by Lender in its sole discretion toward the payment of any amounts owing hereunder or secured hereby. The Borrower shall notify the Lender promptly of any material damage to or defects in any of the Improvements, and thereafter forthwith shall make or cause to be made such repairs thereto as are required to correct any such damage or defects and return the Charged Premises to a state of condition and repair equivalent to the state of condition and repair required by the provisions of this Charge.
- 14.3 The Borrower shall comply with, or cause to be complied with, all statutes including without limitation the provisions of the *Construction Lien Act* (Ontario), ordinances and requirements of any Governmental Authority having jurisdiction with respect to the Charged Premises; the Borrower shall complete and pay for, within a reasonable time, any structure at any time in the process of construction on the Charged Premises.
- 14.4 The Borrower shall permit the Lender or its authorized agents at all reasonable times to enter upon the Charged Premises and inspect same, and if such inspection reveals that any repairs or like actions are necessary, the Lender may give notice to the Borrower requiring the Borrower to repair, rebuild or reinstate the same, or take such other like action within a reasonable time. Any failure by the Borrower to comply with such notice shall constitute an Event of Default hereunder and the Lender may repair, rebuild or reinstate the Charged Premises at the cost of the Borrower and charge all sums of money determined by the Lender to be properly paid therefor and interest thereon at the Applicable Rate until paid.

ARTICLE 15 - INCREASED COSTS

- 15.1 In the event that as a result of any application of or any change in or enactment of any applicable law, regulation, treaty or official directive after the date hereof (whether or not having the force of law), or in the interpretation of application thereof by any court or by any governmental or other authority or entity charged with the administration thereof which now or hereafter:
- (a) Subjects the Lender to any tax or changes the basis of taxation, or increases any existing tax, on payments of principal, interest or other amounts payable by the Borrower to the Lender under this Charge (except for taxes on the overall net income of the Lender or capital of the Lender imposed by the Government of Canada or any political subdivision thereof or by the jurisdiction in which the principal or lending office of the Lender is located); or
 - (b) Imposes, modifies or deems applicable any special requirements against assets held by, or deposits in or for the account of or any other acquisition of funds by the Lender or imposes on the Lender a requirement to maintain or allocate

capital or additional capital in relation to the Loan; or

- (c) Imposes on the Lender any other condition with respect to this Charge; or
- (d) Renders any portion of this Charge illegal or unenforceable;

and the result of any of the foregoing is to increase the cost to the Lender, or reduce the amount of principal, interest or other amount received or receivable by the Lender hereunder or its effective return hereunder in respect of making or maintaining the Loan hereunder or to reduce the payments receivable by the Lender in respect of the Loan by an amount which the Lender deems to be material, the Lender shall promptly give written notice thereof to the Borrower setting out in reasonable detail the facts giving rise to and a summary calculation of such increased costs or reduced payments, and the Borrower shall forthwith pay to the Lender upon receipt of such notice that amount which will compensate the Lender for such additional cost or reduction in income (herein referred to as "Additional Compensation"). Upon the Lender having determined that it is entitled to Additional Compensation in accordance with the provisions of this Section, the Lender shall promptly so notify the Borrower. The Borrower shall forthwith pay to the Lender upon receipt of such notice such Additional Compensation calculated on the date of demand. The Lender shall be entitled to be paid such Additional Compensation from time to time to the extent that the provisions of this Section are then applicable notwithstanding that the Lender has previously been paid any Additional Compensation. The Lender shall endeavour to limit the incidence of any such Additional Compensation, including seeking recovery for the account of the Borrower, by appealing any assessment at the expense of the Borrower upon the Borrower's request.

- 15.2 All payments made by the Borrower to the Lender will be made free and clear of all present and future taxes, withholdings or deductions of whatever nature. If these taxes, withholdings or deductions are required by Applicable Law and are made, the Borrower shall, as a separate and independent obligation, pay to the Lender all additional amounts as shall fully indemnify the Lender from any such taxes, withholding or deduction. Provided, however, that the Borrower shall have no obligation to pay any withholding or like tax which may be exigible, incurred or required as a result of the Lender being a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).
- 15.3 If the result of any law, regulation, treaty or official directive or request or any change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) is such that it is or will become (other than as a result of some positive action of the Lender, including any participation or syndication hereof by the Lender) unlawful for the Lender to make, fund or allow to remain outstanding all or part of the Loan, or to carry out all or any of its other obligations under this Charge and/or the Security or receive interest or any fee at the Applicable Rate, then in such case:
 - (a) The Lender may give written notice to the Borrower of such law, regulation, treaty or official directive or request (whether or not having the force of law) or such change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) which such notice shall certify that such law, regulation, treaty, official directive or request is generally applicable to all other borrowers from the Lender with any accommodation similar to that herein provided; and
 - (b) The Borrower shall prepay the Indebtedness on such date and to such extent as the Lender shall certify to be necessary to comply with the relevant law or change described above;

provided, however, that should the Loan become unlawful, the Lender, without prejudice to its rights to require repayment and without any obligation on its part, will consider other means of funding the Loan which would not be unlawful, would allow the Lender to carry out its obligations in respect of the Loan and would enable the Lender to receive interest at the Applicable Rate, provided always, notwithstanding the foregoing, the Lender is not obligated to provide alternate funding.

ARTICLE 16 - OBTAINING AND MAINTAINING SECURITY

- 16.1 Regardless of whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Borrower or otherwise and in addition to any other amounts provided for herein or otherwise permitted by Applicable Law to be secured hereby, except as herein otherwise provided, the following are to be secured hereby and shall be a charge on the Charged Premises, together with the interest thereon at the Applicable Rate, and all such monies shall be repayable to the Lender, on demand, except as herein otherwise provided:
 - (a) All reasonable and properly chargeable solicitor's, inspector's, valuator's, consultant's, architect's, engineer's, surveyor's and appraiser's fees and out-of-pocket expenses:
 - (i) for drawing and registering this Charge and the Security and financing statements in connection therewith, and attending to advances hereunder;
 - (ii) for examining the Charged Premises and the title thereto up the date hereof;
 - (iii) for making and maintaining this Charge as a registered charge on the Charged Premises and maintaining the Security (including the registration and filing of renewals);
 - (iv) for the preparation of this Charge, the Security and any related documents and in exercising or enforcing or attempting to enforce or advising the Lender in respect of defaults hereunder or in pursuit of any right, power, remedy or purpose hereunder or subsisting at law;
 - (v) reasonable allowance for the time, work and expenses of the Lender or of any agent of the Lender in connection therewith; and
 - (b) All reasonable sums which the Lender may from time to time advance, expend, incur or suffer hereunder:
 - (i) for insurance premiums, Bills, Taxes, rates, or in or toward payment of prior liens, charges, encumbrances or

claims charged or to be charged against the Charged Premises:

- (ii) in maintaining, repairing, restoring or completing construction of the Charged Premise;
 - (iii) in inspecting, leasing, managing or improving the Charged Premises as permitted hereunder, including the price or value of any goods of any sort or description supplied to be used on the Charged Premises as permitted hereunder; and
- (c) Without limiting the generality of any of the foregoing, the then current reasonable fee of the Lender and/or its solicitor for the following matters:
- (i) executing any cessation or discharge of this Charge, notwithstanding that said cessation or discharge may have been prepared by the Borrower;
 - (ii) entering into an agreement to amend the interest rate or any other provision in the Charge;
 - (iii) handling any dishonored cheque;
 - (iv) preparing an amortization schedule showing the principal and interest components of payments due under this Charge;
 - (v) such other administrative matters as the Lender may perform with regards to the Charge or with regards to any collateral security, as permitted by the Commitment;
 - (vi) the fee charged by the Lender's insurance consultant to review the Borrower's policy of insurance for the subject lands including business interruption insurance if required by the Lender; and
 - (vii) the execution and delivery of any consents, postponements, acknowledgments or any other documents that may be required from the Lender, whether from the Borrower and/or any governmental authorities and/or public/private utilities

- 16.2 If any action or proceeding be commenced (except an action to foreclose this Charge or to collect the money that is secured hereby) in which the Lender becomes a party or participant by reason of being the holder of this Charge or the indebtedness secured hereby, all sums paid by the Lender for the expense of so becoming a party or participating (including all reasonable and properly chargeable legal costs) shall, on written notice, be paid by the Borrower, together with interest thereon at the Applicable Rate from the dates of payment of such sums by the Lender, and shall be a lien and charge on the Charged Premises, prior to any right or title to, interest in, or claim upon the Charged Premises subordinate to the lien and charge of this Charge, and shall be deemed to be secured by this Charge, and that in any action or proceeding to foreclose this Charge, or to recover or collect the indebtedness secured hereby, provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant

ARTICLE 17 - CONDEMNATION AWARDS

- 17.1 The Borrower shall notify the Lender promptly upon it being aware of any and all awards or payments ("Condemnation Award(s)") including interest thereon, and the right to receive the same (save for any portion of any such Condemnation Award paid for remedial purposes and which is actually used for such purpose) which may be made with respect to the Charged Premises, or any part thereof, as a result of:
- (a) Any condemnation, eminent domain, compulsory acquisition, expropriation or like procedures ("Condemnation"), partial or complete, including any sidewalk or lane; or
 - (b) The imposition, and enforcement, of any restriction, regulation or condition to meet any building or development guideline for development or restriction of or by any municipality or other competent authority, other than those already disclosed to the Lender; or
 - (c) Any other material injury to or decrease in the value of the Charged Premises by any lawful regulation or any governmental authority having jurisdiction:

(any matter referred to in (a), (b) or (c) above being hereinafter called an "Incident of Expropriation") to the extent of all amounts which may be secured by this Charge at the date of receipt of any such Condemnation Award by the Borrower. Notwithstanding the occurrence of any Incident of Expropriation, the Borrower shall continue to pay interest at the Applicable Rate on the Principal Sum. The Borrower does hereby charge, assign, set over as transfer to the Lender, as security for the repayment of all Indebtedness

- 17.2 Any Condemnation Award received by the Lender shall be held by the Lender as part of the security for the Loan subject to application as provided in this Article 17. Pending such application, such amounts received shall be held and invested by the Lender, acting reasonably. If at any time an Event of Default has occurred and is continuing, the Lender may, at its option, apply such amounts in reduction of the amounts owing hereunder

- 17.3 Notwithstanding the provisions of Sections 17.1 and 17.2, in the event that any Incident of Expropriation shall occur which, in the reasonable opinion of the Lender, would materially and adversely affect the security of the Charge or any other Security after the application of any Condemnation Award pursuant to Section 17.1 hereof, the Lender may, at its option, declare such Incident of Expropriation to be an Event of Default and be entitled to exercise any and all rights and remedies available to it hereunder at law or in equity

ARTICLE 18 - EVENTS OF DEFAULT

- 18.1 The whole of the Principal Sum together with interest thereon at the Applicable Rate, interest on overdue interest and any amounts payable pursuant to Article 6, and all other amounts secured hereby shall, at the option of the Lender, subject to Section

18.2 hereof, become due and payable and all powers conferred on the Lender herein and hereby shall become exercisable, in like manner to all intents and purposes as if the time herein mentioned for payment of such Principal monies had fully come and expired, if specifically provided for in this Charge, or if any of the following events shall occur (the occurrence of any such event together with the expiry of the applicable cure period, if any, and any other occurrence specifically provided for herein as an Event of Default being collectively referred to as an "Event of Default"):

- (a) Upon default in payment of any regularly schedule instalment of interest beyond the date such payment is due and payable; or
- (b) Upon default in payment of the Indebtedness due and owing on the Maturity Date; or
- (c) Upon default in payment of any Indebtedness (other than an instalment of interest and upon maturity) due hereunder within five (5) Business Days after written notice thereof is provided by the Lender; or
- (d) Save as otherwise provided for in subparagraphs (a), (b) and (c) hereof or otherwise specifically provided herein, upon any default in the performance of any covenant or obligation of the Borrower hereunder within fifteen (15) days after written notice thereof is provided by the Lender, provided that if such default is curable and the nature of such default is such that the exercise of reasonable diligence of more than fifteen (15) days is required to cure such default, and if such default in the Lender's reasonable discretion does not jeopardize or adversely effect the security interest of the Lender hereunder or adversely affect the Borrower or its ability to perform its obligations hereunder or under the Security or adversely affect the Charged Premises, the Lender will not, for a further sixty (60) days so long as no other Event of Default has occurred, enforce its remedies in respect of such default while and so long as during such time the Borrower is actively continuing to diligently and in good faith cure such default; or
- (e) If at any time during the Term there is a material breach of any representation or warranty contained herein or at any time during the Term if any representation or warranty contained herein is no longer true or accurate or becomes untrue or inaccurate for any reason and provided the same can be rectified, and the same is not rectified within thirty (30) days after written notice thereof is provided by the Lender; or
- (f) Upon the assignment by the Borrower to any other party of the whole or a part of the rents, income or profits arising from the Charged Premises, without the written consent of the Lender; or
- (g) The occurrence of an Event of Insolvency; or
- (h) If without the prior written consent of the Lender, in its sole and absolute discretion:
 - (i) the Borrower transfers, sells, conveys, or otherwise disposes of all or any part of the Charged Premises, or any interest therein (other than by way of Leases), whether legal or beneficial or enters into any transaction or series of transactions where all or any part of the Charged Premises becomes the property of another person, whether through reorganization, amalgamation, merger, consolidation or otherwise, or if there is any change in the legal or beneficial interest, in whole or in part, of the Charged Premises; or
 - (i) If, without the prior written consent of the Lender, in its sole and absolute discretion:
 - (i) there is any change in the Borrower's corporate control or change in the Borrower's effective control existing as of the date of this Charge; or
 - (ii) the Borrower creates, permits or suffers to exist any mortgage, pledge, charge, loan, assignment, hypothecation, security interest or other encumbrance attaching the Charged Premises other than this Charge, the Security and the Permitted Encumbrances; or
- (j) Upon default by or non-compliance of the Borrower or any Guarantor(s), or any others bound by or acknowledging to be bound by the terms of this Charge, with respect to any of the provisions of the Security or the Permitted Encumbrances; or
- (k) If the Charged Premises are abandoned; or
- (l) Failure by the Borrower to fulfil, complete or comply with any undertakings delivered by the Borrower to Lender in connection with the Loan in accordance with the terms of such undertakings; or
- (m) Upon any breach, default, non-observance occurring or being alleged, charged or claimed against the Borrower as lessor under any lease or as sublessor under any sublease of the Charged Premises and the Borrower is not diligently proceeding to rectify any such breach, default, non-observance or non-performance or defend any allegations, charges or claims of the same; or
- (n) If this Charge, or any of the Security, shall fail to constitute a legal, valid, binding and enforceable first charge, first assignment or first security interest, each enforceable in accordance with its terms, subject only to Permitted Encumbrances; or
- (o) If in the reasonable opinion of the Lender there occurs an event which has a material adverse effect on the financial condition or operation of the Borrower, the Charged Premises, this Charge, the Security or the ability of the Borrower to pay the Indebtedness or to perform its obligations hereunder or under the Security and which cannot be rectified by the Borrower within a reasonable period of time.

18.2 Save as otherwise specifically provided, an Event of Default hereunder or under any Security shall not have occurred or be deemed to have occurred until the expiration of any applicable notice period, if any, called for in this Charge or in such Security within which the Borrower may remedy such default. In any event, if in the opinion of the Lender, an event has occurred which with the passing of time, the giving of notice or otherwise would constitute an Event of Default and as a result of which the Charged Premises or the property assets and undertaking subject to the Security is materially at risk, the Lender may take such

action or exercise such remedies as may be appropriate without notice to the Borrower or the expiry of any cure period

ARTICLE 19 - REMEDIES

- 19.1 If an Event of Default has occurred hereunder and is continuing (or if the Lender exercises its rights pursuant to Section 18.2 hereof before the occurrence of an Event of Default), then at any time thereafter, but subject always to the waiver thereof by the Lender, the Lender may:
- (a) Declare the Indebtedness to be immediately due and payable and proceed to exercise any and all rights hereunder or under the Security or any other rights available to it under any other document or instrument or at law or in equity including without limitation, the drawdown of any letter of credit held by the Lender;
 - (b) Commence legal action to enforce payment of the Indebtedness or performance of the obligations by the Borrower to the Lender;
 - (c) At the expense of the Borrower, when and to such extent as the Lender deems advisable, observe and perform or cause to be observed and performed any covenant, agreement, proviso or stipulation contained herein or in the Security, and the reasonable cost thereof with interest thereon at the Applicable Rate until paid, shall immediately become due from the Borrower to the Lender after demand by the Lender upon the Borrower therefor;
 - (d) Pay or discharge any mortgage, encumbrance, lien, adverse claim or charge that may exist or be threatened against the Charged Premises; in any such case, the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
 - (e) Send or employ any inspector or agent to inspect and report upon the value, state and condition of the Charged Premises and may employ a lawyer to examine and report upon the title to the same;
 - (f) Immediately take possession of all of the Charged Premises or any part or parts thereof by action or otherwise, with power, among other things, to exclude the Borrower, to enforce the Borrower's rights, to preserve and maintain the Charged Premises, to repair, alter or extend the Charged Premises, to lease the Charged Premises, to complete construction and development of the Charged Premises, to operate and manage the Charged Premises and to collect or receive rents, income and profits of all kinds (including taking proceedings in the name of the Borrower for that purpose) and pay therefrom all reasonable expenses and charges of maintaining, preserving, protecting and operating the Charged Premises (payment of which may be necessary to preserve or protect the Charged Premises), and to enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including without limitation, power to advance its own moneys and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof, and all sums advanced or expended shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
 - (g) On default of payment for at least fifteen (15) days may, on at least thirty-five (35) days' notice, sell and dispose in the Charged Premises with or without entering into possession of the same and with notice to such persons and in such manner and form and within such terms as provided under Part III of the *Mortgages Act* (Ontario), as amended; and all remedies available may be resorted to and all rights, powers and privileges granted or conferred upon the Lender under and by virtue of any statute or by this Charge may be exercised and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made in the Charged Premises; and the Lender may sell, transfer and convey any part of the Charged Premises on such terms, including on credit for all or part of the consideration, (provided the Borrower shall not be accountable for any default in respect of the credit), secured by contract or agreement for sale, or charge, or otherwise, as shall appear to the Lender most advantageous and for such prices as can reasonably be obtained therefor in the circumstances; and in the event of sale on credit or part cash and part credit, whether by way of contract for sale or by conveyance or transfer, charge, or otherwise, the Lender is not to be accountable for or charged with any monies until the same shall be actually received in cash or received by a take-back charge; and sales may be made from time to time of parts of the Charged Premises to satisfy interest and leaving the Principal or part thereof to run with interest at the Applicable Rate; and the Lender may make any stipulations as to title or evidences or commencement of title or otherwise as the Lender shall deem proper and may buy or rescind or vary any contract for sale; and on any sale or resale, the Lender shall not be answerable for loss occasioned thereby; and for any of such purposes the Lender may make and execute all arrangements and assurances that the Lender shall deem advisable or necessary;
 - (h) With respect to the Leases:
 - (i) to demand, collect and receive the Rents or any part thereof and to give acquittances therefor, and to take from time to time, in the name of the Borrower, any proceeding which may be, in the opinion of the Lender or its counsel, expedient for the purpose of collecting the Rents or for securing the payment thereof or for enforcing any of the Borrower's rights under the Leases;
 - (ii) to compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rent and any settlement arrived at shall be binding upon the Borrower;
 - (iii) to enter upon the Lands by its officers, agents or employees for the purpose of collecting the Rents; (iv) to receive, enjoy or otherwise avail itself of the Lease Rights; and
 - (v) on behalf of the Borrower to alter, modify, amend or change the terms of Leases; to terminate Leases; to enter into new Leases; to give consents, concessions or waivers of any rights or provisions of Leases; to accept surrenders of Leases; to give consents to assignment of or subletting under Leases;
 - (i) With or without taking possession of all or any part of the Charged Premises, sell, lease or otherwise dispose of the whole or any part of the Charged Premises, as agent for the Borrower and not the Lender, and in exercising the foregoing power, the Lender may, in its absolute discretion:

- (i) sell, lease or otherwise dispose of the whole or any part of the Charged Premises by public auction, public tender with notice, or by private contract (in the name of or on behalf of the Borrower) or otherwise, with such notice, advertisement or other formality as is required by law;
 - (ii) make and deliver to the purchaser good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale once effected shall be a perpetual bar, both at law and in equity, to the Borrower and all those claiming an interest in the Charged Premises by, from, through or under the Borrower making any claim against the purchaser of the Charged Premises;
 - (iii) grant, rescind, vary or complete any contract for sale, lease or options to purchase or lease, or rights of first refusal to purchase or lease the whole or any part of the Charged Premises, for cash or for credit, with or without security being given therefor, and on terms as shall appear to be most advantageous to the Lender (including a term that a commission be payable to the Lender or a related corporation in respect thereof) and if a sale is on credit, the Lender shall not be accountable for any moneys until actually received;
 - (iv) make any stipulation as to title or conveyance or commencement of title;
 - (v) re-sell or re-lease the Charged Premises or any part thereof without being answerable for any loss occasioned thereby; and
 - (vi) make any arrangements or compromises which the Lender shall think expedient in the interest of the Lender and to assent to any modification of this Charge, and to exchange any part or parts of the Charged Premises for any other property suitable for the purposes of the Lender on such terms as the Lender considers expedient, either with or without payment of money for equality or exchange or otherwise;
- (j) Take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
 - (k) To borrow or raise money on the security of the Charged Premises or any part thereof in priority to this Charge or otherwise, for the purpose of the maintenance, preservation or protection of the Charged Premises or any part thereof or for carrying on all or any part of the business of the Borrower relating to the Charged Premises;
 - (l) Take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term as used in this Charge includes a manager and a receiver and manager, and hereafter, the "Receiver") of all or any part of the Charged Premises;
 - (m) By instrument in writing appoint, with or without taking possession, any person to be a Receiver of the Charged Premises or of any part thereof and may remove any Receiver so appointed and appoint another in his stead, with all fees and costs related thereto being the Borrower's obligations; and the following shall apply in respect of any such Receiver so appointed:
 - (i) the Lender may from time to time fix the remuneration of the Receiver who shall be entitled to deduct that same out of the revenue from the Charged Premises or the proceeds thereof;
 - (ii) the Receiver shall, to the fullest extent permitted by law, be deemed the agent or attorney of the Borrower for all purposes and the Lender shall not be in any way responsible for any actions other than as caused by gross negligence, willful misconduct or fraud, of any Receiver, and the Borrower hereby agrees to indemnify and save harmless the Lender from and against any and all claims, demands, actions, costs, damages, expenses or payments which the Lender may hereafter suffer, incur or be required to pay as a result, in whole or in part, of any action taken by the Receiver or any failure of the Receiver to do any act or thing other than as are caused by gross negligence, willful misconduct or fraud;
 - (iii) the appointment of the 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 the Receiver or the removal of the 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 Lands or any part thereof;
 - (iv) the Receiver may exercise or pursue any other remedy or proceeding which the Lender is entitled as the holder of the Charge authorized or permitted hereby or by law or in equity in order to enforce the security constituted by this Charge;
 - (v) and for the purposes above, the Borrower hereby irrevocably empowers the Receiver so appointed as its attorney to execute deeds, transfers, leases, contracts, agreements or other documents on its behalf and in its place (and the same shall bind the Borrower and have the same effect as if such deeds were executed by the Borrower) and to affix the Borrower's seal, if necessary, or a duplicate thereof to any of the same. On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds as part of the Secured Property: any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt; and
 - (vi) save as to claims for accounting under paragraph (o) below, the Borrower hereby releases and discharges the Lender and the Receiver from every claim of every nature, whether resulting in damages or not, which may arise or be caused to the Borrower by reason or as a result of anything done by the Lender or any successor or assign claiming through or under the Lender or the Receiver under the provisions of this paragraph unless such claim be the direct result of dishonesty or gross neglect;

- (n) The Lender may at any time and from time to time terminate any receivership by notice in writing to the Borrower and to the Receiver;
- (o) The Receiver shall account for all monies received in respect of the Charged Premises or any part thereof, and shall pay, out of such monies received, subject to the further direction of the Lender in its discretion, the following in the order specified:
- (i) the Receiver's remuneration;
 - (ii) all payments reasonably made or incurred by the Receiver in connection with its receivership;
 - (iii) all payments of interest, Principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Charge, and all Bills, Taxes, insurance premiums and every other proper expenditure reasonably made or incurred by the Receiver in respect to the Charged Premises or any part thereof; and
 - (iv) all payments to the Lender of all interest due or falling due hereunder and the balance to be applied upon Principal due and payable and secured hereby;
- and thereafter any surplus remaining in the hands of the Receiver after payments made as aforesaid shall be accountable to the Borrower or other persons entitled thereto; and
- (p) On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds thereof as security for the Indebtedness; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt

ARTICLE 20 - DEFAULT UNDER SECURITY, PARAMOUNTCY DISCHARGE AND RENEWAL

- 20.1 Payments of principal and interest made under and pursuant to the terms of the Security shall constitute payment hereunder and vice versa and default in the payment of principal and interest under the Security shall constitute default hereunder and vice versa. Default in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained in the Security shall entitle the Lender to exercise all or any of the rights or remedies provided herein and the occurrence of an Event of Default hereunder or in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained herein shall entitle the Lender to exercise all or any of the rights or remedies provided in the Security. The occurrence of an Event of Default hereunder shall constitute an Event of Default under the Security and vice versa.
- 20.2 The cancellation of or any other dealing with any Security (other than foreclosure thereof) shall not release or affect this Charge, and the taking of this Charge, or the cancellation of or any other dealing with, or proceeding under (other than foreclosure hereunder), this Charge, shall not release or affect any Security:
- (a) The Lender may at any time and from time to time release any part or parts of the Charged Premises or any other Security or any surety for payment of all or any part of the monies hereby secured or may release the Borrower or any other person from any covenant or other liability to pay the Principal Sum and interest and all other monies secured hereby, or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any monies except those actually received by the Lender, and without thereby releasing any other part of the Charged Premises, or any other Security or covenants herein contained, it being especially agreed that notwithstanding any such release, the Charged Premises, the Security and the covenants remaining unreleased shall stand charged with the whole of the monies hereby secured;
 - (b) In the event that the monies advanced hereunder are applied to payment of any charge or encumbrance, the Lender shall be subrogated to all the rights of and stand in the position of and be entitled to all the equities of the party or parties so paid whether such charge or encumbrance has or has not been discharged; and the decision of the Lender as to the validity or amount of any advance or disbursement made under this Charge or of any claims so paid, shall be final and binding on the Borrower; and
 - (c) The Lender shall not be charged with any monies receivable or collectible out of the Charged Premises or otherwise, except those actually received by or on behalf of the Lender and all revenue of the Charged Premises received or collected by the Lender from any source other than payment by the Borrower may, at the option of the Lender, be retained in a separate account to be used in, maintaining, insuring or improving the Charged Premises to the extent required for such purpose, in the opinion of the Lender, acting reasonably, or in payment of Taxes or other liens, charges or encumbrances against the Charged Premises, or applied in reduction of the amounts owing hereunder.
- 20.3 Subject to Section 6.1 hereof, upon payment of all amounts secured by this Charge, the Borrower shall be entitled to receive and the Lender shall provide a discharge of this Charge and the Security within a reasonable period of time after the request therefor. The Lender shall have a reasonable time after such payment within which to prepare and execute such discharge and all reasonable legal and other expenses for the preparation, execution and registration of such discharge and/or documents, as the case may be, shall be borne by the Borrower.
- 20.4 All payments made pursuant to Section 20.3 shall be made to and received by the Lender prior to 1:00 p.m. on the date due or the next succeeding Business Day in the event the date due is not a Business Day; provided such extension of time shall be included for the purposes of computation of interest.

ARTICLE 21 - NO MERGER OR WAIVER OF LENDER'S RIGHTS

- 21.1 It is further understood and agreed that this Charge and the Security shall stand as a continuing security for repayment of the Loan, including, all advances made thereunder together with all interest, damages, costs, charges and expenses which may become due and payable to the Lender in respect of or in connection with the Loan or any portion thereof, notwithstanding any fluctuation or change in the amount, nature or form of the Loan or in the obligations now or hereafter representing the Loan or any portion thereof or in the names of the obligors or any of them
- 21.2 The rights of the Lender arising under this Charge shall be separate, distinct and cumulative and, except as expressly provided herein, none of them shall be in exclusion of the other and no act of the Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding
- 21.3 The giving and taking of this Charge shall in no way merge, waive, prejudice, suspend or affect any of the rights or remedies of the Lender under any Security which may be given or which may have been or may hereafter be given in respect of the Principal Sum hereof, interest and other monies secured by this Charge, or any part thereof, or under the Security and all rights and remedies which the Lender now has or may hereafter have against any one or more persons, are hereby preserved.
- 21.4 The taking of a judgment or judgments under any of the covenants or obligations herein or under any Security shall not operate as a merger of the covenants of the Borrower or affect the Lender's right to interest at the Applicable Rate on any monies due or owing to the Lender during the continuance of this Charge, under any of the covenants herein contained or on any judgment to be recovered thereon
- 21.5 The covenant of the Borrower to pay interest shall not merge in any judgment in respect of any covenant or obligation of the Borrower under this Charge or any Security and such judgment shall bear interest at the Applicable Rate until such judgment and all interest thereon have been paid in full
- 21.6 Any waiver by the Lender of any default by the Borrower or any omission on the Lender's part in respect of any default by the Borrower shall not extend to or be taken in any manner whatsoever to affect any subsequent default by the Borrower or the rights resulting therefrom.
- 21.7 No extension of time given by the Lender to the Borrower or anyone claiming under the Borrower, shall in any way affect or prejudice the rights of the Lender against the Borrower or any person liable for payment of the monies hereby secured

ARTICLE 22 - FINANCIAL DATA

- 22.1 The Borrower shall provide or cause to be provided promptly to the Lender full and complete information about the financial condition and operations of the Charged Premises, including a comprehensive rent roll of all space in the Charged Premises, about the financial condition of the Borrower and any Guarantor(s) and such other information which the Lender may reasonably require from time to time, and the Lender shall have the right to examine the books and records of the Borrower relating to the Charged Premises at reasonable times and upon reasonable prior notice.
- 22.2 Without limiting the foregoing, the Borrower covenants and agrees to provide or cause to be provided to the Lender unaudited financial statements together with operating statements pertaining to the Charged Premises and such other financial information the Lender may reasonably require, (a) in the case of audited financial statements, within ninety (90) days of the end of each fiscal year of the Borrower (or such other time as may reasonably be required by the Lender), and (b) with respect to operating statements for the Charged Premises, within thirty (30) days of the end of each quarter of each calendar year. The audited financial statements are to be prepared by a nationally recognized firm of chartered accountants and shall include a balance sheet, and a detailed statement of income and expenditures and supporting notes and schedules. The operating statements shall contain a certificate by a senior officer of the Borrower as to the contents and preparation thereof, and shall include detailed statements of income, expenditures results of operation and such other matters relating to the operation of the Charged Premises as the Lender may reasonably require. In the event applicable, the Borrower shall provide the Lender with copies of all proxy statements, reports and information circulars that the Borrower makes available to its shareholders and copies of all regular and periodic reports which the Borrower may file with any securities commission or any other Governmental Authority.
- 22.3 The Borrower shall provide or cause to be provided to the Lender, or as the Lender may direct, a comprehensive list of all current tenants and rentals of space in the Charged Premises during the Term, which list shall disclose, without limitation, the name of each tenant, the duration of its term, renewal options, if any, and the term thereof, the rental being paid, the last date on which rental was paid and whether such tenancy is in good standing. Such list shall contain an endorsement by an officer of the Borrower as to being complete and accurate
- 22.4 All statements, reports and other documents required to be provided hereunder shall be prepared in a manner acceptable to the Lender, in its reasonable discretion.

ARTICLE 23 - NOTICE

- 23.1 Unless otherwise provided herein, any demand, notice or communication given or required to be given to a party hereunder shall be in writing and shall be personally delivered or given by transmittal by telecopy or facsimile transmission addressed to the respective parties at its address or telecopy or facsimile number set forth below or to such other address or telecopy or facsimile number as such party may designate by notice in writing to the other party hereto:
- (a) If to the Borrower, at the address for service set out in the electronic Charge to which this schedule is attached; and
- (b) If to the Lender, at the address for service set out in the electronic Charge to which this schedule is attached

Any demand, notice or communication made by or given by personal delivery shall be conclusively deemed to have been made or given on the day of actual delivery thereof, and, if made or given by telecopy or by facsimile, on the first day other than a Saturday, Sunday or a statutory holiday in Ontario, on which Schedule I banks are open for commercial business in Toronto, Ontario, following the transmittal thereof.

ARTICLE 24 - GENERAL

- 24.1 If any provision of this Charge or the application thereof to any circumstances shall be held to be invalid or unenforceable, it shall be deemed severed herefrom and the remaining provisions of this Charge, or the application thereof to other circumstances, shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law. In particular, and without limiting the generality of the foregoing, to the extent any and all amounts due pursuant to Article 6 hereof may be deemed to be in excess of what is permissible by law, any such excess shall be deemed not to be due under this Charge.
- 24.2 Wherever used in this Charge, unless the context clearly indicates a contrary intent as unless or otherwise specifically provided herein, the word "Borrower" shall mean "Borrower and/or subsequent owner or owners of the Charged Premises", the word "Lender" shall mean "Lender or any subsequent holder or holders of this Charge".
- 24.3 The descriptive headings of the several subparagraphs or paragraphs or sections or articles of this Charge are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.
- 24.4 Wherever the singular number or masculine gender is used in this Charge, the same shall be construed as including the plural and feminine or a body corporate, respectively, and vice versa, where the fact or context so requires; and the successors and assigns of any party executing this Charge are bound by the covenants, agreements stipulations and provisos herein contained. The covenants, agreements stipulations and provisos herein stated shall, except as otherwise limited hereby, be in addition to those granted or implied by statutory law.
- 24.5 This Charge shall be construed and enforceable under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, and the Borrower hereby irrevocably attorns to the non-exclusive jurisdiction of the courts sitting at Toronto, Ontario.
- 24.6 The Borrower shall at all times, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, transfers, assignments, security agreements and assurances as the Lender may reasonably require in order to give effect to the provisions hereof and for the better granting, transferring, assigning, charging, setting over, assuring, confirming or perfecting the Charge and the priority accorded to them by law or under this Charge.
- 24.7 If any of the forms of words contained herein are also contained in Column 1 of Schedule "B" of the Short Forms of Mortgages Act (Ontario) and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column 2 of Schedule "B" of the said Act distinguished by the same number, and this Charge shall be interpreted as if the *Short Forms of Mortgages Act* (Ontario) were still in full force and effect. The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) shall be and are hereby expressly excluded from the terms of this Charge.
- 24.8 This Charge shall, whether or not it secures a current or running account, be a general and continuing security to the Lender for payment of the indebtedness in an amount not exceeding the amount secured by this Charge and performance of the Borrower's other obligations under the Charge notwithstanding any fluctuation or change in the amount, nature or form of the indebtedness or in the accounts relating thereto or in the bills of exchange, promissory notes and/or other obligations now or later held by the Lender representing all or any part of the indebtedness outstanding at any particular time; and the Charge will not be deemed to have been redeemed or become void as a result of any such event or circumstance.
- 24.9 This Charge is given as collateral security to the Commitment.
- 24.10 In the event of conflict between the Commitment and the terms of this Charge, the provisions of the Commitment shall prevail; provided that any provision herein contained that is not contained in the Commitment and vice versa shall not in and of itself be considered to be inconsistent or in conflict.

ARTICLE 25 – CONDOMINIUM PROVISIONS

- 25.1 The Borrower covenants and agrees that in the event that the security for the within Charge shall be or shall become a condominium unit(s) the following provisions shall apply.
- (i) the Borrower does hereby assign to the Lender all of its rights to vote or consent in the affairs of the Condominium Corporation having jurisdiction over the subject lands and the Lender, may at its option, exercise the right of an owner of a condominium unit to vote or consent in the affairs of the Condominium Corporation in the place and stead of such owner, without in any way consulting the owner as to the manner in which the vote shall be exercised or not exercised, and without incurring any liability to the owner or anyone else because of the manner in which such vote or right to consent in the affairs of the Condominium Corporation was exercised.
 - (ii) the Borrower shall pay promptly, when due, any common expenses, assessments, instalments or payments due to the Condominium Corporation.
 - (iii) the Borrower shall observe and perform the covenants and provisions required to be observed and performed under or pursuant to the provisions of the *Condominium Act* (Ontario), all amendments thereto, and any legislation passed in substitution thereof, and the declaration and by-laws of the Condominium Corporation and any amendments thereto.
 - (iv) Where the Borrower defaults in the Borrower's obligation to contribute to the common expenses assessed or levied by the Condominium Corporation, or any authorized agent on its behalf, or any assessment, instalment of payment due to the Condominium Corporation, upon breach of any of the foregoing covenants or provisions in this paragraph contained, regardless of any other action or proceeding taken, or to be taken by the Condominium Corporation, the Lender, at its option and without notice to the Borrower, may deem such default to be a default under the terms of this Charge and proceed to exercise its rights therein and the Lender shall be entitled at its option to pay all common expense amounts as they come due and these amounts so paid together with legal fees shall form part of the Indebtedness.

ARTICLE 26 – CONSTRUCTION LOAN PROVISIONS

In the event that any of the monies advanced or to be advanced under this Charge are intended to finance any improvement to the Charged Premises, the parties hereto covenant and agree that the following conditions shall apply:

- 26.1 All construction on the Charged Premises shall be carried out by reputable contractors having experience which is commensurate to nature and size of the project to be constructed, which contractors must be prior approved by the Lender in writing, such approval not to be unreasonably withheld.
- 26.2 The construction of the building and structures located on the Charged Premises have been commenced and shall be continued in a good and workmanlike manner, with all due diligence and in accordance with the plans and specifications delivered to the Lender and to the satisfaction of all governmental and regulatory authorities having jurisdiction.
- 26.3 Provided that should construction of the project on the Charged Premises cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Borrower excepted), for a period of ten (10) consecutive days (Saturdays, Sundays and Statutory holidays excepted), then, at the option of the Lender, this Charge shall immediately become due and payable. In the event that construction does cease, then the Lender shall have the right, at its sole option, to assume complete control of the construction of the said project in such manner and on such terms as it deems advisable. The cost of completion of the said project by the Lender and all expenses incidental thereto shall be added to the principal amount of this Charge, together with a management fee of fifteen percent (15%) of the costs of the construction completed by the Lender. All costs and expenses, as well as the management fee of fifteen percent (15%) added to the principal amount of this Charge shall bear interest at the rate as herein provided for and shall form part of the principal sum herein and the Lender shall have the same rights and remedies to collection of principal and interest hereunder or at law.
- 26.4 At all times there shall be sufficient funds unadvanced under this Charge and retained by the Lender to complete the construction and/or renovation of the project on the Charged Premises and as may be necessary to retain the Lender's priority with respect to any deficiency in the holdbacks required to be retained by the Borrower under the *Construction Lien Act* (Ontario).
- 26.5 This Charge will be advanced in stages as construction upon the Charged Premises proceeds or as the conditions as enumerated by the Commitment are complied with.
- 26.6 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 Lender with respect to the said project and the progress thereof, whose fees and costs shall be for the account of the Borrower 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 and/or renovation to the date of such certificate shall be in accordance with the approved plans and specifications for the said construction 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 Charged Premises. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the building.
- 26.7 The Borrower shall pay to the Lender on each occasion when an inspection of the Charged Premises is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Lender may charge from time to time for each such inspection and the Lender's solicitors shall be paid their reasonable fees and disbursements for each sub-search and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Lender 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.
- 26.8 The Borrower agrees to indemnify and hold the Lender harmless from any and all claims, demands, sums of money, debts, covenants, bonds, accounts, actions, causes of action, rights, obligations and liability of every kind whatsoever which arise out of claims against the property under the *Construction Lien Act* (Ontario) and that any liens for work and/or supplies that are registered against the Borrower's interest in the property will be promptly discharged within seven (7) days from the date of registration of the lien. The Lender may, but is not required to, deal with the lien claimant and pay the lien claim into court pursuant to the provision of the *Construction Lien Act* (Ontario) for the purpose of vacating the lien from title to the property. The Borrower agrees to be liable for all costs, claims, amounts and fees including, without limitation, all legal fees (on a solicitor and his client basis) incurred by the Lender arising from or in connection with the Borrower or the Lender obtaining and registering either a release of the lien or an order vacating the lien.

ARTICLE 27 - ASSIGNMENT AND SALE

- 27.1 The Loan and all other amounts secured hereby, this Charge, the Security and all documents ancillary or collateral thereto may, in the Lender's sole discretion and without the consent of the Borrower, in whole or in part, be participated, sold, securitized, syndicated or assigned by the Lender from time to time to one or more Persons.
- 27.2 The Lender may disclose to participants, transferees or assignees or to potential participants, transferees or assignees or others in connection with any sale, assignment, participation, securitization, transfer or syndication, such information concerning the Borrower or the Charged Premises as the Lender may consider to be appropriate in connection therewith.
- 27.3 No grant, assignment or transfer pursuant to this Article 27 shall constitute a repayment by the Borrower to the Lender of the Loan or any other amounts owing hereunder and included in such assignment or transfer and the Borrower acknowledges that all obligations under this Charge and the Security with respect to such assignment or transfer will continue and not constitute new obligations.
- 27.4 The Borrower agrees to be bound by and do all things necessary or appropriate to assist and give effect to any transfer, participation, securitization, sale, syndication or assignment, but shall incur no increased liabilities as a result thereof.

DATED this 25th day of June 2021

SUNRISE ACQUISITIONS (ELMVALE) INC.

Per: _____

Name: Muzammil Kodwani

I have the authority to bind the corporation

SUNRISE ACQUISITIONS (ELMVALE II) INC.

Per: _____

Name: Muzammil Kodwani

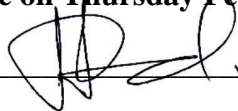
I have the authority to bind the corporation

Exhibit “9”

This is Exhibit “9” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read "Paul Mand", is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 2

Properties

PIN 58379 - 0237 LT
Description PCL 6-3 SEC 51-FLOS-8; PT OF N 1/2 LT 6 CON 8 ELMVALE PT 1 & 2 51R8040, S/T EASEMENT IN GROSS OVER PT 1 51R26366 AS IN SC600497; SPRINGWATER; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791
Address 6 TRAIN AVENUE
 ELMVALE

PIN 58379 - 0238 LT
Description PCL 6-5 SEC 51-FLOS-8; PT LT 6 CON 8 ELMVALE PT 2, 51R8051; SPRINGWATER; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791
Address ELMVALE

PIN 58379 - 0407 LT
Description PART S1/2 LOT 6 CON 8 FLOS BEING PART 1, 51R14434 EXCEPT PART 2, 51R41145 AND PARTS 1, 2 AND 3, 51R43255; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; TOWNSHIP OF SPRINGWATER
Address ELMVALE

Source Instruments

<i>Registration No.</i>	<i>Date</i>	<i>Type of Instrument</i>
SC1797693	2021 06 28	Charge/Mortgage

Transferor(s)

This transfer of charge affects all lands that the charge is against which are outstanding.

Name 5023018 ONTARIO INC.
Address for Service 1000-120 Adelaide Street West
 Toronto, ON M5H 3V1

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.

Name FRANCESCONI, ROBERT
Address for Service 1000-120 Adelaide Street West
 Toronto, ON M5H 3V1

This document is not authorized under Power of Attorney by this party.

Name THE ESTATE OF GIACOMO FRANCESCONI
Address for Service 1000-120 Adelaide Street West
 Toronto, ON M5H 3V1

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 AFC MORTGAGE ADMINISTRATION INC.
Address for Service 2010 Winston Park Drive, 2nd Floor
 Oakville, ON L6H 6P5

Statements

The chargee transfers the selected charge for \$1,893,202.00

The chargee transfers all of their right, title and interest, namely 100% of the selected charge.

This document relates to registration number(s) SC1797693 and SC1797694

Signed By

Lori Solomon-Penna 1000-120 Adelaide St. W. acting for Signed 2022 06 30
 Toronto Transferor(s)
 M5H 3V1

Tel 416-363-2211

Fax 416-363-0645

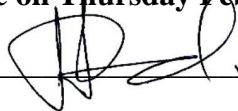
I have the authority to sign and register the document on behalf of all parties to the document.

Exhibit “10”

This is Exhibit “10” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read 'Paul Mand', is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Properties

<i>PIN</i>	58379 - 0163 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT N1/2 LT 6 CON 8 FLOS AKA TRAIN AV DESIGNATED PART 1, PLAN 51R43404; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; SUBJECT TO AN EASEMENT IN GROSS AS IN SC1895256; TOWNSHIP OF SPRINGWATER		
<i>Address</i>	ELMVALE		
<i>PIN</i>	58379 - 0237 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PCL 6-3 SEC 51-FLOS-8; PT OF N 1/2 LT 6 CON 8 ELMVALE PT 1 & 2 51R8040, S/T EASEMENT IN GROSS OVER PT 1 51R26366 AS IN SC600497; SPRINGWATER; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791		
<i>Address</i>	6 TRAIN AVENUE ELMVALE		
<i>PIN</i>	58379 - 0407 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PART S1/2 LOT 6 CON 8 FLOS BEING PART 1, 51R14434 EXCEPT PART 2, 51R41145 AND PARTS 1, 2 AND 3, 51R43255; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; TOWNSHIP OF SPRINGWATER		
<i>Address</i>	ELMVALE		

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 SUNRISE ACQUISITIONS (ELMVALE) INC.
Address for Service 50 Wilmot Street, Suite 100
 Richmond Hill, ON L4B 1M5

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 AFC MORTGAGE ADMINISTRATION INC.
Address for Service 2010 Winston Park Drive, 2nd Floor
 Oakville, ON L6H 6P5

Statements

Schedule: See Schedules

Provisions

Principal \$2,010,000.00 *Currency* CDN
Calculation Period
Balance Due Date
Interest Rate Higher of 11.99% and TD Prime rate + 9.54% per annum
Payments
Interest Adjustment Date
Payment Date On Demand
First Payment Date
Last Payment Date
Standard Charge Terms
Insurance Amount Full insurable value
Guarantor

Signed By

Perry Cheung 1000-120 Adelaide St. W. acting for Signed 2022 10 27
 Toronto Chargor(s)
 M5H 3V1

Tel 416-363-2211

Fax 416-363-0645

I have the authority to sign and register the document on behalf of the Chargor(s).

The applicant(s) hereby applies to the Land Registrar.

Submitted By

Schneider Ruggiero Spencer Milburn LLP	1000-120 Adelaide St. W. Toronto M5H 3V1	2022 10 27
Tel 416-363-2211		
Fax 416-363-0645		

Fees/Taxes/Payment

Statutory Registration Fee	\$66.30
Total Paid	\$66.30

File Number

Chargee Client File Number : 44601

SCHEDULE TO THE ATTACHED CHARGE/MORTGAGE

RECITALS

The Lender has agreed to make a loan in favour of the Borrower upon the terms and conditions more particularly contained herein.

The Borrower is the registered owner of the lands and premises described in the electronic Charge to which this schedule is attached.

This Charge is given by the Borrower to the Lender as continuing security for the repayment by the Borrower to the Lender of such loan and the performance by the Borrower of its obligations as more particularly described herein.

ARTICLE 1 - DEFINITIONS

1.1 For the purposes of this Charge the following definitions will apply:

“Applicable Laws” means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all then current laws, rules, statutes, regulations, treaties, orders, judgments and decrees and all official directives, rules, guidelines, orders, policies, decisions and other requirements of any Governmental Authority (whether or not having the force of law) (collectively, the “Law”) relating or applicable to such Person, property, transaction, event or other matter and shall also include any interpretation of the Law or any part of the Law by any Person having jurisdiction over it or charged with its administration or interpretation;

“Applicable Rate” means the interest rate set out in the electronic Charge to which this schedule is attached or, in the alternative, the interest rate set out in the Commitment;

“Bills” has the meaning ascribed thereto in Section 10.1(a);

“Borrower” means the party identified as “Chargor” set out in the electronic Charge to which this schedule is attached and its successors and assigns;

“Business Day” means a day on which the Lender is open for business but specifically excluding Saturdays, Sundays or statutory holidays pursuant to the laws of Canada or the Province of Ontario and “Business Days” means more than one Business Day;

“Charge” means this charge/mortgage of land and all instruments supplemental hereto or in amendment, renewal, extension, restatement, replacement or confirmation hereof;

“Charged Premises” means, collectively, the Lands and the Improvements;

“Commitment” means the letter of commitment between, *inter alios*, the Borrower and the Lender dated October 12, 2022, as the same has been or may be amended, restated, supplemented, renewed, extended or superseded from time to time;

“Environmental Approvals” has the meaning ascribed to it in Section 12.1 hereof;

“Environmental Laws” or “Environmental Law” has the meaning ascribed to them in Section 12.1 hereof;

“Event of Default” has the meaning ascribed thereto in Section 18.1 hereof;

“Event of Insolvency” means the occurrence of any one of the following events:

- (a) If the Borrower, or the Guarantor(s), shall, other than as expressly permitted hereby:
 - (i) be wound up, dissolved or liquidated, whether pursuant to the provisions of the laws of the Province of Ontario or the federal laws of Canada applicable therein, or any other law or otherwise, or becomes subject to the provisions of the *Winding-Up and Restructuring Act* (Canada), or has its existence terminated or has any resolution passed therefor; or
 - (ii) makes a general assignment for the benefit of its creditors or files a proposal or a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada), shall otherwise acknowledge its insolvency or shall be declared or become bankrupt or insolvent; or
 - (iii) proposes a compromise or arrangement or otherwise brings proceedings under or becomes subject to the provisions of the *Companies’ Creditors Arrangement Act* (Canada) or shall file any petition or answer seeking any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution or any other relief for itself under, or in any way takes the benefit of, the *Bankruptcy and Insolvency Act* (Canada) or any other present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors; or
 - (iv) be unable, by reason of insolvency or similar circumstances, to pay its trade creditors generally, within one hundred and twenty (120) days of the rendering of trade accounts or admit its inability to pay its debts or perform its obligations as they become due; or
- (b) If a court of competent jurisdiction shall enter an order, judgment or decree against the Borrower in respect of any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution, winding-up, termination of existence, declaration of bankruptcy or insolvency, or similar relief under any present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors, or the Borrower shall acquiesce in the entry of such order, judgment or decree, unless the Borrower is also proceeding forthwith to diligently and in good faith contest the same and, provided that none of the Charged Premises, the Charge or the Security, the value of the Charged Premises or the operation

thereof, are adversely affected and there is no prejudice to the Lender in the Lender's reasonable opinion, and such order, judgement or decree is vacated or permanently stayed within fifteen (15) days of its making; or

- (c) If any trustee in bankruptcy, receiver, receiver and manager, monitor or liquidator or any other officer with similar powers shall be appointed for the Charged Premises or any portion thereof, or for the Borrower or the Guarantor(s), or for all or any substantial part of its assets or its interest in the Charged Premises with the consent or acquiescence of the Borrower; or
- (d) If, other than as expressly permitted hereby, an encumbrancer or the holder of any lien or charge or any other creditor takes possession of the Charged Premises or the Borrower's interest in the Charged Premises, or any part thereof, or if a distress, execution, garnishment or any similar process is levied or enforced upon or against the same;

"Governmental Authority" means any federal, provincial, territorial or municipal government and any executive, judicial, regulatory or administrative functions of, or pertaining to, government (including, without limitation, all boards, commissions, agencies, departments and ministries);

"Guarantor(s)" means any Person from time to time guaranteeing the Indebtedness;

"Hazardous Substance" has the meaning ascribed to it in Section 12.1 hereof;

"Improvements" means the buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements now located on the Lands and all appurtenances pertaining thereto, together with all other buildings, structures, fixtures and improvements hereafter located from time to time in, on or under the Lands and all personal property, equipment and chattels now or hereafter affixed to the Lands or to such buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements owned by the Borrower;

"Indebtedness" means, collectively, the Principal Sum, any debts, liabilities, obligations, covenants and duties owing by the Borrower to the Lender of any kind or nature, present or future and arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith, whether or not evidenced by any note, guarantee or other instrument, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guarantee, indemnification, or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and in all cases arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith. The term includes, without limitation, all interest, yield maintenance, charges, expenses, fees, including all processing and commitment fees and all legal fees and disbursements (in each case whether or not allowed), and any other sum chargeable to the Borrower under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith;

"Inspections" has the meaning ascribed to it in Section 12.1 hereof;

"Interest Adjustment Date" means the interest adjustment date set by the Lender for the purposes of setting a payment schedule;

"Lands" means the lands and premises described in the electronic Charge to which this schedule is attached, including all tenements, hereditaments and appurtenances belonging or in any way appertaining thereto, and the reversion or reversions, remainder and remainders, rents, issues and profits therefrom, and all the estate, right, title, interest, property claim and demand whatsoever of the Borrower of, in and to the same and of, in and to every part thereof;

"Lease Benefits" means the benefit of all covenants and obligations of tenants, licencees or occupants contained in any of the Leases, including, without limitation, all rights and benefits of any guarantees thereof, the right to demand, sue for, collect, recover and receive all Rents, to enforce the landlord's rights under any Lease and generally any collateral advantage or benefit to be derived from the Leases or any of them;

"Lease Rights" means, collectively, the Leases, the Rents and the Lease Benefits;

"Leases" means all present and future leases, subleases, licences, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Borrower, or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Charged Premises, including all agreements collateral thereto, but which, for the purpose of this definition does not include the Property Lease, and "Lease" means any one of them;

"Lender" means the party identified as "Chargee" in the electronic Charge to which this schedule is attached, and its successors and assigns;

"Loan" means the loan extended or to be extended by the Lender to the Borrower in the principal amount set out in the electronic Charge to which this schedule is attached and secured by this Charge and other security given to the Lender by the Borrower and the Guarantor(s), if any;

"Major Tenant Leases" means any agreements to lease, offers to lease or leases, subleases or occupancy agreements in respect of premises situate on the Charged Premises and which are determined by the Lender in its discretion to be material to the Charged Premises and the extension and maintenance of the Loan;

"Maturity Date" means, subject to early maturity by reason of the occurrence of an Event of Default and the acceleration of repayment at the option of the Lender, the balance due date set out in the electronic Charge to which this schedule is attached;

"Permitted Encumbrances" means encumbrances, liens and interests affecting the Charged Premises which are acceptable to the Lender in its sole discretion;

"Person" means any natural person, sole proprietorship, partnership, syndicate, trust, joint venture, Governmental Authority or any incorporated or unincorporated or entity or association of any nature;

"Principal" or "Principal Sum" means the principal amount of the Loan owing from time to time by the Borrower to the Lender;

“Rents” means all rents, issues and profits now due or to become due under or derived from the Leases;

“Security” means, collectively, the Commitment and all other or additional security, other than this Charge, given by the Borrower or others to the Lender as security for the Loan;

“Taxes” means for each year during the term of this Charge all real property taxes, business taxes, rates, duties, charges, assessments, impositions, taxes, levies and charges for local improvements or otherwise, imposed upon or assessed against the Charged Premises or any part or parts thereof by any Governmental Authority including, without limitation, school boards, and paid or payable by the Borrower or any tenant of the Charged Premises, but shall not include franchise, capital levy or transfer tax or any income, excess profits or revenue tax or any other tax or impost of a personal nature charged or levied upon the Borrower or any tenant of the Charged Premises. If the system of real property taxation or business shall be altered or varied and any new tax shall be levied or imposed on all or any portion of the Charged Premises or the revenues therefrom in substitution for, or in addition to, taxes presently levied or imposed, then any such new tax or levy shall be deemed to be and shall be included herein; and

“Term” means the term of this Charge and being a period which expires on the Maturity Date.

ARTICLE 2 - CHARGING PROVISIONS

- 2.1 Now therefore witnesseth that the Borrower, being the registered owner of a freehold estate in fee simple in possession of the Lands, in consideration of the Loan advanced or to be advanced by the Lender to the Borrower or for its benefit, and as security for the repayment of all Indebtedness and the performance of the obligations of the Borrower hereunder, does hereby grant, mortgage, charge and create a security interest in, to and in favour of the Lender all of its estate, right, title and interest in and to the Charged Premises and covenants and agrees to and with the Lender as hereinafter provided.
- 2.2 The last day of any term reserved by any lease or sublease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Borrower, as lessee, and forming part of the Charged Premises is hereby excepted out of the mortgage, charge, assignment and security interest hereby created or granted or any instrument in implementations hereof, and the same shall be deemed to be a charge by way of sublease. As further security for the payment of the Indebtedness, the Borrower agrees that it will stand possessed of the reversion of such last day of the term and shall hold it in trust for the Lender for the purpose of this Charge and to assign and dispose thereof, without cost or expense to the Lender, in such manner as the Lender shall by notice in writing, for such purpose, direct. Upon any sale, assignment, sublease or other disposition of such leasehold interest or any part thereof, the Lender, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser, assignee, sublessee or other acquirer thereof, shall be entitled by deed or writing to appoint such party or parties as a new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Borrower and to vest the same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation respecting the same.

ARTICLE 3 - REPAYMENT AND INTEREST

- 3.1 The Borrower covenants to pay to or to the order of the Lender at its offices as set out in Article 23 hereof or at such other address as the Lender may from time to time designate in writing, without set-off, compensation or deduction, and without deduction for bank service or any other charges, the Principal Sum together with all other Indebtedness with interest thereon at the Applicable Rate, as well after as before maturity and both before and after default, demand and judgment. Such interest at the Applicable Rate shall be computed from the date of advance to become due and be paid initially on the Interest Adjustment Date and thereafter to be paid in instalments of principal and/or interest as required by the Commitment, commencing on the first payment date set out in the Commitment or in the electronic Charge to which this schedule is attached and continuing each month during the Term, to and including the last payment date set out in the Commitment or the electronic Charge to which this schedule is attached, each such instalment to be in the amount stipulated in the Commitment or in the electronic Charge to which this schedule is attached and the last instalment, in the amount of the then remaining balance of the Principal Sum, other Indebtedness and accrued interest thereon, to be paid on the Maturity Date.
- 3.2 The Borrower acknowledges and agrees that monthly instalments for principal and/or interest, as required by the Commitment, described in Section 3.1 together with all payments for Taxes as set out in Section 10.1 hereof must pass through a single bank account on which the Borrower will have provided post-dated cheques (as required by the Lender) or have pre-authorized the Lender to withdraw the monthly payments under this Charge plus any Taxes payable in respect of the Charged Premises if not otherwise paid by the Borrower. In addition, the Borrower must maintain at all times in such account a minimum balance equal to the sum of the monthly payment of principal, interest and Taxes (as such Taxes become due).
- 3.3 It is hereby agreed that if default should occur in payment of any sum due at the time appointed for payment thereof as herein provided, compound interest at the Applicable Rate shall be payable on the sum in arrears from time to time, as well after as before maturity, and if interest as compounded is not paid within one (1) month from the time of default, a rest shall be made, and compound interest at the Applicable Rate shall be payable on the aggregate then due, as well after as before maturity, both before and after default, demand and judgement and so on from time to time and all such interest and compound interest shall be a charge on the Charged Premises.
- 3.4 All interest in arrears shall be treated (as to payment of interest thereon) as Principal and shall bear compound interest, as well after as before maturity, default and judgement as provided in Section 3.3 hereof.
- 3.5 The Borrower will pay interest, including interest on overdue interest, at the Applicable Rate on any arrears of instalments of principal and/or interest, and any payment by the Borrower shall be applied by the Lender first on account of interest and then on account of principal.
- 3.6 All payments of principal and interest pursuant to Section 3.1 shall be made to and received by the Lender prior to 1:00 p.m. on the date due, failing which such payment shall be deemed received on the next succeeding Business Day provided that in such case, such extension of time shall be included for the purpose of computation for interest; provided further that in the event any payment is due on a day which is not a Business Day, it shall be payable prior to 1:00 p.m. on the next succeeding Business Day and provided such payment is received by such date and such time, then, save in respect of repayment of the Indebtedness at the Maturity Date where interest shall be charged for extensions to the next succeeding Business Day, interest shall not be charged for such extension.

ARTICLE 4 - CRIMINAL RATE OF INTEREST

- 4.1 Notwithstanding any other provisions of this Charge, in no event shall the aggregate “interest” (as defined in Section 347 of the Criminal Code, (Canada), as the same shall be amended, replaced or re-enacted from time to time) payable to the Lender under this Charge exceed the effective annual rate of interest on the “credit advances” (as defined in that section) under this Charge lawfully permitted under that section and, if any payment, collection or demand pursuant to this Charge 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 Lender and the Borrower and the amount of such payment or collection in excess of that lawfully permitted shall be refunded by the Lender to the Borrower.

ARTICLE 5 - INTEREST ACT (CANADA)

- 5.1 For the purposes of this Charge, whenever interest is payable or stated not on the basis of a yearly rate, such rate of interest may be determined by multiplying the Applicable Rate by a fraction the numerator of which is the actual number of days in the calendar year in which the same is to be ascertained and the denominator of which is the number of days in the period for which such rate is determined to be payable.
- 5.2 All calculations of interest or fees under this Charge are to be made on the basis of the stated rates set out herein and not on any basis which gives effect to the principle of deemed re-investment.

ARTICLE 6 - PREPAYMENT

- 6.1 Subject to prepayment provisions provided for in the Commitment, if any, or early maturity by reason of the acceleration of the repayment of the Indebtedness at the option of the Lender upon the occurrence of an Event of Default, the Borrower shall not be entitled to prepay all or any portion of the Principal under this Charge prior to the Maturity Date.

ARTICLE 7 - NO OBLIGATION TO ADVANCE

- 7.1 The Borrower acknowledges and agrees that the Lender is not bound to make any advance of any of the Principal Sum or any unadvanced portion thereof by reason of the registration of this Charge in any place or registry office or the advance of any part of the said Principal Sum, it being acknowledged by the Borrower that any advance hereunder is subject, inter alia, to: (i) the representations and warranties contained herein being true and correct as of the date of any advance of the Loan; (ii) no default having occurred hereunder, under any of the Security or under the Commitment; and (iii) the conditions precedent contained in the Commitment having been satisfied.
- 7.2 In the event this Charge is registered and either no advance whatsoever is made hereunder by the Lender or the Borrower's ability to draw down funds is terminated by the Lender before any funds are advanced, the Lender will, at the expense of the Borrower and upon payment of all monies, costs, fees and disbursements then due to the Lender, promptly upon request by the Borrower execute and deliver to the Borrower, or any agent thereof, registrable discharges of this Charge and of the Security, for use in every registry office where they or notices thereof have been recorded or filed; provided that the Borrower acknowledges that this Section 7.2 shall be of no effect once any advance of the funds is made hereunder by the Lender.

ARTICLE 8 - REPRESENTATIONS AND WARRANTIES

- 8.1 The Borrower represents and warrants in favour of the Lender, acknowledging that the Lender is relying on such representations and warranties in extending the Loan:
- (a) The Borrower is a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and has all necessary corporate power and authority to enter into this Charge and the Security and to perform or cause to be performed its obligations contained herein and therein, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on;
 - (b) There are no provisions in the articles or bylaws of the Borrower or any unanimous shareholders agreement of or with respect to the Borrower or to which the Borrower is a party which restrict, limit or regulate in any way the powers of the Borrower to borrow on credit or to issue, sell or pledge any of the property or assets now or hereafter owned by it to secure its debt obligations, save and except any provisions which have been complied with. No steps or proceedings have been taken or are pending to amend or supersede the articles or bylaws of the Borrower in a manner which would impair or limit the Borrower's ability to perform its obligations hereunder or under the Security;
 - (c) The Borrower has taken all necessary corporate action to authorize the execution and delivery of this Charge and the Security, and performance of the provisions of each in accordance with its terms;
 - (d) The authorization, creation, execution or delivery of this Charge or the Security or the Borrower's performance of its obligations hereunder or thereunder does not require any approval or consent of any Governmental Authority having jurisdiction nor will any such action be in conflict with or contravene any of the Borrower's articles, bylaws, unanimous shareholders agreement, if any, or resolutions of directors or shareholders, or the provisions of any indenture, instrument, agreement or undertaking to which the Borrower is a party or by which it or its properties or assets are bound, or result in the creation, imposition or crystallization of any hypothec, title retention, charge, pledge, lien, encumbrance or security interest of any kind upon any of its property or assets subject to the Charge or security interest created thereby or by the Security other than in accordance with the provisions of this Charge and the Security. This Charge and the Security when executed and delivered will constitute valid and legally binding obligations of the Borrower, enforceable against it in accordance with its terms;
 - (e) There is not now pending or, to the best of the Borrower's knowledge or belief after due inquiry, threatened against the Borrower, any litigation, action, suit, investigation or other proceeding by or before any court, tribunal or other competent Governmental Authority which would materially adversely affect the present or prospective ability of the Borrower to perform its obligations under this Charge or the Security, as the case may be, or which calls into question the validity or enforceability of this Charge or the Security;

- (f) No Event of Insolvency has occurred or is threatened or pending;
- (g) The Borrower is the registered owner of and has a good and marketable title in fee simple to the Lands, and, unless otherwise disclosed to the Lender in writing, is the legal and beneficial owner of the Charged Premises, free and clear of all security interests, charges, liens and other encumbrances whatsoever except for the Permitted Encumbrances, which Permitted Encumbrances are in good standing;
- (h) The Borrower has the right to charge the Charged Premises to the Lender;
- (i) The Borrower has not received any notice of or threat of a lien under the *Construction Act* (Ontario), as amended, against the Charged Premises nor has any lien been registered against the Charged Premises in respect of labour, materials or services furnished with respect to any improvement thereon which has not been discharged;
- (j) Unless expressly stipulated in the Commitment, the Charge is not being given with the intention to use the proceeds thereof to finance any alterations, additions or repairs to, or any construction, erection, demolition or installation on the Charged Premises or any structure thereon;
- (k) Unless expressly stipulated in the Commitment, the Charge is not a building mortgage, within the meaning of the *Construction Act* (Ontario), as amended, and the funds to be advanced by the Lender are not being used to repay a building mortgage;
- (l) There has been no improvement or materials supplied on or in respect of the Charged Premises in respect of which a construction lien could arise and which has not been completed or abandoned within the sixty (60) days immediately preceding the date hereof;
- (m) Except as disclosed to the Lender in writing, the existing and proposed uses, the operation of the Charged Premises and the business conducted thereon comply and, to the best of the Borrower's knowledge and belief, have (including all prior uses) at all times complied with all Applicable Laws, including all Environmental Laws, and the Borrower is not in violation of, and does not violate, by virtue of the ownership, use, maintenance or operation of the Charged Premises or the conduct of any business related thereto, any Applicable Laws, including all Environmental Laws;
- (n) The Charged Premises may be charged by the Borrower in compliance with the *Planning Act* (Ontario), and no severance of any adjoining lands owned by the Borrower is required;
- (o) All financial statements and data delivered or presented to the Lender by the Borrower up to and including the date hereof are true and correct in all material respects as at the dates and for the periods indicated and have been prepared in accordance with Canadian generally accepted accounting principles and disclose to the Lender all financial information relevant to the Lender in respect of making the Loan and there is no information, financial or otherwise, which has not been disclosed to the Lender which would be material to the Lender in its decision to advance the Loan, and, without limiting the foregoing, neither the Guarantor(s) nor the Borrower has failed to disclose to the Lender any facts or information material to the making of the Loan;
- (p) No Event of Default, or an event which with the giving of notice, lapse of time or otherwise, would constitute an Event of Default exists;
- (q) Each Permitted Encumbrance is in good standing and all obligations and covenants required to be met or complied with thereunder on the part of the Borrower have been complied with and, in respect to any other party thereto to the best of the Borrower's knowledge and belief, have been met or complied with;
- (r) All Leases entered into as of the date hereof are valid, subsisting and enforceable leases and are in good standing as of the date hereof without right of set-off or abatement;
- (s) The Borrower is not bound by any indenture, agreement, lease or other instrument, nor is it subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction or any of the Applicable Laws, which materially adversely affects its business operations in respect of the Charged Premises or the performance of its obligations under this Charge or the Security;
- (t) The Borrower has complied with all Applicable Laws in respect of any residential unit located on the Charged Premises, including in respect of any conversion, demolition, rentals charged or filings or applications to be made and there are no outstanding orders, decisions or directives made or pending which are or would be adverse to the Borrower or the Charged Premises in respect of any residential unit located on the Charged Premises;
- (u) If and as applicable, the Borrower is not a non-resident corporation or person of Canada within the meaning of the *Income Tax Act* (Canada);
- (v) If applicable, each partner of the limited partnership of which the Borrower is the general partner is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (w) If applicable, with respect to each partner of the limited partnership of which the Borrower is a general partner that is a Canadian corporation, either (i) the shares of that corporation do not derive their value, directly or indirectly, primarily from foreign property, all within the meaning of the *Income Tax Act* (Canada) or (ii) the corporation is a corporation described in subsection 206(1.1) of the *Income Tax Act* (Canada), as that provision may be amended from time to time;
- (x) The Borrower shall not, without the prior written consent of the Lender, execute or deliver any mortgage, charge, lien or other encumbrance of the Lands intended to rank subordinate to this Charge; and
- (y) The Borrower is not and shall not be during the Term (without the prior written consent of the Lender), a farmer within the meaning of the *Farm Debt Mediation Act* (Canada).

8.2 The representations and warranties set out in this Article 8 shall speak as of the date made, survive the execution and delivery of this Charge and the making of any advance hereunder and continue to be true and accurate during the Term of this Charge, notwithstanding any investigations or examinations which may be made by the Lender or the Lender's solicitors and the Lender shall be deemed to have relied on such representations and warranties in making advances under the Loan.

8.3 The Borrower shall indemnify and save harmless the Lender from and against all losses, damages, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from any omission, inaccuracy or misrepresentation of the Borrower herein relating to or concerning the Charged Premises and with respect to all losses, charges, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from or arising in connection with environmental matters relating to, arising from, in connection with or concerning the Charged Premises, whether referred to or contemplated herein or hereby.

ARTICLE 9 – COVENANTS

9.1 The Borrower covenants with the Lender that upon the occurrence of an Event of Default, the Lender shall have quiet possession of the Charged Premises, free from any encumbrances, save and except for the Permitted Encumbrances.

9.2 The Borrower shall not without the prior written consent of the Lender, which may be withheld in the sole discretion of the Lender permit or suffer to exist any charges, liens, security interests or other encumbrances against the Charged Premises, save and except for the Permitted Encumbrances; and the Borrower shall maintain the Permitted Encumbrances in good standing and provide notice to the Lender forthwith of any default under any of the Permitted Encumbrances.

9.3 The Borrower shall not initiate, permit or suffer to exist any Event of Insolvency, in respect of itself or, to the extent that the Loan, this Charge or the Security is affected by the occurrence of any such event, of any related person or corporation, including without limitation, any parent corporation of the Borrower. The Borrower covenants and agrees (i) to provide two Business Days' notice prior to the occurrence of an Event of Insolvency (an "Insolvency Notice"), and agrees that the receipt of an Insolvency Notice by the Lender shall constitute an immediate Event of Default if the Borrower or any Guarantor(s) is an applicant or takes the benefit of such statute or proceeding or if any of these proceedings otherwise affect the rights or entitlements of the Lender under the Loan, this Charge or the Security or the Lender's ability to enforce this Charge or the Security, and (ii) prior to the commencement of any such proceedings, to deliver to the Lender copies of all relevant filing materials, including, without limitation, copies of draft court orders, plans of compromise, proposals and notices of intention, it being intended by the Borrower that the Lender be entitled during the period after receipt of an Insolvency Notice to enforce this Charge and the Security for the purpose of, among other things, taking possession and control of the Charged Premises, in the Lender's sole discretion.

9.4 The Borrower shall not, without the prior written consent of the Lender, initiate, join in or consent to any change to or modification in any private restrictive covenant, municipal or other governmental law, rule or regulation, by-law, or any other public or private restrictions, limiting or defining the uses which may be made of the Charged Premises, or any part thereof and which could adversely affect the Charge, the Security, the day- to-day operations of the Charged Premises, the income derived therefrom or the value of the Charged Premises.

9.5 The Borrower shall comply in all respects with all covenants, deed restrictions, easements and Applicable Laws which pertain to the ownership, use or operation of the Charged Premises or the performance by the Borrower of its obligations under this Charge and shall ensure that all representations and warranties contained herein continue to be true and accurate at all times during the Term.

9.6 The Borrower shall permit the Lender, or cause to be made available to the Lender, access to all records, both written and electronic, pertaining to the Charged Premises and upon request shall make copies of such information for the Lender. For such purposes, the Lender shall have reasonable access to the Charged Premises or such other place as such records are kept upon reasonable prior written notice to the Borrower.

9.7 The Borrower shall fulfil on a timely basis any undertaking provided by it to the Lender at the time of the advance of the Loan.

9.8 The Borrower covenants to ensure that this Charge will remain a valid and enforceable mortgage of the Charged Premises with first priority subject only to the Permitted Encumbrances and the Borrower will fully and effectively maintain and keep the Security as valid and effective security during the currency hereof.

9.9 The Borrower shall promptly give written notice to the Lender of any litigation, proceeding or dispute affecting the Charged Premises if the result thereof might have a material adverse effect on the Charged Premises, the financial condition or operations of the Borrower or any Guarantor(s) or its ability to perform its obligations hereunder and shall, from time to time, furnish to the Lender all reasonable information requested by the Lender concerning the status of such litigation, proceeding or dispute and shall in all such cases diligently and in good faith proceed to defend, settle or otherwise deal with any such litigation, proceeding or dispute in a commercially reasonable manner.

9.10 The Borrower shall promptly give notice to the Lender upon becoming aware of and provide particulars in respect of:

- (a) An Event of Default or any event which with the passage of time or giving of notice would constitute an Event of Default;
- (b) Any default under a Lease;
- (c) Details of material renovations to the Charged Premises when the Borrower intends to or reasonably anticipates that it will renovate the Charged Premises;
- (d) Any default under any Permitted Encumbrance;
- (e) Any notice of expropriation, action or proceeding materially affecting the Charged Premises or the violation of any Applicable Law which may have a material adverse affect on the Charged Premises; and

- (f) Any matter which may have a material adverse affect upon the Borrower or the Guarantor(s) or Charged Premises or the operations conducted thereon, or the security constituted by this Charge and the Security.

9.11 The Borrower covenants at all times:

- (a) to perform or cause to be performed all of the covenants and obligations on the part of lessor contained in the Leases (except the extent the same have been expressly waived by the other parties to such Leases and except in circumstances where the tenant is in default and the Borrower is acting prudently and in the best interests of the Charged Premises);
- (b) to maintain or cause to be maintained the Lease Rights in good standing and not to do, permit to be done or omit to do anything which may impair the enforceability of the Lease Rights;
- (c) save for the deposits for the first and last month rentals, not to accept Rents more than one (1) month in advance of the dates when Rents fall due;
- (d) not to enter into Leases which are not at arm's length unless the terms thereof are at least equal to current market terms;
- (e) not to enter into Lease which do not constitute Major Tenant Leases (each of which must be approved by the Lender as hereafter provided) unless such leases are substantially on Lender pre-approved standard lease forms and not to enter into Major Tenant Leases without the Lender's approval as hereafter provided;
- (f) not to or to permit termination, alteration or amendment or waiver of rights or remedies or otherwise take any action with respect to any of the Leases which in the aggregate would create a material reduction in Rents from those payable as of the date hereof, without the prior approval of the Lender;
- (g) not to further assign, mortgage or pledge or permit the assignment, mortgaging or pledging of any Lease or the rents thereunder, save for assignments by tenants of their tenant's interest in Leases, to the extent permitted under such Leases; and
- (h) to ensure in respect of all Leases now or hereafter entered into that (i) the tenant thereunder, at the option of the Lender, subordinates its lease to the security of this Charge and attorns to and becomes a tenant of the Lender or any purchaser from the Lender in the event of the exercise of a sale remedy by the Lender, for the unexpired residue of the term and upon the terms and conditions of said lease, provided the Lender will agree to enter into non-disturbance agreements on commercially reasonable terms with all such tenants; and (ii) at the request of the Lender, provide as further security specific assignments of Leases hereinafter entered into.

9.12 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, enter into any agreement or document in respect of the Charged Premises (except for leases in accordance with the terms hereof and the Security) which is material to the ownership, value, operation, or use of the Charged Premises unless the same is in the ordinary course of business.

9.13 With respect to any Major Tenant Lease, the Borrower shall not and shall not permit without the prior written consent of the Lender:

- (a) cancel or modify any Major Tenant Lease, release the obligations of any lessee thereunder, accept a surrender of a Major Tenant Lease, accept any prepayment of Rents thereunder or consent to any sublet or assignment by the lessee under any Major Tenant lease (except where the provisions of such Major Tenant Lease require the landlord to do so); or
- (b) enter into any Major Tenant Lease unless the terms, form and substance of such Major Lease is satisfactory to the Lender, acting reasonably; or
- (c) to further assign, mortgage, pledge, hypothecate or otherwise deal with any Major Tenant Lease.

9.14 The Borrower shall do or cause to be done all things necessary to keep in full force and effect all rights, franchises, licences and qualifications necessary or incidental to perform or cause to be performed its obligations contained in this Charge and the Security and to carry on its business pertaining thereto as presently carried on.

9.15 The Borrower shall from time to time to pay or cause to be paid all amounts related to taxes, wages, workers compensation obligations, government royalties, and any other similar amounts relating to the business conducted on the Charged Premises if non-payment thereof may result in an encumbrance (other than a Permitted Encumbrance) against the Charged Premises or any of the assets secured in favour of the Lender by the Security.

9.16 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, cause or permit any change in the status of the Borrower that results in the representations contained in Subparagraph 8.1(u) or Subparagraph 8.1(v) ceasing to be accurate in all material respects.

9.17 The Borrower covenants, subject to the rights of reorganization herein contained, to continue as a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and maintain all necessary corporate power and authority to perform or cause to be performed its obligations contained herein and in the Security, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on.

9.18 The Borrower covenants that, unless in respect of a reorganization of the Borrower permitted under Paragraph 18.1(h) or with the consent of the Lender as provided therein, no steps or proceedings will be taken to amend or supersede the articles or bylaws of the Borrower and in any event no steps or proceedings, including any reorganization of the Borrower, will be taken in a manner which would impair or limit the Borrower's or its successor's ability to perform its obligations hereunder or under the Security.

- 9.19 The Borrower will not enter into any indenture, agreement, lease or other instrument, nor become subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction, which materially adversely affects the Charged Premises.

ARTICLE 10 - TAXES/LIENS

10.1

- (a) The Borrower shall pay or cause to be paid, all Taxes together with such other amounts, the failure to pay which would give rise to a lien against the Charged Premises, as and when the same shall fall due and payable (collectively, the "Bills").
- (b) With respect to Taxes at the option of the Lender, the Borrower shall pay to the Lender in equal monthly instalments on the first day of each month in each calendar year during the Term, commencing on the first day of the month next following the Interest Adjustment Date, one-twelfth (1/12) of the annual Taxes (or such amount as may be required in order to pay the Taxes as they become due) as reasonably estimated by the Lender; said payments of Taxes shall be paid to the Lender in addition to the instalments of principal and/or interest due and payable under this Charge, to be deposited upon receipt and held by the Lender in an interest-bearing account for the payment of Taxes, with interest to accrue thereon to the benefit of the Borrower and to be credited in reduction of the amount required to be paid to the Lender for Taxes. The Lender agrees that upon and subject to receipt of monies for Taxes it will remit such monies to the proper municipal offices in payment of Taxes as required from time to time; provided that if any Event of Default shall occur and be continuing, then the Lender, at its sole option, may apply all or any part of any funds held in such account to any amount due hereunder, whether principal, interest or otherwise. The Borrower shall also pay, or cause to be paid, to the Lender before the due date for the payment of Taxes (or next periodic instalment date therefor, as the case may be) any sums in addition to the aforesaid monthly instalments which may be required in order that out of such sums held in trust or escrow by the Lender and such additional sums, the Lender may pay the whole amount of Taxes assessed thereto, on the due date for payment thereof. Notwithstanding the foregoing provisions of this Paragraph 10.1(b), the Borrower acknowledges that the Lender is under no obligation to collect from the Borrower monthly instalments on account of Taxes. In addition, the Borrower acknowledges its obligation to pay all Taxes when due, whether or not the payment of all Taxes are the responsibilities of tenants and whether or not such tenants have remitted the same to the Borrower.
- (c) The Lender may, after written notice being given to the Borrower, pay all unpaid and due Taxes, and any amounts, the failure to pay which would give rise to a lien and any amounts so paid by the Lender shall become part of the Principal hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender with interest at the Applicable Rate until paid.
- (d) If the Charged Premises or any part thereof are sold or forfeited for nonpayment of Taxes while any sum remains unpaid hereunder, the Lender may acquire the title and rights of the purchaser at any sale, or the rights of any other person or corporation becoming entitled on or under any such forfeiture, or the Lender may pay, either in its own name or in the name of the Borrower and on the Borrower's behalf, any and all sums necessary to be paid to redeem such land so sold or forfeited, and to revest such lands in the Borrower, and the Borrower hereby nominates and appoints the Lender as agent to pay such monies on the Borrower's behalf and in the Borrower's name, and any monies so expended by the Lender shall become part of the Principal Sum hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender and until so paid shall bear interest at the Applicable Rate or in the alternative, the Lender may purchase the Charged Premises at any tax sale of the same.
- (e) Notwithstanding anything to the contrary herein contained, the Borrower shall have the right to contest or defend any actions brought to recover, or appeal any judgments recovered against it in respect of any Bills, or other like charges, or any construction or other liens levied or registered against the Charged Premises, by appropriate proceedings diligently conducted in good faith, provided that the Borrower shall have first deposited with the Lender, or otherwise provided to the reasonable satisfaction of the Lender, such security as the Lender acting reasonably may require including, without limitation, security for the payment of such Bills, charges or liens and any costs payable in connection therewith, and further provided that the Lender shall have determined, to its reasonable satisfaction, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall not materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises. Should the Lender at any time thereafter determine, in its reasonable discretion, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises, the Lender may realize upon such security for payment as aforesaid and pay such Bills, charges or liens. Upon termination of such proceedings, the Borrower shall promptly pay or cause to be paid the amount of the Bills, charges or liens and any other costs, fees, interest and penalties as are properly payable upon determination of such proceedings and promptly cause any tax notifications, caveats, liens, certificates of or pertaining litigation or any other form of notice or encumbrance in respect thereof to be promptly discharged from the title to the Charged Premises at the sole expense of the Borrower whereupon all such security deposited or otherwise provided to the Lender and any proceeds from the realization thereof not paid on account of Bills as aforesaid, shall be returned and paid to the Borrower.
- (f) The Borrower agrees to and does hereby indemnify the Lender against all claims, demands, costs, damages and expenses which arise in respect of any default, late payment, omission, act or proceeding by the Borrower, under or in respect of this Section 10.1.
- (g) If the Lender comes into and for as long as it is in possession of the Charged Premises, the Lender, in its sole discretion, shall be entitled to and shall enjoy all the rights of the Borrower set out in Paragraph 10.1(d) hereof, to the exclusion of the Borrower.

ARTICLE 11 – INSURANCE

- 11.1 The Borrower will immediately insure, unless already insured, and during the continuance of the Charge keep insured against loss or damage by fire, in such proportions upon each building as may be required by the Lender, the buildings on the land to the amount of not less than their full insurable value on a replacement cost basis in dollars of lawful money of Canada. Such insurance shall be placed with a company approved by the Lender. Buildings shall include all buildings whether now or hereafter erected on the land, and such insurance shall include not only insurance against loss or damage by fire but also insurance against loss or damage by explosion, tempest, tornado, cyclone, lightning and all other extended perils customarily provided in insurance policies including "all risks" insurance. The covenant to insure shall also include where appropriate or if required by the Lender, boiler, plate glass, rental and public liability insurance in amounts and on terms satisfactory to the Lender. Evidence of continuation of all such insurance having been effected shall be produced to the Lender at least fifteen (15) days before the expiration thereof; otherwise the Lender may provide therefore and charge the premium paid and interest thereon at the rate provided for in the Charge to the Borrower and the same shall be payable forthwith and shall also be a charge upon the land. It is further agreed that the Lender may at any time require any insurance of the buildings to be cancelled and new insurance effected in a company to be named by the Lender and also of his own accord may effect or maintain any insurance herein provided for, and any amount paid by the Lender therefore shall be payable forthwith by the Borrower with interest at the rate provided for in the Charge and shall also be a charge upon the land. Policies of insurance herein required shall provide that loss, if any, shall be payable to the Lender as his interest may appear, subject to the standard form of mortgage clause approved by the Insurance Bureau of Canada which shall be attached to the policy of insurance.
- 11.2 During any construction on the Charged Property, the Borrower shall maintain:
- (i) Builders' all-risk coverage for 100% of the construction cost with loss payable to the Lender by way of an Insurance Bureau of Canada ("IBC") approved mortgage clause. The policy must cover flood, earthquake, building by-laws, delayed opening, must allow for partial occupancy of the premises and provide for interim loss payments during reconstruction;
 - (ii) Wrap-Up Liability coverage in an amount not less than \$10,000,000 per occurrence;
 - (iii) Project performance and completion bonds and insurance, including coverage for labour and material bonds; and
 - (iv) Professional Liability coverage in an amount not less than \$10,000,000.

ARTICLE 12 - ENVIRONMENTAL

- 12.1 The following capitalized terms shall have the following respective meanings:

"Environmental Approvals" means all applicable permits, licences, authorizations, consents, directions or approvals required by Governmental Authorities pursuant to the Environmental Laws with respect to the use, occupation, ownership or operation of the Charged Premises;

"Environmental Laws" means all applicable federal, provincial and municipal laws, by-laws, regulations, executive orders, judgments and protocols, relating in whole or in part, to the environment or its protection, and without restricting the generality of the foregoing, includes without limitation, those laws relating to the manufacturing, processing, use, handling, packaging, labelling, sale, storage, recycling, transportation, treatment, destruction, burial or disposal of Hazardous Substances, employee safety, and the emission, discharge, release, deposit, issuance, spraying, dumping, throwing, pouring, spilling, emptying, placing, leaking, seeping, exhausting or abandonment of Hazardous Substances into the atmosphere, air, surface water, ground water, land surface or subsurface strata and, in each such case, as such Environmental Laws may be amended or supplemented from time to time, and "Environmental Law" means any of them;

"Hazardous Substance" means any pollutant, contaminant, waste, hazardous waste, toxic substance or dangerous good which is defined or identified in or the object of any Environmental Law, the presence of which in the environment is in contravention of any Environmental Law; and

"Inspections" means all inspections, evaluations or tests conducted by the Lender or any agent or consultant thereof for the purpose of determining the environmental condition of the Charged Premises, as the Lender may deem appropriate, acting reasonably.

- 12.2 The Borrower represents and warrants (which representations and warranties shall continue throughout the Term of the Loan) that:
- (a) The condition and use of the Charged Premises is and, to the best of the Borrower's knowledge, any prior use of the same was, in compliance in all material respects with all applicable Environmental Laws;
 - (b) The Charged Premises is not subject to any judicial or administrative proceedings alleging violation of any Environmental Laws and there are no outstanding orders or proceedings against the Charged Premises from a Governmental Authority responsible for protecting the environment alleging the violation of any Environmental Laws;
 - (c) To the knowledge of the Borrower, the Charged Premises is not the subject of any investigation by Governmental Authorities having jurisdiction evaluating whether any remedial action is needed to respond to a contravention of any Environmental Laws; and
 - (d) There is no contingent liability of which the Borrower has knowledge or reasonably should have knowledge in connection with the contravention of any Environmental Laws.

- 12.3 The Borrower covenants with the Lender:

- (a) If not already provided, to provide to the Lender within ninety (90) days of the execution of this Charge, an environmental audit with respect to the Lands, and if an event shall have occurred after the date of this Charge, which

the Lender, acting reasonably, believes may have resulted or may result in material adverse change in the environmental condition of the Charged Premises or any part thereof, to provide such further environmental audits as the Lender may require;

- (b) To provide notice within fifteen (15) days of either having learned of any enactment or promulgation of any Environmental Laws which may result in any material adverse change in the condition, financial or otherwise, of the Charged Premises;
- (c) To defend, indemnify and hold harmless the Lender, its directors, officers, employees, agents and their respective successors and assigns, against any and all loss, cost, expense, claim, liability or alleged liability arising out of any environmental damage occasioned to the Charged Premises contravention of any Environmental Laws;
- (d) To, at all times and at its own expense, conduct its business and maintain the Charged Premises in compliance with all Environmental Laws and Environmental Approvals including causing all tenants of the Charged Premises to comply with the same;
- (e) If the Borrower:
 - (i) receives notice from any Governmental Authority having jurisdiction that violation of any Environmental Law or Environmental Approval has been committed by the Borrower or any tenant with respect to the Charged Premises;
 - (ii) receives notice that any remedial order or other proceeding has been filed against the Borrower or any tenant alleging in respect of the Charged Premises violations of any Environmental Law or requiring the Borrower to take any action in connection with the release of a Hazardous Substance into the environment; or
 - (iii) receives any notice from a Governmental Authority having jurisdiction in respect of the Charged Premises that the Borrower or any tenant may be liable or responsible for costs associated with a nuisance or a response to, or clean up of, a release of a Hazardous Substance into the environment or any damages caused thereby;

to provide to the Lender a copy of such notice within ten (10) days of the Borrower's receipt thereof, and thereafter shall keep the Lender informed in a timely manner of any developments in such matters, and shall provide to the Lender such other information in respect thereto as may be reasonably requested by the Lender from time to time and shall proceed to deal with the same diligently and in good faith in order to bring the Charged Premises into compliance to the extent necessary to comply with Environmental Laws;

- (f) Unless in existence on the Charged Premises on the date of this Charge, not to use, discharge, transport or install in or upon the Charged Premises any material or equipment containing PCBs or permit any tenant of the Charged Premises to do so and, to the extent in existence on the Charged Premises as of the date of this Charge, to maintain the same in compliance with all Environmental Laws;
- (g) To maintain, and to require all occupants of the Charged Premises to maintain in good leak-proof condition all above-ground and underground storage tanks and drums on the Charged Premises;
- (h) Not to install asbestos or permit asbestos to be installed in the Charged Premises. With respect to any asbestos present in the Charged Premises on the date of this Charge, the Borrower shall, at its expense, promptly comply with the requirements of Environmental Laws and Governmental Authorities respecting the use, removal and disposal of asbestos; and
- (i) To obtain or cause its solicitors to obtain copies of all relevant environmental studies or assessments of the Charged Premises which the Borrower or its solicitors or agents have commissioned or which are in the possession or control of the Borrower, as of the date of this Charge and, to the extent any such assessments or studies are required by the Lender from time to time, to promptly provide same to the Lender upon request and hereby authorizes and directs its solicitors, agents and consultants to promptly release same to the Lender.

12.4 Having due regard to the rights of any tenant of the Borrower, the Lender and its employees and agents shall have the right, and are hereby granted permission by the Borrower, to enter the Charged Premises from time to time, and to have access to the Borrowers' relevant documents and records, in order to conduct Inspections, to determine compliance with Environmental Laws as the Lender, acting reasonably, may deem appropriate. Inspections shall be:

- (a) at such times and to such extent as may be reasonable in the circumstances on prior notice to the Borrower if the Lender has reasonable grounds for believing that:
 - (i) there are, contrary to Environmental Laws or Environmental Approvals, Hazardous Substances in or upon the Charged Premises which have not been disclosed to and approved by the Lender and appropriate Government Authorities; or
 - (ii) the Borrower is in breach of any environmental representations in this Charge or its covenants in this Article; or
 - (iii) the Borrower is not in compliance with any Environmental Laws or material Environmental Approvals; and
- (b) at any time without prior notice upon the occurrence of an Event of Default which is continuing.

If the Borrower is found not to be in compliance with the Environmental Laws or Environmental Approvals and such failure to comply becomes an Event of Default that is continuing, the Lender may, at its option (but without any obligation to do so) take such actions as are required, acting reasonably, to bring the Charged Premises into compliance, and the costs thereof shall immediately become due and payable to the Lender by the Borrower and shall be secured by the Security.

- 12.5 The Lender shall not, by virtue of being the chargee under this Charge or the enforcement of its rights contained herein for purposes of the Environmental Laws, be or be deemed to be the owner of, any of the Charged Premises, or to have management, charge, control, occupation or possession of any of the Charged Premises or the businesses of the Borrower, or of any Hazardous Substances located on, upon or within any of the Charged Premises.
- 12.6 The Borrower hereby covenants and agrees to be responsible for, and to indemnify and hold harmless the Lender and each of its officers, directors, employees and agents and their respective successors and assigns (in this Section, collectively referred to as the "Indemnified Parties") from and against all claims, demands, liabilities, losses, costs, damages and expenses (including, without limitation, reasonable legal fees and all costs incurred in the investigation, pursuing of any claim, or in any proceeding with respect to, defense and settlement of any item or matter hereinafter set out) that the Indemnified Parties may incur or suffer, directly or indirectly as a result of or in connection with:
- (a) Any inaccuracy in or breach of the Borrower's representations and warranties relating to the environmental matters contained herein;
 - (b) The presence of any Hazardous Substance on, upon or within the Charged Premises, or the escape, seepage, leakage, spillage, discharge, emission, release, disposal or transportation away from the Charged Premises of any Hazardous Substance, whether or not there is compliance with all applicable Environmental Laws and Environmental Approvals;
 - (c) The imposition of any remedial order affecting the Lands, or any non-compliance with Environmental Laws or Environmental Approvals pertaining to the Charged Premises by any person, including the Borrower, the Lender or any person acting on behalf of the Lender; and
 - (d) Any diminution in the value or any loss on the disposition of the Charged Premises arising directly or indirectly as a result of the presence on the Lands of any Hazardous Substance, or as a result of the imposition of any remedial order or the breach by any person of any Environmental Law or Environmental Approval.

This indemnity shall survive the satisfaction and release of this Charge and the Security and the payment and satisfaction of all indebtedness hereunder. The benefit of this indemnity may be assigned by the Lender to any successor or assign of the Lender and the Borrower hereby consents to any such assignment.

ARTICLE 13 - ASSIGNMENT OF RENTS AND LEASES

- 13.1 As further security for the payment of all monies owing and the performance of all obligations to be performed hereunder, the Borrower does, as and by way of security, hereby sell, assign, transfer and set over unto to the Lender all of the Borrower's right, title and interest, both at law and equity, in and to the Lease Rights, to hold and receive the same unto the Borrower with full power and authority to demand, collect, sue for, recover and receive and give receipts for Rents and enforce payments of the same and enforce performance of the obligations of tenants under the Leases, provided, however, that, subject to the terms of this Charge, the Borrower shall have the full right, so long as no Event of Default has occurred and is continuing, to continue to collect Rents, to take or cause to take all actions as it deems necessary with respect to the Lease Rights, acting as a reasonable lessor.
- 13.2 It is expressly acknowledged and agreed by the Borrower that nothing contained in this Charge shall oblige the Lender to assume or perform any obligation of the Borrower to any third party in respect of or arising out of the assigned Lease Rights. The Lender may, however, after the occurrence of an Event of Default and while such Event of Default continues, at its option, assume or perform any such obligation as the Lender considers necessary or desirable to obtain the benefit of the Lease Rights, free of any set-off, reduction or abatement, and any money expended by the Lender in this regard shall form part of or be deemed to form part of the indebtedness secured by this Charge and shall bear interest at the Applicable Rate.

ARTICLE 14 - MANAGEMENT AND REPAIR

- 14.1 The Borrower shall cause the Charged Premises at all times to be professionally maintained, managed and operated and fully and continuously operational during customary business hours, including all uses ancillary or incidental to its operations, at all times, by competent managers and staff of proper background and training, in a first class manner consistent with the management and operation of other properties which are of size, location, use, class, age and type comparable to the Charged Premises, and the Borrower shall obtain the Lender's prior written approval of any manager and any management contract with any manager which may be entered into by the Borrower for the management of the Charged Premises. In addition to any other rights hereunder of the Lender, the Lender shall have the right, acting reasonably, to replace the manager at the expense of the Borrower in the event the management standards are not maintained as required hereunder and the situation is not remedied within thirty (30) days after written notice from the Lender. The Lender acknowledges and approves, as of the date hereof, of the Borrower or a company controlled by the Borrower acting as manager of the Charged Premises provided that the Charged Premises are managed and maintained in accordance with the provisions hereof.
- 14.2 The Borrower shall promptly repair, maintain, restore, replace, rebuild, keep, make good, finish, add to and put in order, or cause to be so done, the Charged Premises, so that the same shall, at all times, be in good condition and repair and to pay or cause to be paid when due all claims for labour performed and materials furnished therefor. The Borrower shall not commit or suffer any waste of the Charged Premises nor take any action that might invalidate or give cause for cancellation of any insurance maintained in respect of the Charged Premises. No building or other property now or hereafter charged by this Charge shall be removed, or demolished or nor shall the structure of any building be materially altered, redeveloped, retrofitted or renovated, without the prior written consent of the Lender, except that the Borrower shall have the right, without such consent, to remove and dispose of, free from the lien or charge of this Charge, such fixed equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal, and if necessary for the operation of the Charged Premises such equipment shall be replaced with other equipment of a quality comparable to that of the replaced equipment and free from any lien, title retention agreement, conditional sale contract, security agreement or other encumbrance, and by such removal and replacement the Borrower shall be deemed to have subjected such fixed equipment to the lien or charge of this Charge, or, (b) any net cash proceeds received from such disposition shall, at the option of the Lender, be paid over promptly to the Lender to be applied in a manner determined by Lender in its sole discretion toward the payment of

any amounts owing hereunder or secured hereby. The Borrower shall notify the Lender promptly of any material damage to or defects in any of the Improvements, and thereafter forthwith shall make or cause to be made such repairs thereto as are required to correct any such damage or defects and return the Charged Premises to a state of condition and repair equivalent to the state of condition and repair required by the provisions of this Charge.

- 14.3 The Borrower shall comply with, or cause to be complied with, all statutes including without limitation the provisions of the *Construction Act* (Ontario), ordinances and requirements of any Governmental Authority having jurisdiction with respect to the Charged Premises; the Borrower shall complete and pay for, within a reasonable time, any structure at any time in the process of construction on the Charged Premises.
- 14.4 The Borrower shall permit the Lender or its authorized agents at all reasonable times to enter upon the Charged Premises and inspect same, and if such inspection reveals that any repairs or like actions are necessary, the Lender may give notice to the Borrower requiring the Borrower to repair, rebuild or reinstate the same, or take such other like action within a reasonable time. Any failure by the Borrower to comply with such notice shall constitute an Event of Default hereunder and the Lender may repair, rebuild or reinstate the Charged Premises at the cost of the Borrower and charge all sums of money determined by the Lender to be properly paid therefor and interest thereon at the Applicable Rate until paid.

ARTICLE 15 - INCREASED COSTS

- 15.1 In the event that as a result of any application of or any change in or enactment of any applicable law, regulation, treaty or official directive after the date hereof (whether or not having the force of law), or in the interpretation of application thereof by any court or by any governmental or other authority or entity charged with the administration thereof which now or hereafter:
- (a) Subjects the Lender to any tax or changes the basis of taxation, or increases any existing tax, on payments of principal, interest or other amounts payable by the Borrower to the Lender under this Charge (except for taxes on the overall net income of the Lender or capital of the Lender imposed by the Government of Canada or any political subdivision thereof or by the jurisdiction in which the principal or lending office of the Lender is located); or
 - (b) Imposes, modifies or deems applicable any special requirements against assets held by, or deposits in or for the account of or any other acquisition of funds by the Lender or imposes on the Lender a requirement to maintain or allocate capital or additional capital in relation to the Loan; or
 - (c) Imposes on the Lender any other condition with respect to this Charge; or
 - (d) Renders any portion of this Charge illegal or unenforceable;

and the result of any of the foregoing is to increase the cost to the Lender, or reduce the amount of principal, interest or other amount received or receivable by the Lender hereunder or its effective return hereunder in respect of making or maintaining the Loan hereunder or to reduce the payments receivable by the Lender in respect of the Loan by an amount which the Lender deems to be material, the Lender shall promptly give written notice thereof to the Borrower setting out in reasonable detail the facts giving rise to and a summary calculation of such increased costs or reduced payments, and the Borrower shall forthwith pay to the Lender upon receipt of such notice that amount which will compensate the Lender for such additional cost or reduction in income (herein referred to as "Additional Compensation"). Upon the Lender having determined that it is entitled to Additional Compensation in accordance with the provisions of this Section, the Lender shall promptly so notify the Borrower. The Borrower shall forthwith pay to the Lender upon receipt of such notice such Additional Compensation calculated on the date of demand. The Lender shall be entitled to be paid such Additional Compensation from time to time to the extent that the provisions of this Section are then applicable notwithstanding that the Lender has previously been paid any Additional Compensation. The Lender shall endeavour to limit the incidence of any such Additional Compensation, including seeking recovery for the account of the Borrower, by appealing any assessment at the expense of the Borrower upon the Borrower's request.

- 15.2 All payments made by the Borrower to the Lender will be made free and clear of all present and future taxes, withholdings or deductions of whatever nature. If these taxes, withholdings or deductions are required by Applicable Law and are made, the Borrower shall, as a separate and independent obligation, pay to the Lender all additional amounts as shall fully indemnify the Lender from any such taxes, withholding or deduction. Provided, however, that the Borrower shall have no obligation to pay any withholding or like tax which may be exigible, incurred or required as a result of the Lender being a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).
- 15.3 If the result of any law, regulation, treaty or official directive or request or any change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) is such that it is or will become (other than as a result of some positive action of the Lender, including any participation or syndication hereof by the Lender) unlawful for the Lender to make, fund or allow to remain outstanding all or part of the Loan, or to carry out all or any of its other obligations under this Charge and/or the Security or receive interest or any fee at the Applicable Rate, then in such case:
- (a) The Lender may give written notice to the Borrower of such law, regulation, treaty or official directive or request (whether or not having the force of law) or such change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) which such notice shall certify that such law, regulation, treaty, official directive or request is generally applicable to all other borrowers from the Lender with any accommodation similar to that herein provided; and
 - (b) The Borrower shall prepay the Indebtedness on such date and to such extent as the Lender shall certify to be necessary to comply with the relevant law or change described above;

provided, however, that should the Loan become unlawful, the Lender, without prejudice to its rights to require repayment and without any obligation on its part, will consider other means of funding the Loan which would not be unlawful, would allow the Lender to carry out its obligations in respect of the Loan and would enable the Lender to receive interest at the Applicable Rate,

provided always, notwithstanding the foregoing, the Lender is not obligated to provide alternate funding.

ARTICLE 16 - OBTAINING AND MAINTAINING SECURITY

- 16.1 Regardless of whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Borrower or otherwise and in addition to any other amounts provided for herein or otherwise permitted by Applicable Law to be secured hereby, except as herein otherwise provided, the following are to be secured hereby and shall be a charge on the Charged Premises, together with the interest thereon at the Applicable Rate, and all such monies shall be repayable to the Lender, on demand, except as herein otherwise provided:
- (a) All reasonable and properly chargeable solicitor's, inspector's, valuator's, consultant's, architect's, engineer's, surveyor's and appraiser's fees and out-of-pocket expenses:
 - (i) for drawing and registering this Charge and the Security and financing statements in connection therewith, and attending to advances hereunder;
 - (ii) for examining the Charged Premises and the title thereto up the date hereof;
 - (iii) for making and maintaining this Charge as a registered charge on the Charged Premises and maintaining the Security (including the registration and filing of renewals);
 - (iv) for the preparation of this Charge, the Security and any related documents and in exercising or enforcing or attempting to enforce or advising the Lender in respect of defaults hereunder or in pursuit of any right, power, remedy or purpose hereunder or subsisting at law;
 - (v) reasonable allowance for the time, work and expenses of the Lender or of any agent of the Lender in connection therewith; and
 - (b) All reasonable sums which the Lender may from time to time advance, expend, incur or suffer hereunder:
 - (i) for insurance premiums, Bills, Taxes, rates, or in or toward payment of prior liens, charges, encumbrances or claims charged or to be charged against the Charged Premises;
 - (ii) in maintaining, repairing, restoring or completing construction of the Charged Premise;
 - (iii) in inspecting, leasing, managing or improving the Charged Premises as permitted hereunder, including the price or value of any goods of any sort or description supplied to be used on the Charged Premises as permitted hereunder; and
 - (c) Without limiting the generality of any of the foregoing, the then current reasonable fee of the Lender and/or its solicitor for the following matters:
 - (i) executing any cessation or discharge of this Charge, notwithstanding that said cessation or discharge may have been prepared by the Borrower;
 - (ii) entering into an agreement to amend the interest rate or any other provision in the Charge;
 - (iii) handling any dishonored cheque;
 - (iv) preparing an amortization schedule showing the principal and interest components of payments due under this Charge;
 - (v) the cost of completing a Phase I & II Environmental Audit and such other environmental audits as the Lender may require in its discretion;
 - (vi) such other administrative matters as the Lender may perform with regards to the Charge or with regards to any collateral security, as permitted by the Commitment;
 - (vii) the fee charged by the Lender's insurance consultant to review the Borrower's policy of insurance for the subject lands including business interruption insurance if required by the Lender; and
 - (viii) the execution and delivery of any consents, postponements, acknowledgments or any other documents that may be required from the Lender, whether from the Borrower and/or any governmental authorities and/or public/private utilities.
- 16.2 If any action or proceeding be commenced (except an action to foreclose this Charge or to collect the money that is secured hereby) in which the Lender becomes a party or participant by reason of being the holder of this Charge or the indebtedness secured hereby, all sums paid by the Lender for the expense of so becoming a party or participating (including all reasonable and properly chargeable legal costs) shall, on written notice, be paid by the Borrower, together with interest thereon at the Applicable Rate from the dates of payment of such sums by the Lender, and shall be a lien and charge on the Charged Premises, prior to any right or title to, interest in, or claim upon the Charged Premises subordinate to the lien and charge of this Charge, and shall be deemed to be secured by this Charge, and that in any action or proceeding to foreclose this Charge, or to recover or collect the indebtedness secured hereby, provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

ARTICLE 17 - CONDEMNATION AWARDS

- 17.1 The Borrower shall notify the Lender promptly upon it being aware of any and all awards or payments ("Condemnation

Award(s)”) including interest thereon, and the right to receive the same (save for any portion of any such Condemnation Award(s) paid for remedial purposes and which is actually used for such purpose) which may be made with respect to the Charged Premises, or any part thereof, as a result of:

- (a) Any condemnation, eminent domain, compulsory acquisition, expropriation or like procedures (“Condemnation”), partial or complete, including any sidewalk or lane; or
- (b) The imposition, and enforcement, of any restriction, regulation or condition to meet any building or development guideline for development or restriction of or by any municipality or other competent authority; or
- (c) Any other material injury to or decrease in the value of the Charged Premises by any lawful regulation or any governmental authority having jurisdiction;

(any matter referred to in (a), (b) or (c) above being hereinafter called an “Incident of Expropriation”) to the extent of all amounts which may be secured by this Charge at the date of receipt of any such Condemnation Award(s) by the Borrower. Notwithstanding the occurrence of any Incident of Expropriation, the Borrower shall continue to pay interest at the Applicable Rate on the Principal Sum. The Borrower does hereby charge, assign, set over and transfer to the Lender, any Condemnation Award(s) as security for the repayment of all Indebtedness.

17.2 Any Condemnation Award(s) received by the Lender shall be held by the Lender as part of the security for the Loan subject to application as provided in this Article 17. Pending such application, such amounts received shall be held and invested by the Lender, acting reasonably. If at any time an Event of Default has occurred and is continuing, the Lender may, at its option, apply such amounts in reduction of the amounts owing hereunder.

17.3 Notwithstanding the provisions of Sections 17.1 and 17.2, in the event that any Incident of Expropriation shall occur which, in the reasonable opinion of the Lender, would materially and adversely affect the security of the Charge or any other Security after the application of any Condemnation Award(s) pursuant to Section 17.1 hereof, the Lender may, at its option, declare such Incident of Expropriation to be an Event of Default and be entitled to exercise any and all rights and remedies available to it hereunder at law or in equity.

ARTICLE 18 - EVENTS OF DEFAULT

18.1 The whole of the Principal Sum together with interest thereon at the Applicable Rate, interest on overdue interest and any amounts payable pursuant to Article 6, and all other amounts secured hereby shall, at the option of the Lender, subject to Section 18.2 hereof, become due and payable and all powers conferred on the Lender herein and hereby shall become exercisable, in like manner to all intents and purposes as if the time herein mentioned for payment of such Principal monies had fully come and expired, if specifically provided for in this Charge, or if any of the following events shall occur (the occurrence of any such event together with the expiry of the applicable cure period, if any, and any other occurrence specifically provided for herein as an Event of Default being collectively referred to as an “Event of Default”):

- (a) Upon default in payment of any regularly scheduled instalment of principal and/or interest beyond the date such payment is due and payable; or
- (b) Upon default in payment of the Indebtedness due and owing on the Maturity Date; or
- (c) Upon default in payment of any Indebtedness (other than an instalment of principal and/or interest and upon maturity) due hereunder within five (5) Business Days after written notice thereof is provided by the Lender; or
- (d) Save as otherwise provided for in subparagraphs (a), (b) and (c) hereof or otherwise specifically provided herein, upon any default in the performance of any covenant or obligation of the Borrower hereunder within fifteen (15) days after written notice thereof is provided by the Lender, provided that if such default is curable and the nature of such default is such that the exercise of reasonable diligence of more than fifteen (15) days is required to cure such default, and if such default in the Lender’s reasonable discretion does not jeopardize or adversely effect the security interest of the Lender hereunder or adversely affect the Borrower or its ability to perform its obligations hereunder or under the Security or adversely affect the Charged Premises, the Lender will not, for a further sixty (60) days so long as no other Event of Default has occurred, enforce its remedies in respect of such default while and so long as during such time the Borrower is actively continuing to diligently and in good faith cure such default; or
- (e) If at any time during the Term there is a breach of any representation or warranty contained herein or at any time during the Term if any representation or warranty contained herein is no longer true or accurate or becomes untrue or inaccurate for any reason and provided the same can be rectified, and the same is not rectified within thirty (30) days after written notice thereof is provided by the Lender; or
- (f) Upon the assignment by the Borrower to any other party of the whole or a part of the rents, income or profits arising from the Charged Premises, without the written consent of the Lender; or
- (g) The occurrence of an Event of Insolvency; or
- (h) If without the prior written consent of the Lender, in its sole and absolute discretion:
 - (i) the Borrower transfers, sells, conveys, or otherwise disposes of all or any part of the Charged Premises, or any interest therein (other than by way of Leases), whether legal or beneficial or enters into any transaction or series of transactions where all or any part of the Charged Premises becomes the property of another person, whether through reorganization, amalgamation, merger, consolidation or otherwise, or if there is any change in the legal or beneficial interest, in whole or in part, of the Charged Premises; or
- (i) If, without the prior written consent of the Lender, in its sole and absolute discretion:

- (i) there is any change in the Borrower's corporate control or change in the Borrower's effective control existing as of the date of this Charge; or
- (ii) the Borrower creates, permits or suffers to exist any mortgage, pledge, charge, loan, assignment, hypothecation, security interest or other encumbrance attaching the Charged Premises other than this Charge, the Security and the Permitted Encumbrances; or
- (j) Upon default by or non-compliance of the Borrower or any Guarantor(s), or any others bound by or acknowledging to be bound by the terms of this Charge, with respect to any of the provisions of the Security, this Charge or the Permitted Encumbrances; or
- (k) If the Charged Premises are abandoned; or
- (l) Failure by the Borrower to fulfil, complete or comply with any undertakings delivered by the Borrower to Lender in connection with the Loan in accordance with the terms of such undertakings; or
- (m) Upon any breach, default, non-observance occurring or being alleged, charged or claimed against the Borrower as lessor under any lease or as sublessor under any sublease of the Charged Premises and the Borrower is not diligently proceeding to rectify any such breach, default, non-observance or non-performance or defend any allegations, charges or claims of the same; or
- (n) If this Charge, or any of the Security, shall fail to constitute a legal, valid, binding and enforceable first charge, first assignment or first security interest, each enforceable in accordance with its terms, subject only to Permitted Encumbrances; or
- (o) If in the reasonable opinion of the Lender there occurs an event which has a material adverse effect on the financial condition or operation of the Borrower, the Charged Premises, this Charge, the Security or the ability of the Borrower to pay the Indebtedness or to perform its obligations hereunder or under the Security and which cannot be rectified by the Borrower within a reasonable period of time.

18.2 Save as otherwise specifically provided, an Event of Default hereunder or under any Security shall not have occurred or be deemed to have occurred until the expiration of any applicable notice period, if any, called for in this Charge or in such Security within which the Borrower may remedy such default. In any event, if in the opinion of the Lender, an event has occurred which with the passing of time, the giving of notice or otherwise would constitute an Event of Default and as a result of which the Charged Premises or the property assets and undertaking subject to the Security is materially at risk, the Lender may take such action or exercise such remedies as may be appropriate without notice to the Borrower or the expiry of any cure period.

ARTICLE 19 - REMEDIES

19.1 If an Event of Default has occurred hereunder and is continuing (or if the Lender exercises its rights pursuant to Section 18.2 hereof before the occurrence of an Event of Default), then at any time thereafter, but subject always to the waiver thereof by the Lender, the Lender may:

- (a) Declare the Indebtedness to be immediately due and payable and proceed to exercise any and all rights hereunder or under the Security or any other rights available to it under any other document or instrument or at law or in equity including without limitation, the drawdown of any letter of credit held by the Lender;
- (b) Commence legal action to enforce payment of the Indebtedness or performance of the obligations by the Borrower to the Lender;
- (c) At the expense of the Borrower, when and to such extent as the Lender deems advisable, observe and perform or cause to be observed and performed any covenant, agreement, proviso or stipulation contained herein or in the Security, and the reasonable cost thereof with interest thereon at the Applicable Rate until paid, shall immediately become due from the Borrower to the Lender after demand by the Lender upon the Borrower therefor;
- (d) Pay or discharge any mortgage, encumbrance, lien, adverse claim or charge that may exist or be threatened against the Charged Premises; in any such case, the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
- (e) Send or employ any inspector or agent to inspect and report upon the value, state and condition of the Charged Premises and may employ a lawyer to examine and report upon the title to the same;
- (f) Immediately take possession of all of the Charged Premises or any part or parts thereof by action or otherwise, with power, among other things, to exclude the Borrower, to enforce the Borrower's rights, to preserve and maintain the Charged Premises, to repair, alter or extend the Charged Premises, to lease the Charged Premises, to complete construction and development of the Charged Premises, to operate and manage the Charged Premises and to collect or receive rents, income and profits of all kinds (including taking proceedings in the name of the Borrower for that purpose) and pay therefrom all reasonable expenses and charges of maintaining, preserving, protecting and operating the Charged Premises (payment of which may be necessary to preserve or protect the Charged Premises), and to enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including without limitation, power to advance its own moneys and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof, and all sums advanced or expended shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
- (g) On default of payment for at least fifteen (15) days may, on at least thirty-five (35) days' notice, sell and dispose in the Charged Premises with or without entering into possession of the same and with notice to such persons and in such manner and form and within such terms as provided under Part III of the *Mortgages Act* (Ontario), as amended; and all remedies available may be resorted to and all rights, powers and privileges granted or conferred upon the Lender under

and by virtue of any statute or by this Charge may be exercised and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made in the Charged Premises; and the Lender may sell, transfer and convey any part of the Charged Premises on such terms, including on credit for all or part of the consideration, (provided the Borrower shall not be accountable for any default in respect of the credit), secured by contract or agreement for sale, or charge, or otherwise, as shall appear to the Lender most advantageous and for such prices as can reasonably be obtained therefor in the circumstances; and in the event of sale on credit or part cash and part credit, whether by way of contract for sale or by conveyance or transfer, charge, or otherwise, the Lender is not to be accountable for or charged with any monies until the same shall be actually received in cash or received by a take-back charge; and sales may be made from time to time of parts of the Charged Premises to satisfy interest and leaving the Principal or part thereof to run with interest at the Applicable Rate; and the Lender may make any stipulations as to title or evidences or commencement of title or otherwise as the Lender shall deem proper and may buy or rescind or vary any contract for sale; and on any sale or resale, the Lender shall not be answerable for loss occasioned thereby; and for any of such purposes the Lender may make and execute all arrangements and assurances that the Lender shall deem advisable or necessary;

- (h) With respect to the Leases:
- (i) to demand, collect and receive the Rents or any part thereof and to give acquittances therefor, and to take from time to time, in the name of the Borrower, any proceeding which may be, in the opinion of the Lender or its counsel, expedient for the purpose of collecting the Rents or for securing the payment thereof or for enforcing any of the Borrower's rights under the Leases;
 - (ii) to compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rent and any settlement arrived at shall be binding upon the Borrower;
 - (iii) to enter upon the Lands by its officers, agents or employees for the purpose of collecting the Rents; (iv) to receive, enjoy or otherwise avail itself of the Lease Rights; and
 - (v) on behalf of the Borrower to alter, modify, amend or change the terms of Leases; to terminate Leases, to enter into new Leases; to give consents, concessions or waivers of any rights or provisions of Leases; to accept surrenders of Leases; to give consents to assignment of or subletting under Leases;
- (i) With or without taking possession of all or any part of the Charged Premises, sell, lease or otherwise dispose of the whole or any part of the Charged Premises, as agent for the Borrower and not the Lender, and in exercising the foregoing power, the Lender may, in its absolute discretion:
- (i) sell, lease or otherwise dispose of the whole or any part of the Charged Premises by public auction, public tender with notice, or by private contract (in the name of or on behalf of the Borrower) or otherwise, with such notice, advertisement or other formality as is required by law;
 - (ii) make and deliver to the purchaser good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale once effected shall be a perpetual bar, both at law and in equity, to the Borrower and all those claiming an interest in the Charged Premises by, from, through or under the Borrower making any claim against the purchaser of the Charged Premises;
 - (iii) grant, rescind, vary or complete any contract for sale, lease or options to purchase or lease, or rights of first refusal to purchase or lease the whole or any part of the Charged Premises, for cash or for credit, with or without security being given therefor, and on terms as shall appear to be most advantageous to the Lender (including a term that a commission be payable to the Lender or a related corporation in respect thereof) and if a sale is on credit, the Lender shall not be accountable for any moneys until actually received;
 - (iv) make any stipulation as to title or conveyance or commencement of title;
 - (v) re-sell or re-lease the Charged Premises or any part thereof without being answerable for any loss occasioned thereby; and
 - (vi) make any arrangements or compromises which the Lender shall think expedient in the interest of the Lender and to assent to any modification of this Charge, and to exchange any part or parts of the Charged Premises for any other property suitable for the purposes of the Lender on such terms as the Lender considers expedient, either with or without payment of money for equality or exchange or otherwise;
- (j) Take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (k) To borrow or raise money on the security of the Charged Premises or any part thereof in priority to this Charge or otherwise, for the purpose of the maintenance, preservation or protection of the Charged Premises or any part thereof or for carrying on all or any part of the business of the Borrower relating to the Charged Premises;
- (l) Take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term as used in this Charge includes a manager and a receiver and manager, and hereafter, the "Receiver") of all or any part of the Charged Premises;
- (m) By instrument in writing appoint, with or without taking possession, any person to be a Receiver of the Charged Premises or of any part thereof and may remove any Receiver so appointed and appoint another in his stead, with all fees and costs related thereto being the Borrower's obligations; and the following shall apply in respect of any such Receiver so appointed:
- (i) the Lender may from time to time fix the remuneration of the Receiver who shall be entitled to deduct that

same out of the revenue from the Charged Premises or the proceeds thereof;

- (ii) the Receiver shall, to the fullest extent permitted by law, be deemed the agent or attorney of the Borrower for all purposes and the Lender shall not be in any way responsible for any actions other than as caused by gross negligence, willful misconduct or fraud, of any Receiver, and the Borrower hereby agrees to indemnify and save harmless the Lender from and against any and all claims, demands, actions, costs, damages, expenses or payments which the Lender may hereafter suffer, incur or be required to pay as a result, in whole or in part, of any action taken by the Receiver or any failure of the Receiver to do any act or thing other than as are caused by gross negligence, willful misconduct or fraud;
 - (iii) the appointment of the 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 the Receiver or the removal of the 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 Lands or any part thereof;
 - (iv) the Receiver may exercise or pursue any other remedy or proceeding which the Lender is entitled as the holder of the Charge authorized or permitted hereby or by law or in equity in order to enforce the security constituted by this Charge;
 - (v) and for the purposes above, the Borrower hereby irrevocably empowers the Receiver so appointed as its attorney to execute deeds, transfers, leases, contracts, agreements or other documents on its behalf and in its place (and the same shall bind the Borrower and have the same effect as if such deeds were executed by the Borrower) and to affix the Borrower's seal, if necessary, or a duplicate thereof to any of the same. On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds as part of the Secured Property; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt; and
 - (vi) save as to claims for accounting under paragraph (o) below, the Borrower hereby releases and discharges the Lender and the Receiver from every claim of every nature, whether resulting in damages or not, which may arise or be caused to the Borrower by reason or as a result of anything done by the Lender or any successor or assign claiming through or under the Lender or the Receiver under the provisions of this paragraph unless such claim be the direct result of dishonesty or gross neglect;
- (n) The Lender may at any time and from time to time terminate any receivership by notice in writing to the Borrower and to the Receiver;
- (o) The Receiver shall account for all monies received in respect of the Charged Premises or any part thereof, and shall pay, out of such monies received, subject to the further direction of the Lender in its discretion, the following in the order specified:
- (i) the Receiver's remuneration;
 - (ii) all payments reasonably made or incurred by the Receiver in connection with its receivership;
 - (iii) all payments of interest, Principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Charge, and all Bills, Taxes, insurance premiums and every other proper expenditure reasonably made or incurred by the Receiver in respect to the Charged Premises or any part thereof; and
 - (iv) all payments to the Lender of all interest due or falling due hereunder and the balance to be applied upon Principal due and payable and secured hereby;

and thereafter any surplus remaining in the hands of the Receiver after payments made as aforesaid shall be accountable to the Borrower or other persons entitled thereto; and

- (p) On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds thereof as security for the Indebtedness; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt.

ARTICLE 20 - DEFAULT UNDER SECURITY, PARAMOUNTCY DISCHARGE AND RENEWAL

- 20.1 Payments of principal and/or interest made under and pursuant to the terms of the Security shall constitute payment hereunder and vice versa and default in the payment of principal and/or interest under the Security shall constitute default hereunder and vice versa. Default in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained in the Security shall entitle the Lender to exercise all or any of the rights or remedies provided herein and the occurrence of and Event of Default hereunder or in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained herein shall entitle the Lender to exercise all or any of the rights or remedies provided in the Security. The occurrence of an Event of Default hereunder shall constitute an Event of Default under the Security and vice versa.

- 20.2 The cancellation of or any other dealing with any Security (other than foreclosure thereof) shall not release or affect this Charge, and the taking of this Charge, or the cancellation of or any other dealing with, or proceeding under (other than foreclosure hereunder), this Charge, shall not release or affect any Security:
- (a) The Lender may at any time and from time to time release any part or parts of the Charged Premises or any other Security or any surety for payment of all or any part of the monies hereby secured or may release the Borrower or any other person from any covenant or other liability to pay the Principal Sum and interest and all other monies secured hereby, or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any monies except those actually received by the Lender, and without thereby releasing any other part of the Charged Premises, or any other Security or covenants herein contained, it being especially agreed that notwithstanding any such release, the Charged Premises, the Security and the covenants remaining unreleased shall stand charged with the whole of the monies hereby secured;
 - (b) In the event that the monies advanced hereunder are applied to payment of any charge or encumbrance, the Lender shall be subrogated to all the rights of and stand in the position of and be entitled to all the equities of the party or parties so paid whether such charge or encumbrance has or has not been discharged; and the decision of the Lender as to the validity or amount of any advance or disbursement made under this Charge or of any claims so paid, shall be final and binding on the Borrower; and
 - (c) The Lender shall not be charged with any monies receivable or collectible out of the Charged Premises or otherwise, except those actually received by or on behalf of the Lender and all revenue of the Charged Premises received or collected by the Lender from any source other than payment by the Borrower may, at the option of the Lender, be retained in a separate account to be used in, maintaining, insuring or improving the Charged Premises to the extent required for such purpose, in the opinion of the Lender, acting reasonably, or in payment of Taxes or other liens, charges or encumbrances against the Charged Premises, or applied in reduction of the amounts owing hereunder.
- 20.3 Subject to Section 6.1 hereof, upon payment of all amounts secured by this Charge, the Borrower shall be entitled to receive and the Lender shall provide a discharge of this Charge and the Security within a reasonable period of time after the request therefor. The Lender shall have a reasonable time after such payment within which to prepare and execute such discharge and all reasonable legal and other expenses for the preparation, execution and registration of such discharge and/or documents, as the case may be, shall be borne by the Borrower.
- 20.4 All payments made pursuant to Section 20.3 shall be made to and received by the Lender prior to 1:00 p.m. on the date due or the next succeeding Business Day in the event the date due is not a Business Day; provided such extension of time shall be included for the purposes of computation of interest.

ARTICLE 21 - NO MERGER OR WAIVER OF LENDER'S RIGHTS

- 21.1 It is further understood and agreed that this Charge and the Security shall stand as a continuing security for repayment of the Loan, including, all advances made thereunder together with all interest, damages, costs, charges and expenses which may become due and payable to the Lender in respect of or in connection with the Loan or any portion thereof, notwithstanding any fluctuation or change in the amount, nature or form of the Loan or in the obligations now or hereafter representing the Loan or any portion thereof or in the names of the obligors or any of them.
- 21.2 The rights of the Lender arising under this Charge shall be separate, distinct and cumulative and, except as expressly provided herein, none of them shall be in exclusion of the other and no act of the Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.
- 21.3 The giving and taking of this Charge shall in no way merge, waive, prejudice, suspend or affect any of the rights or remedies of the Lender under any Security which may be given or which may have been or may hereafter be given in respect of the Principal Sum hereof, interest and other monies secured by this Charge, or any part thereof, or under the Security and all rights and remedies which the Lender now has or may hereafter have against any one or more persons, are hereby preserved.
- 21.4 The taking of a judgment or judgments under any of the covenants or obligations herein or under any Security shall not operate as a merger of the covenants of the Borrower or affect the Lender's right to interest at the Applicable Rate on any monies due or owing to the Lender during the continuance of this Charge, under any of the covenants herein contained or on any judgment to be recovered thereon.
- 21.5 The covenant of the Borrower to pay interest shall not merge in any judgment in respect of any covenant or obligation of the Borrower under this Charge or any Security and such judgment shall bear interest at the Applicable Rate until such judgment and all interest thereon have been paid in full.
- 21.6 Any waiver by the Lender of any default by the Borrower or any omission on the Lender's part in respect of any default by the Borrower shall not extend to or be taken in any manner whatsoever to affect any subsequent default by the Borrower or the rights resulting therefrom.
- 21.7 No extension of time given by the Lender to the Borrower or anyone claiming under the Borrower, shall in any way affect or prejudice the rights of the Lender against the Borrower or any person liable for payment of the monies hereby secured.

ARTICLE 22 - FINANCIAL DATA

- 22.1 The Borrower shall provide or cause to be provided promptly to the Lender full and complete information about the financial condition and operations of the Charged Premises, including a comprehensive rent roll of all space in the Charged Premises, about the financial condition of the Borrower and any Guarantor(s) and such other information which the Lender may reasonably require from time to time, and the Lender shall have the right to examine the books and records of the Borrower relating to the Charged Premises at reasonable times and upon reasonable prior notice.

- 22.2 Without limiting the foregoing, the Borrower covenants and agrees to provide or cause to be provided to the Lender audited financial statements together with operating statements pertaining to the Charged Premises and such other financial information the Lender may reasonably require, (a) in the case of audited financial statements, within ninety (90) days of the end of each fiscal year of the Borrower (or such other time as may reasonably be required by the Lender), and (b) with respect to operating statements for the Charged Premises, within thirty (30) days of the end of each quarter of each calendar year. The audited financial statements are to be prepared by a nationally recognized firm of chartered accountants and shall include a balance sheet, and a detailed statement of income and expenditures and supporting notes and schedules. The operating statements shall contain a certificate by a senior officer of the Borrower as to the contents and preparation thereof, and shall include detailed statements of income, expenditures results of operation and such other matters relating to the operation of the Charged Premises as the Lender may reasonably require. In the event applicable, the Borrower shall provide the Lender with copies of all proxy statements, reports and information circulars that the Borrower makes available to its shareholders and copies of all regular and periodic reports which the Borrower may file with any securities commission or any other Governmental Authority.
- 22.3 The Borrower shall provide or cause to be provided to the Lender, or as the Lender may direct, a comprehensive list of all current tenants and rentals of space in the Charged Premises during the Term, which list shall disclose, without limitation, the name of each tenant, the duration of its term, renewal options, if any, and the term thereof, the rental being paid, the last date on which rental was paid and whether such tenancy is in good standing. Such list shall contain an endorsement by an officer of the Borrower as to being complete and accurate.
- 22.4 All statements, reports and other documents required to be provided hereunder shall be prepared in a manner acceptable to the Lender, in its reasonable discretion.

ARTICLE 23 - NOTICE

- 23.1 Unless otherwise provided herein, any demand, notice or communication given or required to be given to a party hereunder shall be in writing and shall be personally delivered or given by transmittal by telecopy or facsimile transmission addressed to the respective parties at its address or telecopy or facsimile number set forth below or to such other address or telecopy or facsimile number as such party may designate by notice in writing to the other party hereto:
- (a) If to the Borrower, at the address for service set out in the electronic Charge to which this schedule is attached; and
 - (b) If to the Lender, at the address for service set out in the electronic Charge to which this schedule is attached.

Any demand, notice or communication made by or given by personal delivery shall be conclusively deemed to have been made or given on the day of actual delivery thereof, and, if made or given by telecopy or by facsimile, on the first day other than a Saturday, Sunday or a statutory holiday in Ontario, on which Schedule I banks are open for commercial business in Toronto, Ontario, following the transmittal thereof.

ARTICLE 24 - GENERAL

- 24.1 If any provision of this Charge or the application thereof to any circumstances shall be held to be invalid or unenforceable, it shall be deemed severed herefrom and the remaining provisions of this Charge, or the application thereof to other circumstances, shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law. In particular, and without limiting the generality of the foregoing, to the extent any and all amounts due pursuant to Article 6 hereof may be deemed to be in excess of what is permissible by law, any such excess shall be deemed not to be due under this Charge.
- 24.2 Wherever used in this Charge, unless the context clearly indicates a contrary intent as unless or otherwise specifically provided herein, the word "Borrower" shall mean "Borrower and/or subsequent owner or owners of the Charged Premises", the word "Lender" shall mean "Lender or any subsequent holder or holders of this Charge".
- 24.3 The descriptive headings of the several subparagraphs or paragraphs or sections or articles of this Charge are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.
- 24.4 Wherever the singular number or masculine gender is used in this Charge, the same shall be construed as including the plural and feminine or a body corporate, respectively, and vice versa, where the fact or context so requires; and the successors and assigns of any party executing this Charge are bound by the covenants, agreements stipulations and provisos herein contained. The covenants, agreements stipulations and provisos herein stated shall, except as otherwise limited hereby, be in addition to those granted or implied by statutory law.
- 24.5 This Charge shall be construed and enforceable under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, and the Borrower hereby irrevocably attorns to the non-exclusive jurisdiction of the courts sitting at Toronto, Ontario.
- 24.6 The Borrower shall at all times, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, transfers, assignments, security agreements and assurances as the Lender may reasonably require in order to give effect to the provisions hereof and for the better granting, transferring, assigning, charging, setting over, assuring, confirming or perfecting the Charge and the priority accorded to them by law or under this Charge.
- 24.7 If any of the forms of words contained herein are also contained in Column 1 of Schedule "B" of the Short Forms of Mortgages Act (Ontario) and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column 2 of Schedule "B" of the said Act distinguished by the same number, and this Charge shall be interpreted as if the *Short Forms of Mortgages Act* (Ontario) were still in full force and effect. The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) shall be and are hereby expressly excluded from the terms of this Charge.
- 24.8 This Charge shall, whether or not it secures a current or running account, be a general and continuing security to the Lender for payment of the indebtedness in an amount not exceeding the amount secured by this Charge and performance of the Borrower's

other obligations under the Charge notwithstanding any fluctuation or change in the amount, nature or form of the indebtedness or in the accounts relating thereto or in the bills of exchange, promissory notes and/or other obligations now or later held by the Lender representing all or any part of the indebtedness outstanding at any particular time; and the Charge will not be deemed to have been redeemed or become void as a result of any such event or circumstance.

- 24.9 This Charge is given as collateral security to the Commitment.
- 24.10 Notwithstanding any terms contained in the Commitment to the contrary, in the event of conflict between the Commitment and the terms of this Charge, the provisions of the Commitment shall prevail; provided that any provision herein contained that is not contained in the Commitment and vice versa shall not in and of itself be considered to be inconsistent or in conflict.

ARTICLE 25 – CONDOMINIUM PROVISIONS

- 25.1 The Borrower covenants and agrees that in the event that the security for the within Charge shall be or shall become a condominium unit(s) the following provisions shall apply.
- (i) the Borrower does hereby assign to the Lender all of its rights to vote or consent in the affairs of the Condominium Corporation having jurisdiction over the subject lands and the Lender, may at its option, exercise the right of an owner of a condominium unit to vote or consent in the affairs of the Condominium Corporation in the place and stead of such owner, without in any way consulting the owner as to the manner in which the vote shall be exercised or not exercised, and without incurring any liability to the owner or anyone else because of the manner in which such vote or right to consent in the affairs of the Condominium Corporation was exercised.
 - (ii) the Borrower shall pay promptly, when due, any common expenses, assessments, instalments or payments due to the Condominium Corporation.
 - (iii) the Borrower shall observe and perform the covenants and provisions required to be observed and performed under or pursuant to the provisions of the *Condominium Act* (Ontario), all amendments thereto, and any legislation passed in substitution thereof, and the declaration and by-laws of the Condominium Corporation and any amendments thereto.
 - (iv) Where the Borrower defaults in the Borrower's obligation to contribute to the common expenses assessed or levied by the Condominium Corporation, or any authorized agent on its behalf, or any assessment, instalment of payment due to the Condominium Corporation, upon breach of any of the foregoing covenants or provisions in this paragraph contained, regardless of any other action or proceeding taken, or to be taken by the Condominium Corporation, the Lender, at its option and without notice to the Borrower, may deem such default to be a default under the terms of this Charge and proceed to exercise its rights therein and the Lender shall be entitled at its option to pay all common expense amounts as they come due and these amounts so paid together with legal fees shall form part of the Indebtedness.

ARTICLE 26 – CONSTRUCTION LOAN PROVISIONS

In the event that any of the monies advanced or to be advanced under this Charge are intended to finance any improvement to the Charged Premises, the parties hereto covenant and agree that the following conditions shall apply:

- 26.1 All construction on the Charged Premises shall be carried out by reputable contractors having experience which is commensurate to nature and size of the project to be constructed, which contractors must be prior approved by the Lender in writing, such approval not to be unreasonably withheld.
- 26.2 The construction of the building and structures located on the Charged Premises have been commenced and shall be continued in a good and workmanlike manner, with all due diligence and in accordance with the plans and specifications delivered to the Lender and to the satisfaction of all governmental and regulatory authorities having jurisdiction.
- 26.3 Provided that should construction of the project on the Charged Premises cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Borrower excepted), for a period of ten (10) consecutive days (Saturdays, Sundays and Statutory holidays excepted), then, at the option of the Lender, this Charge shall immediately become due and payable. In the event that construction does cease, then the Lender shall have the right, at its sole option, to assume complete control of the construction of the said project in such manner and on such terms as it deems advisable. The cost of completion of the said project by the Lender and all expenses incidental thereto shall be added to the principal amount of this Charge, together with a management fee of fifteen percent (15%) of the costs of the construction completed by the Lender. All costs and expenses, as well as the management fee of fifteen percent (15%) added to the principal amount of this Charge shall bear interest at the rate as herein provided for and shall form part of the principal sum herein and the Lender shall have the same rights and remedies to collection of principal and interest hereunder or at law.
- 26.4 At all times there shall be sufficient funds unadvanced under this Charge and retained by the Lender to complete the construction and/or renovation of the project on the Charged Premises and as may be necessary to retain the Lender's priority with respect to any deficiency in the holdbacks required to be retained by the Borrower under the *Construction Act* (Ontario).
- 26.5 This Charge will be advanced in stages as construction upon the Charged Premises proceeds or as the conditions as enumerated by the Commitment are complied with.
- 26.6 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 Lender with respect to the said project and the progress thereof, whose fees and costs shall be for the account of the Borrower 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 and/or renovation to the date of such certificate shall be in accordance with the approved plans and specifications for the said construction 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 Charged Premises. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the building.

- 26.7 The Borrower shall pay to the Lender on each occasion when an inspection of the Charged Premises is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Lender may charge from time to time for each such inspection and the Lender's solicitors shall be paid their reasonable fees and disbursements for each sub-search and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Lender 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.
- 26.8 The Borrower agrees to indemnify and hold the Lender harmless from any and all claims, demands, sums of money, debts, covenants, bonds, accounts, actions, causes of action, rights, obligations and liability of every kind whatsoever which arise out of claims against the property under the *Construction Act* (Ontario) and that any liens for work and/or supplies that are registered against the Borrower's interest in the property will be promptly discharged within seven (7) days from the date of registration of the lien. The Lender may, but is not required to, deal with the lien claimant and pay the lien claim into court pursuant to the provision of the *Construction Act* (Ontario) for the purpose of vacating the lien from title to the property. The Borrower agrees to be liable for all costs, claims, amounts and fees including, without limitation, all legal fees (on a solicitor and his client basis) incurred by the Lender arising from or in connection with the Borrower or the Lender obtaining and registering either a release of the lien or an order vacating the lien.

ARTICLE 27 - ASSIGNMENT AND SALE

- 27.1 The Loan and all other amounts secured hereby, this Charge, the Security and all documents ancillary or collateral thereto may, in the Lender's sole discretion and without the consent of the Borrower, in whole or in part, be participated, sold, securitized, syndicated or assigned by the Lender from time to time to one or more Persons.
- 27.2 The Lender may disclose to participants, transferees or assignees or to potential participants, transferees or assignees or others in connection with any sale, assignment, participation, securitization, transfer or syndication, such information concerning the Borrower or the Charged Premises as the Lender may consider to be appropriate in connection therewith.
- 27.3 No grant, assignment or transfer pursuant to this Article 27 shall constitute a repayment by the Borrower to the Lender of the Loan or any other amounts owing hereunder and included in such assignment or transfer and the Borrower acknowledges that all obligations under this Charge and the Security with respect to such assignment or transfer will continue and not constitute new obligations.
- 27.4 The Borrower agrees to be bound by and do all things necessary or appropriate to assist and give effect to any transfer, participation, securitization, sale, syndication or assignment, but shall incur no increased liabilities as a result thereof.

Properties

PIN 58379 - 0238 LT *Interest/Estate* Fee Simple
Description PCL 6-5 SEC 51-FLOS-8; PT LT 6 CON 8 ELMVALE PT 2, 51R8051; SPRINGWATER;
 TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8
 FLOS, PART 4, 51R43255 AS IN SC1851791
Address ELMVALE

PIN 58379 - 0406 LT *Interest/Estate* Fee Simple
Description PART S1/2 LOT 6 CON 8 FLOS BEING PART 3, PLAN 51R43255; TOGETHER WITH AN
 EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255
 AS IN SC1851791; TOWNSHIP OF SPRINGWATER
Address ELMVALE

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 SUNRISE ACQUISITIONS (ELMVALE II) INC.
Address for Service 50 Wilmot Street, Suite 100
 Richmond Hill, ON L4B 1M5

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 AFC MORTGAGE ADMINISTRATION INC.
Address for Service 2010 Winston Park Drive, 2nd Floor
 Oakville, ON L6H 6P5

Statements

Schedule: See Schedules

Provisions

Principal \$2,010,000.00 *Currency* CDN
Calculation Period
Balance Due Date
Interest Rate Higher of 11.99% and TD Prime rate + 9.54% per annum
Payments
Interest Adjustment Date
Payment Date On Demand
First Payment Date
Last Payment Date
Standard Charge Terms
Insurance Amount Full insurable value
Guarantor

Signed By

Perry Cheung 1000-120 Adelaide St. W. acting for Signed 2022 10 27
 Toronto
 M5H 3V1
 Chargor(s)

Tel 416-363-2211

Fax 416-363-0645

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

Schneider Ruggiero Spencer Milburn LLP 1000-120 Adelaide St. W. 2022 10 27
 Toronto
 M5H 3V1

Tel 416-363-2211

Fax 416-363-0645

The applicant(s) hereby applies to the Land Registrar.

Fees/Taxes/Payment

Statutory Registration Fee	\$66.30
Total Paid	\$66.30

File Number

Chargee Client File Number : 44601

SCHEDULE TO THE ATTACHED CHARGE/MORTGAGE

RECITALS

The Lender has agreed to make a loan in favour of the Borrower upon the terms and conditions more particularly contained herein.

The Borrower is the registered owner of the lands and premises described in the electronic Charge to which this schedule is attached.

This Charge is given by the Borrower to the Lender as continuing security for the repayment by the Borrower to the Lender of such loan and the performance by the Borrower of its obligations as more particularly described herein.

ARTICLE 1 - DEFINITIONS

1.1 For the purposes of this Charge the following definitions will apply:

“Applicable Laws” means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all then current laws, rules, statutes, regulations, treaties, orders, judgments and decrees and all official directives, rules, guidelines, orders, policies, decisions and other requirements of any Governmental Authority (whether or not having the force of law) (collectively, the “Law”) relating or applicable to such Person, property, transaction, event or other matter and shall also include any interpretation of the Law or any part of the Law by any Person having jurisdiction over it or charged with its administration or interpretation;

“Applicable Rate” means the interest rate set out in the electronic Charge to which this schedule is attached or, in the alternative, the interest rate set out in the Commitment;

“Bills” has the meaning ascribed thereto in Section 10.1(a);

“Borrower” means the party identified as “Chargor” set out in the electronic Charge to which this schedule is attached and its successors and assigns;

“Business Day” means a day on which the Lender is open for business but specifically excluding Saturdays, Sundays or statutory holidays pursuant to the laws of Canada or the Province of Ontario and “Business Days” means more than one Business Day;

“Charge” means this charge/mortgage of land and all instruments supplemental hereto or in amendment, renewal, extension, restatement, replacement or confirmation hereof;

“Charged Premises” means, collectively, the Lands and the Improvements;

“Commitment” means the letter of commitment between, *inter alios*, the Borrower and the Lender dated October 12, 2022, as the same has been or may be amended, restated, supplemented, renewed, extended or superseded from time to time;

“Environmental Approvals” has the meaning ascribed to it in Section 12.1 hereof;

“Environmental Laws” or “Environmental Law” has the meaning ascribed to them in Section 12.1 hereof;

“Event of Default” has the meaning ascribed thereto in Section 18.1 hereof;

“Event of Insolvency” means the occurrence of any one of the following events:

- (a) If the Borrower, or the Guarantor(s), shall, other than as expressly permitted hereby:
 - (i) be wound up, dissolved or liquidated, whether pursuant to the provisions of the laws of the Province of Ontario or the federal laws of Canada applicable therein, or any other law or otherwise, or becomes subject to the provisions of the *Winding-Up and Restructuring Act* (Canada), or has its existence terminated or has any resolution passed therefor; or
 - (ii) makes a general assignment for the benefit of its creditors or files a proposal or a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada), shall otherwise acknowledge its insolvency or shall be declared or become bankrupt or insolvent; or
 - (iii) proposes a compromise or arrangement or otherwise brings proceedings under or becomes subject to the provisions of the *Companies’ Creditors Arrangement Act* (Canada) or shall file any petition or answer seeking any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution or any other relief for itself under, or in any way takes the benefit of, the *Bankruptcy and Insolvency Act* (Canada) or any other present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors; or
 - (iv) be unable, by reason of insolvency or similar circumstances, to pay its trade creditors generally, within one hundred and twenty (120) days of the rendering of trade accounts or admit its inability to pay its debts or perform its obligations as they become due; or
- (b) If a court of competent jurisdiction shall enter an order, judgment or decree against the Borrower in respect of any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution, winding-up, termination of existence, declaration of bankruptcy or insolvency, or similar relief under any present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors, or the Borrower shall acquiesce in the entry of such order, judgment or decree, unless the Borrower is also proceeding forthwith to diligently and in good faith contest the same and, provided that none of the Charged Premises, the Charge or the Security, the value of the Charged Premises or the operation

thereof, are adversely affected and there is no prejudice to the Lender in the Lender's reasonable opinion, and such order, judgement or decree is vacated or permanently stayed within fifteen (15) days of its making; or

- (c) If any trustee in bankruptcy, receiver, receiver and manager, monitor or liquidator or any other officer with similar powers shall be appointed for the Charged Premises or any portion thereof, or for the Borrower or the Guarantor(s), or for all or any substantial part of its assets or its interest in the Charged Premises with the consent or acquiescence of the Borrower; or
- (d) If, other than as expressly permitted hereby, an encumbrancer or the holder of any lien or charge or any other creditor takes possession of the Charged Premises or the Borrower's interest in the Charged Premises, or any part thereof, or if a distress, execution, garnishment or any similar process is levied or enforced upon or against the same;

"Governmental Authority" means any federal, provincial, territorial or municipal government and any executive, judicial, regulatory or administrative functions of, or pertaining to, government (including, without limitation, all boards, commissions, agencies, departments and ministries);

"Guarantor(s)" means any Person from time to time guaranteeing the Indebtedness;

"Hazardous Substance" has the meaning ascribed to it in Section 12.1 hereof;

"Improvements" means the buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements now located on the Lands and all appurtenances pertaining thereto, together with all other buildings, structures, fixtures and improvements hereafter located from time to time in, on or under the Lands and all personal property, equipment and chattels now or hereafter affixed to the Lands or to such buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements owned by the Borrower;

"Indebtedness" means, collectively, the Principal Sum, any debts, liabilities, obligations, covenants and duties owing by the Borrower to the Lender of any kind or nature, present or future and arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith, whether or not evidenced by any note, guarantee or other instrument, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guarantee, indemnification, or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and in all cases arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith. The term includes, without limitation, all interest, yield maintenance, charges, expenses, fees, including all processing and commitment fees and all legal fees and disbursements (in each case whether or not allowed), and any other sum chargeable to the Borrower under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith;

"Inspections" has the meaning ascribed to it in Section 12.1 hereof;

"Interest Adjustment Date" means the interest adjustment date set by the Lender for the purposes of setting a payment schedule;

"Lands" means the lands and premises described in the electronic Charge to which this schedule is attached, including all tenements, hereditaments and appurtenances belonging or in any way appertaining thereto, and the reversion or reversions, remainder and remainders, rents, issues and profits therefrom, and all the estate, right, title, interest, property claim and demand whatsoever of the Borrower of, in and to the same and of, in and to every part thereof;

"Lease Benefits" means the benefit of all covenants and obligations of tenants, licencees or occupants contained in any of the Leases, including, without limitation, all rights and benefits of any guarantees thereof, the right to demand, sue for, collect, recover and receive all Rents, to enforce the landlord's rights under any Lease and generally any collateral advantage or benefit to be derived from the Leases or any of them;

"Lease Rights" means, collectively, the Leases, the Rents and the Lease Benefits;

"Leases" means all present and future leases, subleases, licences, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Borrower, or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Charged Premises, including all agreements collateral thereto, but which, for the purpose of this definition does not include the Property Lease, and "Lease" means any one of them;

"Lender" means the party identified as "Chargee" in the electronic Charge to which this schedule is attached, and its successors and assigns;

"Loan" means the loan extended or to be extended by the Lender to the Borrower in the principal amount set out in the electronic Charge to which this schedule is attached and secured by this Charge and other security given to the Lender by the Borrower and the Guarantor(s), if any;

"Major Tenant Leases" means any agreements to lease, offers to lease or leases, subleases or occupancy agreements in respect of premises situate on the Charged Premises and which are determined by the Lender in its discretion to be material to the Charged Premises and the extension and maintenance of the Loan;

"Maturity Date" means, subject to early maturity by reason of the occurrence of an Event of Default and the acceleration of repayment at the option of the Lender, the balance due date set out in the electronic Charge to which this schedule is attached;

"Permitted Encumbrances" means encumbrances, liens and interests affecting the Charged Premises which are acceptable to the Lender in its sole discretion;

"Person" means any natural person, sole proprietorship, partnership, syndicate, trust, joint venture, Governmental Authority or any incorporated or unincorporated or entity or association of any nature;

"Principal" or "Principal Sum" means the principal amount of the Loan owing from time to time by the Borrower to the Lender;

“Rents” means all rents, issues and profits now due or to become due under or derived from the Leases;

“Security” means, collectively, the Commitment and all other or additional security, other than this Charge, given by the Borrower or others to the Lender as security for the Loan;

“Taxes” means for each year during the term of this Charge all real property taxes, business taxes, rates, duties, charges, assessments, impositions, taxes, levies and charges for local improvements or otherwise, imposed upon or assessed against the Charged Premises or any part or parts thereof by any Governmental Authority including, without limitation, school boards, and paid or payable by the Borrower or any tenant of the Charged Premises, but shall not include franchise, capital levy or transfer tax or any income, excess profits or revenue tax or any other tax or impost of a personal nature charged or levied upon the Borrower or any tenant of the Charged Premises. If the system of real property taxation or business shall be altered or varied and any new tax shall be levied or imposed on all or any portion of the Charged Premises or the revenues therefrom in substitution for, or in addition to, taxes presently levied or imposed, then any such new tax or levy shall be deemed to be and shall be included herein; and

“Term” means the term of this Charge and being a period which expires on the Maturity Date.

ARTICLE 2 - CHARGING PROVISIONS

- 2.1 Now therefore witnesseth that the Borrower, being the registered owner of a freehold estate in fee simple in possession of the Lands, in consideration of the Loan advanced or to be advanced by the Lender to the Borrower or for its benefit, and as security for the repayment of all Indebtedness and the performance of the obligations of the Borrower hereunder, does hereby grant, mortgage, charge and create a security interest in, to and in favour of the Lender all of its estate, right, title and interest in and to the Charged Premises and covenants and agrees to and with the Lender as hereinafter provided.
- 2.2 The last day of any term reserved by any lease or sublease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Borrower, as lessee, and forming part of the Charged Premises is hereby excepted out of the mortgage, charge, assignment and security interest hereby created or granted or any instrument in implementations hereof, and the same shall be deemed to be a charge by way of sublease. As further security for the payment of the Indebtedness, the Borrower agrees that it will stand possessed of the reversion of such last day of the term and shall hold it in trust for the Lender for the purpose of this Charge and to assign and dispose thereof, without cost or expense to the Lender, in such manner as the Lender shall by notice in writing, for such purpose, direct. Upon any sale, assignment, sublease or other disposition of such leasehold interest or any part thereof, the Lender, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser, assignee, sublessee or other acquirer thereof, shall be entitled by deed or writing to appoint such party or parties as a new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Borrower and to vest the same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation respecting the same.

ARTICLE 3 - REPAYMENT AND INTEREST

- 3.1 The Borrower covenants to pay to or to the order of the Lender at its offices as set out in Article 23 hereof or at such other address as the Lender may from time to time designate in writing, without set-off, compensation or deduction, and without deduction for bank service or any other charges, the Principal Sum together with all other Indebtedness with interest thereon at the Applicable Rate, as well after as before maturity and both before and after default, demand and judgment. Such interest at the Applicable Rate shall be computed from the date of advance to become due and be paid initially on the Interest Adjustment Date and thereafter to be paid in instalments of principal and/or interest as required by the Commitment, commencing on the first payment date set out in the Commitment or in the electronic Charge to which this schedule is attached and continuing each month during the Term, to and including the last payment date set out in the Commitment or the electronic Charge to which this schedule is attached, each such instalment to be in the amount stipulated in the Commitment or in the electronic Charge to which this schedule is attached and the last instalment, in the amount of the then remaining balance of the Principal Sum, other Indebtedness and accrued interest thereon, to be paid on the Maturity Date.
- 3.2 The Borrower acknowledges and agrees that monthly instalments for principal and/or interest, as required by the Commitment, described in Section 3.1 together with all payments for Taxes as set out in Section 10.1 hereof must pass through a single bank account on which the Borrower will have provided post-dated cheques (as required by the Lender) or have pre-authorized the Lender to withdraw the monthly payments under this Charge plus any Taxes payable in respect of the Charged Premises if not otherwise paid by the Borrower. In addition, the Borrower must maintain at all times in such account a minimum balance equal to the sum of the monthly payment of principal, interest and Taxes (as such Taxes become due).
- 3.3 It is hereby agreed that if default should occur in payment of any sum due at the time appointed for payment thereof as herein provided, compound interest at the Applicable Rate shall be payable on the sum in arrears from time to time, as well after as before maturity, and if interest as compounded is not paid within one (1) month from the time of default, a rest shall be made, and compound interest at the Applicable Rate shall be payable on the aggregate then due, as well after as before maturity, both before and after default, demand and judgement and so on from time to time and all such interest and compound interest shall be a charge on the Charged Premises.
- 3.4 All interest in arrears shall be treated (as to payment of interest thereon) as Principal and shall bear compound interest, as well after as before maturity, default and judgement as provided in Section 3.3 hereof.
- 3.5 The Borrower will pay interest, including interest on overdue interest, at the Applicable Rate on any arrears of instalments of principal and/or interest, and any payment by the Borrower shall be applied by the Lender first on account of interest and then on account of principal.
- 3.6 All payments of principal and interest pursuant to Section 3.1 shall be made to and received by the Lender prior to 1:00 p.m. on the date due, failing which such payment shall be deemed received on the next succeeding Business Day provided that in such case, such extension of time shall be included for the purpose of computation for interest; provided further that in the event any payment is due on a day which is not a Business Day, it shall be payable prior to 1:00 p.m. on the next succeeding Business Day and provided such payment is received by such date and such time, then, save in respect of repayment of the Indebtedness at the Maturity Date where interest shall be charged for extensions to the next succeeding Business Day, interest shall not be charged for such extension.

ARTICLE 4 - CRIMINAL RATE OF INTEREST

- 4.1 Notwithstanding any other provisions of this Charge, in no event shall the aggregate “interest” (as defined in Section 347 of the Criminal Code, (Canada), as the same shall be amended, replaced or re-enacted from time to time) payable to the Lender under this Charge exceed the effective annual rate of interest on the “credit advances” (as defined in that section) under this Charge lawfully permitted under that section and, if any payment, collection or demand pursuant to this Charge 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 Lender and the Borrower and the amount of such payment or collection in excess of that lawfully permitted shall be refunded by the Lender to the Borrower.

ARTICLE 5 - INTEREST ACT (CANADA)

- 5.1 For the purposes of this Charge, whenever interest is payable or stated not on the basis of a yearly rate, such rate of interest may be determined by multiplying the Applicable Rate by a fraction the numerator of which is the actual number of days in the calendar year in which the same is to be ascertained and the denominator of which is the number of days in the period for which such rate is determined to be payable.
- 5.2 All calculations of interest or fees under this Charge are to be made on the basis of the stated rates set out herein and not on any basis which gives effect to the principle of deemed re-investment.

ARTICLE 6 - PREPAYMENT

- 6.1 Subject to prepayment provisions provided for in the Commitment, if any, or early maturity by reason of the acceleration of the repayment of the Indebtedness at the option of the Lender upon the occurrence of an Event of Default, the Borrower shall not be entitled to prepay all or any portion of the Principal under this Charge prior to the Maturity Date.

ARTICLE 7 - NO OBLIGATION TO ADVANCE

- 7.1 The Borrower acknowledges and agrees that the Lender is not bound to make any advance of any of the Principal Sum or any unadvanced portion thereof by reason of the registration of this Charge in any place or registry office or the advance of any part of the said Principal Sum, it being acknowledged by the Borrower that any advance hereunder is subject, inter alia, to: (i) the representations and warranties contained herein being true and correct as of the date of any advance of the Loan; (ii) no default having occurred hereunder, under any of the Security or under the Commitment; and (iii) the conditions precedent contained in the Commitment having been satisfied.
- 7.2 In the event this Charge is registered and either no advance whatsoever is made hereunder by the Lender or the Borrower's ability to draw down funds is terminated by the Lender before any funds are advanced, the Lender will, at the expense of the Borrower and upon payment of all monies, costs, fees and disbursements then due to the Lender, promptly upon request by the Borrower execute and deliver to the Borrower, or any agent thereof, registrable discharges of this Charge and of the Security, for use in every registry office where they or notices thereof have been recorded or filed; provided that the Borrower acknowledges that this Section 7.2 shall be of no effect once any advance of the funds is made hereunder by the Lender.

ARTICLE 8 - REPRESENTATIONS AND WARRANTIES

- 8.1 The Borrower represents and warrants in favour of the Lender, acknowledging that the Lender is relying on such representations and warranties in extending the Loan:
- (a) The Borrower is a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and has all necessary corporate power and authority to enter into this Charge and the Security and to perform or cause to be performed its obligations contained herein and therein, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on;
 - (b) There are no provisions in the articles or bylaws of the Borrower or any unanimous shareholders agreement of or with respect to the Borrower or to which the Borrower is a party which restrict, limit or regulate in any way the powers of the Borrower to borrow on credit or to issue, sell or pledge any of the property or assets now or hereafter owned by it to secure its debt obligations, save and except any provisions which have been complied with. No steps or proceedings have been taken or are pending to amend or supersede the articles or bylaws of the Borrower in a manner which would impair or limit the Borrower's ability to perform its obligations hereunder or under the Security;
 - (c) The Borrower has taken all necessary corporate action to authorize the execution and delivery of this Charge and the Security, and performance of the provisions of each in accordance with its terms;
 - (d) The authorization, creation, execution or delivery of this Charge or the Security or the Borrower's performance of its obligations hereunder or thereunder does not require any approval or consent of any Governmental Authority having jurisdiction nor will any such action be in conflict with or contravene any of the Borrower's articles, bylaws, unanimous shareholders agreement, if any, or resolutions of directors or shareholders, or the provisions of any indenture, instrument, agreement or undertaking to which the Borrower is a party or by which it or its properties or assets are bound, or result in the creation, imposition or crystallization of any hypothec, title retention, charge, pledge, lien, encumbrance or security interest of any kind upon any of its property or assets subject to the Charge or security interest created thereby or by the Security other than in accordance with the provisions of this Charge and the Security. This Charge and the Security when executed and delivered will constitute valid and legally binding obligations of the Borrower, enforceable against it in accordance with its terms;
 - (e) There is not now pending or, to the best of the Borrower's knowledge or belief after due inquiry, threatened against the Borrower, any litigation, action, suit, investigation or other proceeding by or before any court, tribunal or other competent Governmental Authority which would materially adversely affect the present or prospective ability of the Borrower to perform its obligations under this Charge or the Security, as the case may be, or which calls into question the validity or enforceability of this Charge or the Security;

- (f) No Event of Insolvency has occurred or is threatened or pending;
- (g) The Borrower is the registered owner of and has a good and marketable title in fee simple to the Lands, and, unless otherwise disclosed to the Lender in writing, is the legal and beneficial owner of the Charged Premises, free and clear of all security interests, charges, liens and other encumbrances whatsoever except for the Permitted Encumbrances, which Permitted Encumbrances are in good standing;
- (h) The Borrower has the right to charge the Charged Premises to the Lender;
- (i) The Borrower has not received any notice of or threat of a lien under the *Construction Act* (Ontario), as amended, against the Charged Premises nor has any lien been registered against the Charged Premises in respect of labour, materials or services furnished with respect to any improvement thereon which has not been discharged;
- (j) Unless expressly stipulated in the Commitment, the Charge is not being given with the intention to use the proceeds thereof to finance any alterations, additions or repairs to, or any construction, erection, demolition or installation on the Charged Premises or any structure thereon;
- (k) Unless expressly stipulated in the Commitment, the Charge is not a building mortgage, within the meaning of the *Construction Act* (Ontario), as amended, and the funds to be advanced by the Lender are not being used to repay a building mortgage;
- (l) There has been no improvement or materials supplied on or in respect of the Charged Premises in respect of which a construction lien could arise and which has not been completed or abandoned within the sixty (60) days immediately preceding the date hereof;
- (m) Except as disclosed to the Lender in writing, the existing and proposed uses, the operation of the Charged Premises and the business conducted thereon comply and, to the best of the Borrower's knowledge and belief, have (including all prior uses) at all times complied with all Applicable Laws, including all Environmental Laws, and the Borrower is not in violation of, and does not violate, by virtue of the ownership, use, maintenance or operation of the Charged Premises or the conduct of any business related thereto, any Applicable Laws, including all Environmental Laws;
- (n) The Charged Premises may be charged by the Borrower in compliance with the *Planning Act* (Ontario), and no severance of any adjoining lands owned by the Borrower is required;
- (o) All financial statements and data delivered or presented to the Lender by the Borrower up to and including the date hereof are true and correct in all material respects as at the dates and for the periods indicated and have been prepared in accordance with Canadian generally accepted accounting principles and disclose to the Lender all financial information relevant to the Lender in respect of making the Loan and there is no information, financial or otherwise, which has not been disclosed to the Lender which would be material to the Lender in its decision to advance the Loan, and, without limiting the foregoing, neither the Guarantor(s) nor the Borrower has failed to disclose to the Lender any facts or information material to the making of the Loan;
- (p) No Event of Default, or an event which with the giving of notice, lapse of time or otherwise, would constitute an Event of Default exists;
- (q) Each Permitted Encumbrance is in good standing and all obligations and covenants required to be met or complied with thereunder on the part of the Borrower have been complied with and, in respect to any other party thereto to the best of the Borrower's knowledge and belief, have been met or complied with;
- (r) All Leases entered into as of the date hereof are valid, subsisting and enforceable leases and are in good standing as of the date hereof without right of set-off or abatement;
- (s) The Borrower is not bound by any indenture, agreement, lease or other instrument, nor is it subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction or any of the Applicable Laws, which materially adversely affects its business operations in respect of the Charged Premises or the performance of its obligations under this Charge or the Security;
- (t) The Borrower has complied with all Applicable Laws in respect of any residential unit located on the Charged Premises, including in respect of any conversion, demolition, rentals charged or filings or applications to be made and there are no outstanding orders, decisions or directives made or pending which are or would be adverse to the Borrower or the Charged Premises in respect of any residential unit located on the Charged Premises;
- (u) If and as applicable, the Borrower is not a non-resident corporation or person of Canada within the meaning of the *Income Tax Act* (Canada);
- (v) If applicable, each partner of the limited partnership of which the Borrower is the general partner is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (w) If applicable, with respect to each partner of the limited partnership of which the Borrower is a general partner that is a Canadian corporation, either (i) the shares of that corporation do not derive their value, directly or indirectly, primarily from foreign property, all within the meaning of the *Income Tax Act* (Canada) or (ii) the corporation is a corporation described in subsection 206(1.1) of the *Income Tax Act* (Canada), as that provision may be amended from time to time;
- (x) The Borrower shall not, without the prior written consent of the Lender, execute or deliver any mortgage, charge, lien or other encumbrance of the Lands intended to rank subordinate to this Charge; and
- (y) The Borrower is not and shall not be during the Term (without the prior written consent of the Lender), a farmer within the meaning of the *Farm Debt Mediation Act* (Canada).

8.2 The representations and warranties set out in this Article 8 shall speak as of the date made, survive the execution and delivery of this Charge and the making of any advance hereunder and continue to be true and accurate during the Term of this Charge, notwithstanding any investigations or examinations which may be made by the Lender or the Lender's solicitors and the Lender shall be deemed to have relied on such representations and warranties in making advances under the Loan.

8.3 The Borrower shall indemnify and save harmless the Lender from and against all losses, damages, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from any omission, inaccuracy or misrepresentation of the Borrower herein relating to or concerning the Charged Premises and with respect to all losses, charges, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from or arising in connection with environmental matters relating to, arising from, in connection with or concerning the Charged Premises, whether referred to or contemplated herein or hereby.

ARTICLE 9 – COVENANTS

9.1 The Borrower covenants with the Lender that upon the occurrence of an Event of Default, the Lender shall have quiet possession of the Charged Premises, free from any encumbrances, save and except for the Permitted Encumbrances.

9.2 The Borrower shall not without the prior written consent of the Lender, which may be withheld in the sole discretion of the Lender permit or suffer to exist any charges, liens, security interests or other encumbrances against the Charged Premises, save and except for the Permitted Encumbrances; and the Borrower shall maintain the Permitted Encumbrances in good standing and provide notice to the Lender forthwith of any default under any of the Permitted Encumbrances.

9.3 The Borrower shall not initiate, permit or suffer to exist any Event of Insolvency, in respect of itself or, to the extent that the Loan, this Charge or the Security is affected by the occurrence of any such event, of any related person or corporation, including without limitation, any parent corporation of the Borrower. The Borrower covenants and agrees (i) to provide two Business Days' notice prior to the occurrence of an Event of Insolvency (an "Insolvency Notice"), and agrees that the receipt of an Insolvency Notice by the Lender shall constitute an immediate Event of Default if the Borrower or any Guarantor(s) is an applicant or takes the benefit of such statute or proceeding or if any of these proceedings otherwise affect the rights or entitlements of the Lender under the Loan, this Charge or the Security or the Lender's ability to enforce this Charge or the Security, and (ii) prior to the commencement of any such proceedings, to deliver to the Lender copies of all relevant filing materials, including, without limitation, copies of draft court orders, plans of compromise, proposals and notices of intention, it being intended by the Borrower that the Lender be entitled during the period after receipt of an Insolvency Notice to enforce this Charge and the Security for the purpose of, among other things, taking possession and control of the Charged Premises, in the Lender's sole discretion.

9.4 The Borrower shall not, without the prior written consent of the Lender, initiate, join in or consent to any change to or modification in any private restrictive covenant, municipal or other governmental law, rule or regulation, by-law, or any other public or private restrictions, limiting or defining the uses which may be made of the Charged Premises, or any part thereof and which could adversely affect the Charge, the Security, the day- to-day operations of the Charged Premises, the income derived therefrom or the value of the Charged Premises.

9.5 The Borrower shall comply in all respects with all covenants, deed restrictions, easements and Applicable Laws which pertain to the ownership, use or operation of the Charged Premises or the performance by the Borrower of its obligations under this Charge and shall ensure that all representations and warranties contained herein continue to be true and accurate at all times during the Term.

9.6 The Borrower shall permit the Lender, or cause to be made available to the Lender, access to all records, both written and electronic, pertaining to the Charged Premises and upon request shall make copies of such information for the Lender. For such purposes, the Lender shall have reasonable access to the Charged Premises or such other place as such records are kept upon reasonable prior written notice to the Borrower.

9.7 The Borrower shall fulfil on a timely basis any undertaking provided by it to the Lender at the time of the advance of the Loan.

9.8 The Borrower covenants to ensure that this Charge will remain a valid and enforceable mortgage of the Charged Premises with first priority subject only to the Permitted Encumbrances and the Borrower will fully and effectively maintain and keep the Security as valid and effective security during the currency hereof.

9.9 The Borrower shall promptly give written notice to the Lender of any litigation, proceeding or dispute affecting the Charged Premises if the result thereof might have a material adverse effect on the Charged Premises, the financial condition or operations of the Borrower or any Guarantor(s) or its ability to perform its obligations hereunder and shall, from time to time, furnish to the Lender all reasonable information requested by the Lender concerning the status of such litigation, proceeding or dispute and shall in all such cases diligently and in good faith proceed to defend, settle or otherwise deal with any such litigation, proceeding or dispute in a commercially reasonable manner.

9.10 The Borrower shall promptly give notice to the Lender upon becoming aware of and provide particulars in respect of:

- (a) An Event of Default or any event which with the passage of time or giving of notice would constitute an Event of Default;
- (b) Any default under a Lease;
- (c) Details of material renovations to the Charged Premises when the Borrower intends to or reasonably anticipates that it will renovate the Charged Premises;
- (d) Any default under any Permitted Encumbrance;
- (e) Any notice of expropriation, action or proceeding materially affecting the Charged Premises or the violation of any Applicable Law which may have a material adverse affect on the Charged Premises; and

- (f) Any matter which may have a material adverse affect upon the Borrower or the Guarantor(s) or Charged Premises or the operations conducted thereon, or the security constituted by this Charge and the Security.

9.11 The Borrower covenants at all times:

- (a) to perform or cause to be performed all of the covenants and obligations on the part of lessor contained in the Leases (except the extent the same have been expressly waived by the other parties to such Leases and except in circumstances where the tenant is in default and the Borrower is acting prudently and in the best interests of the Charged Premises);
- (b) to maintain or cause to be maintained the Lease Rights in good standing and not to do, permit to be done or omit to do anything which may impair the enforceability of the Lease Rights;
- (c) save for the deposits for the first and last month rentals, not to accept Rents more than one (1) month in advance of the dates when Rents fall due;
- (d) not to enter into Leases which are not at arm's length unless the terms thereof are at least equal to current market terms;
- (e) not to enter into Lease which do not constitute Major Tenant Leases (each of which must be approved by the Lender as hereafter provided) unless such leases are substantially on Lender pre-approved standard lease forms and not to enter into Major Tenant Leases without the Lender's approval as hereafter provided;
- (f) not to or to permit termination, alteration or amendment or waiver of rights or remedies or otherwise take any action with respect to any of the Leases which in the aggregate would create a material reduction in Rents from those payable as of the date hereof, without the prior approval of the Lender;
- (g) not to further assign, mortgage or pledge or permit the assignment, mortgaging or pledging of any Lease or the rents thereunder, save for assignments by tenants of their tenant's interest in Leases, to the extent permitted under such Leases; and
- (h) to ensure in respect of all Leases now or hereafter entered into that (i) the tenant thereunder, at the option of the Lender, subordinates its lease to the security of this Charge and attorns to and becomes a tenant of the Lender or any purchaser from the Lender in the event of the exercise of a sale remedy by the Lender, for the unexpired residue of the term and upon the terms and conditions of said lease, provided the Lender will agree to enter into non-disturbance agreements on commercially reasonable terms with all such tenants; and (ii) at the request of the Lender, provide as further security specific assignments of Leases hereinafter entered into.

9.12 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, enter into any agreement or document in respect of the Charged Premises (except for leases in accordance with the terms hereof and the Security) which is material to the ownership, value, operation, or use of the Charged Premises unless the same is in the ordinary course of business.

9.13 With respect to any Major Tenant Lease, the Borrower shall not and shall not permit without the prior written consent of the Lender:

- (a) cancel or modify any Major Tenant Lease, release the obligations of any lessee thereunder, accept a surrender of a Major Tenant Lease, accept any prepayment of Rents thereunder or consent to any sublet or assignment by the lessee under any Major Tenant lease (except where the provisions of such Major Tenant Lease require the landlord to do so); or
- (b) enter into any Major Tenant Lease unless the terms, form and substance of such Major Lease is satisfactory to the Lender, acting reasonably; or
- (c) to further assign, mortgage, pledge, hypothecate or otherwise deal with any Major Tenant Lease.

9.14 The Borrower shall do or cause to be done all things necessary to keep in full force and effect all rights, franchises, licences and qualifications necessary or incidental to perform or cause to be performed its obligations contained in this Charge and the Security and to carry on its business pertaining thereto as presently carried on.

9.15 The Borrower shall from time to time to pay or cause to be paid all amounts related to taxes, wages, workers compensation obligations, government royalties, and any other similar amounts relating to the business conducted on the Charged Premises if non-payment thereof may result in an encumbrance (other than a Permitted Encumbrance) against the Charged Premises or any of the assets secured in favour of the Lender by the Security.

9.16 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, cause or permit any change in the status of the Borrower that results in the representations contained in Subparagraph 8.1(u) or Subparagraph 8.1(v) ceasing to be accurate in all material respects.

9.17 The Borrower covenants, subject to the rights of reorganization herein contained, to continue as a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and maintain all necessary corporate power and authority to perform or cause to be performed its obligations contained herein and in the Security, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on.

9.18 The Borrower covenants that, unless in respect of a reorganization of the Borrower permitted under Paragraph 18.1(h) or with the consent of the Lender as provided therein, no steps or proceedings will be taken to amend or supersede the articles or bylaws of the Borrower and in any event no steps or proceedings, including any reorganization of the Borrower, will be taken in a manner which would impair or limit the Borrower's or its successor's ability to perform its obligations hereunder or under the Security.

- 9.19 The Borrower will not enter into any indenture, agreement, lease or other instrument, nor become subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction, which materially adversely affects the Charged Premises.

ARTICLE 10 - TAXES/LIENS

10.1

- (a) The Borrower shall pay or cause to be paid, all Taxes together with such other amounts, the failure to pay which would give rise to a lien against the Charged Premises, as and when the same shall fall due and payable (collectively, the "Bills").
- (b) With respect to Taxes at the option of the Lender, the Borrower shall pay to the Lender in equal monthly instalments on the first day of each month in each calendar year during the Term, commencing on the first day of the month next following the Interest Adjustment Date, one-twelfth (1/12) of the annual Taxes (or such amount as may be required in order to pay the Taxes as they become due) as reasonably estimated by the Lender; said payments of Taxes shall be paid to the Lender in addition to the instalments of principal and/or interest due and payable under this Charge, to be deposited upon receipt and held by the Lender in an interest-bearing account for the payment of Taxes, with interest to accrue thereon to the benefit of the Borrower and to be credited in reduction of the amount required to be paid to the Lender for Taxes. The Lender agrees that upon and subject to receipt of monies for Taxes it will remit such monies to the proper municipal offices in payment of Taxes as required from time to time; provided that if any Event of Default shall occur and be continuing, then the Lender, at its sole option, may apply all or any part of any funds held in such account to any amount due hereunder, whether principal, interest or otherwise. The Borrower shall also pay, or cause to be paid, to the Lender before the due date for the payment of Taxes (or next periodic instalment date therefor, as the case may be) any sums in addition to the aforesaid monthly instalments which may be required in order that out of such sums held in trust or escrow by the Lender and such additional sums, the Lender may pay the whole amount of Taxes assessed thereto, on the due date for payment thereof. Notwithstanding the foregoing provisions of this Paragraph 10.1(b), the Borrower acknowledges that the Lender is under no obligation to collect from the Borrower monthly instalments on account of Taxes. In addition, the Borrower acknowledges its obligation to pay all Taxes when due, whether or not the payment of all Taxes are the responsibilities of tenants and whether or not such tenants have remitted the same to the Borrower.
- (c) The Lender may, after written notice being given to the Borrower, pay all unpaid and due Taxes, and any amounts, the failure to pay which would give rise to a lien and any amounts so paid by the Lender shall become part of the Principal hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender with interest at the Applicable Rate until paid.
- (d) If the Charged Premises or any part thereof are sold or forfeited for nonpayment of Taxes while any sum remains unpaid hereunder, the Lender may acquire the title and rights of the purchaser at any sale, or the rights of any other person or corporation becoming entitled on or under any such forfeiture, or the Lender may pay, either in its own name or in the name of the Borrower and on the Borrower's behalf, any and all sums necessary to be paid to redeem such land so sold or forfeited, and to revest such lands in the Borrower, and the Borrower hereby nominates and appoints the Lender as agent to pay such monies on the Borrower's behalf and in the Borrower's name, and any monies so expended by the Lender shall become part of the Principal Sum hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender and until so paid shall bear interest at the Applicable Rate or in the alternative, the Lender may purchase the Charged Premises at any tax sale of the same.
- (e) Notwithstanding anything to the contrary herein contained, the Borrower shall have the right to contest or defend any actions brought to recover, or appeal any judgments recovered against it in respect of any Bills, or other like charges, or any construction or other liens levied or registered against the Charged Premises, by appropriate proceedings diligently conducted in good faith, provided that the Borrower shall have first deposited with the Lender, or otherwise provided to the reasonable satisfaction of the Lender, such security as the Lender acting reasonably may require including, without limitation, security for the payment of such Bills, charges or liens and any costs payable in connection therewith, and further provided that the Lender shall have determined, to its reasonable satisfaction, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall not materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises. Should the Lender at any time thereafter determine, in its reasonable discretion, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises, the Lender may realize upon such security for payment as aforesaid and pay such Bills, charges or liens. Upon termination of such proceedings, the Borrower shall promptly pay or cause to be paid the amount of the Bills, charges or liens and any other costs, fees, interest and penalties as are properly payable upon determination of such proceedings and promptly cause any tax notifications, caveats, liens, certificates of or pertaining litigation or any other form of notice or encumbrance in respect thereof to be promptly discharged from the title to the Charged Premises at the sole expense of the Borrower whereupon all such security deposited or otherwise provided to the Lender and any proceeds from the realization thereof not paid on account of Bills as aforesaid, shall be returned and paid to the Borrower.
- (f) The Borrower agrees to and does hereby indemnify the Lender against all claims, demands, costs, damages and expenses which arise in respect of any default, late payment, omission, act or proceeding by the Borrower, under or in respect of this Section 10.1.
- (g) If the Lender comes into and for as long as it is in possession of the Charged Premises, the Lender, in its sole discretion, shall be entitled to and shall enjoy all the rights of the Borrower set out in Paragraph 10.1(d) hereof, to the exclusion of the Borrower.

ARTICLE 11 – INSURANCE

- 11.1 The Borrower will immediately insure, unless already insured, and during the continuance of the Charge keep insured against loss or damage by fire, in such proportions upon each building as may be required by the Lender, the buildings on the land to the amount of not less than their full insurable value on a replacement cost basis in dollars of lawful money of Canada. Such insurance shall be placed with a company approved by the Lender. Buildings shall include all buildings whether now or hereafter erected on the land, and such insurance shall include not only insurance against loss or damage by fire but also insurance against loss or damage by explosion, tempest, tornado, cyclone, lightning and all other extended perils customarily provided in insurance policies including "all risks" insurance. The covenant to insure shall also include where appropriate or if required by the Lender, boiler, plate glass, rental and public liability insurance in amounts and on terms satisfactory to the Lender. Evidence of continuation of all such insurance having been effected shall be produced to the Lender at least fifteen (15) days before the expiration thereof; otherwise the Lender may provide therefore and charge the premium paid and interest thereon at the rate provided for in the Charge to the Borrower and the same shall be payable forthwith and shall also be a charge upon the land. It is further agreed that the Lender may at any time require any insurance of the buildings to be cancelled and new insurance effected in a company to be named by the Lender and also of his own accord may effect or maintain any insurance herein provided for, and any amount paid by the Lender therefore shall be payable forthwith by the Borrower with interest at the rate provided for in the Charge and shall also be a charge upon the land. Policies of insurance herein required shall provide that loss, if any, shall be payable to the Lender as his interest may appear, subject to the standard form of mortgage clause approved by the Insurance Bureau of Canada which shall be attached to the policy of insurance.
- 11.2 During any construction on the Charged Property, the Borrower shall maintain:
- (i) Builders' all-risk coverage for 100% of the construction cost with loss payable to the Lender by way of an Insurance Bureau of Canada ("IBC") approved mortgage clause. The policy must cover flood, earthquake, building by-laws, delayed opening, must allow for partial occupancy of the premises and provide for interim loss payments during reconstruction;
 - (ii) Wrap-Up Liability coverage in an amount not less than \$10,000,000 per occurrence;
 - (iii) Project performance and completion bonds and insurance, including coverage for labour and material bonds; and
 - (iv) Professional Liability coverage in an amount not less than \$10,000,000.

ARTICLE 12 - ENVIRONMENTAL

- 12.1 The following capitalized terms shall have the following respective meanings:

"Environmental Approvals" means all applicable permits, licences, authorizations, consents, directions or approvals required by Governmental Authorities pursuant to the Environmental Laws with respect to the use, occupation, ownership or operation of the Charged Premises;

"Environmental Laws" means all applicable federal, provincial and municipal laws, by-laws, regulations, executive orders, judgments and protocols, relating in whole or in part, to the environment or its protection, and without restricting the generality of the foregoing, includes without limitation, those laws relating to the manufacturing, processing, use, handling, packaging, labelling, sale, storage, recycling, transportation, treatment, destruction, burial or disposal of Hazardous Substances, employee safety, and the emission, discharge, release, deposit, issuance, spraying, dumping, throwing, pouring, spilling, emptying, placing, leaking, seeping, exhausting or abandonment of Hazardous Substances into the atmosphere, air, surface water, ground water, land surface or subsurface strata and, in each such case, as such Environmental Laws may be amended or supplemented from time to time, and "Environmental Law" means any of them;

"Hazardous Substance" means any pollutant, contaminant, waste, hazardous waste, toxic substance or dangerous good which is defined or identified in or the object of any Environmental Law, the presence of which in the environment is in contravention of any Environmental Law; and

"Inspections" means all inspections, evaluations or tests conducted by the Lender or any agent or consultant thereof for the purpose of determining the environmental condition of the Charged Premises, as the Lender may deem appropriate, acting reasonably.

- 12.2 The Borrower represents and warrants (which representations and warranties shall continue throughout the Term of the Loan) that:
- (a) The condition and use of the Charged Premises is and, to the best of the Borrower's knowledge, any prior use of the same was, in compliance in all material respects with all applicable Environmental Laws;
 - (b) The Charged Premises is not subject to any judicial or administrative proceedings alleging violation of any Environmental Laws and there are no outstanding orders or proceedings against the Charged Premises from a Governmental Authority responsible for protecting the environment alleging the violation of any Environmental Laws;
 - (c) To the knowledge of the Borrower, the Charged Premises is not the subject of any investigation by Governmental Authorities having jurisdiction evaluating whether any remedial action is needed to respond to a contravention of any Environmental Laws; and
 - (d) There is no contingent liability of which the Borrower has knowledge or reasonably should have knowledge in connection with the contravention of any Environmental Laws.

- 12.3 The Borrower covenants with the Lender:

- (a) If not already provided, to provide to the Lender within ninety (90) days of the execution of this Charge, an environmental audit with respect to the Lands, and if an event shall have occurred after the date of this Charge, which

the Lender, acting reasonably, believes may have resulted or may result in material adverse change in the environmental condition of the Charged Premises or any part thereof, to provide such further environmental audits as the Lender may require;

- (b) To provide notice within fifteen (15) days of either having learned of any enactment or promulgation of any Environmental Laws which may result in any material adverse change in the condition, financial or otherwise, of the Charged Premises;
- (c) To defend, indemnify and hold harmless the Lender, its directors, officers, employees, agents and their respective successors and assigns, against any and all loss, cost, expense, claim, liability or alleged liability arising out of any environmental damage occasioned to the Charged Premises contravention of any Environmental Laws;
- (d) To, at all times and at its own expense, conduct its business and maintain the Charged Premises in compliance with all Environmental Laws and Environmental Approvals including causing all tenants of the Charged Premises to comply with the same;
- (e) If the Borrower:
 - (i) receives notice from any Governmental Authority having jurisdiction that violation of any Environmental Law or Environmental Approval has been committed by the Borrower or any tenant with respect to the Charged Premises;
 - (ii) receives notice that any remedial order or other proceeding has been filed against the Borrower or any tenant alleging in respect of the Charged Premises violations of any Environmental Law or requiring the Borrower to take any action in connection with the release of a Hazardous Substance into the environment; or
 - (iii) receives any notice from a Governmental Authority having jurisdiction in respect of the Charged Premises that the Borrower or any tenant may be liable or responsible for costs associated with a nuisance or a response to, or clean up of, a release of a Hazardous Substance into the environment or any damages caused thereby;

to provide to the Lender a copy of such notice within ten (10) days of the Borrower's receipt thereof, and thereafter shall keep the Lender informed in a timely manner of any developments in such matters, and shall provide to the Lender such other information in respect thereto as may be reasonably requested by the Lender from time to time and shall proceed to deal with the same diligently and in good faith in order to bring the Charged Premises into compliance to the extent necessary to comply with Environmental Laws;

- (f) Unless in existence on the Charged Premises on the date of this Charge, not to use, discharge, transport or install in or upon the Charged Premises any material or equipment containing PCBs or permit any tenant of the Charged Premises to do so and, to the extent in existence on the Charged Premises as of the date of this Charge, to maintain the same in compliance with all Environmental Laws;
- (g) To maintain, and to require all occupants of the Charged Premises to maintain in good leak-proof condition all above-ground and underground storage tanks and drums on the Charged Premises;
- (h) Not to install asbestos or permit asbestos to be installed in the Charged Premises. With respect to any asbestos present in the Charged Premises on the date of this Charge, the Borrower shall, at its expense, promptly comply with the requirements of Environmental Laws and Governmental Authorities respecting the use, removal and disposal of asbestos; and
- (i) To obtain or cause its solicitors to obtain copies of all relevant environmental studies or assessments of the Charged Premises which the Borrower or its solicitors or agents have commissioned or which are in the possession or control of the Borrower, as of the date of this Charge and, to the extent any such assessments or studies are required by the Lender from time to time, to promptly provide same to the Lender upon request and hereby authorizes and directs its solicitors, agents and consultants to promptly release same to the Lender.

12.4 Having due regard to the rights of any tenant of the Borrower, the Lender and its employees and agents shall have the right, and are hereby granted permission by the Borrower, to enter the Charged Premises from time to time, and to have access to the Borrowers' relevant documents and records, in order to conduct Inspections, to determine compliance with Environmental Laws as the Lender, acting reasonably, may deem appropriate. Inspections shall be:

- (a) at such times and to such extent as may be reasonable in the circumstances on prior notice to the Borrower if the Lender has reasonable grounds for believing that:
 - (i) there are, contrary to Environmental Laws or Environmental Approvals, Hazardous Substances in or upon the Charged Premises which have not been disclosed to and approved by the Lender and appropriate Government Authorities; or
 - (ii) the Borrower is in breach of any environmental representations in this Charge or its covenants in this Article; or
 - (iii) the Borrower is not in compliance with any Environmental Laws or material Environmental Approvals; and
- (b) at any time without prior notice upon the occurrence of an Event of Default which is continuing.

If the Borrower is found not to be in compliance with the Environmental Laws or Environmental Approvals and such failure to comply becomes an Event of Default that is continuing, the Lender may, at its option (but without any obligation to do so) take such actions as are required, acting reasonably, to bring the Charged Premises into compliance, and the costs thereof shall immediately become due and payable to the Lender by the Borrower and shall be secured by the Security.

- 12.5 The Lender shall not, by virtue of being the chargee under this Charge or the enforcement of its rights contained herein for purposes of the Environmental Laws, be or be deemed to be the owner of, any of the Charged Premises, or to have management, charge, control, occupation or possession of any of the Charged Premises or the businesses of the Borrower, or of any Hazardous Substances located on, upon or within any of the Charged Premises.
- 12.6 The Borrower hereby covenants and agrees to be responsible for, and to indemnify and hold harmless the Lender and each of its officers, directors, employees and agents and their respective successors and assigns (in this Section, collectively referred to as the "Indemnified Parties") from and against all claims, demands, liabilities, losses, costs, damages and expenses (including, without limitation, reasonable legal fees and all costs incurred in the investigation, pursuing of any claim, or in any proceeding with respect to, defense and settlement of any item or matter hereinafter set out) that the Indemnified Parties may incur or suffer, directly or indirectly as a result of or in connection with:
- (a) Any inaccuracy in or breach of the Borrower's representations and warranties relating to the environmental matters contained herein;
 - (b) The presence of any Hazardous Substance on, upon or within the Charged Premises, or the escape, seepage, leakage, spillage, discharge, emission, release, disposal or transportation away from the Charged Premises of any Hazardous Substance, whether or not there is compliance with all applicable Environmental Laws and Environmental Approvals;
 - (c) The imposition of any remedial order affecting the Lands, or any non-compliance with Environmental Laws or Environmental Approvals pertaining to the Charged Premises by any person, including the Borrower, the Lender or any person acting on behalf of the Lender; and
 - (d) Any diminution in the value or any loss on the disposition of the Charged Premises arising directly or indirectly as a result of the presence on the Lands of any Hazardous Substance, or as a result of the imposition of any remedial order or the breach by any person of any Environmental Law or Environmental Approval.

This indemnity shall survive the satisfaction and release of this Charge and the Security and the payment and satisfaction of all indebtedness hereunder. The benefit of this indemnity may be assigned by the Lender to any successor or assign of the Lender and the Borrower hereby consents to any such assignment.

ARTICLE 13 - ASSIGNMENT OF RENTS AND LEASES

- 13.1 As further security for the payment of all monies owing and the performance of all obligations to be performed hereunder, the Borrower does, as and by way of security, hereby sell, assign, transfer and set over unto to the Lender all of the Borrower's right, title and interest, both at law and equity, in and to the Lease Rights, to hold and receive the same unto the Borrower with full power and authority to demand, collect, sue for, recover and receive and give receipts for Rents and enforce payments of the same and enforce performance of the obligations of tenants under the Leases, provided, however, that, subject to the terms of this Charge, the Borrower shall have the full right, so long as no Event of Default has occurred and is continuing, to continue to collect Rents, to take or cause to take all actions as it deems necessary with respect to the Lease Rights, acting as a reasonable lessor.
- 13.2 It is expressly acknowledged and agreed by the Borrower that nothing contained in this Charge shall oblige the Lender to assume or perform any obligation of the Borrower to any third party in respect of or arising out of the assigned Lease Rights. The Lender may, however, after the occurrence of an Event of Default and while such Event of Default continues, at its option, assume or perform any such obligation as the Lender considers necessary or desirable to obtain the benefit of the Lease Rights, free of any set-off, reduction or abatement, and any money expended by the Lender in this regard shall form part of or be deemed to form part of the indebtedness secured by this Charge and shall bear interest at the Applicable Rate.

ARTICLE 14 - MANAGEMENT AND REPAIR

- 14.1 The Borrower shall cause the Charged Premises at all times to be professionally maintained, managed and operated and fully and continuously operational during customary business hours, including all uses ancillary or incidental to its operations, at all times, by competent managers and staff of proper background and training, in a first class manner consistent with the management and operation of other properties which are of size, location, use, class, age and type comparable to the Charged Premises, and the Borrower shall obtain the Lender's prior written approval of any manager and any management contract with any manager which may be entered into by the Borrower for the management of the Charged Premises. In addition to any other rights hereunder of the Lender, the Lender shall have the right, acting reasonably, to replace the manager at the expense of the Borrower in the event the management standards are not maintained as required hereunder and the situation is not remedied within thirty (30) days after written notice from the Lender. The Lender acknowledges and approves, as of the date hereof, of the Borrower or a company controlled by the Borrower acting as manager of the Charged Premises provided that the Charged Premises are managed and maintained in accordance with the provisions hereof.
- 14.2 The Borrower shall promptly repair, maintain, restore, replace, rebuild, keep, make good, finish, add to and put in order, or cause to be so done, the Charged Premises, so that the same shall, at all times, be in good condition and repair and to pay or cause to be paid when due all claims for labour performed and materials furnished therefor. The Borrower shall not commit or suffer any waste of the Charged Premises nor take any action that might invalidate or give cause for cancellation of any insurance maintained in respect of the Charged Premises. No building or other property now or hereafter charged by this Charge shall be removed, or demolished or nor shall the structure of any building be materially altered, redeveloped, retrofitted or renovated, without the prior written consent of the Lender, except that the Borrower shall have the right, without such consent, to remove and dispose of, free from the lien or charge of this Charge, such fixed equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal, and if necessary for the operation of the Charged Premises such equipment shall be replaced with other equipment of a quality comparable to that of the replaced equipment and free from any lien, title retention agreement, conditional sale contract, security agreement or other encumbrance, and by such removal and replacement the Borrower shall be deemed to have subjected such fixed equipment to the lien or charge of this Charge, or, (b) any net cash proceeds received from such disposition shall, at the option of the Lender, be paid over promptly to the Lender to be applied in a manner determined by Lender in its sole discretion toward the payment of

any amounts owing hereunder or secured hereby. The Borrower shall notify the Lender promptly of any material damage to or defects in any of the Improvements, and thereafter forthwith shall make or cause to be made such repairs thereto as are required to correct any such damage or defects and return the Charged Premises to a state of condition and repair equivalent to the state of condition and repair required by the provisions of this Charge.

- 14.3 The Borrower shall comply with, or cause to be complied with, all statutes including without limitation the provisions of the *Construction Act* (Ontario), ordinances and requirements of any Governmental Authority having jurisdiction with respect to the Charged Premises; the Borrower shall complete and pay for, within a reasonable time, any structure at any time in the process of construction on the Charged Premises.
- 14.4 The Borrower shall permit the Lender or its authorized agents at all reasonable times to enter upon the Charged Premises and inspect same, and if such inspection reveals that any repairs or like actions are necessary, the Lender may give notice to the Borrower requiring the Borrower to repair, rebuild or reinstate the same, or take such other like action within a reasonable time. Any failure by the Borrower to comply with such notice shall constitute an Event of Default hereunder and the Lender may repair, rebuild or reinstate the Charged Premises at the cost of the Borrower and charge all sums of money determined by the Lender to be properly paid therefor and interest thereon at the Applicable Rate until paid.

ARTICLE 15 - INCREASED COSTS

- 15.1 In the event that as a result of any application of or any change in or enactment of any applicable law, regulation, treaty or official directive after the date hereof (whether or not having the force of law), or in the interpretation of application thereof by any court or by any governmental or other authority or entity charged with the administration thereof which now or hereafter:
- (a) Subjects the Lender to any tax or changes the basis of taxation, or increases any existing tax, on payments of principal, interest or other amounts payable by the Borrower to the Lender under this Charge (except for taxes on the overall net income of the Lender or capital of the Lender imposed by the Government of Canada or any political subdivision thereof or by the jurisdiction in which the principal or lending office of the Lender is located); or
 - (b) Imposes, modifies or deems applicable any special requirements against assets held by, or deposits in or for the account of or any other acquisition of funds by the Lender or imposes on the Lender a requirement to maintain or allocate capital or additional capital in relation to the Loan; or
 - (c) Imposes on the Lender any other condition with respect to this Charge; or
 - (d) Renders any portion of this Charge illegal or unenforceable;

and the result of any of the foregoing is to increase the cost to the Lender, or reduce the amount of principal, interest or other amount received or receivable by the Lender hereunder or its effective return hereunder in respect of making or maintaining the Loan hereunder or to reduce the payments receivable by the Lender in respect of the Loan by an amount which the Lender deems to be material, the Lender shall promptly give written notice thereof to the Borrower setting out in reasonable detail the facts giving rise to and a summary calculation of such increased costs or reduced payments, and the Borrower shall forthwith pay to the Lender upon receipt of such notice that amount which will compensate the Lender for such additional cost or reduction in income (herein referred to as "Additional Compensation"). Upon the Lender having determined that it is entitled to Additional Compensation in accordance with the provisions of this Section, the Lender shall promptly so notify the Borrower. The Borrower shall forthwith pay to the Lender upon receipt of such notice such Additional Compensation calculated on the date of demand. The Lender shall be entitled to be paid such Additional Compensation from time to time to the extent that the provisions of this Section are then applicable notwithstanding that the Lender has previously been paid any Additional Compensation. The Lender shall endeavour to limit the incidence of any such Additional Compensation, including seeking recovery for the account of the Borrower, by appealing any assessment at the expense of the Borrower upon the Borrower's request.

- 15.2 All payments made by the Borrower to the Lender will be made free and clear of all present and future taxes, withholdings or deductions of whatever nature. If these taxes, withholdings or deductions are required by Applicable Law and are made, the Borrower shall, as a separate and independent obligation, pay to the Lender all additional amounts as shall fully indemnify the Lender from any such taxes, withholding or deduction. Provided, however, that the Borrower shall have no obligation to pay any withholding or like tax which may be exigible, incurred or required as a result of the Lender being a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).
- 15.3 If the result of any law, regulation, treaty or official directive or request or any change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) is such that it is or will become (other than as a result of some positive action of the Lender, including any participation or syndication hereof by the Lender) unlawful for the Lender to make, fund or allow to remain outstanding all or part of the Loan, or to carry out all or any of its other obligations under this Charge and/or the Security or receive interest or any fee at the Applicable Rate, then in such case:
- (a) The Lender may give written notice to the Borrower of such law, regulation, treaty or official directive or request (whether or not having the force of law) or such change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) which such notice shall certify that such law, regulation, treaty, official directive or request is generally applicable to all other borrowers from the Lender with any accommodation similar to that herein provided; and
 - (b) The Borrower shall prepay the Indebtedness on such date and to such extent as the Lender shall certify to be necessary to comply with the relevant law or change described above;

provided, however, that should the Loan become unlawful, the Lender, without prejudice to its rights to require repayment and without any obligation on its part, will consider other means of funding the Loan which would not be unlawful, would allow the Lender to carry out its obligations in respect of the Loan and would enable the Lender to receive interest at the Applicable Rate,

provided always, notwithstanding the foregoing, the Lender is not obligated to provide alternate funding.

ARTICLE 16 - OBTAINING AND MAINTAINING SECURITY

16.1 Regardless of whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Borrower or otherwise and in addition to any other amounts provided for herein or otherwise permitted by Applicable Law to be secured hereby, except as herein otherwise provided, the following are to be secured hereby and shall be a charge on the Charged Premises, together with the interest thereon at the Applicable Rate, and all such monies shall be repayable to the Lender, on demand, except as herein otherwise provided:

- (a) All reasonable and properly chargeable solicitor's, inspector's, valuator's, consultant's, architect's, engineer's, surveyor's and appraiser's fees and out-of-pocket expenses:
 - (i) for drawing and registering this Charge and the Security and financing statements in connection therewith, and attending to advances hereunder;
 - (ii) for examining the Charged Premises and the title thereto up the date hereof;
 - (iii) for making and maintaining this Charge as a registered charge on the Charged Premises and maintaining the Security (including the registration and filing of renewals);
 - (iv) for the preparation of this Charge, the Security and any related documents and in exercising or enforcing or attempting to enforce or advising the Lender in respect of defaults hereunder or in pursuit of any right, power, remedy or purpose hereunder or subsisting at law;
 - (v) reasonable allowance for the time, work and expenses of the Lender or of any agent of the Lender in connection therewith; and
- (b) All reasonable sums which the Lender may from time to time advance, expend, incur or suffer hereunder:
 - (i) for insurance premiums, Bills, Taxes, rates, or in or toward payment of prior liens, charges, encumbrances or claims charged or to be charged against the Charged Premises;
 - (ii) in maintaining, repairing, restoring or completing construction of the Charged Premise;
 - (iii) in inspecting, leasing, managing or improving the Charged Premises as permitted hereunder, including the price or value of any goods of any sort or description supplied to be used on the Charged Premises as permitted hereunder; and
- (c) Without limiting the generality of any of the foregoing, the then current reasonable fee of the Lender and/or its solicitor for the following matters:
 - (i) executing any cessation or discharge of this Charge, notwithstanding that said cessation or discharge may have been prepared by the Borrower;
 - (ii) entering into an agreement to amend the interest rate or any other provision in the Charge;
 - (iii) handling any dishonored cheque;
 - (iv) preparing an amortization schedule showing the principal and interest components of payments due under this Charge;
 - (v) the cost of completing a Phase I & II Environmental Audit and such other environmental audits as the Lender may require in its discretion;
 - (vi) such other administrative matters as the Lender may perform with regards to the Charge or with regards to any collateral security, as permitted by the Commitment;
 - (vii) the fee charged by the Lender's insurance consultant to review the Borrower's policy of insurance for the subject lands including business interruption insurance if required by the Lender; and
 - (viii) the execution and delivery of any consents, postponements, acknowledgments or any other documents that may be required from the Lender, whether from the Borrower and/or any governmental authorities and/or public/private utilities.

16.2 If any action or proceeding be commenced (except an action to foreclose this Charge or to collect the money that is secured hereby) in which the Lender becomes a party or participant by reason of being the holder of this Charge or the indebtedness secured hereby, all sums paid by the Lender for the expense of so becoming a party or participating (including all reasonable and properly chargeable legal costs) shall, on written notice, be paid by the Borrower, together with interest thereon at the Applicable Rate from the dates of payment of such sums by the Lender, and shall be a lien and charge on the Charged Premises, prior to any right or title to, interest in, or claim upon the Charged Premises subordinate to the lien and charge of this Charge, and shall be deemed to be secured by this Charge, and that in any action or proceeding to foreclose this Charge, or to recover or collect the indebtedness secured hereby, provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

ARTICLE 17 - CONDEMNATION AWARDS

17.1 The Borrower shall notify the Lender promptly upon it being aware of any and all awards or payments ("Condemnation

Award(s)”) including interest thereon, and the right to receive the same (save for any portion of any such Condemnation Award(s) paid for remedial purposes and which is actually used for such purpose) which may be made with respect to the Charged Premises, or any part thereof, as a result of:

- (a) Any condemnation, eminent domain, compulsory acquisition, expropriation or like procedures (“Condemnation”), partial or complete, including any sidewalk or lane; or
- (b) The imposition, and enforcement, of any restriction, regulation or condition to meet any building or development guideline for development or restriction of or by any municipality or other competent authority; or
- (c) Any other material injury to or decrease in the value of the Charged Premises by any lawful regulation or any governmental authority having jurisdiction;

(any matter referred to in (a), (b) or (c) above being hereinafter called an “Incident of Expropriation”) to the extent of all amounts which may be secured by this Charge at the date of receipt of any such Condemnation Award(s) by the Borrower. Notwithstanding the occurrence of any Incident of Expropriation, the Borrower shall continue to pay interest at the Applicable Rate on the Principal Sum. The Borrower does hereby charge, assign, set over and transfer to the Lender, any Condemnation Award(s) as security for the repayment of all Indebtedness.

17.2 Any Condemnation Award(s) received by the Lender shall be held by the Lender as part of the security for the Loan subject to application as provided in this Article 17. Pending such application, such amounts received shall be held and invested by the Lender, acting reasonably. If at any time an Event of Default has occurred and is continuing, the Lender may, at its option, apply such amounts in reduction of the amounts owing hereunder.

17.3 Notwithstanding the provisions of Sections 17.1 and 17.2, in the event that any Incident of Expropriation shall occur which, in the reasonable opinion of the Lender, would materially and adversely affect the security of the Charge or any other Security after the application of any Condemnation Award(s) pursuant to Section 17.1 hereof, the Lender may, at its option, declare such Incident of Expropriation to be an Event of Default and be entitled to exercise any and all rights and remedies available to it hereunder at law or in equity.

ARTICLE 18 - EVENTS OF DEFAULT

18.1 The whole of the Principal Sum together with interest thereon at the Applicable Rate, interest on overdue interest and any amounts payable pursuant to Article 6, and all other amounts secured hereby shall, at the option of the Lender, subject to Section 18.2 hereof, become due and payable and all powers conferred on the Lender herein and hereby shall become exercisable, in like manner to all intents and purposes as if the time herein mentioned for payment of such Principal monies had fully come and expired, if specifically provided for in this Charge, or if any of the following events shall occur (the occurrence of any such event together with the expiry of the applicable cure period, if any, and any other occurrence specifically provided for herein as an Event of Default being collectively referred to as an “Event of Default”):

- (a) Upon default in payment of any regularly scheduled instalment of principal and/or interest beyond the date such payment is due and payable; or
- (b) Upon default in payment of the Indebtedness due and owing on the Maturity Date; or
- (c) Upon default in payment of any Indebtedness (other than an instalment of principal and/or interest and upon maturity) due hereunder within five (5) Business Days after written notice thereof is provided by the Lender; or
- (d) Save as otherwise provided for in subparagraphs (a), (b) and (c) hereof or otherwise specifically provided herein, upon any default in the performance of any covenant or obligation of the Borrower hereunder within fifteen (15) days after written notice thereof is provided by the Lender, provided that if such default is curable and the nature of such default is such that the exercise of reasonable diligence of more than fifteen (15) days is required to cure such default, and if such default in the Lender’s reasonable discretion does not jeopardize or adversely effect the security interest of the Lender hereunder or adversely affect the Borrower or its ability to perform its obligations hereunder or under the Security or adversely affect the Charged Premises, the Lender will not, for a further sixty (60) days so long as no other Event of Default has occurred, enforce its remedies in respect of such default while and so long as during such time the Borrower is actively continuing to diligently and in good faith cure such default; or
- (e) If at any time during the Term there is a breach of any representation or warranty contained herein or at any time during the Term if any representation or warranty contained herein is no longer true or accurate or becomes untrue or inaccurate for any reason and provided the same can be rectified, and the same is not rectified within thirty (30) days after written notice thereof is provided by the Lender; or
- (f) Upon the assignment by the Borrower to any other party of the whole or a part of the rents, income or profits arising from the Charged Premises, without the written consent of the Lender; or
- (g) The occurrence of an Event of Insolvency; or
- (h) If without the prior written consent of the Lender, in its sole and absolute discretion:
 - (i) the Borrower transfers, sells, conveys, or otherwise disposes of all or any part of the Charged Premises, or any interest therein (other than by way of Leases), whether legal or beneficial or enters into any transaction or series of transactions where all or any part of the Charged Premises becomes the property of another person, whether through reorganization, amalgamation, merger, consolidation or otherwise, or if there is any change in the legal or beneficial interest, in whole or in part, of the Charged Premises; or
- (i) If, without the prior written consent of the Lender, in its sole and absolute discretion:

- (i) there is any change in the Borrower's corporate control or change in the Borrower's effective control existing as of the date of this Charge; or
- (ii) the Borrower creates, permits or suffers to exist any mortgage, pledge, charge, loan, assignment, hypothecation, security interest or other encumbrance attaching the Charged Premises other than this Charge, the Security and the Permitted Encumbrances; or
- (j) Upon default by or non-compliance of the Borrower or any Guarantor(s), or any others bound by or acknowledging to be bound by the terms of this Charge, with respect to any of the provisions of the Security, this Charge or the Permitted Encumbrances; or
- (k) If the Charged Premises are abandoned; or
- (l) Failure by the Borrower to fulfil, complete or comply with any undertakings delivered by the Borrower to Lender in connection with the Loan in accordance with the terms of such undertakings; or
- (m) Upon any breach, default, non-observance occurring or being alleged, charged or claimed against the Borrower as lessor under any lease or as sublessor under any sublease of the Charged Premises and the Borrower is not diligently proceeding to rectify any such breach, default, non-observance or non-performance or defend any allegations, charges or claims of the same; or
- (n) If this Charge, or any of the Security, shall fail to constitute a legal, valid, binding and enforceable first charge, first assignment or first security interest, each enforceable in accordance with its terms, subject only to Permitted Encumbrances; or
- (o) If in the reasonable opinion of the Lender there occurs an event which has a material adverse effect on the financial condition or operation of the Borrower, the Charged Premises, this Charge, the Security or the ability of the Borrower to pay the Indebtedness or to perform its obligations hereunder or under the Security and which cannot be rectified by the Borrower within a reasonable period of time.

18.2 Save as otherwise specifically provided, an Event of Default hereunder or under any Security shall not have occurred or be deemed to have occurred until the expiration of any applicable notice period, if any, called for in this Charge or in such Security within which the Borrower may remedy such default. In any event, if in the opinion of the Lender, an event has occurred which with the passing of time, the giving of notice or otherwise would constitute an Event of Default and as a result of which the Charged Premises or the property assets and undertaking subject to the Security is materially at risk, the Lender may take such action or exercise such remedies as may be appropriate without notice to the Borrower or the expiry of any cure period.

ARTICLE 19 - REMEDIES

19.1 If an Event of Default has occurred hereunder and is continuing (or if the Lender exercises its rights pursuant to Section 18.2 hereof before the occurrence of an Event of Default), then at any time thereafter, but subject always to the waiver thereof by the Lender, the Lender may:

- (a) Declare the Indebtedness to be immediately due and payable and proceed to exercise any and all rights hereunder or under the Security or any other rights available to it under any other document or instrument or at law or in equity including without limitation, the drawdown of any letter of credit held by the Lender;
- (b) Commence legal action to enforce payment of the Indebtedness or performance of the obligations by the Borrower to the Lender;
- (c) At the expense of the Borrower, when and to such extent as the Lender deems advisable, observe and perform or cause to be observed and performed any covenant, agreement, proviso or stipulation contained herein or in the Security, and the reasonable cost thereof with interest thereon at the Applicable Rate until paid, shall immediately become due from the Borrower to the Lender after demand by the Lender upon the Borrower therefor;
- (d) Pay or discharge any mortgage, encumbrance, lien, adverse claim or charge that may exist or be threatened against the Charged Premises; in any such case, the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
- (e) Send or employ any inspector or agent to inspect and report upon the value, state and condition of the Charged Premises and may employ a lawyer to examine and report upon the title to the same;
- (f) Immediately take possession of all of the Charged Premises or any part or parts thereof by action or otherwise, with power, among other things, to exclude the Borrower, to enforce the Borrower's rights, to preserve and maintain the Charged Premises, to repair, alter or extend the Charged Premises, to lease the Charged Premises, to complete construction and development of the Charged Premises, to operate and manage the Charged Premises and to collect or receive rents, income and profits of all kinds (including taking proceedings in the name of the Borrower for that purpose) and pay therefrom all reasonable expenses and charges of maintaining, preserving, protecting and operating the Charged Premises (payment of which may be necessary to preserve or protect the Charged Premises), and to enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including without limitation, power to advance its own moneys and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof, and all sums advanced or expended shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
- (g) On default of payment for at least fifteen (15) days may, on at least thirty-five (35) days' notice, sell and dispose in the Charged Premises with or without entering into possession of the same and with notice to such persons and in such manner and form and within such terms as provided under Part III of the *Mortgages Act* (Ontario), as amended; and all remedies available may be resorted to and all rights, powers and privileges granted or conferred upon the Lender under

and by virtue of any statute or by this Charge may be exercised and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made in the Charged Premises; and the Lender may sell, transfer and convey any part of the Charged Premises on such terms, including on credit for all or part of the consideration, (provided the Borrower shall not be accountable for any default in respect of the credit), secured by contract or agreement for sale, or charge, or otherwise, as shall appear to the Lender most advantageous and for such prices as can reasonably be obtained therefor in the circumstances; and in the event of sale on credit or part cash and part credit, whether by way of contract for sale or by conveyance or transfer, charge, or otherwise, the Lender is not to be accountable for or charged with any monies until the same shall be actually received in cash or received by a take-back charge; and sales may be made from time to time of parts of the Charged Premises to satisfy interest and leaving the Principal or part thereof to run with interest at the Applicable Rate; and the Lender may make any stipulations as to title or evidences or commencement of title or otherwise as the Lender shall deem proper and may buy or rescind or vary any contract for sale; and on any sale or resale, the Lender shall not be answerable for loss occasioned thereby; and for any of such purposes the Lender may make and execute all arrangements and assurances that the Lender shall deem advisable or necessary;

- (h) With respect to the Leases:
- (i) to demand, collect and receive the Rents or any part thereof and to give acquittances therefor, and to take from time to time, in the name of the Borrower, any proceeding which may be, in the opinion of the Lender or its counsel, expedient for the purpose of collecting the Rents or for securing the payment thereof or for enforcing any of the Borrower's rights under the Leases;
 - (ii) to compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rent and any settlement arrived at shall be binding upon the Borrower;
 - (iii) to enter upon the Lands by its officers, agents or employees for the purpose of collecting the Rents; (iv) to receive, enjoy or otherwise avail itself of the Lease Rights; and
 - (v) on behalf of the Borrower to alter, modify, amend or change the terms of Leases; to terminate Leases, to enter into new Leases; to give consents, concessions or waivers of any rights or provisions of Leases; to accept surrenders of Leases; to give consents to assignment of or subletting under Leases;
- (i) With or without taking possession of all or any part of the Charged Premises, sell, lease or otherwise dispose of the whole or any part of the Charged Premises, as agent for the Borrower and not the Lender, and in exercising the foregoing power, the Lender may, in its absolute discretion:
- (i) sell, lease or otherwise dispose of the whole or any part of the Charged Premises by public auction, public tender with notice, or by private contract (in the name of or on behalf of the Borrower) or otherwise, with such notice, advertisement or other formality as is required by law;
 - (ii) make and deliver to the purchaser good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale once effected shall be a perpetual bar, both at law and in equity, to the Borrower and all those claiming an interest in the Charged Premises by, from, through or under the Borrower making any claim against the purchaser of the Charged Premises;
 - (iii) grant, rescind, vary or complete any contract for sale, lease or options to purchase or lease, or rights of first refusal to purchase or lease the whole or any part of the Charged Premises, for cash or for credit, with or without security being given therefor, and on terms as shall appear to be most advantageous to the Lender (including a term that a commission be payable to the Lender or a related corporation in respect thereof) and if a sale is on credit, the Lender shall not be accountable for any moneys until actually received;
 - (iv) make any stipulation as to title or conveyance or commencement of title;
 - (v) re-sell or re-lease the Charged Premises or any part thereof without being answerable for any loss occasioned thereby; and
 - (vi) make any arrangements or compromises which the Lender shall think expedient in the interest of the Lender and to assent to any modification of this Charge, and to exchange any part or parts of the Charged Premises for any other property suitable for the purposes of the Lender on such terms as the Lender considers expedient, either with or without payment of money for equality or exchange or otherwise;
- (j) Take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (k) To borrow or raise money on the security of the Charged Premises or any part thereof in priority to this Charge or otherwise, for the purpose of the maintenance, preservation or protection of the Charged Premises or any part thereof or for carrying on all or any part of the business of the Borrower relating to the Charged Premises;
- (l) Take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term as used in this Charge includes a manager and a receiver and manager, and hereafter, the "Receiver") of all or any part of the Charged Premises;
- (m) By instrument in writing appoint, with or without taking possession, any person to be a Receiver of the Charged Premises or of any part thereof and may remove any Receiver so appointed and appoint another in his stead, with all fees and costs related thereto being the Borrower's obligations; and the following shall apply in respect of any such Receiver so appointed:
- (i) the Lender may from time to time fix the remuneration of the Receiver who shall be entitled to deduct that

same out of the revenue from the Charged Premises or the proceeds thereof;

- (ii) the Receiver shall, to the fullest extent permitted by law, be deemed the agent or attorney of the Borrower for all purposes and the Lender shall not be in any way responsible for any actions other than as caused by gross negligence, willful misconduct or fraud, of any Receiver, and the Borrower hereby agrees to indemnify and save harmless the Lender from and against any and all claims, demands, actions, costs, damages, expenses or payments which the Lender may hereafter suffer, incur or be required to pay as a result, in whole or in part, of any action taken by the Receiver or any failure of the Receiver to do any act or thing other than as are caused by gross negligence, willful misconduct or fraud;
 - (iii) the appointment of the 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 the Receiver or the removal of the 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 Lands or any part thereof;
 - (iv) the Receiver may exercise or pursue any other remedy or proceeding which the Lender is entitled as the holder of the Charge authorized or permitted hereby or by law or in equity in order to enforce the security constituted by this Charge;
 - (v) and for the purposes above, the Borrower hereby irrevocably empowers the Receiver so appointed as its attorney to execute deeds, transfers, leases, contracts, agreements or other documents on its behalf and in its place (and the same shall bind the Borrower and have the same effect as if such deeds were executed by the Borrower) and to affix the Borrower's seal, if necessary, or a duplicate thereof to any of the same. On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds as part of the Secured Property; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt; and
 - (vi) save as to claims for accounting under paragraph (o) below, the Borrower hereby releases and discharges the Lender and the Receiver from every claim of every nature, whether resulting in damages or not, which may arise or be caused to the Borrower by reason or as a result of anything done by the Lender or any successor or assign claiming through or under the Lender or the Receiver under the provisions of this paragraph unless such claim be the direct result of dishonesty or gross neglect;
- (n) The Lender may at any time and from time to time terminate any receivership by notice in writing to the Borrower and to the Receiver;
- (o) The Receiver shall account for all monies received in respect of the Charged Premises or any part thereof, and shall pay, out of such monies received, subject to the further direction of the Lender in its discretion, the following in the order specified:
- (i) the Receiver's remuneration;
 - (ii) all payments reasonably made or incurred by the Receiver in connection with its receivership;
 - (iii) all payments of interest, Principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Charge, and all Bills, Taxes, insurance premiums and every other proper expenditure reasonably made or incurred by the Receiver in respect to the Charged Premises or any part thereof; and
 - (iv) all payments to the Lender of all interest due or falling due hereunder and the balance to be applied upon Principal due and payable and secured hereby;

and thereafter any surplus remaining in the hands of the Receiver after payments made as aforesaid shall be accountable to the Borrower or other persons entitled thereto; and

- (p) On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds thereof as security for the Indebtedness; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt.

ARTICLE 20 - DEFAULT UNDER SECURITY, PARAMOUNTCY DISCHARGE AND RENEWAL

- 20.1 Payments of principal and/or interest made under and pursuant to the terms of the Security shall constitute payment hereunder and vice versa and default in the payment of principal and/or interest under the Security shall constitute default hereunder and vice versa. Default in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained in the Security shall entitle the Lender to exercise all or any of the rights or remedies provided herein and the occurrence of and Event of Default hereunder or in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained herein shall entitle the Lender to exercise all or any of the rights or remedies provided in the Security. The occurrence of an Event of Default hereunder shall constitute an Event of Default under the Security and vice versa.

- 20.2 The cancellation of or any other dealing with any Security (other than foreclosure thereof) shall not release or affect this Charge, and the taking of this Charge, or the cancellation of or any other dealing with, or proceeding under (other than foreclosure hereunder), this Charge, shall not release or affect any Security:
- (a) The Lender may at any time and from time to time release any part or parts of the Charged Premises or any other Security or any surety for payment of all or any part of the monies hereby secured or may release the Borrower or any other person from any covenant or other liability to pay the Principal Sum and interest and all other monies secured hereby, or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any monies except those actually received by the Lender, and without thereby releasing any other part of the Charged Premises, or any other Security or covenants herein contained, it being especially agreed that notwithstanding any such release, the Charged Premises, the Security and the covenants remaining unreleased shall stand charged with the whole of the monies hereby secured;
 - (b) In the event that the monies advanced hereunder are applied to payment of any charge or encumbrance, the Lender shall be subrogated to all the rights of and stand in the position of and be entitled to all the equities of the party or parties so paid whether such charge or encumbrance has or has not been discharged; and the decision of the Lender as to the validity or amount of any advance or disbursement made under this Charge or of any claims so paid, shall be final and binding on the Borrower; and
 - (c) The Lender shall not be charged with any monies receivable or collectible out of the Charged Premises or otherwise, except those actually received by or on behalf of the Lender and all revenue of the Charged Premises received or collected by the Lender from any source other than payment by the Borrower may, at the option of the Lender, be retained in a separate account to be used in, maintaining, insuring or improving the Charged Premises to the extent required for such purpose, in the opinion of the Lender, acting reasonably, or in payment of Taxes or other liens, charges or encumbrances against the Charged Premises, or applied in reduction of the amounts owing hereunder.
- 20.3 Subject to Section 6.1 hereof, upon payment of all amounts secured by this Charge, the Borrower shall be entitled to receive and the Lender shall provide a discharge of this Charge and the Security within a reasonable period of time after the request therefor. The Lender shall have a reasonable time after such payment within which to prepare and execute such discharge and all reasonable legal and other expenses for the preparation, execution and registration of such discharge and/or documents, as the case may be, shall be borne by the Borrower.
- 20.4 All payments made pursuant to Section 20.3 shall be made to and received by the Lender prior to 1:00 p.m. on the date due or the next succeeding Business Day in the event the date due is not a Business Day; provided such extension of time shall be included for the purposes of computation of interest.

ARTICLE 21 - NO MERGER OR WAIVER OF LENDER'S RIGHTS

- 21.1 It is further understood and agreed that this Charge and the Security shall stand as a continuing security for repayment of the Loan, including, all advances made thereunder together with all interest, damages, costs, charges and expenses which may become due and payable to the Lender in respect of or in connection with the Loan or any portion thereof, notwithstanding any fluctuation or change in the amount, nature or form of the Loan or in the obligations now or hereafter representing the Loan or any portion thereof or in the names of the obligors or any of them.
- 21.2 The rights of the Lender arising under this Charge shall be separate, distinct and cumulative and, except as expressly provided herein, none of them shall be in exclusion of the other and no act of the Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.
- 21.3 The giving and taking of this Charge shall in no way merge, waive, prejudice, suspend or affect any of the rights or remedies of the Lender under any Security which may be given or which may have been or may hereafter be given in respect of the Principal Sum hereof, interest and other monies secured by this Charge, or any part thereof, or under the Security and all rights and remedies which the Lender now has or may hereafter have against any one or more persons, are hereby preserved.
- 21.4 The taking of a judgment or judgments under any of the covenants or obligations herein or under any Security shall not operate as a merger of the covenants of the Borrower or affect the Lender's right to interest at the Applicable Rate on any monies due or owing to the Lender during the continuance of this Charge, under any of the covenants herein contained or on any judgment to be recovered thereon.
- 21.5 The covenant of the Borrower to pay interest shall not merge in any judgment in respect of any covenant or obligation of the Borrower under this Charge or any Security and such judgment shall bear interest at the Applicable Rate until such judgment and all interest thereon have been paid in full.
- 21.6 Any waiver by the Lender of any default by the Borrower or any omission on the Lender's part in respect of any default by the Borrower shall not extend to or be taken in any manner whatsoever to affect any subsequent default by the Borrower or the rights resulting therefrom.
- 21.7 No extension of time given by the Lender to the Borrower or anyone claiming under the Borrower, shall in any way affect or prejudice the rights of the Lender against the Borrower or any person liable for payment of the monies hereby secured.

ARTICLE 22 - FINANCIAL DATA

- 22.1 The Borrower shall provide or cause to be provided promptly to the Lender full and complete information about the financial condition and operations of the Charged Premises, including a comprehensive rent roll of all space in the Charged Premises, about the financial condition of the Borrower and any Guarantor(s) and such other information which the Lender may reasonably require from time to time, and the Lender shall have the right to examine the books and records of the Borrower relating to the Charged Premises at reasonable times and upon reasonable prior notice.

- 22.2 Without limiting the foregoing, the Borrower covenants and agrees to provide or cause to be provided to the Lender audited financial statements together with operating statements pertaining to the Charged Premises and such other financial information the Lender may reasonably require, (a) in the case of audited financial statements, within ninety (90) days of the end of each fiscal year of the Borrower (or such other time as may reasonably be required by the Lender), and (b) with respect to operating statements for the Charged Premises, within thirty (30) days of the end of each quarter of each calendar year. The audited financial statements are to be prepared by a nationally recognized firm of chartered accountants and shall include a balance sheet, and a detailed statement of income and expenditures and supporting notes and schedules. The operating statements shall contain a certificate by a senior officer of the Borrower as to the contents and preparation thereof, and shall include detailed statements of income, expenditures results of operation and such other matters relating to the operation of the Charged Premises as the Lender may reasonably require. In the event applicable, the Borrower shall provide the Lender with copies of all proxy statements, reports and information circulars that the Borrower makes available to its shareholders and copies of all regular and periodic reports which the Borrower may file with any securities commission or any other Governmental Authority.
- 22.3 The Borrower shall provide or cause to be provided to the Lender, or as the Lender may direct, a comprehensive list of all current tenants and rentals of space in the Charged Premises during the Term, which list shall disclose, without limitation, the name of each tenant, the duration of its term, renewal options, if any, and the term thereof, the rental being paid, the last date on which rental was paid and whether such tenancy is in good standing. Such list shall contain an endorsement by an officer of the Borrower as to being complete and accurate.
- 22.4 All statements, reports and other documents required to be provided hereunder shall be prepared in a manner acceptable to the Lender, in its reasonable discretion.

ARTICLE 23 - NOTICE

- 23.1 Unless otherwise provided herein, any demand, notice or communication given or required to be given to a party hereunder shall be in writing and shall be personally delivered or given by transmittal by telecopy or facsimile transmission addressed to the respective parties at its address or telecopy or facsimile number set forth below or to such other address or telecopy or facsimile number as such party may designate by notice in writing to the other party hereto:
- (a) If to the Borrower, at the address for service set out in the electronic Charge to which this schedule is attached; and
 - (b) If to the Lender, at the address for service set out in the electronic Charge to which this schedule is attached.

Any demand, notice or communication made by or given by personal delivery shall be conclusively deemed to have been made or given on the day of actual delivery thereof, and, if made or given by telecopy or by facsimile, on the first day other than a Saturday, Sunday or a statutory holiday in Ontario, on which Schedule I banks are open for commercial business in Toronto, Ontario, following the transmittal thereof.

ARTICLE 24 - GENERAL

- 24.1 If any provision of this Charge or the application thereof to any circumstances shall be held to be invalid or unenforceable, it shall be deemed severed herefrom and the remaining provisions of this Charge, or the application thereof to other circumstances, shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law. In particular, and without limiting the generality of the foregoing, to the extent any and all amounts due pursuant to Article 6 hereof may be deemed to be in excess of what is permissible by law, any such excess shall be deemed not to be due under this Charge.
- 24.2 Wherever used in this Charge, unless the context clearly indicates a contrary intent as unless or otherwise specifically provided herein, the word "Borrower" shall mean "Borrower and/or subsequent owner or owners of the Charged Premises", the word "Lender" shall mean "Lender or any subsequent holder or holders of this Charge".
- 24.3 The descriptive headings of the several subparagraphs or paragraphs or sections or articles of this Charge are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.
- 24.4 Wherever the singular number or masculine gender is used in this Charge, the same shall be construed as including the plural and feminine or a body corporate, respectively, and vice versa, where the fact or context so requires; and the successors and assigns of any party executing this Charge are bound by the covenants, agreements stipulations and provisos herein contained. The covenants, agreements stipulations and provisos herein stated shall, except as otherwise limited hereby, be in addition to those granted or implied by statutory law.
- 24.5 This Charge shall be construed and enforceable under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, and the Borrower hereby irrevocably attorns to the non-exclusive jurisdiction of the courts sitting at Toronto, Ontario.
- 24.6 The Borrower shall at all times, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, transfers, assignments, security agreements and assurances as the Lender may reasonably require in order to give effect to the provisions hereof and for the better granting, transferring, assigning, charging, setting over, assuring, confirming or perfecting the Charge and the priority accorded to them by law or under this Charge.
- 24.7 If any of the forms of words contained herein are also contained in Column 1 of Schedule "B" of the Short Forms of Mortgages Act (Ontario) and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column 2 of Schedule "B" of the said Act distinguished by the same number, and this Charge shall be interpreted as if the *Short Forms of Mortgages Act* (Ontario) were still in full force and effect. The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) shall be and are hereby expressly excluded from the terms of this Charge.
- 24.8 This Charge shall, whether or not it secures a current or running account, be a general and continuing security to the Lender for payment of the indebtedness in an amount not exceeding the amount secured by this Charge and performance of the Borrower's

other obligations under the Charge notwithstanding any fluctuation or change in the amount, nature or form of the indebtedness or in the accounts relating thereto or in the bills of exchange, promissory notes and/or other obligations now or later held by the Lender representing all or any part of the indebtedness outstanding at any particular time; and the Charge will not be deemed to have been redeemed or become void as a result of any such event or circumstance.

- 24.9 This Charge is given as collateral security to the Commitment.
- 24.10 Notwithstanding any terms contained in the Commitment to the contrary, in the event of conflict between the Commitment and the terms of this Charge, the provisions of the Commitment shall prevail; provided that any provision herein contained that is not contained in the Commitment and vice versa shall not in and of itself be considered to be inconsistent or in conflict.

ARTICLE 25 – CONDOMINIUM PROVISIONS

- 25.1 The Borrower covenants and agrees that in the event that the security for the within Charge shall be or shall become a condominium unit(s) the following provisions shall apply.
- (i) the Borrower does hereby assign to the Lender all of its rights to vote or consent in the affairs of the Condominium Corporation having jurisdiction over the subject lands and the Lender, may at its option, exercise the right of an owner of a condominium unit to vote or consent in the affairs of the Condominium Corporation in the place and stead of such owner, without in any way consulting the owner as to the manner in which the vote shall be exercised or not exercised, and without incurring any liability to the owner or anyone else because of the manner in which such vote or right to consent in the affairs of the Condominium Corporation was exercised.
 - (ii) the Borrower shall pay promptly, when due, any common expenses, assessments, instalments or payments due to the Condominium Corporation.
 - (iii) the Borrower shall observe and perform the covenants and provisions required to be observed and performed under or pursuant to the provisions of the *Condominium Act* (Ontario), all amendments thereto, and any legislation passed in substitution thereof, and the declaration and by-laws of the Condominium Corporation and any amendments thereto.
 - (iv) Where the Borrower defaults in the Borrower's obligation to contribute to the common expenses assessed or levied by the Condominium Corporation, or any authorized agent on its behalf, or any assessment, instalment of payment due to the Condominium Corporation, upon breach of any of the foregoing covenants or provisions in this paragraph contained, regardless of any other action or proceeding taken, or to be taken by the Condominium Corporation, the Lender, at its option and without notice to the Borrower, may deem such default to be a default under the terms of this Charge and proceed to exercise its rights therein and the Lender shall be entitled at its option to pay all common expense amounts as they come due and these amounts so paid together with legal fees shall form part of the Indebtedness.

ARTICLE 26 – CONSTRUCTION LOAN PROVISIONS

In the event that any of the monies advanced or to be advanced under this Charge are intended to finance any improvement to the Charged Premises, the parties hereto covenant and agree that the following conditions shall apply:

- 26.1 All construction on the Charged Premises shall be carried out by reputable contractors having experience which is commensurate to nature and size of the project to be constructed, which contractors must be prior approved by the Lender in writing, such approval not to be unreasonably withheld.
- 26.2 The construction of the building and structures located on the Charged Premises have been commenced and shall be continued in a good and workmanlike manner, with all due diligence and in accordance with the plans and specifications delivered to the Lender and to the satisfaction of all governmental and regulatory authorities having jurisdiction.
- 26.3 Provided that should construction of the project on the Charged Premises cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Borrower excepted), for a period of ten (10) consecutive days (Saturdays, Sundays and Statutory holidays excepted), then, at the option of the Lender, this Charge shall immediately become due and payable. In the event that construction does cease, then the Lender shall have the right, at its sole option, to assume complete control of the construction of the said project in such manner and on such terms as it deems advisable. The cost of completion of the said project by the Lender and all expenses incidental thereto shall be added to the principal amount of this Charge, together with a management fee of fifteen percent (15%) of the costs of the construction completed by the Lender. All costs and expenses, as well as the management fee of fifteen percent (15%) added to the principal amount of this Charge shall bear interest at the rate as herein provided for and shall form part of the principal sum herein and the Lender shall have the same rights and remedies to collection of principal and interest hereunder or at law.
- 26.4 At all times there shall be sufficient funds unadvanced under this Charge and retained by the Lender to complete the construction and/or renovation of the project on the Charged Premises and as may be necessary to retain the Lender's priority with respect to any deficiency in the holdbacks required to be retained by the Borrower under the *Construction Act* (Ontario).
- 26.5 This Charge will be advanced in stages as construction upon the Charged Premises proceeds or as the conditions as enumerated by the Commitment are complied with.
- 26.6 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 Lender with respect to the said project and the progress thereof, whose fees and costs shall be for the account of the Borrower 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 and/or renovation to the date of such certificate shall be in accordance with the approved plans and specifications for the said construction 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 Charged Premises. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the building.

- 26.7 The Borrower shall pay to the Lender on each occasion when an inspection of the Charged Premises is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Lender may charge from time to time for each such inspection and the Lender's solicitors shall be paid their reasonable fees and disbursements for each sub-search and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Lender 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.
- 26.8 The Borrower agrees to indemnify and hold the Lender harmless from any and all claims, demands, sums of money, debts, covenants, bonds, accounts, actions, causes of action, rights, obligations and liability of every kind whatsoever which arise out of claims against the property under the *Construction Act* (Ontario) and that any liens for work and/or supplies that are registered against the Borrower's interest in the property will be promptly discharged within seven (7) days from the date of registration of the lien. The Lender may, but is not required to, deal with the lien claimant and pay the lien claim into court pursuant to the provision of the *Construction Act* (Ontario) for the purpose of vacating the lien from title to the property. The Borrower agrees to be liable for all costs, claims, amounts and fees including, without limitation, all legal fees (on a solicitor and his client basis) incurred by the Lender arising from or in connection with the Borrower or the Lender obtaining and registering either a release of the lien or an order vacating the lien.

ARTICLE 27 - ASSIGNMENT AND SALE

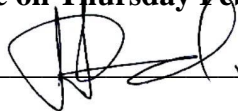
- 27.1 The Loan and all other amounts secured hereby, this Charge, the Security and all documents ancillary or collateral thereto may, in the Lender's sole discretion and without the consent of the Borrower, in whole or in part, be participated, sold, securitized, syndicated or assigned by the Lender from time to time to one or more Persons.
- 27.2 The Lender may disclose to participants, transferees or assignees or to potential participants, transferees or assignees or others in connection with any sale, assignment, participation, securitization, transfer or syndication, such information concerning the Borrower or the Charged Premises as the Lender may consider to be appropriate in connection therewith.
- 27.3 No grant, assignment or transfer pursuant to this Article 27 shall constitute a repayment by the Borrower to the Lender of the Loan or any other amounts owing hereunder and included in such assignment or transfer and the Borrower acknowledges that all obligations under this Charge and the Security with respect to such assignment or transfer will continue and not constitute new obligations.
- 27.4 The Borrower agrees to be bound by and do all things necessary or appropriate to assist and give effect to any transfer, participation, securitization, sale, syndication or assignment, but shall incur no increased liabilities as a result thereof.

Exhibit “11”

This is Exhibit “11” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read 'Paul Mand', is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Properties

PIN 10120 - 0064 LT *Interest/Estate* Fee Simple
Description LT 63 PL 4758 NORTH YORK; S/T NY200193; TORONTO (N YORK) , CITY OF TORONTO
Address 9 CICADA COURT
TORONTO

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 HUSSAIN, SAJJAD
Address for Service 9 Cicada Court
Toronto, ON M3B 1G4

I am at least 18 years of age.

My spouse is a party to this document.

This document is not authorized under Power of Attorney by this party.

Name HUSSAIN, MAHVESH
Address for Service 9 Cicada Court
Toronto, ON M3B 1G4

I am at least 18 years of age.

My spouse is a party to this document.

This document is not authorized under Power of Attorney by this party.

Chargee(s)*Capacity**Share*

Name AFC MORTGAGE ADMINISTRATION INC.
Address for Service 2010 Winston Park Drive, 2nd Floor
Oakville, ON L6H 6P5

Statements

Schedule: See Schedules

Provisions

Principal \$2,010,000.00 *Currency* CDN
Calculation Period
Balance Due Date
Interest Rate Higher of 11.99% and TD Prime Rate + 9.54% per annum
Payments
Interest Adjustment Date
Payment Date On Demand
First Payment Date
Last Payment Date
Standard Charge Terms
Insurance Amount Full insurable value
Guarantor

Signed By

Perry Cheung 1000-120 Adelaide St. W. acting for Signed 2022 10 27
Toronto
M5H 3V1 Chargor(s)

Tel 416-363-2211

Fax 416-363-0645

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

Schneider Ruggiero Spencer Milburn LLP 1000-120 Adelaide St. W. 2022 10 27
Toronto
M5H 3V1

Tel 416-363-2211
Fax 416-363-0645

Fees/Taxes/Payment

Statutory Registration Fee \$66.30
Total Paid \$66.30

File Number

Chargee Client File Number : 44601

SCHEDULE TO THE ATTACHED CHARGE/MORTGAGE

RECITALS

The Lender has agreed to make a loan in favour of the Borrower upon the terms and conditions more particularly contained herein.

The Borrower is the registered owner of the lands and premises described in the electronic Charge to which this schedule is attached.

This Charge is given by the Borrower to the Lender as continuing security for the repayment by the Borrower to the Lender of such loan and the performance by the Borrower of its obligations as more particularly described herein.

ARTICLE 1 - DEFINITIONS

1.1 For the purposes of this Charge the following definitions will apply:

“Applicable Laws” means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all then current laws, rules, statutes, regulations, treaties, orders, judgments and decrees and all official directives, rules, guidelines, orders, policies, decisions and other requirements of any Governmental Authority (whether or not having the force of law) (collectively, the “Law”) relating or applicable to such Person, property, transaction, event or other matter and shall also include any interpretation of the Law or any part of the Law by any Person having jurisdiction over it or charged with its administration or interpretation;

“Applicable Rate” means the interest rate set out in the electronic Charge to which this schedule is attached or, in the alternative, the interest rate set out in the Commitment;

“Bills” has the meaning ascribed thereto in Section 10.1(a);

“Borrower” means the party identified as “Chargor” set out in the electronic Charge to which this schedule is attached and its successors and assigns;

“Business Day” means a day on which the Lender is open for business but specifically excluding Saturdays, Sundays or statutory holidays pursuant to the laws of Canada or the Province of Ontario and “Business Days” means more than one Business Day;

“Charge” means this charge/mortgage of land and all instruments supplemental hereto or in amendment, renewal, extension, restatement, replacement or confirmation hereof;

“Charged Premises” means, collectively, the Lands and the Improvements;

“Commitment” means the letter of commitment between, *inter alios*, the Borrower and the Lender dated October 12, 2022, as the same has been or may be amended, restated, supplemented, renewed, extended or superseded from time to time;

“Environmental Approvals” has the meaning ascribed to it in Section 12.1 hereof;

“Environmental Laws” or “Environmental Law” has the meaning ascribed to them in Section 12.1 hereof;

“Event of Default” has the meaning ascribed thereto in Section 18.1 hereof;

“Event of Insolvency” means the occurrence of any one of the following events:

- (a) If the Borrower, or the Guarantor(s), shall, other than as expressly permitted hereby:
 - (i) be wound up, dissolved or liquidated, whether pursuant to the provisions of the laws of the Province of Ontario or the federal laws of Canada applicable therein, or any other law or otherwise, or becomes subject to the provisions of the *Winding-Up and Restructuring Act* (Canada), or has its existence terminated or has any resolution passed therefor; or
 - (ii) makes a general assignment for the benefit of its creditors or files a proposal or a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada), shall otherwise acknowledge its insolvency or shall be declared or become bankrupt or insolvent; or
 - (iii) proposes a compromise or arrangement or otherwise brings proceedings under or becomes subject to the provisions of the *Companies’ Creditors Arrangement Act* (Canada) or shall file any petition or answer seeking any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution or any other relief for itself under, or in any way takes the benefit of, the *Bankruptcy and Insolvency Act* (Canada) or any other present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors; or
 - (iv) be unable, by reason of insolvency or similar circumstances, to pay its trade creditors generally, within one hundred and twenty (120) days of the rendering of trade accounts or admit its inability to pay its debts or perform its obligations as they become due; or
- (b) If a court of competent jurisdiction shall enter an order, judgment or decree against the Borrower in respect of any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution, winding-up, termination of existence, declaration of bankruptcy or insolvency, or similar relief under any present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors, or the Borrower shall acquiesce in the entry of such order, judgment or decree, unless the Borrower is also proceeding forthwith to diligently and in good faith contest the same and, provided that none of the Charged Premises, the Charge or the Security, the value of the Charged Premises or the operation

thereof, are adversely affected and there is no prejudice to the Lender in the Lender's reasonable opinion, and such order, judgement or decree is vacated or permanently stayed within fifteen (15) days of its making; or

- (c) If any trustee in bankruptcy, receiver, receiver and manager, monitor or liquidator or any other officer with similar powers shall be appointed for the Charged Premises or any portion thereof, or for the Borrower or the Guarantor(s), or for all or any substantial part of its assets or its interest in the Charged Premises with the consent or acquiescence of the Borrower; or
- (d) If, other than as expressly permitted hereby, an encumbrancer or the holder of any lien or charge or any other creditor takes possession of the Charged Premises or the Borrower's interest in the Charged Premises, or any part thereof, or if a distress, execution, garnishment or any similar process is levied or enforced upon or against the same;

"Governmental Authority" means any federal, provincial, territorial or municipal government and any executive, judicial, regulatory or administrative functions of, or pertaining to, government (including, without limitation, all boards, commissions, agencies, departments and ministries);

"Guarantor(s)" means any Person from time to time guaranteeing the Indebtedness;

"Hazardous Substance" has the meaning ascribed to it in Section 12.1 hereof;

"Improvements" means the buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements now located on the Lands and all appurtenances pertaining thereto, together with all other buildings, structures, fixtures and improvements hereafter located from time to time in, on or under the Lands and all personal property, equipment and chattels now or hereafter affixed to the Lands or to such buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements owned by the Borrower;

"Indebtedness" means, collectively, the Principal Sum, any debts, liabilities, obligations, covenants and duties owing by the Borrower to the Lender of any kind or nature, present or future and arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith, whether or not evidenced by any note, guarantee or other instrument, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guarantee, indemnification, or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and in all cases arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith. The term includes, without limitation, all interest, yield maintenance, charges, expenses, fees, including all processing and commitment fees and all legal fees and disbursements (in each case whether or not allowed), and any other sum chargeable to the Borrower under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith;

"Inspections" has the meaning ascribed to it in Section 12.1 hereof;

"Interest Adjustment Date" means the interest adjustment date set by the Lender for the purposes of setting a payment schedule;

"Lands" means the lands and premises described in the electronic Charge to which this schedule is attached, including all tenements, hereditaments and appurtenances belonging or in any way appertaining thereto, and the reversion or reversions, remainder and remainders, rents, issues and profits therefrom, and all the estate, right, title, interest, property claim and demand whatsoever of the Borrower of, in and to the same and of, in and to every part thereof;

"Lease Benefits" means the benefit of all covenants and obligations of tenants, licencees or occupants contained in any of the Leases, including, without limitation, all rights and benefits of any guarantees thereof, the right to demand, sue for, collect, recover and receive all Rents, to enforce the landlord's rights under any Lease and generally any collateral advantage or benefit to be derived from the Leases or any of them;

"Lease Rights" means, collectively, the Leases, the Rents and the Lease Benefits;

"Leases" means all present and future leases, subleases, licences, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Borrower, or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Charged Premises, including all agreements collateral thereto, but which, for the purpose of this definition does not include the Property Lease, and "Lease" means any one of them;

"Lender" means the party identified as "Chargee" in the electronic Charge to which this schedule is attached, and its successors and assigns;

"Loan" means the loan extended or to be extended by the Lender to the Borrower in the principal amount set out in the electronic Charge to which this schedule is attached and secured by this Charge and other security given to the Lender by the Borrower and the Guarantor(s), if any;

"Major Tenant Leases" means any agreements to lease, offers to lease or leases, subleases or occupancy agreements in respect of premises situate on the Charged Premises and which are determined by the Lender in its discretion to be material to the Charged Premises and the extension and maintenance of the Loan;

"Maturity Date" means, subject to early maturity by reason of the occurrence of an Event of Default and the acceleration of repayment at the option of the Lender, the balance due date set out in the electronic Charge to which this schedule is attached;

"Permitted Encumbrances" means encumbrances, liens and interests affecting the Charged Premises which are acceptable to the Lender in its sole discretion;

"Person" means any natural person, sole proprietorship, partnership, syndicate, trust, joint venture, Governmental Authority or any incorporated or unincorporated or entity or association of any nature;

"Principal" or "Principal Sum" means the principal amount of the Loan owing from time to time by the Borrower to the Lender;

“Rents” means all rents, issues and profits now due or to become due under or derived from the Leases;

“Security” means, collectively, the Commitment and all other or additional security, other than this Charge, given by the Borrower or others to the Lender as security for the Loan;

“Taxes” means for each year during the term of this Charge all real property taxes, business taxes, rates, duties, charges, assessments, impositions, taxes, levies and charges for local improvements or otherwise, imposed upon or assessed against the Charged Premises or any part or parts thereof by any Governmental Authority including, without limitation, school boards, and paid or payable by the Borrower or any tenant of the Charged Premises, but shall not include franchise, capital levy or transfer tax or any income, excess profits or revenue tax or any other tax or impost of a personal nature charged or levied upon the Borrower or any tenant of the Charged Premises. If the system of real property taxation or business shall be altered or varied and any new tax shall be levied or imposed on all or any portion of the Charged Premises or the revenues therefrom in substitution for, or in addition to, taxes presently levied or imposed, then any such new tax or levy shall be deemed to be and shall be included herein; and

“Term” means the term of this Charge and being a period which expires on the Maturity Date.

ARTICLE 2 - CHARGING PROVISIONS

- 2.1 Now therefore witnesseth that the Borrower, being the registered owner of a freehold estate in fee simple in possession of the Lands, in consideration of the Loan advanced or to be advanced by the Lender to the Borrower or for its benefit, and as security for the repayment of all Indebtedness and the performance of the obligations of the Borrower hereunder, does hereby grant, mortgage, charge and create a security interest in, to and in favour of the Lender all of its estate, right, title and interest in and to the Charged Premises and covenants and agrees to and with the Lender as hereinafter provided.
- 2.2 The last day of any term reserved by any lease or sublease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Borrower, as lessee, and forming part of the Charged Premises is hereby excepted out of the mortgage, charge, assignment and security interest hereby created or granted or any instrument in implementations hereof, and the same shall be deemed to be a charge by way of sublease. As further security for the payment of the Indebtedness, the Borrower agrees that it will stand possessed of the reversion of such last day of the term and shall hold it in trust for the Lender for the purpose of this Charge and to assign and dispose thereof, without cost or expense to the Lender, in such manner as the Lender shall by notice in writing, for such purpose, direct. Upon any sale, assignment, sublease or other disposition of such leasehold interest or any part thereof, the Lender, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser, assignee, sublessee or other acquirer thereof, shall be entitled by deed or writing to appoint such party or parties as a new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Borrower and to vest the same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation respecting the same.

ARTICLE 3 - REPAYMENT AND INTEREST

- 3.1 The Borrower covenants to pay to or to the order of the Lender at its offices as set out in Article 23 hereof or at such other address as the Lender may from time to time designate in writing, without set-off, compensation or deduction, and without deduction for bank service or any other charges, the Principal Sum together with all other Indebtedness with interest thereon at the Applicable Rate, as well after as before maturity and both before and after default, demand and judgment. Such interest at the Applicable Rate shall be computed from the date of advance to become due and be paid initially on the Interest Adjustment Date and thereafter to be paid in instalments of principal and/or interest as required by the Commitment, commencing on the first payment date set out in the Commitment or in the electronic Charge to which this schedule is attached and continuing each month during the Term, to and including the last payment date set out in the Commitment or the electronic Charge to which this schedule is attached, each such instalment to be in the amount stipulated in the Commitment or in the electronic Charge to which this schedule is attached and the last instalment, in the amount of the then remaining balance of the Principal Sum, other Indebtedness and accrued interest thereon, to be paid on the Maturity Date.
- 3.2 The Borrower acknowledges and agrees that monthly instalments for principal and/or interest, as required by the Commitment, described in Section 3.1 together with all payments for Taxes as set out in Section 10.1 hereof must pass through a single bank account on which the Borrower will have provided post-dated cheques (as required by the Lender) or have pre-authorized the Lender to withdraw the monthly payments under this Charge plus any Taxes payable in respect of the Charged Premises if not otherwise paid by the Borrower. In addition, the Borrower must maintain at all times in such account a minimum balance equal to the sum of the monthly payment of principal, interest and Taxes (as such Taxes become due).
- 3.3 It is hereby agreed that if default should occur in payment of any sum due at the time appointed for payment thereof as herein provided, compound interest at the Applicable Rate shall be payable on the sum in arrears from time to time, as well after as before maturity, and if interest as compounded is not paid within one (1) month from the time of default, a rest shall be made, and compound interest at the Applicable Rate shall be payable on the aggregate then due, as well after as before maturity, both before and after default, demand and judgement and so on from time to time and all such interest and compound interest shall be a charge on the Charged Premises.
- 3.4 All interest in arrears shall be treated (as to payment of interest thereon) as Principal and shall bear compound interest, as well after as before maturity, default and judgement as provided in Section 3.3 hereof.
- 3.5 The Borrower will pay interest, including interest on overdue interest, at the Applicable Rate on any arrears of instalments of principal and/or interest, and any payment by the Borrower shall be applied by the Lender first on account of interest and then on account of principal.
- 3.6 All payments of principal and interest pursuant to Section 3.1 shall be made to and received by the Lender prior to 1:00 p.m. on the date due, failing which such payment shall be deemed received on the next succeeding Business Day provided that in such case, such extension of time shall be included for the purpose of computation for interest; provided further that in the event any payment is due on a day which is not a Business Day, it shall be payable prior to 1:00 p.m. on the next succeeding Business Day and provided such payment is received by such date and such time, then, save in respect of repayment of the Indebtedness at the Maturity Date where interest shall be charged for extensions to the next succeeding Business Day, interest shall not be charged for such extension.

ARTICLE 4 - CRIMINAL RATE OF INTEREST

- 4.1 Notwithstanding any other provisions of this Charge, in no event shall the aggregate “interest” (as defined in Section 347 of the Criminal Code, (Canada), as the same shall be amended, replaced or re-enacted from time to time) payable to the Lender under this Charge exceed the effective annual rate of interest on the “credit advances” (as defined in that section) under this Charge lawfully permitted under that section and, if any payment, collection or demand pursuant to this Charge 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 Lender and the Borrower and the amount of such payment or collection in excess of that lawfully permitted shall be refunded by the Lender to the Borrower.

ARTICLE 5 - INTEREST ACT (CANADA)

- 5.1 For the purposes of this Charge, whenever interest is payable or stated not on the basis of a yearly rate, such rate of interest may be determined by multiplying the Applicable Rate by a fraction the numerator of which is the actual number of days in the calendar year in which the same is to be ascertained and the denominator of which is the number of days in the period for which such rate is determined to be payable.
- 5.2 All calculations of interest or fees under this Charge are to be made on the basis of the stated rates set out herein and not on any basis which gives effect to the principle of deemed re-investment.

ARTICLE 6 - PREPAYMENT

- 6.1 Subject to prepayment provisions provided for in the Commitment, if any, or early maturity by reason of the acceleration of the repayment of the Indebtedness at the option of the Lender upon the occurrence of an Event of Default, the Borrower shall not be entitled to prepay all or any portion of the Principal under this Charge prior to the Maturity Date.

ARTICLE 7 - NO OBLIGATION TO ADVANCE

- 7.1 The Borrower acknowledges and agrees that the Lender is not bound to make any advance of any of the Principal Sum or any unadvanced portion thereof by reason of the registration of this Charge in any place or registry office or the advance of any part of the said Principal Sum, it being acknowledged by the Borrower that any advance hereunder is subject, inter alia, to: (i) the representations and warranties contained herein being true and correct as of the date of any advance of the Loan; (ii) no default having occurred hereunder, under any of the Security or under the Commitment; and (iii) the conditions precedent contained in the Commitment having been satisfied.
- 7.2 In the event this Charge is registered and either no advance whatsoever is made hereunder by the Lender or the Borrower's ability to draw down funds is terminated by the Lender before any funds are advanced, the Lender will, at the expense of the Borrower and upon payment of all monies, costs, fees and disbursements then due to the Lender, promptly upon request by the Borrower execute and deliver to the Borrower, or any agent thereof, registrable discharges of this Charge and of the Security, for use in every registry office where they or notices thereof have been recorded or filed; provided that the Borrower acknowledges that this Section 7.2 shall be of no effect once any advance of the funds is made hereunder by the Lender.

ARTICLE 8 - REPRESENTATIONS AND WARRANTIES

- 8.1 The Borrower represents and warrants in favour of the Lender, acknowledging that the Lender is relying on such representations and warranties in extending the Loan:
- (a) The Borrower is a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and has all necessary corporate power and authority to enter into this Charge and the Security and to perform or cause to be performed its obligations contained herein and therein, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on;
 - (b) There are no provisions in the articles or bylaws of the Borrower or any unanimous shareholders agreement of or with respect to the Borrower or to which the Borrower is a party which restrict, limit or regulate in any way the powers of the Borrower to borrow on credit or to issue, sell or pledge any of the property or assets now or hereafter owned by it to secure its debt obligations, save and except any provisions which have been complied with. No steps or proceedings have been taken or are pending to amend or supersede the articles or bylaws of the Borrower in a manner which would impair or limit the Borrower's ability to perform its obligations hereunder or under the Security;
 - (c) The Borrower has taken all necessary corporate action to authorize the execution and delivery of this Charge and the Security, and performance of the provisions of each in accordance with its terms;
 - (d) The authorization, creation, execution or delivery of this Charge or the Security or the Borrower's performance of its obligations hereunder or thereunder does not require any approval or consent of any Governmental Authority having jurisdiction nor will any such action be in conflict with or contravene any of the Borrower's articles, bylaws, unanimous shareholders agreement, if any, or resolutions of directors or shareholders, or the provisions of any indenture, instrument, agreement or undertaking to which the Borrower is a party or by which it or its properties or assets are bound, or result in the creation, imposition or crystallization of any hypothec, title retention, charge, pledge, lien, encumbrance or security interest of any kind upon any of its property or assets subject to the Charge or security interest created thereby or by the Security other than in accordance with the provisions of this Charge and the Security. This Charge and the Security when executed and delivered will constitute valid and legally binding obligations of the Borrower, enforceable against it in accordance with its terms;
 - (e) There is not now pending or, to the best of the Borrower's knowledge or belief after due inquiry, threatened against the Borrower, any litigation, action, suit, investigation or other proceeding by or before any court, tribunal or other competent Governmental Authority which would materially adversely affect the present or prospective ability of the Borrower to perform its obligations under this Charge or the Security, as the case may be, or which calls into question the validity or enforceability of this Charge or the Security;

- (f) No Event of Insolvency has occurred or is threatened or pending;
- (g) The Borrower is the registered owner of and has a good and marketable title in fee simple to the Lands, and, unless otherwise disclosed to the Lender in writing, is the legal and beneficial owner of the Charged Premises, free and clear of all security interests, charges, liens and other encumbrances whatsoever except for the Permitted Encumbrances, which Permitted Encumbrances are in good standing;
- (h) The Borrower has the right to charge the Charged Premises to the Lender;
- (i) The Borrower has not received any notice of or threat of a lien under the *Construction Act* (Ontario), as amended, against the Charged Premises nor has any lien been registered against the Charged Premises in respect of labour, materials or services furnished with respect to any improvement thereon which has not been discharged;
- (j) Unless expressly stipulated in the Commitment, the Charge is not being given with the intention to use the proceeds thereof to finance any alterations, additions or repairs to, or any construction, erection, demolition or installation on the Charged Premises or any structure thereon;
- (k) Unless expressly stipulated in the Commitment, the Charge is not a building mortgage, within the meaning of the *Construction Act* (Ontario), as amended, and the funds to be advanced by the Lender are not being used to repay a building mortgage;
- (l) There has been no improvement or materials supplied on or in respect of the Charged Premises in respect of which a construction lien could arise and which has not been completed or abandoned within the sixty (60) days immediately preceding the date hereof;
- (m) Except as disclosed to the Lender in writing, the existing and proposed uses, the operation of the Charged Premises and the business conducted thereon comply and, to the best of the Borrower's knowledge and belief, have (including all prior uses) at all times complied with all Applicable Laws, including all Environmental Laws, and the Borrower is not in violation of, and does not violate, by virtue of the ownership, use, maintenance or operation of the Charged Premises or the conduct of any business related thereto, any Applicable Laws, including all Environmental Laws;
- (n) The Charged Premises may be charged by the Borrower in compliance with the *Planning Act* (Ontario), and no severance of any adjoining lands owned by the Borrower is required;
- (o) All financial statements and data delivered or presented to the Lender by the Borrower up to and including the date hereof are true and correct in all material respects as at the dates and for the periods indicated and have been prepared in accordance with Canadian generally accepted accounting principles and disclose to the Lender all financial information relevant to the Lender in respect of making the Loan and there is no information, financial or otherwise, which has not been disclosed to the Lender which would be material to the Lender in its decision to advance the Loan, and, without limiting the foregoing, neither the Guarantor(s) nor the Borrower has failed to disclose to the Lender any facts or information material to the making of the Loan;
- (p) No Event of Default, or an event which with the giving of notice, lapse of time or otherwise, would constitute an Event of Default exists;
- (q) Each Permitted Encumbrance is in good standing and all obligations and covenants required to be met or complied with thereunder on the part of the Borrower have been complied with and, in respect to any other party thereto to the best of the Borrower's knowledge and belief, have been met or complied with;
- (r) All Leases entered into as of the date hereof are valid, subsisting and enforceable leases and are in good standing as of the date hereof without right of set-off or abatement;
- (s) The Borrower is not bound by any indenture, agreement, lease or other instrument, nor is it subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction or any of the Applicable Laws, which materially adversely affects its business operations in respect of the Charged Premises or the performance of its obligations under this Charge or the Security;
- (t) The Borrower has complied with all Applicable Laws in respect of any residential unit located on the Charged Premises, including in respect of any conversion, demolition, rentals charged or filings or applications to be made and there are no outstanding orders, decisions or directives made or pending which are or would be adverse to the Borrower or the Charged Premises in respect of any residential unit located on the Charged Premises;
- (u) If and as applicable, the Borrower is not a non-resident corporation or person of Canada within the meaning of the *Income Tax Act* (Canada);
- (v) If applicable, each partner of the limited partnership of which the Borrower is the general partner is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (w) If applicable, with respect to each partner of the limited partnership of which the Borrower is a general partner that is a Canadian corporation, either (i) the shares of that corporation do not derive their value, directly or indirectly, primarily from foreign property, all within the meaning of the *Income Tax Act* (Canada) or (ii) the corporation is a corporation described in subsection 206(1.1) of the *Income Tax Act* (Canada), as that provision may be amended from time to time;
- (x) The Borrower shall not, without the prior written consent of the Lender, execute or deliver any mortgage, charge, lien or other encumbrance of the Lands intended to rank subordinate to this Charge; and
- (y) The Borrower is not and shall not be during the Term (without the prior written consent of the Lender), a farmer within the meaning of the *Farm Debt Mediation Act* (Canada).

8.2 The representations and warranties set out in this Article 8 shall speak as of the date made, survive the execution and delivery of this Charge and the making of any advance hereunder and continue to be true and accurate during the Term of this Charge, notwithstanding any investigations or examinations which may be made by the Lender or the Lender's solicitors and the Lender shall be deemed to have relied on such representations and warranties in making advances under the Loan.

8.3 The Borrower shall indemnify and save harmless the Lender from and against all losses, damages, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from any omission, inaccuracy or misrepresentation of the Borrower herein relating to or concerning the Charged Premises and with respect to all losses, charges, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from or arising in connection with environmental matters relating to, arising from, in connection with or concerning the Charged Premises, whether referred to or contemplated herein or hereby.

ARTICLE 9 – COVENANTS

9.1 The Borrower covenants with the Lender that upon the occurrence of an Event of Default, the Lender shall have quiet possession of the Charged Premises, free from any encumbrances, save and except for the Permitted Encumbrances.

9.2 The Borrower shall not without the prior written consent of the Lender, which may be withheld in the sole discretion of the Lender permit or suffer to exist any charges, liens, security interests or other encumbrances against the Charged Premises, save and except for the Permitted Encumbrances; and the Borrower shall maintain the Permitted Encumbrances in good standing and provide notice to the Lender forthwith of any default under any of the Permitted Encumbrances.

9.3 The Borrower shall not initiate, permit or suffer to exist any Event of Insolvency, in respect of itself or, to the extent that the Loan, this Charge or the Security is affected by the occurrence of any such event, of any related person or corporation, including without limitation, any parent corporation of the Borrower. The Borrower covenants and agrees (i) to provide two Business Days' notice prior to the occurrence of an Event of Insolvency (an "Insolvency Notice"), and agrees that the receipt of an Insolvency Notice by the Lender shall constitute an immediate Event of Default if the Borrower or any Guarantor(s) is an applicant or takes the benefit of such statute or proceeding or if any of these proceedings otherwise affect the rights or entitlements of the Lender under the Loan, this Charge or the Security or the Lender's ability to enforce this Charge or the Security, and (ii) prior to the commencement of any such proceedings, to deliver to the Lender copies of all relevant filing materials, including, without limitation, copies of draft court orders, plans of compromise, proposals and notices of intention, it being intended by the Borrower that the Lender be entitled during the period after receipt of an Insolvency Notice to enforce this Charge and the Security for the purpose of, among other things, taking possession and control of the Charged Premises, in the Lender's sole discretion.

9.4 The Borrower shall not, without the prior written consent of the Lender, initiate, join in or consent to any change to or modification in any private restrictive covenant, municipal or other governmental law, rule or regulation, by-law, or any other public or private restrictions, limiting or defining the uses which may be made of the Charged Premises, or any part thereof and which could adversely affect the Charge, the Security, the day- to-day operations of the Charged Premises, the income derived therefrom or the value of the Charged Premises.

9.5 The Borrower shall comply in all respects with all covenants, deed restrictions, easements and Applicable Laws which pertain to the ownership, use or operation of the Charged Premises or the performance by the Borrower of its obligations under this Charge and shall ensure that all representations and warranties contained herein continue to be true and accurate at all times during the Term.

9.6 The Borrower shall permit the Lender, or cause to be made available to the Lender, access to all records, both written and electronic, pertaining to the Charged Premises and upon request shall make copies of such information for the Lender. For such purposes, the Lender shall have reasonable access to the Charged Premises or such other place as such records are kept upon reasonable prior written notice to the Borrower.

9.7 The Borrower shall fulfil on a timely basis any undertaking provided by it to the Lender at the time of the advance of the Loan.

9.8 The Borrower covenants to ensure that this Charge will remain a valid and enforceable mortgage of the Charged Premises with first priority subject only to the Permitted Encumbrances and the Borrower will fully and effectively maintain and keep the Security as valid and effective security during the currency hereof.

9.9 The Borrower shall promptly give written notice to the Lender of any litigation, proceeding or dispute affecting the Charged Premises if the result thereof might have a material adverse effect on the Charged Premises, the financial condition or operations of the Borrower or any Guarantor(s) or its ability to perform its obligations hereunder and shall, from time to time, furnish to the Lender all reasonable information requested by the Lender concerning the status of such litigation, proceeding or dispute and shall in all such cases diligently and in good faith proceed to defend, settle or otherwise deal with any such litigation, proceeding or dispute in a commercially reasonable manner.

9.10 The Borrower shall promptly give notice to the Lender upon becoming aware of and provide particulars in respect of:

- (a) An Event of Default or any event which with the passage of time or giving of notice would constitute an Event of Default;
- (b) Any default under a Lease;
- (c) Details of material renovations to the Charged Premises when the Borrower intends to or reasonably anticipates that it will renovate the Charged Premises;
- (d) Any default under any Permitted Encumbrance;
- (e) Any notice of expropriation, action or proceeding materially affecting the Charged Premises or the violation of any Applicable Law which may have a material adverse affect on the Charged Premises; and

- (f) Any matter which may have a material adverse affect upon the Borrower or the Guarantor(s) or Charged Premises or the operations conducted thereon, or the security constituted by this Charge and the Security.

9.11 The Borrower covenants at all times:

- (a) to perform or cause to be performed all of the covenants and obligations on the part of lessor contained in the Leases (except the extent the same have been expressly waived by the other parties to such Leases and except in circumstances where the tenant is in default and the Borrower is acting prudently and in the best interests of the Charged Premises);
- (b) to maintain or cause to be maintained the Lease Rights in good standing and not to do, permit to be done or omit to do anything which may impair the enforceability of the Lease Rights;
- (c) save for the deposits for the first and last month rentals, not to accept Rents more than one (1) month in advance of the dates when Rents fall due;
- (d) not to enter into Leases which are not at arm's length unless the terms thereof are at least equal to current market terms;
- (e) not to enter into Lease which do not constitute Major Tenant Leases (each of which must be approved by the Lender as hereafter provided) unless such leases are substantially on Lender pre-approved standard lease forms and not to enter into Major Tenant Leases without the Lender's approval as hereafter provided;
- (f) not to or to permit termination, alteration or amendment or waiver of rights or remedies or otherwise take any action with respect to any of the Leases which in the aggregate would create a material reduction in Rents from those payable as of the date hereof, without the prior approval of the Lender;
- (g) not to further assign, mortgage or pledge or permit the assignment, mortgaging or pledging of any Lease or the rents thereunder, save for assignments by tenants of their tenant's interest in Leases, to the extent permitted under such Leases; and
- (h) to ensure in respect of all Leases now or hereafter entered into that (i) the tenant thereunder, at the option of the Lender, subordinates its lease to the security of this Charge and attorns to and becomes a tenant of the Lender or any purchaser from the Lender in the event of the exercise of a sale remedy by the Lender, for the unexpired residue of the term and upon the terms and conditions of said lease, provided the Lender will agree to enter into non-disturbance agreements on commercially reasonable terms with all such tenants; and (ii) at the request of the Lender, provide as further security specific assignments of Leases hereinafter entered into.

9.12 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, enter into any agreement or document in respect of the Charged Premises (except for leases in accordance with the terms hereof and the Security) which is material to the ownership, value, operation, or use of the Charged Premises unless the same is in the ordinary course of business.

9.13 With respect to any Major Tenant Lease, the Borrower shall not and shall not permit without the prior written consent of the Lender:

- (a) cancel or modify any Major Tenant Lease, release the obligations of any lessee thereunder, accept a surrender of a Major Tenant Lease, accept any prepayment of Rents thereunder or consent to any sublet or assignment by the lessee under any Major Tenant lease (except where the provisions of such Major Tenant Lease require the landlord to do so); or
- (b) enter into any Major Tenant Lease unless the terms, form and substance of such Major Lease is satisfactory to the Lender, acting reasonably; or
- (c) to further assign, mortgage, pledge, hypothecate or otherwise deal with any Major Tenant Lease.

9.14 The Borrower shall do or cause to be done all things necessary to keep in full force and effect all rights, franchises, licences and qualifications necessary or incidental to perform or cause to be performed its obligations contained in this Charge and the Security and to carry on its business pertaining thereto as presently carried on.

9.15 The Borrower shall from time to time to pay or cause to be paid all amounts related to taxes, wages, workers compensation obligations, government royalties, and any other similar amounts relating to the business conducted on the Charged Premises if non-payment thereof may result in an encumbrance (other than a Permitted Encumbrance) against the Charged Premises or any of the assets secured in favour of the Lender by the Security.

9.16 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, cause or permit any change in the status of the Borrower that results in the representations contained in Subparagraph 8.1(u) or Subparagraph 8.1(v) ceasing to be accurate in all material respects.

9.17 The Borrower covenants, subject to the rights of reorganization herein contained, to continue as a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and maintain all necessary corporate power and authority to perform or cause to be performed its obligations contained herein and in the Security, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on.

9.18 The Borrower covenants that, unless in respect of a reorganization of the Borrower permitted under Paragraph 18.1(h) or with the consent of the Lender as provided therein, no steps or proceedings will be taken to amend or supersede the articles or bylaws of the Borrower and in any event no steps or proceedings, including any reorganization of the Borrower, will be taken in a manner which would impair or limit the Borrower's or its successor's ability to perform its obligations hereunder or under the Security.

- 9.19 The Borrower will not enter into any indenture, agreement, lease or other instrument, nor become subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction, which materially adversely affects the Charged Premises.

ARTICLE 10 - TAXES/LIENS

10.1

- (a) The Borrower shall pay or cause to be paid, all Taxes together with such other amounts, the failure to pay which would give rise to a lien against the Charged Premises, as and when the same shall fall due and payable (collectively, the "Bills").
- (b) With respect to Taxes at the option of the Lender, the Borrower shall pay to the Lender in equal monthly instalments on the first day of each month in each calendar year during the Term, commencing on the first day of the month next following the Interest Adjustment Date, one-twelfth (1/12) of the annual Taxes (or such amount as may be required in order to pay the Taxes as they become due) as reasonably estimated by the Lender; said payments of Taxes shall be paid to the Lender in addition to the instalments of principal and/or interest due and payable under this Charge, to be deposited upon receipt and held by the Lender in an interest-bearing account for the payment of Taxes, with interest to accrue thereon to the benefit of the Borrower and to be credited in reduction of the amount required to be paid to the Lender for Taxes. The Lender agrees that upon and subject to receipt of monies for Taxes it will remit such monies to the proper municipal offices in payment of Taxes as required from time to time; provided that if any Event of Default shall occur and be continuing, then the Lender, at its sole option, may apply all or any part of any funds held in such account to any amount due hereunder, whether principal, interest or otherwise. The Borrower shall also pay, or cause to be paid, to the Lender before the due date for the payment of Taxes (or next periodic instalment date therefor, as the case may be) any sums in addition to the aforesaid monthly instalments which may be required in order that out of such sums held in trust or escrow by the Lender and such additional sums, the Lender may pay the whole amount of Taxes assessed thereto, on the due date for payment thereof. Notwithstanding the foregoing provisions of this Paragraph 10.1(b), the Borrower acknowledges that the Lender is under no obligation to collect from the Borrower monthly instalments on account of Taxes. In addition, the Borrower acknowledges its obligation to pay all Taxes when due, whether or not the payment of all Taxes are the responsibilities of tenants and whether or not such tenants have remitted the same to the Borrower.
- (c) The Lender may, after written notice being given to the Borrower, pay all unpaid and due Taxes, and any amounts, the failure to pay which would give rise to a lien and any amounts so paid by the Lender shall become part of the Principal hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender with interest at the Applicable Rate until paid.
- (d) If the Charged Premises or any part thereof are sold or forfeited for nonpayment of Taxes while any sum remains unpaid hereunder, the Lender may acquire the title and rights of the purchaser at any sale, or the rights of any other person or corporation becoming entitled on or under any such forfeiture, or the Lender may pay, either in its own name or in the name of the Borrower and on the Borrower's behalf, any and all sums necessary to be paid to redeem such land so sold or forfeited, and to revest such lands in the Borrower, and the Borrower hereby nominates and appoints the Lender as agent to pay such monies on the Borrower's behalf and in the Borrower's name, and any monies so expended by the Lender shall become part of the Principal Sum hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender and until so paid shall bear interest at the Applicable Rate or in the alternative, the Lender may purchase the Charged Premises at any tax sale of the same.
- (e) Notwithstanding anything to the contrary herein contained, the Borrower shall have the right to contest or defend any actions brought to recover, or appeal any judgments recovered against it in respect of any Bills, or other like charges, or any construction or other liens levied or registered against the Charged Premises, by appropriate proceedings diligently conducted in good faith, provided that the Borrower shall have first deposited with the Lender, or otherwise provided to the reasonable satisfaction of the Lender, such security as the Lender acting reasonably may require including, without limitation, security for the payment of such Bills, charges or liens and any costs payable in connection therewith, and further provided that the Lender shall have determined, to its reasonable satisfaction, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall not materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises. Should the Lender at any time thereafter determine, in its reasonable discretion, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises, the Lender may realize upon such security for payment as aforesaid and pay such Bills, charges or liens. Upon termination of such proceedings, the Borrower shall promptly pay or cause to be paid the amount of the Bills, charges or liens and any other costs, fees, interest and penalties as are properly payable upon determination of such proceedings and promptly cause any tax notifications, caveats, liens, certificates of or pertaining litigation or any other form of notice or encumbrance in respect thereof to be promptly discharged from the title to the Charged Premises at the sole expense of the Borrower whereupon all such security deposited or otherwise provided to the Lender and any proceeds from the realization thereof not paid on account of Bills as aforesaid, shall be returned and paid to the Borrower.
- (f) The Borrower agrees to and does hereby indemnify the Lender against all claims, demands, costs, damages and expenses which arise in respect of any default, late payment, omission, act or proceeding by the Borrower, under or in respect of this Section 10.1.
- (g) If the Lender comes into and for as long as it is in possession of the Charged Premises, the Lender, in its sole discretion, shall be entitled to and shall enjoy all the rights of the Borrower set out in Paragraph 10.1(d) hereof, to the exclusion of the Borrower.

ARTICLE 11 – INSURANCE

- 11.1 The Borrower will immediately insure, unless already insured, and during the continuance of the Charge keep insured against loss or damage by fire, in such proportions upon each building as may be required by the Lender, the buildings on the land to the amount of not less than their full insurable value on a replacement cost basis in dollars of lawful money of Canada. Such insurance shall be placed with a company approved by the Lender. Buildings shall include all buildings whether now or hereafter erected on the land, and such insurance shall include not only insurance against loss or damage by fire but also insurance against loss or damage by explosion, tempest, tornado, cyclone, lightning and all other extended perils customarily provided in insurance policies including "all risks" insurance. The covenant to insure shall also include where appropriate or if required by the Lender, boiler, plate glass, rental and public liability insurance in amounts and on terms satisfactory to the Lender. Evidence of continuation of all such insurance having been effected shall be produced to the Lender at least fifteen (15) days before the expiration thereof; otherwise the Lender may provide therefore and charge the premium paid and interest thereon at the rate provided for in the Charge to the Borrower and the same shall be payable forthwith and shall also be a charge upon the land. It is further agreed that the Lender may at any time require any insurance of the buildings to be cancelled and new insurance effected in a company to be named by the Lender and also of his own accord may effect or maintain any insurance herein provided for, and any amount paid by the Lender therefore shall be payable forthwith by the Borrower with interest at the rate provided for in the Charge and shall also be a charge upon the land. Policies of insurance herein required shall provide that loss, if any, shall be payable to the Lender as his interest may appear, subject to the standard form of mortgage clause approved by the Insurance Bureau of Canada which shall be attached to the policy of insurance.
- 11.2 During any construction on the Charged Property, the Borrower shall maintain:
- (i) Builders' all-risk coverage for 100% of the construction cost with loss payable to the Lender by way of an Insurance Bureau of Canada ("IBC") approved mortgage clause. The policy must cover flood, earthquake, building by-laws, delayed opening, must allow for partial occupancy of the premises and provide for interim loss payments during reconstruction;
 - (ii) Wrap-Up Liability coverage in an amount not less than \$10,000,000 per occurrence;
 - (iii) Project performance and completion bonds and insurance, including coverage for labour and material bonds; and
 - (iv) Professional Liability coverage in an amount not less than \$10,000,000.

ARTICLE 12 - ENVIRONMENTAL

- 12.1 The following capitalized terms shall have the following respective meanings:

"Environmental Approvals" means all applicable permits, licences, authorizations, consents, directions or approvals required by Governmental Authorities pursuant to the Environmental Laws with respect to the use, occupation, ownership or operation of the Charged Premises;

"Environmental Laws" means all applicable federal, provincial and municipal laws, by-laws, regulations, executive orders, judgments and protocols, relating in whole or in part, to the environment or its protection, and without restricting the generality of the foregoing, includes without limitation, those laws relating to the manufacturing, processing, use, handling, packaging, labelling, sale, storage, recycling, transportation, treatment, destruction, burial or disposal of Hazardous Substances, employee safety, and the emission, discharge, release, deposit, issuance, spraying, dumping, throwing, pouring, spilling, emptying, placing, leaking, seeping, exhausting or abandonment of Hazardous Substances into the atmosphere, air, surface water, ground water, land surface or subsurface strata and, in each such case, as such Environmental Laws may be amended or supplemented from time to time, and "Environmental Law" means any of them;

"Hazardous Substance" means any pollutant, contaminant, waste, hazardous waste, toxic substance or dangerous good which is defined or identified in or the object of any Environmental Law, the presence of which in the environment is in contravention of any Environmental Law; and

"Inspections" means all inspections, evaluations or tests conducted by the Lender or any agent or consultant thereof for the purpose of determining the environmental condition of the Charged Premises, as the Lender may deem appropriate, acting reasonably.

- 12.2 The Borrower represents and warrants (which representations and warranties shall continue throughout the Term of the Loan) that:
- (a) The condition and use of the Charged Premises is and, to the best of the Borrower's knowledge, any prior use of the same was, in compliance in all material respects with all applicable Environmental Laws;
 - (b) The Charged Premises is not subject to any judicial or administrative proceedings alleging violation of any Environmental Laws and there are no outstanding orders or proceedings against the Charged Premises from a Governmental Authority responsible for protecting the environment alleging the violation of any Environmental Laws;
 - (c) To the knowledge of the Borrower, the Charged Premises is not the subject of any investigation by Governmental Authorities having jurisdiction evaluating whether any remedial action is needed to respond to a contravention of any Environmental Laws; and
 - (d) There is no contingent liability of which the Borrower has knowledge or reasonably should have knowledge in connection with the contravention of any Environmental Laws.

- 12.3 The Borrower covenants with the Lender:

- (a) If not already provided, to provide to the Lender within ninety (90) days of the execution of this Charge, an environmental audit with respect to the Lands, and if an event shall have occurred after the date of this Charge, which

the Lender, acting reasonably, believes may have resulted or may result in material adverse change in the environmental condition of the Charged Premises or any part thereof, to provide such further environmental audits as the Lender may require;

- (b) To provide notice within fifteen (15) days of either having learned of any enactment or promulgation of any Environmental Laws which may result in any material adverse change in the condition, financial or otherwise, of the Charged Premises;
- (c) To defend, indemnify and hold harmless the Lender, its directors, officers, employees, agents and their respective successors and assigns, against any and all loss, cost, expense, claim, liability or alleged liability arising out of any environmental damage occasioned to the Charged Premises contravention of any Environmental Laws;
- (d) To, at all times and at its own expense, conduct its business and maintain the Charged Premises in compliance with all Environmental Laws and Environmental Approvals including causing all tenants of the Charged Premises to comply with the same;
- (e) If the Borrower:
 - (i) receives notice from any Governmental Authority having jurisdiction that violation of any Environmental Law or Environmental Approval has been committed by the Borrower or any tenant with respect to the Charged Premises;
 - (ii) receives notice that any remedial order or other proceeding has been filed against the Borrower or any tenant alleging in respect of the Charged Premises violations of any Environmental Law or requiring the Borrower to take any action in connection with the release of a Hazardous Substance into the environment; or
 - (iii) receives any notice from a Governmental Authority having jurisdiction in respect of the Charged Premises that the Borrower or any tenant may be liable or responsible for costs associated with a nuisance or a response to, or clean up of, a release of a Hazardous Substance into the environment or any damages caused thereby;

to provide to the Lender a copy of such notice within ten (10) days of the Borrower's receipt thereof, and thereafter shall keep the Lender informed in a timely manner of any developments in such matters, and shall provide to the Lender such other information in respect thereto as may be reasonably requested by the Lender from time to time and shall proceed to deal with the same diligently and in good faith in order to bring the Charged Premises into compliance to the extent necessary to comply with Environmental Laws;

- (f) Unless in existence on the Charged Premises on the date of this Charge, not to use, discharge, transport or install in or upon the Charged Premises any material or equipment containing PCBs or permit any tenant of the Charged Premises to do so and, to the extent in existence on the Charged Premises as of the date of this Charge, to maintain the same in compliance with all Environmental Laws;
- (g) To maintain, and to require all occupants of the Charged Premises to maintain in good leak-proof condition all above-ground and underground storage tanks and drums on the Charged Premises;
- (h) Not to install asbestos or permit asbestos to be installed in the Charged Premises. With respect to any asbestos present in the Charged Premises on the date of this Charge, the Borrower shall, at its expense, promptly comply with the requirements of Environmental Laws and Governmental Authorities respecting the use, removal and disposal of asbestos; and
- (i) To obtain or cause its solicitors to obtain copies of all relevant environmental studies or assessments of the Charged Premises which the Borrower or its solicitors or agents have commissioned or which are in the possession or control of the Borrower, as of the date of this Charge and, to the extent any such assessments or studies are required by the Lender from time to time, to promptly provide same to the Lender upon request and hereby authorizes and directs its solicitors, agents and consultants to promptly release same to the Lender.

12.4 Having due regard to the rights of any tenant of the Borrower, the Lender and its employees and agents shall have the right, and are hereby granted permission by the Borrower, to enter the Charged Premises from time to time, and to have access to the Borrowers' relevant documents and records, in order to conduct Inspections, to determine compliance with Environmental Laws as the Lender, acting reasonably, may deem appropriate. Inspections shall be:

- (a) at such times and to such extent as may be reasonable in the circumstances on prior notice to the Borrower if the Lender has reasonable grounds for believing that:
 - (i) there are, contrary to Environmental Laws or Environmental Approvals, Hazardous Substances in or upon the Charged Premises which have not been disclosed to and approved by the Lender and appropriate Government Authorities; or
 - (ii) the Borrower is in breach of any environmental representations in this Charge or its covenants in this Article; or
 - (iii) the Borrower is not in compliance with any Environmental Laws or material Environmental Approvals; and
- (b) at any time without prior notice upon the occurrence of an Event of Default which is continuing.

If the Borrower is found not to be in compliance with the Environmental Laws or Environmental Approvals and such failure to comply becomes an Event of Default that is continuing, the Lender may, at its option (but without any obligation to do so) take such actions as are required, acting reasonably, to bring the Charged Premises into compliance, and the costs thereof shall immediately become due and payable to the Lender by the Borrower and shall be secured by the Security.

- 12.5 The Lender shall not, by virtue of being the chargee under this Charge or the enforcement of its rights contained herein for purposes of the Environmental Laws, be or be deemed to be the owner of, any of the Charged Premises, or to have management, charge, control, occupation or possession of any of the Charged Premises or the businesses of the Borrower, or of any Hazardous Substances located on, upon or within any of the Charged Premises.
- 12.6 The Borrower hereby covenants and agrees to be responsible for, and to indemnify and hold harmless the Lender and each of its officers, directors, employees and agents and their respective successors and assigns (in this Section, collectively referred to as the "Indemnified Parties") from and against all claims, demands, liabilities, losses, costs, damages and expenses (including, without limitation, reasonable legal fees and all costs incurred in the investigation, pursuing of any claim, or in any proceeding with respect to, defense and settlement of any item or matter hereinafter set out) that the Indemnified Parties may incur or suffer, directly or indirectly as a result of or in connection with:
- (a) Any inaccuracy in or breach of the Borrower's representations and warranties relating to the environmental matters contained herein;
 - (b) The presence of any Hazardous Substance on, upon or within the Charged Premises, or the escape, seepage, leakage, spillage, discharge, emission, release, disposal or transportation away from the Charged Premises of any Hazardous Substance, whether or not there is compliance with all applicable Environmental Laws and Environmental Approvals;
 - (c) The imposition of any remedial order affecting the Lands, or any non-compliance with Environmental Laws or Environmental Approvals pertaining to the Charged Premises by any person, including the Borrower, the Lender or any person acting on behalf of the Lender; and
 - (d) Any diminution in the value or any loss on the disposition of the Charged Premises arising directly or indirectly as a result of the presence on the Lands of any Hazardous Substance, or as a result of the imposition of any remedial order or the breach by any person of any Environmental Law or Environmental Approval.

This indemnity shall survive the satisfaction and release of this Charge and the Security and the payment and satisfaction of all indebtedness hereunder. The benefit of this indemnity may be assigned by the Lender to any successor or assign of the Lender and the Borrower hereby consents to any such assignment.

ARTICLE 13 - ASSIGNMENT OF RENTS AND LEASES

- 13.1 As further security for the payment of all monies owing and the performance of all obligations to be performed hereunder, the Borrower does, as and by way of security, hereby sell, assign, transfer and set over unto to the Lender all of the Borrower's right, title and interest, both at law and equity, in and to the Lease Rights, to hold and receive the same unto the Borrower with full power and authority to demand, collect, sue for, recover and receive and give receipts for Rents and enforce payments of the same and enforce performance of the obligations of tenants under the Leases, provided, however, that, subject to the terms of this Charge, the Borrower shall have the full right, so long as no Event of Default has occurred and is continuing, to continue to collect Rents, to take or cause to take all actions as it deems necessary with respect to the Lease Rights, acting as a reasonable lessor.
- 13.2 It is expressly acknowledged and agreed by the Borrower that nothing contained in this Charge shall oblige the Lender to assume or perform any obligation of the Borrower to any third party in respect of or arising out of the assigned Lease Rights. The Lender may, however, after the occurrence of an Event of Default and while such Event of Default continues, at its option, assume or perform any such obligation as the Lender considers necessary or desirable to obtain the benefit of the Lease Rights, free of any set-off, reduction or abatement, and any money expended by the Lender in this regard shall form part of or be deemed to form part of the indebtedness secured by this Charge and shall bear interest at the Applicable Rate.

ARTICLE 14 - MANAGEMENT AND REPAIR

- 14.1 The Borrower shall cause the Charged Premises at all times to be professionally maintained, managed and operated and fully and continuously operational during customary business hours, including all uses ancillary or incidental to its operations, at all times, by competent managers and staff of proper background and training, in a first class manner consistent with the management and operation of other properties which are of size, location, use, class, age and type comparable to the Charged Premises, and the Borrower shall obtain the Lender's prior written approval of any manager and any management contract with any manager which may be entered into by the Borrower for the management of the Charged Premises. In addition to any other rights hereunder of the Lender, the Lender shall have the right, acting reasonably, to replace the manager at the expense of the Borrower in the event the management standards are not maintained as required hereunder and the situation is not remedied within thirty (30) days after written notice from the Lender. The Lender acknowledges and approves, as of the date hereof, of the Borrower or a company controlled by the Borrower acting as manager of the Charged Premises provided that the Charged Premises are managed and maintained in accordance with the provisions hereof.
- 14.2 The Borrower shall promptly repair, maintain, restore, replace, rebuild, keep, make good, finish, add to and put in order, or cause to be so done, the Charged Premises, so that the same shall, at all times, be in good condition and repair and to pay or cause to be paid when due all claims for labour performed and materials furnished therefor. The Borrower shall not commit or suffer any waste of the Charged Premises nor take any action that might invalidate or give cause for cancellation of any insurance maintained in respect of the Charged Premises. No building or other property now or hereafter charged by this Charge shall be removed, or demolished or nor shall the structure of any building be materially altered, redeveloped, retrofitted or renovated, without the prior written consent of the Lender, except that the Borrower shall have the right, without such consent, to remove and dispose of, free from the lien or charge of this Charge, such fixed equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal, and if necessary for the operation of the Charged Premises such equipment shall be replaced with other equipment of a quality comparable to that of the replaced equipment and free from any lien, title retention agreement, conditional sale contract, security agreement or other encumbrance, and by such removal and replacement the Borrower shall be deemed to have subjected such fixed equipment to the lien or charge of this Charge, or, (b) any net cash proceeds received from such disposition shall, at the option of the Lender, be paid over promptly to the Lender to be applied in a manner determined by Lender in its sole discretion toward the payment of

any amounts owing hereunder or secured hereby. The Borrower shall notify the Lender promptly of any material damage to or defects in any of the Improvements, and thereafter forthwith shall make or cause to be made such repairs thereto as are required to correct any such damage or defects and return the Charged Premises to a state of condition and repair equivalent to the state of condition and repair required by the provisions of this Charge.

- 14.3 The Borrower shall comply with, or cause to be complied with, all statutes including without limitation the provisions of the *Construction Act* (Ontario), ordinances and requirements of any Governmental Authority having jurisdiction with respect to the Charged Premises; the Borrower shall complete and pay for, within a reasonable time, any structure at any time in the process of construction on the Charged Premises.
- 14.4 The Borrower shall permit the Lender or its authorized agents at all reasonable times to enter upon the Charged Premises and inspect same, and if such inspection reveals that any repairs or like actions are necessary, the Lender may give notice to the Borrower requiring the Borrower to repair, rebuild or reinstate the same, or take such other like action within a reasonable time. Any failure by the Borrower to comply with such notice shall constitute an Event of Default hereunder and the Lender may repair, rebuild or reinstate the Charged Premises at the cost of the Borrower and charge all sums of money determined by the Lender to be properly paid therefor and interest thereon at the Applicable Rate until paid.

ARTICLE 15 - INCREASED COSTS

- 15.1 In the event that as a result of any application of or any change in or enactment of any applicable law, regulation, treaty or official directive after the date hereof (whether or not having the force of law), or in the interpretation of application thereof by any court or by any governmental or other authority or entity charged with the administration thereof which now or hereafter:
- (a) Subjects the Lender to any tax or changes the basis of taxation, or increases any existing tax, on payments of principal, interest or other amounts payable by the Borrower to the Lender under this Charge (except for taxes on the overall net income of the Lender or capital of the Lender imposed by the Government of Canada or any political subdivision thereof or by the jurisdiction in which the principal or lending office of the Lender is located); or
 - (b) Imposes, modifies or deems applicable any special requirements against assets held by, or deposits in or for the account of or any other acquisition of funds by the Lender or imposes on the Lender a requirement to maintain or allocate capital or additional capital in relation to the Loan; or
 - (c) Imposes on the Lender any other condition with respect to this Charge; or
 - (d) Renders any portion of this Charge illegal or unenforceable;

and the result of any of the foregoing is to increase the cost to the Lender, or reduce the amount of principal, interest or other amount received or receivable by the Lender hereunder or its effective return hereunder in respect of making or maintaining the Loan hereunder or to reduce the payments receivable by the Lender in respect of the Loan by an amount which the Lender deems to be material, the Lender shall promptly give written notice thereof to the Borrower setting out in reasonable detail the facts giving rise to and a summary calculation of such increased costs or reduced payments, and the Borrower shall forthwith pay to the Lender upon receipt of such notice that amount which will compensate the Lender for such additional cost or reduction in income (herein referred to as "Additional Compensation"). Upon the Lender having determined that it is entitled to Additional Compensation in accordance with the provisions of this Section, the Lender shall promptly so notify the Borrower. The Borrower shall forthwith pay to the Lender upon receipt of such notice such Additional Compensation calculated on the date of demand. The Lender shall be entitled to be paid such Additional Compensation from time to time to the extent that the provisions of this Section are then applicable notwithstanding that the Lender has previously been paid any Additional Compensation. The Lender shall endeavour to limit the incidence of any such Additional Compensation, including seeking recovery for the account of the Borrower, by appealing any assessment at the expense of the Borrower upon the Borrower's request.

- 15.2 All payments made by the Borrower to the Lender will be made free and clear of all present and future taxes, withholdings or deductions of whatever nature. If these taxes, withholdings or deductions are required by Applicable Law and are made, the Borrower shall, as a separate and independent obligation, pay to the Lender all additional amounts as shall fully indemnify the Lender from any such taxes, withholding or deduction. Provided, however, that the Borrower shall have no obligation to pay any withholding or like tax which may be exigible, incurred or required as a result of the Lender being a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).
- 15.3 If the result of any law, regulation, treaty or official directive or request or any change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) is such that it is or will become (other than as a result of some positive action of the Lender, including any participation or syndication hereof by the Lender) unlawful for the Lender to make, fund or allow to remain outstanding all or part of the Loan, or to carry out all or any of its other obligations under this Charge and/or the Security or receive interest or any fee at the Applicable Rate, then in such case:
- (a) The Lender may give written notice to the Borrower of such law, regulation, treaty or official directive or request (whether or not having the force of law) or such change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) which such notice shall certify that such law, regulation, treaty, official directive or request is generally applicable to all other borrowers from the Lender with any accommodation similar to that herein provided; and
 - (b) The Borrower shall prepay the Indebtedness on such date and to such extent as the Lender shall certify to be necessary to comply with the relevant law or change described above;

provided, however, that should the Loan become unlawful, the Lender, without prejudice to its rights to require repayment and without any obligation on its part, will consider other means of funding the Loan which would not be unlawful, would allow the Lender to carry out its obligations in respect of the Loan and would enable the Lender to receive interest at the Applicable Rate,

provided always, notwithstanding the foregoing, the Lender is not obligated to provide alternate funding.

ARTICLE 16 - OBTAINING AND MAINTAINING SECURITY

16.1 Regardless of whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Borrower or otherwise and in addition to any other amounts provided for herein or otherwise permitted by Applicable Law to be secured hereby, except as herein otherwise provided, the following are to be secured hereby and shall be a charge on the Charged Premises, together with the interest thereon at the Applicable Rate, and all such monies shall be repayable to the Lender, on demand, except as herein otherwise provided:

- (a) All reasonable and properly chargeable solicitor's, inspector's, valuator's, consultant's, architect's, engineer's, surveyor's and appraiser's fees and out-of-pocket expenses:
 - (i) for drawing and registering this Charge and the Security and financing statements in connection therewith, and attending to advances hereunder;
 - (ii) for examining the Charged Premises and the title thereto up the date hereof;
 - (iii) for making and maintaining this Charge as a registered charge on the Charged Premises and maintaining the Security (including the registration and filing of renewals);
 - (iv) for the preparation of this Charge, the Security and any related documents and in exercising or enforcing or attempting to enforce or advising the Lender in respect of defaults hereunder or in pursuit of any right, power, remedy or purpose hereunder or subsisting at law;
 - (v) reasonable allowance for the time, work and expenses of the Lender or of any agent of the Lender in connection therewith; and
- (b) All reasonable sums which the Lender may from time to time advance, expend, incur or suffer hereunder:
 - (i) for insurance premiums, Bills, Taxes, rates, or in or toward payment of prior liens, charges, encumbrances or claims charged or to be charged against the Charged Premises;
 - (ii) in maintaining, repairing, restoring or completing construction of the Charged Premise;
 - (iii) in inspecting, leasing, managing or improving the Charged Premises as permitted hereunder, including the price or value of any goods of any sort or description supplied to be used on the Charged Premises as permitted hereunder; and
- (c) Without limiting the generality of any of the foregoing, the then current reasonable fee of the Lender and/or its solicitor for the following matters:
 - (i) executing any cessation or discharge of this Charge, notwithstanding that said cessation or discharge may have been prepared by the Borrower;
 - (ii) entering into an agreement to amend the interest rate or any other provision in the Charge;
 - (iii) handling any dishonored cheque;
 - (iv) preparing an amortization schedule showing the principal and interest components of payments due under this Charge;
 - (v) the cost of completing a Phase I & II Environmental Audit and such other environmental audits as the Lender may require in its discretion;
 - (vi) such other administrative matters as the Lender may perform with regards to the Charge or with regards to any collateral security, as permitted by the Commitment;
 - (vii) the fee charged by the Lender's insurance consultant to review the Borrower's policy of insurance for the subject lands including business interruption insurance if required by the Lender; and
 - (viii) the execution and delivery of any consents, postponements, acknowledgments or any other documents that may be required from the Lender, whether from the Borrower and/or any governmental authorities and/or public/private utilities.

16.2 If any action or proceeding be commenced (except an action to foreclose this Charge or to collect the money that is secured hereby) in which the Lender becomes a party or participant by reason of being the holder of this Charge or the indebtedness secured hereby, all sums paid by the Lender for the expense of so becoming a party or participating (including all reasonable and properly chargeable legal costs) shall, on written notice, be paid by the Borrower, together with interest thereon at the Applicable Rate from the dates of payment of such sums by the Lender, and shall be a lien and charge on the Charged Premises, prior to any right or title to, interest in, or claim upon the Charged Premises subordinate to the lien and charge of this Charge, and shall be deemed to be secured by this Charge, and that in any action or proceeding to foreclose this Charge, or to recover or collect the indebtedness secured hereby, provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

ARTICLE 17 - CONDEMNATION AWARDS

17.1 The Borrower shall notify the Lender promptly upon it being aware of any and all awards or payments ("Condemnation

Award(s)”) including interest thereon, and the right to receive the same (save for any portion of any such Condemnation Award(s) paid for remedial purposes and which is actually used for such purpose) which may be made with respect to the Charged Premises, or any part thereof, as a result of:

- (a) Any condemnation, eminent domain, compulsory acquisition, expropriation or like procedures (“Condemnation”), partial or complete, including any sidewalk or lane; or
- (b) The imposition, and enforcement, of any restriction, regulation or condition to meet any building or development guideline for development or restriction of or by any municipality or other competent authority; or
- (c) Any other material injury to or decrease in the value of the Charged Premises by any lawful regulation or any governmental authority having jurisdiction;

(any matter referred to in (a), (b) or (c) above being hereinafter called an “Incident of Expropriation”) to the extent of all amounts which may be secured by this Charge at the date of receipt of any such Condemnation Award(s) by the Borrower. Notwithstanding the occurrence of any Incident of Expropriation, the Borrower shall continue to pay interest at the Applicable Rate on the Principal Sum. The Borrower does hereby charge, assign, set over and transfer to the Lender, any Condemnation Award(s) as security for the repayment of all Indebtedness.

17.2 Any Condemnation Award(s) received by the Lender shall be held by the Lender as part of the security for the Loan subject to application as provided in this Article 17. Pending such application, such amounts received shall be held and invested by the Lender, acting reasonably. If at any time an Event of Default has occurred and is continuing, the Lender may, at its option, apply such amounts in reduction of the amounts owing hereunder.

17.3 Notwithstanding the provisions of Sections 17.1 and 17.2, in the event that any Incident of Expropriation shall occur which, in the reasonable opinion of the Lender, would materially and adversely affect the security of the Charge or any other Security after the application of any Condemnation Award(s) pursuant to Section 17.1 hereof, the Lender may, at its option, declare such Incident of Expropriation to be an Event of Default and be entitled to exercise any and all rights and remedies available to it hereunder at law or in equity.

ARTICLE 18 - EVENTS OF DEFAULT

18.1 The whole of the Principal Sum together with interest thereon at the Applicable Rate, interest on overdue interest and any amounts payable pursuant to Article 6, and all other amounts secured hereby shall, at the option of the Lender, subject to Section 18.2 hereof, become due and payable and all powers conferred on the Lender herein and hereby shall become exercisable, in like manner to all intents and purposes as if the time herein mentioned for payment of such Principal monies had fully come and expired, if specifically provided for in this Charge, or if any of the following events shall occur (the occurrence of any such event together with the expiry of the applicable cure period, if any, and any other occurrence specifically provided for herein as an Event of Default being collectively referred to as an “Event of Default”):

- (a) Upon default in payment of any regularly scheduled instalment of principal and/or interest beyond the date such payment is due and payable; or
- (b) Upon default in payment of the Indebtedness due and owing on the Maturity Date; or
- (c) Upon default in payment of any Indebtedness (other than an instalment of principal and/or interest and upon maturity) due hereunder within five (5) Business Days after written notice thereof is provided by the Lender; or
- (d) Save as otherwise provided for in subparagraphs (a), (b) and (c) hereof or otherwise specifically provided herein, upon any default in the performance of any covenant or obligation of the Borrower hereunder within fifteen (15) days after written notice thereof is provided by the Lender, provided that if such default is curable and the nature of such default is such that the exercise of reasonable diligence of more than fifteen (15) days is required to cure such default, and if such default in the Lender’s reasonable discretion does not jeopardize or adversely effect the security interest of the Lender hereunder or adversely affect the Borrower or its ability to perform its obligations hereunder or under the Security or adversely affect the Charged Premises, the Lender will not, for a further sixty (60) days so long as no other Event of Default has occurred, enforce its remedies in respect of such default while and so long as during such time the Borrower is actively continuing to diligently and in good faith cure such default; or
- (e) If at any time during the Term there is a breach of any representation or warranty contained herein or at any time during the Term if any representation or warranty contained herein is no longer true or accurate or becomes untrue or inaccurate for any reason and provided the same can be rectified, and the same is not rectified within thirty (30) days after written notice thereof is provided by the Lender; or
- (f) Upon the assignment by the Borrower to any other party of the whole or a part of the rents, income or profits arising from the Charged Premises, without the written consent of the Lender; or
- (g) The occurrence of an Event of Insolvency; or
- (h) If without the prior written consent of the Lender, in its sole and absolute discretion:
 - (i) the Borrower transfers, sells, conveys, or otherwise disposes of all or any part of the Charged Premises, or any interest therein (other than by way of Leases), whether legal or beneficial or enters into any transaction or series of transactions where all or any part of the Charged Premises becomes the property of another person, whether through reorganization, amalgamation, merger, consolidation or otherwise, or if there is any change in the legal or beneficial interest, in whole or in part, of the Charged Premises; or
- (i) If, without the prior written consent of the Lender, in its sole and absolute discretion:

- (i) there is any change in the Borrower's corporate control or change in the Borrower's effective control existing as of the date of this Charge; or
- (ii) the Borrower creates, permits or suffers to exist any mortgage, pledge, charge, loan, assignment, hypothecation, security interest or other encumbrance attaching the Charged Premises other than this Charge, the Security and the Permitted Encumbrances; or
- (j) Upon default by or non-compliance of the Borrower or any Guarantor(s), or any others bound by or acknowledging to be bound by the terms of this Charge, with respect to any of the provisions of the Security, this Charge or the Permitted Encumbrances; or
- (k) If the Charged Premises are abandoned; or
- (l) Failure by the Borrower to fulfil, complete or comply with any undertakings delivered by the Borrower to Lender in connection with the Loan in accordance with the terms of such undertakings; or
- (m) Upon any breach, default, non-observance occurring or being alleged, charged or claimed against the Borrower as lessor under any lease or as sublessor under any sublease of the Charged Premises and the Borrower is not diligently proceeding to rectify any such breach, default, non-observance or non-performance or defend any allegations, charges or claims of the same; or
- (n) If this Charge, or any of the Security, shall fail to constitute a legal, valid, binding and enforceable first charge, first assignment or first security interest, each enforceable in accordance with its terms, subject only to Permitted Encumbrances; or
- (o) If in the reasonable opinion of the Lender there occurs an event which has a material adverse effect on the financial condition or operation of the Borrower, the Charged Premises, this Charge, the Security or the ability of the Borrower to pay the Indebtedness or to perform its obligations hereunder or under the Security and which cannot be rectified by the Borrower within a reasonable period of time.

18.2 Save as otherwise specifically provided, an Event of Default hereunder or under any Security shall not have occurred or be deemed to have occurred until the expiration of any applicable notice period, if any, called for in this Charge or in such Security within which the Borrower may remedy such default. In any event, if in the opinion of the Lender, an event has occurred which with the passing of time, the giving of notice or otherwise would constitute an Event of Default and as a result of which the Charged Premises or the property assets and undertaking subject to the Security is materially at risk, the Lender may take such action or exercise such remedies as may be appropriate without notice to the Borrower or the expiry of any cure period.

ARTICLE 19 - REMEDIES

19.1 If an Event of Default has occurred hereunder and is continuing (or if the Lender exercises its rights pursuant to Section 18.2 hereof before the occurrence of an Event of Default), then at any time thereafter, but subject always to the waiver thereof by the Lender, the Lender may:

- (a) Declare the Indebtedness to be immediately due and payable and proceed to exercise any and all rights hereunder or under the Security or any other rights available to it under any other document or instrument or at law or in equity including without limitation, the drawdown of any letter of credit held by the Lender;
- (b) Commence legal action to enforce payment of the Indebtedness or performance of the obligations by the Borrower to the Lender;
- (c) At the expense of the Borrower, when and to such extent as the Lender deems advisable, observe and perform or cause to be observed and performed any covenant, agreement, proviso or stipulation contained herein or in the Security, and the reasonable cost thereof with interest thereon at the Applicable Rate until paid, shall immediately become due from the Borrower to the Lender after demand by the Lender upon the Borrower therefor;
- (d) Pay or discharge any mortgage, encumbrance, lien, adverse claim or charge that may exist or be threatened against the Charged Premises; in any such case, the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
- (e) Send or employ any inspector or agent to inspect and report upon the value, state and condition of the Charged Premises and may employ a lawyer to examine and report upon the title to the same;
- (f) Immediately take possession of all of the Charged Premises or any part or parts thereof by action or otherwise, with power, among other things, to exclude the Borrower, to enforce the Borrower's rights, to preserve and maintain the Charged Premises, to repair, alter or extend the Charged Premises, to lease the Charged Premises, to complete construction and development of the Charged Premises, to operate and manage the Charged Premises and to collect or receive rents, income and profits of all kinds (including taking proceedings in the name of the Borrower for that purpose) and pay therefrom all reasonable expenses and charges of maintaining, preserving, protecting and operating the Charged Premises (payment of which may be necessary to preserve or protect the Charged Premises), and to enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including without limitation, power to advance its own moneys and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof, and all sums advanced or expended shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
- (g) On default of payment for at least fifteen (15) days may, on at least thirty-five (35) days' notice, sell and dispose in the Charged Premises with or without entering into possession of the same and with notice to such persons and in such manner and form and within such terms as provided under Part III of the *Mortgages Act* (Ontario), as amended; and all remedies available may be resorted to and all rights, powers and privileges granted or conferred upon the Lender under

and by virtue of any statute or by this Charge may be exercised and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made in the Charged Premises; and the Lender may sell, transfer and convey any part of the Charged Premises on such terms, including on credit for all or part of the consideration, (provided the Borrower shall not be accountable for any default in respect of the credit), secured by contract or agreement for sale, or charge, or otherwise, as shall appear to the Lender most advantageous and for such prices as can reasonably be obtained therefor in the circumstances; and in the event of sale on credit or part cash and part credit, whether by way of contract for sale or by conveyance or transfer, charge, or otherwise, the Lender is not to be accountable for or charged with any monies until the same shall be actually received in cash or received by a take-back charge; and sales may be made from time to time of parts of the Charged Premises to satisfy interest and leaving the Principal or part thereof to run with interest at the Applicable Rate; and the Lender may make any stipulations as to title or evidences or commencement of title or otherwise as the Lender shall deem proper and may buy or rescind or vary any contract for sale; and on any sale or resale, the Lender shall not be answerable for loss occasioned thereby; and for any of such purposes the Lender may make and execute all arrangements and assurances that the Lender shall deem advisable or necessary;

- (h) With respect to the Leases:
- (i) to demand, collect and receive the Rents or any part thereof and to give acquittances therefor, and to take from time to time, in the name of the Borrower, any proceeding which may be, in the opinion of the Lender or its counsel, expedient for the purpose of collecting the Rents or for securing the payment thereof or for enforcing any of the Borrower's rights under the Leases;
 - (ii) to compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rent and any settlement arrived at shall be binding upon the Borrower;
 - (iii) to enter upon the Lands by its officers, agents or employees for the purpose of collecting the Rents; (iv) to receive, enjoy or otherwise avail itself of the Lease Rights; and
 - (v) on behalf of the Borrower to alter, modify, amend or change the terms of Leases; to terminate Leases, to enter into new Leases; to give consents, concessions or waivers of any rights or provisions of Leases; to accept surrenders of Leases; to give consents to assignment of or subletting under Leases;
- (i) With or without taking possession of all or any part of the Charged Premises, sell, lease or otherwise dispose of the whole or any part of the Charged Premises, as agent for the Borrower and not the Lender, and in exercising the foregoing power, the Lender may, in its absolute discretion:
- (i) sell, lease or otherwise dispose of the whole or any part of the Charged Premises by public auction, public tender with notice, or by private contract (in the name of or on behalf of the Borrower) or otherwise, with such notice, advertisement or other formality as is required by law;
 - (ii) make and deliver to the purchaser good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale once effected shall be a perpetual bar, both at law and in equity, to the Borrower and all those claiming an interest in the Charged Premises by, from, through or under the Borrower making any claim against the purchaser of the Charged Premises;
 - (iii) grant, rescind, vary or complete any contract for sale, lease or options to purchase or lease, or rights of first refusal to purchase or lease the whole or any part of the Charged Premises, for cash or for credit, with or without security being given therefor, and on terms as shall appear to be most advantageous to the Lender (including a term that a commission be payable to the Lender or a related corporation in respect thereof) and if a sale is on credit, the Lender shall not be accountable for any moneys until actually received;
 - (iv) make any stipulation as to title or conveyance or commencement of title;
 - (v) re-sell or re-lease the Charged Premises or any part thereof without being answerable for any loss occasioned thereby; and
 - (vi) make any arrangements or compromises which the Lender shall think expedient in the interest of the Lender and to assent to any modification of this Charge, and to exchange any part or parts of the Charged Premises for any other property suitable for the purposes of the Lender on such terms as the Lender considers expedient, either with or without payment of money for equality or exchange or otherwise;
- (j) Take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (k) To borrow or raise money on the security of the Charged Premises or any part thereof in priority to this Charge or otherwise, for the purpose of the maintenance, preservation or protection of the Charged Premises or any part thereof or for carrying on all or any part of the business of the Borrower relating to the Charged Premises;
- (l) Take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term as used in this Charge includes a manager and a receiver and manager, and hereafter, the "Receiver") of all or any part of the Charged Premises;
- (m) By instrument in writing appoint, with or without taking possession, any person to be a Receiver of the Charged Premises or of any part thereof and may remove any Receiver so appointed and appoint another in his stead, with all fees and costs related thereto being the Borrower's obligations; and the following shall apply in respect of any such Receiver so appointed:
- (i) the Lender may from time to time fix the remuneration of the Receiver who shall be entitled to deduct that

same out of the revenue from the Charged Premises or the proceeds thereof;

- (ii) the Receiver shall, to the fullest extent permitted by law, be deemed the agent or attorney of the Borrower for all purposes and the Lender shall not be in any way responsible for any actions other than as caused by gross negligence, willful misconduct or fraud, of any Receiver, and the Borrower hereby agrees to indemnify and save harmless the Lender from and against any and all claims, demands, actions, costs, damages, expenses or payments which the Lender may hereafter suffer, incur or be required to pay as a result, in whole or in part, of any action taken by the Receiver or any failure of the Receiver to do any act or thing other than as are caused by gross negligence, willful misconduct or fraud;
 - (iii) the appointment of the 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 the Receiver or the removal of the 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 Lands or any part thereof;
 - (iv) the Receiver may exercise or pursue any other remedy or proceeding which the Lender is entitled as the holder of the Charge authorized or permitted hereby or by law or in equity in order to enforce the security constituted by this Charge;
 - (v) and for the purposes above, the Borrower hereby irrevocably empowers the Receiver so appointed as its attorney to execute deeds, transfers, leases, contracts, agreements or other documents on its behalf and in its place (and the same shall bind the Borrower and have the same effect as if such deeds were executed by the Borrower) and to affix the Borrower's seal, if necessary, or a duplicate thereof to any of the same. On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds as part of the Secured Property; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt; and
 - (vi) save as to claims for accounting under paragraph (o) below, the Borrower hereby releases and discharges the Lender and the Receiver from every claim of every nature, whether resulting in damages or not, which may arise or be caused to the Borrower by reason or as a result of anything done by the Lender or any successor or assign claiming through or under the Lender or the Receiver under the provisions of this paragraph unless such claim be the direct result of dishonesty or gross neglect;
- (n) The Lender may at any time and from time to time terminate any receivership by notice in writing to the Borrower and to the Receiver;
 - (o) The Receiver shall account for all monies received in respect of the Charged Premises or any part thereof, and shall pay, out of such monies received, subject to the further direction of the Lender in its discretion, the following in the order specified:
 - (i) the Receiver's remuneration;
 - (ii) all payments reasonably made or incurred by the Receiver in connection with its receivership;
 - (iii) all payments of interest, Principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Charge, and all Bills, Taxes, insurance premiums and every other proper expenditure reasonably made or incurred by the Receiver in respect to the Charged Premises or any part thereof; and
 - (iv) all payments to the Lender of all interest due or falling due hereunder and the balance to be applied upon Principal due and payable and secured hereby;

and thereafter any surplus remaining in the hands of the Receiver after payments made as aforesaid shall be accountable to the Borrower or other persons entitled thereto; and

- (p) On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds thereof as security for the Indebtedness; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt.

ARTICLE 20 - DEFAULT UNDER SECURITY, PARAMOUNTCY DISCHARGE AND RENEWAL

- 20.1 Payments of principal and/or interest made under and pursuant to the terms of the Security shall constitute payment hereunder and vice versa and default in the payment of principal and/or interest under the Security shall constitute default hereunder and vice versa. Default in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained in the Security shall entitle the Lender to exercise all or any of the rights or remedies provided herein and the occurrence of and Event of Default hereunder or in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained herein shall entitle the Lender to exercise all or any of the rights or remedies provided in the Security. The occurrence of an Event of Default hereunder shall constitute an Event of Default under the Security and vice versa.

- 20.2 The cancellation of or any other dealing with any Security (other than foreclosure thereof) shall not release or affect this Charge, and the taking of this Charge, or the cancellation of or any other dealing with, or proceeding under (other than foreclosure hereunder), this Charge, shall not release or affect any Security:
- (a) The Lender may at any time and from time to time release any part or parts of the Charged Premises or any other Security or any surety for payment of all or any part of the monies hereby secured or may release the Borrower or any other person from any covenant or other liability to pay the Principal Sum and interest and all other monies secured hereby, or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any monies except those actually received by the Lender, and without thereby releasing any other part of the Charged Premises, or any other Security or covenants herein contained, it being especially agreed that notwithstanding any such release, the Charged Premises, the Security and the covenants remaining unreleased shall stand charged with the whole of the monies hereby secured;
 - (b) In the event that the monies advanced hereunder are applied to payment of any charge or encumbrance, the Lender shall be subrogated to all the rights of and stand in the position of and be entitled to all the equities of the party or parties so paid whether such charge or encumbrance has or has not been discharged; and the decision of the Lender as to the validity or amount of any advance or disbursement made under this Charge or of any claims so paid, shall be final and binding on the Borrower; and
 - (c) The Lender shall not be charged with any monies receivable or collectible out of the Charged Premises or otherwise, except those actually received by or on behalf of the Lender and all revenue of the Charged Premises received or collected by the Lender from any source other than payment by the Borrower may, at the option of the Lender, be retained in a separate account to be used in, maintaining, insuring or improving the Charged Premises to the extent required for such purpose, in the opinion of the Lender, acting reasonably, or in payment of Taxes or other liens, charges or encumbrances against the Charged Premises, or applied in reduction of the amounts owing hereunder.
- 20.3 Subject to Section 6.1 hereof, upon payment of all amounts secured by this Charge, the Borrower shall be entitled to receive and the Lender shall provide a discharge of this Charge and the Security within a reasonable period of time after the request therefor. The Lender shall have a reasonable time after such payment within which to prepare and execute such discharge and all reasonable legal and other expenses for the preparation, execution and registration of such discharge and/or documents, as the case may be, shall be borne by the Borrower.
- 20.4 All payments made pursuant to Section 20.3 shall be made to and received by the Lender prior to 1:00 p.m. on the date due or the next succeeding Business Day in the event the date due is not a Business Day; provided such extension of time shall be included for the purposes of computation of interest.

ARTICLE 21 - NO MERGER OR WAIVER OF LENDER'S RIGHTS

- 21.1 It is further understood and agreed that this Charge and the Security shall stand as a continuing security for repayment of the Loan, including, all advances made thereunder together with all interest, damages, costs, charges and expenses which may become due and payable to the Lender in respect of or in connection with the Loan or any portion thereof, notwithstanding any fluctuation or change in the amount, nature or form of the Loan or in the obligations now or hereafter representing the Loan or any portion thereof or in the names of the obligors or any of them.
- 21.2 The rights of the Lender arising under this Charge shall be separate, distinct and cumulative and, except as expressly provided herein, none of them shall be in exclusion of the other and no act of the Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.
- 21.3 The giving and taking of this Charge shall in no way merge, waive, prejudice, suspend or affect any of the rights or remedies of the Lender under any Security which may be given or which may have been or may hereafter be given in respect of the Principal Sum hereof, interest and other monies secured by this Charge, or any part thereof, or under the Security and all rights and remedies which the Lender now has or may hereafter have against any one or more persons, are hereby preserved.
- 21.4 The taking of a judgment or judgments under any of the covenants or obligations herein or under any Security shall not operate as a merger of the covenants of the Borrower or affect the Lender's right to interest at the Applicable Rate on any monies due or owing to the Lender during the continuance of this Charge, under any of the covenants herein contained or on any judgment to be recovered thereon.
- 21.5 The covenant of the Borrower to pay interest shall not merge in any judgment in respect of any covenant or obligation of the Borrower under this Charge or any Security and such judgment shall bear interest at the Applicable Rate until such judgment and all interest thereon have been paid in full.
- 21.6 Any waiver by the Lender of any default by the Borrower or any omission on the Lender's part in respect of any default by the Borrower shall not extend to or be taken in any manner whatsoever to affect any subsequent default by the Borrower or the rights resulting therefrom.
- 21.7 No extension of time given by the Lender to the Borrower or anyone claiming under the Borrower, shall in any way affect or prejudice the rights of the Lender against the Borrower or any person liable for payment of the monies hereby secured.

ARTICLE 22 - FINANCIAL DATA

- 22.1 The Borrower shall provide or cause to be provided promptly to the Lender full and complete information about the financial condition and operations of the Charged Premises, including a comprehensive rent roll of all space in the Charged Premises, about the financial condition of the Borrower and any Guarantor(s) and such other information which the Lender may reasonably require from time to time, and the Lender shall have the right to examine the books and records of the Borrower relating to the Charged Premises at reasonable times and upon reasonable prior notice.

- 22.2 Without limiting the foregoing, the Borrower covenants and agrees to provide or cause to be provided to the Lender audited financial statements together with operating statements pertaining to the Charged Premises and such other financial information the Lender may reasonably require, (a) in the case of audited financial statements, within ninety (90) days of the end of each fiscal year of the Borrower (or such other time as may reasonably be required by the Lender), and (b) with respect to operating statements for the Charged Premises, within thirty (30) days of the end of each quarter of each calendar year. The audited financial statements are to be prepared by a nationally recognized firm of chartered accountants and shall include a balance sheet, and a detailed statement of income and expenditures and supporting notes and schedules. The operating statements shall contain a certificate by a senior officer of the Borrower as to the contents and preparation thereof, and shall include detailed statements of income, expenditures results of operation and such other matters relating to the operation of the Charged Premises as the Lender may reasonably require. In the event applicable, the Borrower shall provide the Lender with copies of all proxy statements, reports and information circulars that the Borrower makes available to its shareholders and copies of all regular and periodic reports which the Borrower may file with any securities commission or any other Governmental Authority.
- 22.3 The Borrower shall provide or cause to be provided to the Lender, or as the Lender may direct, a comprehensive list of all current tenants and rentals of space in the Charged Premises during the Term, which list shall disclose, without limitation, the name of each tenant, the duration of its term, renewal options, if any, and the term thereof, the rental being paid, the last date on which rental was paid and whether such tenancy is in good standing. Such list shall contain an endorsement by an officer of the Borrower as to being complete and accurate.
- 22.4 All statements, reports and other documents required to be provided hereunder shall be prepared in a manner acceptable to the Lender, in its reasonable discretion.

ARTICLE 23 - NOTICE

- 23.1 Unless otherwise provided herein, any demand, notice or communication given or required to be given to a party hereunder shall be in writing and shall be personally delivered or given by transmittal by telecopy or facsimile transmission addressed to the respective parties at its address or telecopy or facsimile number set forth below or to such other address or telecopy or facsimile number as such party may designate by notice in writing to the other party hereto:
- (a) If to the Borrower, at the address for service set out in the electronic Charge to which this schedule is attached; and
 - (b) If to the Lender, at the address for service set out in the electronic Charge to which this schedule is attached.

Any demand, notice or communication made by or given by personal delivery shall be conclusively deemed to have been made or given on the day of actual delivery thereof, and, if made or given by telecopy or by facsimile, on the first day other than a Saturday, Sunday or a statutory holiday in Ontario, on which Schedule I banks are open for commercial business in Toronto, Ontario, following the transmittal thereof.

ARTICLE 24 - GENERAL

- 24.1 If any provision of this Charge or the application thereof to any circumstances shall be held to be invalid or unenforceable, it shall be deemed severed herefrom and the remaining provisions of this Charge, or the application thereof to other circumstances, shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law. In particular, and without limiting the generality of the foregoing, to the extent any and all amounts due pursuant to Article 6 hereof may be deemed to be in excess of what is permissible by law, any such excess shall be deemed not to be due under this Charge.
- 24.2 Wherever used in this Charge, unless the context clearly indicates a contrary intent as unless or otherwise specifically provided herein, the word "Borrower" shall mean "Borrower and/or subsequent owner or owners of the Charged Premises", the word "Lender" shall mean "Lender or any subsequent holder or holders of this Charge".
- 24.3 The descriptive headings of the several subparagraphs or paragraphs or sections or articles of this Charge are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.
- 24.4 Wherever the singular number or masculine gender is used in this Charge, the same shall be construed as including the plural and feminine or a body corporate, respectively, and vice versa, where the fact or context so requires; and the successors and assigns of any party executing this Charge are bound by the covenants, agreements stipulations and provisos herein contained. The covenants, agreements stipulations and provisos herein stated shall, except as otherwise limited hereby, be in addition to those granted or implied by statutory law.
- 24.5 This Charge shall be construed and enforceable under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, and the Borrower hereby irrevocably attorns to the non-exclusive jurisdiction of the courts sitting at Toronto, Ontario.
- 24.6 The Borrower shall at all times, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, transfers, assignments, security agreements and assurances as the Lender may reasonably require in order to give effect to the provisions hereof and for the better granting, transferring, assigning, charging, setting over, assuring, confirming or perfecting the Charge and the priority accorded to them by law or under this Charge.
- 24.7 If any of the forms of words contained herein are also contained in Column 1 of Schedule "B" of the Short Forms of Mortgages Act (Ontario) and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column 2 of Schedule "B" of the said Act distinguished by the same number, and this Charge shall be interpreted as if the *Short Forms of Mortgages Act* (Ontario) were still in full force and effect. The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) shall be and are hereby expressly excluded from the terms of this Charge.
- 24.8 This Charge shall, whether or not it secures a current or running account, be a general and continuing security to the Lender for payment of the indebtedness in an amount not exceeding the amount secured by this Charge and performance of the Borrower's

other obligations under the Charge notwithstanding any fluctuation or change in the amount, nature or form of the indebtedness or in the accounts relating thereto or in the bills of exchange, promissory notes and/or other obligations now or later held by the Lender representing all or any part of the indebtedness outstanding at any particular time; and the Charge will not be deemed to have been redeemed or become void as a result of any such event or circumstance.

- 24.9 This Charge is given as collateral security to the Commitment.
- 24.10 Notwithstanding any terms contained in the Commitment to the contrary, in the event of conflict between the Commitment and the terms of this Charge, the provisions of the Commitment shall prevail; provided that any provision herein contained that is not contained in the Commitment and vice versa shall not in and of itself be considered to be inconsistent or in conflict.

ARTICLE 25 – CONDOMINIUM PROVISIONS

- 25.1 The Borrower covenants and agrees that in the event that the security for the within Charge shall be or shall become a condominium unit(s) the following provisions shall apply.
- (i) the Borrower does hereby assign to the Lender all of its rights to vote or consent in the affairs of the Condominium Corporation having jurisdiction over the subject lands and the Lender, may at its option, exercise the right of an owner of a condominium unit to vote or consent in the affairs of the Condominium Corporation in the place and stead of such owner, without in any way consulting the owner as to the manner in which the vote shall be exercised or not exercised, and without incurring any liability to the owner or anyone else because of the manner in which such vote or right to consent in the affairs of the Condominium Corporation was exercised.
 - (ii) the Borrower shall pay promptly, when due, any common expenses, assessments, instalments or payments due to the Condominium Corporation.
 - (iii) the Borrower shall observe and perform the covenants and provisions required to be observed and performed under or pursuant to the provisions of the *Condominium Act* (Ontario), all amendments thereto, and any legislation passed in substitution thereof, and the declaration and by-laws of the Condominium Corporation and any amendments thereto.
 - (iv) Where the Borrower defaults in the Borrower's obligation to contribute to the common expenses assessed or levied by the Condominium Corporation, or any authorized agent on its behalf, or any assessment, instalment of payment due to the Condominium Corporation, upon breach of any of the foregoing covenants or provisions in this paragraph contained, regardless of any other action or proceeding taken, or to be taken by the Condominium Corporation, the Lender, at its option and without notice to the Borrower, may deem such default to be a default under the terms of this Charge and proceed to exercise its rights therein and the Lender shall be entitled at its option to pay all common expense amounts as they come due and these amounts so paid together with legal fees shall form part of the Indebtedness.

ARTICLE 26 – CONSTRUCTION LOAN PROVISIONS

In the event that any of the monies advanced or to be advanced under this Charge are intended to finance any improvement to the Charged Premises, the parties hereto covenant and agree that the following conditions shall apply:

- 26.1 All construction on the Charged Premises shall be carried out by reputable contractors having experience which is commensurate to nature and size of the project to be constructed, which contractors must be prior approved by the Lender in writing, such approval not to be unreasonably withheld.
- 26.2 The construction of the building and structures located on the Charged Premises have been commenced and shall be continued in a good and workmanlike manner, with all due diligence and in accordance with the plans and specifications delivered to the Lender and to the satisfaction of all governmental and regulatory authorities having jurisdiction.
- 26.3 Provided that should construction of the project on the Charged Premises cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Borrower excepted), for a period of ten (10) consecutive days (Saturdays, Sundays and Statutory holidays excepted), then, at the option of the Lender, this Charge shall immediately become due and payable. In the event that construction does cease, then the Lender shall have the right, at its sole option, to assume complete control of the construction of the said project in such manner and on such terms as it deems advisable. The cost of completion of the said project by the Lender and all expenses incidental thereto shall be added to the principal amount of this Charge, together with a management fee of fifteen percent (15%) of the costs of the construction completed by the Lender. All costs and expenses, as well as the management fee of fifteen percent (15%) added to the principal amount of this Charge shall bear interest at the rate as herein provided for and shall form part of the principal sum herein and the Lender shall have the same rights and remedies to collection of principal and interest hereunder or at law.
- 26.4 At all times there shall be sufficient funds unadvanced under this Charge and retained by the Lender to complete the construction and/or renovation of the project on the Charged Premises and as may be necessary to retain the Lender's priority with respect to any deficiency in the holdbacks required to be retained by the Borrower under the *Construction Act* (Ontario).
- 26.5 This Charge will be advanced in stages as construction upon the Charged Premises proceeds or as the conditions as enumerated by the Commitment are complied with.
- 26.6 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 Lender with respect to the said project and the progress thereof, whose fees and costs shall be for the account of the Borrower 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 and/or renovation to the date of such certificate shall be in accordance with the approved plans and specifications for the said construction 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 Charged Premises. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the building.

- 26.7 The Borrower shall pay to the Lender on each occasion when an inspection of the Charged Premises is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Lender may charge from time to time for each such inspection and the Lender's solicitors shall be paid their reasonable fees and disbursements for each sub-search and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Lender 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.
- 26.8 The Borrower agrees to indemnify and hold the Lender harmless from any and all claims, demands, sums of money, debts, covenants, bonds, accounts, actions, causes of action, rights, obligations and liability of every kind whatsoever which arise out of claims against the property under the *Construction Act* (Ontario) and that any liens for work and/or supplies that are registered against the Borrower's interest in the property will be promptly discharged within seven (7) days from the date of registration of the lien. The Lender may, but is not required to, deal with the lien claimant and pay the lien claim into court pursuant to the provision of the *Construction Act* (Ontario) for the purpose of vacating the lien from title to the property. The Borrower agrees to be liable for all costs, claims, amounts and fees including, without limitation, all legal fees (on a solicitor and his client basis) incurred by the Lender arising from or in connection with the Borrower or the Lender obtaining and registering either a release of the lien or an order vacating the lien.

ARTICLE 27 - ASSIGNMENT AND SALE

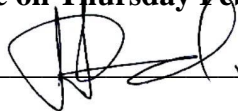
- 27.1 The Loan and all other amounts secured hereby, this Charge, the Security and all documents ancillary or collateral thereto may, in the Lender's sole discretion and without the consent of the Borrower, in whole or in part, be participated, sold, securitized, syndicated or assigned by the Lender from time to time to one or more Persons.
- 27.2 The Lender may disclose to participants, transferees or assignees or to potential participants, transferees or assignees or others in connection with any sale, assignment, participation, securitization, transfer or syndication, such information concerning the Borrower or the Charged Premises as the Lender may consider to be appropriate in connection therewith.
- 27.3 No grant, assignment or transfer pursuant to this Article 27 shall constitute a repayment by the Borrower to the Lender of the Loan or any other amounts owing hereunder and included in such assignment or transfer and the Borrower acknowledges that all obligations under this Charge and the Security with respect to such assignment or transfer will continue and not constitute new obligations.
- 27.4 The Borrower agrees to be bound by and do all things necessary or appropriate to assist and give effect to any transfer, participation, securitization, sale, syndication or assignment, but shall incur no increased liabilities as a result thereof.

Exhibit “12”

This is Exhibit “12” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read "Paul Mand", is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Properties

PIN 03345 - 0011 LT *Interest/Estate* Fee Simple
Description PCL 8-1 SEC 65M3001; LT 8 PL 65M3001; T/W BLK 36 PL 65M3001 AS IN LT1037812 (S/T LT1006180);; CITY OF VAUGHAN
Address 88 ABBRUZZE COURT
 WOODBRIDGE

PIN 70007 - 0730 LT *Interest/Estate* Fee Simple
Description LOT 79, PLAN 65M3921; S/T EASEMENT FOR ENTRY AS IN YR916426; TOGETHER WITH AN EASEMENT OVER PT LT 78 PL 65M3921, PT 13 65R30835 AS IN YR1259568; CITY OF VAUGHAN
Address 72 GRAND VELLORE CRESCENT
 WOODBRIDGE

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 KODWAVI, MUZAMMIL
Address for Service 72 Grand Vellore Cres.
 Vaughan, ON L4H 0N8

I am at least 18 years of age.

My spouse is a party to this document.

This document is not authorized under Power of Attorney by this party.

Name KODWAVI, SAFANA
Address for Service 72 Grand Vellore Cres.
 Vaughan, ON L4H 0N8

I am at least 18 years of age.

My spouse is a party to this document.

This document is not authorized under Power of Attorney by this party.

Chargee(s)*Capacity**Share*

Name AFC MORTGAGE ADMINISTRATION INC.
Address for Service 2010 Winston Park Drive, 2nd Floor
 Oakville, ON L6H 6P5

Statements

Schedule: See Schedules

Provisions

Principal \$2,010,000.00 *Currency* CDN
Calculation Period
Balance Due Date
Interest Rate Higher of 11.99% and TD Prime Rate + 9.54% per annum
Payments
Interest Adjustment Date
Payment Date On Demand
First Payment Date
Last Payment Date
Standard Charge Terms
Insurance Amount Full insurable value
Guarantor

Signed By

Perry Cheung 1000-120 Adelaide St. W. acting for Signed 2022 10 27
 Toronto
 M5H 3V1 Chargor(s)

Tel 416-363-2211

Fax 416-363-0645

The applicant(s) hereby applies to the Land Registrar.

Signed By

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

Schneider Ruggiero Spencer Milburn LLP 1000-120 Adelaide St. W. 2022 10 27
Toronto
M5H 3V1

Tel 416-363-2211
Fax 416-363-0645

Fees/Taxes/Payment

Statutory Registration Fee \$66.30
Total Paid \$66.30

File Number

Chargee Client File Number : 44601

SCHEDULE TO THE ATTACHED CHARGE/MORTGAGE

RECITALS

The Lender has agreed to make a loan in favour of the Borrower upon the terms and conditions more particularly contained herein.

The Borrower is the registered owner of the lands and premises described in the electronic Charge to which this schedule is attached.

This Charge is given by the Borrower to the Lender as continuing security for the repayment by the Borrower to the Lender of such loan and the performance by the Borrower of its obligations as more particularly described herein.

ARTICLE 1 - DEFINITIONS

1.1 For the purposes of this Charge the following definitions will apply:

“Applicable Laws” means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all then current laws, rules, statutes, regulations, treaties, orders, judgments and decrees and all official directives, rules, guidelines, orders, policies, decisions and other requirements of any Governmental Authority (whether or not having the force of law) (collectively, the “Law”) relating or applicable to such Person, property, transaction, event or other matter and shall also include any interpretation of the Law or any part of the Law by any Person having jurisdiction over it or charged with its administration or interpretation;

“Applicable Rate” means the interest rate set out in the electronic Charge to which this schedule is attached or, in the alternative, the interest rate set out in the Commitment;

“Bills” has the meaning ascribed thereto in Section 10.1(a);

“Borrower” means the party identified as “Chargor” set out in the electronic Charge to which this schedule is attached and its successors and assigns;

“Business Day” means a day on which the Lender is open for business but specifically excluding Saturdays, Sundays or statutory holidays pursuant to the laws of Canada or the Province of Ontario and “Business Days” means more than one Business Day;

“Charge” means this charge/mortgage of land and all instruments supplemental hereto or in amendment, renewal, extension, restatement, replacement or confirmation hereof;

“Charged Premises” means, collectively, the Lands and the Improvements;

“Commitment” means the letter of commitment between, *inter alios*, the Borrower and the Lender dated October 12, 2022, as the same has been or may be amended, restated, supplemented, renewed, extended or superseded from time to time;

“Environmental Approvals” has the meaning ascribed to it in Section 12.1 hereof;

“Environmental Laws” or “Environmental Law” has the meaning ascribed to them in Section 12.1 hereof;

“Event of Default” has the meaning ascribed thereto in Section 18.1 hereof;

“Event of Insolvency” means the occurrence of any one of the following events:

- (a) If the Borrower, or the Guarantor(s), shall, other than as expressly permitted hereby:
 - (i) be wound up, dissolved or liquidated, whether pursuant to the provisions of the laws of the Province of Ontario or the federal laws of Canada applicable therein, or any other law or otherwise, or becomes subject to the provisions of the *Winding-Up and Restructuring Act* (Canada), or has its existence terminated or has any resolution passed therefor; or
 - (ii) makes a general assignment for the benefit of its creditors or files a proposal or a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada), shall otherwise acknowledge its insolvency or shall be declared or become bankrupt or insolvent; or
 - (iii) proposes a compromise or arrangement or otherwise brings proceedings under or becomes subject to the provisions of the *Companies’ Creditors Arrangement Act* (Canada) or shall file any petition or answer seeking any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution or any other relief for itself under, or in any way takes the benefit of, the *Bankruptcy and Insolvency Act* (Canada) or any other present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors; or
 - (iv) be unable, by reason of insolvency or similar circumstances, to pay its trade creditors generally, within one hundred and twenty (120) days of the rendering of trade accounts or admit its inability to pay its debts or perform its obligations as they become due; or
- (b) If a court of competent jurisdiction shall enter an order, judgment or decree against the Borrower in respect of any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution, winding-up, termination of existence, declaration of bankruptcy or insolvency, or similar relief under any present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors, or the Borrower shall acquiesce in the entry of such order, judgment or decree, unless the Borrower is also proceeding forthwith to diligently and in good faith contest the same and, provided that none of the Charged Premises, the Charge or the Security, the value of the Charged Premises or the operation

thereof, are adversely affected and there is no prejudice to the Lender in the Lender's reasonable opinion, and such order, judgement or decree is vacated or permanently stayed within fifteen (15) days of its making; or

- (c) If any trustee in bankruptcy, receiver, receiver and manager, monitor or liquidator or any other officer with similar powers shall be appointed for the Charged Premises or any portion thereof, or for the Borrower or the Guarantor(s), or for all or any substantial part of its assets or its interest in the Charged Premises with the consent or acquiescence of the Borrower; or
- (d) If, other than as expressly permitted hereby, an encumbrancer or the holder of any lien or charge or any other creditor takes possession of the Charged Premises or the Borrower's interest in the Charged Premises, or any part thereof, or if a distress, execution, garnishment or any similar process is levied or enforced upon or against the same;

"Governmental Authority" means any federal, provincial, territorial or municipal government and any executive, judicial, regulatory or administrative functions of, or pertaining to, government (including, without limitation, all boards, commissions, agencies, departments and ministries);

"Guarantor(s)" means any Person from time to time guaranteeing the Indebtedness;

"Hazardous Substance" has the meaning ascribed to it in Section 12.1 hereof;

"Improvements" means the buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements now located on the Lands and all appurtenances pertaining thereto, together with all other buildings, structures, fixtures and improvements hereafter located from time to time in, on or under the Lands and all personal property, equipment and chattels now or hereafter affixed to the Lands or to such buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements owned by the Borrower;

"Indebtedness" means, collectively, the Principal Sum, any debts, liabilities, obligations, covenants and duties owing by the Borrower to the Lender of any kind or nature, present or future and arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith, whether or not evidenced by any note, guarantee or other instrument, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guarantee, indemnification, or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and in all cases arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith. The term includes, without limitation, all interest, yield maintenance, charges, expenses, fees, including all processing and commitment fees and all legal fees and disbursements (in each case whether or not allowed), and any other sum chargeable to the Borrower under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith;

"Inspections" has the meaning ascribed to it in Section 12.1 hereof;

"Interest Adjustment Date" means the interest adjustment date set by the Lender for the purposes of setting a payment schedule;

"Lands" means the lands and premises described in the electronic Charge to which this schedule is attached, including all tenements, hereditaments and appurtenances belonging or in any way appertaining thereto, and the reversion or reversions, remainder and remainders, rents, issues and profits therefrom, and all the estate, right, title, interest, property claim and demand whatsoever of the Borrower of, in and to the same and of, in and to every part thereof;

"Lease Benefits" means the benefit of all covenants and obligations of tenants, licencees or occupants contained in any of the Leases, including, without limitation, all rights and benefits of any guarantees thereof, the right to demand, sue for, collect, recover and receive all Rents, to enforce the landlord's rights under any Lease and generally any collateral advantage or benefit to be derived from the Leases or any of them;

"Lease Rights" means, collectively, the Leases, the Rents and the Lease Benefits;

"Leases" means all present and future leases, subleases, licences, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Borrower, or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Charged Premises, including all agreements collateral thereto, but which, for the purpose of this definition does not include the Property Lease, and "Lease" means any one of them;

"Lender" means the party identified as "Chargee" in the electronic Charge to which this schedule is attached, and its successors and assigns;

"Loan" means the loan extended or to be extended by the Lender to the Borrower in the principal amount set out in the electronic Charge to which this schedule is attached and secured by this Charge and other security given to the Lender by the Borrower and the Guarantor(s), if any;

"Major Tenant Leases" means any agreements to lease, offers to lease or leases, subleases or occupancy agreements in respect of premises situate on the Charged Premises and which are determined by the Lender in its discretion to be material to the Charged Premises and the extension and maintenance of the Loan;

"Maturity Date" means, subject to early maturity by reason of the occurrence of an Event of Default and the acceleration of repayment at the option of the Lender, the balance due date set out in the electronic Charge to which this schedule is attached;

"Permitted Encumbrances" means encumbrances, liens and interests affecting the Charged Premises which are acceptable to the Lender in its sole discretion;

"Person" means any natural person, sole proprietorship, partnership, syndicate, trust, joint venture, Governmental Authority or any incorporated or unincorporated or entity or association of any nature;

"Principal" or "Principal Sum" means the principal amount of the Loan owing from time to time by the Borrower to the Lender;

“Rents” means all rents, issues and profits now due or to become due under or derived from the Leases;

“Security” means, collectively, the Commitment and all other or additional security, other than this Charge, given by the Borrower or others to the Lender as security for the Loan;

“Taxes” means for each year during the term of this Charge all real property taxes, business taxes, rates, duties, charges, assessments, impositions, taxes, levies and charges for local improvements or otherwise, imposed upon or assessed against the Charged Premises or any part or parts thereof by any Governmental Authority including, without limitation, school boards, and paid or payable by the Borrower or any tenant of the Charged Premises, but shall not include franchise, capital levy or transfer tax or any income, excess profits or revenue tax or any other tax or impost of a personal nature charged or levied upon the Borrower or any tenant of the Charged Premises. If the system of real property taxation or business shall be altered or varied and any new tax shall be levied or imposed on all or any portion of the Charged Premises or the revenues therefrom in substitution for, or in addition to, taxes presently levied or imposed, then any such new tax or levy shall be deemed to be and shall be included herein; and

“Term” means the term of this Charge and being a period which expires on the Maturity Date.

ARTICLE 2 - CHARGING PROVISIONS

- 2.1 Now therefore witnesseth that the Borrower, being the registered owner of a freehold estate in fee simple in possession of the Lands, in consideration of the Loan advanced or to be advanced by the Lender to the Borrower or for its benefit, and as security for the repayment of all Indebtedness and the performance of the obligations of the Borrower hereunder, does hereby grant, mortgage, charge and create a security interest in, to and in favour of the Lender all of its estate, right, title and interest in and to the Charged Premises and covenants and agrees to and with the Lender as hereinafter provided.
- 2.2 The last day of any term reserved by any lease or sublease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Borrower, as lessee, and forming part of the Charged Premises is hereby excepted out of the mortgage, charge, assignment and security interest hereby created or granted or any instrument in implementations hereof, and the same shall be deemed to be a charge by way of sublease. As further security for the payment of the Indebtedness, the Borrower agrees that it will stand possessed of the reversion of such last day of the term and shall hold it in trust for the Lender for the purpose of this Charge and to assign and dispose thereof, without cost or expense to the Lender, in such manner as the Lender shall by notice in writing, for such purpose, direct. Upon any sale, assignment, sublease or other disposition of such leasehold interest or any part thereof, the Lender, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser, assignee, sublessee or other acquirer thereof, shall be entitled by deed or writing to appoint such party or parties as a new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Borrower and to vest the same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation respecting the same.

ARTICLE 3 - REPAYMENT AND INTEREST

- 3.1 The Borrower covenants to pay to or to the order of the Lender at its offices as set out in Article 23 hereof or at such other address as the Lender may from time to time designate in writing, without set-off, compensation or deduction, and without deduction for bank service or any other charges, the Principal Sum together with all other Indebtedness with interest thereon at the Applicable Rate, as well after as before maturity and both before and after default, demand and judgment. Such interest at the Applicable Rate shall be computed from the date of advance to become due and be paid initially on the Interest Adjustment Date and thereafter to be paid in instalments of principal and/or interest as required by the Commitment, commencing on the first payment date set out in the Commitment or in the electronic Charge to which this schedule is attached and continuing each month during the Term, to and including the last payment date set out in the Commitment or the electronic Charge to which this schedule is attached, each such instalment to be in the amount stipulated in the Commitment or in the electronic Charge to which this schedule is attached and the last instalment, in the amount of the then remaining balance of the Principal Sum, other Indebtedness and accrued interest thereon, to be paid on the Maturity Date.
- 3.2 The Borrower acknowledges and agrees that monthly instalments for principal and/or interest, as required by the Commitment, described in Section 3.1 together with all payments for Taxes as set out in Section 10.1 hereof must pass through a single bank account on which the Borrower will have provided post-dated cheques (as required by the Lender) or have pre-authorized the Lender to withdraw the monthly payments under this Charge plus any Taxes payable in respect of the Charged Premises if not otherwise paid by the Borrower. In addition, the Borrower must maintain at all times in such account a minimum balance equal to the sum of the monthly payment of principal, interest and Taxes (as such Taxes become due).
- 3.3 It is hereby agreed that if default should occur in payment of any sum due at the time appointed for payment thereof as herein provided, compound interest at the Applicable Rate shall be payable on the sum in arrears from time to time, as well after as before maturity, and if interest as compounded is not paid within one (1) month from the time of default, a rest shall be made, and compound interest at the Applicable Rate shall be payable on the aggregate then due, as well after as before maturity, both before and after default, demand and judgement and so on from time to time and all such interest and compound interest shall be a charge on the Charged Premises.
- 3.4 All interest in arrears shall be treated (as to payment of interest thereon) as Principal and shall bear compound interest, as well after as before maturity, default and judgement as provided in Section 3.3 hereof.
- 3.5 The Borrower will pay interest, including interest on overdue interest, at the Applicable Rate on any arrears of instalments of principal and/or interest, and any payment by the Borrower shall be applied by the Lender first on account of interest and then on account of principal.
- 3.6 All payments of principal and interest pursuant to Section 3.1 shall be made to and received by the Lender prior to 1:00 p.m. on the date due, failing which such payment shall be deemed received on the next succeeding Business Day provided that in such case, such extension of time shall be included for the purpose of computation for interest; provided further that in the event any payment is due on a day which is not a Business Day, it shall be payable prior to 1:00 p.m. on the next succeeding Business Day and provided such payment is received by such date and such time, then, save in respect of repayment of the Indebtedness at the Maturity Date where interest shall be charged for extensions to the next succeeding Business Day, interest shall not be charged for such extension.

ARTICLE 4 - CRIMINAL RATE OF INTEREST

- 4.1 Notwithstanding any other provisions of this Charge, in no event shall the aggregate “interest” (as defined in Section 347 of the Criminal Code, (Canada), as the same shall be amended, replaced or re-enacted from time to time) payable to the Lender under this Charge exceed the effective annual rate of interest on the “credit advances” (as defined in that section) under this Charge lawfully permitted under that section and, if any payment, collection or demand pursuant to this Charge 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 Lender and the Borrower and the amount of such payment or collection in excess of that lawfully permitted shall be refunded by the Lender to the Borrower.

ARTICLE 5 - INTEREST ACT (CANADA)

- 5.1 For the purposes of this Charge, whenever interest is payable or stated not on the basis of a yearly rate, such rate of interest may be determined by multiplying the Applicable Rate by a fraction the numerator of which is the actual number of days in the calendar year in which the same is to be ascertained and the denominator of which is the number of days in the period for which such rate is determined to be payable.
- 5.2 All calculations of interest or fees under this Charge are to be made on the basis of the stated rates set out herein and not on any basis which gives effect to the principle of deemed re-investment.

ARTICLE 6 - PREPAYMENT

- 6.1 Subject to prepayment provisions provided for in the Commitment, if any, or early maturity by reason of the acceleration of the repayment of the Indebtedness at the option of the Lender upon the occurrence of an Event of Default, the Borrower shall not be entitled to prepay all or any portion of the Principal under this Charge prior to the Maturity Date.

ARTICLE 7 - NO OBLIGATION TO ADVANCE

- 7.1 The Borrower acknowledges and agrees that the Lender is not bound to make any advance of any of the Principal Sum or any unadvanced portion thereof by reason of the registration of this Charge in any place or registry office or the advance of any part of the said Principal Sum, it being acknowledged by the Borrower that any advance hereunder is subject, inter alia, to: (i) the representations and warranties contained herein being true and correct as of the date of any advance of the Loan; (ii) no default having occurred hereunder, under any of the Security or under the Commitment; and (iii) the conditions precedent contained in the Commitment having been satisfied.
- 7.2 In the event this Charge is registered and either no advance whatsoever is made hereunder by the Lender or the Borrower's ability to draw down funds is terminated by the Lender before any funds are advanced, the Lender will, at the expense of the Borrower and upon payment of all monies, costs, fees and disbursements then due to the Lender, promptly upon request by the Borrower execute and deliver to the Borrower, or any agent thereof, registrable discharges of this Charge and of the Security, for use in every registry office where they or notices thereof have been recorded or filed; provided that the Borrower acknowledges that this Section 7.2 shall be of no effect once any advance of the funds is made hereunder by the Lender.

ARTICLE 8 - REPRESENTATIONS AND WARRANTIES

- 8.1 The Borrower represents and warrants in favour of the Lender, acknowledging that the Lender is relying on such representations and warranties in extending the Loan:
- (a) The Borrower is a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and has all necessary corporate power and authority to enter into this Charge and the Security and to perform or cause to be performed its obligations contained herein and therein, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on;
 - (b) There are no provisions in the articles or bylaws of the Borrower or any unanimous shareholders agreement of or with respect to the Borrower or to which the Borrower is a party which restrict, limit or regulate in any way the powers of the Borrower to borrow on credit or to issue, sell or pledge any of the property or assets now or hereafter owned by it to secure its debt obligations, save and except any provisions which have been complied with. No steps or proceedings have been taken or are pending to amend or supersede the articles or bylaws of the Borrower in a manner which would impair or limit the Borrower's ability to perform its obligations hereunder or under the Security;
 - (c) The Borrower has taken all necessary corporate action to authorize the execution and delivery of this Charge and the Security, and performance of the provisions of each in accordance with its terms;
 - (d) The authorization, creation, execution or delivery of this Charge or the Security or the Borrower's performance of its obligations hereunder or thereunder does not require any approval or consent of any Governmental Authority having jurisdiction nor will any such action be in conflict with or contravene any of the Borrower's articles, bylaws, unanimous shareholders agreement, if any, or resolutions of directors or shareholders, or the provisions of any indenture, instrument, agreement or undertaking to which the Borrower is a party or by which it or its properties or assets are bound, or result in the creation, imposition or crystallization of any hypothec, title retention, charge, pledge, lien, encumbrance or security interest of any kind upon any of its property or assets subject to the Charge or security interest created thereby or by the Security other than in accordance with the provisions of this Charge and the Security. This Charge and the Security when executed and delivered will constitute valid and legally binding obligations of the Borrower, enforceable against it in accordance with its terms;
 - (e) There is not now pending or, to the best of the Borrower's knowledge or belief after due inquiry, threatened against the Borrower, any litigation, action, suit, investigation or other proceeding by or before any court, tribunal or other competent Governmental Authority which would materially adversely affect the present or prospective ability of the Borrower to perform its obligations under this Charge or the Security, as the case may be, or which calls into question the validity or enforceability of this Charge or the Security;

- (f) No Event of Insolvency has occurred or is threatened or pending;
- (g) The Borrower is the registered owner of and has a good and marketable title in fee simple to the Lands, and, unless otherwise disclosed to the Lender in writing, is the legal and beneficial owner of the Charged Premises, free and clear of all security interests, charges, liens and other encumbrances whatsoever except for the Permitted Encumbrances, which Permitted Encumbrances are in good standing;
- (h) The Borrower has the right to charge the Charged Premises to the Lender;
- (i) The Borrower has not received any notice of or threat of a lien under the *Construction Act* (Ontario), as amended, against the Charged Premises nor has any lien been registered against the Charged Premises in respect of labour, materials or services furnished with respect to any improvement thereon which has not been discharged;
- (j) Unless expressly stipulated in the Commitment, the Charge is not being given with the intention to use the proceeds thereof to finance any alterations, additions or repairs to, or any construction, erection, demolition or installation on the Charged Premises or any structure thereon;
- (k) Unless expressly stipulated in the Commitment, the Charge is not a building mortgage, within the meaning of the *Construction Act* (Ontario), as amended, and the funds to be advanced by the Lender are not being used to repay a building mortgage;
- (l) There has been no improvement or materials supplied on or in respect of the Charged Premises in respect of which a construction lien could arise and which has not been completed or abandoned within the sixty (60) days immediately preceding the date hereof;
- (m) Except as disclosed to the Lender in writing, the existing and proposed uses, the operation of the Charged Premises and the business conducted thereon comply and, to the best of the Borrower's knowledge and belief, have (including all prior uses) at all times complied with all Applicable Laws, including all Environmental Laws, and the Borrower is not in violation of, and does not violate, by virtue of the ownership, use, maintenance or operation of the Charged Premises or the conduct of any business related thereto, any Applicable Laws, including all Environmental Laws;
- (n) The Charged Premises may be charged by the Borrower in compliance with the *Planning Act* (Ontario), and no severance of any adjoining lands owned by the Borrower is required;
- (o) All financial statements and data delivered or presented to the Lender by the Borrower up to and including the date hereof are true and correct in all material respects as at the dates and for the periods indicated and have been prepared in accordance with Canadian generally accepted accounting principles and disclose to the Lender all financial information relevant to the Lender in respect of making the Loan and there is no information, financial or otherwise, which has not been disclosed to the Lender which would be material to the Lender in its decision to advance the Loan, and, without limiting the foregoing, neither the Guarantor(s) nor the Borrower has failed to disclose to the Lender any facts or information material to the making of the Loan;
- (p) No Event of Default, or an event which with the giving of notice, lapse of time or otherwise, would constitute an Event of Default exists;
- (q) Each Permitted Encumbrance is in good standing and all obligations and covenants required to be met or complied with thereunder on the part of the Borrower have been complied with and, in respect to any other party thereto to the best of the Borrower's knowledge and belief, have been met or complied with;
- (r) All Leases entered into as of the date hereof are valid, subsisting and enforceable leases and are in good standing as of the date hereof without right of set-off or abatement;
- (s) The Borrower is not bound by any indenture, agreement, lease or other instrument, nor is it subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction or any of the Applicable Laws, which materially adversely affects its business operations in respect of the Charged Premises or the performance of its obligations under this Charge or the Security;
- (t) The Borrower has complied with all Applicable Laws in respect of any residential unit located on the Charged Premises, including in respect of any conversion, demolition, rentals charged or filings or applications to be made and there are no outstanding orders, decisions or directives made or pending which are or would be adverse to the Borrower or the Charged Premises in respect of any residential unit located on the Charged Premises;
- (u) If and as applicable, the Borrower is not a non-resident corporation or person of Canada within the meaning of the *Income Tax Act* (Canada);
- (v) If applicable, each partner of the limited partnership of which the Borrower is the general partner is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (w) If applicable, with respect to each partner of the limited partnership of which the Borrower is a general partner that is a Canadian corporation, either (i) the shares of that corporation do not derive their value, directly or indirectly, primarily from foreign property, all within the meaning of the *Income Tax Act* (Canada) or (ii) the corporation is a corporation described in subsection 206(1.1) of the *Income Tax Act* (Canada), as that provision may be amended from time to time;
- (x) The Borrower shall not, without the prior written consent of the Lender, execute or deliver any mortgage, charge, lien or other encumbrance of the Lands intended to rank subordinate to this Charge; and
- (y) The Borrower is not and shall not be during the Term (without the prior written consent of the Lender), a farmer within the meaning of the *Farm Debt Mediation Act* (Canada).

8.2 The representations and warranties set out in this Article 8 shall speak as of the date made, survive the execution and delivery of this Charge and the making of any advance hereunder and continue to be true and accurate during the Term of this Charge, notwithstanding any investigations or examinations which may be made by the Lender or the Lender's solicitors and the Lender shall be deemed to have relied on such representations and warranties in making advances under the Loan.

8.3 The Borrower shall indemnify and save harmless the Lender from and against all losses, damages, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from any omission, inaccuracy or misrepresentation of the Borrower herein relating to or concerning the Charged Premises and with respect to all losses, charges, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from or arising in connection with environmental matters relating to, arising from, in connection with or concerning the Charged Premises, whether referred to or contemplated herein or hereby.

ARTICLE 9 – COVENANTS

9.1 The Borrower covenants with the Lender that upon the occurrence of an Event of Default, the Lender shall have quiet possession of the Charged Premises, free from any encumbrances, save and except for the Permitted Encumbrances.

9.2 The Borrower shall not without the prior written consent of the Lender, which may be withheld in the sole discretion of the Lender permit or suffer to exist any charges, liens, security interests or other encumbrances against the Charged Premises, save and except for the Permitted Encumbrances; and the Borrower shall maintain the Permitted Encumbrances in good standing and provide notice to the Lender forthwith of any default under any of the Permitted Encumbrances.

9.3 The Borrower shall not initiate, permit or suffer to exist any Event of Insolvency, in respect of itself or, to the extent that the Loan, this Charge or the Security is affected by the occurrence of any such event, of any related person or corporation, including without limitation, any parent corporation of the Borrower. The Borrower covenants and agrees (i) to provide two Business Days' notice prior to the occurrence of an Event of Insolvency (an "Insolvency Notice"), and agrees that the receipt of an Insolvency Notice by the Lender shall constitute an immediate Event of Default if the Borrower or any Guarantor(s) is an applicant or takes the benefit of such statute or proceeding or if any of these proceedings otherwise affect the rights or entitlements of the Lender under the Loan, this Charge or the Security or the Lender's ability to enforce this Charge or the Security, and (ii) prior to the commencement of any such proceedings, to deliver to the Lender copies of all relevant filing materials, including, without limitation, copies of draft court orders, plans of compromise, proposals and notices of intention, it being intended by the Borrower that the Lender be entitled during the period after receipt of an Insolvency Notice to enforce this Charge and the Security for the purpose of, among other things, taking possession and control of the Charged Premises, in the Lender's sole discretion.

9.4 The Borrower shall not, without the prior written consent of the Lender, initiate, join in or consent to any change to or modification in any private restrictive covenant, municipal or other governmental law, rule or regulation, by-law, or any other public or private restrictions, limiting or defining the uses which may be made of the Charged Premises, or any part thereof and which could adversely affect the Charge, the Security, the day- to-day operations of the Charged Premises, the income derived therefrom or the value of the Charged Premises.

9.5 The Borrower shall comply in all respects with all covenants, deed restrictions, easements and Applicable Laws which pertain to the ownership, use or operation of the Charged Premises or the performance by the Borrower of its obligations under this Charge and shall ensure that all representations and warranties contained herein continue to be true and accurate at all times during the Term.

9.6 The Borrower shall permit the Lender, or cause to be made available to the Lender, access to all records, both written and electronic, pertaining to the Charged Premises and upon request shall make copies of such information for the Lender. For such purposes, the Lender shall have reasonable access to the Charged Premises or such other place as such records are kept upon reasonable prior written notice to the Borrower.

9.7 The Borrower shall fulfil on a timely basis any undertaking provided by it to the Lender at the time of the advance of the Loan.

9.8 The Borrower covenants to ensure that this Charge will remain a valid and enforceable mortgage of the Charged Premises with first priority subject only to the Permitted Encumbrances and the Borrower will fully and effectively maintain and keep the Security as valid and effective security during the currency hereof.

9.9 The Borrower shall promptly give written notice to the Lender of any litigation, proceeding or dispute affecting the Charged Premises if the result thereof might have a material adverse effect on the Charged Premises, the financial condition or operations of the Borrower or any Guarantor(s) or its ability to perform its obligations hereunder and shall, from time to time, furnish to the Lender all reasonable information requested by the Lender concerning the status of such litigation, proceeding or dispute and shall in all such cases diligently and in good faith proceed to defend, settle or otherwise deal with any such litigation, proceeding or dispute in a commercially reasonable manner.

9.10 The Borrower shall promptly give notice to the Lender upon becoming aware of and provide particulars in respect of:

- (a) An Event of Default or any event which with the passage of time or giving of notice would constitute an Event of Default;
- (b) Any default under a Lease;
- (c) Details of material renovations to the Charged Premises when the Borrower intends to or reasonably anticipates that it will renovate the Charged Premises;
- (d) Any default under any Permitted Encumbrance;
- (e) Any notice of expropriation, action or proceeding materially affecting the Charged Premises or the violation of any Applicable Law which may have a material adverse affect on the Charged Premises; and

- (f) Any matter which may have a material adverse affect upon the Borrower or the Guarantor(s) or Charged Premises or the operations conducted thereon, or the security constituted by this Charge and the Security.

9.11 The Borrower covenants at all times:

- (a) to perform or cause to be performed all of the covenants and obligations on the part of lessor contained in the Leases (except the extent the same have been expressly waived by the other parties to such Leases and except in circumstances where the tenant is in default and the Borrower is acting prudently and in the best interests of the Charged Premises);
- (b) to maintain or cause to be maintained the Lease Rights in good standing and not to do, permit to be done or omit to do anything which may impair the enforceability of the Lease Rights;
- (c) save for the deposits for the first and last month rentals, not to accept Rents more than one (1) month in advance of the dates when Rents fall due;
- (d) not to enter into Leases which are not at arm's length unless the terms thereof are at least equal to current market terms;
- (e) not to enter into Lease which do not constitute Major Tenant Leases (each of which must be approved by the Lender as hereafter provided) unless such leases are substantially on Lender pre-approved standard lease forms and not to enter into Major Tenant Leases without the Lender's approval as hereafter provided;
- (f) not to or to permit termination, alteration or amendment or waiver of rights or remedies or otherwise take any action with respect to any of the Leases which in the aggregate would create a material reduction in Rents from those payable as of the date hereof, without the prior approval of the Lender;
- (g) not to further assign, mortgage or pledge or permit the assignment, mortgaging or pledging of any Lease or the rents thereunder, save for assignments by tenants of their tenant's interest in Leases, to the extent permitted under such Leases; and
- (h) to ensure in respect of all Leases now or hereafter entered into that (i) the tenant thereunder, at the option of the Lender, subordinates its lease to the security of this Charge and attorns to and becomes a tenant of the Lender or any purchaser from the Lender in the event of the exercise of a sale remedy by the Lender, for the unexpired residue of the term and upon the terms and conditions of said lease, provided the Lender will agree to enter into non-disturbance agreements on commercially reasonable terms with all such tenants; and (ii) at the request of the Lender, provide as further security specific assignments of Leases hereinafter entered into.

9.12 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, enter into any agreement or document in respect of the Charged Premises (except for leases in accordance with the terms hereof and the Security) which is material to the ownership, value, operation, or use of the Charged Premises unless the same is in the ordinary course of business.

9.13 With respect to any Major Tenant Lease, the Borrower shall not and shall not permit without the prior written consent of the Lender:

- (a) cancel or modify any Major Tenant Lease, release the obligations of any lessee thereunder, accept a surrender of a Major Tenant Lease, accept any prepayment of Rents thereunder or consent to any sublet or assignment by the lessee under any Major Tenant lease (except where the provisions of such Major Tenant Lease require the landlord to do so); or
- (b) enter into any Major Tenant Lease unless the terms, form and substance of such Major Lease is satisfactory to the Lender, acting reasonably; or
- (c) to further assign, mortgage, pledge, hypothecate or otherwise deal with any Major Tenant Lease.

9.14 The Borrower shall do or cause to be done all things necessary to keep in full force and effect all rights, franchises, licences and qualifications necessary or incidental to perform or cause to be performed its obligations contained in this Charge and the Security and to carry on its business pertaining thereto as presently carried on.

9.15 The Borrower shall from time to time to pay or cause to be paid all amounts related to taxes, wages, workers compensation obligations, government royalties, and any other similar amounts relating to the business conducted on the Charged Premises if non-payment thereof may result in an encumbrance (other than a Permitted Encumbrance) against the Charged Premises or any of the assets secured in favour of the Lender by the Security.

9.16 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, cause or permit any change in the status of the Borrower that results in the representations contained in Subparagraph 8.1(u) or Subparagraph 8.1(v) ceasing to be accurate in all material respects.

9.17 The Borrower covenants, subject to the rights of reorganization herein contained, to continue as a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and maintain all necessary corporate power and authority to perform or cause to be performed its obligations contained herein and in the Security, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on.

9.18 The Borrower covenants that, unless in respect of a reorganization of the Borrower permitted under Paragraph 18.1(h) or with the consent of the Lender as provided therein, no steps or proceedings will be taken to amend or supersede the articles or bylaws of the Borrower and in any event no steps or proceedings, including any reorganization of the Borrower, will be taken in a manner which would impair or limit the Borrower's or its successor's ability to perform its obligations hereunder or under the Security.

- 9.19 The Borrower will not enter into any indenture, agreement, lease or other instrument, nor become subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction, which materially adversely affects the Charged Premises.

ARTICLE 10 - TAXES/LIENS

10.1

- (a) The Borrower shall pay or cause to be paid, all Taxes together with such other amounts, the failure to pay which would give rise to a lien against the Charged Premises, as and when the same shall fall due and payable (collectively, the "Bills").
- (b) With respect to Taxes at the option of the Lender, the Borrower shall pay to the Lender in equal monthly instalments on the first day of each month in each calendar year during the Term, commencing on the first day of the month next following the Interest Adjustment Date, one-twelfth (1/12) of the annual Taxes (or such amount as may be required in order to pay the Taxes as they become due) as reasonably estimated by the Lender; said payments of Taxes shall be paid to the Lender in addition to the instalments of principal and/or interest due and payable under this Charge, to be deposited upon receipt and held by the Lender in an interest-bearing account for the payment of Taxes, with interest to accrue thereon to the benefit of the Borrower and to be credited in reduction of the amount required to be paid to the Lender for Taxes. The Lender agrees that upon and subject to receipt of monies for Taxes it will remit such monies to the proper municipal offices in payment of Taxes as required from time to time; provided that if any Event of Default shall occur and be continuing, then the Lender, at its sole option, may apply all or any part of any funds held in such account to any amount due hereunder, whether principal, interest or otherwise. The Borrower shall also pay, or cause to be paid, to the Lender before the due date for the payment of Taxes (or next periodic instalment date therefor, as the case may be) any sums in addition to the aforesaid monthly instalments which may be required in order that out of such sums held in trust or escrow by the Lender and such additional sums, the Lender may pay the whole amount of Taxes assessed thereto, on the due date for payment thereof. Notwithstanding the foregoing provisions of this Paragraph 10.1(b), the Borrower acknowledges that the Lender is under no obligation to collect from the Borrower monthly instalments on account of Taxes. In addition, the Borrower acknowledges its obligation to pay all Taxes when due, whether or not the payment of all Taxes are the responsibilities of tenants and whether or not such tenants have remitted the same to the Borrower.
- (c) The Lender may, after written notice being given to the Borrower, pay all unpaid and due Taxes, and any amounts, the failure to pay which would give rise to a lien and any amounts so paid by the Lender shall become part of the Principal hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender with interest at the Applicable Rate until paid.
- (d) If the Charged Premises or any part thereof are sold or forfeited for nonpayment of Taxes while any sum remains unpaid hereunder, the Lender may acquire the title and rights of the purchaser at any sale, or the rights of any other person or corporation becoming entitled on or under any such forfeiture, or the Lender may pay, either in its own name or in the name of the Borrower and on the Borrower's behalf, any and all sums necessary to be paid to redeem such land so sold or forfeited, and to revest such lands in the Borrower, and the Borrower hereby nominates and appoints the Lender as agent to pay such monies on the Borrower's behalf and in the Borrower's name, and any monies so expended by the Lender shall become part of the Principal Sum hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender and until so paid shall bear interest at the Applicable Rate or in the alternative, the Lender may purchase the Charged Premises at any tax sale of the same.
- (e) Notwithstanding anything to the contrary herein contained, the Borrower shall have the right to contest or defend any actions brought to recover, or appeal any judgments recovered against it in respect of any Bills, or other like charges, or any construction or other liens levied or registered against the Charged Premises, by appropriate proceedings diligently conducted in good faith, provided that the Borrower shall have first deposited with the Lender, or otherwise provided to the reasonable satisfaction of the Lender, such security as the Lender acting reasonably may require including, without limitation, security for the payment of such Bills, charges or liens and any costs payable in connection therewith, and further provided that the Lender shall have determined, to its reasonable satisfaction, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall not materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises. Should the Lender at any time thereafter determine, in its reasonable discretion, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises, the Lender may realize upon such security for payment as aforesaid and pay such Bills, charges or liens. Upon termination of such proceedings, the Borrower shall promptly pay or cause to be paid the amount of the Bills, charges or liens and any other costs, fees, interest and penalties as are properly payable upon determination of such proceedings and promptly cause any tax notifications, caveats, liens, certificates of or pertaining litigation or any other form of notice or encumbrance in respect thereof to be promptly discharged from the title to the Charged Premises at the sole expense of the Borrower whereupon all such security deposited or otherwise provided to the Lender and any proceeds from the realization thereof not paid on account of Bills as aforesaid, shall be returned and paid to the Borrower.
- (f) The Borrower agrees to and does hereby indemnify the Lender against all claims, demands, costs, damages and expenses which arise in respect of any default, late payment, omission, act or proceeding by the Borrower, under or in respect of this Section 10.1.
- (g) If the Lender comes into and for as long as it is in possession of the Charged Premises, the Lender, in its sole discretion, shall be entitled to and shall enjoy all the rights of the Borrower set out in Paragraph 10.1(d) hereof, to the exclusion of the Borrower.

ARTICLE 11 – INSURANCE

- 11.1 The Borrower will immediately insure, unless already insured, and during the continuance of the Charge keep insured against loss or damage by fire, in such proportions upon each building as may be required by the Lender, the buildings on the land to the amount of not less than their full insurable value on a replacement cost basis in dollars of lawful money of Canada. Such insurance shall be placed with a company approved by the Lender. Buildings shall include all buildings whether now or hereafter erected on the land, and such insurance shall include not only insurance against loss or damage by fire but also insurance against loss or damage by explosion, tempest, tornado, cyclone, lightning and all other extended perils customarily provided in insurance policies including "all risks" insurance. The covenant to insure shall also include where appropriate or if required by the Lender, boiler, plate glass, rental and public liability insurance in amounts and on terms satisfactory to the Lender. Evidence of continuation of all such insurance having been effected shall be produced to the Lender at least fifteen (15) days before the expiration thereof; otherwise the Lender may provide therefore and charge the premium paid and interest thereon at the rate provided for in the Charge to the Borrower and the same shall be payable forthwith and shall also be a charge upon the land. It is further agreed that the Lender may at any time require any insurance of the buildings to be cancelled and new insurance effected in a company to be named by the Lender and also of his own accord may effect or maintain any insurance herein provided for, and any amount paid by the Lender therefore shall be payable forthwith by the Borrower with interest at the rate provided for in the Charge and shall also be a charge upon the land. Policies of insurance herein required shall provide that loss, if any, shall be payable to the Lender as his interest may appear, subject to the standard form of mortgage clause approved by the Insurance Bureau of Canada which shall be attached to the policy of insurance.
- 11.2 During any construction on the Charged Property, the Borrower shall maintain:
- (i) Builders' all-risk coverage for 100% of the construction cost with loss payable to the Lender by way of an Insurance Bureau of Canada ("IBC") approved mortgage clause. The policy must cover flood, earthquake, building by-laws, delayed opening, must allow for partial occupancy of the premises and provide for interim loss payments during reconstruction;
 - (ii) Wrap-Up Liability coverage in an amount not less than \$10,000,000 per occurrence;
 - (iii) Project performance and completion bonds and insurance, including coverage for labour and material bonds; and
 - (iv) Professional Liability coverage in an amount not less than \$10,000,000.

ARTICLE 12 - ENVIRONMENTAL

- 12.1 The following capitalized terms shall have the following respective meanings:

"Environmental Approvals" means all applicable permits, licences, authorizations, consents, directions or approvals required by Governmental Authorities pursuant to the Environmental Laws with respect to the use, occupation, ownership or operation of the Charged Premises;

"Environmental Laws" means all applicable federal, provincial and municipal laws, by-laws, regulations, executive orders, judgments and protocols, relating in whole or in part, to the environment or its protection, and without restricting the generality of the foregoing, includes without limitation, those laws relating to the manufacturing, processing, use, handling, packaging, labelling, sale, storage, recycling, transportation, treatment, destruction, burial or disposal of Hazardous Substances, employee safety, and the emission, discharge, release, deposit, issuance, spraying, dumping, throwing, pouring, spilling, emptying, placing, leaking, seeping, exhausting or abandonment of Hazardous Substances into the atmosphere, air, surface water, ground water, land surface or subsurface strata and, in each such case, as such Environmental Laws may be amended or supplemented from time to time, and "Environmental Law" means any of them;

"Hazardous Substance" means any pollutant, contaminant, waste, hazardous waste, toxic substance or dangerous good which is defined or identified in or the object of any Environmental Law, the presence of which in the environment is in contravention of any Environmental Law; and

"Inspections" means all inspections, evaluations or tests conducted by the Lender or any agent or consultant thereof for the purpose of determining the environmental condition of the Charged Premises, as the Lender may deem appropriate, acting reasonably.

- 12.2 The Borrower represents and warrants (which representations and warranties shall continue throughout the Term of the Loan) that:
- (a) The condition and use of the Charged Premises is and, to the best of the Borrower's knowledge, any prior use of the same was, in compliance in all material respects with all applicable Environmental Laws;
 - (b) The Charged Premises is not subject to any judicial or administrative proceedings alleging violation of any Environmental Laws and there are no outstanding orders or proceedings against the Charged Premises from a Governmental Authority responsible for protecting the environment alleging the violation of any Environmental Laws;
 - (c) To the knowledge of the Borrower, the Charged Premises is not the subject of any investigation by Governmental Authorities having jurisdiction evaluating whether any remedial action is needed to respond to a contravention of any Environmental Laws; and
 - (d) There is no contingent liability of which the Borrower has knowledge or reasonably should have knowledge in connection with the contravention of any Environmental Laws.

- 12.3 The Borrower covenants with the Lender:

- (a) If not already provided, to provide to the Lender within ninety (90) days of the execution of this Charge, an environmental audit with respect to the Lands, and if an event shall have occurred after the date of this Charge, which

the Lender, acting reasonably, believes may have resulted or may result in material adverse change in the environmental condition of the Charged Premises or any part thereof, to provide such further environmental audits as the Lender may require;

- (b) To provide notice within fifteen (15) days of either having learned of any enactment or promulgation of any Environmental Laws which may result in any material adverse change in the condition, financial or otherwise, of the Charged Premises;
- (c) To defend, indemnify and hold harmless the Lender, its directors, officers, employees, agents and their respective successors and assigns, against any and all loss, cost, expense, claim, liability or alleged liability arising out of any environmental damage occasioned to the Charged Premises contravention of any Environmental Laws;
- (d) To, at all times and at its own expense, conduct its business and maintain the Charged Premises in compliance with all Environmental Laws and Environmental Approvals including causing all tenants of the Charged Premises to comply with the same;
- (e) If the Borrower:
 - (i) receives notice from any Governmental Authority having jurisdiction that violation of any Environmental Law or Environmental Approval has been committed by the Borrower or any tenant with respect to the Charged Premises;
 - (ii) receives notice that any remedial order or other proceeding has been filed against the Borrower or any tenant alleging in respect of the Charged Premises violations of any Environmental Law or requiring the Borrower to take any action in connection with the release of a Hazardous Substance into the environment; or
 - (iii) receives any notice from a Governmental Authority having jurisdiction in respect of the Charged Premises that the Borrower or any tenant may be liable or responsible for costs associated with a nuisance or a response to, or clean up of, a release of a Hazardous Substance into the environment or any damages caused thereby;

to provide to the Lender a copy of such notice within ten (10) days of the Borrower's receipt thereof, and thereafter shall keep the Lender informed in a timely manner of any developments in such matters, and shall provide to the Lender such other information in respect thereto as may be reasonably requested by the Lender from time to time and shall proceed to deal with the same diligently and in good faith in order to bring the Charged Premises into compliance to the extent necessary to comply with Environmental Laws;

- (f) Unless in existence on the Charged Premises on the date of this Charge, not to use, discharge, transport or install in or upon the Charged Premises any material or equipment containing PCBs or permit any tenant of the Charged Premises to do so and, to the extent in existence on the Charged Premises as of the date of this Charge, to maintain the same in compliance with all Environmental Laws;
- (g) To maintain, and to require all occupants of the Charged Premises to maintain in good leak-proof condition all above-ground and underground storage tanks and drums on the Charged Premises;
- (h) Not to install asbestos or permit asbestos to be installed in the Charged Premises. With respect to any asbestos present in the Charged Premises on the date of this Charge, the Borrower shall, at its expense, promptly comply with the requirements of Environmental Laws and Governmental Authorities respecting the use, removal and disposal of asbestos; and
- (i) To obtain or cause its solicitors to obtain copies of all relevant environmental studies or assessments of the Charged Premises which the Borrower or its solicitors or agents have commissioned or which are in the possession or control of the Borrower, as of the date of this Charge and, to the extent any such assessments or studies are required by the Lender from time to time, to promptly provide same to the Lender upon request and hereby authorizes and directs its solicitors, agents and consultants to promptly release same to the Lender.

12.4 Having due regard to the rights of any tenant of the Borrower, the Lender and its employees and agents shall have the right, and are hereby granted permission by the Borrower, to enter the Charged Premises from time to time, and to have access to the Borrowers' relevant documents and records, in order to conduct Inspections, to determine compliance with Environmental Laws as the Lender, acting reasonably, may deem appropriate. Inspections shall be:

- (a) at such times and to such extent as may be reasonable in the circumstances on prior notice to the Borrower if the Lender has reasonable grounds for believing that:
 - (i) there are, contrary to Environmental Laws or Environmental Approvals, Hazardous Substances in or upon the Charged Premises which have not been disclosed to and approved by the Lender and appropriate Government Authorities; or
 - (ii) the Borrower is in breach of any environmental representations in this Charge or its covenants in this Article; or
 - (iii) the Borrower is not in compliance with any Environmental Laws or material Environmental Approvals; and
- (b) at any time without prior notice upon the occurrence of an Event of Default which is continuing.

If the Borrower is found not to be in compliance with the Environmental Laws or Environmental Approvals and such failure to comply becomes an Event of Default that is continuing, the Lender may, at its option (but without any obligation to do so) take such actions as are required, acting reasonably, to bring the Charged Premises into compliance, and the costs thereof shall immediately become due and payable to the Lender by the Borrower and shall be secured by the Security.

- 12.5 The Lender shall not, by virtue of being the chargee under this Charge or the enforcement of its rights contained herein for purposes of the Environmental Laws, be or be deemed to be the owner of, any of the Charged Premises, or to have management, charge, control, occupation or possession of any of the Charged Premises or the businesses of the Borrower, or of any Hazardous Substances located on, upon or within any of the Charged Premises.
- 12.6 The Borrower hereby covenants and agrees to be responsible for, and to indemnify and hold harmless the Lender and each of its officers, directors, employees and agents and their respective successors and assigns (in this Section, collectively referred to as the "Indemnified Parties") from and against all claims, demands, liabilities, losses, costs, damages and expenses (including, without limitation, reasonable legal fees and all costs incurred in the investigation, pursuing of any claim, or in any proceeding with respect to, defense and settlement of any item or matter hereinafter set out) that the Indemnified Parties may incur or suffer, directly or indirectly as a result of or in connection with:
- (a) Any inaccuracy in or breach of the Borrower's representations and warranties relating to the environmental matters contained herein;
 - (b) The presence of any Hazardous Substance on, upon or within the Charged Premises, or the escape, seepage, leakage, spillage, discharge, emission, release, disposal or transportation away from the Charged Premises of any Hazardous Substance, whether or not there is compliance with all applicable Environmental Laws and Environmental Approvals;
 - (c) The imposition of any remedial order affecting the Lands, or any non-compliance with Environmental Laws or Environmental Approvals pertaining to the Charged Premises by any person, including the Borrower, the Lender or any person acting on behalf of the Lender; and
 - (d) Any diminution in the value or any loss on the disposition of the Charged Premises arising directly or indirectly as a result of the presence on the Lands of any Hazardous Substance, or as a result of the imposition of any remedial order or the breach by any person of any Environmental Law or Environmental Approval.

This indemnity shall survive the satisfaction and release of this Charge and the Security and the payment and satisfaction of all indebtedness hereunder. The benefit of this indemnity may be assigned by the Lender to any successor or assign of the Lender and the Borrower hereby consents to any such assignment.

ARTICLE 13 - ASSIGNMENT OF RENTS AND LEASES

- 13.1 As further security for the payment of all monies owing and the performance of all obligations to be performed hereunder, the Borrower does, as and by way of security, hereby sell, assign, transfer and set over unto to the Lender all of the Borrower's right, title and interest, both at law and equity, in and to the Lease Rights, to hold and receive the same unto the Borrower with full power and authority to demand, collect, sue for, recover and receive and give receipts for Rents and enforce payments of the same and enforce performance of the obligations of tenants under the Leases, provided, however, that, subject to the terms of this Charge, the Borrower shall have the full right, so long as no Event of Default has occurred and is continuing, to continue to collect Rents, to take or cause to take all actions as it deems necessary with respect to the Lease Rights, acting as a reasonable lessor.
- 13.2 It is expressly acknowledged and agreed by the Borrower that nothing contained in this Charge shall oblige the Lender to assume or perform any obligation of the Borrower to any third party in respect of or arising out of the assigned Lease Rights. The Lender may, however, after the occurrence of an Event of Default and while such Event of Default continues, at its option, assume or perform any such obligation as the Lender considers necessary or desirable to obtain the benefit of the Lease Rights, free of any set-off, reduction or abatement, and any money expended by the Lender in this regard shall form part of or be deemed to form part of the indebtedness secured by this Charge and shall bear interest at the Applicable Rate.

ARTICLE 14 - MANAGEMENT AND REPAIR

- 14.1 The Borrower shall cause the Charged Premises at all times to be professionally maintained, managed and operated and fully and continuously operational during customary business hours, including all uses ancillary or incidental to its operations, at all times, by competent managers and staff of proper background and training, in a first class manner consistent with the management and operation of other properties which are of size, location, use, class, age and type comparable to the Charged Premises, and the Borrower shall obtain the Lender's prior written approval of any manager and any management contract with any manager which may be entered into by the Borrower for the management of the Charged Premises. In addition to any other rights hereunder of the Lender, the Lender shall have the right, acting reasonably, to replace the manager at the expense of the Borrower in the event the management standards are not maintained as required hereunder and the situation is not remedied within thirty (30) days after written notice from the Lender. The Lender acknowledges and approves, as of the date hereof, of the Borrower or a company controlled by the Borrower acting as manager of the Charged Premises provided that the Charged Premises are managed and maintained in accordance with the provisions hereof.
- 14.2 The Borrower shall promptly repair, maintain, restore, replace, rebuild, keep, make good, finish, add to and put in order, or cause to be so done, the Charged Premises, so that the same shall, at all times, be in good condition and repair and to pay or cause to be paid when due all claims for labour performed and materials furnished therefor. The Borrower shall not commit or suffer any waste of the Charged Premises nor take any action that might invalidate or give cause for cancellation of any insurance maintained in respect of the Charged Premises. No building or other property now or hereafter charged by this Charge shall be removed, or demolished or nor shall the structure of any building be materially altered, redeveloped, retrofitted or renovated, without the prior written consent of the Lender, except that the Borrower shall have the right, without such consent, to remove and dispose of, free from the lien or charge of this Charge, such fixed equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal, and if necessary for the operation of the Charged Premises such equipment shall be replaced with other equipment of a quality comparable to that of the replaced equipment and free from any lien, title retention agreement, conditional sale contract, security agreement or other encumbrance, and by such removal and replacement the Borrower shall be deemed to have subjected such fixed equipment to the lien or charge of this Charge, or, (b) any net cash proceeds received from such disposition shall, at the option of the Lender, be paid over promptly to the Lender to be applied in a manner determined by Lender in its sole discretion toward the payment of

any amounts owing hereunder or secured hereby. The Borrower shall notify the Lender promptly of any material damage to or defects in any of the Improvements, and thereafter forthwith shall make or cause to be made such repairs thereto as are required to correct any such damage or defects and return the Charged Premises to a state of condition and repair equivalent to the state of condition and repair required by the provisions of this Charge.

- 14.3 The Borrower shall comply with, or cause to be complied with, all statutes including without limitation the provisions of the *Construction Act* (Ontario), ordinances and requirements of any Governmental Authority having jurisdiction with respect to the Charged Premises; the Borrower shall complete and pay for, within a reasonable time, any structure at any time in the process of construction on the Charged Premises.
- 14.4 The Borrower shall permit the Lender or its authorized agents at all reasonable times to enter upon the Charged Premises and inspect same, and if such inspection reveals that any repairs or like actions are necessary, the Lender may give notice to the Borrower requiring the Borrower to repair, rebuild or reinstate the same, or take such other like action within a reasonable time. Any failure by the Borrower to comply with such notice shall constitute an Event of Default hereunder and the Lender may repair, rebuild or reinstate the Charged Premises at the cost of the Borrower and charge all sums of money determined by the Lender to be properly paid therefor and interest thereon at the Applicable Rate until paid.

ARTICLE 15 - INCREASED COSTS

- 15.1 In the event that as a result of any application of or any change in or enactment of any applicable law, regulation, treaty or official directive after the date hereof (whether or not having the force of law), or in the interpretation of application thereof by any court or by any governmental or other authority or entity charged with the administration thereof which now or hereafter:
- (a) Subjects the Lender to any tax or changes the basis of taxation, or increases any existing tax, on payments of principal, interest or other amounts payable by the Borrower to the Lender under this Charge (except for taxes on the overall net income of the Lender or capital of the Lender imposed by the Government of Canada or any political subdivision thereof or by the jurisdiction in which the principal or lending office of the Lender is located); or
 - (b) Imposes, modifies or deems applicable any special requirements against assets held by, or deposits in or for the account of or any other acquisition of funds by the Lender or imposes on the Lender a requirement to maintain or allocate capital or additional capital in relation to the Loan; or
 - (c) Imposes on the Lender any other condition with respect to this Charge; or
 - (d) Renders any portion of this Charge illegal or unenforceable;

and the result of any of the foregoing is to increase the cost to the Lender, or reduce the amount of principal, interest or other amount received or receivable by the Lender hereunder or its effective return hereunder in respect of making or maintaining the Loan hereunder or to reduce the payments receivable by the Lender in respect of the Loan by an amount which the Lender deems to be material, the Lender shall promptly give written notice thereof to the Borrower setting out in reasonable detail the facts giving rise to and a summary calculation of such increased costs or reduced payments, and the Borrower shall forthwith pay to the Lender upon receipt of such notice that amount which will compensate the Lender for such additional cost or reduction in income (herein referred to as "Additional Compensation"). Upon the Lender having determined that it is entitled to Additional Compensation in accordance with the provisions of this Section, the Lender shall promptly so notify the Borrower. The Borrower shall forthwith pay to the Lender upon receipt of such notice such Additional Compensation calculated on the date of demand. The Lender shall be entitled to be paid such Additional Compensation from time to time to the extent that the provisions of this Section are then applicable notwithstanding that the Lender has previously been paid any Additional Compensation. The Lender shall endeavour to limit the incidence of any such Additional Compensation, including seeking recovery for the account of the Borrower, by appealing any assessment at the expense of the Borrower upon the Borrower's request.

- 15.2 All payments made by the Borrower to the Lender will be made free and clear of all present and future taxes, withholdings or deductions of whatever nature. If these taxes, withholdings or deductions are required by Applicable Law and are made, the Borrower shall, as a separate and independent obligation, pay to the Lender all additional amounts as shall fully indemnify the Lender from any such taxes, withholding or deduction. Provided, however, that the Borrower shall have no obligation to pay any withholding or like tax which may be exigible, incurred or required as a result of the Lender being a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).
- 15.3 If the result of any law, regulation, treaty or official directive or request or any change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) is such that it is or will become (other than as a result of some positive action of the Lender, including any participation or syndication hereof by the Lender) unlawful for the Lender to make, fund or allow to remain outstanding all or part of the Loan, or to carry out all or any of its other obligations under this Charge and/or the Security or receive interest or any fee at the Applicable Rate, then in such case:
- (a) The Lender may give written notice to the Borrower of such law, regulation, treaty or official directive or request (whether or not having the force of law) or such change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) which such notice shall certify that such law, regulation, treaty, official directive or request is generally applicable to all other borrowers from the Lender with any accommodation similar to that herein provided; and
 - (b) The Borrower shall prepay the Indebtedness on such date and to such extent as the Lender shall certify to be necessary to comply with the relevant law or change described above;

provided, however, that should the Loan become unlawful, the Lender, without prejudice to its rights to require repayment and without any obligation on its part, will consider other means of funding the Loan which would not be unlawful, would allow the Lender to carry out its obligations in respect of the Loan and would enable the Lender to receive interest at the Applicable Rate,

provided always, notwithstanding the foregoing, the Lender is not obligated to provide alternate funding.

ARTICLE 16 - OBTAINING AND MAINTAINING SECURITY

16.1 Regardless of whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Borrower or otherwise and in addition to any other amounts provided for herein or otherwise permitted by Applicable Law to be secured hereby, except as herein otherwise provided, the following are to be secured hereby and shall be a charge on the Charged Premises, together with the interest thereon at the Applicable Rate, and all such monies shall be repayable to the Lender, on demand, except as herein otherwise provided:

- (a) All reasonable and properly chargeable solicitor's, inspector's, valuator's, consultant's, architect's, engineer's, surveyor's and appraiser's fees and out-of-pocket expenses:
 - (i) for drawing and registering this Charge and the Security and financing statements in connection therewith, and attending to advances hereunder;
 - (ii) for examining the Charged Premises and the title thereto up the date hereof;
 - (iii) for making and maintaining this Charge as a registered charge on the Charged Premises and maintaining the Security (including the registration and filing of renewals);
 - (iv) for the preparation of this Charge, the Security and any related documents and in exercising or enforcing or attempting to enforce or advising the Lender in respect of defaults hereunder or in pursuit of any right, power, remedy or purpose hereunder or subsisting at law;
 - (v) reasonable allowance for the time, work and expenses of the Lender or of any agent of the Lender in connection therewith; and
- (b) All reasonable sums which the Lender may from time to time advance, expend, incur or suffer hereunder:
 - (i) for insurance premiums, Bills, Taxes, rates, or in or toward payment of prior liens, charges, encumbrances or claims charged or to be charged against the Charged Premises;
 - (ii) in maintaining, repairing, restoring or completing construction of the Charged Premise;
 - (iii) in inspecting, leasing, managing or improving the Charged Premises as permitted hereunder, including the price or value of any goods of any sort or description supplied to be used on the Charged Premises as permitted hereunder; and
- (c) Without limiting the generality of any of the foregoing, the then current reasonable fee of the Lender and/or its solicitor for the following matters:
 - (i) executing any cessation or discharge of this Charge, notwithstanding that said cessation or discharge may have been prepared by the Borrower;
 - (ii) entering into an agreement to amend the interest rate or any other provision in the Charge;
 - (iii) handling any dishonored cheque;
 - (iv) preparing an amortization schedule showing the principal and interest components of payments due under this Charge;
 - (v) the cost of completing a Phase I & II Environmental Audit and such other environmental audits as the Lender may require in its discretion;
 - (vi) such other administrative matters as the Lender may perform with regards to the Charge or with regards to any collateral security, as permitted by the Commitment;
 - (vii) the fee charged by the Lender's insurance consultant to review the Borrower's policy of insurance for the subject lands including business interruption insurance if required by the Lender; and
 - (viii) the execution and delivery of any consents, postponements, acknowledgments or any other documents that may be required from the Lender, whether from the Borrower and/or any governmental authorities and/or public/private utilities.

16.2 If any action or proceeding be commenced (except an action to foreclose this Charge or to collect the money that is secured hereby) in which the Lender becomes a party or participant by reason of being the holder of this Charge or the indebtedness secured hereby, all sums paid by the Lender for the expense of so becoming a party or participating (including all reasonable and properly chargeable legal costs) shall, on written notice, be paid by the Borrower, together with interest thereon at the Applicable Rate from the dates of payment of such sums by the Lender, and shall be a lien and charge on the Charged Premises, prior to any right or title to, interest in, or claim upon the Charged Premises subordinate to the lien and charge of this Charge, and shall be deemed to be secured by this Charge, and that in any action or proceeding to foreclose this Charge, or to recover or collect the indebtedness secured hereby, provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

ARTICLE 17 - CONDEMNATION AWARDS

17.1 The Borrower shall notify the Lender promptly upon it being aware of any and all awards or payments ("Condemnation

Award(s)”) including interest thereon, and the right to receive the same (save for any portion of any such Condemnation Award(s) paid for remedial purposes and which is actually used for such purpose) which may be made with respect to the Charged Premises, or any part thereof, as a result of:

- (a) Any condemnation, eminent domain, compulsory acquisition, expropriation or like procedures (“Condemnation”), partial or complete, including any sidewalk or lane; or
- (b) The imposition, and enforcement, of any restriction, regulation or condition to meet any building or development guideline for development or restriction of or by any municipality or other competent authority; or
- (c) Any other material injury to or decrease in the value of the Charged Premises by any lawful regulation or any governmental authority having jurisdiction;

(any matter referred to in (a), (b) or (c) above being hereinafter called an “Incident of Expropriation”) to the extent of all amounts which may be secured by this Charge at the date of receipt of any such Condemnation Award(s) by the Borrower. Notwithstanding the occurrence of any Incident of Expropriation, the Borrower shall continue to pay interest at the Applicable Rate on the Principal Sum. The Borrower does hereby charge, assign, set over and transfer to the Lender, any Condemnation Award(s) as security for the repayment of all Indebtedness.

17.2 Any Condemnation Award(s) received by the Lender shall be held by the Lender as part of the security for the Loan subject to application as provided in this Article 17. Pending such application, such amounts received shall be held and invested by the Lender, acting reasonably. If at any time an Event of Default has occurred and is continuing, the Lender may, at its option, apply such amounts in reduction of the amounts owing hereunder.

17.3 Notwithstanding the provisions of Sections 17.1 and 17.2, in the event that any Incident of Expropriation shall occur which, in the reasonable opinion of the Lender, would materially and adversely affect the security of the Charge or any other Security after the application of any Condemnation Award(s) pursuant to Section 17.1 hereof, the Lender may, at its option, declare such Incident of Expropriation to be an Event of Default and be entitled to exercise any and all rights and remedies available to it hereunder at law or in equity.

ARTICLE 18 - EVENTS OF DEFAULT

18.1 The whole of the Principal Sum together with interest thereon at the Applicable Rate, interest on overdue interest and any amounts payable pursuant to Article 6, and all other amounts secured hereby shall, at the option of the Lender, subject to Section 18.2 hereof, become due and payable and all powers conferred on the Lender herein and hereby shall become exercisable, in like manner to all intents and purposes as if the time herein mentioned for payment of such Principal monies had fully come and expired, if specifically provided for in this Charge, or if any of the following events shall occur (the occurrence of any such event together with the expiry of the applicable cure period, if any, and any other occurrence specifically provided for herein as an Event of Default being collectively referred to as an “Event of Default”):

- (a) Upon default in payment of any regularly scheduled instalment of principal and/or interest beyond the date such payment is due and payable; or
- (b) Upon default in payment of the Indebtedness due and owing on the Maturity Date; or
- (c) Upon default in payment of any Indebtedness (other than an instalment of principal and/or interest and upon maturity) due hereunder within five (5) Business Days after written notice thereof is provided by the Lender; or
- (d) Save as otherwise provided for in subparagraphs (a), (b) and (c) hereof or otherwise specifically provided herein, upon any default in the performance of any covenant or obligation of the Borrower hereunder within fifteen (15) days after written notice thereof is provided by the Lender, provided that if such default is curable and the nature of such default is such that the exercise of reasonable diligence of more than fifteen (15) days is required to cure such default, and if such default in the Lender’s reasonable discretion does not jeopardize or adversely effect the security interest of the Lender hereunder or adversely affect the Borrower or its ability to perform its obligations hereunder or under the Security or adversely affect the Charged Premises, the Lender will not, for a further sixty (60) days so long as no other Event of Default has occurred, enforce its remedies in respect of such default while and so long as during such time the Borrower is actively continuing to diligently and in good faith cure such default; or
- (e) If at any time during the Term there is a breach of any representation or warranty contained herein or at any time during the Term if any representation or warranty contained herein is no longer true or accurate or becomes untrue or inaccurate for any reason and provided the same can be rectified, and the same is not rectified within thirty (30) days after written notice thereof is provided by the Lender; or
- (f) Upon the assignment by the Borrower to any other party of the whole or a part of the rents, income or profits arising from the Charged Premises, without the written consent of the Lender; or
- (g) The occurrence of an Event of Insolvency; or
- (h) If without the prior written consent of the Lender, in its sole and absolute discretion:
 - (i) the Borrower transfers, sells, conveys, or otherwise disposes of all or any part of the Charged Premises, or any interest therein (other than by way of Leases), whether legal or beneficial or enters into any transaction or series of transactions where all or any part of the Charged Premises becomes the property of another person, whether through reorganization, amalgamation, merger, consolidation or otherwise, or if there is any change in the legal or beneficial interest, in whole or in part, of the Charged Premises; or
- (i) If, without the prior written consent of the Lender, in its sole and absolute discretion:

- (i) there is any change in the Borrower's corporate control or change in the Borrower's effective control existing as of the date of this Charge; or
- (ii) the Borrower creates, permits or suffers to exist any mortgage, pledge, charge, loan, assignment, hypothecation, security interest or other encumbrance attaching the Charged Premises other than this Charge, the Security and the Permitted Encumbrances; or
- (j) Upon default by or non-compliance of the Borrower or any Guarantor(s), or any others bound by or acknowledging to be bound by the terms of this Charge, with respect to any of the provisions of the Security, this Charge or the Permitted Encumbrances; or
- (k) If the Charged Premises are abandoned; or
- (l) Failure by the Borrower to fulfil, complete or comply with any undertakings delivered by the Borrower to Lender in connection with the Loan in accordance with the terms of such undertakings; or
- (m) Upon any breach, default, non-observance occurring or being alleged, charged or claimed against the Borrower as lessor under any lease or as sublessor under any sublease of the Charged Premises and the Borrower is not diligently proceeding to rectify any such breach, default, non-observance or non-performance or defend any allegations, charges or claims of the same; or
- (n) If this Charge, or any of the Security, shall fail to constitute a legal, valid, binding and enforceable first charge, first assignment or first security interest, each enforceable in accordance with its terms, subject only to Permitted Encumbrances; or
- (o) If in the reasonable opinion of the Lender there occurs an event which has a material adverse effect on the financial condition or operation of the Borrower, the Charged Premises, this Charge, the Security or the ability of the Borrower to pay the Indebtedness or to perform its obligations hereunder or under the Security and which cannot be rectified by the Borrower within a reasonable period of time.

18.2 Save as otherwise specifically provided, an Event of Default hereunder or under any Security shall not have occurred or be deemed to have occurred until the expiration of any applicable notice period, if any, called for in this Charge or in such Security within which the Borrower may remedy such default. In any event, if in the opinion of the Lender, an event has occurred which with the passing of time, the giving of notice or otherwise would constitute an Event of Default and as a result of which the Charged Premises or the property assets and undertaking subject to the Security is materially at risk, the Lender may take such action or exercise such remedies as may be appropriate without notice to the Borrower or the expiry of any cure period.

ARTICLE 19 - REMEDIES

19.1 If an Event of Default has occurred hereunder and is continuing (or if the Lender exercises its rights pursuant to Section 18.2 hereof before the occurrence of an Event of Default), then at any time thereafter, but subject always to the waiver thereof by the Lender, the Lender may:

- (a) Declare the Indebtedness to be immediately due and payable and proceed to exercise any and all rights hereunder or under the Security or any other rights available to it under any other document or instrument or at law or in equity including without limitation, the drawdown of any letter of credit held by the Lender;
- (b) Commence legal action to enforce payment of the Indebtedness or performance of the obligations by the Borrower to the Lender;
- (c) At the expense of the Borrower, when and to such extent as the Lender deems advisable, observe and perform or cause to be observed and performed any covenant, agreement, proviso or stipulation contained herein or in the Security, and the reasonable cost thereof with interest thereon at the Applicable Rate until paid, shall immediately become due from the Borrower to the Lender after demand by the Lender upon the Borrower therefor;
- (d) Pay or discharge any mortgage, encumbrance, lien, adverse claim or charge that may exist or be threatened against the Charged Premises; in any such case, the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
- (e) Send or employ any inspector or agent to inspect and report upon the value, state and condition of the Charged Premises and may employ a lawyer to examine and report upon the title to the same;
- (f) Immediately take possession of all of the Charged Premises or any part or parts thereof by action or otherwise, with power, among other things, to exclude the Borrower, to enforce the Borrower's rights, to preserve and maintain the Charged Premises, to repair, alter or extend the Charged Premises, to lease the Charged Premises, to complete construction and development of the Charged Premises, to operate and manage the Charged Premises and to collect or receive rents, income and profits of all kinds (including taking proceedings in the name of the Borrower for that purpose) and pay therefrom all reasonable expenses and charges of maintaining, preserving, protecting and operating the Charged Premises (payment of which may be necessary to preserve or protect the Charged Premises), and to enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including without limitation, power to advance its own moneys and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof, and all sums advanced or expended shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
- (g) On default of payment for at least fifteen (15) days may, on at least thirty-five (35) days' notice, sell and dispose in the Charged Premises with or without entering into possession of the same and with notice to such persons and in such manner and form and within such terms as provided under Part III of the *Mortgages Act* (Ontario), as amended; and all remedies available may be resorted to and all rights, powers and privileges granted or conferred upon the Lender under

and by virtue of any statute or by this Charge may be exercised and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made in the Charged Premises; and the Lender may sell, transfer and convey any part of the Charged Premises on such terms, including on credit for all or part of the consideration, (provided the Borrower shall not be accountable for any default in respect of the credit), secured by contract or agreement for sale, or charge, or otherwise, as shall appear to the Lender most advantageous and for such prices as can reasonably be obtained therefor in the circumstances; and in the event of sale on credit or part cash and part credit, whether by way of contract for sale or by conveyance or transfer, charge, or otherwise, the Lender is not to be accountable for or charged with any monies until the same shall be actually received in cash or received by a take-back charge; and sales may be made from time to time of parts of the Charged Premises to satisfy interest and leaving the Principal or part thereof to run with interest at the Applicable Rate; and the Lender may make any stipulations as to title or evidences or commencement of title or otherwise as the Lender shall deem proper and may buy or rescind or vary any contract for sale; and on any sale or resale, the Lender shall not be answerable for loss occasioned thereby; and for any of such purposes the Lender may make and execute all arrangements and assurances that the Lender shall deem advisable or necessary;

- (h) With respect to the Leases:
- (i) to demand, collect and receive the Rents or any part thereof and to give acquittances therefor, and to take from time to time, in the name of the Borrower, any proceeding which may be, in the opinion of the Lender or its counsel, expedient for the purpose of collecting the Rents or for securing the payment thereof or for enforcing any of the Borrower's rights under the Leases;
 - (ii) to compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rent and any settlement arrived at shall be binding upon the Borrower;
 - (iii) to enter upon the Lands by its officers, agents or employees for the purpose of collecting the Rents; (iv) to receive, enjoy or otherwise avail itself of the Lease Rights; and
 - (v) on behalf of the Borrower to alter, modify, amend or change the terms of Leases; to terminate Leases, to enter into new Leases; to give consents, concessions or waivers of any rights or provisions of Leases; to accept surrenders of Leases; to give consents to assignment of or subletting under Leases;
- (i) With or without taking possession of all or any part of the Charged Premises, sell, lease or otherwise dispose of the whole or any part of the Charged Premises, as agent for the Borrower and not the Lender, and in exercising the foregoing power, the Lender may, in its absolute discretion:
- (i) sell, lease or otherwise dispose of the whole or any part of the Charged Premises by public auction, public tender with notice, or by private contract (in the name of or on behalf of the Borrower) or otherwise, with such notice, advertisement or other formality as is required by law;
 - (ii) make and deliver to the purchaser good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale once effected shall be a perpetual bar, both at law and in equity, to the Borrower and all those claiming an interest in the Charged Premises by, from, through or under the Borrower making any claim against the purchaser of the Charged Premises;
 - (iii) grant, rescind, vary or complete any contract for sale, lease or options to purchase or lease, or rights of first refusal to purchase or lease the whole or any part of the Charged Premises, for cash or for credit, with or without security being given therefor, and on terms as shall appear to be most advantageous to the Lender (including a term that a commission be payable to the Lender or a related corporation in respect thereof) and if a sale is on credit, the Lender shall not be accountable for any moneys until actually received;
 - (iv) make any stipulation as to title or conveyance or commencement of title;
 - (v) re-sell or re-lease the Charged Premises or any part thereof without being answerable for any loss occasioned thereby; and
 - (vi) make any arrangements or compromises which the Lender shall think expedient in the interest of the Lender and to assent to any modification of this Charge, and to exchange any part or parts of the Charged Premises for any other property suitable for the purposes of the Lender on such terms as the Lender considers expedient, either with or without payment of money for equality or exchange or otherwise;
- (j) Take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (k) To borrow or raise money on the security of the Charged Premises or any part thereof in priority to this Charge or otherwise, for the purpose of the maintenance, preservation or protection of the Charged Premises or any part thereof or for carrying on all or any part of the business of the Borrower relating to the Charged Premises;
- (l) Take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term as used in this Charge includes a manager and a receiver and manager, and hereafter, the "Receiver") of all or any part of the Charged Premises;
- (m) By instrument in writing appoint, with or without taking possession, any person to be a Receiver of the Charged Premises or of any part thereof and may remove any Receiver so appointed and appoint another in his stead, with all fees and costs related thereto being the Borrower's obligations; and the following shall apply in respect of any such Receiver so appointed:
- (i) the Lender may from time to time fix the remuneration of the Receiver who shall be entitled to deduct that

same out of the revenue from the Charged Premises or the proceeds thereof;

- (ii) the Receiver shall, to the fullest extent permitted by law, be deemed the agent or attorney of the Borrower for all purposes and the Lender shall not be in any way responsible for any actions other than as caused by gross negligence, willful misconduct or fraud, of any Receiver, and the Borrower hereby agrees to indemnify and save harmless the Lender from and against any and all claims, demands, actions, costs, damages, expenses or payments which the Lender may hereafter suffer, incur or be required to pay as a result, in whole or in part, of any action taken by the Receiver or any failure of the Receiver to do any act or thing other than as are caused by gross negligence, willful misconduct or fraud;
 - (iii) the appointment of the 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 the Receiver or the removal of the 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 Lands or any part thereof;
 - (iv) the Receiver may exercise or pursue any other remedy or proceeding which the Lender is entitled as the holder of the Charge authorized or permitted hereby or by law or in equity in order to enforce the security constituted by this Charge;
 - (v) and for the purposes above, the Borrower hereby irrevocably empowers the Receiver so appointed as its attorney to execute deeds, transfers, leases, contracts, agreements or other documents on its behalf and in its place (and the same shall bind the Borrower and have the same effect as if such deeds were executed by the Borrower) and to affix the Borrower's seal, if necessary, or a duplicate thereof to any of the same. On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds as part of the Secured Property; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt; and
 - (vi) save as to claims for accounting under paragraph (o) below, the Borrower hereby releases and discharges the Lender and the Receiver from every claim of every nature, whether resulting in damages or not, which may arise or be caused to the Borrower by reason or as a result of anything done by the Lender or any successor or assign claiming through or under the Lender or the Receiver under the provisions of this paragraph unless such claim be the direct result of dishonesty or gross neglect;
- (n) The Lender may at any time and from time to time terminate any receivership by notice in writing to the Borrower and to the Receiver;
- (o) The Receiver shall account for all monies received in respect of the Charged Premises or any part thereof, and shall pay, out of such monies received, subject to the further direction of the Lender in its discretion, the following in the order specified:
- (i) the Receiver's remuneration;
 - (ii) all payments reasonably made or incurred by the Receiver in connection with its receivership;
 - (iii) all payments of interest, Principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Charge, and all Bills, Taxes, insurance premiums and every other proper expenditure reasonably made or incurred by the Receiver in respect to the Charged Premises or any part thereof; and
 - (iv) all payments to the Lender of all interest due or falling due hereunder and the balance to be applied upon Principal due and payable and secured hereby;

and thereafter any surplus remaining in the hands of the Receiver after payments made as aforesaid shall be accountable to the Borrower or other persons entitled thereto; and

- (p) On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds thereof as security for the Indebtedness; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt.

ARTICLE 20 - DEFAULT UNDER SECURITY, PARAMOUNTCY DISCHARGE AND RENEWAL

- 20.1 Payments of principal and/or interest made under and pursuant to the terms of the Security shall constitute payment hereunder and vice versa and default in the payment of principal and/or interest under the Security shall constitute default hereunder and vice versa. Default in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained in the Security shall entitle the Lender to exercise all or any of the rights or remedies provided herein and the occurrence of and Event of Default hereunder or in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained herein shall entitle the Lender to exercise all or any of the rights or remedies provided in the Security. The occurrence of an Event of Default hereunder shall constitute an Event of Default under the Security and vice versa.

- 20.2 The cancellation of or any other dealing with any Security (other than foreclosure thereof) shall not release or affect this Charge, and the taking of this Charge, or the cancellation of or any other dealing with, or proceeding under (other than foreclosure hereunder), this Charge, shall not release or affect any Security:
- (a) The Lender may at any time and from time to time release any part or parts of the Charged Premises or any other Security or any surety for payment of all or any part of the monies hereby secured or may release the Borrower or any other person from any covenant or other liability to pay the Principal Sum and interest and all other monies secured hereby, or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any monies except those actually received by the Lender, and without thereby releasing any other part of the Charged Premises, or any other Security or covenants herein contained, it being especially agreed that notwithstanding any such release, the Charged Premises, the Security and the covenants remaining unreleased shall stand charged with the whole of the monies hereby secured;
 - (b) In the event that the monies advanced hereunder are applied to payment of any charge or encumbrance, the Lender shall be subrogated to all the rights of and stand in the position of and be entitled to all the equities of the party or parties so paid whether such charge or encumbrance has or has not been discharged; and the decision of the Lender as to the validity or amount of any advance or disbursement made under this Charge or of any claims so paid, shall be final and binding on the Borrower; and
 - (c) The Lender shall not be charged with any monies receivable or collectible out of the Charged Premises or otherwise, except those actually received by or on behalf of the Lender and all revenue of the Charged Premises received or collected by the Lender from any source other than payment by the Borrower may, at the option of the Lender, be retained in a separate account to be used in, maintaining, insuring or improving the Charged Premises to the extent required for such purpose, in the opinion of the Lender, acting reasonably, or in payment of Taxes or other liens, charges or encumbrances against the Charged Premises, or applied in reduction of the amounts owing hereunder.
- 20.3 Subject to Section 6.1 hereof, upon payment of all amounts secured by this Charge, the Borrower shall be entitled to receive and the Lender shall provide a discharge of this Charge and the Security within a reasonable period of time after the request therefor. The Lender shall have a reasonable time after such payment within which to prepare and execute such discharge and all reasonable legal and other expenses for the preparation, execution and registration of such discharge and/or documents, as the case may be, shall be borne by the Borrower.
- 20.4 All payments made pursuant to Section 20.3 shall be made to and received by the Lender prior to 1:00 p.m. on the date due or the next succeeding Business Day in the event the date due is not a Business Day; provided such extension of time shall be included for the purposes of computation of interest.

ARTICLE 21 - NO MERGER OR WAIVER OF LENDER'S RIGHTS

- 21.1 It is further understood and agreed that this Charge and the Security shall stand as a continuing security for repayment of the Loan, including, all advances made thereunder together with all interest, damages, costs, charges and expenses which may become due and payable to the Lender in respect of or in connection with the Loan or any portion thereof, notwithstanding any fluctuation or change in the amount, nature or form of the Loan or in the obligations now or hereafter representing the Loan or any portion thereof or in the names of the obligors or any of them.
- 21.2 The rights of the Lender arising under this Charge shall be separate, distinct and cumulative and, except as expressly provided herein, none of them shall be in exclusion of the other and no act of the Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.
- 21.3 The giving and taking of this Charge shall in no way merge, waive, prejudice, suspend or affect any of the rights or remedies of the Lender under any Security which may be given or which may have been or may hereafter be given in respect of the Principal Sum hereof, interest and other monies secured by this Charge, or any part thereof, or under the Security and all rights and remedies which the Lender now has or may hereafter have against any one or more persons, are hereby preserved.
- 21.4 The taking of a judgment or judgments under any of the covenants or obligations herein or under any Security shall not operate as a merger of the covenants of the Borrower or affect the Lender's right to interest at the Applicable Rate on any monies due or owing to the Lender during the continuance of this Charge, under any of the covenants herein contained or on any judgment to be recovered thereon.
- 21.5 The covenant of the Borrower to pay interest shall not merge in any judgment in respect of any covenant or obligation of the Borrower under this Charge or any Security and such judgment shall bear interest at the Applicable Rate until such judgment and all interest thereon have been paid in full.
- 21.6 Any waiver by the Lender of any default by the Borrower or any omission on the Lender's part in respect of any default by the Borrower shall not extend to or be taken in any manner whatsoever to affect any subsequent default by the Borrower or the rights resulting therefrom.
- 21.7 No extension of time given by the Lender to the Borrower or anyone claiming under the Borrower, shall in any way affect or prejudice the rights of the Lender against the Borrower or any person liable for payment of the monies hereby secured.

ARTICLE 22 - FINANCIAL DATA

- 22.1 The Borrower shall provide or cause to be provided promptly to the Lender full and complete information about the financial condition and operations of the Charged Premises, including a comprehensive rent roll of all space in the Charged Premises, about the financial condition of the Borrower and any Guarantor(s) and such other information which the Lender may reasonably require from time to time, and the Lender shall have the right to examine the books and records of the Borrower relating to the Charged Premises at reasonable times and upon reasonable prior notice.

- 22.2 Without limiting the foregoing, the Borrower covenants and agrees to provide or cause to be provided to the Lender audited financial statements together with operating statements pertaining to the Charged Premises and such other financial information the Lender may reasonably require, (a) in the case of audited financial statements, within ninety (90) days of the end of each fiscal year of the Borrower (or such other time as may reasonably be required by the Lender), and (b) with respect to operating statements for the Charged Premises, within thirty (30) days of the end of each quarter of each calendar year. The audited financial statements are to be prepared by a nationally recognized firm of chartered accountants and shall include a balance sheet, and a detailed statement of income and expenditures and supporting notes and schedules. The operating statements shall contain a certificate by a senior officer of the Borrower as to the contents and preparation thereof, and shall include detailed statements of income, expenditures results of operation and such other matters relating to the operation of the Charged Premises as the Lender may reasonably require. In the event applicable, the Borrower shall provide the Lender with copies of all proxy statements, reports and information circulars that the Borrower makes available to its shareholders and copies of all regular and periodic reports which the Borrower may file with any securities commission or any other Governmental Authority.
- 22.3 The Borrower shall provide or cause to be provided to the Lender, or as the Lender may direct, a comprehensive list of all current tenants and rentals of space in the Charged Premises during the Term, which list shall disclose, without limitation, the name of each tenant, the duration of its term, renewal options, if any, and the term thereof, the rental being paid, the last date on which rental was paid and whether such tenancy is in good standing. Such list shall contain an endorsement by an officer of the Borrower as to being complete and accurate.
- 22.4 All statements, reports and other documents required to be provided hereunder shall be prepared in a manner acceptable to the Lender, in its reasonable discretion.

ARTICLE 23 - NOTICE

- 23.1 Unless otherwise provided herein, any demand, notice or communication given or required to be given to a party hereunder shall be in writing and shall be personally delivered or given by transmittal by telecopy or facsimile transmission addressed to the respective parties at its address or telecopy or facsimile number set forth below or to such other address or telecopy or facsimile number as such party may designate by notice in writing to the other party hereto:
- (a) If to the Borrower, at the address for service set out in the electronic Charge to which this schedule is attached; and
 - (b) If to the Lender, at the address for service set out in the electronic Charge to which this schedule is attached.

Any demand, notice or communication made by or given by personal delivery shall be conclusively deemed to have been made or given on the day of actual delivery thereof, and, if made or given by telecopy or by facsimile, on the first day other than a Saturday, Sunday or a statutory holiday in Ontario, on which Schedule I banks are open for commercial business in Toronto, Ontario, following the transmittal thereof.

ARTICLE 24 - GENERAL

- 24.1 If any provision of this Charge or the application thereof to any circumstances shall be held to be invalid or unenforceable, it shall be deemed severed herefrom and the remaining provisions of this Charge, or the application thereof to other circumstances, shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law. In particular, and without limiting the generality of the foregoing, to the extent any and all amounts due pursuant to Article 6 hereof may be deemed to be in excess of what is permissible by law, any such excess shall be deemed not to be due under this Charge.
- 24.2 Wherever used in this Charge, unless the context clearly indicates a contrary intent as unless or otherwise specifically provided herein, the word "Borrower" shall mean "Borrower and/or subsequent owner or owners of the Charged Premises", the word "Lender" shall mean "Lender or any subsequent holder or holders of this Charge".
- 24.3 The descriptive headings of the several subparagraphs or paragraphs or sections or articles of this Charge are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.
- 24.4 Wherever the singular number or masculine gender is used in this Charge, the same shall be construed as including the plural and feminine or a body corporate, respectively, and vice versa, where the fact or context so requires; and the successors and assigns of any party executing this Charge are bound by the covenants, agreements stipulations and provisos herein contained. The covenants, agreements stipulations and provisos herein stated shall, except as otherwise limited hereby, be in addition to those granted or implied by statutory law.
- 24.5 This Charge shall be construed and enforceable under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, and the Borrower hereby irrevocably attorns to the non-exclusive jurisdiction of the courts sitting at Toronto, Ontario.
- 24.6 The Borrower shall at all times, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, transfers, assignments, security agreements and assurances as the Lender may reasonably require in order to give effect to the provisions hereof and for the better granting, transferring, assigning, charging, setting over, assuring, confirming or perfecting the Charge and the priority accorded to them by law or under this Charge.
- 24.7 If any of the forms of words contained herein are also contained in Column 1 of Schedule "B" of the Short Forms of Mortgages Act (Ontario) and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column 2 of Schedule "B" of the said Act distinguished by the same number, and this Charge shall be interpreted as if the *Short Forms of Mortgages Act* (Ontario) were still in full force and effect. The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) shall be and are hereby expressly excluded from the terms of this Charge.
- 24.8 This Charge shall, whether or not it secures a current or running account, be a general and continuing security to the Lender for payment of the indebtedness in an amount not exceeding the amount secured by this Charge and performance of the Borrower's

other obligations under the Charge notwithstanding any fluctuation or change in the amount, nature or form of the indebtedness or in the accounts relating thereto or in the bills of exchange, promissory notes and/or other obligations now or later held by the Lender representing all or any part of the indebtedness outstanding at any particular time; and the Charge will not be deemed to have been redeemed or become void as a result of any such event or circumstance.

- 24.9 This Charge is given as collateral security to the Commitment.
- 24.10 Notwithstanding any terms contained in the Commitment to the contrary, in the event of conflict between the Commitment and the terms of this Charge, the provisions of the Commitment shall prevail; provided that any provision herein contained that is not contained in the Commitment and vice versa shall not in and of itself be considered to be inconsistent or in conflict.

ARTICLE 25 – CONDOMINIUM PROVISIONS

- 25.1 The Borrower covenants and agrees that in the event that the security for the within Charge shall be or shall become a condominium unit(s) the following provisions shall apply.
- (i) the Borrower does hereby assign to the Lender all of its rights to vote or consent in the affairs of the Condominium Corporation having jurisdiction over the subject lands and the Lender, may at its option, exercise the right of an owner of a condominium unit to vote or consent in the affairs of the Condominium Corporation in the place and stead of such owner, without in any way consulting the owner as to the manner in which the vote shall be exercised or not exercised, and without incurring any liability to the owner or anyone else because of the manner in which such vote or right to consent in the affairs of the Condominium Corporation was exercised.
 - (ii) the Borrower shall pay promptly, when due, any common expenses, assessments, instalments or payments due to the Condominium Corporation.
 - (iii) the Borrower shall observe and perform the covenants and provisions required to be observed and performed under or pursuant to the provisions of the *Condominium Act* (Ontario), all amendments thereto, and any legislation passed in substitution thereof, and the declaration and by-laws of the Condominium Corporation and any amendments thereto.
 - (iv) Where the Borrower defaults in the Borrower's obligation to contribute to the common expenses assessed or levied by the Condominium Corporation, or any authorized agent on its behalf, or any assessment, instalment of payment due to the Condominium Corporation, upon breach of any of the foregoing covenants or provisions in this paragraph contained, regardless of any other action or proceeding taken, or to be taken by the Condominium Corporation, the Lender, at its option and without notice to the Borrower, may deem such default to be a default under the terms of this Charge and proceed to exercise its rights therein and the Lender shall be entitled at its option to pay all common expense amounts as they come due and these amounts so paid together with legal fees shall form part of the Indebtedness.

ARTICLE 26 – CONSTRUCTION LOAN PROVISIONS

In the event that any of the monies advanced or to be advanced under this Charge are intended to finance any improvement to the Charged Premises, the parties hereto covenant and agree that the following conditions shall apply:

- 26.1 All construction on the Charged Premises shall be carried out by reputable contractors having experience which is commensurate to nature and size of the project to be constructed, which contractors must be prior approved by the Lender in writing, such approval not to be unreasonably withheld.
- 26.2 The construction of the building and structures located on the Charged Premises have been commenced and shall be continued in a good and workmanlike manner, with all due diligence and in accordance with the plans and specifications delivered to the Lender and to the satisfaction of all governmental and regulatory authorities having jurisdiction.
- 26.3 Provided that should construction of the project on the Charged Premises cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Borrower excepted), for a period of ten (10) consecutive days (Saturdays, Sundays and Statutory holidays excepted), then, at the option of the Lender, this Charge shall immediately become due and payable. In the event that construction does cease, then the Lender shall have the right, at its sole option, to assume complete control of the construction of the said project in such manner and on such terms as it deems advisable. The cost of completion of the said project by the Lender and all expenses incidental thereto shall be added to the principal amount of this Charge, together with a management fee of fifteen percent (15%) of the costs of the construction completed by the Lender. All costs and expenses, as well as the management fee of fifteen percent (15%) added to the principal amount of this Charge shall bear interest at the rate as herein provided for and shall form part of the principal sum herein and the Lender shall have the same rights and remedies to collection of principal and interest hereunder or at law.
- 26.4 At all times there shall be sufficient funds unadvanced under this Charge and retained by the Lender to complete the construction and/or renovation of the project on the Charged Premises and as may be necessary to retain the Lender's priority with respect to any deficiency in the holdbacks required to be retained by the Borrower under the *Construction Act* (Ontario).
- 26.5 This Charge will be advanced in stages as construction upon the Charged Premises proceeds or as the conditions as enumerated by the Commitment are complied with.
- 26.6 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 Lender with respect to the said project and the progress thereof, whose fees and costs shall be for the account of the Borrower 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 and/or renovation to the date of such certificate shall be in accordance with the approved plans and specifications for the said construction 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 Charged Premises. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the building.

- 26.7 The Borrower shall pay to the Lender on each occasion when an inspection of the Charged Premises is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Lender may charge from time to time for each such inspection and the Lender's solicitors shall be paid their reasonable fees and disbursements for each sub-search and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Lender 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.
- 26.8 The Borrower agrees to indemnify and hold the Lender harmless from any and all claims, demands, sums of money, debts, covenants, bonds, accounts, actions, causes of action, rights, obligations and liability of every kind whatsoever which arise out of claims against the property under the *Construction Act* (Ontario) and that any liens for work and/or supplies that are registered against the Borrower's interest in the property will be promptly discharged within seven (7) days from the date of registration of the lien. The Lender may, but is not required to, deal with the lien claimant and pay the lien claim into court pursuant to the provision of the *Construction Act* (Ontario) for the purpose of vacating the lien from title to the property. The Borrower agrees to be liable for all costs, claims, amounts and fees including, without limitation, all legal fees (on a solicitor and his client basis) incurred by the Lender arising from or in connection with the Borrower or the Lender obtaining and registering either a release of the lien or an order vacating the lien.

ARTICLE 27 - ASSIGNMENT AND SALE

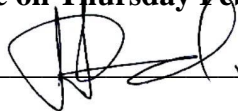
- 27.1 The Loan and all other amounts secured hereby, this Charge, the Security and all documents ancillary or collateral thereto may, in the Lender's sole discretion and without the consent of the Borrower, in whole or in part, be participated, sold, securitized, syndicated or assigned by the Lender from time to time to one or more Persons.
- 27.2 The Lender may disclose to participants, transferees or assignees or to potential participants, transferees or assignees or others in connection with any sale, assignment, participation, securitization, transfer or syndication, such information concerning the Borrower or the Charged Premises as the Lender may consider to be appropriate in connection therewith.
- 27.3 No grant, assignment or transfer pursuant to this Article 27 shall constitute a repayment by the Borrower to the Lender of the Loan or any other amounts owing hereunder and included in such assignment or transfer and the Borrower acknowledges that all obligations under this Charge and the Security with respect to such assignment or transfer will continue and not constitute new obligations.
- 27.4 The Borrower agrees to be bound by and do all things necessary or appropriate to assist and give effect to any transfer, participation, securitization, sale, syndication or assignment, but shall incur no increased liabilities as a result thereof.

Exhibit “13”

This is Exhibit “13” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read 'Paul Mand', is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Properties

PIN 26483 - 2031 LT *Interest/Estate* Fee Simple

Description PART OF BLOCK 1 ON PLAN 40M2587 DESIGNATED AS PART 46 ON PLAN 40R29873 TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN DURHAM COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 294; SUBJECT TO AN EASEMENT AS IN DR1646317; SUBJECT TO AN EASEMENT FOR ENTRY AS IN DR1669692; TOGETHER WITH AN EASEMENT OVER PART OF LOT 29 B.F. CON. PART 1 ON PLAN 40R29633 AS IN DR1668901; SUBJECT TO AN EASEMENT IN GROSS OVER PART 46 ON PLAN 40R29873 AS IN DR1686646; SUBJECT TO AN EASEMENT AS IN DR1681446; SUBJECT TO AN EASEMENT AS IN DR1696373; TOWN OF WHITBY

Address 91 LONGSHORE WAY
WHITBY

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 HUSSAIN, SAJJAD
Address for Service 9 Cicada Court
Toronto, ON M3B 1G4

I am at least 18 years of age.

The property is not ordinarily occupied by me and my spouse, who is not separated from me, as our family residence.

This document is not authorized under Power of Attorney by this party.

Chargee(s)*Capacity**Share*

Name AFC MORTGAGE ADMINISTRATION INC.
Address for Service 2010 Winston Park Drive, 2nd Floor
Oakville, ON L6H 6P5

Statements

Schedule: See Schedules

Provisions

Principal \$2,010,000.00 *Currency* CDN

Calculation Period

Balance Due Date

Interest Rate Higher of 11.99% and TD Prime Rate + 9.54% per annum

Payments

Interest Adjustment Date

Payment Date On Demand

First Payment Date

Last Payment Date

Standard Charge Terms

Insurance Amount Full insurable value

Guarantor

Signed By

Perry Cheung 1000-120 Adelaide St. W. acting for Signed 2022 10 27
Toronto
M5H 3V1 Chargor(s)

Tel 416-363-2211

Fax 416-363-0645

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

Schneider Ruggiero Spencer Milburn LLP 1000-120 Adelaide St. W. 2022 10 27
Toronto
M5H 3V1

Tel 416-363-2211

The applicant(s) hereby applies to the Land Registrar.

Submitted By

Fax 416-363-0645

Fees/Taxes/Payment

Statutory Registration Fee	\$66.30
Total Paid	\$66.30

File Number

Chargee Client File Number : 44601

SCHEDULE TO THE ATTACHED CHARGE/MORTGAGE

RECITALS

The Lender has agreed to make a loan in favour of the Borrower upon the terms and conditions more particularly contained herein.

The Borrower is the registered owner of the lands and premises described in the electronic Charge to which this schedule is attached.

This Charge is given by the Borrower to the Lender as continuing security for the repayment by the Borrower to the Lender of such loan and the performance by the Borrower of its obligations as more particularly described herein.

ARTICLE 1 - DEFINITIONS

1.1 For the purposes of this Charge the following definitions will apply:

“Applicable Laws” means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all then current laws, rules, statutes, regulations, treaties, orders, judgments and decrees and all official directives, rules, guidelines, orders, policies, decisions and other requirements of any Governmental Authority (whether or not having the force of law) (collectively, the “Law”) relating or applicable to such Person, property, transaction, event or other matter and shall also include any interpretation of the Law or any part of the Law by any Person having jurisdiction over it or charged with its administration or interpretation;

“Applicable Rate” means the interest rate set out in the electronic Charge to which this schedule is attached or, in the alternative, the interest rate set out in the Commitment;

“Bills” has the meaning ascribed thereto in Section 10.1(a);

“Borrower” means the party identified as “Chargor” set out in the electronic Charge to which this schedule is attached and its successors and assigns;

“Business Day” means a day on which the Lender is open for business but specifically excluding Saturdays, Sundays or statutory holidays pursuant to the laws of Canada or the Province of Ontario and “Business Days” means more than one Business Day;

“Charge” means this charge/mortgage of land and all instruments supplemental hereto or in amendment, renewal, extension, restatement, replacement or confirmation hereof;

“Charged Premises” means, collectively, the Lands and the Improvements;

“Commitment” means the letter of commitment between, *inter alios*, the Borrower and the Lender dated October 12, 2022, as the same has been or may be amended, restated, supplemented, renewed, extended or superseded from time to time;

“Environmental Approvals” has the meaning ascribed to it in Section 12.1 hereof;

“Environmental Laws” or “Environmental Law” has the meaning ascribed to them in Section 12.1 hereof;

“Event of Default” has the meaning ascribed thereto in Section 18.1 hereof;

“Event of Insolvency” means the occurrence of any one of the following events:

- (a) If the Borrower, or the Guarantor(s), shall, other than as expressly permitted hereby:
- (i) be wound up, dissolved or liquidated, whether pursuant to the provisions of the laws of the Province of Ontario or the federal laws of Canada applicable therein, or any other law or otherwise, or becomes subject to the provisions of the *Winding-Up and Restructuring Act* (Canada), or has its existence terminated or has any resolution passed therefor; or
 - (ii) makes a general assignment for the benefit of its creditors or files a proposal or a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada), shall otherwise acknowledge its insolvency or shall be declared or become bankrupt or insolvent; or
 - (iii) proposes a compromise or arrangement or otherwise brings proceedings under or becomes subject to the provisions of the *Companies’ Creditors Arrangement Act* (Canada) or shall file any petition or answer seeking any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution or any other relief for itself under, or in any way takes the benefit of, the *Bankruptcy and Insolvency Act* (Canada) or any other present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors; or
 - (iv) be unable, by reason of insolvency or similar circumstances, to pay its trade creditors generally, within one hundred and twenty (120) days of the rendering of trade accounts or admit its inability to pay its debts or perform its obligations as they become due; or
- (b) If a court of competent jurisdiction shall enter an order, judgment or decree against the Borrower in respect of any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution, winding-up, termination of existence, declaration of bankruptcy or insolvency, or similar relief under any present or future law relative to bankruptcy, insolvency or other relief for debtors or for or against the benefit of creditors, or the Borrower shall acquiesce in the entry of such order, judgment or decree, unless the Borrower is also proceeding forthwith to diligently and in good faith contest the same and, provided that none of the Charged Premises, the Charge or the Security, the value of the Charged Premises or the operation

thereof, are adversely affected and there is no prejudice to the Lender in the Lender's reasonable opinion, and such order, judgement or decree is vacated or permanently stayed within fifteen (15) days of its making; or

- (c) If any trustee in bankruptcy, receiver, receiver and manager, monitor or liquidator or any other officer with similar powers shall be appointed for the Charged Premises or any portion thereof, or for the Borrower or the Guarantor(s), or for all or any substantial part of its assets or its interest in the Charged Premises with the consent or acquiescence of the Borrower; or
- (d) If, other than as expressly permitted hereby, an encumbrancer or the holder of any lien or charge or any other creditor takes possession of the Charged Premises or the Borrower's interest in the Charged Premises, or any part thereof, or if a distress, execution, garnishment or any similar process is levied or enforced upon or against the same;

"Governmental Authority" means any federal, provincial, territorial or municipal government and any executive, judicial, regulatory or administrative functions of, or pertaining to, government (including, without limitation, all boards, commissions, agencies, departments and ministries);

"Guarantor(s)" means any Person from time to time guaranteeing the Indebtedness;

"Hazardous Substance" has the meaning ascribed to it in Section 12.1 hereof;

"Improvements" means the buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements now located on the Lands and all appurtenances pertaining thereto, together with all other buildings, structures, fixtures and improvements hereafter located from time to time in, on or under the Lands and all personal property, equipment and chattels now or hereafter affixed to the Lands or to such buildings, erections, structures, fixed machinery, fixed equipment, plant, and improvements owned by the Borrower;

"Indebtedness" means, collectively, the Principal Sum, any debts, liabilities, obligations, covenants and duties owing by the Borrower to the Lender of any kind or nature, present or future and arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith, whether or not evidenced by any note, guarantee or other instrument, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guarantee, indemnification, or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and in all cases arising under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith. The term includes, without limitation, all interest, yield maintenance, charges, expenses, fees, including all processing and commitment fees and all legal fees and disbursements (in each case whether or not allowed), and any other sum chargeable to the Borrower under, pursuant to or in connection with this Charge, the Security or any other document delivered pursuant to or in connection herewith or therewith;

"Inspections" has the meaning ascribed to it in Section 12.1 hereof;

"Interest Adjustment Date" means the interest adjustment date set by the Lender for the purposes of setting a payment schedule;

"Lands" means the lands and premises described in the electronic Charge to which this schedule is attached, including all tenements, hereditaments and appurtenances belonging or in any way appertaining thereto, and the reversion or reversions, remainder and remainders, rents, issues and profits therefrom, and all the estate, right, title, interest, property claim and demand whatsoever of the Borrower of, in and to the same and of, in and to every part thereof;

"Lease Benefits" means the benefit of all covenants and obligations of tenants, licencees or occupants contained in any of the Leases, including, without limitation, all rights and benefits of any guarantees thereof, the right to demand, sue for, collect, recover and receive all Rents, to enforce the landlord's rights under any Lease and generally any collateral advantage or benefit to be derived from the Leases or any of them;

"Lease Rights" means, collectively, the Leases, the Rents and the Lease Benefits;

"Leases" means all present and future leases, subleases, licences, agreements to lease, agreements to sublease, options to lease or sublease, rights of renewal or other agreements by which the Borrower, or any predecessor or successor in title thereto, has granted or will grant the right to use or occupy all or part or parts of the Charged Premises, including all agreements collateral thereto, but which, for the purpose of this definition does not include the Property Lease, and "Lease" means any one of them;

"Lender" means the party identified as "Chargee" in the electronic Charge to which this schedule is attached, and its successors and assigns;

"Loan" means the loan extended or to be extended by the Lender to the Borrower in the principal amount set out in the electronic Charge to which this schedule is attached and secured by this Charge and other security given to the Lender by the Borrower and the Guarantor(s), if any;

"Major Tenant Leases" means any agreements to lease, offers to lease or leases, subleases or occupancy agreements in respect of premises situate on the Charged Premises and which are determined by the Lender in its discretion to be material to the Charged Premises and the extension and maintenance of the Loan;

"Maturity Date" means, subject to early maturity by reason of the occurrence of an Event of Default and the acceleration of repayment at the option of the Lender, the balance due date set out in the electronic Charge to which this schedule is attached;

"Permitted Encumbrances" means encumbrances, liens and interests affecting the Charged Premises which are acceptable to the Lender in its sole discretion;

"Person" means any natural person, sole proprietorship, partnership, syndicate, trust, joint venture, Governmental Authority or any incorporated or unincorporated or entity or association of any nature;

"Principal" or "Principal Sum" means the principal amount of the Loan owing from time to time by the Borrower to the Lender;

“Rents” means all rents, issues and profits now due or to become due under or derived from the Leases;

“Security” means, collectively, the Commitment and all other or additional security, other than this Charge, given by the Borrower or others to the Lender as security for the Loan;

“Taxes” means for each year during the term of this Charge all real property taxes, business taxes, rates, duties, charges, assessments, impositions, taxes, levies and charges for local improvements or otherwise, imposed upon or assessed against the Charged Premises or any part or parts thereof by any Governmental Authority including, without limitation, school boards, and paid or payable by the Borrower or any tenant of the Charged Premises, but shall not include franchise, capital levy or transfer tax or any income, excess profits or revenue tax or any other tax or impost of a personal nature charged or levied upon the Borrower or any tenant of the Charged Premises. If the system of real property taxation or business shall be altered or varied and any new tax shall be levied or imposed on all or any portion of the Charged Premises or the revenues therefrom in substitution for, or in addition to, taxes presently levied or imposed, then any such new tax or levy shall be deemed to be and shall be included herein; and

“Term” means the term of this Charge and being a period which expires on the Maturity Date.

ARTICLE 2 - CHARGING PROVISIONS

- 2.1 Now therefore witnesseth that the Borrower, being the registered owner of a freehold estate in fee simple in possession of the Lands, in consideration of the Loan advanced or to be advanced by the Lender to the Borrower or for its benefit, and as security for the repayment of all Indebtedness and the performance of the obligations of the Borrower hereunder, does hereby grant, mortgage, charge and create a security interest in, to and in favour of the Lender all of its estate, right, title and interest in and to the Charged Premises and covenants and agrees to and with the Lender as hereinafter provided.
- 2.2 The last day of any term reserved by any lease or sublease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Borrower, as lessee, and forming part of the Charged Premises is hereby excepted out of the mortgage, charge, assignment and security interest hereby created or granted or any instrument in implementations hereof, and the same shall be deemed to be a charge by way of sublease. As further security for the payment of the Indebtedness, the Borrower agrees that it will stand possessed of the reversion of such last day of the term and shall hold it in trust for the Lender for the purpose of this Charge and to assign and dispose thereof, without cost or expense to the Lender, in such manner as the Lender shall by notice in writing, for such purpose, direct. Upon any sale, assignment, sublease or other disposition of such leasehold interest or any part thereof, the Lender, for the purpose of vesting the aforesaid one day residue of such term or renewal thereof in any purchaser, assignee, sublessee or other acquirer thereof, shall be entitled by deed or writing to appoint such party or parties as a new trustee or trustees of the aforesaid residue of any such term or renewal thereof in the place of the Borrower and to vest the same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation respecting the same.

ARTICLE 3 - REPAYMENT AND INTEREST

- 3.1 The Borrower covenants to pay to or to the order of the Lender at its offices as set out in Article 23 hereof or at such other address as the Lender may from time to time designate in writing, without set-off, compensation or deduction, and without deduction for bank service or any other charges, the Principal Sum together with all other Indebtedness with interest thereon at the Applicable Rate, as well after as before maturity and both before and after default, demand and judgment. Such interest at the Applicable Rate shall be computed from the date of advance to become due and be paid initially on the Interest Adjustment Date and thereafter to be paid in instalments of principal and/or interest as required by the Commitment, commencing on the first payment date set out in the Commitment or in the electronic Charge to which this schedule is attached and continuing each month during the Term, to and including the last payment date set out in the Commitment or the electronic Charge to which this schedule is attached, each such instalment to be in the amount stipulated in the Commitment or in the electronic Charge to which this schedule is attached and the last instalment, in the amount of the then remaining balance of the Principal Sum, other Indebtedness and accrued interest thereon, to be paid on the Maturity Date.
- 3.2 The Borrower acknowledges and agrees that monthly instalments for principal and/or interest, as required by the Commitment, described in Section 3.1 together with all payments for Taxes as set out in Section 10.1 hereof must pass through a single bank account on which the Borrower will have provided post-dated cheques (as required by the Lender) or have pre-authorized the Lender to withdraw the monthly payments under this Charge plus any Taxes payable in respect of the Charged Premises if not otherwise paid by the Borrower. In addition, the Borrower must maintain at all times in such account a minimum balance equal to the sum of the monthly payment of principal, interest and Taxes (as such Taxes become due).
- 3.3 It is hereby agreed that if default should occur in payment of any sum due at the time appointed for payment thereof as herein provided, compound interest at the Applicable Rate shall be payable on the sum in arrears from time to time, as well after as before maturity, and if interest as compounded is not paid within one (1) month from the time of default, a rest shall be made, and compound interest at the Applicable Rate shall be payable on the aggregate then due, as well after as before maturity, both before and after default, demand and judgement and so on from time to time and all such interest and compound interest shall be a charge on the Charged Premises.
- 3.4 All interest in arrears shall be treated (as to payment of interest thereon) as Principal and shall bear compound interest, as well after as before maturity, default and judgement as provided in Section 3.3 hereof.
- 3.5 The Borrower will pay interest, including interest on overdue interest, at the Applicable Rate on any arrears of instalments of principal and/or interest, and any payment by the Borrower shall be applied by the Lender first on account of interest and then on account of principal.
- 3.6 All payments of principal and interest pursuant to Section 3.1 shall be made to and received by the Lender prior to 1:00 p.m. on the date due, failing which such payment shall be deemed received on the next succeeding Business Day provided that in such case, such extension of time shall be included for the purpose of computation for interest; provided further that in the event any payment is due on a day which is not a Business Day, it shall be payable prior to 1:00 p.m. on the next succeeding Business Day and provided such payment is received by such date and such time, then, save in respect of repayment of the Indebtedness at the Maturity Date where interest shall be charged for extensions to the next succeeding Business Day, interest shall not be charged for such extension.

ARTICLE 4 - CRIMINAL RATE OF INTEREST

- 4.1 Notwithstanding any other provisions of this Charge, in no event shall the aggregate “interest” (as defined in Section 347 of the Criminal Code, (Canada), as the same shall be amended, replaced or re-enacted from time to time) payable to the Lender under this Charge exceed the effective annual rate of interest on the “credit advances” (as defined in that section) under this Charge lawfully permitted under that section and, if any payment, collection or demand pursuant to this Charge 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 Lender and the Borrower and the amount of such payment or collection in excess of that lawfully permitted shall be refunded by the Lender to the Borrower.

ARTICLE 5 - INTEREST ACT (CANADA)

- 5.1 For the purposes of this Charge, whenever interest is payable or stated not on the basis of a yearly rate, such rate of interest may be determined by multiplying the Applicable Rate by a fraction the numerator of which is the actual number of days in the calendar year in which the same is to be ascertained and the denominator of which is the number of days in the period for which such rate is determined to be payable.
- 5.2 All calculations of interest or fees under this Charge are to be made on the basis of the stated rates set out herein and not on any basis which gives effect to the principle of deemed re-investment.

ARTICLE 6 - PREPAYMENT

- 6.1 Subject to prepayment provisions provided for in the Commitment, if any, or early maturity by reason of the acceleration of the repayment of the Indebtedness at the option of the Lender upon the occurrence of an Event of Default, the Borrower shall not be entitled to prepay all or any portion of the Principal under this Charge prior to the Maturity Date.

ARTICLE 7 - NO OBLIGATION TO ADVANCE

- 7.1 The Borrower acknowledges and agrees that the Lender is not bound to make any advance of any of the Principal Sum or any unadvanced portion thereof by reason of the registration of this Charge in any place or registry office or the advance of any part of the said Principal Sum, it being acknowledged by the Borrower that any advance hereunder is subject, inter alia, to: (i) the representations and warranties contained herein being true and correct as of the date of any advance of the Loan; (ii) no default having occurred hereunder, under any of the Security or under the Commitment; and (iii) the conditions precedent contained in the Commitment having been satisfied.
- 7.2 In the event this Charge is registered and either no advance whatsoever is made hereunder by the Lender or the Borrower's ability to draw down funds is terminated by the Lender before any funds are advanced, the Lender will, at the expense of the Borrower and upon payment of all monies, costs, fees and disbursements then due to the Lender, promptly upon request by the Borrower execute and deliver to the Borrower, or any agent thereof, registrable discharges of this Charge and of the Security, for use in every registry office where they or notices thereof have been recorded or filed; provided that the Borrower acknowledges that this Section 7.2 shall be of no effect once any advance of the funds is made hereunder by the Lender.

ARTICLE 8 - REPRESENTATIONS AND WARRANTIES

- 8.1 The Borrower represents and warrants in favour of the Lender, acknowledging that the Lender is relying on such representations and warranties in extending the Loan:
- (a) The Borrower is a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and has all necessary corporate power and authority to enter into this Charge and the Security and to perform or cause to be performed its obligations contained herein and therein, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on;
 - (b) There are no provisions in the articles or bylaws of the Borrower or any unanimous shareholders agreement of or with respect to the Borrower or to which the Borrower is a party which restrict, limit or regulate in any way the powers of the Borrower to borrow on credit or to issue, sell or pledge any of the property or assets now or hereafter owned by it to secure its debt obligations, save and except any provisions which have been complied with. No steps or proceedings have been taken or are pending to amend or supersede the articles or bylaws of the Borrower in a manner which would impair or limit the Borrower's ability to perform its obligations hereunder or under the Security;
 - (c) The Borrower has taken all necessary corporate action to authorize the execution and delivery of this Charge and the Security, and performance of the provisions of each in accordance with its terms;
 - (d) The authorization, creation, execution or delivery of this Charge or the Security or the Borrower's performance of its obligations hereunder or thereunder does not require any approval or consent of any Governmental Authority having jurisdiction nor will any such action be in conflict with or contravene any of the Borrower's articles, bylaws, unanimous shareholders agreement, if any, or resolutions of directors or shareholders, or the provisions of any indenture, instrument, agreement or undertaking to which the Borrower is a party or by which it or its properties or assets are bound, or result in the creation, imposition or crystallization of any hypothec, title retention, charge, pledge, lien, encumbrance or security interest of any kind upon any of its property or assets subject to the Charge or security interest created thereby or by the Security other than in accordance with the provisions of this Charge and the Security. This Charge and the Security when executed and delivered will constitute valid and legally binding obligations of the Borrower, enforceable against it in accordance with its terms;
 - (e) There is not now pending or, to the best of the Borrower's knowledge or belief after due inquiry, threatened against the Borrower, any litigation, action, suit, investigation or other proceeding by or before any court, tribunal or other competent Governmental Authority which would materially adversely affect the present or prospective ability of the Borrower to perform its obligations under this Charge or the Security, as the case may be, or which calls into question the validity or enforceability of this Charge or the Security;

- (f) No Event of Insolvency has occurred or is threatened or pending;
- (g) The Borrower is the registered owner of and has a good and marketable title in fee simple to the Lands, and, unless otherwise disclosed to the Lender in writing, is the legal and beneficial owner of the Charged Premises, free and clear of all security interests, charges, liens and other encumbrances whatsoever except for the Permitted Encumbrances, which Permitted Encumbrances are in good standing;
- (h) The Borrower has the right to charge the Charged Premises to the Lender;
- (i) The Borrower has not received any notice of or threat of a lien under the *Construction Act* (Ontario), as amended, against the Charged Premises nor has any lien been registered against the Charged Premises in respect of labour, materials or services furnished with respect to any improvement thereon which has not been discharged;
- (j) Unless expressly stipulated in the Commitment, the Charge is not being given with the intention to use the proceeds thereof to finance any alterations, additions or repairs to, or any construction, erection, demolition or installation on the Charged Premises or any structure thereon;
- (k) Unless expressly stipulated in the Commitment, the Charge is not a building mortgage, within the meaning of the *Construction Act* (Ontario), as amended, and the funds to be advanced by the Lender are not being used to repay a building mortgage;
- (l) There has been no improvement or materials supplied on or in respect of the Charged Premises in respect of which a construction lien could arise and which has not been completed or abandoned within the sixty (60) days immediately preceding the date hereof;
- (m) Except as disclosed to the Lender in writing, the existing and proposed uses, the operation of the Charged Premises and the business conducted thereon comply and, to the best of the Borrower's knowledge and belief, have (including all prior uses) at all times complied with all Applicable Laws, including all Environmental Laws, and the Borrower is not in violation of, and does not violate, by virtue of the ownership, use, maintenance or operation of the Charged Premises or the conduct of any business related thereto, any Applicable Laws, including all Environmental Laws;
- (n) The Charged Premises may be charged by the Borrower in compliance with the *Planning Act* (Ontario), and no severance of any adjoining lands owned by the Borrower is required;
- (o) All financial statements and data delivered or presented to the Lender by the Borrower up to and including the date hereof are true and correct in all material respects as at the dates and for the periods indicated and have been prepared in accordance with Canadian generally accepted accounting principles and disclose to the Lender all financial information relevant to the Lender in respect of making the Loan and there is no information, financial or otherwise, which has not been disclosed to the Lender which would be material to the Lender in its decision to advance the Loan, and, without limiting the foregoing, neither the Guarantor(s) nor the Borrower has failed to disclose to the Lender any facts or information material to the making of the Loan;
- (p) No Event of Default, or an event which with the giving of notice, lapse of time or otherwise, would constitute an Event of Default exists;
- (q) Each Permitted Encumbrance is in good standing and all obligations and covenants required to be met or complied with thereunder on the part of the Borrower have been complied with and, in respect to any other party thereto to the best of the Borrower's knowledge and belief, have been met or complied with;
- (r) All Leases entered into as of the date hereof are valid, subsisting and enforceable leases and are in good standing as of the date hereof without right of set-off or abatement;
- (s) The Borrower is not bound by any indenture, agreement, lease or other instrument, nor is it subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction or any of the Applicable Laws, which materially adversely affects its business operations in respect of the Charged Premises or the performance of its obligations under this Charge or the Security;
- (t) The Borrower has complied with all Applicable Laws in respect of any residential unit located on the Charged Premises, including in respect of any conversion, demolition, rentals charged or filings or applications to be made and there are no outstanding orders, decisions or directives made or pending which are or would be adverse to the Borrower or the Charged Premises in respect of any residential unit located on the Charged Premises;
- (u) If and as applicable, the Borrower is not a non-resident corporation or person of Canada within the meaning of the *Income Tax Act* (Canada);
- (v) If applicable, each partner of the limited partnership of which the Borrower is the general partner is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (w) If applicable, with respect to each partner of the limited partnership of which the Borrower is a general partner that is a Canadian corporation, either (i) the shares of that corporation do not derive their value, directly or indirectly, primarily from foreign property, all within the meaning of the *Income Tax Act* (Canada) or (ii) the corporation is a corporation described in subsection 206(1.1) of the *Income Tax Act* (Canada), as that provision may be amended from time to time;
- (x) The Borrower shall not, without the prior written consent of the Lender, execute or deliver any mortgage, charge, lien or other encumbrance of the Lands intended to rank subordinate to this Charge; and
- (y) The Borrower is not and shall not be during the Term (without the prior written consent of the Lender), a farmer within the meaning of the *Farm Debt Mediation Act* (Canada).

8.2 The representations and warranties set out in this Article 8 shall speak as of the date made, survive the execution and delivery of this Charge and the making of any advance hereunder and continue to be true and accurate during the Term of this Charge, notwithstanding any investigations or examinations which may be made by the Lender or the Lender's solicitors and the Lender shall be deemed to have relied on such representations and warranties in making advances under the Loan.

8.3 The Borrower shall indemnify and save harmless the Lender from and against all losses, damages, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from any omission, inaccuracy or misrepresentation of the Borrower herein relating to or concerning the Charged Premises and with respect to all losses, charges, claims and expenses directly or indirectly incurred or suffered by the Lender resulting from or arising in connection with environmental matters relating to, arising from, in connection with or concerning the Charged Premises, whether referred to or contemplated herein or hereby.

ARTICLE 9 – COVENANTS

9.1 The Borrower covenants with the Lender that upon the occurrence of an Event of Default, the Lender shall have quiet possession of the Charged Premises, free from any encumbrances, save and except for the Permitted Encumbrances.

9.2 The Borrower shall not without the prior written consent of the Lender, which may be withheld in the sole discretion of the Lender permit or suffer to exist any charges, liens, security interests or other encumbrances against the Charged Premises, save and except for the Permitted Encumbrances; and the Borrower shall maintain the Permitted Encumbrances in good standing and provide notice to the Lender forthwith of any default under any of the Permitted Encumbrances.

9.3 The Borrower shall not initiate, permit or suffer to exist any Event of Insolvency, in respect of itself or, to the extent that the Loan, this Charge or the Security is affected by the occurrence of any such event, of any related person or corporation, including without limitation, any parent corporation of the Borrower. The Borrower covenants and agrees (i) to provide two Business Days' notice prior to the occurrence of an Event of Insolvency (an "Insolvency Notice"), and agrees that the receipt of an Insolvency Notice by the Lender shall constitute an immediate Event of Default if the Borrower or any Guarantor(s) is an applicant or takes the benefit of such statute or proceeding or if any of these proceedings otherwise affect the rights or entitlements of the Lender under the Loan, this Charge or the Security or the Lender's ability to enforce this Charge or the Security, and (ii) prior to the commencement of any such proceedings, to deliver to the Lender copies of all relevant filing materials, including, without limitation, copies of draft court orders, plans of compromise, proposals and notices of intention, it being intended by the Borrower that the Lender be entitled during the period after receipt of an Insolvency Notice to enforce this Charge and the Security for the purpose of, among other things, taking possession and control of the Charged Premises, in the Lender's sole discretion.

9.4 The Borrower shall not, without the prior written consent of the Lender, initiate, join in or consent to any change to or modification in any private restrictive covenant, municipal or other governmental law, rule or regulation, by-law, or any other public or private restrictions, limiting or defining the uses which may be made of the Charged Premises, or any part thereof and which could adversely affect the Charge, the Security, the day- to-day operations of the Charged Premises, the income derived therefrom or the value of the Charged Premises.

9.5 The Borrower shall comply in all respects with all covenants, deed restrictions, easements and Applicable Laws which pertain to the ownership, use or operation of the Charged Premises or the performance by the Borrower of its obligations under this Charge and shall ensure that all representations and warranties contained herein continue to be true and accurate at all times during the Term.

9.6 The Borrower shall permit the Lender, or cause to be made available to the Lender, access to all records, both written and electronic, pertaining to the Charged Premises and upon request shall make copies of such information for the Lender. For such purposes, the Lender shall have reasonable access to the Charged Premises or such other place as such records are kept upon reasonable prior written notice to the Borrower.

9.7 The Borrower shall fulfil on a timely basis any undertaking provided by it to the Lender at the time of the advance of the Loan.

9.8 The Borrower covenants to ensure that this Charge will remain a valid and enforceable mortgage of the Charged Premises with first priority subject only to the Permitted Encumbrances and the Borrower will fully and effectively maintain and keep the Security as valid and effective security during the currency hereof.

9.9 The Borrower shall promptly give written notice to the Lender of any litigation, proceeding or dispute affecting the Charged Premises if the result thereof might have a material adverse effect on the Charged Premises, the financial condition or operations of the Borrower or any Guarantor(s) or its ability to perform its obligations hereunder and shall, from time to time, furnish to the Lender all reasonable information requested by the Lender concerning the status of such litigation, proceeding or dispute and shall in all such cases diligently and in good faith proceed to defend, settle or otherwise deal with any such litigation, proceeding or dispute in a commercially reasonable manner.

9.10 The Borrower shall promptly give notice to the Lender upon becoming aware of and provide particulars in respect of:

- (a) An Event of Default or any event which with the passage of time or giving of notice would constitute an Event of Default;
- (b) Any default under a Lease;
- (c) Details of material renovations to the Charged Premises when the Borrower intends to or reasonably anticipates that it will renovate the Charged Premises;
- (d) Any default under any Permitted Encumbrance;
- (e) Any notice of expropriation, action or proceeding materially affecting the Charged Premises or the violation of any Applicable Law which may have a material adverse affect on the Charged Premises; and

- (f) Any matter which may have a material adverse affect upon the Borrower or the Guarantor(s) or Charged Premises or the operations conducted thereon, or the security constituted by this Charge and the Security.

9.11 The Borrower covenants at all times:

- (a) to perform or cause to be performed all of the covenants and obligations on the part of lessor contained in the Leases (except the extent the same have been expressly waived by the other parties to such Leases and except in circumstances where the tenant is in default and the Borrower is acting prudently and in the best interests of the Charged Premises);
- (b) to maintain or cause to be maintained the Lease Rights in good standing and not to do, permit to be done or omit to do anything which may impair the enforceability of the Lease Rights;
- (c) save for the deposits for the first and last month rentals, not to accept Rents more than one (1) month in advance of the dates when Rents fall due;
- (d) not to enter into Leases which are not at arm's length unless the terms thereof are at least equal to current market terms;
- (e) not to enter into Lease which do not constitute Major Tenant Leases (each of which must be approved by the Lender as hereafter provided) unless such leases are substantially on Lender pre-approved standard lease forms and not to enter into Major Tenant Leases without the Lender's approval as hereafter provided;
- (f) not to or to permit termination, alteration or amendment or waiver of rights or remedies or otherwise take any action with respect to any of the Leases which in the aggregate would create a material reduction in Rents from those payable as of the date hereof, without the prior approval of the Lender;
- (g) not to further assign, mortgage or pledge or permit the assignment, mortgaging or pledging of any Lease or the rents thereunder, save for assignments by tenants of their tenant's interest in Leases, to the extent permitted under such Leases; and
- (h) to ensure in respect of all Leases now or hereafter entered into that (i) the tenant thereunder, at the option of the Lender, subordinates its lease to the security of this Charge and attorns to and becomes a tenant of the Lender or any purchaser from the Lender in the event of the exercise of a sale remedy by the Lender, for the unexpired residue of the term and upon the terms and conditions of said lease, provided the Lender will agree to enter into non-disturbance agreements on commercially reasonable terms with all such tenants; and (ii) at the request of the Lender, provide as further security specific assignments of Leases hereinafter entered into.

9.12 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, enter into any agreement or document in respect of the Charged Premises (except for leases in accordance with the terms hereof and the Security) which is material to the ownership, value, operation, or use of the Charged Premises unless the same is in the ordinary course of business.

9.13 With respect to any Major Tenant Lease, the Borrower shall not and shall not permit without the prior written consent of the Lender:

- (a) cancel or modify any Major Tenant Lease, release the obligations of any lessee thereunder, accept a surrender of a Major Tenant Lease, accept any prepayment of Rents thereunder or consent to any sublet or assignment by the lessee under any Major Tenant lease (except where the provisions of such Major Tenant Lease require the landlord to do so); or
- (b) enter into any Major Tenant Lease unless the terms, form and substance of such Major Lease is satisfactory to the Lender, acting reasonably; or
- (c) to further assign, mortgage, pledge, hypothecate or otherwise deal with any Major Tenant Lease.

9.14 The Borrower shall do or cause to be done all things necessary to keep in full force and effect all rights, franchises, licences and qualifications necessary or incidental to perform or cause to be performed its obligations contained in this Charge and the Security and to carry on its business pertaining thereto as presently carried on.

9.15 The Borrower shall from time to time to pay or cause to be paid all amounts related to taxes, wages, workers compensation obligations, government royalties, and any other similar amounts relating to the business conducted on the Charged Premises if non-payment thereof may result in an encumbrance (other than a Permitted Encumbrance) against the Charged Premises or any of the assets secured in favour of the Lender by the Security.

9.16 The Borrower shall not, without the prior written consent of the Lender, acting reasonably and promptly, cause or permit any change in the status of the Borrower that results in the representations contained in Subparagraph 8.1(u) or Subparagraph 8.1(v) ceasing to be accurate in all material respects.

9.17 The Borrower covenants, subject to the rights of reorganization herein contained, to continue as a corporation duly organized, validly subsisting and in good standing under the laws of its incorporating jurisdiction and maintain all necessary corporate power and authority to perform or cause to be performed its obligations contained herein and in the Security, to own and operate the Charged Premises and to carry on its business pertaining thereto as presently carried on.

9.18 The Borrower covenants that, unless in respect of a reorganization of the Borrower permitted under Paragraph 18.1(h) or with the consent of the Lender as provided therein, no steps or proceedings will be taken to amend or supersede the articles or bylaws of the Borrower and in any event no steps or proceedings, including any reorganization of the Borrower, will be taken in a manner which would impair or limit the Borrower's or its successor's ability to perform its obligations hereunder or under the Security.

- 9.19 The Borrower will not enter into any indenture, agreement, lease or other instrument, nor become subject to any trust agreement, charter, by-law, unanimous shareholders agreement or other corporate restriction, which materially adversely affects the Charged Premises.

ARTICLE 10 - TAXES/LIENS

10.1

- (a) The Borrower shall pay or cause to be paid, all Taxes together with such other amounts, the failure to pay which would give rise to a lien against the Charged Premises, as and when the same shall fall due and payable (collectively, the "Bills").
- (b) With respect to Taxes at the option of the Lender, the Borrower shall pay to the Lender in equal monthly instalments on the first day of each month in each calendar year during the Term, commencing on the first day of the month next following the Interest Adjustment Date, one-twelfth (1/12) of the annual Taxes (or such amount as may be required in order to pay the Taxes as they become due) as reasonably estimated by the Lender; said payments of Taxes shall be paid to the Lender in addition to the instalments of principal and/or interest due and payable under this Charge, to be deposited upon receipt and held by the Lender in an interest-bearing account for the payment of Taxes, with interest to accrue thereon to the benefit of the Borrower and to be credited in reduction of the amount required to be paid to the Lender for Taxes. The Lender agrees that upon and subject to receipt of monies for Taxes it will remit such monies to the proper municipal offices in payment of Taxes as required from time to time; provided that if any Event of Default shall occur and be continuing, then the Lender, at its sole option, may apply all or any part of any funds held in such account to any amount due hereunder, whether principal, interest or otherwise. The Borrower shall also pay, or cause to be paid, to the Lender before the due date for the payment of Taxes (or next periodic instalment date therefor, as the case may be) any sums in addition to the aforesaid monthly instalments which may be required in order that out of such sums held in trust or escrow by the Lender and such additional sums, the Lender may pay the whole amount of Taxes assessed thereto, on the due date for payment thereof. Notwithstanding the foregoing provisions of this Paragraph 10.1(b), the Borrower acknowledges that the Lender is under no obligation to collect from the Borrower monthly instalments on account of Taxes. In addition, the Borrower acknowledges its obligation to pay all Taxes when due, whether or not the payment of all Taxes are the responsibilities of tenants and whether or not such tenants have remitted the same to the Borrower.
- (c) The Lender may, after written notice being given to the Borrower, pay all unpaid and due Taxes, and any amounts, the failure to pay which would give rise to a lien and any amounts so paid by the Lender shall become part of the Principal hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender with interest at the Applicable Rate until paid.
- (d) If the Charged Premises or any part thereof are sold or forfeited for nonpayment of Taxes while any sum remains unpaid hereunder, the Lender may acquire the title and rights of the purchaser at any sale, or the rights of any other person or corporation becoming entitled on or under any such forfeiture, or the Lender may pay, either in its own name or in the name of the Borrower and on the Borrower's behalf, any and all sums necessary to be paid to redeem such land so sold or forfeited, and to revest such lands in the Borrower, and the Borrower hereby nominates and appoints the Lender as agent to pay such monies on the Borrower's behalf and in the Borrower's name, and any monies so expended by the Lender shall become part of the Principal Sum hereby secured and be a charge on the Charged Premises in favour of the Lender and shall be payable forthwith by the Borrower to the Lender and until so paid shall bear interest at the Applicable Rate or in the alternative, the Lender may purchase the Charged Premises at any tax sale of the same.
- (e) Notwithstanding anything to the contrary herein contained, the Borrower shall have the right to contest or defend any actions brought to recover, or appeal any judgments recovered against it in respect of any Bills, or other like charges, or any construction or other liens levied or registered against the Charged Premises, by appropriate proceedings diligently conducted in good faith, provided that the Borrower shall have first deposited with the Lender, or otherwise provided to the reasonable satisfaction of the Lender, such security as the Lender acting reasonably may require including, without limitation, security for the payment of such Bills, charges or liens and any costs payable in connection therewith, and further provided that the Lender shall have determined, to its reasonable satisfaction, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall not materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises. Should the Lender at any time thereafter determine, in its reasonable discretion, that any such contest, defence or appeal or any delay or nonpayment of such Bills, charges or liens shall materially prejudice the prior charge or lien of this Charge or the title of the Borrower to the Charged Premises, the Lender may realize upon such security for payment as aforesaid and pay such Bills, charges or liens. Upon termination of such proceedings, the Borrower shall promptly pay or cause to be paid the amount of the Bills, charges or liens and any other costs, fees, interest and penalties as are properly payable upon determination of such proceedings and promptly cause any tax notifications, caveats, liens, certificates of or pertaining litigation or any other form of notice or encumbrance in respect thereof to be promptly discharged from the title to the Charged Premises at the sole expense of the Borrower whereupon all such security deposited or otherwise provided to the Lender and any proceeds from the realization thereof not paid on account of Bills as aforesaid, shall be returned and paid to the Borrower.
- (f) The Borrower agrees to and does hereby indemnify the Lender against all claims, demands, costs, damages and expenses which arise in respect of any default, late payment, omission, act or proceeding by the Borrower, under or in respect of this Section 10.1.
- (g) If the Lender comes into and for as long as it is in possession of the Charged Premises, the Lender, in its sole discretion, shall be entitled to and shall enjoy all the rights of the Borrower set out in Paragraph 10.1(d) hereof, to the exclusion of the Borrower.

ARTICLE 11 – INSURANCE

- 11.1 The Borrower will immediately insure, unless already insured, and during the continuance of the Charge keep insured against loss or damage by fire, in such proportions upon each building as may be required by the Lender, the buildings on the land to the amount of not less than their full insurable value on a replacement cost basis in dollars of lawful money of Canada. Such insurance shall be placed with a company approved by the Lender. Buildings shall include all buildings whether now or hereafter erected on the land, and such insurance shall include not only insurance against loss or damage by fire but also insurance against loss or damage by explosion, tempest, tornado, cyclone, lightning and all other extended perils customarily provided in insurance policies including "all risks" insurance. The covenant to insure shall also include where appropriate or if required by the Lender, boiler, plate glass, rental and public liability insurance in amounts and on terms satisfactory to the Lender. Evidence of continuation of all such insurance having been effected shall be produced to the Lender at least fifteen (15) days before the expiration thereof; otherwise the Lender may provide therefore and charge the premium paid and interest thereon at the rate provided for in the Charge to the Borrower and the same shall be payable forthwith and shall also be a charge upon the land. It is further agreed that the Lender may at any time require any insurance of the buildings to be cancelled and new insurance effected in a company to be named by the Lender and also of his own accord may effect or maintain any insurance herein provided for, and any amount paid by the Lender therefore shall be payable forthwith by the Borrower with interest at the rate provided for in the Charge and shall also be a charge upon the land. Policies of insurance herein required shall provide that loss, if any, shall be payable to the Lender as his interest may appear, subject to the standard form of mortgage clause approved by the Insurance Bureau of Canada which shall be attached to the policy of insurance.
- 11.2 During any construction on the Charged Property, the Borrower shall maintain:
- (i) Builders' all-risk coverage for 100% of the construction cost with loss payable to the Lender by way of an Insurance Bureau of Canada ("IBC") approved mortgage clause. The policy must cover flood, earthquake, building by-laws, delayed opening, must allow for partial occupancy of the premises and provide for interim loss payments during reconstruction;
 - (ii) Wrap-Up Liability coverage in an amount not less than \$10,000,000 per occurrence;
 - (iii) Project performance and completion bonds and insurance, including coverage for labour and material bonds; and
 - (iv) Professional Liability coverage in an amount not less than \$10,000,000.

ARTICLE 12 - ENVIRONMENTAL

- 12.1 The following capitalized terms shall have the following respective meanings:

"Environmental Approvals" means all applicable permits, licences, authorizations, consents, directions or approvals required by Governmental Authorities pursuant to the Environmental Laws with respect to the use, occupation, ownership or operation of the Charged Premises;

"Environmental Laws" means all applicable federal, provincial and municipal laws, by-laws, regulations, executive orders, judgments and protocols, relating in whole or in part, to the environment or its protection, and without restricting the generality of the foregoing, includes without limitation, those laws relating to the manufacturing, processing, use, handling, packaging, labelling, sale, storage, recycling, transportation, treatment, destruction, burial or disposal of Hazardous Substances, employee safety, and the emission, discharge, release, deposit, issuance, spraying, dumping, throwing, pouring, spilling, emptying, placing, leaking, seeping, exhausting or abandonment of Hazardous Substances into the atmosphere, air, surface water, ground water, land surface or subsurface strata and, in each such case, as such Environmental Laws may be amended or supplemented from time to time, and "Environmental Law" means any of them;

"Hazardous Substance" means any pollutant, contaminant, waste, hazardous waste, toxic substance or dangerous good which is defined or identified in or the object of any Environmental Law, the presence of which in the environment is in contravention of any Environmental Law; and

"Inspections" means all inspections, evaluations or tests conducted by the Lender or any agent or consultant thereof for the purpose of determining the environmental condition of the Charged Premises, as the Lender may deem appropriate, acting reasonably.

- 12.2 The Borrower represents and warrants (which representations and warranties shall continue throughout the Term of the Loan) that:
- (a) The condition and use of the Charged Premises is and, to the best of the Borrower's knowledge, any prior use of the same was, in compliance in all material respects with all applicable Environmental Laws;
 - (b) The Charged Premises is not subject to any judicial or administrative proceedings alleging violation of any Environmental Laws and there are no outstanding orders or proceedings against the Charged Premises from a Governmental Authority responsible for protecting the environment alleging the violation of any Environmental Laws;
 - (c) To the knowledge of the Borrower, the Charged Premises is not the subject of any investigation by Governmental Authorities having jurisdiction evaluating whether any remedial action is needed to respond to a contravention of any Environmental Laws; and
 - (d) There is no contingent liability of which the Borrower has knowledge or reasonably should have knowledge in connection with the contravention of any Environmental Laws.

- 12.3 The Borrower covenants with the Lender:

- (a) If not already provided, to provide to the Lender within ninety (90) days of the execution of this Charge, an environmental audit with respect to the Lands, and if an event shall have occurred after the date of this Charge, which

the Lender, acting reasonably, believes may have resulted or may result in material adverse change in the environmental condition of the Charged Premises or any part thereof, to provide such further environmental audits as the Lender may require;

- (b) To provide notice within fifteen (15) days of either having learned of any enactment or promulgation of any Environmental Laws which may result in any material adverse change in the condition, financial or otherwise, of the Charged Premises;
- (c) To defend, indemnify and hold harmless the Lender, its directors, officers, employees, agents and their respective successors and assigns, against any and all loss, cost, expense, claim, liability or alleged liability arising out of any environmental damage occasioned to the Charged Premises contravention of any Environmental Laws;
- (d) To, at all times and at its own expense, conduct its business and maintain the Charged Premises in compliance with all Environmental Laws and Environmental Approvals including causing all tenants of the Charged Premises to comply with the same;
- (e) If the Borrower:
 - (i) receives notice from any Governmental Authority having jurisdiction that violation of any Environmental Law or Environmental Approval has been committed by the Borrower or any tenant with respect to the Charged Premises;
 - (ii) receives notice that any remedial order or other proceeding has been filed against the Borrower or any tenant alleging in respect of the Charged Premises violations of any Environmental Law or requiring the Borrower to take any action in connection with the release of a Hazardous Substance into the environment; or
 - (iii) receives any notice from a Governmental Authority having jurisdiction in respect of the Charged Premises that the Borrower or any tenant may be liable or responsible for costs associated with a nuisance or a response to, or clean up of, a release of a Hazardous Substance into the environment or any damages caused thereby;

to provide to the Lender a copy of such notice within ten (10) days of the Borrower's receipt thereof, and thereafter shall keep the Lender informed in a timely manner of any developments in such matters, and shall provide to the Lender such other information in respect thereto as may be reasonably requested by the Lender from time to time and shall proceed to deal with the same diligently and in good faith in order to bring the Charged Premises into compliance to the extent necessary to comply with Environmental Laws;

- (f) Unless in existence on the Charged Premises on the date of this Charge, not to use, discharge, transport or install in or upon the Charged Premises any material or equipment containing PCBs or permit any tenant of the Charged Premises to do so and, to the extent in existence on the Charged Premises as of the date of this Charge, to maintain the same in compliance with all Environmental Laws;
- (g) To maintain, and to require all occupants of the Charged Premises to maintain in good leak-proof condition all above-ground and underground storage tanks and drums on the Charged Premises;
- (h) Not to install asbestos or permit asbestos to be installed in the Charged Premises. With respect to any asbestos present in the Charged Premises on the date of this Charge, the Borrower shall, at its expense, promptly comply with the requirements of Environmental Laws and Governmental Authorities respecting the use, removal and disposal of asbestos; and
- (i) To obtain or cause its solicitors to obtain copies of all relevant environmental studies or assessments of the Charged Premises which the Borrower or its solicitors or agents have commissioned or which are in the possession or control of the Borrower, as of the date of this Charge and, to the extent any such assessments or studies are required by the Lender from time to time, to promptly provide same to the Lender upon request and hereby authorizes and directs its solicitors, agents and consultants to promptly release same to the Lender.

12.4 Having due regard to the rights of any tenant of the Borrower, the Lender and its employees and agents shall have the right, and are hereby granted permission by the Borrower, to enter the Charged Premises from time to time, and to have access to the Borrowers' relevant documents and records, in order to conduct Inspections, to determine compliance with Environmental Laws as the Lender, acting reasonably, may deem appropriate. Inspections shall be:

- (a) at such times and to such extent as may be reasonable in the circumstances on prior notice to the Borrower if the Lender has reasonable grounds for believing that:
 - (i) there are, contrary to Environmental Laws or Environmental Approvals, Hazardous Substances in or upon the Charged Premises which have not been disclosed to and approved by the Lender and appropriate Government Authorities; or
 - (ii) the Borrower is in breach of any environmental representations in this Charge or its covenants in this Article; or
 - (iii) the Borrower is not in compliance with any Environmental Laws or material Environmental Approvals; and
- (b) at any time without prior notice upon the occurrence of an Event of Default which is continuing.

If the Borrower is found not to be in compliance with the Environmental Laws or Environmental Approvals and such failure to comply becomes an Event of Default that is continuing, the Lender may, at its option (but without any obligation to do so) take such actions as are required, acting reasonably, to bring the Charged Premises into compliance, and the costs thereof shall immediately become due and payable to the Lender by the Borrower and shall be secured by the Security.

- 12.5 The Lender shall not, by virtue of being the chargee under this Charge or the enforcement of its rights contained herein for purposes of the Environmental Laws, be or be deemed to be the owner of, any of the Charged Premises, or to have management, charge, control, occupation or possession of any of the Charged Premises or the businesses of the Borrower, or of any Hazardous Substances located on, upon or within any of the Charged Premises.
- 12.6 The Borrower hereby covenants and agrees to be responsible for, and to indemnify and hold harmless the Lender and each of its officers, directors, employees and agents and their respective successors and assigns (in this Section, collectively referred to as the "Indemnified Parties") from and against all claims, demands, liabilities, losses, costs, damages and expenses (including, without limitation, reasonable legal fees and all costs incurred in the investigation, pursuing of any claim, or in any proceeding with respect to, defense and settlement of any item or matter hereinafter set out) that the Indemnified Parties may incur or suffer, directly or indirectly as a result of or in connection with:
- (a) Any inaccuracy in or breach of the Borrower's representations and warranties relating to the environmental matters contained herein;
 - (b) The presence of any Hazardous Substance on, upon or within the Charged Premises, or the escape, seepage, leakage, spillage, discharge, emission, release, disposal or transportation away from the Charged Premises of any Hazardous Substance, whether or not there is compliance with all applicable Environmental Laws and Environmental Approvals;
 - (c) The imposition of any remedial order affecting the Lands, or any non-compliance with Environmental Laws or Environmental Approvals pertaining to the Charged Premises by any person, including the Borrower, the Lender or any person acting on behalf of the Lender; and
 - (d) Any diminution in the value or any loss on the disposition of the Charged Premises arising directly or indirectly as a result of the presence on the Lands of any Hazardous Substance, or as a result of the imposition of any remedial order or the breach by any person of any Environmental Law or Environmental Approval.

This indemnity shall survive the satisfaction and release of this Charge and the Security and the payment and satisfaction of all indebtedness hereunder. The benefit of this indemnity may be assigned by the Lender to any successor or assign of the Lender and the Borrower hereby consents to any such assignment.

ARTICLE 13 - ASSIGNMENT OF RENTS AND LEASES

- 13.1 As further security for the payment of all monies owing and the performance of all obligations to be performed hereunder, the Borrower does, as and by way of security, hereby sell, assign, transfer and set over unto to the Lender all of the Borrower's right, title and interest, both at law and equity, in and to the Lease Rights, to hold and receive the same unto the Borrower with full power and authority to demand, collect, sue for, recover and receive and give receipts for Rents and enforce payments of the same and enforce performance of the obligations of tenants under the Leases, provided, however, that, subject to the terms of this Charge, the Borrower shall have the full right, so long as no Event of Default has occurred and is continuing, to continue to collect Rents, to take or cause to take all actions as it deems necessary with respect to the Lease Rights, acting as a reasonable lessor.
- 13.2 It is expressly acknowledged and agreed by the Borrower that nothing contained in this Charge shall oblige the Lender to assume or perform any obligation of the Borrower to any third party in respect of or arising out of the assigned Lease Rights. The Lender may, however, after the occurrence of an Event of Default and while such Event of Default continues, at its option, assume or perform any such obligation as the Lender considers necessary or desirable to obtain the benefit of the Lease Rights, free of any set-off, reduction or abatement, and any money expended by the Lender in this regard shall form part of or be deemed to form part of the indebtedness secured by this Charge and shall bear interest at the Applicable Rate.

ARTICLE 14 - MANAGEMENT AND REPAIR

- 14.1 The Borrower shall cause the Charged Premises at all times to be professionally maintained, managed and operated and fully and continuously operational during customary business hours, including all uses ancillary or incidental to its operations, at all times, by competent managers and staff of proper background and training, in a first class manner consistent with the management and operation of other properties which are of size, location, use, class, age and type comparable to the Charged Premises, and the Borrower shall obtain the Lender's prior written approval of any manager and any management contract with any manager which may be entered into by the Borrower for the management of the Charged Premises. In addition to any other rights hereunder of the Lender, the Lender shall have the right, acting reasonably, to replace the manager at the expense of the Borrower in the event the management standards are not maintained as required hereunder and the situation is not remedied within thirty (30) days after written notice from the Lender. The Lender acknowledges and approves, as of the date hereof, of the Borrower or a company controlled by the Borrower acting as manager of the Charged Premises provided that the Charged Premises are managed and maintained in accordance with the provisions hereof.
- 14.2 The Borrower shall promptly repair, maintain, restore, replace, rebuild, keep, make good, finish, add to and put in order, or cause to be so done, the Charged Premises, so that the same shall, at all times, be in good condition and repair and to pay or cause to be paid when due all claims for labour performed and materials furnished therefor. The Borrower shall not commit or suffer any waste of the Charged Premises nor take any action that might invalidate or give cause for cancellation of any insurance maintained in respect of the Charged Premises. No building or other property now or hereafter charged by this Charge shall be removed, or demolished or nor shall the structure of any building be materially altered, redeveloped, retrofitted or renovated, without the prior written consent of the Lender, except that the Borrower shall have the right, without such consent, to remove and dispose of, free from the lien or charge of this Charge, such fixed equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal, and if necessary for the operation of the Charged Premises such equipment shall be replaced with other equipment of a quality comparable to that of the replaced equipment and free from any lien, title retention agreement, conditional sale contract, security agreement or other encumbrance, and by such removal and replacement the Borrower shall be deemed to have subjected such fixed equipment to the lien or charge of this Charge, or, (b) any net cash proceeds received from such disposition shall, at the option of the Lender, be paid over promptly to the Lender to be applied in a manner determined by Lender in its sole discretion toward the payment of

any amounts owing hereunder or secured hereby. The Borrower shall notify the Lender promptly of any material damage to or defects in any of the Improvements, and thereafter forthwith shall make or cause to be made such repairs thereto as are required to correct any such damage or defects and return the Charged Premises to a state of condition and repair equivalent to the state of condition and repair required by the provisions of this Charge.

- 14.3 The Borrower shall comply with, or cause to be complied with, all statutes including without limitation the provisions of the *Construction Act* (Ontario), ordinances and requirements of any Governmental Authority having jurisdiction with respect to the Charged Premises; the Borrower shall complete and pay for, within a reasonable time, any structure at any time in the process of construction on the Charged Premises.
- 14.4 The Borrower shall permit the Lender or its authorized agents at all reasonable times to enter upon the Charged Premises and inspect same, and if such inspection reveals that any repairs or like actions are necessary, the Lender may give notice to the Borrower requiring the Borrower to repair, rebuild or reinstate the same, or take such other like action within a reasonable time. Any failure by the Borrower to comply with such notice shall constitute an Event of Default hereunder and the Lender may repair, rebuild or reinstate the Charged Premises at the cost of the Borrower and charge all sums of money determined by the Lender to be properly paid therefor and interest thereon at the Applicable Rate until paid.

ARTICLE 15 - INCREASED COSTS

- 15.1 In the event that as a result of any application of or any change in or enactment of any applicable law, regulation, treaty or official directive after the date hereof (whether or not having the force of law), or in the interpretation of application thereof by any court or by any governmental or other authority or entity charged with the administration thereof which now or hereafter:
- (a) Subjects the Lender to any tax or changes the basis of taxation, or increases any existing tax, on payments of principal, interest or other amounts payable by the Borrower to the Lender under this Charge (except for taxes on the overall net income of the Lender or capital of the Lender imposed by the Government of Canada or any political subdivision thereof or by the jurisdiction in which the principal or lending office of the Lender is located); or
 - (b) Imposes, modifies or deems applicable any special requirements against assets held by, or deposits in or for the account of or any other acquisition of funds by the Lender or imposes on the Lender a requirement to maintain or allocate capital or additional capital in relation to the Loan; or
 - (c) Imposes on the Lender any other condition with respect to this Charge; or
 - (d) Renders any portion of this Charge illegal or unenforceable;

and the result of any of the foregoing is to increase the cost to the Lender, or reduce the amount of principal, interest or other amount received or receivable by the Lender hereunder or its effective return hereunder in respect of making or maintaining the Loan hereunder or to reduce the payments receivable by the Lender in respect of the Loan by an amount which the Lender deems to be material, the Lender shall promptly give written notice thereof to the Borrower setting out in reasonable detail the facts giving rise to and a summary calculation of such increased costs or reduced payments, and the Borrower shall forthwith pay to the Lender upon receipt of such notice that amount which will compensate the Lender for such additional cost or reduction in income (herein referred to as "Additional Compensation"). Upon the Lender having determined that it is entitled to Additional Compensation in accordance with the provisions of this Section, the Lender shall promptly so notify the Borrower. The Borrower shall forthwith pay to the Lender upon receipt of such notice such Additional Compensation calculated on the date of demand. The Lender shall be entitled to be paid such Additional Compensation from time to time to the extent that the provisions of this Section are then applicable notwithstanding that the Lender has previously been paid any Additional Compensation. The Lender shall endeavour to limit the incidence of any such Additional Compensation, including seeking recovery for the account of the Borrower, by appealing any assessment at the expense of the Borrower upon the Borrower's request.

- 15.2 All payments made by the Borrower to the Lender will be made free and clear of all present and future taxes, withholdings or deductions of whatever nature. If these taxes, withholdings or deductions are required by Applicable Law and are made, the Borrower shall, as a separate and independent obligation, pay to the Lender all additional amounts as shall fully indemnify the Lender from any such taxes, withholding or deduction. Provided, however, that the Borrower shall have no obligation to pay any withholding or like tax which may be exigible, incurred or required as a result of the Lender being a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).
- 15.3 If the result of any law, regulation, treaty or official directive or request or any change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) is such that it is or will become (other than as a result of some positive action of the Lender, including any participation or syndication hereof by the Lender) unlawful for the Lender to make, fund or allow to remain outstanding all or part of the Loan, or to carry out all or any of its other obligations under this Charge and/or the Security or receive interest or any fee at the Applicable Rate, then in such case:
- (a) The Lender may give written notice to the Borrower of such law, regulation, treaty or official directive or request (whether or not having the force of law) or such change in or any introduction thereof or change in the interpretation or application thereof or compliance by the Lender with the same (including, without limitation, those relating to taxation, reserve requirements, capital adequacy or other banking or monetary controls) which such notice shall certify that such law, regulation, treaty, official directive or request is generally applicable to all other borrowers from the Lender with any accommodation similar to that herein provided; and
 - (b) The Borrower shall prepay the Indebtedness on such date and to such extent as the Lender shall certify to be necessary to comply with the relevant law or change described above;

provided, however, that should the Loan become unlawful, the Lender, without prejudice to its rights to require repayment and without any obligation on its part, will consider other means of funding the Loan which would not be unlawful, would allow the Lender to carry out its obligations in respect of the Loan and would enable the Lender to receive interest at the Applicable Rate,

provided always, notwithstanding the foregoing, the Lender is not obligated to provide alternate funding.

ARTICLE 16 - OBTAINING AND MAINTAINING SECURITY

- 16.1 Regardless of whether such sums are advanced or incurred with the knowledge, consent, concurrence or acquiescence of the Borrower or otherwise and in addition to any other amounts provided for herein or otherwise permitted by Applicable Law to be secured hereby, except as herein otherwise provided, the following are to be secured hereby and shall be a charge on the Charged Premises, together with the interest thereon at the Applicable Rate, and all such monies shall be repayable to the Lender, on demand, except as herein otherwise provided:
- (a) All reasonable and properly chargeable solicitor's, inspector's, valuator's, consultant's, architect's, engineer's, surveyor's and appraiser's fees and out-of-pocket expenses:
 - (i) for drawing and registering this Charge and the Security and financing statements in connection therewith, and attending to advances hereunder;
 - (ii) for examining the Charged Premises and the title thereto up the date hereof;
 - (iii) for making and maintaining this Charge as a registered charge on the Charged Premises and maintaining the Security (including the registration and filing of renewals);
 - (iv) for the preparation of this Charge, the Security and any related documents and in exercising or enforcing or attempting to enforce or advising the Lender in respect of defaults hereunder or in pursuit of any right, power, remedy or purpose hereunder or subsisting at law;
 - (v) reasonable allowance for the time, work and expenses of the Lender or of any agent of the Lender in connection therewith; and
 - (b) All reasonable sums which the Lender may from time to time advance, expend, incur or suffer hereunder:
 - (i) for insurance premiums, Bills, Taxes, rates, or in or toward payment of prior liens, charges, encumbrances or claims charged or to be charged against the Charged Premises;
 - (ii) in maintaining, repairing, restoring or completing construction of the Charged Premise;
 - (iii) in inspecting, leasing, managing or improving the Charged Premises as permitted hereunder, including the price or value of any goods of any sort or description supplied to be used on the Charged Premises as permitted hereunder; and
 - (c) Without limiting the generality of any of the foregoing, the then current reasonable fee of the Lender and/or its solicitor for the following matters:
 - (i) executing any cessation or discharge of this Charge, notwithstanding that said cessation or discharge may have been prepared by the Borrower;
 - (ii) entering into an agreement to amend the interest rate or any other provision in the Charge;
 - (iii) handling any dishonored cheque;
 - (iv) preparing an amortization schedule showing the principal and interest components of payments due under this Charge;
 - (v) the cost of completing a Phase I & II Environmental Audit and such other environmental audits as the Lender may require in its discretion;
 - (vi) such other administrative matters as the Lender may perform with regards to the Charge or with regards to any collateral security, as permitted by the Commitment;
 - (vii) the fee charged by the Lender's insurance consultant to review the Borrower's policy of insurance for the subject lands including business interruption insurance if required by the Lender; and
 - (viii) the execution and delivery of any consents, postponements, acknowledgments or any other documents that may be required from the Lender, whether from the Borrower and/or any governmental authorities and/or public/private utilities.
- 16.2 If any action or proceeding be commenced (except an action to foreclose this Charge or to collect the money that is secured hereby) in which the Lender becomes a party or participant by reason of being the holder of this Charge or the indebtedness secured hereby, all sums paid by the Lender for the expense of so becoming a party or participating (including all reasonable and properly chargeable legal costs) shall, on written notice, be paid by the Borrower, together with interest thereon at the Applicable Rate from the dates of payment of such sums by the Lender, and shall be a lien and charge on the Charged Premises, prior to any right or title to, interest in, or claim upon the Charged Premises subordinate to the lien and charge of this Charge, and shall be deemed to be secured by this Charge, and that in any action or proceeding to foreclose this Charge, or to recover or collect the indebtedness secured hereby, provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

ARTICLE 17 - CONDEMNATION AWARDS

- 17.1 The Borrower shall notify the Lender promptly upon it being aware of any and all awards or payments ("Condemnation

Award(s)”) including interest thereon, and the right to receive the same (save for any portion of any such Condemnation Award(s) paid for remedial purposes and which is actually used for such purpose) which may be made with respect to the Charged Premises, or any part thereof, as a result of:

- (a) Any condemnation, eminent domain, compulsory acquisition, expropriation or like procedures (“Condemnation”), partial or complete, including any sidewalk or lane; or
- (b) The imposition, and enforcement, of any restriction, regulation or condition to meet any building or development guideline for development or restriction of or by any municipality or other competent authority; or
- (c) Any other material injury to or decrease in the value of the Charged Premises by any lawful regulation or any governmental authority having jurisdiction;

(any matter referred to in (a), (b) or (c) above being hereinafter called an “Incident of Expropriation”) to the extent of all amounts which may be secured by this Charge at the date of receipt of any such Condemnation Award(s) by the Borrower. Notwithstanding the occurrence of any Incident of Expropriation, the Borrower shall continue to pay interest at the Applicable Rate on the Principal Sum. The Borrower does hereby charge, assign, set over and transfer to the Lender, any Condemnation Award(s) as security for the repayment of all Indebtedness.

17.2 Any Condemnation Award(s) received by the Lender shall be held by the Lender as part of the security for the Loan subject to application as provided in this Article 17. Pending such application, such amounts received shall be held and invested by the Lender, acting reasonably. If at any time an Event of Default has occurred and is continuing, the Lender may, at its option, apply such amounts in reduction of the amounts owing hereunder.

17.3 Notwithstanding the provisions of Sections 17.1 and 17.2, in the event that any Incident of Expropriation shall occur which, in the reasonable opinion of the Lender, would materially and adversely affect the security of the Charge or any other Security after the application of any Condemnation Award(s) pursuant to Section 17.1 hereof, the Lender may, at its option, declare such Incident of Expropriation to be an Event of Default and be entitled to exercise any and all rights and remedies available to it hereunder at law or in equity.

ARTICLE 18 - EVENTS OF DEFAULT

18.1 The whole of the Principal Sum together with interest thereon at the Applicable Rate, interest on overdue interest and any amounts payable pursuant to Article 6, and all other amounts secured hereby shall, at the option of the Lender, subject to Section 18.2 hereof, become due and payable and all powers conferred on the Lender herein and hereby shall become exercisable, in like manner to all intents and purposes as if the time herein mentioned for payment of such Principal monies had fully come and expired, if specifically provided for in this Charge, or if any of the following events shall occur (the occurrence of any such event together with the expiry of the applicable cure period, if any, and any other occurrence specifically provided for herein as an Event of Default being collectively referred to as an “Event of Default”):

- (a) Upon default in payment of any regularly scheduled instalment of principal and/or interest beyond the date such payment is due and payable; or
- (b) Upon default in payment of the Indebtedness due and owing on the Maturity Date; or
- (c) Upon default in payment of any Indebtedness (other than an instalment of principal and/or interest and upon maturity) due hereunder within five (5) Business Days after written notice thereof is provided by the Lender; or
- (d) Save as otherwise provided for in subparagraphs (a), (b) and (c) hereof or otherwise specifically provided herein, upon any default in the performance of any covenant or obligation of the Borrower hereunder within fifteen (15) days after written notice thereof is provided by the Lender, provided that if such default is curable and the nature of such default is such that the exercise of reasonable diligence of more than fifteen (15) days is required to cure such default, and if such default in the Lender’s reasonable discretion does not jeopardize or adversely effect the security interest of the Lender hereunder or adversely affect the Borrower or its ability to perform its obligations hereunder or under the Security or adversely affect the Charged Premises, the Lender will not, for a further sixty (60) days so long as no other Event of Default has occurred, enforce its remedies in respect of such default while and so long as during such time the Borrower is actively continuing to diligently and in good faith cure such default; or
- (e) If at any time during the Term there is a breach of any representation or warranty contained herein or at any time during the Term if any representation or warranty contained herein is no longer true or accurate or becomes untrue or inaccurate for any reason and provided the same can be rectified, and the same is not rectified within thirty (30) days after written notice thereof is provided by the Lender; or
- (f) Upon the assignment by the Borrower to any other party of the whole or a part of the rents, income or profits arising from the Charged Premises, without the written consent of the Lender; or
- (g) The occurrence of an Event of Insolvency; or
- (h) If without the prior written consent of the Lender, in its sole and absolute discretion:
 - (i) the Borrower transfers, sells, conveys, or otherwise disposes of all or any part of the Charged Premises, or any interest therein (other than by way of Leases), whether legal or beneficial or enters into any transaction or series of transactions where all or any part of the Charged Premises becomes the property of another person, whether through reorganization, amalgamation, merger, consolidation or otherwise, or if there is any change in the legal or beneficial interest, in whole or in part, of the Charged Premises; or
- (i) If, without the prior written consent of the Lender, in its sole and absolute discretion:

- (i) there is any change in the Borrower's corporate control or change in the Borrower's effective control existing as of the date of this Charge; or
- (ii) the Borrower creates, permits or suffers to exist any mortgage, pledge, charge, loan, assignment, hypothecation, security interest or other encumbrance attaching the Charged Premises other than this Charge, the Security and the Permitted Encumbrances; or
- (j) Upon default by or non-compliance of the Borrower or any Guarantor(s), or any others bound by or acknowledging to be bound by the terms of this Charge, with respect to any of the provisions of the Security, this Charge or the Permitted Encumbrances; or
- (k) If the Charged Premises are abandoned; or
- (l) Failure by the Borrower to fulfil, complete or comply with any undertakings delivered by the Borrower to Lender in connection with the Loan in accordance with the terms of such undertakings; or
- (m) Upon any breach, default, non-observance occurring or being alleged, charged or claimed against the Borrower as lessor under any lease or as sublessor under any sublease of the Charged Premises and the Borrower is not diligently proceeding to rectify any such breach, default, non-observance or non-performance or defend any allegations, charges or claims of the same; or
- (n) If this Charge, or any of the Security, shall fail to constitute a legal, valid, binding and enforceable first charge, first assignment or first security interest, each enforceable in accordance with its terms, subject only to Permitted Encumbrances; or
- (o) If in the reasonable opinion of the Lender there occurs an event which has a material adverse effect on the financial condition or operation of the Borrower, the Charged Premises, this Charge, the Security or the ability of the Borrower to pay the Indebtedness or to perform its obligations hereunder or under the Security and which cannot be rectified by the Borrower within a reasonable period of time.

18.2 Save as otherwise specifically provided, an Event of Default hereunder or under any Security shall not have occurred or be deemed to have occurred until the expiration of any applicable notice period, if any, called for in this Charge or in such Security within which the Borrower may remedy such default. In any event, if in the opinion of the Lender, an event has occurred which with the passing of time, the giving of notice or otherwise would constitute an Event of Default and as a result of which the Charged Premises or the property assets and undertaking subject to the Security is materially at risk, the Lender may take such action or exercise such remedies as may be appropriate without notice to the Borrower or the expiry of any cure period.

ARTICLE 19 - REMEDIES

19.1 If an Event of Default has occurred hereunder and is continuing (or if the Lender exercises its rights pursuant to Section 18.2 hereof before the occurrence of an Event of Default), then at any time thereafter, but subject always to the waiver thereof by the Lender, the Lender may:

- (a) Declare the Indebtedness to be immediately due and payable and proceed to exercise any and all rights hereunder or under the Security or any other rights available to it under any other document or instrument or at law or in equity including without limitation, the drawdown of any letter of credit held by the Lender;
- (b) Commence legal action to enforce payment of the Indebtedness or performance of the obligations by the Borrower to the Lender;
- (c) At the expense of the Borrower, when and to such extent as the Lender deems advisable, observe and perform or cause to be observed and performed any covenant, agreement, proviso or stipulation contained herein or in the Security, and the reasonable cost thereof with interest thereon at the Applicable Rate until paid, shall immediately become due from the Borrower to the Lender after demand by the Lender upon the Borrower therefor;
- (d) Pay or discharge any mortgage, encumbrance, lien, adverse claim or charge that may exist or be threatened against the Charged Premises; in any such case, the amounts so paid together with costs, charges and expenses incurred in connection therewith shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
- (e) Send or employ any inspector or agent to inspect and report upon the value, state and condition of the Charged Premises and may employ a lawyer to examine and report upon the title to the same;
- (f) Immediately take possession of all of the Charged Premises or any part or parts thereof by action or otherwise, with power, among other things, to exclude the Borrower, to enforce the Borrower's rights, to preserve and maintain the Charged Premises, to repair, alter or extend the Charged Premises, to lease the Charged Premises, to complete construction and development of the Charged Premises, to operate and manage the Charged Premises and to collect or receive rents, income and profits of all kinds (including taking proceedings in the name of the Borrower for that purpose) and pay therefrom all reasonable expenses and charges of maintaining, preserving, protecting and operating the Charged Premises (payment of which may be necessary to preserve or protect the Charged Premises), and to enjoy and exercise all powers necessary to the performance of all functions made necessary or advisable by possession, including without limitation, power to advance its own moneys and enter into contracts and undertake obligations for the foregoing purposes upon the security hereof, and all sums advanced or expended shall be added to the Principal outstanding and shall bear interest at the Applicable Rate;
- (g) On default of payment for at least fifteen (15) days may, on at least thirty-five (35) days' notice, sell and dispose in the Charged Premises with or without entering into possession of the same and with notice to such persons and in such manner and form and within such terms as provided under Part III of the *Mortgages Act* (Ontario), as amended; and all remedies available may be resorted to and all rights, powers and privileges granted or conferred upon the Lender under

and by virtue of any statute or by this Charge may be exercised and no want of notice or publication or any other defect, impropriety or irregularity shall invalidate any sale made or purporting to be made in the Charged Premises; and the Lender may sell, transfer and convey any part of the Charged Premises on such terms, including on credit for all or part of the consideration, (provided the Borrower shall not be accountable for any default in respect of the credit), secured by contract or agreement for sale, or charge, or otherwise, as shall appear to the Lender most advantageous and for such prices as can reasonably be obtained therefor in the circumstances; and in the event of sale on credit or part cash and part credit, whether by way of contract for sale or by conveyance or transfer, charge, or otherwise, the Lender is not to be accountable for or charged with any monies until the same shall be actually received in cash or received by a take-back charge; and sales may be made from time to time of parts of the Charged Premises to satisfy interest and leaving the Principal or part thereof to run with interest at the Applicable Rate; and the Lender may make any stipulations as to title or evidences or commencement of title or otherwise as the Lender shall deem proper and may buy or rescind or vary any contract for sale; and on any sale or resale, the Lender shall not be answerable for loss occasioned thereby; and for any of such purposes the Lender may make and execute all arrangements and assurances that the Lender shall deem advisable or necessary;

- (h) With respect to the Leases:
- (i) to demand, collect and receive the Rents or any part thereof and to give acquittances therefor, and to take from time to time, in the name of the Borrower, any proceeding which may be, in the opinion of the Lender or its counsel, expedient for the purpose of collecting the Rents or for securing the payment thereof or for enforcing any of the Borrower's rights under the Leases;
 - (ii) to compound, compromise or submit to arbitration any dispute which has arisen or may arise in respect to any amount of Rent and any settlement arrived at shall be binding upon the Borrower;
 - (iii) to enter upon the Lands by its officers, agents or employees for the purpose of collecting the Rents; (iv) to receive, enjoy or otherwise avail itself of the Lease Rights; and
 - (v) on behalf of the Borrower to alter, modify, amend or change the terms of Leases; to terminate Leases, to enter into new Leases; to give consents, concessions or waivers of any rights or provisions of Leases; to accept surrenders of Leases; to give consents to assignment of or subletting under Leases;
- (i) With or without taking possession of all or any part of the Charged Premises, sell, lease or otherwise dispose of the whole or any part of the Charged Premises, as agent for the Borrower and not the Lender, and in exercising the foregoing power, the Lender may, in its absolute discretion:
- (i) sell, lease or otherwise dispose of the whole or any part of the Charged Premises by public auction, public tender with notice, or by private contract (in the name of or on behalf of the Borrower) or otherwise, with such notice, advertisement or other formality as is required by law;
 - (ii) make and deliver to the purchaser good and sufficient deeds, assurances and conveyances of the Charged Premises and give receipts for the purchase money, and any such sale once effected shall be a perpetual bar, both at law and in equity, to the Borrower and all those claiming an interest in the Charged Premises by, from, through or under the Borrower making any claim against the purchaser of the Charged Premises;
 - (iii) grant, rescind, vary or complete any contract for sale, lease or options to purchase or lease, or rights of first refusal to purchase or lease the whole or any part of the Charged Premises, for cash or for credit, with or without security being given therefor, and on terms as shall appear to be most advantageous to the Lender (including a term that a commission be payable to the Lender or a related corporation in respect thereof) and if a sale is on credit, the Lender shall not be accountable for any moneys until actually received;
 - (iv) make any stipulation as to title or conveyance or commencement of title;
 - (v) re-sell or re-lease the Charged Premises or any part thereof without being answerable for any loss occasioned thereby; and
 - (vi) make any arrangements or compromises which the Lender shall think expedient in the interest of the Lender and to assent to any modification of this Charge, and to exchange any part or parts of the Charged Premises for any other property suitable for the purposes of the Lender on such terms as the Lender considers expedient, either with or without payment of money for equality or exchange or otherwise;
- (j) Take proceedings in any court of competent jurisdiction for sale or foreclosure of all or any part of the Charged Premises;
- (k) To borrow or raise money on the security of the Charged Premises or any part thereof in priority to this Charge or otherwise, for the purpose of the maintenance, preservation or protection of the Charged Premises or any part thereof or for carrying on all or any part of the business of the Borrower relating to the Charged Premises;
- (l) Take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term as used in this Charge includes a manager and a receiver and manager, and hereafter, the "Receiver") of all or any part of the Charged Premises;
- (m) By instrument in writing appoint, with or without taking possession, any person to be a Receiver of the Charged Premises or of any part thereof and may remove any Receiver so appointed and appoint another in his stead, with all fees and costs related thereto being the Borrower's obligations; and the following shall apply in respect of any such Receiver so appointed:
- (i) the Lender may from time to time fix the remuneration of the Receiver who shall be entitled to deduct that

same out of the revenue from the Charged Premises or the proceeds thereof;

- (ii) the Receiver shall, to the fullest extent permitted by law, be deemed the agent or attorney of the Borrower for all purposes and the Lender shall not be in any way responsible for any actions other than as caused by gross negligence, willful misconduct or fraud, of any Receiver, and the Borrower hereby agrees to indemnify and save harmless the Lender from and against any and all claims, demands, actions, costs, damages, expenses or payments which the Lender may hereafter suffer, incur or be required to pay as a result, in whole or in part, of any action taken by the Receiver or any failure of the Receiver to do any act or thing other than as are caused by gross negligence, willful misconduct or fraud;
 - (iii) the appointment of the 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 the Receiver or the removal of the 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 Lands or any part thereof;
 - (iv) the Receiver may exercise or pursue any other remedy or proceeding which the Lender is entitled as the holder of the Charge authorized or permitted hereby or by law or in equity in order to enforce the security constituted by this Charge;
 - (v) and for the purposes above, the Borrower hereby irrevocably empowers the Receiver so appointed as its attorney to execute deeds, transfers, leases, contracts, agreements or other documents on its behalf and in its place (and the same shall bind the Borrower and have the same effect as if such deeds were executed by the Borrower) and to affix the Borrower's seal, if necessary, or a duplicate thereof to any of the same. On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds as part of the Secured Property; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt; and
 - (vi) save as to claims for accounting under paragraph (o) below, the Borrower hereby releases and discharges the Lender and the Receiver from every claim of every nature, whether resulting in damages or not, which may arise or be caused to the Borrower by reason or as a result of anything done by the Lender or any successor or assign claiming through or under the Lender or the Receiver under the provisions of this paragraph unless such claim be the direct result of dishonesty or gross neglect;
- (n) The Lender may at any time and from time to time terminate any receivership by notice in writing to the Borrower and to the Receiver;
 - (o) The Receiver shall account for all monies received in respect of the Charged Premises or any part thereof, and shall pay, out of such monies received, subject to the further direction of the Lender in its discretion, the following in the order specified:
 - (i) the Receiver's remuneration;
 - (ii) all payments reasonably made or incurred by the Receiver in connection with its receivership;
 - (iii) all payments of interest, Principal and other money which may, from time to time, be or become charged upon the Charged Premises in priority to this Charge, and all Bills, Taxes, insurance premiums and every other proper expenditure reasonably made or incurred by the Receiver in respect to the Charged Premises or any part thereof; and
 - (iv) all payments to the Lender of all interest due or falling due hereunder and the balance to be applied upon Principal due and payable and secured hereby;

and thereafter any surplus remaining in the hands of the Receiver after payments made as aforesaid shall be accountable to the Borrower or other persons entitled thereto; and

- (p) On its own account or through a Receiver and whether alone or in conjunction with the exercise of all or any other remedies contemplated hereby, shall have the right, at any time, to notify and direct any account debtor to make all payments whatsoever to the Lender and the Lender shall have the right, at any time, to hold all amounts received from any account debtor and any proceeds thereof as security for the Indebtedness; any payments received by the Borrower from and after the security hereby constituted becomes enforceable, shall be held by the Borrower in trust for the Lender in the same medium in which received, shall not be commingled with any assets of the Borrower and shall, at the request of the Lender, be turned over to the Lender not later than the next Business Day following the day of their receipt.

ARTICLE 20 - DEFAULT UNDER SECURITY, PARAMOUNTCY DISCHARGE AND RENEWAL

- 20.1 Payments of principal and/or interest made under and pursuant to the terms of the Security shall constitute payment hereunder and vice versa and default in the payment of principal and/or interest under the Security shall constitute default hereunder and vice versa. Default in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained in the Security shall entitle the Lender to exercise all or any of the rights or remedies provided herein and the occurrence of and Event of Default hereunder or in compliance with any of the conditions, covenants, undertakings, provisions and stipulations contained herein shall entitle the Lender to exercise all or any of the rights or remedies provided in the Security. The occurrence of an Event of Default hereunder shall constitute an Event of Default under the Security and vice versa.

- 20.2 The cancellation of or any other dealing with any Security (other than foreclosure thereof) shall not release or affect this Charge, and the taking of this Charge, or the cancellation of or any other dealing with, or proceeding under (other than foreclosure hereunder), this Charge, shall not release or affect any Security:
- (a) The Lender may at any time and from time to time release any part or parts of the Charged Premises or any other Security or any surety for payment of all or any part of the monies hereby secured or may release the Borrower or any other person from any covenant or other liability to pay the Principal Sum and interest and all other monies secured hereby, or any part thereof, either with or without any consideration therefor, and without being accountable for the value thereof or for any monies except those actually received by the Lender, and without thereby releasing any other part of the Charged Premises, or any other Security or covenants herein contained, it being especially agreed that notwithstanding any such release, the Charged Premises, the Security and the covenants remaining unreleased shall stand charged with the whole of the monies hereby secured;
 - (b) In the event that the monies advanced hereunder are applied to payment of any charge or encumbrance, the Lender shall be subrogated to all the rights of and stand in the position of and be entitled to all the equities of the party or parties so paid whether such charge or encumbrance has or has not been discharged; and the decision of the Lender as to the validity or amount of any advance or disbursement made under this Charge or of any claims so paid, shall be final and binding on the Borrower; and
 - (c) The Lender shall not be charged with any monies receivable or collectible out of the Charged Premises or otherwise, except those actually received by or on behalf of the Lender and all revenue of the Charged Premises received or collected by the Lender from any source other than payment by the Borrower may, at the option of the Lender, be retained in a separate account to be used in, maintaining, insuring or improving the Charged Premises to the extent required for such purpose, in the opinion of the Lender, acting reasonably, or in payment of Taxes or other liens, charges or encumbrances against the Charged Premises, or applied in reduction of the amounts owing hereunder.
- 20.3 Subject to Section 6.1 hereof, upon payment of all amounts secured by this Charge, the Borrower shall be entitled to receive and the Lender shall provide a discharge of this Charge and the Security within a reasonable period of time after the request therefor. The Lender shall have a reasonable time after such payment within which to prepare and execute such discharge and all reasonable legal and other expenses for the preparation, execution and registration of such discharge and/or documents, as the case may be, shall be borne by the Borrower.
- 20.4 All payments made pursuant to Section 20.3 shall be made to and received by the Lender prior to 1:00 p.m. on the date due or the next succeeding Business Day in the event the date due is not a Business Day; provided such extension of time shall be included for the purposes of computation of interest.

ARTICLE 21 - NO MERGER OR WAIVER OF LENDER'S RIGHTS

- 21.1 It is further understood and agreed that this Charge and the Security shall stand as a continuing security for repayment of the Loan, including, all advances made thereunder together with all interest, damages, costs, charges and expenses which may become due and payable to the Lender in respect of or in connection with the Loan or any portion thereof, notwithstanding any fluctuation or change in the amount, nature or form of the Loan or in the obligations now or hereafter representing the Loan or any portion thereof or in the names of the obligors or any of them.
- 21.2 The rights of the Lender arising under this Charge shall be separate, distinct and cumulative and, except as expressly provided herein, none of them shall be in exclusion of the other and no act of the Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.
- 21.3 The giving and taking of this Charge shall in no way merge, waive, prejudice, suspend or affect any of the rights or remedies of the Lender under any Security which may be given or which may have been or may hereafter be given in respect of the Principal Sum hereof, interest and other monies secured by this Charge, or any part thereof, or under the Security and all rights and remedies which the Lender now has or may hereafter have against any one or more persons, are hereby preserved.
- 21.4 The taking of a judgment or judgments under any of the covenants or obligations herein or under any Security shall not operate as a merger of the covenants of the Borrower or affect the Lender's right to interest at the Applicable Rate on any monies due or owing to the Lender during the continuance of this Charge, under any of the covenants herein contained or on any judgment to be recovered thereon.
- 21.5 The covenant of the Borrower to pay interest shall not merge in any judgment in respect of any covenant or obligation of the Borrower under this Charge or any Security and such judgment shall bear interest at the Applicable Rate until such judgment and all interest thereon have been paid in full.
- 21.6 Any waiver by the Lender of any default by the Borrower or any omission on the Lender's part in respect of any default by the Borrower shall not extend to or be taken in any manner whatsoever to affect any subsequent default by the Borrower or the rights resulting therefrom.
- 21.7 No extension of time given by the Lender to the Borrower or anyone claiming under the Borrower, shall in any way affect or prejudice the rights of the Lender against the Borrower or any person liable for payment of the monies hereby secured.

ARTICLE 22 - FINANCIAL DATA

- 22.1 The Borrower shall provide or cause to be provided promptly to the Lender full and complete information about the financial condition and operations of the Charged Premises, including a comprehensive rent roll of all space in the Charged Premises, about the financial condition of the Borrower and any Guarantor(s) and such other information which the Lender may reasonably require from time to time, and the Lender shall have the right to examine the books and records of the Borrower relating to the Charged Premises at reasonable times and upon reasonable prior notice.

- 22.2 Without limiting the foregoing, the Borrower covenants and agrees to provide or cause to be provided to the Lender audited financial statements together with operating statements pertaining to the Charged Premises and such other financial information the Lender may reasonably require, (a) in the case of audited financial statements, within ninety (90) days of the end of each fiscal year of the Borrower (or such other time as may reasonably be required by the Lender), and (b) with respect to operating statements for the Charged Premises, within thirty (30) days of the end of each quarter of each calendar year. The audited financial statements are to be prepared by a nationally recognized firm of chartered accountants and shall include a balance sheet, and a detailed statement of income and expenditures and supporting notes and schedules. The operating statements shall contain a certificate by a senior officer of the Borrower as to the contents and preparation thereof, and shall include detailed statements of income, expenditures results of operation and such other matters relating to the operation of the Charged Premises as the Lender may reasonably require. In the event applicable, the Borrower shall provide the Lender with copies of all proxy statements, reports and information circulars that the Borrower makes available to its shareholders and copies of all regular and periodic reports which the Borrower may file with any securities commission or any other Governmental Authority.
- 22.3 The Borrower shall provide or cause to be provided to the Lender, or as the Lender may direct, a comprehensive list of all current tenants and rentals of space in the Charged Premises during the Term, which list shall disclose, without limitation, the name of each tenant, the duration of its term, renewal options, if any, and the term thereof, the rental being paid, the last date on which rental was paid and whether such tenancy is in good standing. Such list shall contain an endorsement by an officer of the Borrower as to being complete and accurate.
- 22.4 All statements, reports and other documents required to be provided hereunder shall be prepared in a manner acceptable to the Lender, in its reasonable discretion.

ARTICLE 23 - NOTICE

- 23.1 Unless otherwise provided herein, any demand, notice or communication given or required to be given to a party hereunder shall be in writing and shall be personally delivered or given by transmittal by telecopy or facsimile transmission addressed to the respective parties at its address or telecopy or facsimile number set forth below or to such other address or telecopy or facsimile number as such party may designate by notice in writing to the other party hereto:
- (a) If to the Borrower, at the address for service set out in the electronic Charge to which this schedule is attached; and
 - (b) If to the Lender, at the address for service set out in the electronic Charge to which this schedule is attached.

Any demand, notice or communication made by or given by personal delivery shall be conclusively deemed to have been made or given on the day of actual delivery thereof, and, if made or given by telecopy or by facsimile, on the first day other than a Saturday, Sunday or a statutory holiday in Ontario, on which Schedule I banks are open for commercial business in Toronto, Ontario, following the transmittal thereof.

ARTICLE 24 - GENERAL

- 24.1 If any provision of this Charge or the application thereof to any circumstances shall be held to be invalid or unenforceable, it shall be deemed severed herefrom and the remaining provisions of this Charge, or the application thereof to other circumstances, shall not be affected thereby and shall be held valid and enforceable to the full extent permitted by law. In particular, and without limiting the generality of the foregoing, to the extent any and all amounts due pursuant to Article 6 hereof may be deemed to be in excess of what is permissible by law, any such excess shall be deemed not to be due under this Charge.
- 24.2 Wherever used in this Charge, unless the context clearly indicates a contrary intent as unless or otherwise specifically provided herein, the word "Borrower" shall mean "Borrower and/or subsequent owner or owners of the Charged Premises", the word "Lender" shall mean "Lender or any subsequent holder or holders of this Charge".
- 24.3 The descriptive headings of the several subparagraphs or paragraphs or sections or articles of this Charge are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.
- 24.4 Wherever the singular number or masculine gender is used in this Charge, the same shall be construed as including the plural and feminine or a body corporate, respectively, and vice versa, where the fact or context so requires; and the successors and assigns of any party executing this Charge are bound by the covenants, agreements stipulations and provisos herein contained. The covenants, agreements stipulations and provisos herein stated shall, except as otherwise limited hereby, be in addition to those granted or implied by statutory law.
- 24.5 This Charge shall be construed and enforceable under and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, and the Borrower hereby irrevocably attorns to the non-exclusive jurisdiction of the courts sitting at Toronto, Ontario.
- 24.6 The Borrower shall at all times, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, transfers, assignments, security agreements and assurances as the Lender may reasonably require in order to give effect to the provisions hereof and for the better granting, transferring, assigning, charging, setting over, assuring, confirming or perfecting the Charge and the priority accorded to them by law or under this Charge.
- 24.7 If any of the forms of words contained herein are also contained in Column 1 of Schedule "B" of the Short Forms of Mortgages Act (Ontario) and distinguished by a number therein, this Charge shall be deemed to include and shall have the same effect as if it contained the form of words in Column 2 of Schedule "B" of the said Act distinguished by the same number, and this Charge shall be interpreted as if the *Short Forms of Mortgages Act* (Ontario) were still in full force and effect. The implied covenants deemed to be included in a charge under Subsection 7(1) of the *Land Registration Reform Act* (Ontario) shall be and are hereby expressly excluded from the terms of this Charge.
- 24.8 This Charge shall, whether or not it secures a current or running account, be a general and continuing security to the Lender for payment of the indebtedness in an amount not exceeding the amount secured by this Charge and performance of the Borrower's

other obligations under the Charge notwithstanding any fluctuation or change in the amount, nature or form of the indebtedness or in the accounts relating thereto or in the bills of exchange, promissory notes and/or other obligations now or later held by the Lender representing all or any part of the indebtedness outstanding at any particular time; and the Charge will not be deemed to have been redeemed or become void as a result of any such event or circumstance.

- 24.9 This Charge is given as collateral security to the Commitment.
- 24.10 Notwithstanding any terms contained in the Commitment to the contrary, in the event of conflict between the Commitment and the terms of this Charge, the provisions of the Commitment shall prevail; provided that any provision herein contained that is not contained in the Commitment and vice versa shall not in and of itself be considered to be inconsistent or in conflict.

ARTICLE 25 – CONDOMINIUM PROVISIONS

- 25.1 The Borrower covenants and agrees that in the event that the security for the within Charge shall be or shall become a condominium unit(s) the following provisions shall apply.
- (i) the Borrower does hereby assign to the Lender all of its rights to vote or consent in the affairs of the Condominium Corporation having jurisdiction over the subject lands and the Lender, may at its option, exercise the right of an owner of a condominium unit to vote or consent in the affairs of the Condominium Corporation in the place and stead of such owner, without in any way consulting the owner as to the manner in which the vote shall be exercised or not exercised, and without incurring any liability to the owner or anyone else because of the manner in which such vote or right to consent in the affairs of the Condominium Corporation was exercised.
 - (ii) the Borrower shall pay promptly, when due, any common expenses, assessments, instalments or payments due to the Condominium Corporation.
 - (iii) the Borrower shall observe and perform the covenants and provisions required to be observed and performed under or pursuant to the provisions of the *Condominium Act* (Ontario), all amendments thereto, and any legislation passed in substitution thereof, and the declaration and by-laws of the Condominium Corporation and any amendments thereto.
 - (iv) Where the Borrower defaults in the Borrower's obligation to contribute to the common expenses assessed or levied by the Condominium Corporation, or any authorized agent on its behalf, or any assessment, instalment of payment due to the Condominium Corporation, upon breach of any of the foregoing covenants or provisions in this paragraph contained, regardless of any other action or proceeding taken, or to be taken by the Condominium Corporation, the Lender, at its option and without notice to the Borrower, may deem such default to be a default under the terms of this Charge and proceed to exercise its rights therein and the Lender shall be entitled at its option to pay all common expense amounts as they come due and these amounts so paid together with legal fees shall form part of the Indebtedness.

ARTICLE 26 – CONSTRUCTION LOAN PROVISIONS

In the event that any of the monies advanced or to be advanced under this Charge are intended to finance any improvement to the Charged Premises, the parties hereto covenant and agree that the following conditions shall apply:

- 26.1 All construction on the Charged Premises shall be carried out by reputable contractors having experience which is commensurate to nature and size of the project to be constructed, which contractors must be prior approved by the Lender in writing, such approval not to be unreasonably withheld.
- 26.2 The construction of the building and structures located on the Charged Premises have been commenced and shall be continued in a good and workmanlike manner, with all due diligence and in accordance with the plans and specifications delivered to the Lender and to the satisfaction of all governmental and regulatory authorities having jurisdiction.
- 26.3 Provided that should construction of the project on the Charged Premises cease for any reason whatsoever (strikes, material shortages and weather conditions beyond the control of the Borrower excepted), for a period of ten (10) consecutive days (Saturdays, Sundays and Statutory holidays excepted), then, at the option of the Lender, this Charge shall immediately become due and payable. In the event that construction does cease, then the Lender shall have the right, at its sole option, to assume complete control of the construction of the said project in such manner and on such terms as it deems advisable. The cost of completion of the said project by the Lender and all expenses incidental thereto shall be added to the principal amount of this Charge, together with a management fee of fifteen percent (15%) of the costs of the construction completed by the Lender. All costs and expenses, as well as the management fee of fifteen percent (15%) added to the principal amount of this Charge shall bear interest at the rate as herein provided for and shall form part of the principal sum herein and the Lender shall have the same rights and remedies to collection of principal and interest hereunder or at law.
- 26.4 At all times there shall be sufficient funds unadvanced under this Charge and retained by the Lender to complete the construction and/or renovation of the project on the Charged Premises and as may be necessary to retain the Lender's priority with respect to any deficiency in the holdbacks required to be retained by the Borrower under the *Construction Act* (Ontario).
- 26.5 This Charge will be advanced in stages as construction upon the Charged Premises proceeds or as the conditions as enumerated by the Commitment are complied with.
- 26.6 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 Lender with respect to the said project and the progress thereof, whose fees and costs shall be for the account of the Borrower 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 and/or renovation to the date of such certificate shall be in accordance with the approved plans and specifications for the said construction 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 Charged Premises. Such certificates with respect to any values shall not include materials on the site which are not incorporated into the building.

- 26.7 The Borrower shall pay to the Lender on each occasion when an inspection of the Charged Premises is required to confirm construction costs to date and compliance with conditions for further advances, an inspection fee in such reasonable amount as the Lender may charge from time to time for each such inspection and the Lender's solicitors shall be paid their reasonable fees and disbursements for each sub-search and work done prior to each such advance and all such monies shall be deemed to be secured hereunder and the Lender 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.
- 26.8 The Borrower agrees to indemnify and hold the Lender harmless from any and all claims, demands, sums of money, debts, covenants, bonds, accounts, actions, causes of action, rights, obligations and liability of every kind whatsoever which arise out of claims against the property under the *Construction Act* (Ontario) and that any liens for work and/or supplies that are registered against the Borrower's interest in the property will be promptly discharged within seven (7) days from the date of registration of the lien. The Lender may, but is not required to, deal with the lien claimant and pay the lien claim into court pursuant to the provision of the *Construction Act* (Ontario) for the purpose of vacating the lien from title to the property. The Borrower agrees to be liable for all costs, claims, amounts and fees including, without limitation, all legal fees (on a solicitor and his client basis) incurred by the Lender arising from or in connection with the Borrower or the Lender obtaining and registering either a release of the lien or an order vacating the lien.

ARTICLE 27 - ASSIGNMENT AND SALE

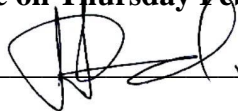
- 27.1 The Loan and all other amounts secured hereby, this Charge, the Security and all documents ancillary or collateral thereto may, in the Lender's sole discretion and without the consent of the Borrower, in whole or in part, be participated, sold, securitized, syndicated or assigned by the Lender from time to time to one or more Persons.
- 27.2 The Lender may disclose to participants, transferees or assignees or to potential participants, transferees or assignees or others in connection with any sale, assignment, participation, securitization, transfer or syndication, such information concerning the Borrower or the Charged Premises as the Lender may consider to be appropriate in connection therewith.
- 27.3 No grant, assignment or transfer pursuant to this Article 27 shall constitute a repayment by the Borrower to the Lender of the Loan or any other amounts owing hereunder and included in such assignment or transfer and the Borrower acknowledges that all obligations under this Charge and the Security with respect to such assignment or transfer will continue and not constitute new obligations.
- 27.4 The Borrower agrees to be bound by and do all things necessary or appropriate to assist and give effect to any transfer, participation, securitization, sale, syndication or assignment, but shall incur no increased liabilities as a result thereof.

Exhibit “14”

This is Exhibit “14” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read "Paul Mand", is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Properties

<i>PIN</i>	58379 - 0238 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PCL 6-5 SEC 51-FLOS-8; PT LT 6 CON 8 ELMVALE PT 2, 51R8051; SPRINGWATER; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791		
<i>Address</i>	ELMVALE		
<i>PIN</i>	58379 - 0406 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PART S1/2 LOT 6 CON 8 FLOS BEING PART 3, PLAN 51R43255; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; TOWNSHIP OF SPRINGWATER		
<i>Address</i>	ELMVALE		
<i>PIN</i>	58379 - 0407 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PART S1/2 LOT 6 CON 8 FLOS BEING PART 1, 51R14434 EXCEPT PART 2, 51R41145 AND PARTS 1, 2 AND 3, 51R43255; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; TOWNSHIP OF SPRINGWATER		
<i>Address</i>	ELMVALE		
<i>PIN</i>	58379 - 0237 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PCL 6-3 SEC 51-FLOS-8; PT OF N 1/2 LT 6 CON 8 ELMVALE PT 1 & 2 51R8040, S/T EASEMENT IN GROSS OVER PT 1 51R26366 AS IN SC600497; SPRINGWATER; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791		
<i>Address</i>	6 TRAIN AVENUE ELMVALE		
<i>PIN</i>	58379 - 0163 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT N1/2 LT 6 CON 8 FLOS AKA TRAIN AV DESIGNATED PART 1, PLAN 51R43404; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; SUBJECT TO AN EASEMENT IN GROSS AS IN SC1895256; TOWNSHIP OF SPRINGWATER		
<i>Address</i>	ELMVALE		

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 SUNRISE ACQUISITIONS (ELMVALE) INC.
Address for Service 50 West Wilmot Street, Suite 100
 Richmond Hill, ON L4B 1M5

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 KSV RESTRUCTURING INC.
Address for Service 220 Bay St. Suite 1300
 Toronto, ON M5J 2W4

Statements

Schedule: See Schedules

Provisions

Principal \$10,500,000.00 *Currency* CDN
Calculation Period
Balance Due Date 2023/06/13
Interest Rate
Payments
Interest Adjustment Date
Payment Date
First Payment Date
Last Payment Date 2023 06 13
Standard Charge Terms 200033
Insurance Amount Full insurable value

Provisions

Guarantor

Signed By

Nasim Akbari-Balderlou	3400-1 First Canadian Place Toronto M5X 1A4	acting for Chargor(s)	Signed	2023 05 10
------------------------	---------------------------------------------------	--------------------------	--------	------------

Tel 416-863-1200

Fax 416-863-1716

I have the authority to sign and register the document on behalf of the Chargor(s).

Submitted By

BENNETT JONES LLP	3400-1 First Canadian Place Toronto M5X 1A4			2023 05 10
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Tel 416-863-1200

Fax 416-863-1716

Fees/Taxes/Payment

Statutory Registration Fee \$69.00

Total Paid \$69.00

File Number

Chargee Client File Number : 74735.37 (JVG/NC)

**This is a Schedule attached to a Charge/Mortgage
between SUNRISE ACQUISITIONS (ELMVALE) INC.
(collectively, the "Chargor")
and KSV RESTRUCTURING INC., solely in its capacity as Court-appointed Receiver of Sunrise
Acquisitions (Hwy 7) Inc. (the "Chargee")**

DEFINITIONS

- a) **"Indebtedness"** means the Principal Amount and all other amounts payable by the Chargor under this Charge;
- b) **"Obligations"** means the Indebtedness and all other obligations of the Chargor under this Charge.

CHARGE

As security for the due and timely payment and performance of the Obligations, the Chargor mortgages and charges as and by of a first fixed specific mortgage and charge to and in favour of the Chargee, its successors and assigns, all of its right, title, estate and interest, present and future, in and to: (i) the Lands; (ii) all buildings, erections, structures, improvements and fixtures now or hereafter constructed or placed in, under or upon the Lands; (iii) all easements, rights-of way, licenses and privileges appurtenant or appertaining to the Lands; and (iv) all interests in any of the foregoing and all benefits and rights to be derived by the Chargor in respect thereof (collectively, the **"Property"**) to have and to hold unto the Chargee until payment in full of the Indebtedness and performance of all of the Obligations, provided that notwithstanding the foregoing, until such time as the Chargor is in default of its Obligations, the Chargor shall have the right to have, hold, use, occupy, possess and enjoy the Charged Premises, and receive and take the rents and profits thereof to the Chargor's own use and benefit, without let, suit, hindrance, interruption, or denial by Chargee, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for the Chargee, in each case as would a prudent landlord or owner of same.

RECEIVERSHIP

Provided that, and notwithstanding anything herein contained, it is agreed that at any time and from time to time when this Charge shall be in default which is continuing, and whether or not the principal has been accelerated, the Chargee may, with or without entry into possession of the Charged Premises or any part thereof, and whether or not there has been such entry, by writing under its hand or at its option by application to a court of competent jurisdiction, for and during the period of such default, appoint a receiver-manager (the **"Receiver"**) of the Charged Premises or any part thereof and of the rents and profits thereof, or of only 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 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 a receiver, the following provisions shall apply:

- (a) a statutory declaration of the Chargee as to default under this Charge shall be conclusive evidence thereof for the purpose of the appointment of such Receiver;
- (b) every such Receiver shall be the agent or attorney of the Chargor, whose appointment is irrevocable by the Chargor, for the collection of all rents or other money receivable in respect of the Charged Premises or any part thereof, and the Chargor covenants and agrees to cooperate with and assist the receiver and execute such documentation as the receiver shall reasonably require, in order to effect the aforesaid purposes;
- (c) the Chargee may from time to time in writing fix the remuneration of the Receiver;
- (d) the Receiver shall so far as concerns responsibility for the Receiver's acts or omissions be deemed the agent or attorney of the Chargor and in no event the agent of the Chargee;
- (e) the appointment of the 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 the Receiver or the removal of the Receiver or the termination of the receivership shall not have the effect of constituting the Chargee a mortgagee in possession in respect of the Charged Premises or any part thereof;
- (f) the Receiver shall have power to exercise any of the powers or discretions of the Chargee hereunder, and may rent or license for use any part of the Charged Premises which may become vacant for such term and subject to such provisions as the Receiver may deem advisable or expedient, and in doing so the Receiver shall act as the attorney or agent of the Chargor and shall have the authority to execute under seal any lease in the name of and on behalf of the Chargor, and the Chargor undertakes to ratify and confirm whatever the Receiver may do in connection with the Charged Premises;
- (g) the Receiver shall have power to construct or complete any unfinished construction upon the Charged Premises so that the Charged Premises and the buildings thereon so completed shall be a complete structure;
- (h) the Receiver shall have power to manage, operate, amend, repair, alter or extend the Charged Premises or any part thereof as it deem expedient in the name of the Chargor and to carry on or concur in carrying on all or any part of the business of the Chargor solely in connection with the Charged Premises;
- (i) the Receiver may borrow or raise money in the security of all or any part of the Charged Premises in priority to or ranking equal with or subordinate to the charge of this Charge for such purpose as may be approved by the Chargee;

- (j) the Receiver shall not be liable to the Chargor to account for money or damages other than the money actually received by the Receiver in respect of the Charged Premises or any part thereof, and out of such money so received the Receiver shall, subject to other written directions from the Chargee, pay or make reasonable reserves for payment in the following order:
 - (i) the Receiver's remuneration and disbursements;
 - (ii) all obligations incurred by the Receiver in connection with the management, including leasing and licensing, operation, amendment, repair, alteration or extension of the Charged Premises or any part thereof, and in borrowing or raising money on the security of the Charged Premises, or any part thereof;
 - (iii) interest, principal and other money which may from time to time be or become charged upon the Charged Premises in priority to this Charge, and all taxes, insurance premiums and every other proper expenditure made or incurred by the Receiver in respect of the Charged Premises or any part thereof;
 - (iv) to the Chargee all amounts due under this Charge and to the extent elected by the Chargee, amounts to become due hereunder for no more than two (2) months; and
 - (v) thereafter any surplus remaining in the hands of the Receiver shall be payable to the Chargor; and
- (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 the Receiver.

DISCHARGE

The Chargee hereby covenants and agrees to discharge this Charge concurrently with the refinancing of the Property and receipt by the Chargee of an amount of not less than CAD\$2,000,000 on account of and to be applied as partial repayment of the Indebtedness. The Chargor's legal counsel shall prepare all documentation reasonably required to discharge this Charge for review by the Chargee and its legal counsel. The Chargor shall be responsible for any and all legal costs associated with any such discharge.

STANDARD CHARGE TERMS

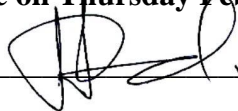
In the event of any discrepancy between the provisions contained in this Schedule and the provisions contained in Standard Charge Terms No. 200033, the Chargee shall determine which shall prevail.

Exhibit “15”

This is Exhibit “15” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read 'Paul Mand', is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

NOTICE OF SALE UNDER CHARGE**FILE COPY**

TO: SEE SCHEUDULE 'A'

TAKE NOTICE that default has been made in payment of the monies due under a charge dated July 28, 2021 made between

AFC MORTGAGE ADMINISTRATION INC.

And

SUNRISE ACQUISITIONS (ELMVALE) INC.

upon the following property, namely:

PT N1/2 LT 6 CON 8 FLOS AKA TRAIN AV DESIGNATED PART 1, PLAN 51R43404; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; SUBJECT TO AN EASEMENT IN GROSS AS IN SC1895256; TOWNSHIP OF SPRINGWATER In the City of Elmvale, PIN: 58379 - 0163,

PART S1/2 LOT 6 CON 8 FLOS BEING PART 3, PLAN 51R43255; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255AS IN SC1851791; TOWNSHIP OF SPRINGWATER In the City of Elmvale, PIN: 58379 - 0406,

and which charge was registered in Land Registry Office for the Land Titles Division of Norfolk as Instrument No SC1797693.

And AFC MORTGAGE ADMINISTRATION INC. hereby gives you notice that the amount now due under the charge for principal money, interest, taxes, outstanding N.S.F charges and costs, respectively, is **\$2,220,508.97** made up as follows:

Principal Balance	\$ 1,960,000.00
Unpaid Interest	\$ -
Accrued Interest from 10/01/2023 to 11/22/2023	\$ 50,261.92
Unpaid Late Charges	\$ -
Accrued Late Charges	\$ -
Unpaid Charges	\$ 216,931.05
Prepayment Penalty	\$ -
Other Fees	\$ 500.00
Trust Balance	\$ (12,000.00)
Legal Fees	\$ 3,200.00
HST	\$ 416.00
Disbursement	\$ 1,200.00
Total	\$ 2,220,508.97

(such amount for costs being up to and including the service of this notice only, and thereafter such further costs and disbursements will be charged as may be proper), together with interest at the rate of the higher of 9% or TD Prime rate plus 6.55% per cent per annum calculated monthly not in advance, on the principal, interest, taxes and costs hereinbefore mentioned, from November 22, 2023 to the date of payment.

AND UNLESS said sums are paid on or before **December 30, 2023** we shall sell the property covered by the said charge under the provisions contained in it.

THIS NOTICE is given to you as you appear to have an interest in the charged property and may be entitled to redeem the same.

DATED November 22, 2023

AFC MORTGAGE ADMINISTRATION INC., by their lawyer

Mand | Rai LLP
Barristers & Solicitors
155 Rexdale Blvd Suite 400, Toronto, Ontario M9W 5Z8

Per: 

Paul Mand

Tel: (416) 740-5653
Email: pmand@mandlaw.com
File Number M23-11760

SCHEDULE 'A'

TO: SUNRISE ACQUISITIONS (ELMVALE) INC., 50 Wilmot Street Suite 100 Richmond Hill, Ontario L4B 1M5

TO: SAJJAD HUSSAIN - 50 Wilmot Street Suite 100 Richmond Hill, Ontario L4B 1M5

TO: MUZAMMIL KODWAVI - 50 Wilmot Street Suite 100 Richmond Hill, Ontario L4B 1M5

Canada Post/Postes Canada
 SHOPPERS DRUG MART #0857
 123 REXDALE BLVD
 ETOBICOKE, ON M9W 1P0
 GST/TPS#103003976

2023/11/22 17:38:26 Jennifer
 CC102816 W/G 2

N 1 @ \$0.00 \$0.00
 Item Dropoff/Dépôt d'articles

Destination:Canada



RN717585380CA

N 1 @ \$0.00 \$0.00
 Item Dropoff/Dépôt d'articles

Destination:Canada



RN717585362CA

N 1 @ \$0.00 \$0.00
 Item Dropoff/Dépôt d'articles

Destination:Canada



RN717585393CA

N 1 @ \$0.00 \$0.00
 Item Dropoff/Dépôt d'articles

Destination:Canada



RN717585376CA

SUBTL/SOUS-TOTAL \$0.00
 Total Tax/Taxe Totale \$0.00
 TOTAL \$0.00

Tell us how we did today. Complete the survey at canadapostsurvey.ca or text survey to 55555 and enter to WIN one of two \$250 Prepaid Visa Cards. (Standard message and data rates would apply for text message.)

Parlez-nous de votre expérience aujourd'hui. Répondez au sondage sur le site sondagepostescanada.ca ou envoyez un message texte à sondage au 55555 et courez la chance de GAGNER l'une des deux cartes Visa prépayées de 250\$. (Les frais standard pour les messages textes et les données s'appliquent.)



2124-10102816-2-1479485-3

CANADA
POST



POSTES
CANADA

REGISTERED
DOMESTIC²⁶⁶

CUSTOMER RECEIPT

RECOMMANDÉ
RÉGIME INTÉRIEUR

REÇU DU CLIENT



M23-11760

To

Destinataire

Name

Nom

KSV RESTRUCTURING INC.

Address

Adresse

220 Bay St. Suite 1300

City / Prov. / Postal Code

Ville / Prov. / Code postal

Toronto ON M5J 2W4

Declared Valeur

Value déclarée

\$

FOR DELIVERY
CONFIRMATION

CONFIRMATION
DE LA LIVRAISON

canadapost.ca

postescanada.ca

or/ou

1 888 550-6333

CPC Tracking Number

Numéro de repérage de la SCP

RN 717 585 362 CA

33-086-584 (17-12)

REGISTERED

Fragile and perishable articles are not indemnified against damage. Indemnity and fees information is available on request at your postal outlet.

Instructions

- 1) Complete any declared value on receipt, tear on perforated line, date stamp on reverse and give receipt to customer.
- 2) Remove label from backing (except area indicated) and apply the label to front of item adjacent to address.

Apply label here

Veuillez placer
l'étiquette ici



RECOMMANDÉ

Aucune indemnité ne sera versée pour l'avarie d'un objet fragile ou périssable. Des renseignements 267 sur les indemnités et les droits sont disponibles à votre comptoir postal.

Instructions

- 1) Indiquez la valeur déclarée dans la section Reçu, détachez le long du pointillé, apposez le timbre à date au verso et remettez le reçu au client.
- 2) Décollez la pellicule protectrice (sauf la région indiquée) de l'étiquette. Apposez l'étiquette sur le dessus de l'envoi, près de l'adresse.

ACCEPTING
LOCATION

LIEU
D'ACCEPTATION

CANADA
POST



POSTES
CANADA

102816

2023 -11- 2 2

REXDALE POST OFFICE
SHOPPERS DRUG MART #857
123 REXDALE BLVD. ETOBICOKE ON M9W 1P0

CANADA
POST



POSTES
CANADA

**REGISTERED
DOMESTIC** 268

CUSTOMER RECEIPT

**RECOMMANDÉ
RÉGIME INTÉRIEUR**

REÇU DU CLIENT



M23-11760

To Destinataire

Name Nom
SAJJAD HUSSAIN

Address Adresse
50 Wilmot St. Suite 100

City / Prov. / Postal Code Ville / Prov. / Code postal
Richmond Hill ON L4B1M5

Declared Value
Valeur déclarée \$

FOR DELIVERY
CONFIRMATION

CONFIRMATION
DE LA LIVRAISON

canadapost.ca

postescanada.ca

or/ou

1 888 550-6333

CPC Tracking Number

Numéro de repérage de la SCP

RN 717 585 380 CA

33-086-584 (17-12)

REGISTERED

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l'étiquette ici



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ACCEPTING	LIEU
LOCATION	D'ACCEPTATION
CANADA	POSTES
POST	CANADA
102816	
2023 -11- 22	
REXDALE POST OFFICE	
SHOPPERS DRUG MART #857	
128 REXDALE BLVD. ETOBICOKE ON M9W 1P0	

CANADA
POST



POSTES
CANADA

REGISTERED
DOMESTIC²⁷⁰

RECOMMANDÉ
RÉGIME INTÉRIEUR



CUSTOMER RECEIPT

REÇU DU CLIENT

SUNRISE ACQUISITIONS

M23-11760

To

Destinataire

Name

Nom

(ELMVALE) INC.

Address

Adresse

50 Wilmot St. Suite 100

City / Prov. / Postal Code

Ville / Prov. / Code postal

Richmond Hill ON L4B 1M5

Declared Value
Valeur déclarée

\$

FOR DELIVERY
CONFIRMATION

CONFIRMATION
DE LA LIVRAISON

canadapost.ca

postescanada.ca

or/ou

1 888 550-6333

CPC Tracking Number

Numéro de repérage de la SCP

RN 717 585 393 CA

33-086-584 (17-12)

REGISTERED

Fragile and perishable articles are not indemnified against damage. Indemnity and fees information is available on request at your postal outlet.

Instructions

- 1) Complete any declared value on receipt, tear on perforated line, date stamp on reverse and give receipt to customer.
- 2) Remove label from backing (except area indicated) and apply the label to front of item adjacent to address.

Apply label here

Veuillez placer
l'étiquette ici



RECOMMANDÉ

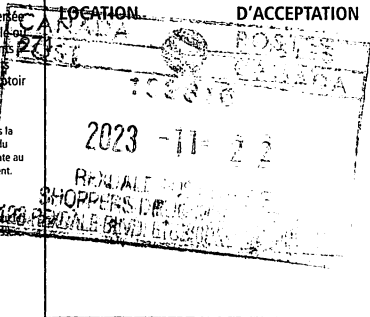
Aucune indemnité ne sera versée pour l'avarie d'un objet fragile ou périssable. Des renseignements sur les indemnités et les droits sont disponibles à votre comptoir postal.

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ACCEPTING
LOCATION

LIEU
D'ACCEPTATION



CANADA
POST



POSTES
CANADA

**REGISTERED
DOMESTIC** 272

CUSTOMER RECEIPT

**RECOMMANDÉ
RÉGIME INTÉRIEUR**

REÇU DU CLIENT



M23-11760

To

Destinataire

Name

Nom

MUZAMMIL KODWAVI

Address

Adresse

50 Wilmot St. Suite 100

City / Prov. / Postal Code

Ville / Prov. / Code postal

Richmond Hill ON L4B1M5

Declared Value
Value déclarée

\$

FOR DELIVERY
CONFIRMATION

CONFIRMATION
DE LA LIVRAISON

canadapost.ca

postescanada.ca

or/ou

1 888 550-6333

CPC Tracking Number

Numéro de repérage de la SCP

RN 717 585 376 CA

33-086-584 (17-12)

REGISTERED

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Instructions

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Apply label here

Veuillez placer l'étiquette ici

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**ACCEPTING
LOCATION****LIEU
D'ACCEPTATION**

CANADA

102816

2023 -11- 22

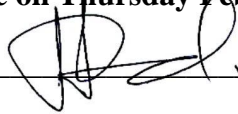
REXDALE POST OFFICE
SHOPPERS DRUG MART #857
123 REXDALE BLVD. ETOBICOKE ON M9W 1P0

Exhibit “16”

This is Exhibit “16” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read 'Paul Mand', is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Properties

PIN 58379 - 0163 LT
Description PT N1/2 LT 6 CON 8 FLOS AKA TRAIN AV DESIGNATED PART 1, PLAN 51R43404; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; SUBJECT TO AN EASEMENT IN GROSS AS IN SC1895256; TOWNSHIP OF SPRINGWATER
Address ELMVALE
PIN 58379 - 0406 LT
Description PART S1/2 LOT 6 CON 8 FLOS BEING PART 3, PLAN 51R43255; TOGETHER WITH AN EASEMENT OVER PART SOUTH 1/2 LOT 6 CONCESSION 8 FLOS, PART 4, 51R43255 AS IN SC1851791; TOWNSHIP OF SPRINGWATER
Address ELMVALE

Source Instruments

Registration No.	Date	Type of Instrument
SC2023765	2023 11 22	Charge/Mortgage

Transferor(s)

This transfer of charge affects all lands that the charge is against which are outstanding.

Name AFC MORTGAGE ADMINISTRATION INC.
Address for Service 2010 Winston Park Drive, 2nd Floor
 Oakville, Ontario L6H 6PS

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 AFC MORTGAGE ADMINISTRATION INC.
Address for Service 2010 Winston Park Drive, 2nd Floor Oakville, Ontario L6H 6PS

Statements

The chargee transfers the selected charge for \$2,220,508.97

The chargee transfers 100% of the selected charge.

Schedule: AFC Mortgage Administration Inc.'s interest registered as SC1940185 has acquired AFC Mortgage Administration Inc.'s interest registered as SC1797693 and SC2023765

This document relates to registration number(s)SC1797693, SC1797694, SC1910220 and SC1910221

Signed By

Hindpal Mand	155 Rexdale Blvd, Suite 400 Toronto M9W 5Z8	acting for Transferor(s)	Signed	2024 01 17
--------------	---------------------------------------------------	-----------------------------	--------	------------

Tel 416-740-2000

Fax 416-740-3480

I have the authority to sign and register the document on behalf of all parties to the document.

Hindpal Mand	155 Rexdale Blvd, Suite 400 Toronto M9W 5Z8	acting for Transferee(s)	Signed	2024 01 17
--------------	---------------------------------------------------	-----------------------------	--------	------------

Tel 416-740-2000

Fax 416-740-3480

I have the authority to sign and register the document on behalf of all parties to the document.

Submitted By

Mand Rai LLP	155 Rexdale Blvd, Suite 400 Toronto M9W 5Z8	2024 01 17
--------------	---------------------------------------------------	------------

Tel 416-740-2000

Fax 416-740-3480

The applicant(s) hereby applies to the Land Registrar.

Fees/Taxes/Payment

Statutory Registration Fee	\$69.95
Total Paid	\$69.95

File Number

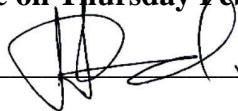
Transferor Client File Number :	M23-11760
Transferee Client File Number :	M23-11760

Exhibit “17”

This is Exhibit “17” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read "Paul Mand", is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

NOTICE OF INTENTION TO ENFORCE SECURITY
(Subsection 244(1) of the *Bankruptcy and Insolvency Act*)

TO: **SUNRISE ACQUISITIONS (ELMVALE) INC.**
50 Wilmot Street, Suite 100, Richmond Hill, Ontario, L4B 1M5

Attention: Sajjad Hussain and Muzammil Kodwavi

AND TO **SAJJAD HUSSAIN and MAHVESH HUSSAIN**
9 Cicada Court, Toronto, Ontario M3B 1G4

AND TO **MUZAMMIL KODWAVI and SAFINA KODWAVI**
72 Grand Vellore Crescent, Vaughan, Ontario L4H 0N8

TAKE NOTICE THAT:

1. AFC MORTGAGE ADMINISTRATION INC. ("**AFC MORTGAGE**"), a secured creditor, intends to enforce its security on the property, assets and undertakings of SUNRISE ACQUISITIONS (ELMVALE) INC. ("**SUNRISE ACQUISITIONS**"), including, without limiting the generality of the foregoing, all the equipment, accounts, proceeds, books and records, inventory, leaseholds and all other personal property interest or real property interest of SUNRISE ACQUISITIONS.
2. The security that is to be enforced (the "**Security**") is in the form of: (i) Security Documents, between SUNRISE ACQUISITIONS, and AFC MORTGAGE ADMINISTRATION INC., dated October 27th, 2022 (ii) a mortgage and charge against the property located at:
 - a. 74 Yonge Street South Elmvale Ontario and 5 and 6 Train Avenue, Elmvale, Ontario, PINS 58379-0238, 58379-0406, 58379-0407, 58379-0237, 58379-0163 (LT); and (iii) an assignment of rents arising from the Property.
 - b. 9 Cicada Court Toronto, Ontario M3B 1G4 PIN – 10120-0064;
 - c. 88 Abbruzze Court, Woodbridge, Ontario – PIN 03345-0011;
 - d. 72 Grand Vellore Crescent, Woodbridge, Ontario PIN 70007-0730; and
 - e. 91 Longshore Way Whitby, Ontario PIN – 26483-2031

Collectively the (the "**Property**")

3. As at December 7, 2023, the total amount of the indebtedness secured by the Security is the sum of **\$4,509,235.20** in principal and interest, plus accruing interest and recovery costs of AFC MORTGAGE (including, without limitation, AFC MORTGAGE's legal and other professional fees) calculated as follows:

Principal Balance	\$ 4,007,651.37
Unpaid Interest	\$ 2,466.00
Accrued Interest From 12/01/2023 To 12/07/2023	\$ 11,865.55
Unpaid Late Charges	\$ -
Accrued Late Charges	\$ -
Unpaid Charges (See itemization attached)	\$ 473,404.78
Prepayment Penalty	\$ -
Other Fees (See itemization attached)	\$ 500.00
Legal Fees	\$ 10,750.00
Disbursements	\$ 1,200.00
HST	\$ 1,397.50
Total Indebtedness	\$ 4,509,235.20

4. AFC MORTGAGE will not have the right to enforce the security until after the expiry of the ten (10) day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

Dated at Toronto, Ontario this 7th, day of December 2023

AFC MORTGAGE ADMINISTRATION INC.

Per: 

2010 Winston Park Drive
2nd Floor
Oakville, Ontario L6H 6P5

ACKNOWLEDGEMENT AND CONSENT

TO: **AFC MORTGAGE ADMINISTRATION INC.**
2010 Winston Park Drive
2nd Floor
Oakville, Ontario L6H 6P5

We acknowledge the receipt and proper service on the 7th day of December, 2023 of a demand of payment and a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* from AFC MORTGAGE. We hereby consent to:

1. delivery of the demand letter and, the notice of intention to enforce security pursuant of section 244 of the *Bankruptcy and Insolvency Act*;
2. the immediate enforcement by you of all security held in our property, assets and undertaking, including the appointment of a receiver and/or an interim receiver and/or manager and/or agent with respect to such property and assets; and
3. the immediate disposition of such property and assets at such price and on such terms and conditions as you deem appropriate, without further notice to or consent of the undersigned.

DATED at Toronto, this ____ day of December, 2023

SUNRISE ACQUISITIONS (ELMVALE) INC.

Per: _____

Name: Sajjad Hussain

Title: President

I HAVE AUTHORITY TO BIND THE CORPORATION

N 1 @ \$0.00 \$0.00
Item Dropoff/Dépôt²⁸¹ d'articles

Destination:Canada



RN743352162CA

N 1 @ \$0.00 \$0.00
Item Dropoff/Dépôt d'articles

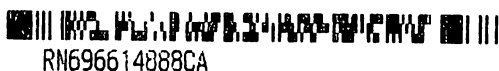
Destination:Canada



RN696614905CA

N 1 @ \$0.00 \$0.00
Item Dropoff/Dépôt d'articles

Destination:Canada



RN696614888CA

SUBTL/SOUS-TOTAL	\$0.00
Total Tax/Taxe Totale	\$0.00
TOTAL	\$0.00

Tell us how we did today. Complete the survey at canadapostsurvey.ca or text survey to 55555 and enter to WIN one of two \$250 Prepaid Visa Cards. (Standard message and data rates would apply for text message.)

Parlez-nous de votre expérience aujourd'hui. Répondez au sondage sur le site sondagepostescanada.ca ou envoyez un message texte à sondage au 55555 et courez la chance de GAGNER l'une des deux cartes Visa prépayées de 250\$. (Les frais standard pour les messages textes et les données s'appliquent.)



2124-10102816-1-2899489-1

WWW.CANADAPOST.CA/WWW.POSTESCANADA.CA

CANADA
POST



POSTES
CANADA

**REGISTERED
DOMESTIC** 282
CUSTOMER RECEIPT

**RECOMMANDÉ
RÉGIME INTÉRIEUR**
REÇU DU CLIENT



M23-11760

To Destinataire

Name Nom

SUNRISE ACQUISITIONS (ELMVALE) INC

Address Adresse

50 Wilmot Street, Suite 100

City / Prov. / Postal Code

Ville / Prov. / Code postal

Richmond Hill ON L4B 1M5

Declared Value
Valeur déclarée

\$

FOR DELIVERY
CONFIRMATION

CONFIRMATION
DE LA LIVRAISON

canadapost.ca

postescanada.ca

or/ou

1 888 550-6333

CPC Tracking Number

Numéro de repérage de la SCP

RN 693 379 050 CA

33-086-584 (17-12)

REGISTERED

Fragile and perishable articles are not indemnified against damage. Indemnity and fees information is available on request at your postal outlet.

Instructions

- 1) Complete any declared value on receipt, tear on perforated line, date stamp on reverse and give receipt to customer.
- 2) Remove label from backing (except area indicated) and apply the label to front of item adjacent to address.

Apply label here
Veuillez placer
l'étiquette ici



RECOMMANDÉ

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Instructions

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ACCEPTING
LOCATION

LIEU
D'ACCEPTATION



CANADA

102810

2023 -12- 07

REXDALE POST OFFICE

SHOPPERS DRUG MART #857

REXDALE BLVD. ETOBICOKE ON M9W 1P0



**REGISTERED
DOMESTIC** 284

CUSTOMER RECEIPT

**RECOMMANDÉ
RÉGIME INTÉRIEUR**

REÇU DU CLIENT



To Destinataire

M23-11760

Name **Nom**
MAHVESH HUSSAIN

Address **Adresse**
9 Cicada Court

City / Prov. / Postal Code **Ville / Prov. / Code postal**
Toronto ON M3B 1G4

Declared Value **Valeur déclarée** \$

FOR DELIVERY
CONFIRMATION

CONFIRMATION
DE LA LIVRAISON

canadapost.ca

postescanada.ca

or/ou

1 888 550-6333

CPC Tracking Number

Numéro de repérage de la SCP

RN 696 614 888 CA

... and perishable articles are not indemnified against damage. Indemnity and fees information is available on request at your postal outlet.

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l'étiquette ici



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ACCEPTING	LIEU
CANADA	D'ACCEPTATION
POST	POSTES
	CANADA
102816	
2023 -12- 07	
REXDALE POST OFFICE	
SHOPPERS DRUG MART #857	
123 REXDALE BLVD. ETOBICOKE ON M9W 1P0	

CANADA
POST



POSTES
CANADA

**REGISTERED
DOMESTIC** 286
CUSTOMER RECEIPT

**RECOMMANDÉ
RÉGIME INTÉRIEUR**
REÇU DU CLIENT



M23-11760

To Destinataire

Name Nom
SAFINA KODWAVI

Address Adresse
72 Grand Vellore Crescent

City / Prov. / Postal Code Ville / Prov. / Code postal
Vaughan ON L4N 0N8

Declared Value
Valeur déclarée \$

FOR DELIVERY
CONFIRMATION

CONFIRMATION
DE LA LIVRAISON

canadapost.ca

postescanada.ca

or/ou

1 888 550-6333

CPC Tracking Number

Numéro de repérage de la SCP

RN 723 087 596 CA

33-086-584 (17-12)

REGISTERED

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ACCEPTING
LOCATION

LIEU
D'ACCEPTATION

CANADA
POST



POSTES
CANADA

02818

2023 -12- 07

RETAIL POST OFFICE
SHOPPERS DRUG MART #857
23 RENDALE BLVD. ETUCCOKE ON M9W 1P0



**REGISTERED
DOMESTIC** 288

**RECOMMANDÉ
RÉGIME INTÉRIEUR**



CUSTOMER RECEIPT

REÇU DU CLIENT

M23-11760

To Destinataire

Name Nom
MUZAMMIL KODWAVI

Address Adresse
F2 Grand Vellore Crescent

City / Prov. / Postal Code Ville / Prov. / Code postal
Vaughan ON L4N 0N8

Declared Value Valeur déclarée \$

FOR DELIVERY
CONFIRMATION

CONFIRMATION
DE LA LIVRAISON

canadapost.ca

postescanada.ca

or/ou

1 888 550-6333

CPC Tracking Number

Numéro de repérage de la SCP

RN 696 614 905 CA

33-086-584 (17-12)

REGISTERED

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CANADA POSTES
POSTING LIEU
LOCATION 102816
2023-12-07
REXDALE POST OFFICE
SHOPPERS DRUG MART #857
123 REXDALE BLVD. ETOBICOKE ON M9W 1P0

CANADA
POST



POSTES
CANADA

**REGISTERED
DOMESTIC** 290

CUSTOMER RECEIPT

**RECOMMANDÉ
RÉGIME INTÉRIEUR**

REÇU DU CLIENT



To

Destinataire

M23-11760

Name

Nom

SAJJAD HUSSAIN

Address

Adresse

9 Cicada Court

City / Prov. / Postal Code

Ville / Prov. / Code postal

Toronto ON M2B 1G4

Declared Value

Valeur déclarée

\$

FOR DELIVERY
CONFIRMATION

CONFIRMATION
DE LA LIVRAISON

canadapost.ca

postescanada.ca

or/ou

1 888 550-6333

CPC Tracking Number

Numéro de repérage de la SCP

RN 743 352 162 CA

33-086-584 (17-12)

REGISTERED

Fragile and perishable articles are not indemnified against damage. Indemnity and fees information is available on request at your postal outlet.

Instructions

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Instructions

- 1) Indiquez la valeur déclarée dans la section Reçu, détachez le long du pointillé, apposez le timbre à date au verso et remettez le reçu au client.
- 2) Décollez la pellicule protectrice (sauf la région indiquée) de l'étiquette. Apposez l'étiquette sur le dessus de l'envoi, près de l'adresse.

ACCEPTING
LOCATION

LIEU

~~D'ACCEPTATION~~
POSTES

CANADA

2023 - 12 - 07

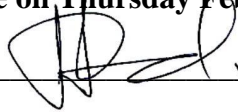
SHOPPERS DRUG MART #857
123 REDALE BLVD. ETOBICOKE ON M9W 1P0

Exhibit “18”

This is Exhibit “18” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read "Paul Mand", is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Properties

PIN 10120 - 0064 LT
Description LT 63 PL 4758 NORTH YORK; S/T NY200193; TORONTO (N YORK) , CITY OF TORONTO
Address 9 CICADA COURT
TORONTO

Consideration

Consideration \$140,634.75

Claimant(s)

Name MASON'S MASONRY SUPPLY LTD.
Address for Service 6291 Netherhart Road
Mississauga, Ontario
L5T 1A2

I am the lien claimant and the facts stated in the claim for lien are true.

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.

Statements

Name and Address of Owner Sajjad Hussain and Mahvesh Hussain, 9 Cicada Court, Toronto, On. M3B 1G4. Name and address of person to whom lien claimant supplied services or materials Sunrise Homes Ltd, 50 West Wilmot Street, Suite 100, Richmond Hill, On, L4B 1M5 and Sajjad Hussain and Mahvesh Hussain as above. Time within which services or materials were supplied from 2023/08/28 to 2023/11/23 Short description of services or materials that have been supplied bricks, stone, and custom stone details. Contract price or subcontract price \$155,634.75 Amount claimed as owing in respect of services or materials that have been supplied \$140,634.75

The lien claimant claims a lien against the interest of every person identified as an owner of the premises described in said PIN to this lien

Signed By

Neal Howard Roth 39 Nina Street acting for Signed 2023 11 24
Toronto Applicant(s)
M5R 1Z5

Tel 416-351-7706

Fax 416-351-7684

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

NEAL H ROTH LAW OFFICE 39 Nina Street 2023 11 24
Toronto
M5R 1Z5

Tel 416-351-7706

Fax 416-351-7684

Fees/Taxes/Payment

Statutory Registration Fee \$69.95

Total Paid \$69.95

File Number

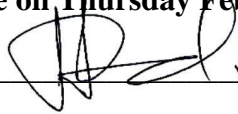
Claimant Client File Number : B-830

Exhibit “19”

This is Exhibit “19” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to read "Paul Mand", is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

SHERIFF OF / SHÉRIF DE: CITY OF TORONTO (TORONTO)

CERTIFICATE # / N° DE CERTIFICAT: 48822339-4441372B

DATE OF CERTIFICATE / DATE DU CERTIFICAT: 2024-FEB-22 / 2024-FÉVR.-22

IF THERE IS INFORMATION CONTAINED IN THIS FORM IN FRENCH AND YOU REQUIRE IT IN ENGLISH, CONTACT THE SHERIFF

S'IL Y A DES INFORMATIONS EN ANGLAIS DANS CE FORMULAIRE ET QUE VOUS EN AVEZ BESOIN EN FRANÇAIS, CONTACTEZ LE SHÉRIF

SHERIFF'S STATEMENT

IT IS HEREBY CERTIFIED THAT THE INFORMATION CONTAINED BELOW IS A TRUE REPRESENTATION OF INFORMATION WITHIN THE ELECTRONIC DATABASE MAINTAINED BY THIS OFFICE IN ACCORDANCE WITH SECTION 10 OF THE EXECUTION ACT, AT THE TIME OF THE REPORT REQUEST.

DÉCLARATION DU SHÉRIF

IL EST CERTIFIÉ, PAR LA PRÉSENTE, QUE LES RENSEIGNEMENTS CI-APRÈS REPRODUISENT EXACTEMENT L'INFORMATION CONTENUE DANS LA BASE DE DONNÉES ÉLECTRONIQUE MAINTENUE PAR CE BUREAU AUX TERMES DE L'ARTICLE 10 DE LA LOI SUR L'EXÉCUTION FORCÉE AU MOMENT DE LA DEMANDE DE RAPPORT.

FILE DETAILS / DÉTAILS DU DOSSIER

EXECUTION # / N° D'EXÉCUTION FORCÉE : 23-0003508
ISSUE DATE / DATE DE DÉLIVRANCE : 2023-JUL-17
EXPIRY DATE / DATE D'EXPIRATION : 2029-JUL-16
EFFECTIVE DATE / DATE DE PRISE D'EFFET : 2023-JUL-18
COURT FILE OR REFERENCE # / N° DE DOSSIER DU TRIBUNAL OU DE RÉFÉRENCE : CV-21-00663051-00CL
COURT TYPE / TYPE DE TRIBUNAL : SCJ - CIVIL
JURISDICTION / TERRITOIRE DE COMPÉTENCE : TORONTO

DEBTOR SEARCH NAME(S) / NOM(S) DU(DES) DÉBITEUR(S) RECHERCHÉ(S)		
#	DEBTOR TYPE / TYPE DE DÉBITEUR	DEBTOR NAME(S) / NOM(S) DU(DES) DÉBITEUR(S)
1.	PERSON / PERSONNE	HUSSAIN, SAJJAD
2.	PERSON / PERSONNE	KODWAVI, MUZAMMIL
3.	COMPANY / SOCIÉTÉ	SUNRISE HOMES LTD
4.	COMPANY / SOCIÉTÉ	SUNRISE ACQUISITIONS INC.
5.	COMPANY / SOCIÉTÉ	2303484 ONTARIO INC.

PARTY DETAILS / COORDONNÉES DES PARTIES

DEFENDANT / DÉFENDEUR		
1.	NAME / NOM :	SAJJAD HUSSAIN
2.	NAME / NOM :	MUZAMMIL KODWAVI

DEFENDANT / DÉFENDEUR

3.	NAME / NOM :	SUNRISE HOMES LTD
4.	NAME / NOM :	SUNRISE ACQUISITIONS INC.
5.	NAME / NOM :	2303484 ONTARIO INC.

CREDITOR / CRÉANCIER **C/O LAWYER/AGENT / A/S PROCUREUR/AGENT**

1.	COMPANY / SOCIÉTÉ :	KSV RESTRUCTURING INC
	ADDRESS / ADRESSE :	C/O BLINICK, JOSEPH BENNETT JONES LLP 1 FIRST CANADIAN PLACE SUITE 3400, PO BOX 130 TORONTO, ON M5X 1A4 TEL: 416-863-1200 FAX: 416-863-1716

LAWYER/AGENT / PROCUREUR/AGENT **SAME AS FIRST CREDITOR / MÊME QUE LE PREMIER CRÉANCIER**

	NAME / NOM :	BLINICK, JOSEPH
	FIRM NAME / NOM DE L'ENTREPRISE :	BENNETT JONES LLP
	ADDRESS / ADRESSE :	1 FIRST CANADIAN PLACE SUITE 3400, PO BOX 130 TORONTO, ON M5X 1A4 TEL: 416-863-1200 FAX: 416-863-1716

JUDGMENT/COST DETAILS / DÉTAILS DU JUGEMENT/DÉPENS

#	JUDGMENT OR COSTS / JUGEMENT OU DÉPENS	AMOUNT / MONTANT	INTEREST RATE / TAUX D'INTÉRÊT	START DATE / DATE DE DÉBUT
1.	JUDGMENT / JUGEMENT	CAD 14,510,545.24	4.0000%	2022-DEC-20
	COSTS / DÉPENS	CAD 500,000.00	4.0000%	2023-APR-14
	CALCULATION DETAILS / DÉTAILS DU CALCUL			
	AGAINST DEBTORS / CONTRE LES DÉBITEURS	ALL DEBTORS / TOUS LES DÉBITEURS		

FINANCIAL TRANSACTIONS / OPÉRATIONS FINANCIÈRES

#	FEE OR PAYMENT / FRAIS OU PAIEMENT	TRANSACTION DATE / DATE D'OPÉRATION	AMOUNT / MONTANT	REFERENCE OR NOTES / RÉFÉRENCE OU NOTES
1.	FEE / FRAIS	2023-JUN-08	CAD 50.00	PREPARATION FEE UNDER RULE 60.19
2.	FEE / FRAIS	2023-JUL-17	CAD 39.49	VALUE ADD FEE
3.	FEE / FRAIS	2023-JUL-17	CAD 77.00	ISSUANCE FEE
4.	FEE / FRAIS	2023-JUL-17	CAD 100.00	FILING FEE

COMMENTS / REMARQUES

ISSUED & FILED BY JOSEPH BLINICK ON JUL 17, 2023 02:37 P.M. EST REMOTELY
FEE OF 216.49 COLLECTED

CAUTION:

ENSURE THAT THE NAME AND EXECUTION# (NUMBER) MATCH YOUR REQUEST.

AVERTISSEMENT :

ASSUREZ-VOUS QUE LE NOM ET LE NUMÉRO DU DOSSIER D'EXÉCUTION FORCÉE SONT LES MÊMES QUE CEUX QUI SE TROUVENT DANS VOTRE DEMANDE.

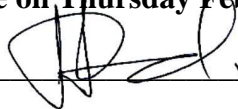
CHARGE FOR THIS REPORT / FRAIS POUR CE RAPPORT: CAD 7.00

Exhibit “20”

This is Exhibit “20” referred to in the

Affidavit of Adit Kumar

Sworn before me on Thursday February 22nd, 2024

A handwritten signature in black ink, appearing to be 'Paul Mand', is written over a horizontal line.

A Commissioner for taking Affidavits

Paul Mand LSO 46022F

Court File No. CV-21-00663051-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE

)

FRIDAY, THE 14TH

JUSTICE OSBORNE

)

DAY OF APRIL, 2023

)

B E T W E E N:

KINGSETT MORTGAGE CORPORATION

Applicant

- and -

SUNRISE ACQUISITIONS (HWY 7) INC.

Respondent

APPLICATION UNDER SUBSECTION 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

AMENDED AND RESTATED ORDER
(Amending Order for Repayment of Amounts Owing Dated December 20, 2022)

THIS MOTION, made by KSV Restructuring Inc., in its capacity as the Court-appointed receiver and manager (in such capacity, the "**Receiver**") of all of the assets, undertakings and properties of Sunrise Acquisitions (Hwy 7) Inc. (the "**Company**") acquired for or used in relation to a business carried on by the Company and the proceeds therefrom, for an Order, *inter alia*, directing payment of certain amounts due and owing to the Company, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver dated August 5, 2022, the Responding Motion Record of the responding parties dated September 16, 2022, the Supplementary Responding Motion Record of the responding parties dated October 18, 2022, the Further Supplementary Responding Motion Record of the responding parties dated November 23, 2022, the Reply Motion Record of the Receiver dated November 30, 2022, the Brief of Transcripts dated November 30, 2022, the Factum and Authorities of the Receiver dated December 2, 2022, the Responding Factum of the responding parties dated December 12, 2022, the Reply Factum and Authorities of the Receiver dated December 16, 2022, the Order of the Honourable Justice Osborne dated December 20, 2022 (the "**December 20 Order**"), and the endorsement of the Honourable Justice Osborne issued in connection with the December 20 Order, and on hearing the submissions of counsel for the Receiver and counsel for the responding parties, and such other counsel that were present, no one else appearing although duly served as appears from the Affidavits of Service, filed;

AND UPON BEING ADVISED that each of Muzammil Kodwavi, Safana Kodwavi, Sajjad Hussain, Mahvesh Hussain, SH & MK Management Inc., Sunrise Homes Ltd., Sunrise Acquisitions (Bronte) Inc., Sunrise Acquisitions (Unionville) Inc., Sunrise Acquisitions (Keswick) Inc., Sunrise Acquisitions (Keswick II) Inc., Sunrise Acquisitions (Tisdale) Inc., Sunrise Acquisitions (Tisdale II) Inc., Sunrise Acquisitions Inc., Sunrise Acquisitions (Burlington) Inc.,

IKH Holdings Inc., Amal Financial Inc., and 2303484 Ontario Inc. (collectively, the "Acknowledged Debtors") and the Receiver consent to this Order,

REPLACEMENT OF THE EXISTING REPAYMENT ORDER

1. **THIS COURT ORDERS** that the Order of the Honourable Justice Kimmel in these proceedings dated November 2, 2022 is hereby vacated and replaced with this Order.

JUDGMENT ON ACKNOWLEDGED DEBT AND THE DEBT OF NAYYAR SHABBAR

2. **THIS COURT ORDERS** that the amount of CAD\$14,510,545.24 (the "**Repayment Amount**") is due and payable to the Receiver forthwith, with liability of the applicable parties as noted below:

- (a) CAD\$14,334,012 payable forthwith by Sajjad Hussain, Muzammil Kodwavi (together, the "**Principals**"), SH & MK Management Inc., Sunrise Homes Ltd., Sunrise Acquisitions (Bronte) Inc., Sunrise Acquisitions (Unionville) Inc., Sunrise Acquisitions (Keswick) Inc., Sunrise Acquisitions (Keswick II) Inc., Sunrise Acquisitions (Tisdale) Inc., Sunrise Acquisitions (Tisdale II) Inc., Sunrise Acquisitions Inc., Sunrise Acquisitions (Burlington) Inc., IKH Holdings Inc., Amal Financial Inc. and 2303484 Ontario Inc. on a joint and several basis;
- (b) CAD\$724,443 payable forthwith by Nayyar Shabbar; and
- (c) CAD\$132,353.35 and CAD\$44,179.89 (together, the "**Unpaid Occupancy Fees**") payable forthwith by Safana Kodwavi ("**Ms. Kodwavi**") and Mahvesh Hussain

("Ms. Hussain"), respectively, with the Principals being jointly and severally liable with Ms. Kodwavi and Ms. Hussain for these amounts.

3. **THIS COURT ORDERS** that (i) the Repayment Amount, exclusive of the Unpaid Occupancy Fees, bears interest at the rate of 4% per year commencing from December 20, 2022 (being the date of the December 20 Order), and (ii) the Unpaid Occupancy Fees bear interest at the rate of 4% per year commencing from the date of this Order.

COSTS

4. **THIS COURT ORDERS** that the Receiver's costs relating to this Order are to be awarded as against the Acknowledged Debtors in the amount of CAD\$500,000.00.

PROHIBITION ON DISSIPATION OF ASSETS

5. **THIS COURT ORDERS** that, without the prior written consent of the Receiver, the Acknowledged Debtors, including, as applicable, their servants, employees, agents, assigns, officers, directors and anyone else acting on their behalf or in conjunction with any of them, and any and all persons with notice of this Order, are hereby prohibited, restrained and enjoined from directly or indirectly, by any means whatsoever (i) selling, removing, transferring, conveying, alienating, dissipating, pledging, encumbering or similarly dealing with any assets of the Acknowledged Debtors, wherever situate, outside the ordinary course, (ii) instructing, counselling, demanding or encouraging any other person to do so, and (iii) facilitating, assisting in, aiding, abetting, or participating in any acts the effect of which is to do so, until the Repayment Amount is repaid in full.

-5-

6. **THIS COURT ORDERS** that paragraph 5 of this Order applies to all of the Acknowledged Debtors' assets whether or not they are in their own name and whether they are solely or jointly owned. For the purpose of this order, the Acknowledged Debtors' assets include any asset which they have the power, directly or indirectly, to dispose of or deal with as if it were their own. The Acknowledged Debtors are to be regarded as having such power if a third party holds or controls the assets in accordance with their direct or indirect instructions.

SURVIVAL

7. **THIS COURT ORDERS AND DECLARES** that, as against the Principals, this Order survives any personal bankruptcy pursuant to and in accordance with subsection 178(1)(d) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"), as a debt or liability arising out of fraud, embezzlement, misappropriation or defalcation while acting in a fiduciary capacity.

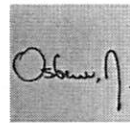
RECEIVER'S AND TRUSTEE'S RIGHTS AND REMEDIES

8. **THIS COURT ORDERS AND DECLARES** that this Order is made without prejudice to any of the Receiver's rights and remedies at law and in equity with respect to any matters not addressed directly in this Order, including, without limitation, with respect to the Receiver's entitlement to costs and interest as against parties other than the Acknowledged Debtors, and those of the Company's Licensed Insolvency Trustee in Bankruptcy, including, without limitation, under sections 95-96 of the BIA and under the *Fraudulent Conveyances Act*, R.S.O. 1990, c. F.29 and *Assignments and Preferences Act*, R.S.O. 1990, c. A.33.

GENERAL

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.

10. **THIS COURT ORDERS** that the December 20 Order is hereby amended and restated pursuant to this Order, and this Order and all of its provisions are effective from the date of this Order, and this Order is enforceable without the need for entry or filing.



2023.04.14
13:03:43 -04'00'

The Honourable Justice Osborne

KINGSETT MORTGAGE CORPORATION

-and-

SUNRISE ACQUISITIONS (HWY 7) INC.

Applicant

Respondent

Court File No. CV-21-00663051-00CL

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

Proceeding commenced at Toronto

**AMENDED AND RESTATED ORDER
(Amending Order for Repayment of Amounts Owing Dated December 20, 2022)**

BENNETT JONES LLP
100 King Street West
Suite 3400
Toronto, ON M5X 1A4

Sean H. Zweig
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Joshua Foster
Tel: 416.777.7906
fosterj@bennettjones.com

Lawyers for KSV Restructuring Inc.,
the Court-appointed Receiver

AFC MORTGAGE ADMINISTRATION INC.
Applicant

AND

SUNRISE ACQUISITIONS (ELMVALE) INC., et al
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

AFFIDAVIT OF ADIT KUMAR
Sworn February 22nd, 2024

Mand | Rai LLP

155 Rexdale Blvd., Suite 400
Toronto, Ontario
M9W 5Z8

Paul H. Mand
LSO Number: 46022F

Tel: (416) 740-5653
Email: pmand@mandlaw.com

Lawyers for Applicant, AFC MORTGAGE
ADMINISTRATION INC.

TAB No. C

Court File No. CV-24-00713287-00CL

**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

BETWEEN:

AFC MORTGAGE ADMINISTRATION INC.

Applicant

- and -

SUNRISE ACQUISITIONS (ELMVALE) INC., SAJJAD HUSSAIN, MAHVESH HUSSAIN,
MUZAMMIL KODWAVI and SAFINA KODWAVI

Respondents

CONSENT

THE UNDERSIGNED, Rosen Goldberg Inc., hereby consents to the appointment as Receiver of the assets, undertakings and properties of the Respondents, Sunrise Acquisitions (Elmvale) Inc., Sajjad Hussain and Mahvesh Hussain, Muzammil Kodwavi and Safana Kodwavi, under the terms of an Order which will be sought from this Honourable Court in this matter.

Dated this 12th day of February 2024

Rosen Goldberg Inc.



Per: _____

Name: Brahm Rosen

I have the authority to bind the Corporation.

AFC MORTGAGE ADMINISTRATION INC.
Applicant

AND

SUNRISE ACQUISITIONS (ELMVALE) INC., et al
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

CONSENT

Mand | Rai LLP
155 Rexdale Blvd., Suite 400
Toronto, Ontario
M9W 5Z8

Paul H. Mand
LSO Number: 46022F

Tel: (416) 740-5653
Email: pmand@mandlaw.com

Lawyers for Applicant AFC Mortgage Administration Inc.

TAB No. D

Revised: January 21, 2014
s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver

Court File No. _____

Court File No. CV-24-00713287-00CL

**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

THE HONOURABLE) WEEKDAY, THE #
)
JUSTICE) WEDNESDAY, THE 28th
)
DAY OF MONTH, 20YRFEBRUARY, 2024

PLAINTIFF⁺

Plaintiff

BETWEEN:

AFC MORTGAGE ADMINISTRATION INC.

Applicant

- and -

DEFENDANT

Defendant

SUNRISE ACQUISITIONS (ELMVALE) INC., SAJJAD HUSSAIN, MAHVESH HUSSAIN,
MUZAMMIL KODWAVI and SAFINA KODWAVI

⁺The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.

- 2 -

Respondents

ORDER
(appointing Receiver)

THIS ~~MOTION~~APPLICATION made by the ~~Plaintiff~~ 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 ~~{RECEIVER'S NAME}~~ Rosen Goldberg Inc. as receiver ~~{and manager}~~ (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of ~~{DEBTOR'S NAME}~~ {Respondents, Sunrise Acquisitions (Elmvale) Inc., Sajjad Hussain and Mahvesh Hussain, Muzammil Kodwavi and Safina Kodwavi (hereinafter collectively referred to as the "Debtor") "Debtors"} acquired for, or used in relation to a business carried on by the ~~Debtor~~ Debtors, was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by Zoom judicial videoconference.

ON READING the affidavit of ~~{NAME}~~ Adit Kumar sworn ~~{DATE}~~ February 13th 2024 and the Exhibits thereto and on hearing the submissions of counsel for ~~{NAMES}~~ Applicant, and counsel for the Debtors, no one else on the service list appearing ~~for {NAME}~~ although duly served as appears from the affidavit of service of ~~{NAME}~~ _____ sworn ~~{DATE}~~ February 2024 and on reading the consent of ~~{RECEIVER'S NAME}~~ Rosen Goldberg Inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of ~~Motion~~ Application and the ~~Motion~~ Application Record is hereby abridged and validated³ so that this motion is properly returnable today and hereby dispenses with further service thereof.

² Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".

³ If service is effected in a manner other than as authorized by the Ontario *Rules of Civil Procedure*, an order validating irregular service is required pursuant to Rule 16.08 of the *Rules of Civil Procedure* and may be granted in appropriate circumstances.

- 3 -

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~ Rosen Goldberg Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the ~~Debtor acquired for, or used in relation to a business carried on by the Debtor~~ Respondents, Sunrise Acquisitions (Elmvale) Inc., Sajjad Hussain and Mahvesh Hussain, Muzammil Kodwavi and Safina Kodwavi, including the lands and premises described in Schedule "A" attached hereto, and all proceeds thereof (collectively the "**Property**");

~~2.~~**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:

~~3.~~

~~(a)~~ 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)~~ 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 Debtor, 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 ~~Debtor;~~ Debtors;

- 4 -

~~(e)~~
~~(d)~~d to engage consultants, appraisers, agents, 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)~~e to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the ~~Debtor~~Debtors or any part or parts thereof;

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

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

~~(h)~~h 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 ~~Debtor~~Debtors, for any purpose pursuant to this Order;

~~(i)~~i 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 ~~Debtor~~Debtors, the Property or the Receiver, and to settle or compromise any such proceedings.⁴ 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;

~~⁴This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

- 5 -

~~(j)~~ to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

~~(k)~~ to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

~~(i)~~ without the approval of this Court in respect of any ~~transaction~~ Transaction not exceeding \$~~_____~~ \$100,000.00, provided that the aggregate consideration for all such transactions does not exceed \$~~_____~~ \$500,000.00; and

~~(ii)~~ with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the ~~preceeding~~ proceeding clause; and in each such case notice under subsection 63(4) of the *Ontario Personal Property Security Act*, ~~for~~ section 31 of the *Ontario Mortgages Act*, as the case may be,⁵ shall not be required, ~~and in each case the Ontario Bulk Sales Act shall not apply.~~

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

~~(m)~~ 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;

⁵ If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.

- 6 -

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

~~(o)~~ to apply for any permits, ~~licenses~~, 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 ~~Debtor~~ Debtors, Sunrise Acquisitions (Elmvale) Inc., Sajjad Hussain and Mahvesh Hussain, Muzammil Kodwavi and Safina Kodwavi;

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

q) to exercise any shareholder, partnership, joint venture or other rights which the ~~Debtor~~ Debtors may have; and

~~(r)~~ 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 ~~Debtor~~ Debtors, and without interference from any other Person.

WRIT OF POSSESSION

4. THIS COURT ORDERS that leave be and is hereby granted to issue a writ of possession in respect of the lands and premises described in Schedules 'A' and 'B' hereto in order that the Sheriff of the City of Toronto, the City of Vaughan and the City of Whitby give possession of the lands and premises described in Schedules 'A' and 'B' hereto to the Receiver without delay.

- 7 -

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4.5. THIS COURT ORDERS that (i) the ~~Debtor, (ii) Debtors,~~ all of ~~its~~their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its 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.

5.6. 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 ~~Debtor~~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.

6.7. 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

- 8 -

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.

~~7.8.~~ 7.8. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

~~8.9.~~ 8.9. 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.

- 9 -

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

~~9.10.~~ THIS COURT ORDERS that no Proceeding against or in respect of the ~~Debtor~~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 ~~Debtor~~Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

~~10.11.~~ THIS COURT ORDERS that all rights and remedies against the ~~Debtor~~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 ~~Debtor~~Debtors to carry on any business which the ~~Debtor~~Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the ~~Debtor~~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, or (iv) prevent the registration of a claim for lien.

- 10 -

NO INTERFERENCE WITH THE RECEIVER

12. 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 ~~Debtor~~Debtors, without written consent of the Receiver or leave of this Court.

~~11.~~

CONTINUATION OF SERVICES

~~12.~~13. THIS COURT ORDERS that all Persons having oral or written agreements with the ~~Debtor~~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 ~~Debtor~~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 ~~Debtor's~~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 ~~Debtor~~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.

- 11 -

RECEIVER TO HOLD FUNDS

~~13.14.~~ 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

~~14.15.~~ THIS COURT ORDERS that all employees of the ~~Debtor~~Debtors shall remain the employees of the ~~Debtor~~Debtors until such time as the Receiver, on the ~~Debtor's~~Debtors's 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*.

- 12 -

PIPEDA

16. 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 ~~Debtor~~ Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

~~15.~~

LIMITATION ON ENVIRONMENTAL LIABILITIES

~~16.~~17. 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

- 13 -

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

17-18. 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

19. 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

- 14 -

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, and that 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.⁶

~~18.~~

~~19-20.~~ THIS COURT ORDERS that the Receiver and its legal counsel shall pass its 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.

~~20-21.~~ 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.

~~⁶Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

- 15 -

FUNDING OF THE RECEIVERSHIP

~~21.~~22. 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 \$_____ (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 (the "Receiver's Borrowings 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.

~~22.~~23. 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.~~24. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

25. 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.

~~24.~~

- 16 -

SERVICE AND NOTICE

25-26. 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 ‘<@>’.

26-27. 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 Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the ~~Debtor~~ 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

27-28. 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.

- 17 -

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

~~28.~~

29-30. 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.

30-31. 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.

31-32. THIS COURT ORDERS that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

32-33. 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.

SCHEDULE "A"**RECEIVER CERTIFICATE**

CERTIFICATE NO. _____

AMOUNT \$ _____

1. ~~THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number __CL_____, 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.~~

- 19 -

~~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 _____, 20__.

DOCSTOR:17717428

AFC MORTGAGE ADMINISTRATION INC.
APPLICANT

AND

SUNRISE ACQUISITIONS (ELMVALE) INC., et al
RESPONDENTS

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

ORDER

~~[RECEIVER'S NAME], solely in its capacity
as Receiver of the Property, and not in its
personal capacity~~

Deleted Cells

MAND | RAI LLP

Lawyers

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Toronto, Ontario M9W 5Z8

Paul Mand (LSO No. 46022F)

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Email: pmand@mandlaw.com

Lawyers for the Applicant, AFC MORTGAGE
ADMINISTRATION INC.

Per: _____
Name:
Title:

AFC MORTGAGE ADMINISTRATION INC.
Applicant

AND

SUNRISE ACQUISITIONS (ELMVALE) INC., et al
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

**APPLICANT'S
APPLICATION RECORD**

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